

Ordinary Meeting

Meeting Date: Monday, 22 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

1. **Acknowledgement of Country**
2. **Moment of Silence and Reflection**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
 - Ordinary Meeting - 8 August 2022
6. **Declarations of Interest**

7. Presentation of Petitions

8. Mayoral Minute

Mayoral Minute

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9. Deputations and Presentations

Deputations and Presentations

CL22.360	Presentation - Waste Conference 2022 - Peter Windley (Waste Operations Coordinator)	
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10. Call Over of the Business Paper

11. A Committee of the Whole (if necessary)

12. Committee Reports

Nil

13. Reports

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Notices of Motion / Questions on Notice

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15. Confidential Reports

Reports

CCL22.22	Confidential - EOI Outcome for the Sale / Development of 10 Pleasant Way, Nowra
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Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.

CCL22.23	Negotiations - Appointment of an Operator Manager - Ulladulla Civic Centre
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Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any

person's legitimate business, commercial, professional or financial interests.

CCL22.24 Tenders – Bendeela Reservoir, Cambewarra Reservoir & Illaroo Road Water Pump Station Design and Construction Projects

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

There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.

MM22.14 Mayoral Minute - RFS Get Ready Weekend 17 & 18 September 2022

HPERM Ref: D22/315351

Recommendation

That Council:

1. Provides free green waste tipping for one month to commence on 1 September 2022 and conclude close of business on Monday 3 October 2022, as part of our combined commitment to promote 'RFS Get Ready Weekend' held on the 17 & 18 September.
2. Endorse free green waste tipping as an annual campaign and support tool for the annual 'RFS Get Ready Weekend', with an Annual Report to Council to enable forecast budgeting.
3. Source funding for the 2022 'Get Ready' Campaign from the relevant quarterly review.

Details

Council support the annual 'Get Ready Campaign' run by the Rural Fire Service (RFS) for residents to undertake green property maintenance in preparation for the forthcoming summer by managing vegetation.

The best practical support Shoalhaven City Council can offer is free, green waste tipping throughout the campaign period. Incorporating the October long weekend into the timing of the free month maximises the opportunity for our working residents to participate in the 'Get Ready Campaign'.

I also note the July quarter rate notices included the handy check list for emergencies and I'd like to recognise and thank the Recovery to Resilience program for this quality document and work.

MM22.14

MM22.15 Mayoral Minute - Commonwealth Games Achievements of Tinka Easton, Johnathan Goerlach and Jasmine Greenwood.

HPERM Ref: D22/345195

Recommendation

That Council:

1. Acknowledge the achievements of local residents in achieving medals at the 2022 Birmingham Commonwealth Games
 - a. Tinka Easton of Berry, Gold Medal, Women's Judo 52kg
 - b. Jonathan Goerlach, Para-triathlete of Nowra, Bronze Medal, Para-triathlon Vision Impaired. Noting this was the inaugural year for Para-triathlon Vision Impaired to be included as a Commonwealth Games event.
 - c. Jasmine Greenwood, Para-swimmer of Sussex Inlet, Gold Medal, Women's 200m Individual Medley SM10.
2. Council write to the athletes congratulating them on their success at the recent 2022 Commonwealth Games in Birmingham.

Details

Tinka Easton of Berry won her first Commonwealth Games medal, gold in the Women's Judo 52kg after making a late comeback in the final. The final match between Tinka and Canadian Kelly Deguchi went to 'golden score', in which Tinka was able to clinch the crucial point needed to take out the win.

Tinka's impressive career includes bronze at the 2019 Sarajevo European Cup, and appearances at four World Championships and many Australian titles.

Jonathan Goerlach of Nowra made history when he won the bronze medal in the Para-triathlon Vision Impaired. This is the first time this event has been included in the Commonwealth Games. Goerlach competed in the event alongside his guide David Mainwaring to claim the gold medal in the final.

Jasmine Greenwood of Sussex Inlet claimed her first Commonwealth Games gold medal with a win in the Women's 200m Individual Medley SM10 event.

Jasmine competed at the 2022 Commonwealth Games in Birmingham after winning one silver and two bronze medals at the Para World Championships in Portugal earlier this year. Jasmine also won a silver medal in the 2021 Tokyo Paralympic Games.

MM22.15

CL22.361 Investment Report - July 2022

HPERM Ref: D22/328632

Department: Finance

Approver: Kevin Voegt, Director - City Performance

Attachments: 1. Shoalhaven Monthly Report - July 2022 (under separate cover) [⇒](#)

Reason for Report

In accordance with Section 625 of the Local Government Act 1993 and Clause 212 of the Local Government (General) Regulation 2021, a written report is provided to Council setting out the details of all funds it has invested.

Recommendation

That Council:

1. Receive the Record of Investments for the period to 31 July 2022.
2. Note that Council's total Investment Portfolio (excluding the Long-Term Growth Fund) returned 1.70% per annum for the month of July 2022, exceeding the benchmark AusBond Bank Bill Index (1.45% pa) by 25 basis points (0.25%).
3. Note the performance of the Long-Term Growth Fund as presented in the report.

Options

1. The report on the Record of Investments for the period to 31 July 2022 be received for information.

Implications: Nil

2. Further information regarding the Record of Investments for the period to 31 July 2022 be requested.

Implications: Nil

3. The report of the Record of Investments for the period to 31 July 2022 be received for information, with any changes requested for the Record of Investments to be reflected in the report for the period to 31 August 2022.

Implications: Nil

Background

Please refer to the attached monthly report provided by Council's independent Investment Advisor, Imperium Markets Pty Ltd.

Portfolio Return

The Overall portfolio (excluding cash) returned 6.41% p.a. for the month of July 2022, due to the positive movement of the growth fund.

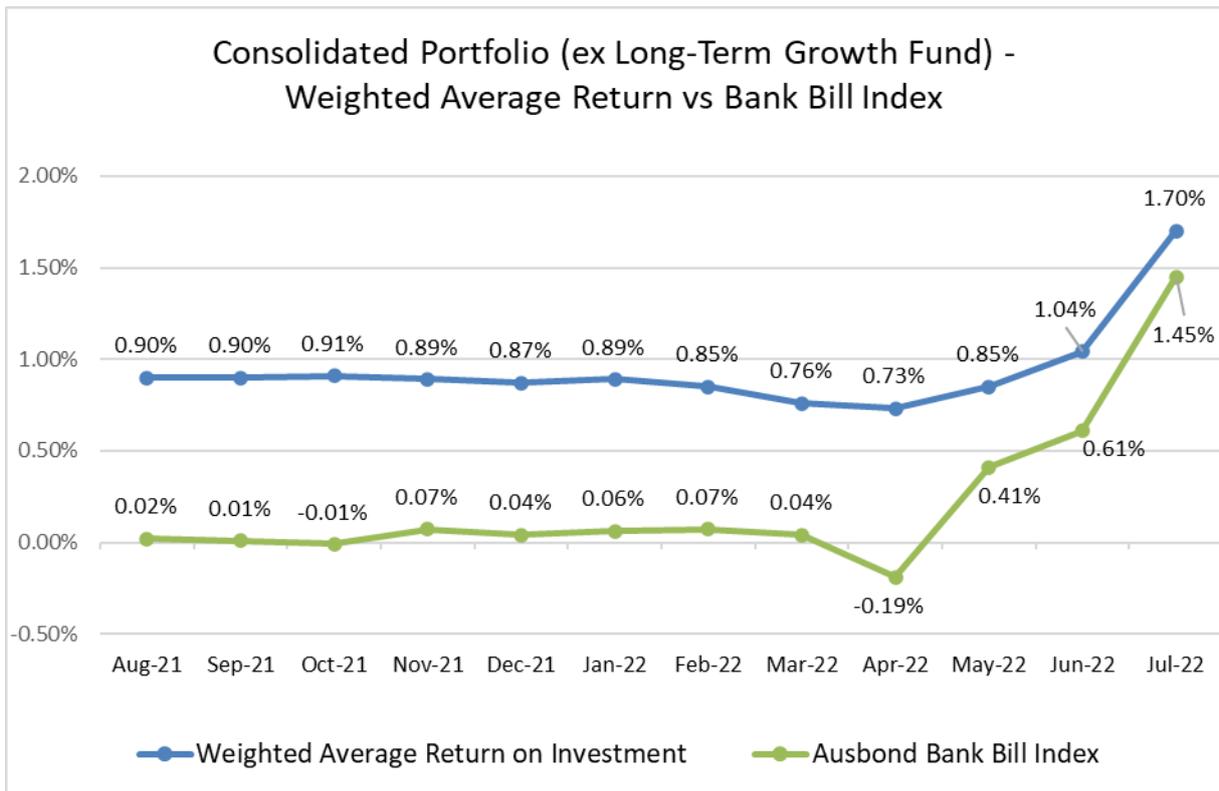
The investment returns excluding growth fund were a stable 1.70% p.a., exceeding the benchmark AusBond Bank Bill Index (1.45% p.a.) by +25bp p.a.

CL22.361

The Reserve Bank decided to increase the cash rate target by 50 basis points to 1.85% and increased the interest rate on Exchange Settlement balances by 50 basis points to 1.75%. The increase in interest rates over recent months has been required to bring inflation back to target. The RBA is still prioritising achieving a soft landing if inflation expectations remain anchored as they currently believe it to be.

Investments (Excluding Long-Term Growth Fund)

The following graph shows the performance of Council’s Investment Portfolio (excluding Long-Term Growth Fund) against the benchmark on a rolling twelve (12) month basis. As can be seen, performance has consistently exceeded the benchmark due to the mix of Council’s Investment Portfolio.



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Investment Interest Earned – July 2022

The following table shows the interest earned for the month of July 2022.

Fund	Monthly Budget \$	Actual Earned \$	Difference \$
General	128,162	87,379	(40,783)
Water	64,208	60,516	(3,692)
Sewer	30,519	38,778	8,260
Total excluding Long-Term Growth Fund	222,889	186,674	(36,215)

The interest earned for the month of July, excluding changes in the fair value of the TCorp Long-Term Growth Fund was \$186,674 compared to the monthly budget of \$222,889.

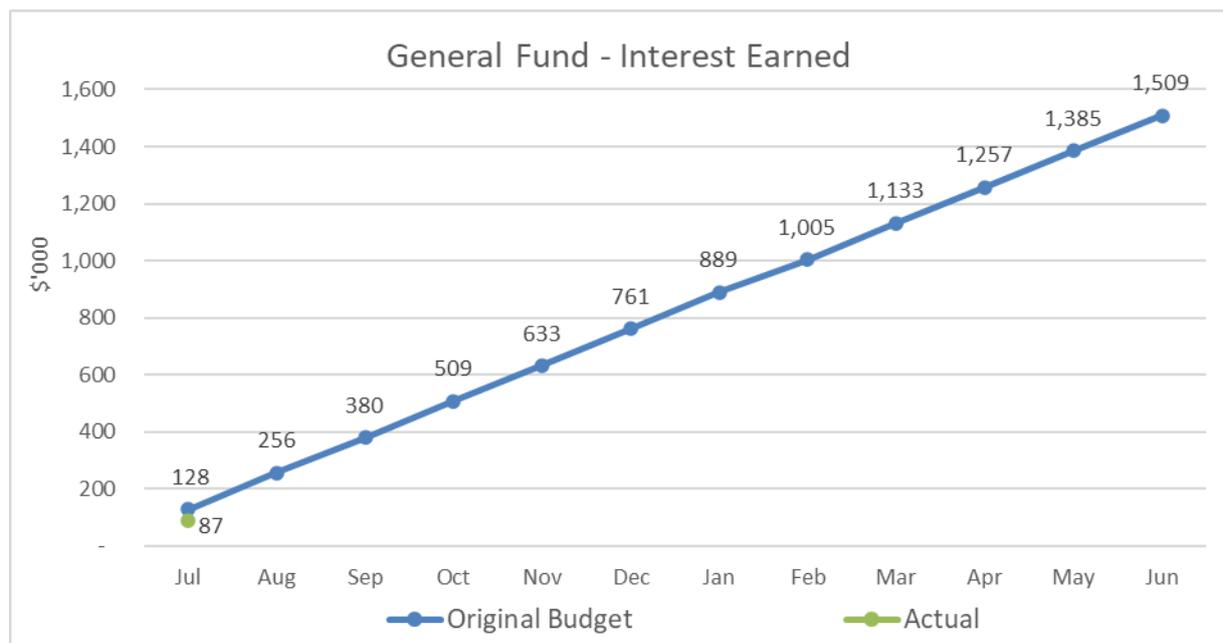
Investment Interest Earned - Year to Date

The following table demonstrates how the actual amount of interest earned year to date has performed against the total budget.

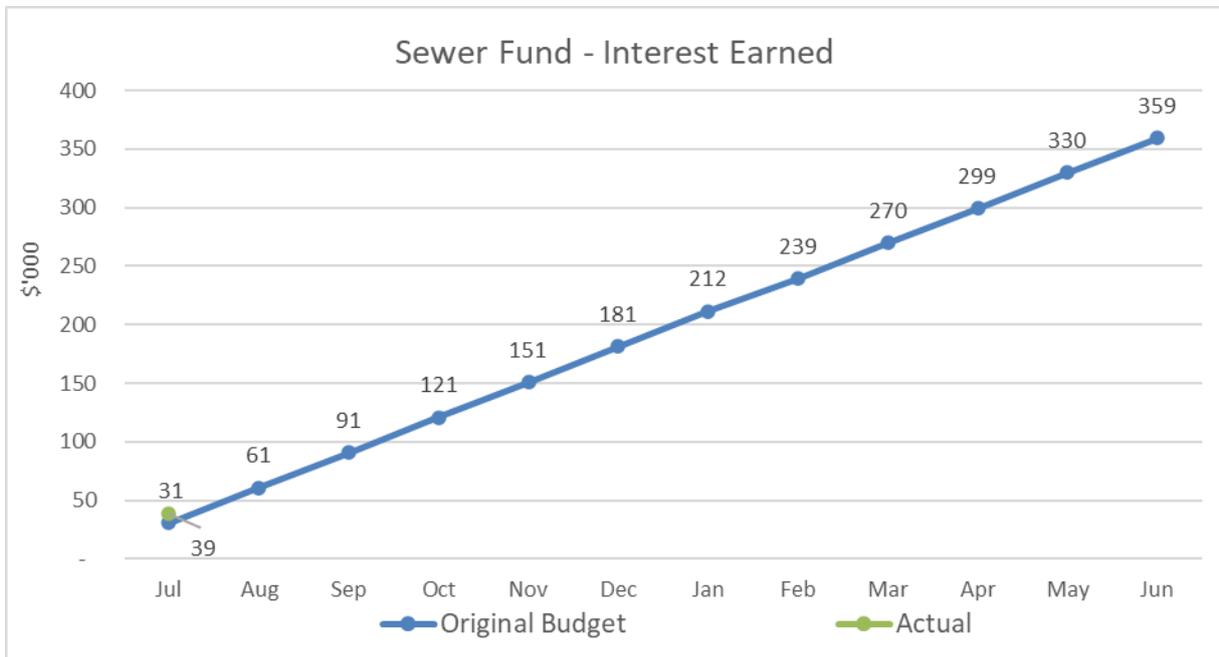
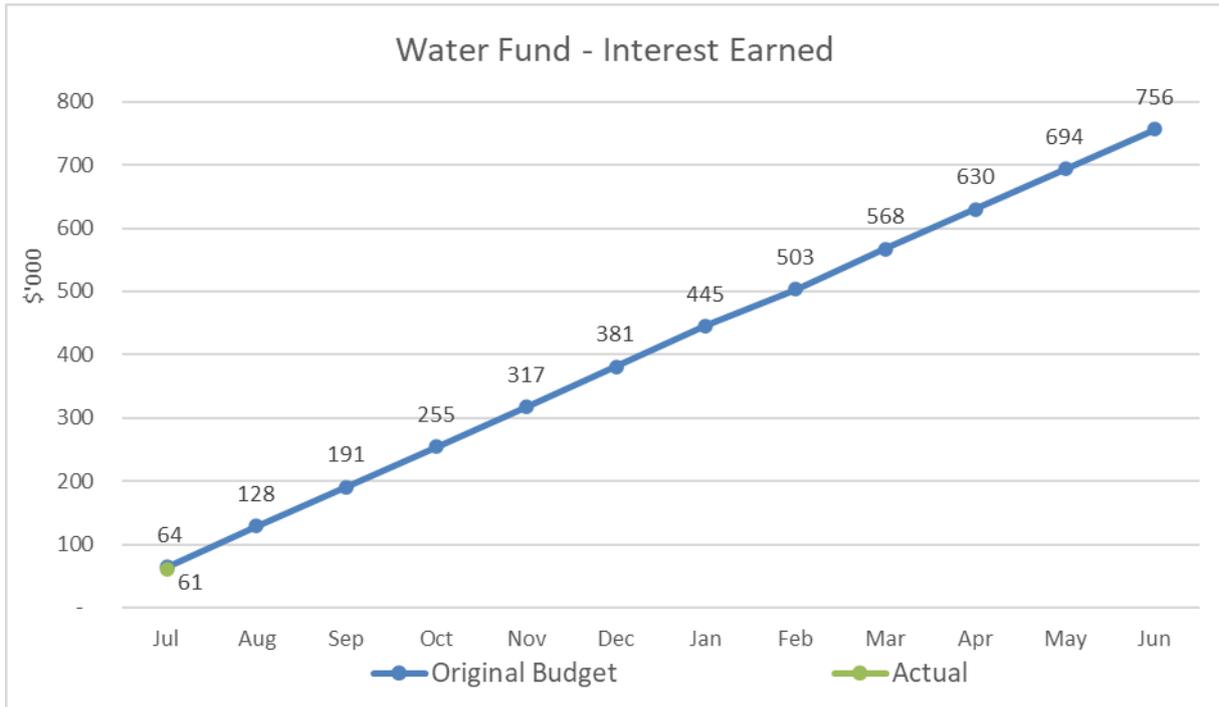
Fund	Original Total Annual Budget \$	Actual YTD \$	% Achieved
General	1,509,000	87,379	5.79%
Water	756,000	60,516	8.00%
Sewer	359,333	38,778	10.79%
Total excluding Long-Term Growth Fund	2,624,333	186,674	7.11%

The interest earned to the month of July excluding the change in fair value of TCorp Long-Term Growth Fund was \$186,674 which is 7.11% of the current full year budget.

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



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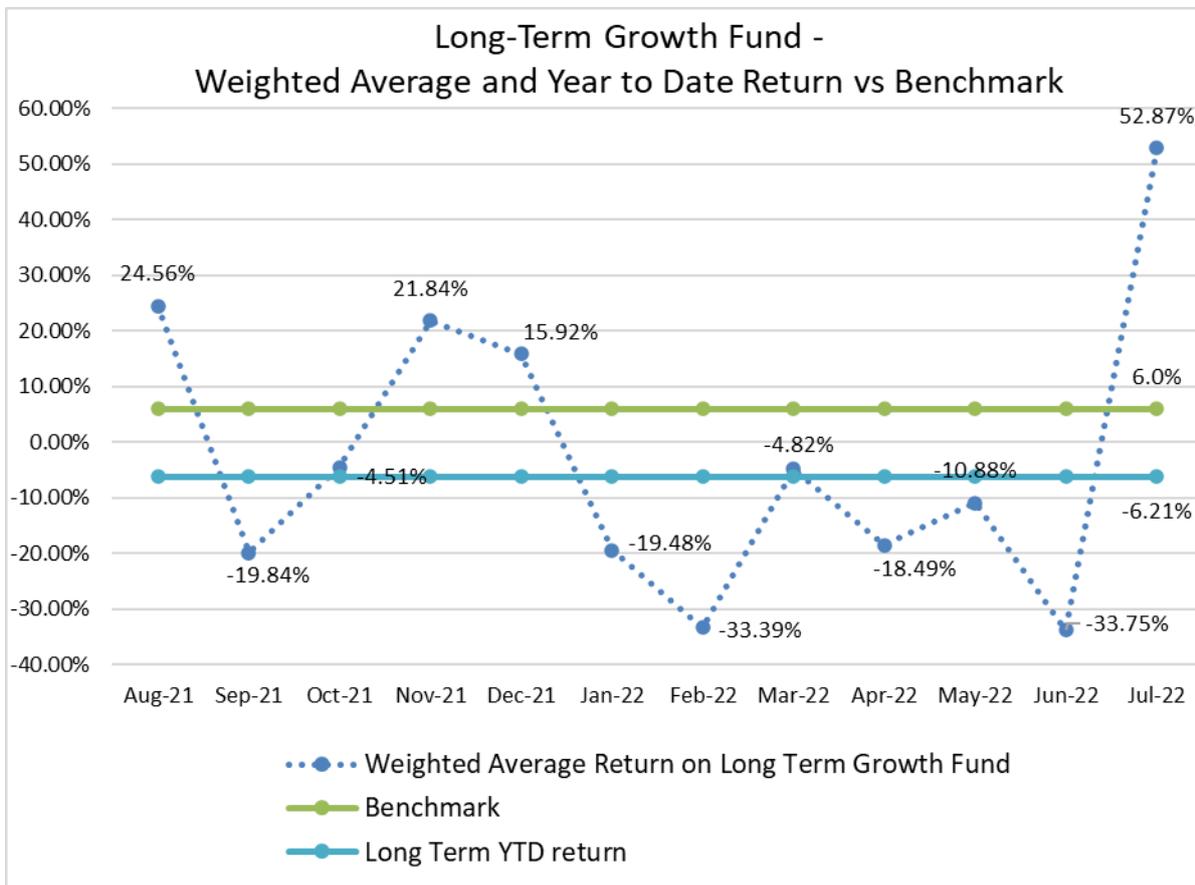
Long-Term Growth Fund

Council’s investment in Long-Term Growth Fund returned \$678,925 or 52.87% (annualised) for the month of July 2022, offsetting previous significant market losses, bringing the year-to-date return to 52.87% (46.87% above the benchmark).

It is important to note that the fund is expected to return an average of 6.0% per annum over a seven-year cycle and the positive months will outweigh the negative months over the long-term.

Whilst the rolling twelve (12) months returns of the Long-Term Growth Fund is below the benchmark, the fund continues to exceed its long-term return objective (currently CPI+3.5% p.a. over 10 years = 4.19% benchmark) with the net return of 6% p.a. over the past 10 years.

The following graph shows the performance of Council’s Long-Term Growth Fund against the benchmark on a rolling twelve (12) months basis.



CL22.361

Cash and Restricted Assets

Record Of Investments		
Cash and Investment Balances		
	\$ July 2022	\$ June 2022
Cash and Investments Held		
Cash at Bank - Transactional Account	8,049,539	3,858,040
Cash on Hand	20,391	20,391
Other Cash and Investments	185,558,755	193,481,909
	193,628,686	197,360,341
Fair Value Adjustment	(342,430)	(258,261)
Bank Reconciliation	845,167	500,225
	502,737	241,964
Book Value of Cash and Investments	194,131,422	197,602,305
Less Cash & Investments Held in Relation to Restricted Assets		
Employee Leave Entitlements	7,049,913	7,049,913
Critical Asset Compliance	467,064	484,819
Other Internal Reserves	3,036,358	5,779,115
Section 7.11 Matching Funds	319,272	311,169
Industrial Land Development Reserve	6,475,818	4,368,341
Plant Replacement	1,514,807	1,719,096
S7.11 Recoupment	363,882	629,694
Commitment To Capital Works	2,098,730	1,374,063
Total Internally Restricted	21,325,844	21,716,210
Loans - General Fund	10,162,233	14,574,004
Self-Insurance Liability	2,763,501	3,040,465
Grant reserve	28,199,654	26,818,912
Section 7.11	21,024,930	20,730,960
Special Rate Variation	4,081,927	4,239,744
Storm Water Levy	258,698	278,306
Trust - Mayors Relief Fund	107,570	161,539
Trust - General Trust	4,843,985	4,846,215
Waste Disposal	473,995	232,206
Sewer Fund	33,969,927	31,982,077
Sewer Plant Fund	4,895,759	5,190,447
Section 64 Water	20,720,086	20,607,249
Water Fund	27,827,880	26,012,841
Water Communication Towers	4,656,581	4,445,187
Water Plant Fund	7,025,069	6,944,875
Total Externally Restricted	171,011,796	170,105,027
Total Restricted	192,337,640	191,821,237
Unrestricted Cash Balance - General Fund	1,793,782	5,781,069

CL22.361

Restricted Asset Movements

The table below lists the major movements in cash reserves increase/(decrease):

Total Cash	(3,470,883)	July was not a rates instalment month. Annual insurance premium paid in July - 3.8M.
Other Internal Reserves	(2,742,758)	Insurance premiums were paid from internal reserve. Partially offset by other positive movements.
Industrial Land Development Reserve	2,107,477	Increase in the reserve due to proceeds received from industrial land sales.
Loans - General Fund	(4,411,771)	Delivery of major capital projects funded by loans including Materials Recovery Facility (-2.2M), Currarong Rd (-0.6M) and Holiday Haven capital projects.
Grant reserve	1,380,743	Grants received in July.
Sewer Fund	1,987,851	Receipts for sewer services.
Water Fund	1,815,038	Receipts from ratepayers
Unrestricted cash	(3,987,286)	July is not a rate instalment month.

CL22.361

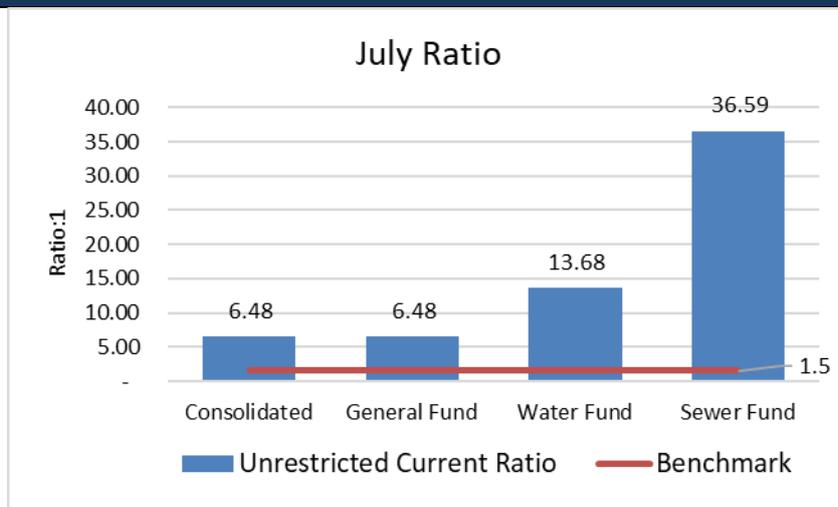
Liquidity Indicators

In accordance with the Liquidity Contingency Plan as endorsed by Council, the following liquidity indicators were included in the Monthly Investment Report which will continue to enhance the transparency of Council’s financial reporting.

All liquidity ratios remain above their respective benchmarks and Council remains in a sound financial position.

Please note the historic trends for some key financial indicators such as Unrestricted Current Ratio, Cash Expense Cover Ratio and Unrestricted Cash were added below as requested by Council at the last meeting.

Unrestricted Current Ratio

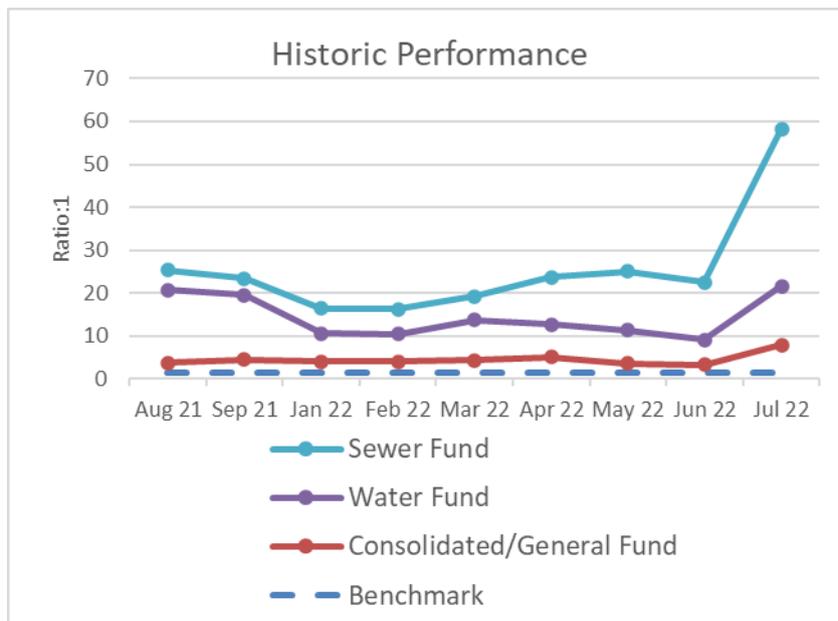


The **Unrestricted Current Ratio** is an indicator used to assess the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of Council.

Unrestricted Current Ratio = (Current Assets less all external restrictions) / (Current Liabilities less specific purpose liabilities)

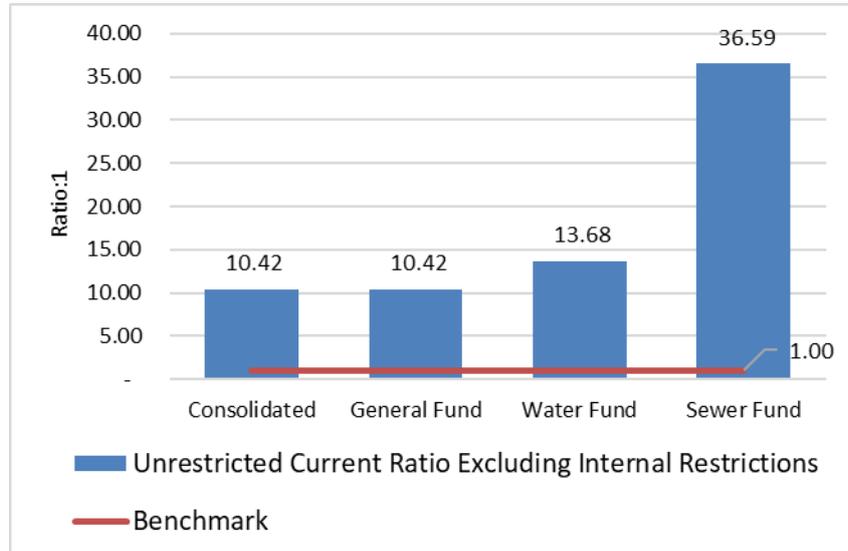
The ratio remains above the benchmark for all funds.

The first graph displays the July 2022 Unrestricted Current Ratio and, the second graph displays the previous rolling 12-months Unrestricted Current Ratio by fund.



CL22.361

Unrestricted Current Ratio Excluding Internal Reserves



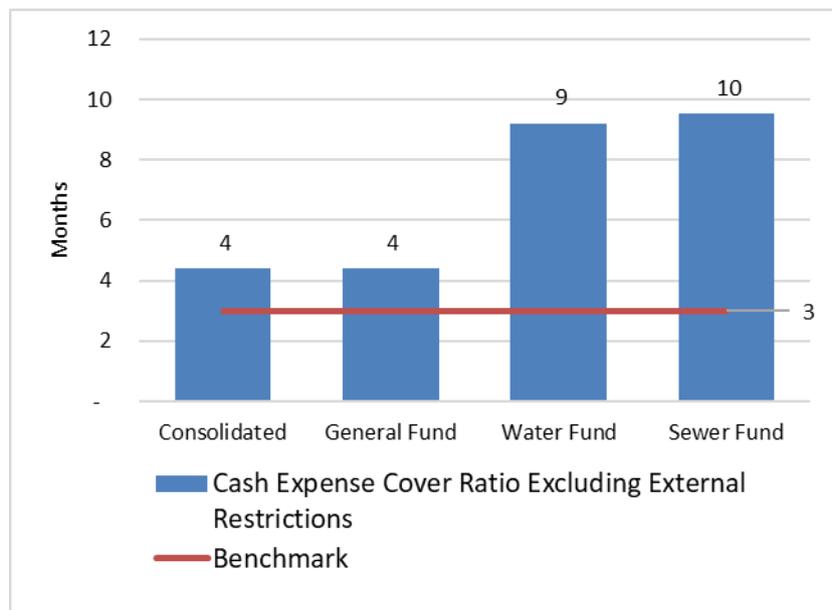
Unrestricted Current Ratio Excluding Internal Reserves is an indicator used to assess the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of Council.

Unrestricted Current Ratio Excluding Internal Reserves = $(\text{Current Assets less all external and internal restrictions}) / (\text{Current Liabilities less specific purpose liabilities})$

The ratio remains above the benchmark for all funds.

CL22.361

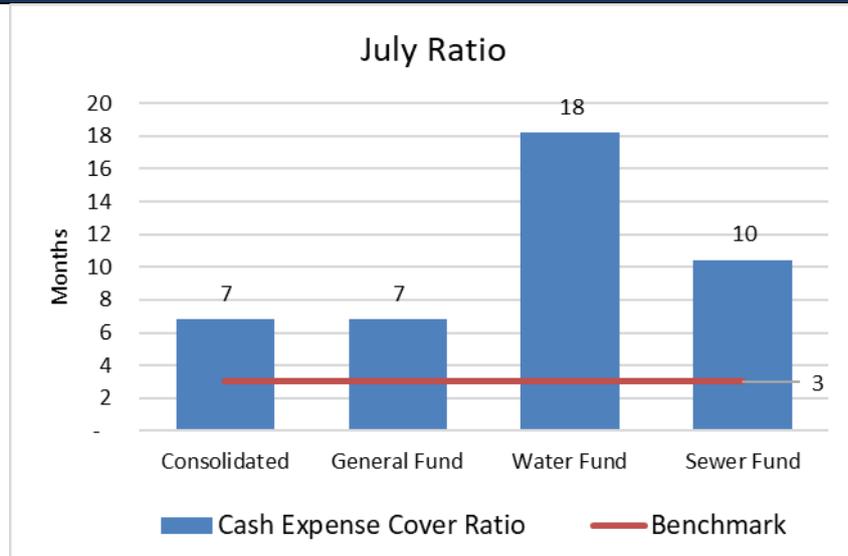
Cash Expense Cover Ratio Excluding External Restrictions



Cash Expense Cover Ratio Excluding External Restrictions takes the OLG calculation for the Cash Expense Cover Ratio and removes external restrictions to represent the amount of months Council can continue paying for its immediate expenses without resorting to external restrictions.

The ratio remains above the benchmark of 3 months as at the end of July for all funds.

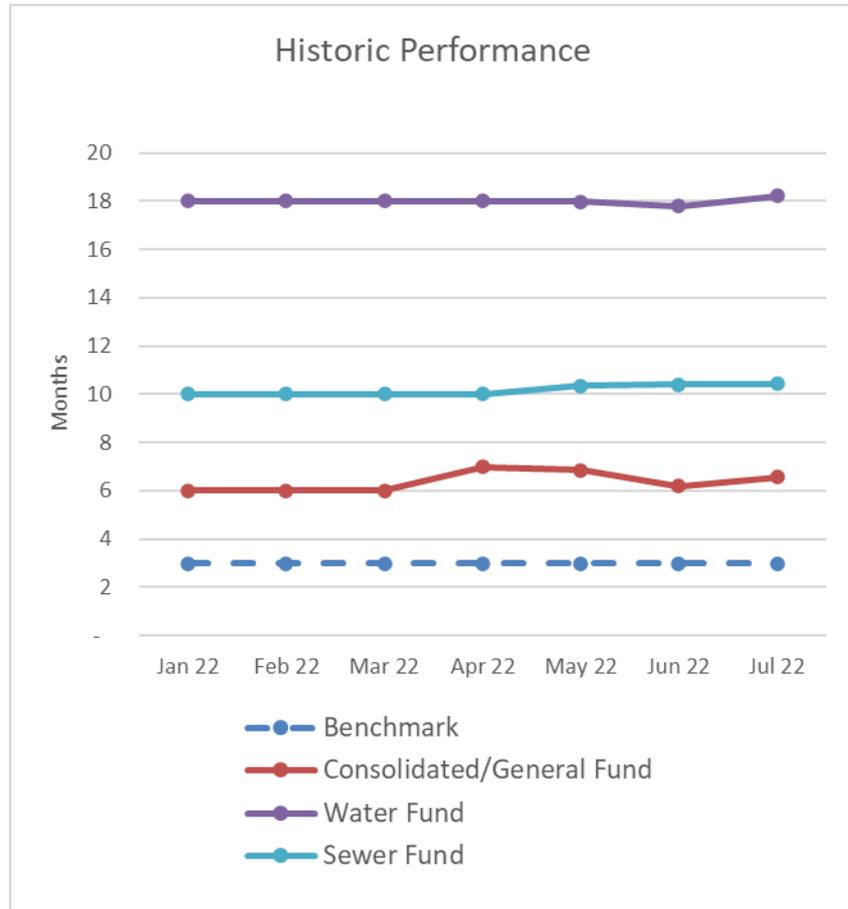
Cash Expense Cover Ratio



Cash Expense Cover Ratio indicates the number of months a Council can continue paying for its immediate expenses without additional cash inflow.

Cash expense cover ratio = $(\text{Cash equivalents, TDs and FRNs} \times 12) / (\text{Payments from cash flow of operating and financing activities})$

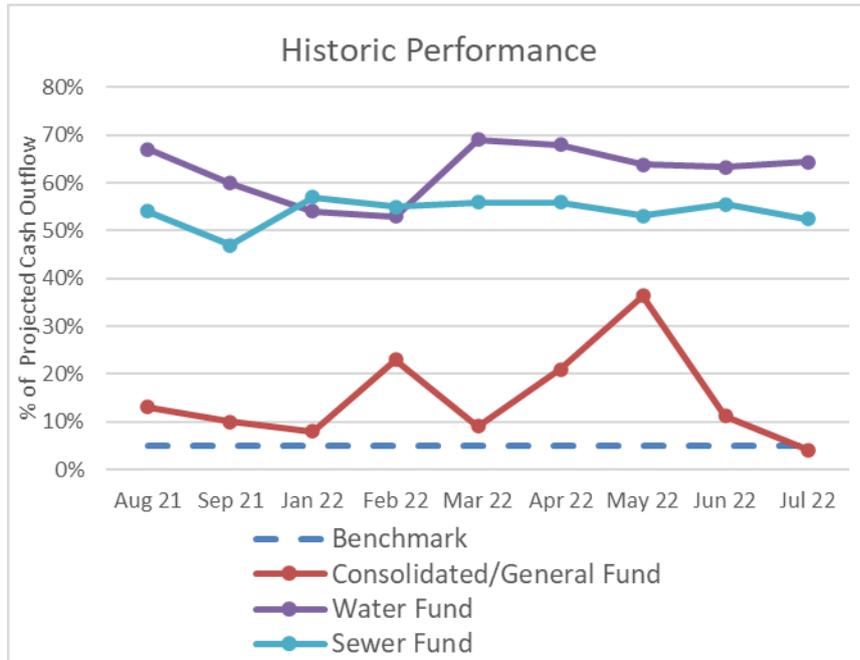
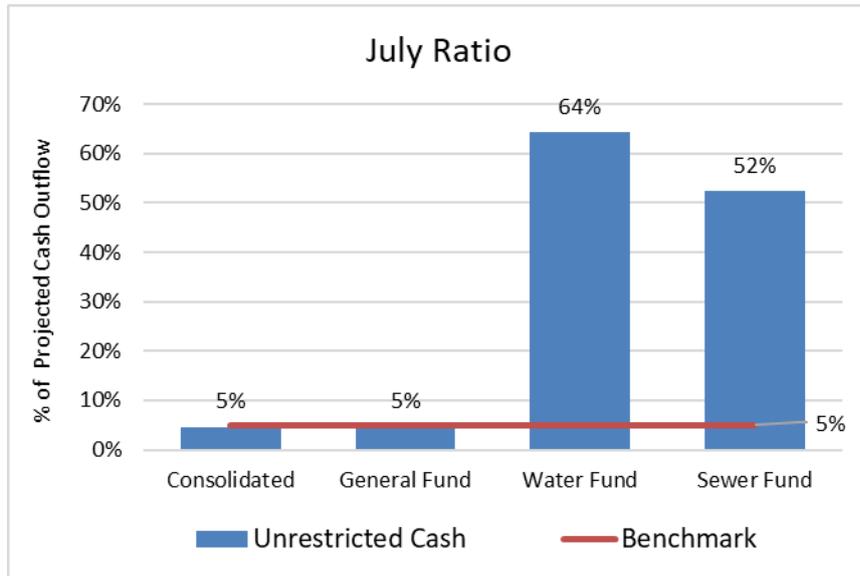
The ratio remains above the benchmark of 3 months as at the end of July 2022 for all funds.



The first graph displays the July 2022 Cash Expenses Cover Ratio and, the second graph displays the previous rolling 7-months Cash Expenses Cover Ratio by fund.

CL22.361

Unrestricted Cash



Unrestricted Cash is calculated as a total Cash and Investments, less external and Internal restrictions.

The unrestricted cash balance remains above the benchmark as at the end of July for Sewer and Water funds and close to benchmark for the General fund.

The unrestricted cash is relatively low in July due to timing of receipts from rates and significant payments for capital projects in July.

The benchmark is set up at 5% of budgeted cash outflows (excluding investment purchases and expenditures funded by reserves).

The first graph displays the July 2022 Unrestricted Cash Ratio and, the second graph displays the previous rolling 12-months Unrestricted Cash Ratio by fund.

CL22.361

Statement by Responsible Accounting Officer

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulations 2021 and Council’s Investments Policy POL 22/78.

Olena Tulubinska

Date: 8th July 2022

CL22.362 LGNSW Annual Conference 2022 - Motions

HPERM Ref: D22/333154

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Reason for Report

This report outlines motions proposed to be submitted for the LGNSW Annual Conference 2022 for endorsement by Council.

Recommendation

That Council endorse the motions outlined within the report for submission as the Council's contribution to the Business Paper of the LGNSW Annual Conference 2022.

Options

1. As recommended.

Implications: The Council's submitted motions will be submitted for inclusion in the Business Paper of the 2022 LGNSW Annual Conference.

2. That Council does not accept the one or all of motions as outlined in the report and proposes alternatives

Implications: Motions will need to be worded and endorsed by the Council

Background

At the Ordinary Meeting held on 25 July 2022 Council considered a report with respect to the LGNSW Annual Conference to be held between 23-25 October 2022 (CL22.301) and resolved:

"That:

1. *Council approve attendance by all interested Councillors at the 2022 LGNSW Annual Conference to be held at Crowne Plaza Hunter Valley from Sunday 23 October 2022 to Tuesday 25 October 2022, and such attendance be deemed as Council business.*
2. *Registration fees be met in accordance with Council's adopted policy.*
3. *Council confirm one of the voting delegates at the 2022 LGNSW Annual Conference to be the Mayor.*
4. *Council determines the other four (4) Councillors to attend the conference as Council's voting delegates as follows:*
 - a. *Clr Butler – Deputy Mayor*
 - b. *Clr Wells*
 - c. *Clr Christen*
 - d. *Clr Norris*
5. *That a Councillor Briefing be held in early August 2022 for the Council to formulate motions for submission to the conference."*

CL22.362

Motions

LGNSW has called for the submission of motions. Councils are encouraged to formulate motions submitted in terms of the current policy statements.

Councils are also encouraged to submit motions online as early as possible and before **29 August 2022** to allow assessment of the motions and distribution of the Business Paper before the Conference. Under LGNSW Rules, the latest date motions can be accepted for inclusion in the Business Paper is 12 midnight (AEDT) on Monday 25 September 2022 (28 days prior to Conference).

The following motions were proposed at the Councillor Briefing held on 4 August 2022:

MOTION 1: PLANNING LEGISLATION

That LGNSW advocates that the NSW Government provides a greater level of support to NSW Councils for strategic and statutory planning outcomes, including improved systems, processes, and communication strategies.

Background

The ability for Local Governments to meet the quality and quantity of work output that is expected of them continues to be challenged. This challenge emanates from friction created by an insufficient workforce of qualified town planners, the challenge of competing with private firms for staff, the need to provide energy to a review of State Government planning reform and more recently the statement of expectations issued by the Minister.

This results in expectations upon Local Governments exceeding capacity. This leads to good staff leaving the industry, fatigue, burnout and disengagement.

State Government needs to provide significantly more support than is currently being offered to Local Government in the realm of town planning in order that the community can feel confident the functions of town planning are able to be delivered in an effective way. These supports could be in the form of systems, processes, employment assistance schemes, training programs and financial resources that are above and beyond what is available at this time.

MOTION 2: HOUSING CRISIS

That Local Government NSW requests the NSW Government to take urgent and immediate action to address the housing crisis in NSW.

Background

Councils across NSW are dealing daily with the housing crisis and the human impact of it. People are being evicted from public housing whilst private rentals are at an all-time low. The current Federal Government has made significant election promises to build new homes, but it will likely fall to the States and Local Government to make delivery smooth and timely.

It is requested that this be considered the lead advocacy issue for the 2023 State Election Campaign, aiming to leverage NSW as the State with the highest need to be the greatest priority.

MOTION 3. LOGGING IN NSW NATIVE FORESTS

That LGNSW advocate for the ending of logging in NSW Native Forests.

CL22.362

Background

Continued logging in NSW State Forest has the potential to place more flora and fauna under threat of extinction, affects cultural values and is not a profitable exercise. The controls associated with logging and the environmental due diligence exercised by the Forestry Commission of NSW to conserve biodiversity and cultural heritage needs to be evaluated.

This continual improvement opportunity can be conducted concurrently with the development of a plan to transition to a more sustainable timber harvesting process that considers the life cycle of logging operations for current and future generations.

This may include, but not be limited to, a planned ceasing of logging in the long term, which ensures a transition for workers and businesses associated with the logging operations, together with the implementation of strategies and investment, to enhance tourism in native forests. Such a plan will utilise the quadruple bottom line strategy and will aim to better support the NSW Economy and protect these important environmental assets.

MOTION 4 - CLOSING THE GAP

That Shoalhaven City Council request the Office of Local Government NSW call upon the NSW Government to provide support and resources to Councils in NSW to drive Closing the Gap outcomes and Reconciliation initiatives.

Background

According to the NSW Implementation Plan for Closing the Gap (2021-22) Councils are committed to Reconciliation and Closing the Gap and share the goals and priorities of the National Agreement on Closing the Gap. **Councils are an essential partner in ensuring Closing the Gap initiatives are locally tailored and relevant for each community.** Local Government NSW is an invited member of the NSW Partnership Working Group to help develop future NSW Closing the Gap Implementation Plans.

The National Agreement on Closing the Gap includes four Priority Reforms that will change how Governments work with Aboriginal and Torres Strait Islander people and communities.

The Priority Reforms will:

1. Strengthen and establish formal partnerships and shared decision-making
2. Build the Aboriginal and Torres Strait Islander community-controlled sector
3. Transform Government organisations so they work better for Aboriginal and Torres Strait Islander people
4. Improve and share access to data and information to enable Aboriginal and Torres Strait Islander communities make informed decisions.

Closing the Gap data released by the Productivity Commission 2022 highlighted the following outcomes nationally:

1. Four of the 17 targets are on track to be met in the next decade: the birth weights of Indigenous babies, preschool kids attending early childhood education, and youth detention rates are trending in the right direction, while gains are being seen in land and sea rights.
2. The report found that targets to reduce rates of suicide, adult incarceration, and First Nations children in out-of-home care were not on track. It also found that Indigenous children were less likely to have reached developmental milestones when they began their schooling.

These outcomes highlight the need for greater collaboration to ensure all targets are on track to be met. Councils in NSW are in a unique position in being able to provide place-based closing the gap initiatives which respond to local need in partnership with local Aboriginal communities. Councils also have the responsibility to meet Closing the Gap targets and Reconciliation Actions. Transforming initiatives in workplaces to ensure culturally safe environments and provision of opportunities for Aboriginal people. Shoalhaven City Council would welcome a comprehensive NSW strategy with the provision of resourcing to drive progress towards Closing the Gap.

MOTION 5 - FIRST NATIONS CULTURAL TRAINING FOR COUNCILLORS

That LGNSW advocate for compulsory first nations cultural training as part of Councillor Induction Training requirements.

Background

It is extremely important that elected Councillors as community leaders understand their local area history through a first nations lens.

The experience of Shoalhaven City Councillors who received this training as part of their Councillor Induction Program was an opportunity to hear the history, stories and experiences through truth telling local Aboriginal people, who shared confronting stories of their own families' experiences and those of their communities.

Attendees were taken on an intimate journey through our true Australian history. Deeply listening to, and hearing from our local Aboriginal community on their lived experiences was significant for all. Participants learnt about white privilege and white fragility and gained a better understanding of systematic racism, entrenched white frames of reference and colonial structures.

The profound impact of the dominant group status upon the everyday lives of Aboriginal and Torres Strait Island people currently perpetuates this impasse.

MOTION 6 - LOCAL GOVERNMENT WORKFORCE ATTRITION TO THE BENEFIT OF THE NSW GOVERNMENT

That LGNSW advocate to the NSW Government on strategies that could be implemented to maintain staffing in NSW Councils and reduce the transfer of Local Government employees to the State Government.

Background:

NSW Councils are experiencing a great attrition of employees, particularly to employment for State Government Agencies and Organisations, which have a greater capacity to provide pay and employment condition incentives (such as remote working) to attract Local Government Employees for their positions when they arise. This is creating a significant skills shortage in NSW Councils and impacting upon how Councils can effectively deliver to their communities.

MOTION 7 - INFRASTRUCTURE FOR ELECTRIC VEHICLES

That Local Government NSW lobbies the Federal Government and NSW Government to encourage and promote the uptake of electric vehicles through appropriate investment, concessions and with legislative support of charging and parking infrastructure in new residential and commercial developments.

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Background:

Council State and Federal Governments need to continue more policy work, investment, concessions and legislative support of charging and parking infrastructure in order to encourage the mass market uptake of electric vehicles. Australia is falling behind most of the developed world with the uptake of electric vehicles. Increasing the uptake of electric vehicles will reduce the reliance on non-renewable fuels and help to lower emissions and cleaner air over time.

MOTION 8 - HOUSING AFFORDABILITY

That LG NSW advocates for a wholistic process of legislative reform to achieve significant improvements to housing affordability and availability

Background:

Amendment and reform such as outlined below could address these barriers:

1. Reform to:
 - i. NSW Local Government Act, 1993
 - ii. NSW Conveyancing Act, 1919
 - iii. NSW Environmental Planning and Assessment Act, 1979
 - iv. NSW Property Act, 2006 and,
 - v. Federal taxation law

could be used to allow for investors to create a percentage of Affordable Housing (AH) in new subdivisions, which would enable residential property to be permanently notated as AH. This would mean the property would always be listed at a price a certain percentage below the market.

The 'offset' for the initial developer could be developer contributions (NSW Environmental Planning and Assessment Act, 1979) discounts, as well as taxation discounts on the value of the land.

The 'offset' for future owners could be reduced general rates, waste rates and general levies. In this way the reduced price they will achieve on selling would be offset along the way and during their ownership. This will cost Local Government unless that was itself offset and changes to the NSW Local Government Act, 1993 could allow Councillors to maintain the size of the rates 'pie' by very marginally increasing rates across the board for all other rate payers (obviously this comes with a degree of political risk).

2. Reform to:
 - i. NSW Environmental Planning and Assessment Act, 1979
 - ii. Building Codes of Australia as associated with the National Construction Code (NCC)
 - iii. State Environmental Planning Policy (Housing) 2021

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could assist with the increased use of Tiny Homes (TH). Currently, TH are generally not considered on equal footing as permanent homes. Rather, they are mobile or temporary homes and as such are subject to different building code requirements.

Permanency as a residential land use, and classification as a “class 1” building are pertinent issues and relate to the ability to gain insurance and confidence from lenders that a mortgage is relevant to the fixed asset (in line with that taken for other class 1 homes).

Reform could allow TH into more land use zones, permanently and built to a standard that reflect their purpose and intent.

3. Reform to:

- i. NSW Environmental Planning and Assessment Act, 1979
- ii. State Environmental Planning Policy (Housing) 2021
- iii. The Standard LEP Instrument
- iv. The Local Government Act 1993 (and associated approvals criteria under the Regulations)

could assist to reduce the minimum lot sizes required in rural zonings and increase the maximise permissible dwelling entitlements on standard land use zones. This would increase access to housing (more of it would be permissible more often) and possibly AF as well.

Allowances and relevant amenity controls to unlock the ability for both low density residential and rural-residential/rural zones to have tiny homes or other mobile dwellings allowed either through planning or local approval mechanisms.

MOTION 9 - LIFTING OF RATE CAPPING

That LGNSW calls upon the NSW Government to abandon rate pegging to allow Councils to effectively manage their ability to provide services to their communities and adhere to section 8B of the Local Government Act 1993.

Background

The continuation of rate pegging undermines the principles of sound financial management and does not allow for intergenerational equity the rating system. The rating system does not adequately account for the demand for an expanding number and quality of services, rising community expectations on asset quality and design, and aging infrastructure.

In addition, current rate pegging model undermines financial sustainability of Local Government during high inflation periods: being an indicator that is based on historic CPI calculations, rather than inflation forecast, the rate peg will be insufficient to address increase in Council expenses due to rapid inflation.

If the rating the system is not reviewed, there is a risk future generation will have less access to services and facilities than those in our community are utilising today. The sector will have no option but to reduce services. The notion that the rating system requires an extensive reform has been supported by the NSW Productivity Commission and IPART.

MOTION 10 - REGIONAL ROAD FUNDING

That LGNSW lobby the State Government to increase regional road funding in the context of natural disaster response

Background:

Options that could be employed include additional grants or the provision of interest free loans to Local Government.

Shoalhaven City Council provides approximately 1,770 Kilometres of roads both sealed (1440km) and unsealed (330km) throughout the region. The total length of sealed roads is regularly increasing each year with new development.

Following analysis undertaken based on the 2021 road condition data it was determined that 20.5% of all sealed roads are still in poor or very poor condition. Since that analysis was undertaken the Shoalhaven Region has been hit with up to nine weather events of varying magnitude along with the Bushfires of late 2020 early 2021.

The wet weather events in particular have caused a great deal of damage to infrastructure and natural areas by way of landslips and saturation of road pavements. This has compounded the issues we had prior to these events.

Estimated damages are in the order of \$100m spread evenly between Landslip damage and road pavement damage. Council currently seeks funding over and above Council Funding sources and has been claiming Natural Disaster funding predominantly to provide emergency and interim repairs specifically relating to these events.

For the longer term or permanent repairs relating to Storm damage the State Government is encouraging the Council to provide Complimentary works in order to build more comprehensive repairs and improve resilience.

Council would like LGNSW to request State Government make available further opportunities for funding from State Authorities in order to pursue more comprehensive repairs than allowed under current disaster funding.

MOTION 11 - WASTE LEVIES

That LGNSW strongly advocate for the return of a greater proportion of waste levies to Local Government

Background

The NSW Waste and Sustainability Materials (WASM) Strategy 2041 sets ambitious targets to achieve an 80% average recovery rate from all waste streams. The EPA have budgeted \$356 million in funding over the next 6 years to help deliver priority programs and policy reforms. While the number may appear to be large, with 152 Councils it is equivalent to only \$390,000 per Council per year. As a comparison in 2019-2020 the NSW Government received a total of about \$750 million in levy funds. Extrapolated to 6 years it is equivalent to \$4.5 billion in levy funds, with only \$356 million, or 8%, being allocated to achieving strategy targets.

The reality in the Shoalhaven over the past 3 years is as follows:

Year	2019-2020	2020-2021	2021-2022
Council pays as waste levy to NSW Government	\$11,317,113	\$12,830,793	\$11,341,330

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Grant funding for recycling projects received from the NSW Government	\$233,680	\$180,657	\$764,982
% Retained by NSW Government for general funds	98%	99%	93%

The WASM Strategy includes a guide to future infrastructure needs, which includes Materials Recovery Facilities (MRFs). The Shoalhaven MRF is incorporated in this document as a planned facility and the only MRF located between Sutherland and the NSW southern border in Bega.

Despite this, two separate grant applications for co-contributory funding of the MRF were unsuccessful. The reason being that the total amount of grant applications was oversubscribed by about 3 times.

MOTION 12 - CONSTITUTIONAL RECOGNITION

That LGNSW request that the Federal Government work with Local Government bodies across Australia to progress a Referendum at the next Commonwealth Election to secure the recognition of Local Government in the Australian Constitution.

Background:

Since 1974, there have been 3 proposals seeking the recognition of Local Government in the Australian Constitution. The previous attempts in 1974 and 1988 both failed to secure a majority of votes in a majority of States and Territories. A third attempt was proposed for the Federal election to be held in 2013.

However, a change of leadership in the Government of the day and the resulting change in the election date meant that the referendum did not proceed. On that most recent occasion, the then Government had well advanced plans to support the proposal, including:

- The support of both an Expert Panel on Constitutional Recognition of Local Government and a Joint Select Committee on Constitutional Recognition of Local Government
- Draft wording of the proposed changes to section 96 of the Constitution and associated legislation
- Funding allocated in forward budget estimates to The Australian Electoral Commission to conduct the referendum, the then Department of Regional Australia, Local Government, Arts and Sport to undertake a national education campaign to provide information on the referendum process.

It is now time for the new Federal Government to complete the business of securing recognition of Local Government in the Australian Constitution. The work undertaken in the lead up to the 2013 proposal will further reduce the cost and workload in progressing this important reform.

MOTION 13: EMBEDDING OF THE SOCIAL DISASTER RECOVERY INTO COUNCIL FUNCTIONS

That LGNSW requests that the NSW State Government provide funding to permanently embed a Community Recovery Officer function into Local Government Organisations across the state.

Background:

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Following the Black Summer fires, funding was provided to 22 affected Councils for a Community Recovery Officer (CRO) to lead the social recovery for their LGA's.

Subsequent events including COVID, floods, East Coast Lows and Land Slips (isolating communities for weeks on end) have shown that having a CRO embedded into Council, enables social recovery to be considered in the initial response phase of an emergency.

The purpose of the CRO role is to support communities through their recovery journey. The officers were embedded into Councils and were responsible for the development of a range of recovery initiatives alongside community groups and other stakeholders. This includes work to connect community organisations that are collaborating with communities, supporting local coordination between public, private and community sector bodies, facilitating community recovery events, facilitating access to information, and undertaking recovery planning and actions based on local context and need.

Disasters can happen anytime. As key contributors to recovery, Councils need to be ready to support the community and begin recovery immediately following the response. Councils do not work alone in recovery: all levels of Government, individuals, businesses, and non-government organisations have a role to play.

Planning for recovery can be a complex and demanding process, involving a broad range of stakeholders, and often exposing challenging issues to be negotiated. Usual processes and practices may not work in the recovery environment, and staff will need to be flexible and adaptable when responding to changing community needs.

Successful recovery requires planning, and all Councils should consider how they will meet their responsibilities under the State Emergency Management Plan.

Unfortunately, recovery planning can be seen as a low priority compared to more pressing or immediate Local Government issues for business as usual.

Shoalhaven City Council has been in some sort of recovery for the last decade, whether it be from drought, flood, fire, or pandemic. With the effects of climate change being felt across the world, it is only a matter of time until another natural disaster affects the Shoalhaven. With a Community Recovery Officer embedded into the Community Connections team, Council will be well placed to:

- Respond quickly and decisively to community needs
- Have a member of staff who is well versed in Disaster Recovery Principles, with the ability to apply them and support other areas of Council.
- Have pre-existing relationships at all levels of Government and NGOs to ensure swift action and activation of services.
- Be connected into Council services and staff to ensure collaboration and coordination of efforts.

MOTION 14 REFUGEE SUPPORT

That Local Government NSW lobbies both the NSW and Australian Governments to increase funding levels for community service provision in settlement and migrant support for new arrivals into NSW, in particularly into Regional areas. Funding is required to support:

- **Multicultural hubs**
- **Regional settlement initiatives**

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- **Specialist migrant support initiatives**
- **Settlement support initiatives**
- **Affordable housing**

Background

Local Governments are increasingly engaging with the local settlement sector to foster positive settlement outcomes. However regional areas such as the Shoalhaven have critical shortages with regards to affordable housing, employment to support refugees and adequate resources for local settlement support services.

Local migrant support services report that the current lack of social infrastructure needed to support newly arrived refugees and migrants, is resulting in poor mental health outcomes, lack of social cohesion and unnecessary delays in integrating them into the local community.

A submission by the refugee Council of Australia to the Department of Home Affairs in July 2022 highlighted the vital role that refugee-led organisations play in the settlement journey of migrants and refugees and the need for them to be recognised, supported and funded. Specific funding should be set aside to strengthen refugee-led organisations and to support the work they do. Likewise, further funding should be provided to local Councils to enhance wider community involvement in the settlement journey in order to increase community awareness and support for the humanitarian program and achieve better integration outcomes.

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CL22.363 The Development of Guidelines and a Model Policy on The Lobbying of Councillors

HPERM Ref: D22/340453

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Attachments: 1. Council Circular 22-22 The Development Of Guidelines And A Model Policy On The Lobbying Of Councillors - 8 August 2022 [↓](#)

Reason for Report

To advise Council and the community of Office of Local Government (OLG) Circular 22-22 - The development of guidelines and a model policy on the lobbying of councillors received on 8 August 2022.

Recommendation

That Council

1. Receive and note the content of OLG Circular 22-22 seeking the views of councils on the development of guidelines and a model policy on the lobbying of councillors.
2. Receive a briefing from staff in relation to making a submission on the matter.

Options

1. As recommended

Implications: a briefing be provided on the matter and Council determines whether it makes a submission on the matter following that briefing.

2. No action be taken until the creation of the Guidelines and a Model Policy on the Lobbying of Councillors

Implications: no action to be taken at this time, upon the creation of the Guidelines and a Model Policy on the Lobbying of Councillors, receive a briefing and determine whether to put forward a submission at that time.

3. Councillors resolve to put forward a submission prior to the submission close date, being Monday 5 September 2022 for the creation of the Draft Guidelines and Model Policy.

Implications: Council would need to resolve what their submission would entail.

4. An alternative recommendation

Background

Council received OLG Council Circular 22-22 regarding the development of guidelines and a model policy on the lobbying of councillors (Attached) on 8 August 2022.

The Council Circular notes that in recent investigations, (Operation Dasha, Operation Eclipse and Operation Witney), the Independent Commission Against Corruption (ICAC) has considered the corruption risks associated with the lobbying of councillors and made corruption prevention recommendations.

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Among other things, ICAC has recommended:

- That the Office of Local Government (OLG), in consultation with the Local Government sector, develop guidelines to enhance transparency around the lobbying of councillors (ICAC has also made recommendations about the content of the guidelines), and
- That the *Lobbying of Government Officials Act 2011* (<https://www.elections.nsw.gov.au/Political-participants/Third-party-lobbyists>) is amended to ensure all provisions apply to Local Government.

In response to ICAC's recommendations, OLG is proposing to develop guidelines to enhance transparency around the lobbying of councillors. The guidelines will be issued under s 23A of the Local Government Act 1993.

OLG is also developing a model policy on lobbying to support councils to implement the guidelines. If adopted by councils, the policy will operate to supplement the provisions of their adopted codes of conduct.

OLG is currently undertaking consultation with councils to seek their views on what should be included in the proposed guidelines and to identify existing best practice in the Local Government Sector in managing corruption risks associated with the lobbying of councillors.

OLG is also seeking the views of councils on whether the LOGO Act should apply to Local Government. The LOGO Act specifically outlines declaration requirements Lobbyists.

Under the Act, a Lobbyist is defined as "*an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying government officials on behalf of another individual or body*"

The following fall outside the definition of Lobbyist:

- *“Religious or charitable organisations*
- *Professionals (such as Australian legal practitioner, medical practitioner or qualified accountant) if the lobbying carried out is incidental to the provision of professional services to a client in the course of the person’s work or Individuals making representations to government officials on behalf of their relatives or friends about their personal affairs.”*

To assist with the development of the guidelines and model policy, OLG is seeking the following from Councils:

- Councils' views and suggestions on ICAC's recommendations noted within the following links on the content of the proposed guidelines
 - ICAC's report on Operation Dasha is available [here](#).
 - ICAC's report on Operation Eclipse is available [here](#).
 - ICAC's report on Operation Whitney is available [here](#).
- Suggestions on what issues, behaviours and risks need to be addressed in the guidelines and model policy
- Information about what measures councils currently take to enhance transparency and promote honesty around the lobbying of councillors, and copies of or links to councils' existing lobbying policies.

There was insufficient time to provide a briefing on this matter to Councillors prior to the meeting date of 22 August 2022 – noting the OLG advice that submissions should be made by Monday 5 September 2022.

Given this limited timeframe and noting that there would be expected community interest in this matter, this report presents the OLG advice publicly prior to the OLG's requested deadline for submissions. Staff have however, contacted the OLG regarding the timeframe and advice has been received that notwithstanding the deadline, the OLG will still consider a late submission from Council.

It is therefore recommended that Council note the OLG advice at this time and receive a briefing from staff in relation to making a submission on the matter.

Policy Implications

In response to ICAC's recommendations, OLG is proposing to develop guidelines to enhance transparency around the lobbying of councillors. The guidelines will be issued under s 23A of the Local Government Act 1993. The Council will be required to take those guidelines into consideration before exercising any of its functions

OLG is also developing a model policy on lobbying to support councils to implement the guidelines. If adopted by councils, the policy will operate to supplement the provisions of their adopted codes of conduct.

Shoalhaven City Council does not have its own Policy on this matter.



Office of
Local Government

Circular to Councils

Circular Details	Circular No 22-22 / 8 August 2022 / A731312
Previous Circular	N/A
Who should read this	Councillors / General Managers / All council staff
Contact	Council Governance / (02) 4428 4100 / olg@olg.nsw.gov.au
Action required	Response to OLG

The development of guidelines and a model policy on the lobbying of councillors.

What's new or changing

- In recent investigations, (Operation Dasha, Operation Eclipse and Operation Witney), the Independent Commission Against Corruption (ICAC) has considered the corruption risks associated with the lobbying of councillors and made corruption prevention recommendations.
- Among other things, ICAC has recommended:
 - that the Office of Local Government (OLG), in consultation with the local government sector, develop guidelines to enhance transparency around the lobbying of councillors (ICAC has also made recommendations about the content of the guidelines), and
 - that the *Lobbying of Government Officials Act 2011* (the LOGO Act) is amended to ensure all provisions apply to local government.
- In response to ICAC's recommendations, OLG is proposing to develop guidelines to enhance transparency around the lobbying of councillors. The guidelines will be issued under s 23A of the *Local Government Act 1993*.
- OLG is also developing a model policy on lobbying to support councils to implement the guidelines. If adopted by councils, the policy will operate to supplement the provisions of their adopted codes of conduct.

What this will mean for your council

- OLG is undertaking consultation with councils to seek their views on what should be included in the proposed guidelines and to identify existing best practice in the local government sector in managing corruption risks associated with the lobbying of councillors.
- OLG is also seeking the views of councils on whether the LOGO Act should apply to local government.
- To assist with the development of the guidelines and model policy, OLG is seeking the following from councils:
 - councils' views and suggestions on ICAC's recommendations on the content of the proposed guidelines (set out in the attachment to this circular)
 - suggestions on what issues, behaviours and risks need to be addressed in the guidelines and model policy
 - information about what measures councils currently take to enhance transparency and promote honesty around the lobbying of councillors, and
 - copies of or links to councils' existing lobbying policies.
- Submissions may be made by email to olg@olg.nsw.gov.au.
- Submissions should be labelled '*Lobbying Guidelines*' and marked to the attention of OLG's Council Governance Team.

Office of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 44 913 630 046

- Submissions should be made by COB **Monday 5 September 2022**.

Where to go for further information

- Information about ICAC's corruption prevention recommendations in relation to the lobbying of councillors is provided in the attachment to this circular.
- ICAC's report on Operation Dasha is available [here](#).
- ICAC's report on Operation Eclipse is available [here](#).
- ICAC's report on Operation Witney is available [here](#).
- Information on the operation of the LOGO Act is available [here](#).
- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au

Michelle Wood
A/Deputy Secretary, Crown Lands and Local Government

3
ATTACHMENT

ICAC recommendations in relation to section 23A guidelines on the lobbying of councillors

Operation Dasha

Recommendation 8

That the Department of Planning and Environment (DPE), following a reasonable period of consultation, issues guidelines under section 23A of the *Local Government Act 1993* (LGA) to introduce measures to enhance transparency around the lobbying of councillors. The guidelines should require that:

- councils provide meeting facilities to councillors (where practical) so that they may meet in a formal setting with parties who have an interest in a development matter
- councils make available a member of council staff to be present at such a meeting and to prepare an official file note of that meeting to be kept on the council's files (any additional notes made by the member of council staff and/or the councillor should also be kept as part of the council's records)
- all councillors be invited when a council conducts formal onsite meetings for controversial re-zonings and developments, and
- council officers disclose in writing to the general manager any attempts by councillors to influence them over the contents or recommendations contained in any report to council and/or relating to planning and development in the local government area.

Operation Witney

Recommendation 9

That DPE ensures any guidelines issued pursuant to section 23A of the LGA regarding the lobbying of councillors (see Operation Dasha recommendation 8 above) include advice about:

- the nature and frequency of meetings between councillors and interested parties, including the need to ensure transparency around these interactions
- how and where to report concerns about lobbying practices
- the receipt of submissions outside of formal processes, including the transmission of material to specific councillors in a way that excludes other councillors and staff
- councillors' attendance at staff meetings with parties interested in an outcome
- councillor representations to staff arising from lobbying interactions, and
- the lobbying of councillors by interested parties with whom they have a pre-existing relationship.

Recommendation 10

That DPE updates the *Model Code of Conduct for Local Councils in NSW* to refer to any councillor lobbying guidelines and to reflect the substantive advice contained in the guidelines.

ICAC recommendations and findings on the extension of the *Lobbying of Government Officials Act 2011* (the LOGO Act) to local government

Operation Dasha

Recommendation 7

That the NSW Government amends the LOGO Act to ensure all provisions apply to local government.

Operation Eclipse

Key finding 5

The local government sector faces considerable risk of undue influence and should be regulated by the LOGO Act.

Investigations conducted by ICAC and interstate anti-corruption commissions indicate that local councils are often the target of improper lobbying. However, local government officials are not “government officials” as defined by, and for the purposes of, the LOGO Act. The *Model Code of Conduct for Local Councils in NSW* does not explicitly refer to lobbying; however, it does contain general obligations in relation to ethical and honest conduct, as well as more detailed material covering:

- improper and undue influence
- inappropriate interactions
- use and security of confidential information
- recordkeeping.

Extending the provisions of the LOGO Act to local government would, among other matters, allow the lobbying regulator to provide guidance about the appropriate policies and procedures that would best suit the circumstances of local councils, particularly regarding matters about planning, land use, the environment and community amenities.

CL22.364 Update: Proposed Suburb Naming Arrangements for Moss Vale Road Release Areas

HPERM Ref: D22/317071

Department: Strategic Planning

Approver: Coralie Bell, Acting Director - City Futures

Reason for Report

To provide an update on the NSW Geographical Names Board's public consultation on proposed suburb arrangements for the Moss Vale Road Release Areas.

Recommendation:

That Council receive the Update report on the Proposed Suburb Naming Arrangements for Moss Vale Road Release Areas for information.

Options

1. Receive the report for information.

Implications: This is the preferred option. The report provides an update on the outcomes of the Board's recent consultation on proposed new suburb name (Badagarang) and boundary arrangements for the Moss Vale Urban Release Areas.

2. Reconsider support for the nominated suburb name – Badagarang - and notify the Board accordingly.

Implications: Council has previously supported the settling of suburb arrangements for the Release Areas, nominating the proposed name of Badagarang. This allows the Board to finalise suburb arrangements. Withdrawing support for the current proposal delay the settling of new suburb arrangements, potentially causing confusion for an increasing number of new landowners as development occurs.

3. Alternative recommendation as proposed by Council.

Implications: Implications unknown at this point.

Background

Council is guiding the delivery of a new urban area in the Nowra-Bomaderry area. This consists of two urban release areas currently known as Moss Vale Road North and Moss Vale Road South. Together, these areas are anticipated to provide up to 3,500 contemporary homes in a new urban environment over the next 10-15 years. They will also contain a local centre providing space for retail and services. The new community will be supported with a range of infrastructure, including a road network connected to Moss Vale Road (via two roundabouts), water, sewer, and open space. The delivery of the southern release area is already underway, with 40 lots registered and a further 500 approved or close to approval.

Due to the size of the future urban area, the number of new homes, and the anticipated size of the new community, Council proposed new suburb arrangements to distinguish it from the existing rural localities of Cambewarra and Meroo Meadow (Figure 1). New suburb arrangements will also contribute to the identity of the emerging community and assisting emergency services, postal services, and delivery companies to serve the future community.

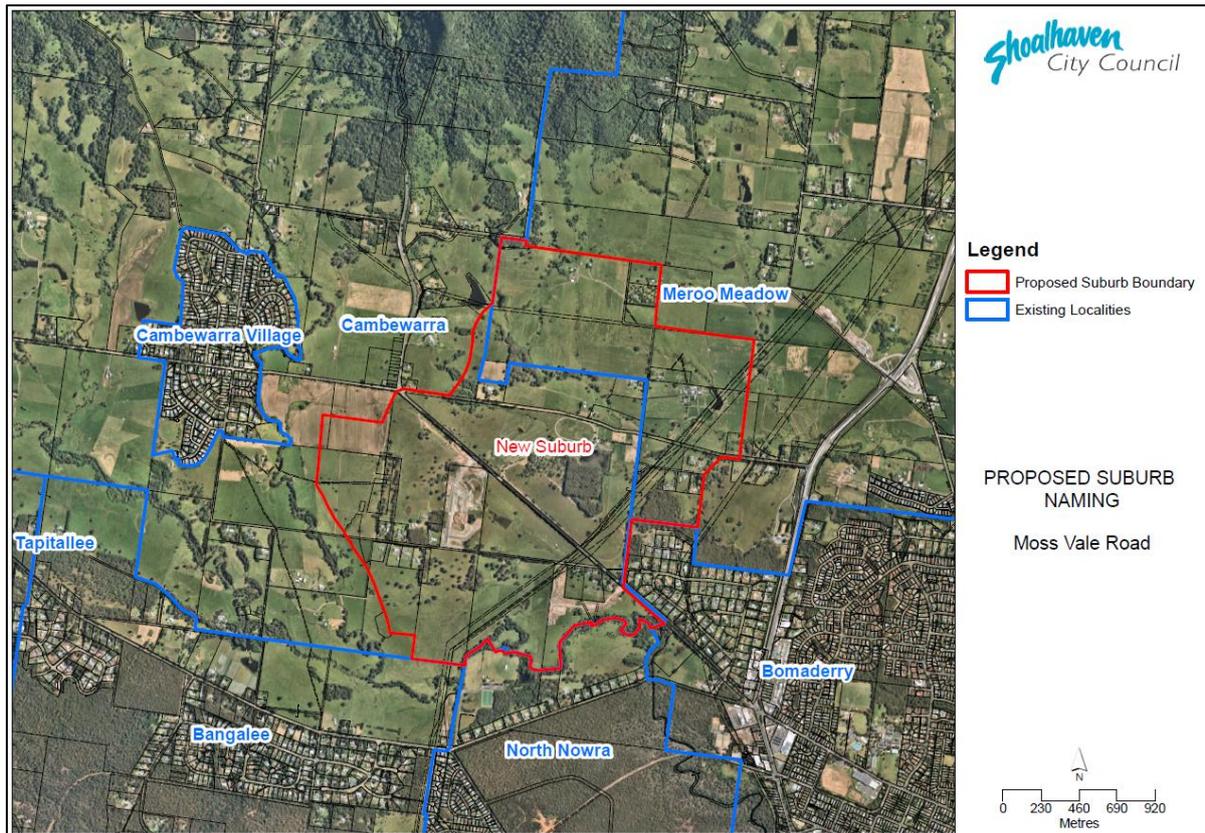


Figure 1: Location of the future urban area with proposed suburb boundary (red outline)

The nominated name – **Badagarang** – was selected in collaboration with the Nowra Local Aboriginal Land Council, Council’s Aboriginal Advisory Committee, and the Shoalhaven Historical Society. **Badagarang** is Dharawal for Eastern Grey Kangaroo, a Dharawal totem. Council tested the name with Shoalhaven’s communities with a public exhibition in late 2021, before resolving (in March 2022) to nominate the name for the Board’s consideration and allowing to commence work to settle new suburb arrangements.

The Board approved the nominated name and identified draft boundaries for the new suburb in May 2022, publicly exhibiting both in June 2022. The Board managed this exhibition independent of Council, inviting public feedback via the Boards’ online portal.

Results of the Geographic Names Board’s Exhibition

The Board received 35 submissions split between 27 objections and 8 submissions supporting the proposed suburb arrangements. The Board advised it is common for objections to outweigh positive submissions, noting 27 objections is a modest amount for a proposal of this nature.

The Board is the determining authority for the suburb arrangements but has asked for Council feedback on the matters raised in the objections to further inform its consideration. The Board has advised the submissions to its exhibition are confidential, confirming they are comparable to the feedback Council received during its exhibition of the proposed name, including matters such as:

- Personal dislike or disapproval of the proposed name.
- Concerns about spelling, pronunciation, and duplication.
- Suggestions for alternative names.
- Lack of perceived need for new arrangements.

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- Desire to retain existing arrangements, in particular the name Cambewarra.
- Potential impacts on property values.
- Possible confusion for emergency services, schools, property industry etc.
- Non-compliance with the Board’s Place Naming Policy.
- Administrative inconvenience for affected landowners.

Response to Submissions

Noting the community feedback received by the Board is comparable to the feedback considered by Council when nominating the proposed name, similar responses to the matters raised have been provided to the Board to inform its continued consideration of new suburb arrangements. These can be summarised as:

- Appeal/Attractiveness and suitability of Badagarang as the suburb name: Badagarang has a meaningful cultural connection to the traditional custodians of the land and is preferred over other names considered easier to say and spell.

Names are subjective and the Board has advised, through anecdotal observations, communities become more familiar and accepting of new names in time.

The nominated name complies with the Board’s Place Naming Policy. The alternative suggestions in the submissions did not.

- Retention of current suburb arrangements: While the current absence of urban development could be used to suggest there is no need for new suburb arrangements, the ultimate development outcome will significantly alter the existing rural landscape through the provision of approximately 3,500 homes and associated infrastructure over the next 10-15 years.

New suburb arrangements for the new urban area will:

- support the emerging community to develop its own identity,
- distinguish the development from the adjacent rural areas of Cambewarra and Meroo Meadow, and
- assist emergency services, postal services, delivery companies to serve the future community.

The Board will thoroughly examine all the submissions it received and Council’s response to them as it continues the process of settling new suburb arrangements. This is anticipated to occur at the Board’s next meeting in September 2022. The Board will then make a recommendation on final suburb arrangements to the Minister for Customer Services (currently the Hon. Victor Dominello MP). The final decision will be notified in the NSW Government Gazette.

Community Engagement

The Board’s community engagement was conducted independent of Council. The Board advertised its engagement activity in the South Coast Register at the start of the exhibition period. Council supported the Board’s engagement activity by:

- Notifying affected and adjoining landowners, developers, Local Aboriginal Land Councils, community groups, and other relevant stakeholders about the exhibition.
- Publishing updates on Council’s social media outlets and project webpage ([link](#)).

Council’s earlier engagement activities included:

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- Collaboration with Nowra Local Aboriginal Land Council, Council's Aboriginal Advisory Committee, and the Shoalhaven Historical Society.
- The public exhibition of two naming options providing Shoalhaven's communities the opportunity to submit feedback.

Policy Implications

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

Risk Implications

There are no risks for Council in receiving this report for information. However, should Council reconsider its support for its nominated suburb name, the number of landowners and other stakeholders who are subject to the current suburb arrangements, continue to increase as development occurs. This is also the case for any repeat exercise to settle new suburb arrangements, potentially making it harder to settle alternative suburb arrangements in the future.

Over 40 residential lots in the Moss Vale South Release have been recently registered, with 500 more lots approved or close to approval. It is considered critical for the Board to settle suburb arrangements as soon as possible to provide certainty for the new and emerging community and avoid the confusion of future address changes.

CL22.365 Side-by-Side Vehicle Adventure Request in Shoalhaven

HPERM Ref: D22/119192

Department: Tourism

Approver: Stephen Dunshea, Chief Executive Officer

Reason for Report

The purpose of this report is to update Council on representation made to staff for a Side-by-Side Vehicle Adventure opportunity in Shoalhaven and seek Council's in-principle support as well as direction to prepare a further report on site options.

Recommendation

That Council seek a report on any site options for a side-by-side vehicle event.

Options

1. As written above

Implications:

- The Australian Off-Road Vehicle Association and Council staff will work together to find any available options.
- Staff have raised concerns about the ability to find a site that is both appropriate for the use and one where the use is also permissible. It is highly possible that investigations may not find a suitable site and a future report will not be positive.
- Whilst there is likely community support for this project, there is also likely community resistance for this type of use in natural areas, future site consideration may need to consider community consultation as part of decision making.
- Council have had difficulty in the past finding sites suitable to motor sports. Concerns have been raised in internal discussions about the availability of land in the region.

2. Do not support the use of 'side-by-side' vehicles on council owned or managed land, thank the Australian Off-Road Vehicle Association for their enquiry and encourage the group to talk to the NSW State land managers about opportunities in the Shoalhaven.

Implications:

- Staff would notify the association that there is no land available for this recreational use on Council owned or managed land.
- The group have advised they would prefer to work with Council, if they choose to not pursue opportunity with the State, Shoalhaven may lose this opportunity to another region.

Background

In March 2022, Council staff were approached by Darrell Knight, Australasian Off-Road Vehicle Association (AORVA) General Manager, about an opportunity to be a host destination for 'side-by-side' vehicles.

The Australian Off-Road Vehicle Association (AORVA)

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The Australasian Off-Road Vehicle Association (AORVA) is a not-for-profit consolidated body formed in 2014 to represent the public off-road vehicle user, working towards a healthy future for our chosen recreation.

AORVA works to improve community accessibility to legitimate riding locations throughout Australia. This is achieved through open engagement with Off-Road Vehicle (ORV) users, Clubs, Tourism services, Manufacturers, Landowners, Council's, and all levels of Government.

AORVA is supported by global industry leading manufacturers, Polaris and BRP (Bombardier Recreational Products) with its Can-Am brand of Side-by-Side Vehicles, to pursue new places to allow family recreational riding activities as sought by consumers (our AORVA Members).

Comparable North American off-road vehicle recreation is a \$5.9billion per annum business and AORVA have advised that manufacturer partners are focused on sustainable recreation growth that includes the highest possible standards in terms of innovation and safety in Australia. Ever increasing market demand feeds our collective appetite to find win-win Council recreational space partnerships.

What is an off-road Side by Side Vehicle?

A 'Side by Side Vehicle' (SxS) is a multi-seat vehicle with a steering wheel, roll cage and car style seat belts. Industry sales figures reveal that SxS are the fastest growing recreational vehicle product in Australia today, at a rate exceeding 25% year on year. A SxS average purchase cost generally falls between \$20,000 and \$40,000. SxS owners are typically affluent families, seeking to maximise their adventure time in natural settings with family and friends.



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The Request of Council – A Shoalhaven Recreational Vehicle Area (RVA)

The Concept

“Service NSW” refers to ‘Side-by-Side’s as ‘ATV’s’. The concept of permitting registration solutions for recreational use in NSW natural settings is not new and has existed for decades at Stockton Beach for Quad Bikes and Trikes.

Conditions of Registration for Side-by-Sides (ATV)	Code
Daylight / floodlit worksite use only	
Note: Not required if vehicle has headlights, tail and number plate lights	TD1
Excluded from built up areas	LO2
Speed limited	
The lesser of manufacturer’s speed limit or 50 km/h	SP50
Vehicle to be floated from site to site (except that it can operate in areas designated in GO93 or LO3)	LO99
Use only for farming purposes OR	GO93
Restricted to designated areas / routes	LO3

<https://www.nsw.gov.au/topics/vehicle-registration/conditional-and-seasonal/vehicle-sheets/quad-bike-and-all-terrain>

The proposal from AOVRA does not seek to extend Quad Bike access but does seek to open discussions with Council around investigating suitably sized land parcels within the Shoalhaven LGA that, with Council endorsement, would be presented to the State Government Department ‘Service NSW’ as supported for Side-by-Side Recreational activities use. A successful area or areas would then be listed by name in participants registration applications, In effect, listed under Condition LO3 as a Designated Area (the process would be the same principles and regulations that are applied to Quad Bikes for Stockton Beach).

Why approach Council? Local Government RVA endorsement

AORVA have approached staff requesting to co-ordinate Conditionally Registerable ‘Side-by-Side Vehicle’ Off-Road recreation locations on public land under the City of Shoalhaven care and control.

AOVRA have advised they believe the benefits of healthy outdoor vehicle recreation are spread broadly throughout local communities and include social and personal benefits unique to families and individuals. They believe councils have a great appetite for investment in concepts that directly benefit local people and local businesses. Staff have suggested opportunities with Forestry land, however, AOVRA have advised they believe recreational

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access to other State Government controlled land is more difficult to achieve because State Departments do not directly benefit from the vast array of broader community benefits as they claim councils do. It is their opinion that State Government Departments lack the drive and enthusiasm for investment in these areas.

AVORA have provided the following information on the benefits of 2x2 activities.

- *Social Benefit - a new reality of Covid has taught us a lot. Families increasingly value family recreation opportunities, and they are more needed. SxS sales have dramatically increased and far outstripped supply. Families have money to spend and are seeking local and intra-state adventure and recreation close to their hometowns.*

There are a great number of personal benefits such as Work/Life balance improvement, Stress relief, Father/Son relationship building, getting kids off screens, and the list goes on. All these positives are found in healthy outdoor off-road vehicle recreation.

- *Economic Benefit - benefits to the region are significant per user and proportional to RVA size. SxS recreators are typically more affluent families that purchase consumables locally, engage in other local attractions, eat local, hire business offerings, hotels and entertainment. SxS participants also tend to seek quality local accommodation and are ideal user groups to attract to the region. In 2018/19 a survey of SxS Recreation participants in the Queensland Government endorsed State Forest Trial revealed a significantly higher visitor spend.*
 - *Key facts:*
 - *\$486 spend per trip by SxS Recreation Trial participants compared to \$305 typical spend per trip by other visitors to local township*
 - *1.6 nights average stay in the area (above spend) compared to 3 nights average stay in local town*
 - *80% average increase in spend, compared to other domestic visitors to local regional town*

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AOVRA requirement and request of Council

1. Size of land requirement (200+ acres)

For best family day out SxS recreation, participants prefer a minimum half day, to full day out activity, through to two days or more with local accommodation. Long weekends are popular times to head out. Driving ranges per day depend on average speeds that get drawn out by rougher terrain (commonly desired) or nature breaks and sight-seeing stops.

Land areas with an abundance of compact tracks might work as small as a few hundred acres for a day adventure sight-seeing or range up to thousands of acres for more open expanses with longer trails.

2. Recognition of an LO3 area by Service NSW (State Gov)

Council to communicate their land area as an approved Recreational Vehicle Area (RVA) and seek appropriate land use approvals. Once complete, this can be noted in the Service NSW system, public participants could conditionally register their vehicles for use on the designated piece of land. This is exactly the same principle and process as for Stockton Beach. Current registration form No. 1246 has a field "9. Where the vehicle will be operated?" where the applicant would detail "Approved RVA – Shoalhaven SxS".

Projections and Volumes of Vehicles

Staff raised questions about how many SxS vehicles would be expected to use a designated area, AOVRA have provided the following advice.

Off road vehicle activity presently exists (often illegally) in the areas to be investigated for legitimising as an approved RVA. Present unwarranted participation is by both uncontrolled registered 4wheel drives and some unregistered (more illegal) other vehicles including some SxS vehicles.

If Council supports legitimising and cleaning up such activities, AORVA suggests that activity volume and frequency may immediately double. Positive growth will quickly move into the light and will build over time. E.g.: if 10 vehicles are frequenting an area today (which goes un-noticed by most), these 10 may immediately double to 20 legitimate vehicles, which might still remain unnoticed to most. In a short 6-month term this number could double again, but medium to long term growth is expected to continue at a manageable rate. i.e.: If 10 then 20 to 40 vehicles, or if 20 then 40 to 80 vehicles. The above estimation is difficult to quote due to the current underground nature of activities. But what is known is that all activities will become more accountable, measurable and safer with Council endorsement and legitimate provision.

As participants come out of hiding, they no longer risk being exposed and can openly participate in other community conduct and spending. The new access to SxS recreation will be seen as a privilege, adopted by participants with pride and a predominant culture of valuing and protecting this form of recreation grows. A positive new culture is born and the basic level of participant self-policing results.

For example, if standing near the back of a conditionally registered SxS with an identifying number plate, the operator is aware that they could be reported and identified by anyone for thoughtless acts like dropping a plastic wrapper or not wearing a helmet. To generalise, inherent compliance improvements within this community are very substantial.

The “trailer to site” necessity of this type of recreation makes participants more identifiable and easier compliance management than any other fully registered drive to site and drive away vehicle.

Next Steps

Should Council agree to in principle support investigations into suitable land for an endorsed Shoalhaven SxS Recreational Vehicle Area (RVA).

- Staff would undertake site investigations in partnership with AORVA and Council would receive a future report including outcomes of site investigations and any additional approvals needed. Council and AORVA would need to work together on approvals. It should be noted that initial investigations with staff have raised concerns about the availability of a site.
- Should a site be found and required approvals put in place, AORVA have agreed to contribute to related signage costs or minor improvement site works deemed necessary for RVA operation.
- Members of the public who have a SxS and a car license would be able to conditionally register and insure their SxS Vehicles with Service NSW. People would need to be trailer their SxS to site with full road registered car, enter area, unload in a

safe location, follow signed rules and advice, enjoy SxS Recreation, respect Shoalhaven RVA area privilege, take all rubbish home, report any faults, non-compliance or suggested improvements as directed (AORVA).

- Council would remain the asset owner and land manager, so ongoing maintenance would remain with Council.

Policy Applications - what approvals would this type of activity need?

Should a site be able to be identified, a DA would be required for use of any site as a recreation vehicle area, this would need to be submitted by AORVA as the applicant and Council as the approver. It is also worth mentioning that a separate approval for designation as a recreation vehicle area would be required from the EPA (refer to the Recreation Vehicles Act 1983).

Staff have raised concerns about the ability to find a site that is both appropriate for the use and one where the use is also permissible.

Staff from Strategic Planning have also advised that there is also a specific Ministerial Direction relating to recreation vehicle areas should Council consider rezoning a site to enable the use (see below). This means that a Planning Proposal to rezone land in a Conservation Zone (or in an identified coastal location), to enable a recreation vehicle area, is unlikely to be able to proceed.

Strategic Alignment

Shoalhaven Destination Management Plan identifies the need to drive off season visitation and winter activities, which 2x2 recreation does provide. However, it should also be noted that AOVRA have advised this a popular long weekend activity when the region is already quite busy.

The Destination Management Plan also talks about the huge opportunities for development of adventure and outdoor activities. The region is known as being an 'unspoilt' and 'wellbeing' destination.

Financial Implications

Considerable staff time will need to be allocated to this project to try and identify a site. Should one be found, the AOVRA would need to apply for a DA and cover associated costs, although other approval costs are not known at this time.

Should a Council request staff work on this project, a further report back to Council outlining the outcomes of the site investigation and any associated permissions and costs will be provided.

Consideration would also be given to ongoing asset management and maintenance costs.

Risk Implications

Insurance and Compliance

AOVRA have advised that a successful outcome SxS Recreational Vehicle Areas will only include Conditionally Registered SxS, driven by road car licensed drivers, and could also include fully registered 4x4 vehicles. The same total extent of Compulsory Third Party insurance applies to both vehicle types. CTP insurance applies to any registered road going

vehicle that would drive down one of Councils urban streets, or a family 4x4 that might be driven on a Forest dirt road today.

AOVRA believe the risk to Council is broadly no different, and other State agencies such as Police are in place to address compliance responsibilities.

AOVRA have also noted that councils commonly endure historic and present liability exposure and management concerns with unwarranted activities on the types of land areas that AORVA are seeking to legitimise for recreational access. They are proposing an opportunity to structure access for improved compliance and to capture the ancillary community benefits from legitimate site activation.

Once operational, the policing and compliance of SxS recreation vehicles becomes consistent with other vehicle types by number plate recognition, with another significant inherent assurance that SxS are always 'Trailer to Site'. This feature necessitates and achieves heightened participant responsibility as well as other safety benefits.

Environmental

AOVRA have advised that SxS recreation intends to only to use existing tracks and trails. They have completed analysis* of both legal and illegal tracks throughout Australia and have found approximately 0.5% of a designated land area is actually used, and the used areas, are historically existing paths and tracks.

AOVRA have advised they believe environmental risks are negligible.

(*Calculation based on all dirt roads in all State Forests and National Parks total area does not exceed 0.5% in any State of Australia)

Internally, staff have raised concerns about ongoing costs of maintenance of tracks with increased usage and the impact of SxS vehicles on existing paths and roads, this is unknown at this stage.

CL22.366 EOI Outcome for the Sale / Development of 10 Pleasant Way Nowra

HPERM Ref: D22/313383

Department: Strategic Property
Approver: Carey McIntyre, Director - City Futures

Reason for Report

The reason for this report is to provide the Council with the opportunity to consider a confidential report on the outcome of the EOI process for 10 Pleasant Way Nowra.

Further information is provided in a separate confidential report in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993 – *Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

Recommendation

That Council, in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, consider a separate confidential report in relation to the EOI outcome for 10 Pleasant Way, Nowra.

Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Not accept the recommendation

Background

Council at its Ordinary meeting of 23 March 2021 resolved (MIN21.168C) to take 10 Pleasant Way, Nowra (Lot 1 DP1010062) back to the market.

Based on the above resolution, Council released an Information Memorandum (IM) outlining Council's vision for the site as a 'Gateway to Nowra' on 13 May 2021, through MMJ's website with a closing date of 24 June 2021 however, the closing date was extended to 1 July 2021 as there were requests for extensions due to COVID 19 restrictions.

The IM informed and included an Expression of Interest (EOI) process and was extensively advertised in all major newspapers, various websites, on social media outlets and signage erected on 10 Pleasant Way, Nowra.

EOI Process

The extended EOI submission period closed 1 July 2021 at 5:00pm with six EOI submissions being received and a further EOI submission received after the closing date on 2 July 2021, bringing the total EOI submissions received to seven, as summarised in **Table 1** below.

Table 1 – Expressions of Interest Received in Relation to 10 Pleasant Way

Respondent	
1.	NA and CA Menzies
2.	Ammache Architects & Romero Group
3.	Everest Property Consortium
4.	MAMZ Pty Ltd
5.	St. Trinity Property Group
6.	Leith Developments Group
7.	Srini Group & TDK Corporation (late submission Friday 2 July, 10:27am)

Details relating to the evaluation of the EOI submissions are contained in the confidential report.

Policy Implications

Nil. The EOI process has followed the requirements under the provisions of the Local Government Act 1993.

Financial Implications

There are no financial implications of this report.

Risk Implications

Details relating to the Risk Implications are contained in the confidential report.

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CL22.367 Proposed Lease to Movies 2540 Pty Limited - Part 19 Sydney St, Huskisson - Part Lot 7 Section 9 DP758530

HPERM Ref: D22/198932

Department: Building Services

Approver: Trevor Dando, Manager Works & Services

Reason for Report

To allow Council to consider options for the proposed lease renewal to Movies 2540 Pty Limited at part 19 Sydney Street Huskisson (Part Lot 7 Section 9 DP758530) for a term of five years from 1 September 2022 at a determined market rental of \$23,800 per annum. The site is owned by Council and classified as operational land.

Recommendation

That Council:

1. Note the property strategy for this site part 19 Sydney Street Huskisson (part Lot 7 Section 9 DP758530) is to retain the existing cinema operator, enter into a lease renewal for five years and improve the condition of the building by allocating additional funds to the Operational and Capital budgets during the five-year lease term.
2. Authorise the Chief Executive Officer to execute relevant documentation for the lease of part 19 Sydney Street Huskisson for five years expiring 31 August 2027 to Movies 2540 Pty Limited at full market rental of \$23,800 per annum with annual 3.5% increases. (No rental subsidy).
3. Note the Long Term Financial Plan (Annexure A) for the proposed lease reflects an estimated total loss of \$59,785 over the lease term or \$11,957 per annum and includes;
 - a. Rental income of \$119,000 over the lease term (\$23,800 per annum).
 - b. An operational budget of \$68,800 over the lease term for non-recoverable costs, reactive and scheduled maintenance will be required in the 22/23 FY and beyond. This equates to an average of \$13,760 per annum.
 - c. A capital budget of \$109,985 for building works comprising of kitchen, bathroom and flooring upgrades and external painting.

Options

1. As Recommended

Council approves the Recommendation for the lease renewal expiring 31 August 2027 for the recommended terms which include a full market rental (no rental subsidy).

Implications: Council will secure the existing tenant and secure income, maintenance of the property and a continued service to the community over the five year lease term.

2. Opportunities for New Tenants

Investigate opportunity for new lessees (via a public advertising process) for the leasing of 19 Sydney Street Huskisson and report back to Council on the responses and recommendation which would provide for a lease term of five years.

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Implications: This is not recommended. The existing tenant has been in operation for approximately 17 years and it is anticipated that significant opposition to this option will be received by the tenant and the community. The heritage nature of the building also supports the ongoing use of the cinema and there are a limited number of operators experienced in providing this service.

Background

The Huskisson Cinema occupies a building constructed in 1913 by the Dent family (local ship builders) as a community hall for their employees. The building has been used as a Church, School, Library, Public Hall, Dance & Concert venue and Theatre. Movies have been screened there since the early 50's and occupation of the tenant has occurred since approximately 2006. The site is owned by Council and classified as operational land.

In August 1990, the hall underwent major renovations to make the building into a permanent cinema. The exterior was left as original with the exception of a new roof, new entrance & exit doors and painting whilst the interior was completely refurbished. The building is constructed of weatherboard, corrugated iron roof, timber floors & window frames and is in a sound condition, but does require some upgrades within the proposed lease term.

There have been a number of owners of the Cinema business with the current lessees operating since approximately 2006. They aim to provide a unique cinema experience to locals and visitors within the heritage building and in conjunction with independent cinemas Australia, screen current and classic films as well as film festivals to families, children and adults. The theatre operates weekends and during the week in school holidays and peaks seasons.

Property

The site is owned by Council and classified as operational land.

The entire site comprises of 2,175.19 square metres and is a rectangular shaped allotment with frontages on Sydney, Owen and Park Streets and is located on the western fringe of the Huskisson CBD. The site includes the cinema building, adjacent public amenities and the RFS building and carpark with part of the tennis courts being located to the west.

Surrounding developments consist of residential to the north, south, west, and commercial to the east. The area occupied by Huskisson Cinema is approximately 740 square metres with a lettable building area of 284 square metres.

The building has been identified as having local heritage significance and therefore any works on the building and site need to be reviewed from a heritage perspective. A Conservation Management Plan has been prepared by Tropman and Tropman Architects dated June 2003. Items of heritage significance include the structure and original theatre lighting, projection windows and projection equipment and are considered of a high level of significance.

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Property Strategy

The property strategy is to enter into the lease renewal for five years and ensure that the Lessee is maintaining the building, equipment and site to an adequate standard in accordance with the lease conditions. Capital works have been identified as being required by Council during the lease term in order to maintain the building to a suitable standard and in line with the Conservation Management Plan.

Community Engagement

Not required as this is operational land.

Policy Implications

POL19/40 Occupation of Council owned or Managed Land

Clause 5.8 Cost Recovery provides that “Council is to ensure that agreements do not impose an unreasonable burden on general revenue. Council is to obtain a reasonable dividend and at a minimum, cost neutrality from the use of its property, i.e. the tenancy is to be at no cost to Council.”

Implication – This report provides for a determined market rental and is therefore consistent with this Policy. It is noted however that little capital expenditure for the maintenance of the structure has occurred by Council therefore a number of items are required during the lease term.

Clause 5.9 and 5.11 Defined Lease Term and Asset Plan notes that “no lease is for a term greater than five years unless under exceptional circumstances..”

Implication - The proposed lease term is for a period of five years, which is consistent with this policy.

Clause 5.17 Rental and Other Fees and Charges provides that “All rentals charged in the first instance are to be determined in accordance with market values and Community Groups – rental figure is determined through a rental assessment framework (RAF).”

Implication – This report provides for a determined rental with no rental subsidy and is therefore consistent with this Policy.

Financial Implications

Council will continue to receive an annual market rental for a term of five years determined by Walsh and Monaghan Valuers (24 September 2020) which provides for an annual 3.5%

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increase and no rental subsidy. The Lessee will be required to keep the premises in a clean and tidy condition and maintain part of the land that surrounds the building.

An inspection occurred as part of the transaction negotiations which identified works required to be undertaken by Council. Huskisson Cinema are required to provide minor repairs and maintenance. Council is responsible for the structural integrity and replacement of building elements such as roofing, and any major works on buildings, structures and grounds.

The **Long Term Financial Plan (Annexure A)** for the proposed lease reflects an estimated total loss of \$59,785 over the lease term or \$11,957 per annum and includes;

Rental income of \$119,000 over the lease term (\$23,800 per annum).

An operational budget of \$68,800 over the lease term for non-recoverable costs, reactive and scheduled maintenance will be required in the 22/23 FY and beyond. This equates to an average of \$13,760 per annum.

A capital budget of \$109,985 for building works comprising of kitchen, bathroom and flooring upgrades and external painting.

Risk Implications

There is some risk that the change in the way movies can now be streamed at home together with covid could have a long-term effect on the cinema business. Huskisson however is a strong tourist destination and increased local travel will have a positive effect on the business. The operators have a strong presence within the local business and community and propose to continue to remain within the premises on a long-term basis.

The Lessee's Financial Statement for the year ended 30 June 2021 has been reviewed as part of this report however has been removed for privacy reasons.

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ANNEXURE A – LONG TERM FINANCIAL PLAN

FINANCIAL YEAR	Y1 2022/23	Y2 2023/24	Y3 2024/25	Y4 2025/26	Y5 2026/27	Y6 2027/28	TOTALS	
RENTAL INCOME								
Rental Subsidy	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
<i>Rent</i>	\$ 3,967	\$ 23,800	\$ 23,800	\$ 23,800	\$ 23,800	\$ 19,833	\$ 119,000	
<i>Determined Rent</i>	\$ 3,967	\$ 23,800	\$ 23,800	\$ 23,800	\$ 23,800	\$ 19,833	\$ 119,000	
EXPENDITURE (NON RECOVERABLE)								
Operational - Reactive R&M	\$ 1,083	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 5,417	\$ 32,500	
<i>Existing Budget</i>	\$ 388	\$ 2,330	\$ 2,330	\$ 2,330	\$ 2,330	\$ 1,942	\$ 11,650	
<i>Additional Budget Required</i>	\$ 695	\$ 4,170	\$ 4,170	\$ 4,170	\$ 4,170	\$ 3,475	\$ 20,850	
Operational - Scheduled	\$ 1,210	\$ 7,260	\$ 7,260	\$ 7,260	\$ 7,260	\$ 6,050	\$ 36,300	
<i>Existing Budget</i>	\$ 281	\$ 1,687	\$ 1,687	\$ 1,687	\$ 1,687	\$ 1,406	\$ 8,435	
<i>Programmed Repairs</i>	\$ 1,210	\$ 7,260	\$ 7,260	\$ 7,260	\$ 7,260	\$ 6,050	\$ 36,300	
<i>Programmed Maintenance</i>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
<i>Additional Budget Required</i>	\$ 929	\$ 5,573	\$ 5,573	\$ 5,573	\$ 5,573	\$ 4,644	\$ 27,865	
Operational - TOTAL	\$ 2,293	\$ 13,760	\$ 13,760	\$ 13,760	\$ 13,760	\$ 11,467	\$ 68,800	
Capital Renewal	\$ -	\$ -	\$ 69,840	\$ 29,265	\$ 10,880	\$ -	\$ 109,985	
<i>External Painting</i>	\$ -	\$ -	\$ -	\$ -	\$ 10,880	\$ -	\$ 10,880	
<i>Kitchen Upgrade</i>	\$ -	\$ -	\$ 33,840	\$ -	\$ -	\$ -	\$ 33,840	
<i>Bathroom Upgrade</i>	\$ -	\$ -	\$ 36,000	\$ -	\$ -	\$ -	\$ 36,000	
<i>Flooring</i>	\$ -	\$ -	\$ -	\$ 29,265	\$ -	\$ -	\$ 29,265	
SURPLUS / (LOSS)	\$ 1,673	\$ 10,040	\$ (59,800)	\$ (19,225)	\$ (840)	\$ 8,367	\$ (59,785)	
SURPLUS / (LOSS) INCL RENTAL SUBSIDY	\$ 1,673	\$ 10,040	\$ (59,800)	\$ (19,225)	\$ (840)	\$ 8,367	\$ (59,785)	
Lease Terms								
Commencement Date	01-Sep-22		Lease Performance			Return on investment (year 1)	0.29%	0.21%
Duration (years)	5		Return of investment (whole lease)			-10.5%	-7.42%	
Expiry Date	31-Aug-27		Total Rental Subsidy			\$ -	\$ -	
Annual Rent (\$ / year)	\$ 23,800		Total Operating Cost to Council			\$ 59,785	-\$ 59,785	
Determined Rent (\$ / year)	\$ 23,800							
Rental Review (% / year)	0%							
Indexation Rate Applied to Expenditure	0%							

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ANNEXURE B – PROPOSED LEASE TERMS

Item 1	Premises	Part 19 Sydney Street, Huskisson Part Lot 7 Section 19 DP758530
Item 2	Lessee	Movies @ 2540 Pty Limited ACN 606 954 330
Item 3	Lessor	Shoalhaven City Council Administration Building, 42 Bridge Road, Nowra, NSW, 2541 Property Officer, Building Services Tel: 02 4429 3111 Email Council@shoalhaven.nsw.gov.au
Item 4	Permitted Use	Cinema
Item 5	Term	5 years
Item 6	Commencement Date	1 September 2022
Item 7	Termination Date	31 August 2027
Item 8	Option	Nil
Item 9	Rent	\$23,800 plus GST per annum, payable in advance
Item 10	Rent Reviews	Annual 3.5% increases
Item 11	Outgoings	Comprising of the following outgoings noting that 100% of the building is occupied on approximately 33% of the land which also contains public amenities, RFS and part of a tennis court; <ul style="list-style-type: none"> • Local Council Rates and Charges • Water, Sewerage and Drainage Charges • Building insurance • Garbage Removal • Fire Services • Any charges referenced in the current lease registered AK374300V.
Item 12	Lessors Improvements	The Lessor owns all buildings, structures, and equipment comprising of the Premises including the air conditioning units, kitchen and amenities.
Item 13	Lessees Improvements	The Lessee owns any equipment installed from the commencement date which will include furniture and equipment related to the Permitted Use
Item 14	Lessors Maintenance	The Lessor is responsible for structural works and the integrity of the building including roof repairs.
Item 15	Lessees Maintenance	The Lessee is responsible for repairs, cleaning and maintenance of the Premises and ensuring that they are presented and accessible in a condition suitable to the use. Costs include the maintenance of air conditioning, fire compliance costs (which maybe organised by the Lessor and the costs recovered) and any other matters as detailed in lease registered AK374300V.
Item 16	Redecoration	Three months prior to the lease expiry date
Item 17	Makegood	Upon Licence expiry or vacation, the Lessee will vacate the Premises and hand back the Premises to the Lessor in a suitable condition which includes the removal of the fit out, furniture and equipment.
Item 18	Public Risk Insurance	Twenty million dollars (\$20,000,000) Lessor to be noted as interested party on the policy
Item 19	Bank Guarantee/Guarantor	As per the current lease
Item 20	Documentation and preparation costs	Lease preparation costs incurred by the Lessors are to be paid by the Lessee. This renewal lease is to be based on the existing lease terms registered AK374300V expiring 31 August 2020 excluding essential terms in this Schedule. The Lease will be prepared in a new format.
Item 21	Interest	Not applicable
Item 22	Land Classification	Operational Land
Item 23	Other	The lease will reference that the building and site has heritage significance and any repairs, replacements, or new works to the building will need to be reviewed by the Lessor to determine the impact on the site and if heritage approvals are required. Any costs associated with the Lessees works including any heritage review, will be at their cost.

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CL22.368 Proposed Licence to Lions Club of Jervis Bay Incorporated - Part 64A Naval Parade, Erowal Bay - Part Lots 6 & 7 Sec 8 DP7984

HPERM Ref: D22/199652

Department: Building Services

Approver: Trevor Dando, Manager Works & Services

Reason for Report

To allow Council to consider options for the proposed lease renewal for a period of ten years to Lions Club of Jervis Bay Incorporated (Lions Club) at part 64A Naval Parade, Erowal Bay from 1 October 2022 at a commencing rental of \$825 plus GST per annum.

Recommendation

That Council;

1. Note the property strategy for this site (part Lots 6 & 7 DP7984 64A Naval Parade Erowal Bay) is to retain the existing tenant, finalise a lease and improve the condition of the building by allocating additional funds to the Operational and Capital budgets during the ten year term.
2. Approve the lease of part Lots 6 & 7 DP7984 64A Naval Parade Erowal Bay to Lions Club of Jervis Bay Incorporated for a period of ten years commencing 1 September 2022 at a rental of \$825 plus GST per annum with annual 3% increases and authorise the Chief Executive Officer to execute relevant documentation.
3. Note the estimated cost to Council for this arrangement over the ten year term is \$111,353 and a loss of income of \$74,250 (today's dollars) being;
 - a. Rental income of \$8,250 over the lease term commencing at \$825 per annum.
 - b. A total operational budget of \$102,560 over the lease term for non-recoverable costs, reactive and scheduled maintenance and repairs will be required in the 22/23 FY and beyond. This equates to an average of \$10,256 per annum.
 - c. A capital budget of \$24,125 for building works comprising of required in the 23/24 FY and beyond. This equates to an annual average expense of \$2,412 per annum.

Options

1. As Recommended

Council approves the Recommendation for the lease renewal expiring 31 August 2032 for the recommended terms which provides for a subsidised rental.

Implications: Council will secure existing tenant and the identification of operational and capital funds will ensure that Councils assets are improved and maintained to a suitable standard. The total cost to Council represents \$111,353 (Annexure A – Long Term Financial Plan) over the lease term.

2. 100% Cost Recovered Rental Option

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Approve the lease of part Lots 6 & 7 DP7984 64A Naval Parade Erowal Bay to Lions Club of Jervis Bay Incorporated for a period of ten years commencing 1 October 2022 at a full determined rental of rental of \$8,250 plus GST per annum with annual 3% increases and authorise the Chief Executive Officer to execute relevant documentation.

Implications: Lions Club are a community group who do not receive any government funding however provide support to other community groups. They have provided a financial statement which confirms that paying a full market rental is unsustainable.

Background

The subject property is situated on the northern eastern corner of Naval Parade, opposite the public boat ramp, in an established residential location within the small coastal settlement of Erowal Bay some 26 kilometres south- east of the Nowra Central Business District on the shores of St Georges Basin.

The surrounding development is predominantly residential in its nature comprising older style detached residential dwellings. The local boat ramp is located directly opposite, and the small village shopping centre is located nearby to the north.

The site comprises of two lots totalling 2,251 square metres and is a slightly irregular corner allotment which includes the driveway to the building, former RFS building, public amenities, BBQ area and playground. The former RFS building and driveway is located over the two lots. The building was constructed in approximately 1999 and consists of a high span double bay metal shed and adjacent small extension, with concrete slab and steel pitched metal roof. The lettable area is approximately 191m² and includes separate male and female amenities, a kitchen area and small mezzanine which was installed later by RFS.

The two lots are classified as community land and is zoned Residential 1 Public Recreation.



The Lessee

The Lions Club are currently on holdover from their lease which expired 28 August 2019. They have been in occupation of the building since August 2014 and have sponsored the development of the adjacent Lions Club Park.

They are part of Lions International which is the largest charity organisation in the world with 1.4 million members worldwide. They recently celebrated 50 years continuous service and support to the local community and has a long-standing relationship with Shoalhaven City Council.

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They provide support by supplying catering to local events including Council initiatives and during times of need during the recent bushfires and other local disasters. Community funding occurs as a result of income raised during these catering events and is used to provide assistance to local people and groups within the Shoalhaven. They continue to require secure undercover accommodation for their refrigeration truck and large food caravan in order to continue to provide donations and services to the community.



Property Strategy

The property strategy for this site is to retain the existing tenant on a long term lease. The Lions Club have agreed to participate and assist Council with the Recovery to Resilience Project through the installation of the visual display boards and roof top solar equipment within the internal leased area.

Community Engagement

In accordance with the Local Government Act 1993 – Section 47, the proposed Lease has been advertised for a period of 28 days and no objections have been received.

Policy Implications

POL19/40 Occupation of Council owned or Managed Land

Clause 5.8 Cost Recovery provides that *“Council is to ensure that agreements do not impose an unreasonable burden on general revenue. Council is to obtain a reasonable dividend and at a minimum, cost neutrality from the use of its property, i.e. the tenancy is to be at no cost to Council.”*

Implication – This report identifies the cost implications and loss of revenue to Council. The Recommendation provides for additional funds to maintain the facility to a suitable standard to provide for cost neutrality in accordance with this policy. This initiative will ensure that the condition of Council properties are at an acceptable standard and the property is properly maintained and building and tenant issues minimised on a long term basis.

Clause 5.9 and 5.11 Defined Lease Term and Asset Plan notes that *“no lease is for a term greater than five years unless under exceptional circumstances..”* and *“unless an Asset Plan is prepared indicating structural and minor repairs likely during the term”*

Implication - The proposed lease term is for a period of ten years and an asset management plan has been provided in this Report. The lessee proposes to remain within the premises on a long term basis and support the community with their participation with the RRP Project which is being installed at the site.

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Clause 5.17 Rental and Other Fees and Charges provides that “*All rentals charged in the first instance are to be determined in accordance with market values and Community Groups – rental figure is determined through a rental assessment framework (RAF).*”

Implication – The Lions Club have been paying a subsidised market rental (90% subsidy) since their occupation which is proposed in this lease renewal. The Recommendation is therefore consistent with this Policy.

Financial Implications

Council will continue to receive a subsidised rental equivalent for a term of ten years with fixed annual increases of 3%. The Lessee will be required to keep the premises in a clean and tidy condition and maintain that part of the land surrounding the building and the driveway to the building.

An inspection occurred as part of the transaction negotiations which highlighted that the mezzanine floor installed by RFS did not comply and required rectification. In addition, the ceiling to the kitchen and bathroom areas were collapsing and some tiling to the amenities area was lifting. These issues have now been resolved by Council however some additional upgrades to the bathrooms and kitchen will be necessary during the lease term.

In addition to the above, it was noted that the guttering is not being regularly cleaned due to the height, surrounding number of imposing trees to the building and limited funds of the community group. It is proposed that this will now be managed by Council.

The estimated cost to Council for this arrangement over the ten year term is \$111,353 (today's dollars) and loss of rental \$74,250 which is provided in **Annexure A – Long Term Financial Plan**;

- Rental income of \$8,250 over the lease term commencing at \$825 per annum.
- A total operational budget of \$102,560 over the lease term for non-recoverable costs, reactive and scheduled maintenance and repairs will be required in the 22/23 FY and beyond. This equates to an average of \$10,256 per annum
- A capital budget of \$24,125 for building works comprising of external painting, kitchen replacement, flooring required in the 23/24 FY and beyond. This equates to an annual average expense of \$2,412 per annum

Risk Implications

No risks identified. Lions Club have a strong presence within the local community and propose to continue to remain within the premises on a long-term basis.

The Lessee's Financial Statement for the year ended 30 June 2021 has been reviewed as part of this renewal and confirms their ability to pay rental and maintain the premises.

ANNEXURE A - LONG TERM FINANCIAL PLAN

FINANCIAL YEAR	Y1 2022/23	Y2 2023/24	Y3 2024/25	Y4 2025/26	Y5 2026/27	Y6 2027/28	Y7 2028/29	Y8 2029/30	Y9 2030/31	Y10 2031/32	Y11 2032/33	TOTALS
RENTAL INCOME												
Rental Subsidy	\$ (1,856)	\$ (7,425)	\$ (7,425)	\$ (7,425)	\$ (7,425)	\$ (7,425)	\$ (7,425)	\$ (7,425)	\$ (7,425)	\$ (7,425)	\$ (5,569)	\$ (74,250)
<i>Rent</i>	\$ 206	\$ 825	\$ 825	\$ 825	\$ 825	\$ 825	\$ 825	\$ 825	\$ 825	\$ 825	\$ 619	\$ 8,250
<i>Determined Rent</i>	\$ 2,063	\$ 8,250	\$ 8,250	\$ 8,250	\$ 8,250	\$ 8,250	\$ 8,250	\$ 8,250	\$ 8,250	\$ 8,250	\$ 6,188	\$ 82,500
EXPENDITURE (NON RECOVERABLE)												
Operational - Reactive R&M	\$ 1,515	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 6,500	\$ 4,875	\$ 64,890
<i>Existing Budget</i>	\$ 221	\$ 1,326	\$ 1,326	\$ 1,326	\$ 1,326	\$ 1,326	\$ 1,326	\$ 1,326	\$ 1,326	\$ 1,326	\$ 995	\$ 13,150
<i>Additional Budget Required</i>	\$ 1,294	\$ 5,174	\$ 5,174	\$ 5,174	\$ 5,174	\$ 5,174	\$ 5,174	\$ 5,174	\$ 5,174	\$ 5,174	\$ 3,881	\$ 51,740
							\$ -	\$ -	\$ -	\$ -		\$ -
Operational - Scheduled	\$ 942	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 2,825	\$ 37,670
<i>Existing Budget</i>	\$ 942	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 3,767	\$ 2,825	\$ 37,670
<i>Additional Budget</i>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
												\$ -
Operational - TOTAL	\$ 2,456	\$ 10,267	\$ 10,267	\$ 10,267	\$ 10,267	\$ 10,267	\$ 10,267	\$ 10,267	\$ 10,267	\$ 10,267	\$ 7,700	\$ 102,560
Capital Renewal	\$ -	\$ 5,525	\$ 13,650	\$ 4,950	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 24,125
<i>External Painting/Hot Water Heater</i>	\$ -	\$ 6,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,500
<i>Kitchen Replacement</i>	\$ -	\$ -	\$ 13,650	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 13,650
<i>Flooring</i>	\$ -	\$ -	\$ -	\$ 4,950	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,950
SURPLUS / (LOSS)	\$ (2,250)	\$ (14,967)	\$ (23,092)	\$ (14,392)	\$ (9,442)	\$ (9,442)	\$ (9,442)	\$ (9,442)	\$ (9,442)	\$ (9,442)	\$ (7,082)	\$ (111,353)
SURPLUS / (LOSS) INCL RENTAL SUBSIDY	\$ (4,106)	\$ (22,392)	\$ (30,517)	\$ (21,817)	\$ (16,867)	\$ (16,867)	\$ (16,867)	\$ (16,867)	\$ (16,867)	\$ (16,867)	\$ (12,650)	\$ (180,034)
Lease Terms												
Commencement Date	01-Oct-22		Lease Performance									
Duration (years)	10		Return on investment (year 1)				-0.40%				-1.24%	
Expiry Date	28-Sep-32		Return of investment (whole lease)				-19.6%				-61.42%	
Annual Rent (\$ / year)	\$ 825		Total Rental Subsidy				\$ 74,250				-\$ 74,250	
Determined Rent (\$ / year)	\$ 8,250		Total Operating Cost to Council				\$ 111,353				-\$ 111,353	
Rental Review (% / year)	0%											
Indexation Rate Applied to Expenditure	0%											

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ANNEXURE B
Proposed Lease Terms

Item 1	Premises	Part Lots 6 & 7 Section 8 DP7984 as depicted in plan annexed and marked "A" at 64a Naval Parade Erowal Bay
Item 2	Licensee	Lions Club of Jervis Bay Incorporated ABN 78 619 629 498 PO Box 19, Huskisson NSW 2540 Jeff Thomas Tel: 0417 772262 jeff@jaylec.net.au
Item 3	Licensor	Shoalhaven City Council Administration Building 42 Bridge Road, Nowra, NSW, 2541 Property Officer, Building Services Tel: 02 4429 3111 Email Council@shoalhaven.nsw.gov.au
Item 4	Permitted Use	Storage of equipment and food, meeting place and training for community purposes
Item 5	Term	Ten (10) Years
Item 6	Commencement Date	1 October 2022
Item 7	Termination Date	30 September 2032
Item 8	Option	Not applicable
Item 9	Rent	\$825.00 plus GST per annum, payable annually in advance
Item 10	Rent Reviews	Annual 3% increases
Item 11	Outgoings	100% of the following outgoings which is related to your occupancy including; <ul style="list-style-type: none"> • Garbage disposal • Power and gas • Water usage and sewerage costs
Item 12	Licensors Improvements	The Licensor owns all buildings, structures, and equipment on the Premises comprising of the ex RFS Station. No air conditioning is installed at the premises.
Item 13	Licensees Improvements	The Licensee owns any fit out within the building excluding partitioning, the mezzanine level, kitchen and amenities.
Item 14	Licensors Maintenance	The Licensor is responsible for structural works and the integrity of the building and site including roof repairs, replacement of fencing, cleaning of guttering, fire compliance and all costs associated with the solar panels and RRP equipment.
Item 15	Licensees Maintenance Note – these requirements will be reviewed if Building Services are provided with a sufficient budget	The Licensee is responsible for repairs, maintenance of the Premises including lawn and garden maintenance, driveways, parking, fencing, security, roller shutters and ensuring that the Premises are presented and accessible in a condition suitable to the use.
Item 16	Redecoration	Redecoration will include repainting of the premises where relevant, three months prior to expiry/vacation and ensuring that all maintenance obligations are undertaken.
Item 17	Makegood	Upon Licence expiry or vacation, the Lessee will vacate the Premises and hand back the Premises to the Licensor in a suitable condition taking into consideration redecoration and maintenance responsibilities.
Item 18	Public Risk Insurance	Twenty million dollars (\$20,000,000) Lessor to be noted as interested party on the policy
Item 19	Bank Guarantee/Guarantor	Not applicable

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Item 20	Documentation and preparation costs	Documentation preparation costs to be funded by Council
Item 21	Interest	Not applicable
Item 22	Percentage of Rental Subsidy	90%
Item 23	Land Classification	Community Land
Item 24	Other	<p>The Licensor has installed equipment for the Recovery into Resilience Project (RRP) which provides a secure information hub to the community in times of a disaster.</p> <p>This equipment includes solar panels and satellite dish to the roof, Tesla battery on the side of the building and an external screen on the building facing the amenities block which will be accessible to the community and an additional screen internally within their tenancy which will be made available to the community if it is necessary.</p> <p>The solar panels and battery will off-set the energy bill to the Licensee and also provide uninterruptible power and communications to the facility and screen during grid outages.</p> <p>The Licensee will be required to work with Council and its representatives to manage the requirements of the RRP requirements for the installation and ongoing management.</p>

CL22.368

CL22.369 Classification of Land - Drainage Reserve - Lot 29 DP 1282389 Lancaster Drive, Cambewarra

HPERM Ref: D22/273331

Department: Technical Services

Approver: Trevor Dando, Manager Works & Services

Reason for Report

To provide Council with an opportunity to consider the classification of land being Lot 29 DP 1282389 Lancaster Drive, Cambewarra, as 'Operational Land' within the meaning of the Local Government Act 1993.

Recommendation

That Council classify the land described as Lot 29 DP 1282389 Lancaster Drive, Cambewarra, as Operational Land within the meaning of the Local Government Act 1993.

Options

1. As recommended.

Implications: The operational classification will provide Council with flexibility in its use as a drainage reserve.

2. Council could resolve to classify the land as Community Land.

Implications: The land would be subject to the Community Land provisions as outlined in the Local Government Act 1993. This would limit Council's ability to effectively manage stormwater.

Background

Lot 29 DP 1282389 is an irregular shaped parcel 2.008 Ha in size, zoned part C2 – Environmental Conservation and part C3 – Environmental Management and is highlighted in the Site Plan below.

The subject land is part of an approved residential subdivision SF10632 in the Moss Vale Road South Urban Release Area, between Bomaderry and Cambewarra Village. It has a constructed wetland / on-site detention basin and associated drainage structures as required as part of the subdivision approval. Lot 29 was acquired by Council as a Drainage Reserve. Land registration date was 24 May 2022.

The classification of Lot 29 as Operational is appropriate to retain the authority of Council to undertake further drainage related works within the lot should the need arise in the future.



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Community Engagement

In accordance with Section 34 of the Local Government Act 1993, a public notice of Council's intention to classify the land as Operational was placed in the South Coast Register allowing 28 days for written submissions. No submissions have been received.

Policy Implications

Section 31(2) of the Local Government Act 1993 provides that before Council acquires land, or within 3 months after it acquires land, Council may resolve to classify it.

There are two classifications available:

1. Operational Land – land which Council owns as a business entity and upon which it conducts Council business, and
2. Community Land – land in Council's ownership which is held for and on behalf of the Community subject to the Community Land provisions of the Local Government Act 1993.

A resolution of Council, within the time frame prescribed in the Local Government Act 1993, is required to finalise the classification of land as Operational.

Financial Implications

Nil for the proposed classification.

Land incorrectly classified (via resolution or by default) that subsequently requires an inability to be dealt with will require a reclassification to Operational Land that involves making a Local Environmental Plan amendment under the Environmental Planning Assessment Act 1979. This is a time-consuming and costly exercise with no budget having been provided.

CL22.369

CL22.370 Compulsory Acquisition of Drainage Easement - Lot 1 DP1097130, 1221 Bolong Road Coolangatta

HPERM Ref: D22/159262

Department: Technical Services

Approver: Trevor Dando, Manager Works & Services

Attachments: 1. Preliminary Construction and Drainage Easement - 1221 Bolong Road Coolangatta (under separate cover) [⇒](#)

Reason for Report

This report provides Council with an opportunity to consider the compulsory acquisition of a drainage easement under the Land Acquisition (Just Terms Compensation) Act 1991 as the negotiation process has failed to reach agreement within the mandatory 6-month negotiation period.

Council has previously made several attempts to acquire a drainage easement by agreement on Lot 1 DP 1097130, known as 1221 Bolong Road, Coolangatta.

Recommendation

That Council;

1. Approve the making of the necessary applications to the Minister for Local Government and the Governor, for approval to acquire an easement for drainage over Lot 1 DP 1097130, by compulsory process in accordance with the Local Government Act 1993 and Land Acquisition (Just Terms Compensation) Act 1991 for the purpose of a drainage easement;
2. Pay compensation for the acquisition including all ancillary costs, in accordance with the determination of the Valuer General under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991;
3. Fund all costs for acquisition of drainage easement from Finance Number 103562, St Andrews Way Coolangatta Stage 2;
4. Affix the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed, otherwise, the Chief Executive Officer is authorised to sign any documentation necessary to give effect to this resolution.
5. Note that Council Officers will continue to negotiate the easement acquisition by agreement until such time as a Proposed Acquisition Notice is issued to the land owner.

Options

1. Adopt as recommended

Implications: Council approve the compulsory acquisition of the required drainage easement under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 for the purpose of protecting adjoining properties and estate.

2. Not adopt as recommended

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Implications: Council will continue negotiations to reach a mutual agreement for the easement acquisition. The timeline for concluding those negotiations would remain outside of Council's complete control and therefore to elevate the risk of further water issues.

Background

Overland stormwater flows, from the subject land to the neighbouring estate within St Andrews Way, Coolangatta is causing water drainage issues.

The existing drainage system in the subdivision at St Andrews Way was designed to cater only for the development and did not take account for the upstream catchment. Whilst some drainage provisions were provided to capture flows, it was limited to a 450mm diameter pipe. A subsequent review showed that this development would have needed a 1200mm diameter pipe.

It has been identified that the construction of a swale drain in 1221 Bolong Road will alleviate the drainage issues by intercepting catchment flows prior to reaching the St Andrews Way subdivision.

Council have continued to be unsuccessful in reaching agreement to mitigate the issue of water entering the lands by way of purchasing a drainage easement and constructing a swale drain at 1221 Bolong Road.

Timeline:

1. 2016 - Internal staff Property/Survey/Drainage Engineer commenced discussions and investigation for easement acquisition to resolve drainage matters affecting residential lots in St Andrews Way Coolangatta.
2. 2016 - Property Officer & Drainage Engineer met onsite with the land-owner to discuss location of easement and design of swale drain.
3. 2017 - Due to the owner refusing to negotiate the easement, instruction was received from the Section Manager - Works & Services to commence compulsory acquisition.
4. 2017 – Property requested all details relating to proposal including plan, dimensions, depth, swale or piped or both etc. to instruct valuation.
5. July 2017 - Valuation received and changes to Land Acquisition (Just Terms Compensation) Act required an authority to negotiate for a minimum of 6 month prior to compulsory acquisition.
6. August 2017 – A formal offer of compensation for the easement was made (D17/278276)
7. December 2017 – Agreement between the Drainage Engineer and Landowner that Council will provide a flood study to alleviate concerns of increase flooding to land.
8. October 2018 – Final flood study received, request from the Landowner to realign easement to facilitate a future subdivision (subject to Council approval).
9. February 2019 – Site meeting with Property Officer/Drainage Engineer to discuss flood study. Agreement to improve culverts on land including headwall, geofabric, cover top of exposed pipe with stabilised road base to assist with erosion outside the area of the proposed easement.
10. September 2020 – Design plans for proposed diversion channel was finalised (D20/432536)
11. February 2021– Confirmation of plans finalised between Property Officer and Drainage Engineer.
12. May 2021 – Commencement letter for a six-month negotiation period prior to formal compulsory acquisition as required under Land Acquisition (Just Terms Compensation) Act due to the change in original design was sent to the Landowner (D21/189190).
13. May 2021 – Property Officer again met the Landowner on site – matters raised (D21/189736);

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14. May 2021 – Advice from the Landowner that he has engaged a solicitor to act on his behalf regarding the matters raised (D21/218251).

It is always Council’s first option to acquire interests in land by agreement. In this instance the negotiations have been protracted with design changes to accommodate the request of the Landowner, only to have new issues raised that require resolution. Commencing compulsory acquisition allows Council to complete the acquisition of the interest in a predictable timeframe and undertake the required works for drainage, with or without the owner’s consent.

By initiating the compulsory acquisition process, the compensation value will be determined by the Valuer General in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 allowing for an up-to-date valuation of the land at a specific date.

Council officers will continue to negotiate with the landowner to reach a mutual agreement in parallel with the compulsory acquisition process

Community Engagement

Engagement with the landowner has been ongoing since 2016 and will continue until the acquisition process reaches its conclusion.

Broader community engagement is not required for operational purposes such as easement acquisition.

Policy Implications

The acquisition is in accordance with the Acquisition of Land by Shoalhaven City Council POL16/113.

Acquisition of Land by Shoalhaven City Council POL16/113	
5.2. Assessment Criteria	
Cost/benefit to Council in terms of Net Present Value (NPV) and Return on Investment (ROI)	N/A- Operational requirement
The land identified on a Council plan for acquisition.	The land has been identified for a drainage easement to alleviate the impact of the water entering from the subject property into the neighbouring properties within the estate “St Andrews Way”
The strategic value of land to Council	This is an operation solution to assist in flooding issues. Council is acquiring an interest only (not land)
The market value of the land	As determined by the NSW Valuer General
The method determined to acquire the land – may be predetermined	Acquisition by agreement and progressing to compulsory acquisition in accordance with Land Acquisition (Just Terms Compensation) Act 1991.
The cost of acquiring the land;	Legislated - as determined by NSW Valuer General
The future use of the land	Drainage swale drain. The land will remain in the same ownership with Council having

CL22.370

	an interest in the land for construction and ongoing maintenance of the drainage infrastructure
Available source of funds	103562

Risk Implications

Compulsory acquisition of the easement will ensure Council’s interest in the land is completed in a legislated period allowing future planning for construction and budgetary requirements.

This matter is an essential operational need to assist overland flooding in times of heavy rain fall. Council has received multiple calls from residents in the area that are affected by flooding and dissatisfied with the current drainage provision. On several occasions landowners have threatened legal action. There is a litigation risk from landowners if the alleviation of drainage issues is not resolved.

Financial Implications

Budget for the easement acquisition and registration is available on Finance Number 103562, St Andrews Way Coolangatta Stage 2.

CL22.370

CL22.371 Restriction Removal - Aboriginal Land Claim 42448 - Lot 50 DP 1279824 - Camden Street - Ulladulla

HPERM Ref: D22/309308

Department: Technical Services

Approver: Trevor Dando, Manager Works & Services

Reason for Report

This report provides Council with an opportunity to consider the Release of Restriction on the use of land over Crown owned Land, Lot 50 DP 1279824.

Recommendation

That Council:

1. Release the terms of this Restriction on the use of land for Lot 50 DP 1279824. The restriction being, "There shall be no development of the lot burdened unless the development is also over Lot 2 DP 631894."
2. Authorise the Chief Executive Officer to sign any documentation required to give effect to this resolution and to affix the Common Seal of the Council of the City of Shoalhaven to all documentation required to be sealed.

Options

1. Resolve as Recommended

Implications: Applications for development could be considered over Lot 50 DP 1279824.

2. Not Resolve as Recommended

Implications: Should Council resolve to retain the restriction; no future development would be considered for Lot 50 DP 1279824 unless also over Lot 2 DP 631894. Therefore, restricting the use of the land.

Background

Superseded Lot 16 DP 1105304 (parent lot) and Lot 2 DP 631894 (Figure 1) were part of blanket Aboriginal Land Claims lodged on 15 and 19 December 2016. These lots were included in the future Council Road project identified in the CP 2010 (Figure 2) and contained infrastructure for drainage.

As only a portion of Lot 16 DP 1105304 was needed for infrastructure purposes, the Lot was subdivided. This allowed the area of the lot required for infrastructure (newly created Lot 51 DP 1279824) to be separated from the area of the lot that was granted the Aboriginal Land Claim (newly created Lot 50 DP 1279824).

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LEGEND

- Aboriginal Land Claim
- Parent Lot 16 DP 1105304
- Lot 50 DP 1279824
- Granted ALC
- Lot 51 DP 1279824
- Reserved for future road purposes
- Lot 2 DP 631894

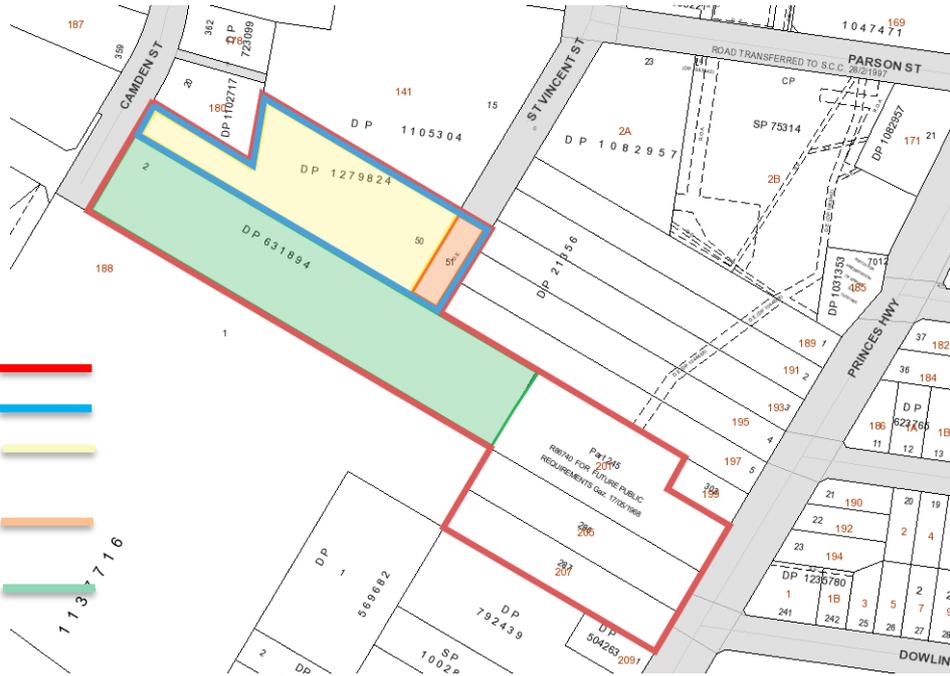


Figure 1



Figure 2

When Lots 50 and 51 DP 1279824 were created they inherited, from the parent Lot 16 DP 1105304, the following restriction on the use of land: *There shall be no development of the lot burdened unless the development is also over Lot 2 DP 631894.* The restriction on the use of land is no longer required as the land has now been subdivided and the future road corridor protected.

Council has received a request from Crown Lands for the release of the restriction on the use of land for the newly created folio Lot 50 DP 1279824 as part of the grant of Aboriginal Land Claim (ALC) 42448. Lot 50 is owned by Crown Land.

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Community Engagement

Not Applicable

Policy Implications

Not Applicable

Financial Implications

Nil

Risk Implications

Nil

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CL22.372 Impact Issues on Bunkers Hill Road - Barrengarry Residents due to Access Restrictions

HPERM Ref: D22/342606

Department: Technical Services

Approver: Stephen Dunshea, Chief Executive Officer

Reason for Report

To update Council on actions undertaken to assist and support Bunkers Hill Road – Barrengarry communities suffering access issues due to landslips following severe weather events in March and July 2022.

Recommendation

That Council note the status update in relation to current access restrictions to Bunkers Hill Road, the ongoing impacts on residents affected by the landslips, and the actions being undertaken by Council to support the affected residents.

Options

1. As Recommended
2. Council resolve an alternative recommendation

Background

Following the two severe weather events impacting on Kangaroo Valley in March and July 2022, Bunkers Hill Road is one of several roads in the LGA that are under traffic restrictions for safety reasons pending significant reconstruction works.

The extent and complexity of the reconstruction works required means that the timeline to restore normal traffic conditions is in the order of 7 – 8 months to completion as a result of the works on the five landslips being required in succession i.e. repair the first landslip so that heavy construction machinery can pass and then move onto the next landslip.

The three tonne load limit has been in place since the first series of landslips occurred during the March 2022 natural disaster event.

Designs for reconstruction of the initial landslips in March 2022 had progressed well and then unfortunately the next severe weather event, which occurred in July 2022, meant Council staff had to go back to the drawing board as new landslips occurred and existing landslips became larger.

Residents of Bunkers Hill Road are expressing their reasonable concerns and frustrations with the ongoing impacts of the road's three tonne load limit which prevents many essential farm and residential maintenance activities being undertaken. Bunkers Hill Road is the only road in and out for properties beyond the landslips.

Concerns and Current Status

The following are concerns raised by the residents of Bunkers Hill Road in letters to Council (12 to 15 to August 2022) and the current status of Council's efforts to support residents and progress the reconstruction works:

Concern 1: *Another severe rain event may further damage the road to the point of making it untrafficable, cutting off all access to properties beyond the landslip.*

Status: Council's Natural Disaster Team is working on reconstructing the damaged sections of road as a priority. Council is conscious of the risk of further damage and has put some protective measures in place in an attempt to protect the remaining road profile.

The rehabilitation of the five landslips along Bunkers Hill Road is the highest priority of the 98 landslips in the LGA to be repaired.

Site inspections with residents and Council staff on 16 August 2022 have identified that a temporary bypass road is not achievable due to the topography constraints.

A suitable track has been earmarked, near 223 Bunkers Hill Road, for use by farm quad bikes / gator vehicles if the road sustained further damage from another severe weather event that rendered it impassable.

Concern 2: *The three tonne load limit is restricting access for emergency services vehicles, putting residents and property at risk, particularly in relation to fire as the summer season approaches.*

Status: All emergency services and service providers including NSW Ambulance, SES, NSW Rural Fire Service, Defence and Endeavour Energy are aware of the road restrictions to numerous roads in Kangaroo Valley. Those organisations have their own contingency plans in place to respond to an emergency.

Residents have been advised for all emergency incidents to contact triple zero. Response actions will be undertaken by appropriate emergency agency and if required will engage support from other agencies.

For example, in recent severe weather event isolated residents were evacuated by a Defence helicopter, instigated by the Shoalhaven Emergency Operations Centre (EOC), approved and tasked to the relevant functional area.

In relation to firefighting, unfortunately Category 1 firefighting vehicles are over the 3 tonne limit and cannot access properties beyond the landslip via the road. In an emergency situation a Category 9 fire fighting vehicle can access properties above rural road number 200 and would be supported by other appropriate resources as determined by the NSW Rural Fire Service.

Council also strongly suggests that residents update their Bushfire Survival Plan, in collaboration with the local RFS, in time for the commencement of the fire season.

Concern 3: *The three tonne load limit is restricting access of trucks and machinery to provide for essential farming and residential maintenance activities.*

Status: For animal welfare related issues, residents are encouraged to liaise with Agricultural and Animals Functional Area (AASFA), managed by NSW DPI and locally by Local Land Services (LLS), who can provide feed and water for livestock in emergency situations (for animal welfare purposes only). LLS may also be able to provide infrastructure to help move livestock to another site below the landslip and have access to portable stockyards and a portable stock ramp onto a transporter.

Where the load limit restriction is impacting on other activities such as fencing contractors with large machinery, pasture/silage machinery, diesel cartage, sewage pump outs, LPG bottle deliveries, machinery repairs, building repairs, etc. residents are encouraged to work with their local suppliers to see if there are lower weight alternatives to keep operations safe until the load limit can be lifted.

The expertise of LLS may also be beneficial in helping residents develop site specific solutions. Discussions have been held with farm operators on 16 August 2022 regarding cutting silage and bailing from November through to late March and the requirement for machinery exceeding nine tonne to access farms. Further conversations by Council officers will be required with Federal Government staff to see if “innovative solutions” like the use of rotary aircraft to assist can be funded under the Natural Disaster Funding Arrangements to bring in heavy farming machinery.

Concern 4: *The three tonne load limit is restricting access of waste trucks (Bingo Bins Services) to empty skip bins.*

Status: Council will work with residents to investigate if a similar arrangement to the one implemented in Upper Kangaroo River Road could provide an intermediate solution. This involved regular collection of 660 litre bins for waste and recycling.

Concern 5: *It is unclear to residents how power network outages would be rectified beyond the three tonne load limit.*

Status: Endeavour Energy were able to access and reinstate power supplies in the Upper Kangaroo River Road area earlier in July under three tonne vehicle load limit conditions utilising smaller vehicles. It is expected that similar strategies would be successful at Bunkers Hill Road. It is noted that there are currently no power outages in the affected area.

Concern 6: *It is unclear to residents how water cartage will be delivered during Summer beyond the three tonne load limit. Water cartage is quite common due to the off-grid nature of the area.*

Status: Should the scenario eventuate where a primary residence is imminently about to run out of fresh water supply it is likely that the EOC would activate to address the health emergency. Solutions would be determined at that time.

Concern 7: *Completion of building works – incomplete DA works are currently shut down at great cost.*

Status: It is recommended that affected residents contact Council to investigate options for extensions of time for affected DA's.

Concern 8: *Loss of tourist patronage for those owners reliant on this activity for their income.*

Status: In general, noting that Council will address the waste issue, Council is providing support to Bunkers Hill Road residents with other services similar to that established for the residents of Upper Kangaroo River Road and referrals to other agencies including Local Land Services, Endeavour Energy, Emergency Services, Welfare, Services NSW and Resilience NSW seeking guidance. However, many of the concerns raised would benefit from a co-ordinated approach through the establishment of a localised recovery committee.

This system has successfully been implemented in northern coastal councils experiencing similar situations. Agencies who may not be able to provide direct assistance, as this is not yet an emergency and therefore not supported under any emergency management arrangements, could provide indirect support, troubleshooting workshops and referral pathways.

Council will also ensure that the revised access conditions, which allow all vehicles less than three tonne access, is understood and implemented consistently.

Community Engagement

Various ways of communicating with the impacted communities at Kangaroo Valley have been undertaken including using community networks, CCB meetings, Cuppa and Chat information sessions and contact with Council staff directly.

Allocation of a Community Recovery Officer would also provide benefits from focussed engagement to develop and deliver targeted communications, ensuring the welfare of residents in the Bunkers Hill Road area is being monitored.

Financial Implications

Nil – the road rehabilitation works are being funded through the Natural Disaster Funding Arrangements.

Risk Implications

If the road sustained further damage from another severe weather event that rendered it impassable, staff in conjunction with residents, have identified a suitable track near 223 Bunkers Hill Road, for use by farm quad bikes / gator vehicles, that will enable residents and guests to access their properties, similar to that established for the residents of Upper Kangaroo River Road.

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CL22.373 Quarterly Review for Compliance Matters

HPERM Ref: D22/268071

Department: Certification & Compliance
Approver: James Ruprai, Director - City Development

Attachments: 1. Penalty Notices & Warnings Issued & Beach Patrols - Quarterly Review
- City Development - April to June 2022 [↓](#)

Reason for Report

At Council's Ordinary meeting held on 13 November 2018 it was resolved to receive a detailed quarterly report on compliance activities (MIN18.907).

At Council's meeting of 23 May 2022, it was resolved for all future reports to provide an analysis of trends, effectiveness and current and arising areas of risk (MIN22.348).

This report provides information on the period from 1 April to 30 June 2022 (final quarter 2021/2022).

Recommendation

That Council receive the April to June 2022 quarterly report on compliance matters for information.

Options

1. Council receives the report for information.
Implications: Nil
2. Council receives the report and provides additional direction for future reports.
Implications: Any changes or additional matters can be added to future reports.

Report

Compliance activities are completed by the following Teams within City Development:

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

This report provides Councillors with an update on the penalties issued (number, type, and ticket value) and any Local or Land and Environment Court matters determined or progressing.

This report relates to April - June 2022 (final quarter).

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Penalties Issued During the Period

A combined total of 1,612 penalty notices were issued by the Teams during the period. These penalties have a face value of \$428,793. Historically Council stands to receive approximately 70% of this ticketed figure.

A total of 261 warnings were issued during the period.

Attachment 1 to this report provides a breakdown of the penalties and warnings issued.

The following is a summary of the penalties issued for each team:

Table 1:- Penalty notices issued for the 4th quarter 2021/2022

Team	Number Issued	Total Amount	% of total amount	Warnings issued
Compliance	32	51,330	12.0%	101
Compliance – Fire Safety	0	0	0.0%	0
Compliance – Pools	5	1,430	0.3%	5
Environmental Health	5	36,000	8.4%	0
Rangers – Animal issues	205	87,200	20.3%	70
Rangers – Environmental issues	36	29,708	6.9%	10
Rangers – Parking	1,334	223,125	52.0%	75
Sewer Management Facility	0	0	0.0%	0
Total	1612	428,793	100.0%	261

The following table provides details on the yearly penalty notices issues.

Table 2:- Penalty notices issued for 2021/2022 financial year

Team	Number Issued	Total Amount	% of total amount	Warnings issued
Compliance	88	\$137,070.00	10.03%	241
Compliance – Fire Safety	0	\$0.00	0.0%	0
Compliance – Pools	19	\$6,490.00	0.47%	15
Environmental Health	13	\$69,660.00	5.10%	0
Rangers – Animal issues	771	\$316,440.00	23.14%	164
Rangers – Environmental issues	85	\$64,048.00	4.68%	23
Rangers – Parking	4631	\$772,840.00	56.53%	162
Sewer Management Facility	2	\$660.00	0.05%	1
Total	5,589	\$1,367,208.00	100.0%	606

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Penalties Related to Compliance issues

The following details are provided in relation to compliance penalty notices issued during the period:

- a) Sussex Inlet (\$1100): One (1) penalty notice was issued to a licensed plumber for breach of the Plumbing and Drainage Act for failing to ensure plumbing work was accessible to the inspector.
- b) Ulladulla (\$1500): One (1) penalty notice issued to the owner of a premises for development without development consent for the unauthorised conversion of an attached garage to a dwelling extension with attached deck.

Three (3) warning notice were also issued to the owner for further identified breaches for a breach of the EP&A Act. This would have equated to a further \$4500 if issued as a penalty notices.
- c) Huskisson (\$3000): Two (2) penalty notices issued – one to each owner for unauthorised conversion and use of a garage for short term rental accommodation.

A further two (2) warning notices were issued in relation to the matter and would have equated a further \$3000 if issued as penalty infringement notices.
- d) Cambewarra (\$1830): Two (2) penalty notices issued to the owner of a premises for the construction of a retaining wall over a Council sewer asset and failing to comply with a LG Act order.

Two warning notices were also issued which would have equated to a further \$1830 if issued as penalty notices.
- e) Bomaderry (\$550): One (1) penalty notice was issued to a licensed plumber for a breach of the Plumbing and Drainage Act 2011.

A further five (5) warning notices were also issued which would have equated to \$3300 if issued as penalty infringement notices.
- f) Beaumont (\$15,000): Three (3) penalty notices issues to the owner of premises for an unauthorised moveable dwelling used for tourist and visitor accommodation, installation of detached bathroom with onsite sewage management system and failing to comply with a development control order.

A further eleven (11) warning notices were also issued which would have equated \$22,500 if issued as penalty notices.
- g) Sussex Inlet (\$8000): One (1) penalty notice was issued to a demolition contractor for transporting and disposing of waste on a residential premises.

Two (2) warning notices were also issued which would have equated to a further \$16,000 if issued as penalty notices.
- h) Callala Bay (\$3000): One (1) penalty notice was issued to person without the appropriate license for the construction of a first-floor deck.

Two (2) warning notices were also given which would have equated to a further \$6000 if issued as penalty notices.
- i) Sanctuary Point (\$550): One (1) penalty notice was issued to a licensed plumber for a breach of the Plumbing and Drainage Act 2011.

One (1) warning notice was also issued which would have equated to a further \$550 if issued as a penalty notice.
- j) Sanctuary Point (\$1500): One (1) penalty notice was issued to a licensed contractor for constructing a dwelling extension without consent.

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- One (1) warning notice was also issued which would have equated to a further \$1500 if issued as a penalty notice.
- k) Sanctuary Point (\$1500): One (1) penalty notice was issued to a licensed contractor for commencement of works for the installation of a swimming pool.
- One (1) warning notice was also issued which would have equated to a further \$1500 if issued as a penalty notice.
- l) Ulladulla (\$7320): Eight (8) penalty notices issued to the owners of a premises for unauthorised development including a swimming pool without a barrier, decks and pergola, carport, sheds and retaining walls.
- Forty (40) warning notices were also issued which would have equated to \$98,820 if issued as penalty notices
- m) Ulladulla (\$1100): Two (2) penalty notices were issued to a licensed plumber for a breach of the Plumbing and Drainage Act 2011.
- Three (3) warning notices were also issued which would have equated to a further \$2200 if issued as penalty notices.
- n) Bomaderry (\$1500): One (1) penalty notice issued to the owner of a premises for the construction of a garage without consent.
- Two (2) warning notices were also issued which would have equated to a further \$3000 if issued as penalty notices.
- o) Sanctuary Point (\$1500): One (1) penalty notice issued to the owner of a premises for the construction of a carport, decking and outdoor laundry without consent.
- Two (2) warning notices were also issued which would have equated to a further \$3000 if issued as penalty notices.
- p) Sanctuary Point (\$1500): One (1) penalty notice issued to a licenced plumber for the installation of new plumbing works to an outdoor laundry.
- Three (3) warning notices were also issued which would have equated to a further \$3000 if issued as penalty notices.
- q) Huskisson (\$1650): Two (2) penalty notices issued to a licenced plumber for unauthorised plumbing and drainage works in a commercial facility.
- One (1) warning notice was also issued which would have equated to further \$1100 if issued as a penalty notice.
- r) North Nowra (\$1650): Two (2) penalty notices issued to the owner for unauthorised development including the installation of a swimming pool without a complaint barrier and without a complaint warning notice.
- A further sixteen (16) warning notices were issued for other breaches including construction of a timber deck, major dwelling alterations and alterations to a shed. If issued as penalty notices these would have equated a further \$23,050.

The following graphs show the penalties issue for the period by suburb together with the penalties issued for the 2021/2022 financial year (See Figures 1 and 2).

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Figure 1:- Penalties issued for the period by suburb

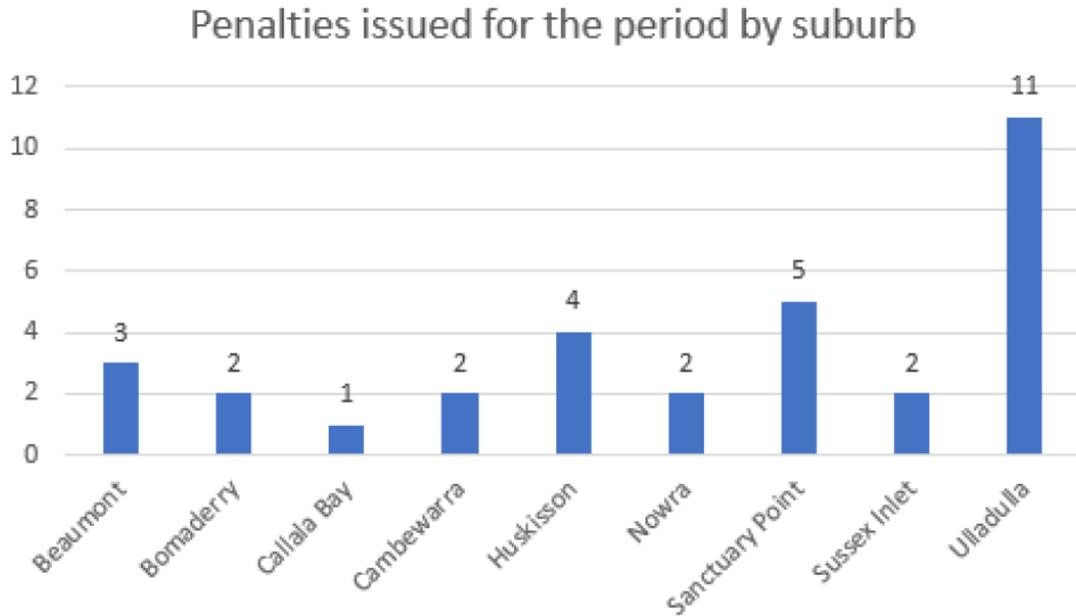
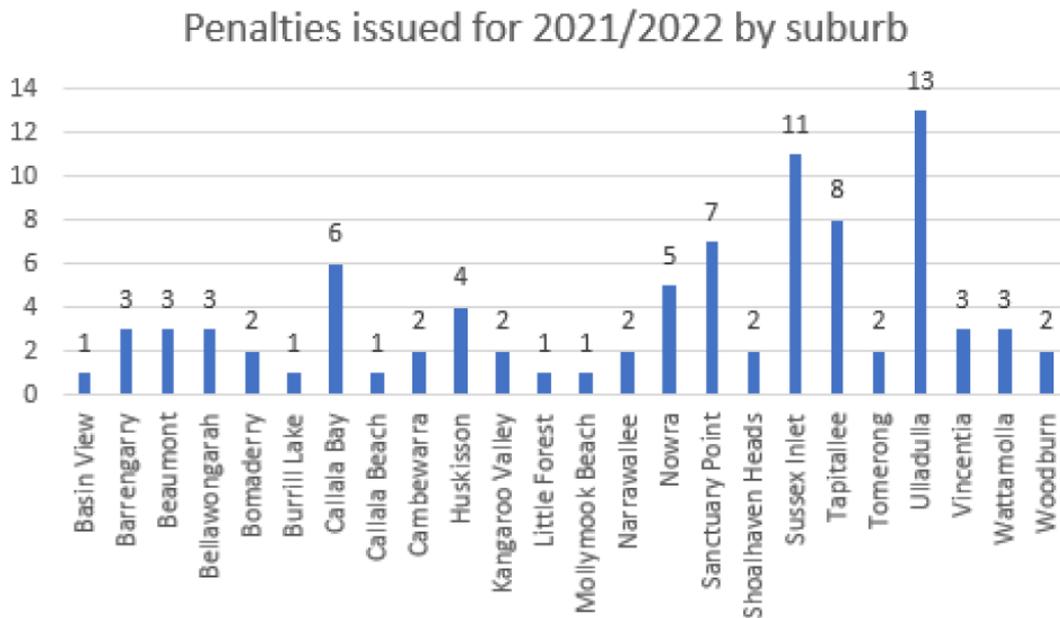


Figure 2:- Penalties issued by suburb for 2021/2022



Warnings Related to Compliance issues

A total of 106 warning notices were issued for compliance matters in the period and these have no dollar value. Potentially the Compliance Team could have issued a further \$180,900 in penalties for the period. The caution rate is approximately 70% of the total potential.

The following graphs show the warnings issue for the period by suburb together with the warnings issued for the 2021/2022 financial year (See Figures 3 and 4).

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Figure 3:- Warnings issued for the period by suburb

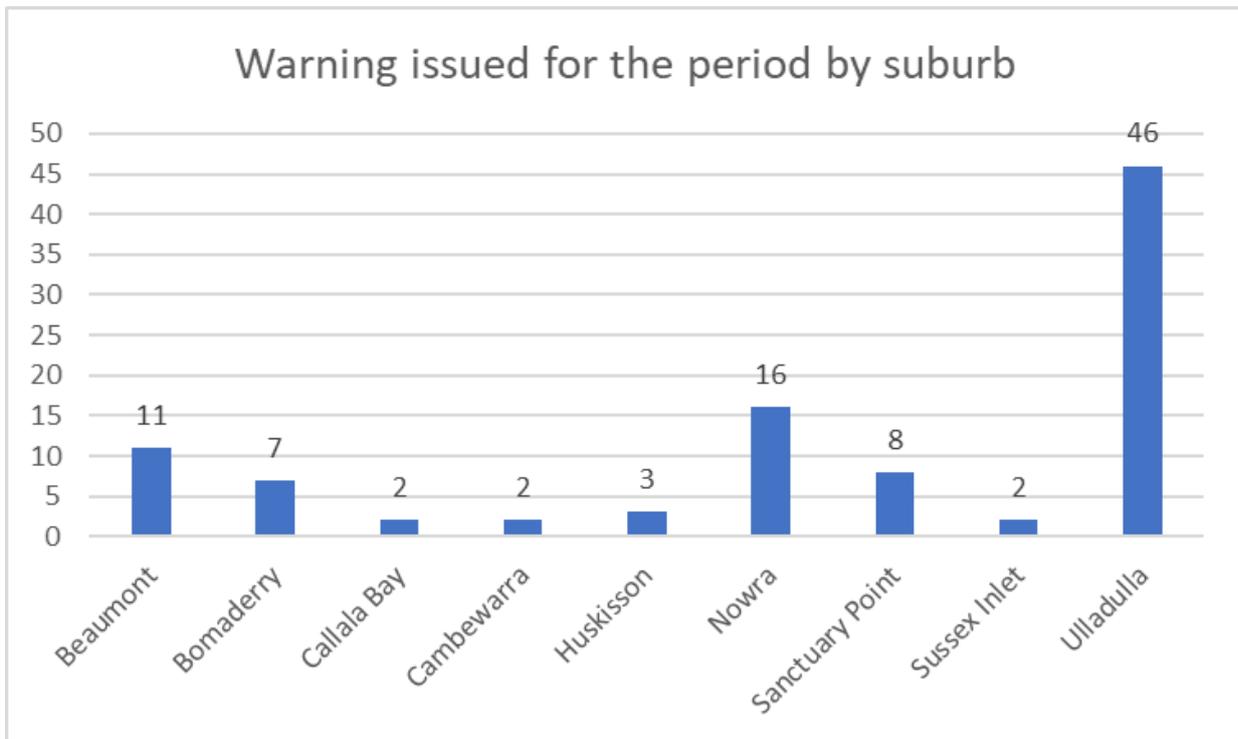
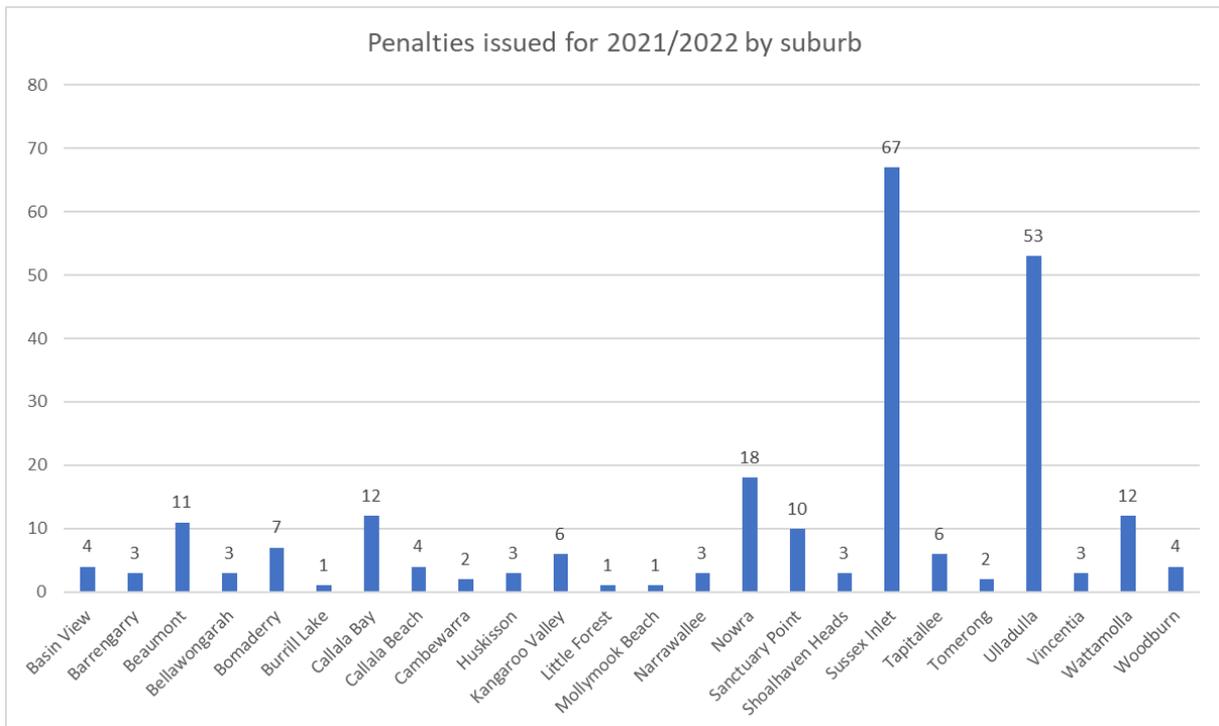


Figure 4:- Warnings issued for 2021/2022 by suburb



Court Elected Penalties:

There were no court elected penalties this quarter.

Compliance merits received this quarter

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The Compliance Team received 118 Merits, and the following tables highlights the trends.

Type of Merits Received	Number Received	Percentage of total
Asbestos issues	0	0
Building Works - Not in Accordance Consent	12	10%
Building Works - Without Consent	35	29%
Defective Building Works	2	2%
Earthworks - Without Consent	2	2%
Land Use - Without Consent	14	12%
Sewage Management Facility	1	1%
Special event – without consent	0	0
Stormwater Runoff	36	31%
Swimming Pool Fencing Inspection	1	13%
TOTALS	118	100

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The Compliance Team have been proactive in addressing areas of risk by developing fact sheets, web-site updates and media campaigns for swimming pools, tiny homes and camping grounds. The Team is currently working on a media campaign and web-site update for shipping containers as these are becoming more prevalent.

The following additional comments are made:

- (a) Stormwater:- Stormwater complaints reflect a high number of merits received representing 29% of the total created. The number of complaints received was substantially higher, however these matters can be difficult to establish cause and in many cases were because of excess overland flow due to the recent rainfall events and merits are not created for investigation in these instances.

A significant number of stormwater complaints come from areas in the LGA without street drainage infrastructure, where properties are being inundated from excess overland surface water. Stormwater issues in general can be difficult for Council staff to enforce compliance due to weak legislative powers under the Local Government Act 1993.

- (b) Development without consent:- Development without consent also remains high representing 29% of the total number of merits.

Moveable dwellings installed on land for both residential and tourist and visitor accommodation use remains a consistent issue. Council has recently added an information page on the public website providing advice that development consent is required for any use of these structures.

- (c) Swimming Pool Compliance:- Swimming pool merits represent 11% of the total merits created and this was due to a higher-than-normal number of referrals having been received from private certifiers. This is likely due to property owners opting not to repair pool barriers where a house is for sale and instead passing the repair works onto the

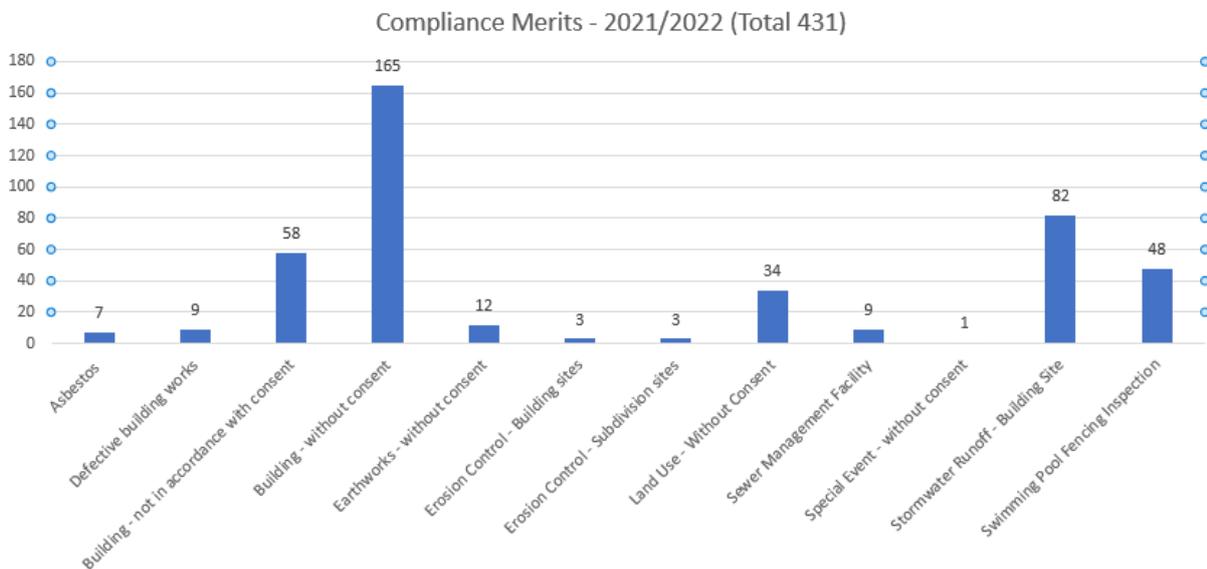
new owners due to secure a quick sale. Council has added a news item regarding pool compliance to the website and social media platforms.

In the quarter, Council created fifteen (15) merits relating to swimming pool barriers. These include both complaints from members of the public and referrals from private certifiers and these inspections are in addition to inspections undertaken at owners' requests.

In total, Compliance undertook 121 individual swimming pool inspections during the quarter resulting in twenty-eight (28) certificates of compliance being issued and thirty-three (33) certificates on non-compliances being issued.

The following figure shows the total number of compliance merits for the 2021/2022 financial year (See Figure 5).

Figure 5 – Compliance MERITS 2021/2022



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Ranger Activities

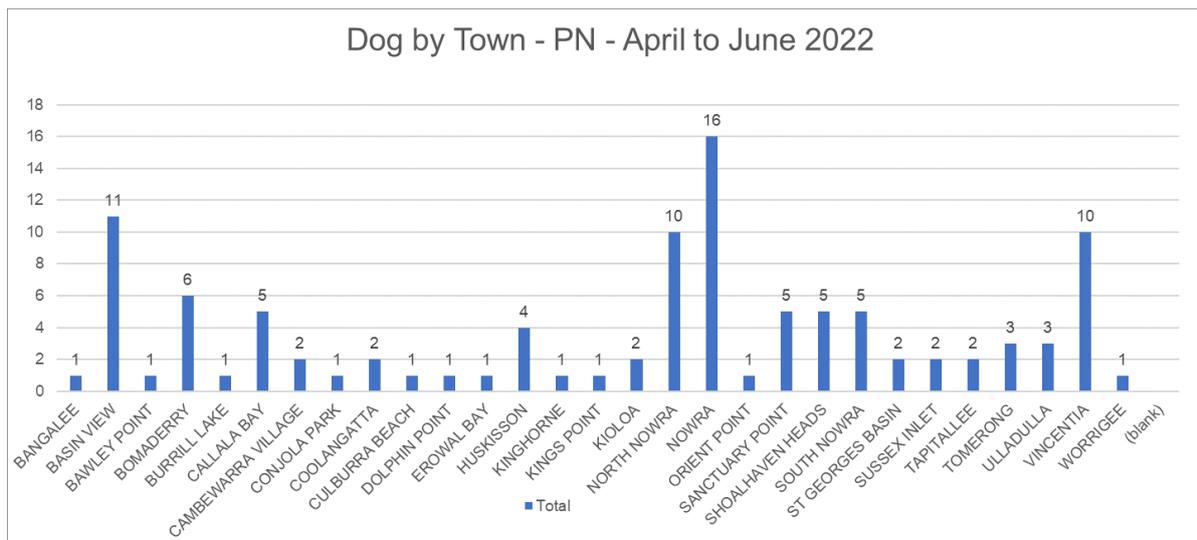
Of the penalties issued by Ranger Services, there are trends for animal management and environmental offences. Ranger Services are working on a number of Media programs including responsible pet ownership, tree vandalism and illegal dumping to address the main risks.

- (a) **Dog attacks**:- Rangers received and attended 54 reports of dogs attacking during the period. Of these reports, 19 investigations have been completed with 24 penalty notices issued (i.e., 24 x \$1,320 = \$31,680). A further 35 matters remain under investigation.

Although the penalty is high, dog attacks remain a major risk within the community. There is more awareness in the community although there may still be unreported dog attacks.

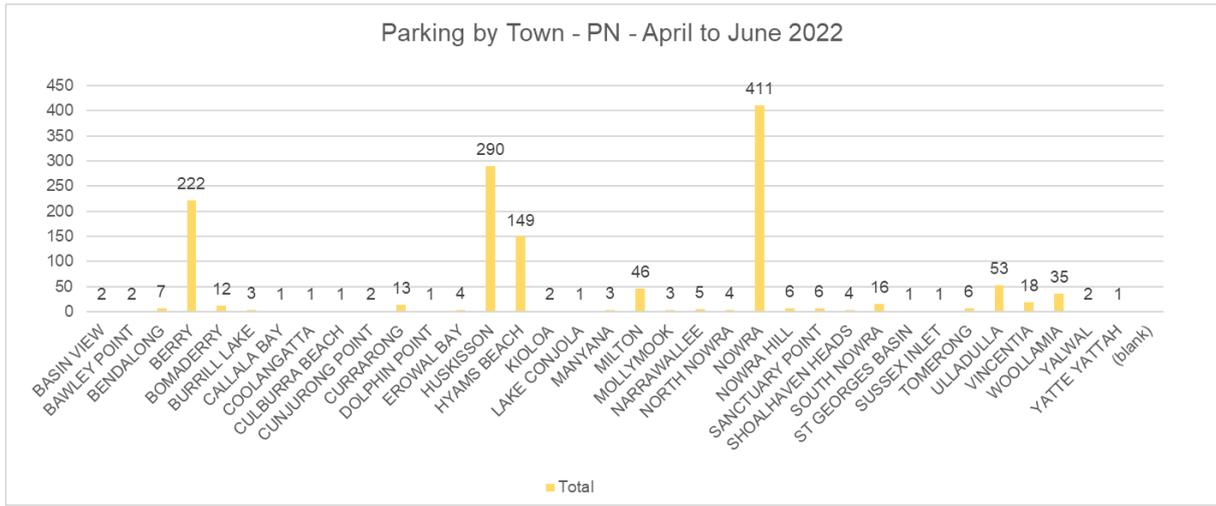
The following figure provides information on the dog related penalty notices issued by suburb for the period (Refer Figure 6).

Figure 6:- Dog related penalty notices by suburb for the period



- (b) **Animal registrations:-** A total of 90 penalty notices were issued for non-compliance with the lifetime registered requirements by the Companion Animals Act.
- (c) **Beach patrols:-** Rangers completed 384 beach patrols during this quarter. A number of dog owners have been spoken to during this period. A total of 4 penalty notices and 16 warnings have been issued.
- (d) **Foreshore vegetation vandalism:-** Rangers received 40 reports of foreshore vandalism and 8 are still under investigation. Rangers continue surveillance and on-going monitoring of these vandalised areas in accordance with Council's Foreshore Vandalism Policy.
- (e) **Illegal dumping:-** Rangers have documented 147 new illegal dumping incidents within the Shoalhaven. Council's Works and Services Section has removed 48.20 tonnes of illegally dumped waste. It cost \$22,697.00 to deposit this material at Council's Waste Facility.
 - i. **Penalty Notices:-** a total of 8 Penalty Notices (i.e., 8 x \$2,000 = \$16,000) were issued this quarter to offenders identified depositing household waste in bushland areas which include: Bamarang, Huskisson, Lake Tabourie, North Nowra, (2) South Nowra, Jerrawangala and Yalwal. All offenders ordered to clean up and dispose of their waste at a lawful waste facility.
 - ii. **Media Project (contestable Funding).** Most recent application for further funding has been approved to extend media activities established from Round 7 Baseline Project. The program has commenced and some of the campaign can be seen with Council assets such as opposite the front customer service desk in the administration building and other venues are being pursued.
 - iii. **Uncovered Loads project:-** Rangers completed an education program on 25 & 26 June 2022 by attending several waste facilities and speaking to waste transporters regarding their uncovered loads. The primary purpose of the project was to reduce litter / waste along the roadsides on approach to waste facilities. The public responded positively, and a high percentage were extremely receptive and thankful for the program. Huskisson waste facility resulted with 58 persons being engaged and 89 at the Nowra West waste facility. A total of four significant noncompliance with Protection of the Environment Operations Regulations 2014 s70 matters were noted (3 at Huskisson and 1 at Nowra West facility). Warnings were issued to all persons.
- (f) **Parking:-** A total of 1334 penalty notices were issued for parking offences in the period. Figure 6 highlights the penalties issued by suburb for the period.

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(g) Animal Shelter: The Shelter current has over 18,620 followers on Facebook. This platform provides an effective means of advertising adoptions, lost dogs and the promotion of responsible pet ownership.

- i. Adoptions and reclaims: - The Shoalhaven Animal Shelter recorded 151 adoptions and 67 reclaims for the reporting period.
- ii. Animal desexing vouchers given to pensioners:- The Shelter collaborated with many external units and was able to obtain continued support for the animal desexing program. This resulted in 30 free animal desexing vouchers being provided to pensioners.
- iii. Contributions to the shelter:- The Shelter received \$1,800 in contributions from the public and businesses in the last quarter.

The Shelter would like to publicly acknowledge the generosity of the public and these businesses. The Shelter will be using these donations to create larger exercise areas for the dogs.

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Penalty Notices and Warnings Issued & Beach Patrols Undertaken

List of penalties issued from 1 April to 30 June 2022 via offence Code

Team	Offence Code	Number issued	Offence penalty	Total amount
Compliance	Development without development consent - any other case - Corporation	1	6000	6000
Compliance	Development without development consent - class 1a or 10 building - Corporation	2	3000	6000
Compliance	Development without development consent - class 1a or 10 building - Individual	12	1500	18000
Compliance	Fail to comply with terms of development control order - Corporation	1	6000	6000
Compliance	Not provide notice of work to plumbing regulator	4	550	2200
Compliance	Not provide work plan to plumbing regulator - sanitary drainage system	2	550	1100
Compliance	Not notify plumbing regulator when work ready for inspection	1	1100	1100
Compliance	Fail to comply with order number 21 (safety/health of land/premises)	1	330	330
Compliance	Not present and ensure work accessible for inspection	1	1100	1100
Compliance	Carry out building work without required certificate-class 1a or 10 building - Individual	1	1500	1500
Compliance	Transport etc excess waste to unlawful facility - class 1 officer - Corporation	1	8000	8000
Compliance Pools	Fail to maintain child-resistant barrier effective and safe	1	550	550
Compliance Pools	Residential pool not have complying barrier - Owner	1	550	550
Compliance Pools	Fail to erect prescribed warning notice - Occupier	2	110	220
Compliance Pools	Swimming pool construction no sign as prescribed	1	110	110
Enviro Health	Pollute waters - class 1 officer - Corporation	3	8000	24000
Enviro Health	Development not accord consent - any other case - Corporation	2	6000	12000
Ranger Animal	Companion animal (other) not registered as prescribed - first offence	46	330	15180
Ranger Animal	Companion animal (other) not registered as prescribed - second or subsequent offence	2	330	660
Ranger Animal	Fail to prevent dog from escaping - not dangerous/menacing/restricted dog	43	220	9460

Ranger Animal	In charge of dog not under control in public place	2	330	660
Ranger Animal	In charge of dog which rushes at/attacks/bites/harasses/chases any person/animal	10	1320	13200
Ranger Animal	Not comply notice re registration (other) - first offence	32	305	9760
Ranger Animal	Not identify companion animal as prescribed - not dangerous/menacing/restricted dog	2	180	360
Ranger Animal	Owner of dog in prohibited public place	6	330	1980
Ranger Animal	Owner of dog not under control in public place	20	330	6600
Ranger Animal	Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	14	1320	18480
Ranger Animal	Fail to comply with menacing dog control requirements	3	1760	5280
Ranger Animal	Companion animal (other) not registered if required by regulations - first offence	3	305	915
Ranger Animal	Not comply notice re registration (other) - prior offence	5	305	1525
Ranger Animal	Former owner not notify change of ownership	2	180	360
Ranger Animal	Not notify change in registration/identification information - not dangerous/menacing/restricted dog	9	180	1620
Ranger Animal	Dog not wear collar and name tag - not dangerous/menacing/restricted dog	4	180	720
Ranger Animal	Fail to prevent dog from escaping - menacing dog	2	220	440
Ranger Environment	Aggravated deposit litter excluding cigarette and from vehicle - Individual	1	450	450
Ranger Environment	Aggravated deposit litter from vehicle no exclusions - Individual	1	450	450
Ranger Environment	Deposit litter excluding cigarette and from vehicle - Individual	9	250	2250
Ranger Environment	Development without development consent - any other case - Individual	4	3000	12000
Ranger Environment	Fail to comply with terms of notice erected by council	10	110	1100
Ranger Environment	Owner transport etc waste to unlawful facility - class 1 officer - Individual	6	2000	12000
Ranger Environment	Unlawfully remove plant/animal/rock/soil from public place	4	220	880
Ranger Environment	Allow to escape onto road any liquid or any loose or waste material	1	578	578
Ranger Parking	Disobey motor bike parking sign	13	117	1521

Ranger Parking	Disobey no parking sign	35	117	4095
Ranger Parking	Disobey no stopping sign	83	275	22825
Ranger Parking	Disobey no stopping sign (in school zone)	28	352	9856
Ranger Parking	Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	25	110	2750
Ranger Parking	Not angle park as on parking control sign or road marking	26	84	2184
Ranger Parking	Not parallel park in direction of travel	74	275	20350
Ranger Parking	Not park wholly within parking bay	9	84	756
Ranger Parking	Not position front/rear of vehicle correctly - 90 degree angle parking	62	84	5208
Ranger Parking	Not position rear of vehicle correctly - 45 degree angle parking	203	84	17052
Ranger Parking	Not stand vehicle in marked parking space	11	84	924
Ranger Parking	Parallel park close to dividing line/strip	6	275	1650
Ranger Parking	Park continuously for longer than indicated	304	84	25536
Ranger Parking	Park vehicle for longer than maximum period allowed	135	84	11340
Ranger Parking	Stop at side of road with continuous yellow edge line	126	275	34650
Ranger Parking	Stop in bus zone (clearway or transit/bus lane)	1	275	275
Ranger Parking	Stop in bus zone (in school zone)	29	352	10208
Ranger Parking	Stop in bus zone (not clearway or transit/bus lane)	5	275	1375
Ranger Parking	Stop in disabled parking area without current permit displayed	21	587	12327
Ranger Parking	Stop in loading zone	5	196	980
Ranger Parking	Stop in taxi zone	9	196	1764
Ranger Parking	Stop on path/strip in built-up area	63	275	17325
Ranger Parking	Stop on/across driveway/other access to/from land	17	275	4675
Ranger Parking	Stop within 10 metres of an intersection (no traffic lights)	10	352	3520
Ranger Parking	Stop on/across driveway etc to/from land (in school zone)	3	352	1056

Ranger Parking	Stop in loading zone longer than 30 minutes	2	196	392
Ranger Parking	Not parallel park in direction of travel in school zone	3	352	1056
Ranger Parking	Not parallel park near left	1	117	117
Ranger Parking	Stop heavy/long vehicle longer than 1 hour	1	117	117
Ranger Parking	Not parallel park in direction of travel (road related area)	3	117	351
Ranger Parking	Disobey no parking sign (in school zone)	3	196	588
Ranger Parking	Stop on/near childrens crossing (in school zone)	2	469	938
Ranger Parking	Stop at/near bus stop (in school zone)	15	352	5280
Ranger Parking	Use more parking bays than necessary	1	84	84
Grand Total		1,612		\$428,793

Warnings issued from 1 April to 30 June 2022 via offence Code

Compliance	101
Carry out building work without required certificate-class 1a or 10 building - Corporation	2
Carry out building work without required certificate-class 1a or 10 building - Individual	17
Carry out domestic greywater diversion without approval	1
Development without development consent - any other case - Individual	1
Development without development consent - class 1a or 10 building - Corporation	1
Development without development consent - class 1a or 10 building - Individual	21
Do plumbing and drainage work when not authorised	1
Fail to comply with terms of development control order - Corporation	1
Fail to give notice required under section 6.6-class 1a/10 building - Corporation	1
Fail to give notice required under section 6.6-class 1a/10 building - Individual	19
Fail to provide certificate of compliance within required period	3
Fail to provide copy of certificate of compliance as prescribed	2
Not notify plumbing regulator when work ready for inspection	4

Not present and ensure work accessible for inspection	2
Not provide notice of work to plumbing regulator	2
Not provide work plan to owner - sanitary drainage system	2
Not provide work plan to plumbing regulator - sanitary drainage system	3
Occupy or use building without required certificate-class 1a/10 building - Corporation	1
Occupy or use building without required certificate-class 1a/10 building - Individual	13
Operate sewage management system without approval	1
Plumbing and drainage work not comply with standards	1
Pollute waters - class 1 officer - Corporation	1
Transport etc asbestos waste to unlawful facility - class 1 officer - Corporation	1
Compliance Pools	5
Fail to erect prescribed warning notice - Occupier	1
Fail to maintain child-resistant barrier effective and safe	1
Residential pool not have complying barrier - Owner	2
Swimming pool construction no sign as prescribed	1
Ranger Parking	75
Disobey motor bike parking sign	1
Disobey no stopping sign	1
Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	11
Not parallel park in direction of travel	19
Not park wholly within parking bay	1
Park continuously for longer than indicated	2
Park vehicle for longer than maximum period allowed	1
Stop at side of road with continuous yellow edge line	1
Stop heavy/long vehicle longer than 1 hour	3
Stop in bus zone (in school zone)	1

Stop in disabled parking area without current permit displayed	4
Stop on path/strip in built-up area	26
Stop on/across driveway/other access to/from land	4
Ranger Animal	70
Dog not wear collar and name tag - dangerous dog	1
Dog not wear collar and name tag - menacing dog	1
Dog not wear collar and name tag - not dangerous/menacing/restricted dog	16
Fail to prevent dog from escaping - not dangerous/menacing/restricted dog	26
In charge of dog not under control in public place	1
In charge of dog which rushes at/attacks/bites/harasses/chases any person/animal	2
Not immediately remove dog faeces from public place	1
Not notify change in registration/identification information - not dangerous/menacing/restricted dog	5
Owner of dog in prohibited public place	3
Owner of dog not under control in public place	12
Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	2
Ranger Environment	10
Development without development consent - any other case - Corporation	1
Development without development consent - class 1a or 10 building - Corporation	1
Fail to comply with terms of notice erected by council	3
Owner transport etc waste to unlawful facility - class 1 officer - Individual	3
Transporter not ensure waste is covered during transportation - Individual	1
Unlawfully remove plant/animal/rock/soil from public place	1
Grand Total	261

Beach Patrols – 1 April to 30 June 2022

Beaches	Beach	Non Compliant Dogs	Compliant Dogs	Penalty Notice	Warning
Bawley Beach	1	0	0	0	0
Bawley Point Cormorant Beach	1	0	3	0	1
Bawley Point Murramarang Beach	1	0	2	0	4
Bawley Point North Beach	1	0	0	0	0
Bendalong Boat Harbour Beach	2	0	0	0	0
Bendalong Dee Beach	4	0	0	0	0
Bendalong Monument Beach	1	0	0	0	0
Bendalong Washerwomans Beach Off Leash 24 hrs	1	0	0	0	0
Berrara Beach Spit Prohibited	1	0	0	0	0
Burrill Lake Burrill Beach	1	1	0	0	1
Callala Bay	9	0	14	0	0
Callala Bay Bicentennial Park	3	0	0	0	0
Callala Beach East End	3	0	2	0	0
Callala Beach Prohibited Area	9	2	1	0	1
Callala Beach West End	5	1	5	0	1
Crookhaven Boat Ramp	4	2	0	0	0
Culburra Beach South Off Leash timed	11	2	64	0	0
Culburra Lake Wollumboola Prohibited	10	2	0	0	0
Culburra Warrain Beach	10	0	4	0	0
Currarong Abrahams Bosom Beach	23	2	1	0	0

Currarong Beach Off Leash timed	2	0	5	0	0
Currarong Kinghorn Point	8	0	0	0	0
Currarong Warrain Beach	15	0	17	0	0
Greenwell Point Foreshore Reserve	14	0	13	0	0
Huskisson Beach Off Leash timed	5	13	22	0	0
Huskisson Currambene Creek Prohibited	2	0	0	0	0
Huskisson Moona Moona Beach / Creek	18	0	1	0	0
Huskisson Shark Net Beach Prohibited	12	0	0	0	0
Hyams (Seamans) Beach	3	5	7	0	0
Hyams Beach Chinamans Beach - NPWS	3	3	1	0	0
Hyams Beach Little Hyams Beach	1	0	1	0	0
Kioloa Beach	1	2	0	0	2
Merry Beach	2	0	0	0	0
Mollymook Beach North Prohibited	6	0	0	0	0
Mollymook Beach On Leash 24 hrs	2	0	0	0	0
Mollymook Beach South Prohibited	2	0	0	0	0
Myola Spit Prohibited	12	2	4	0	1
Narrawallee Beach North Prohibited	6	0	0	0	0
Narrawallee Beach Off Leash timed	3	0	7	0	0
Narrawallee Beach South Prohibited	4	0	1	0	0
Narrawallee Spit Prohibited	2	0	0	0	0
Orient Point Foreshore Reserve Osterley Avenue	5	0	1	0	0
Sanctuary Point Paradise Beach Reserve	2	0	0	0	0

Sanctuary Point Ray Brooks Reserve (Boat Ramp to Stairs) Prohibited	3	0	0	0	0
Shoalhave Heads Seven Mile Beach	1	0	0	0	0
Shoalhaven Heads River Road Reserve Off Leash 24 hrs	19	0	3	0	0
Shoalhaven Heads Seven Mile Beach Off Leash 24 hrs / on leash	24	4	89	2	4
Shoalhaven Heads Spit Prohibited	61	4	13	1	1
Vincentia Barfleur Beach	1	0	0	0	0
Vincentia Blenheim Beach Prohibited	12	0	0	0	0
Vincentia Collingwood Beach Prohibited	20	0	0	0	0
Vincentia Nelsons Beach Off Leash timed	6	1	43	1	0
Vincentia Orion Beach	1	2	0	0	0
Vincentia Plantation Point	2	4	0	0	0
Woollamia Boat Ramp	2	0	0	0	0
Grand Total	383	52	324	4	16

CL22.374 NSW Audit Office - Planning Portal Performance Audit 2022

HPERM Ref: D22/335929

Department: Business Support
Approver: James Ruprai, Director - City Development

Attachments: 1. NSW Audit Office - Final Report - NSW Planning Portal (under separate cover) [⇒](#)

Reason for Report

The purpose of this report is to present Council with the findings of a recent Performance Report undertaken by the NSW Audit Office to assess the effectiveness of the Department of Planning and Environment (DPE) implementation, governance and stakeholder engagement in delivering the NSW Planning Portal.

Recommendation

That Council receive and note the NSW Audit Office report “Performance Audit – NSW Planning Portal”.

Options

1. Receive and note the report.

Implications: No Further information is requested.

2. Council advise an alternate appropriate course of action.

Implications: Alternate actions advised to staff and carried out as required.

Background

The ePlanning program is an initiative of the Department of Planning and Environment (the Department) to deliver a digital planning service for New South Wales through the NSW Planning Portal. The ePlanning program is a key part of the Department's wider planning reforms which are aimed to improve assessment time frames, reduce administration, and accelerate projects.

Since implementation commenced in 2013, the NSW Planning Portal (the Portal) has been progressively rolled out to provide stakeholders with access to planning information and allow them to prepare and submit development applications online.

In November 2019, the Government mandated the use of the Portal for submission of development and related applications. This decision took effect across 2020–21 and applied to all Councils as well as Certifiers and others involved in the planning process. Shoalhaven City Council accelerated the lodgement of online development applications and achieved early compliance with this mandate. Other applications received through the Portal now include Complying Development; Construction, Occupation, Building Information, and Subdivision Works Certificates.

Council has taken opportunities to provide feedback to the Department on challenges faced by Council, Community, and Industry in navigating the Portal. Most recently (May 2022), Council responded to a Local Government NSW (LGNSW) survey focused on the immediate challenges of integrating the Planning Portal with Council systems.

The LGNSW survey results revealed recurring themes, being concerns around the cost and technical expertise required to integrate the Portal to Council's existing systems; the functionality of the Portal for end/one off users; resourcing required to manage applications without integrated systems and a lack of clarity around what changes in the Portal lie ahead (lack of road map).

In June 2022, the Department of Planning and Environment (the Department) offered grant funding to support Council 's digital integration of its system with the NSW Planning Portal via an application programming interface (API) – a middleware solution that allows the Portal to 'talk' to Councils internal software databases. Council has accepted the grant however, the total costs exceeds the funding amount and the majority cost burden (of developing the integration) is largely carried by Council.

In June 2022, the NSW Audit Office released its Performance Audit Report on the NSW Planning Portal (**Attachment 1**).

Audit Scope and Findings

The audit objective was to assess the effectiveness of the department's implementation, governance and stakeholder engagement in delivering the NSW planning Portal. The audit investigated whether:

- delivery of the NSW planning Portal was planned effectively;
- sound governance arrangements are in place to ensure effective implementation of the program; and,
- users of the NSW planning Portal are supported effectively to adopt and use the system.

Audit findings and recommendations revealed:

- Shortcomings in the department's initial planning and management of the program led to a considerable time and cost overrun.
- The Department is positioned finalise the eplanning program, however, has not communicated the new services it plans to add, or improvements that it plans to make, to the Portal over the remainder of the program.
- Some users consulted as part of this audit report that the Portal is not intuitive and creates additional work for them. The Audit (and Department) recognised that the Portal does not currently deliver an optimum experience for all users and has established a project to develop and release enhancements.
- The Portal has delivered financial benefits however the Department overstated the benefits (to developers) because calculations were incorrect. The value of any financial benefits did not take into consideration the costs incurred by stakeholders mandated to use the Portal.

Although evident that mandating the Portal would have significant implications for Councils and other users, the Department did not update its main change management approach,

alter any key planning assumptions, or provide additional time or cost contingency to support the mandatory use of the Portal.

The introduction of the Portal has required re-engineering of business processes and systems, to create new ways of integrating council information systems with the Portal. Council's response to some these challenges is addressed below.

Ongoing Implications for Council

Customer Experience

A City Development based Portal and Planning Support Team was established in July 2021 as the first point of contact for all applicants using the Portal during the submission and pre-lodgement (vetting) stages of a development application. The Portal Team pre-vetted approximately 2,300 development applications 2021-22 and resolved 3,000 (incoming/outgoing) customer calls about development applications received through the Portal.

Formation of the Portal Team within City Development represents a shift from the traditional "over the counter" support to a customer centric, specialised Portal and Planning Support Team working routinely in the eplanning digital environment, who daily monitor and vet development applications. The Portal Team focuses on the customer experience through supporting applicants to achieve the lodgement of an assessment ready development application.

Integrating Council's systems with the Portal

Whilst the integration of the Portal with Council's systems is not mandated, Council requires it to avoid the excessive cost and time otherwise used for double handling applications.

Through Project Q, Council is implementing the Technology One Regulatory Module (the system in which DAs will be managed) with go-live scheduled for March 2023, with a Planning Portal integration.

This implementation represents the delivery of a solution required to efficiently manage applications received in a digital planning environment. To achieve this, Council will invest in a middleware solution which supports the exchange of data and documents between the Planning Portal and Technology One.

Financial implications

The integration of the Portal with Councils systems in March 2023 will provide business process efficiencies and reduce costs currently incurred to progress applications received through the Portal. Within 6 months post implementation, this integration is anticipated to deliver reduced service delivery costs and support a quicker delivery of application outcomes. At this stage, the portal rollout and integration continues to be a cost burden to Councils in NSW.

Conclusion

City Development's Business Support Department has a continuing focus on implementation of the NSW Planning Portal and the implementation of systems and business processes that improve the customer experience and timeliness of application and assessment outcomes.

Council is awaiting communication from the Department on the next intended steps for the Portal and will continue to support internal and external stakeholders impacted by future Portal developments.

Middleware funding has been identified (within existing budgets), to facilitate the delivery of the seamless movement of information and documents between the Portal and Council's systems. Achieving expected efficiencies through improved systems and business processes will continue to be monitored and measured through both internal reporting and review of comparative performance data (for all Council's), which is made publicly available on the Portal.

The Directorate is seeking to increase our community's access to and understanding of planning and development information and assessment outcomes. The purpose of this is to empower all stakeholders to understand and be informed of development proposals that they are interested in or may affect them. To achieve this, the Directorate is looking beyond the Portal and any previous approaches, to achieve a strategic and empowering engagement with all stakeholders in the development process.

CL22.375 Draft Shoalhaven Community Wellbeing Strategy - Planned Public Exhibition

HPERM Ref: D22/275697

Department: Community Connections

Approver: Jane Lewis, Director - City Lifestyles

Attachments: 1. Draft Shoalhaven Community Wellbeing Strategy (under separate cover)
[⇒](#)

Reason for Report

Shoalhaven City Council received a grant from the Australian Government's Building Better Regions Fund to develop the Shoalhaven Community Wellbeing Plan. The Plan will comprise three components:

- The **Shoalhaven Community Wellbeing Strategy** identifies the strategic priorities for Council to improve community wellbeing.
- The **Action Plan** will identify specific actions that will be used to achieve the outcomes identified for each strategic priority in the Strategy.
- The **Evaluation Framework** will allow Council to assess the effectiveness and efficiency of our work in terms of impact on wellbeing indicators.

The grant application stated that the draft Strategy will be publicly exhibited before being endorsed by Council.

This report seeks endorsement of the proposed public exhibition of the draft Shoalhaven Community Wellbeing Strategy. This will allow completion of the grant-funded project before the funding agreement end date on 30 September 2022.

Recommendation

That

1. The Draft Shoalhaven Community Wellbeing Strategy be placed on public exhibition for a period of 21 days to receive community feedback
2. A report be provided to Council at the completion of the exhibition period, outlining the submissions received and providing a final Shoalhaven Community Wellbeing Strategy for adoption by Council

Options

1. Adopt the recommendations.

Implications: This is the preferred option as it will allow the community the opportunity to provide feedback on the draft Shoalhaven Community Wellbeing Strategy prior to the Strategy being presented to Council for adoption on 10 October 2022. It is noted that final endorsement on 10 October is acceptable to the grant funding body, provided no other project work or expenditure is required after 30 September 2022.

2. Not adopt the recommendations.

CL22.375

Implications: Not placing the draft Shoalhaven Community Wellbeing Strategy on public exhibition will not give the community an opportunity to provide feedback. Not placing the draft Strategy on public exhibition will prevent Council from completing the grant-funded project before the agreement end date on 30 September 2022, as the grant application stated that the draft Strategy will be publicly exhibited before being endorsed by Council. This may result in Council being unable to use the grant funding as the project is not completed within the terms of the funding agreement.

Background

The Shoalhaven Community Wellbeing Plan will create a framework to guide Council to make decisions about business and service planning to improve community wellbeing. The Plan will provide a tool that will support Council to evaluate the importance and effectiveness of our investments, programs, and assets in achieving wellbeing outcomes and to plan evidence-informed work in response.

The Shoalhaven Community Wellbeing Plan has three components:

- The **Shoalhaven Community Wellbeing Strategy** identifies the strategic priorities for Council to improve community wellbeing. Guided by the strategic direction of this document, the two components below will be developed.
- The **Action Plan** will identify specific actions that will be used to achieve the outcomes identified for each strategic priority in the Strategy.
- The **Evaluation Framework** will allow Council to assess the effectiveness and efficiency of our work in terms of impact on wellbeing indicators.

The Shoalhaven Community Wellbeing Strategy has been drafted, and public exhibition is planned to seek community feedback. The Strategy provides the strategic direction for developing the Action Plan and Evaluation Framework, which will be completed in the next stage of the project. Councillors will be updated on the progress of this as the project progresses.

Grant funding

Shoalhaven City Council received a grant from the Australian Government's Building Better Regions Fund to develop the Shoalhaven Health and Wellbeing Strategy, which is now called the Shoalhaven Community Wellbeing Plan.

The grant application stated that the draft Strategy will be publicly exhibited before being endorsed by Council. The funding is dependent on the project being completed before the agreement end date on 30 September 2022, however the grant body has provided advice that as long as all work is completed and there is no further expenditure, they are happy that Council endorse the report at the first opportunity following the 30 September.

Development of the Strategy

To develop the Strategy, a comprehensive literature review was undertaken to consider current research and ensure a contemporary understanding of community wellbeing. In addition, we asked the Shoalhaven community about their experiences and ideas, hearing from over 460 people using surveys, community and stakeholder workshops and interviews.

The Plan is also informed by the perspectives of a broad range of experienced Council teams. The process used to develop the Strategy is detailed further in the attached Draft Shoalhaven Community Wellbeing Strategy (Attachment 1).

Overview of the Strategy

Wellbeing is the ability to thrive, to which all should have equitable access. The Shoalhaven Community Wellbeing Strategy has been developed based on the principle that community wellbeing is a shared responsibility that requires all community stakeholders to work collaboratively to achieve shared goals and aspirations for wellbeing.

The Strategy identifies the foundations needed to create community wellbeing – the broad range of key things that the community needs to thrive, including both the places and the people that make up communities that support wellbeing. To create the conditions for individuals and communities to thrive, eight Foundations have been identified as integral for wellbeing. The key aspects of each Foundation form the Wellbeing Domains. The Foundations and Domains are summarised in Table 1 (below), with full details available in the attached Draft Shoalhaven Community Wellbeing Strategy.

Council is a key player in creating the conditions for wellbeing but cannot achieve community wellbeing alone. Recognising, this, the Strategy supports Council to work more strategically and collaboratively to improve community wellbeing, considering how our efforts work alongside those of other stakeholders and valuing the important contribution that people in our community make to community wellbeing. The Strategy outlines Council’s current and planned work contributing to each Domain, as well as opportunities for future work and the key partners who make each Domain happen in the Shoalhaven. The full details are available in the attached Draft Shoalhaven Community Wellbeing Strategy.

Table 1 - Foundations and Domains for Community Wellbeing

FOUNDATIONS	DOMAINS
1 - Vibrant communities where everyone can participate and connect	1.1 Community life 1.2 Civic engagement and community agency 1.3 Creativity and culture
2 - Lifelong learning and helping each other	2.1 Training for employment 2.2 Learning opportunities for all ages 2.3 Local community supports
3 - Safe and prepared communities	3.1 Safe built environment 3.2 Safe behaviour and healthy relationships 3.3 Prepared for disasters and emergencies
4 - Healthy and active communities	4.1 Health services and support 4.2 Places and programs for active lifestyles 4.3 Healthy and equitable food systems
5 - Transport connections to access our community’s opportunities	5.1 Active transport 5.2 Transport facilities and services 5.3 Road access
6 - Sustainable natural and built environments	6.1 Sustainable management of natural resources 6.2 Sustainable access to natural environments 6.3 Sustainable built environment
7 - Housing that meets the community’s needs	7.1 Housing security for people of all income levels and tenure types 7.2 Housing for people with access and support needs 7.3 Housing for residents
8 - Resilient local economies and inclusive economic opportunities	8.1 Economic opportunity 8.2 Economic diversity

Community Engagement

In developing the Shoalhaven Community Wellbeing Strategy, Council heard from over 460 people in the community using surveys, workshops and interviews with residents, service providers and community organisations.

CL22.375

Additionally, Council teams, the Executive Management Team, Mayor, and Councillors were engaged throughout the process. This approach allowed us to hear from people across the Shoalhaven, including engagement targeted to hear from young people and seniors, and to also learn from the insights of experienced Council staff.

The outcomes of community and stakeholder engagement are detailed in the attached Draft Shoalhaven Community Wellbeing Strategy. Feedback on the draft Strategy is sought from the community through the planned public exhibition. In addition, a follow-up workshop with external stakeholders will be held on 5 September to improve engagement with the Strategy, seeking feedback and encouraging stakeholder interest in working collaboratively on wellbeing actions.

Policy Implications

The Shoalhaven Community Wellbeing Strategy will inform the development of future policies and encourage consideration of wellbeing outcomes.

Adoption of the Strategy will support Council to make decisions about business and service planning to improve community wellbeing. As the Strategy is used, it will influence decisions about the work included in future Delivery Programs and Operational Plans, which outline Council's strategies and actions to be undertaken.

The Shoalhaven Community Wellbeing Strategy is informed by the themes and priorities of *Shoalhaven 2032 – Community Strategic Plan* as well as Council's Core Values of Collaboration, Adaptability, Integrity, and Respect. It is informed by international, national, state, and regional strategies and legislation, as detailed in the attached Draft Shoalhaven Community Wellbeing Strategy.

Financial Implications

The Shoalhaven Community Wellbeing Strategy identifies the priorities for improving community wellbeing and provides a framework to guide decisions about work-planning. This means there is no request for financial allocation for adopting the Strategy. Specific actions to address the priorities, and resourcing to be used, will be identified in the Action Plan.

The actions for the Action Plan will be integrated into ongoing work planning processes across the organisation, including resource allocation processes. If additional funding is required to deliver any action within the Action Plan, the established business processes for financial requests and funding considerations will be used.

Being unable to complete the grant-funded project before the agreement end date could impact on the availability of the grant funding, with the funding body revoking the grant agreement. This would require Council to identify other budgets to cover the budget shortfall. The total project budget is \$100,000 which comprises 50% Council contribution and 50% grant funding from the Building Better Regions Fund.

Risk Implications

The financial risks, related to not completing the grant-funded project before the agreement end date, are addressed above. This may also impact our ability to secure funding under future grant programs and put at risk the implementation of a range of other Council projects. There are reputational risks to Council if the Shoalhaven Community Wellbeing Plan is not completed.

CL22.376 Erowal Bay Tennis Courts - New Section 355 Management Committee

HPERM Ref: D22/322345

Department: Shoalhaven Swim Sport Fitness

Approver: Michael Paine, Manager - Community Connections

Attachments: 1. Management Committees Policy [↓](#)
2. Management Committee Guidelines (under separate cover) [⇨](#)

Reason for Report

To seek Council approval for the care, control and management of Erowal Bay Tennis Courts to be delegated to a Management Committee, in accordance with Sections 355 and 377 of the Local Government Act, 1993.

Recommendation

That

1. Council delegate care, control and management of the Erowal Bay Tennis Courts to a Management Committee in accordance with Sections 355 and 377 of the Local Government Act, 1993.
2. Council oversee the new committee in accordance with Council's Management Committees Policy and Guidelines under the custodianship of City Lifestyles' Swim Sport Fitness Department.
3. Council advertise for members for the Erowal Bay Tennis Courts Management Committee.
4. In accordance with MIN15.622, and the delegation provided therein, the CEO approve the membership appointments to the 355 Management Committee for Erowal Bay Tennis Courts.

Options

1. As recommended

Implications:

- Continuation of local community management of Erowal Bay Tennis Courts

2. Council determine to not accept the recommendation and provide alternative direction

Implications:

- May not meet the expectations of the community and current users of the site
- May affect the efficient operation of the Erowal Bay Tennis Courts and their use by the community
- Should the Tennis Courts be returned to operational management by Council there may be an increased staffing workload and requirement for additional Council staff to maintain and administer the courts

CL22.376

Background

The Erowal Bay Tennis Courts have been managed by a Lease Agreement between Shoalhaven City Council & Erowal Bay Tennis Club since 2001, with the Club responsible for all operational maintenance and bookings. The facility includes:

- 4 synthetic grass courts
- 1 hard court
- 1 disused court
- 1 playground
- 1 clubhouse

The Lease Agreement is now due for renewal. Shoalhaven Swim Sport Fitness staff have met several times with the Club and liaised with Council's Property Unit to consider a new Lease Agreement. Council's Property Unit manages five (5) tennis court leases, including:

- Kangaroo Valley Tennis Club
- Berry Tennis Club
- Nerang Road Tennis Club
- Milton Ulladulla District Tennis Association – Milton Tennis Courts
- Milton Ulladulla District Tennis Association – Ulladulla Tennis Courts

These are highly utilised facilities and the lease fees that apply for their exclusive use by the clubs are calculated to provide sufficient funds for Council to fund the costs of resurfacing courts, lighting upgrades and re-fencing of all courts.

This has been a successful model for the management of tennis court leases in the Shoalhaven to date and ensures that Council has the budget available for programmed maintenance when required, funded by user groups. For this reason, the Property Unit has advised that lease fees should not be reduced to accommodate Clubs that cannot meet these maintenance costs.

In line with this management model, a renewal of the lease at Erowal Bay Tennis Courts would incur fees of \$8,000 per year. The current payments the Club has been making are \$1,920 per year. With declining usage and membership, the Club is unable to meet these higher payments and has requested that the lease be discontinued and that a new Management Committee created to manage the facility. The offer for Council to manage operations and bookings for the facility was a concern for the Club as they wanted to ensure ongoing community engagement with the running of the facility.

The Club has identified at least three (3) members who are keen to take on the executive roles and responsibilities of a Management Committee should Council agree to the delegation.

Management Committee Guidelines

The terms of reference for a Section 355 Committee are detailed in Council's Management Committees Policy (POL12/185) and Management Committee Guidelines (attached). The Guidelines outline the essential roles and functions of Committees, and the protocols and procedures that they must follow in carrying out these roles. When circumstances occur that the Guidelines do not cover, liaison with Council may be required to clarify responsibilities and obligations.

Currently Council has 32 Section 355 Committees, including 10 with tennis courts, operating effectively in accordance with these Guidelines.

Management Committees operate as Committees of Council. Committee members are volunteers who agree to comply with Council's Code of Conduct and to maintain in every respect Council's obligation to operate in a fair and equitable manner, with transparency, accountability and responsibility, and within all procedural, policy and legislative requirements. All facilities and funds managed by the Committee belong to Council, and approval is required from Council prior to any major works being undertaken.

The following list summarises the Committee's responsibilities as detailed in the Guidelines, including but not limited to:

- a) Provision of an Annual Facility Management Plan
- b) Provision of Annual Financial Statements (Profit and Loss Statement, Balance Sheet Statement, Forecast Budget)
- c) Administration of bookings subject to Council's adopted Fees & Charges, utilising the on-line booking system, and mediating conflicting applications for use
- d) Administer facility maintenance, including but not limited to:
 - i. Electricity accounts
 - ii. Engagement and supervision of contractors
 - iii. Grounds maintenance, floodlight repairs, power boxes
 - iv. Cleaning and consumables
 - v. Vandalism and graffiti
 - vi. Maintenance such as internal and external-touch-up repainting, replacement of worn or broken items, plumbing, potholes, gutters, trees
 - vii. Repairs (as further detailed in the Management Committee Guidelines)
- e) Risk Management – maintenance and reporting in accordance with Council's WHS procedures, including new members in accordance with the requirements for volunteers, including:
 - i. Work Health Safety Manual and reporting requirements
 - ii. Risk Assessments
 - iii. Safe Work Instructions and Standard Operating Procedures, e.g., manual handling, use of machinery, chemicals storage
 - iv. Incident Reporting
 - v. Quarterly facility inspections
- f) Provide to Council accurate records and minutes of meetings

How the Committee manages their operational responsibilities is a decision to be taken by the Committee, upon consideration of their member skills base and capacity. Committee functions are usually performed by volunteers; however, some Committees have elected to contract out for services such as grounds maintenance and mowing, cleaning buildings, managing bookings and book-keeping. Strict legislative conditions apply to the engagement of contractors, which must be observed by the Committee and will be advised by the Facility Officer – Central Leisure.

Membership (abridged from the Management Committee Guidelines)

Council will actively seek members from the community with the potential to enhance the depth and balance of Committee skills. It is Council's usual practice to consult with Committees before appointing additional members. If vacancies exist, these are to be advertised on facility noticeboards online or in the press, with a request for nominations to fill the vacant positions.

Consistent with the guidelines and in order to ensure the efficient running of meetings, the committee shall consist of a maximum of eighteen (18) Committee members. The following committee positions need to be filled for the Committee to be viable and function effectively:

- Chairperson – executive position
- Treasurer – executive position
- Secretary – executive position
- Booking Officer

A Committee member shall not hold more than one executive position at any one time.

Community Engagement

Should Council approve the new Committee, staff will assist the Club to seek new memberships and formally establish the Committee. This opportunity will be advertised by:

- Public Notice to local newsletters
- Council's website and Facebook platforms

Policy Implications

The new Management Committee will operate under Council's delegation under Sections 355 and 377 of the Local Government Act, 1993.

Council's City Lifestyles' Swim Sport Fitness Department will oversee the new Committee in accordance with Council's Management Committee Guidelines, in line with Council's Management Committee Policy.

Financial Implications

The Committee will be established within existing staff and budgetary allocations.

Management Committees are required to meet all operational expenses from income derived from tennis court hire. Council staff will work with the Erowal Bay Tennis Courts Management Committee to develop a Facility Management Plan and review operational accounts and develop capital work programs.

Grant applications to other funding bodies will provide additional funding for major infrastructure replacement and/or upgrade, with support from Council's Facilities Officer - Central Leisure.

CL22.376



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

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

Email: council@shoalhaven.nsw.gov.au

Website: www.shoalhaven.nsw.gov.au

For more information contact the Finance Corporate & Community Services Group

MANAGEMENT COMMITTEES

Policy Number: POL16/189 • **Adopted:** 28/06/2005 • **Amended:** 14/04/2009 • **Reaffirmed:** 14/12/2012, 15/08/2017 • **Minute Number:** MIN05.733, MIN09.409, MIN12.1397, MIN17.706 • **File:** 26634E • **Produced By:** Finance Corporate & Community Services Group • **Review Date:** 1/12/2020

1. PURPOSE

The purpose of the policy is to define Council's management of its various Management Committees.

2. STATEMENT

The policy is based on Council's authority, under Section 355 and 377 of the NSW Local Government Act 1993, and subsequent amendments, to delegate management of facilities to local residents and/or organisations.

Upon adoption of this policy, the following were rescinded:

Minute 87.1402 "Management Committees – Playing Fields Subsidies"
Minute 88.689 "Management Committees – Delegation of Powers" and
Minute 98.1132 "Management Committees – Delegation of Powers"

3. PROVISIONS

Council Management Committees must be:

- 3.1. Appointed in accordance with Section 355 and 377 of the NSW Local Government Act 1993, and;
- 3.2. Function in accordance with Shoalhaven City Council's Management Committee Guidelines.

4. IMPLEMENTATION

The Finance Corporate & Community Services Group will administer this policy and Council's Management Committee Guidelines.

5. REVIEW

To be reviewed within one year of the election of a new Council.

6. APPLICATION OF ESD PRINCIPLES

Not Applicable.

CL22.377 Negotiations - Appointment of an Operator Manager - Ulladulla Civic Centre

HPERM Ref: D22/251623

Department: Library Services

Approver: Jane Lewis, Director - City Lifestyles

Reason for Report

This report is to inform Council of the outcome of negotiations for the appointment of an Operator Manager for the Ulladulla Civic Centre and provide a recommendation.

In accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, some information should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it. It is not in the public interest to disclose this information as it may reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests. This information will be considered under a separate confidential report.

Recommendation

That Council consider a separate confidential report in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

Options

1. Accept the recommendation and consider the matter in a confidential setting.

Background

At Council's Ordinary Meeting on 29 June 2021 (MIN21.430C), it was resolved that Council:

1. *"In accordance with Section 178(1)(b) of the regulations decline to accept any Tender for the appointment of an Operator Manager - Ulladulla Civic Centre due to the high services fees.*
2. *As the Contract Principal, and in accordance with the Local Government (General) Regulation 2021; Clause 173(3)(e) authorise the CEO to appoint a Principal's Representative to enter into negotiations with Milton Ulladulla ExServos Ltd for the Appointment of an Operator Manager – Ulladulla Civic Centre for the following reason:*
 - a. *To achieve an agreement on an Operator Manager Contract which is fair to both parties and is of reduced financial, performance and reputational risk to Council.*
3. *Receive a further confidential report and briefing with respect to the negotiations".*

Policy Implications

Nil for this report.

CL22.377

Financial Implications

Refer to confidential report.

Risk Implications

Refer to confidential report.

CL22.377

CL22.378 Request for Plaques and Memorials

HPERM Ref: D22/323794

Department: Community Planning & Projects
Approver: Jane Lewis, Director - City Lifestyles

Attachments: 1. Detailed information - Request for Plaques and Memorials - August 2022 (councillors information folder)

Reason for Report

To seek Council approval via a resolution for the requests for Four (4) plaques to be installed within the public domain in Vincentia, Callala Bay, and Sussex Inlet in accordance with the Plaques and Memorials Policy.

Recommendation

Recommendation

That Council:

1. As per the Plaques and Memorials Policy:
 - a. Approve the request for a new seat and plaque at Chapman Street Callala Bay.
 - b. Approve the request for a new seat and plaque at Elizabeth Drive Vincentia.
 - c. Approve the two (2) requests for new plaques on existing seats at Sussex Road Sussex Inlet.
2. Advise the applicants of Council's determination of the requests.

Options

1. Adopt the recommendation.

Implications: This is consistent with the adopted Plaques and Memorials Policy and will allow staff to advise the applicants of the outcome of their request.
2. Adopt an alternative recommendation.

Implications: An alternative recommendation may be inconsistent with the Plaques and Memorials Policy.

Background

As per the adopted Plaques and Memorials Policy (POL19/70), Council staff have received requests to install a plaque in memory of a person on Council owned and/or managed land. This report summarises these requests received, identifies whether they are for new infrastructure or existing and whether the request is consistent with the adopted Policy.

The requests received are located in various areas within Shoalhaven City Council Local Government Area and are addressed in the next section of this report. In accordance with the adopted Plaques and Memorials Policy (POL19/70), a Council resolution is required to approve the installation of a plaque or memorial.

CL22.378

Consideration of Requests - Plaques and Memorials Policy

Council has received four (4) requests for plaques on Council owned and / or managed land. These are summarised in *Table 1* below. Additional detail of the individual requests is provided within the **Councillors Information Folder** to ensure that these requests are managed sensitively.

Table 1 – Summary of Requests for Plaques

	Infrastructure Request	Preferred Location	Consistent With Policy
1	New Seat and Plaque	Chapman Street Callala Bay, along footpath	Yes
2	New Seat and Plaque	Elizabeth Drive Vincentia, along footpath	Yes
3	New Plaque on existing seat	Sussex Road Sussex Inlet, on existing family seat	Yes
4	New Plaque on existing seat	Sussex Road Sussex Inlet, on existing family seat	Yes

Policy Implications

The requests received have been considered in line with the criteria contained within the adopted Plaques and Memorials Policy.

As per the approval process of the Policy, a Council resolution is required to approve the installation of the plaque or memorial.

Each application is consistent with the Plaques and Memorials Policy and is therefore recommended to be supported by Council. Where applications have been for ‘townships’, Council staff have negotiated with the applicant to determine a specific location, which is detailed in the attachment.

Financial Implications

As per the adopted Plaques and Memorials Policy, the delivery of the requests will be funded by the applicant, however Council will be responsible for maintenance and operational costs.

The Asset Custodian for each of the preferred locations of each request has considered each individual request and noted that the maintenance and operation of the new infrastructure will be managed within existing Operational Budgets.

CL22.378

CL22.379 Grant of Easement for Drainage of Sewage - Lot 10 DP 1143842 St Georges Basin

HPERM Ref: D22/149039

Department: Technical Services

Approver: Trevor Dando, Manager Works & Services

Attachments: 1. Plan of Proposed Easement for Drainage of Sewage [↓](#)
2. Acceptance of Conditional Offer [↓](#)

Reason for Report

This report provides Council with the opportunity to consider approving the registration of an Easement for Drainage of Sewage over Council owned land known as Lot 10 DP 1143842 St Georges Basin.

Recommendation

That Council:

1. Approve the registration of an Easement for Drainage of Sewage 2.4m wide over Council land known as Lot 10 DP 1143842;
2. Require the proprietor of Lots 68 and 69 DP 25550 and Lot 4 DP 785956 to pay compensation for the easement for drainage of sewage on Council land;
3. Set the maximum amount of compensation to be payable by proprietors of Lot 68 and 69 DP 25550 and Lot 4 DP 785956 at \$53,000 plus GST if applicable. Final compensation amount to be determined by Independent Valuation advice;
4. Require all costs associated with the creation of the Easement to be borne by the proprietor of Lot 68 and 69 DP 25550 and Lot 4 DP 785956;
5. Authorise the Chief Executive Officer to sign all documentation required to give effect to this resolution and to affix the Common Seal of the Council of the City of Shoalhaven to all documentation required to be sealed.

Options

1. Resolve as recommended.

Implications: The easement for drainage of sewage is required as part of an 11 lot subdivision and will provide the proprietor of Lot 68 and 69 DP 25550 and Lot 4 DP 785956 with legal access for the construction of the infrastructure.

2. Not resolve as recommended and provide further directions to staff.

Implications: Failure to secure the easement identified for sewer purposes will lead to a significant delay in the progression of the adjoining development over Lot 68 and 69 DP 25550 and Lot 4 DP 785956.

CL22.379

Background

On August 2007, a development consent (SF9847) was granted for the subdivision of three existing lots (Lot 68 & 69 DP 25550 and Lot 4 DP 785956 – Figure 1, coloured in yellow) into eleven (11) lots including a reserve.



Figure 1: Lot 68 & 69 DP 25550 and Lot 4 DP 785956, Lot 10 DP 1143842 in blue

As part of a Modification Application submitted in 2021, it was proposed to construct a sewer pipeline through Lot 10 DP 1143842 which is Council Operational Land (Figure 1 – coloured in blue).

The proposed easement is 2.4 metres wide as shown highlighted pink in Attachment 1.

A valuation has been obtained on behalf of Council by Poulton Property Valuers which assessed the compensation for the easement at \$53,000 excluding GST. A conditional offer was made at that amount and the proprietors of Lots 68 & 69 DP 25550 and Lot 4 DP 785956 have accepted the offer - see Attachment 2.

The valuation report received is significantly higher than previous valuations done in the vicinity, so Council is now seeking an additional independent valuation to confirm the compensation. The proprietors will be offered the easement for \$53,000 to be enacted immediately or if they are willing to wait for a second valuation, the amount they are required to pay for the easement may be reduced.

CL22.379

Prior to the issue of a Subdivision Certificate for the adjoining development, the easement over Council land will need to be registered.

Community Engagement

Not required for operational purposes.

Policy Implications

Nil.

Financial Implications

All costs associated with the creation of an easement are to be borne by the benefitted proprietor.

Risk Implications

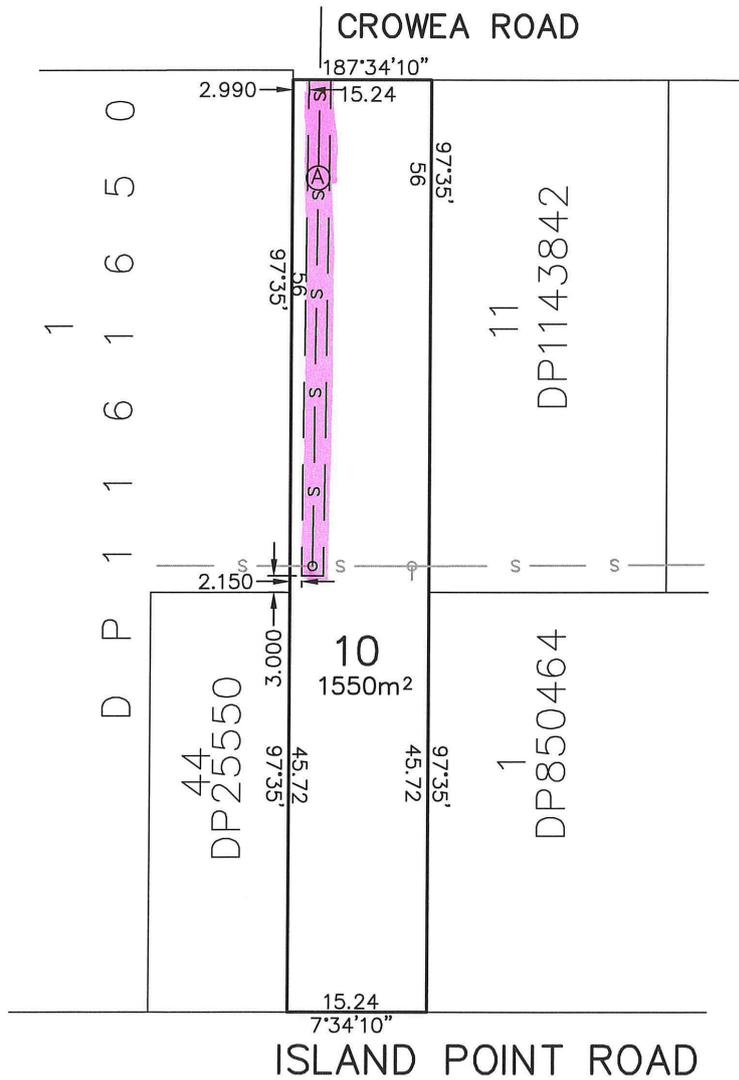
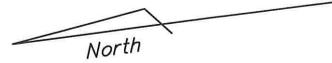
Nil.

CL22.379

PLAN OF PROPOSED
EASEMENT TO DRAIN
SEWAGE 2.4 WIDE
AFFECTING LOT 10
DP1143842

LGA: SHOALHAVEN
LOCALITY: ST GEORGES BASIN
PARISH: WANDRAWANDIAN
COUNTY: ST. VINCENT

Ⓐ PROPOSED EASEMENT TO DRAIN
SEWAGE 2.4 WIDE



DATE: 13TH JANUARY, 2022
SURVEYORS REF: N27792

SHEET 1 OF 1 SHEET
RATIO 1:600

CL22:379 - Attachment 1

Natalie Smith

From: Charbel Ayoub <cayoub@macqlaw.com.au>
Sent: Thursday, 2 June 2022 10:22 AM
To: Natalie Smith
Cc: Pierre Saab; Reeta Khoury
Subject: RE: 020106 RE: DS21-1330 - Easement Through Village Green

Good morning Natalie,

Thank you for your below email.

We are instructed to advise that our client is agreeable to the proposed compensation outlined in your below email of 30 May 2022.

Can you please advise when you anticipate putting the matter before the Council for ratification.

Yours faithfully,

Charbel Ayoub
Senior Associate



macquarie**lawyers**

www.macqlaw.com.au

Telephone: 02 9891 2552 | Fax: 02 9891 5228

PO Box 52 PARRAMATTA NSW 2150



Please be aware there is a significant risk posed by cyber fraud, specifically relating to email accounts and bank account details. Our bank account details will never change during the course of a transaction, and we will never change our bank account details via email. Please check account details with us in person. We will not accept responsibility if you transfer money into an incorrect account.

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From: Natalie Smith <Natalie.Smith@shoalhaven.nsw.gov.au>
Sent: Monday, 30 May 2022 10:12 AM
To: Charbel Ayoub <cayoub@macqlaw.com.au>
Cc: Pierre Saab <psaab@macqlaw.com.au>; Reeta Khoury <rkhoury@macqlaw.com.au>
Subject: RE: 020106 RE: DS21-1330 - Easement Through Village Green

Good morning Charbel,

Council has received the Valuation for compensation for a 2.4m wide sewer easement.

The independent valuation obtained by Poulton Property Valuers has assessed the compensation at \$53,000 excluding GST. A copy of the valuation report is attached.

Accordingly, the recommended compensation for the easement is \$53,000 (plus GST if applicable).

Please let me know via reply email if you agree to proceed based on the above value.

As a full meeting of Council must approve the purchase, this offer is conditional upon a resolution being passed by Council.

Kind regards,



Natalie Smith

Property Officer
(Mon, Tues, Wed & Fri)

02 4429 5506

Bridge Road (PO Box 42) Nowra NSW 2541

shoalhaven.nsw.gov.au

RESPECT | INTEGRITY | ADAPTABILITY | COLLABORATION

From: Natalie Smith

Sent: Friday, 27 May 2022 9:39 AM

To: 'Charbel Ayoub' <cayoub@macqlaw.com.au>

Cc: Pierre Saab <psaab@macqlaw.com.au>; Reeta Khoury <rkhoury@macqlaw.com.au>

Subject: RE: 020106 RE: DS21-1330 - Easement Through Village Green

Hi Charbel,

Shoalhaven Water has received the proposed easement plan and have approved the 2.4m wide sewer easement.

The valuer has also been instructed to assess the compensation based on the 2.4m wide sewer easement.

I am aware of the time issues. Once I receive the amended valuation report, I will forward a copy through.

Regards,

Natalie Smith

Property Officer - Technical Services (Mon, Tues, Wed & Fri)
Shoalhaven City Council

02 4429 5506

Bridge Rd (PO Box 42) Nowra NSW 2541

natalie.smith@shoalhaven.nsw.gov.au

RESPECT | INTEGRITY | ADAPTABILITY | COLLABORATION

CL22.380 Tenders – Bendeela Reservoir, Cambewarra Reservoir & Illaroo Road Water Pump Station Design and Construction Projects

HPERM Ref: D22/322229

Department: Water Asset Planning & Development

Approver: Robert Horner, Executive Manager Shoalhaven Water

Reason for Report

To inform Council of the tender process for the Bendeela Reservoir, Cambewarra Reservoir & Illaroo Road Water Pumping Station Design and Construction Projects.

In accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, some information should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it. It is not in the public interest to disclose this information as it may reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests. This information will be considered under a separate confidential report.

Recommendation

That Council consider a separate Confidential Report in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

Options

1. Accept the recommendation

Implications: Consider a separate Confidential Report on the matter.

2. Council makes a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the Procurement Evaluation Plan.

Details

Project Descriptions

Project 1: Bendeela Reservoir

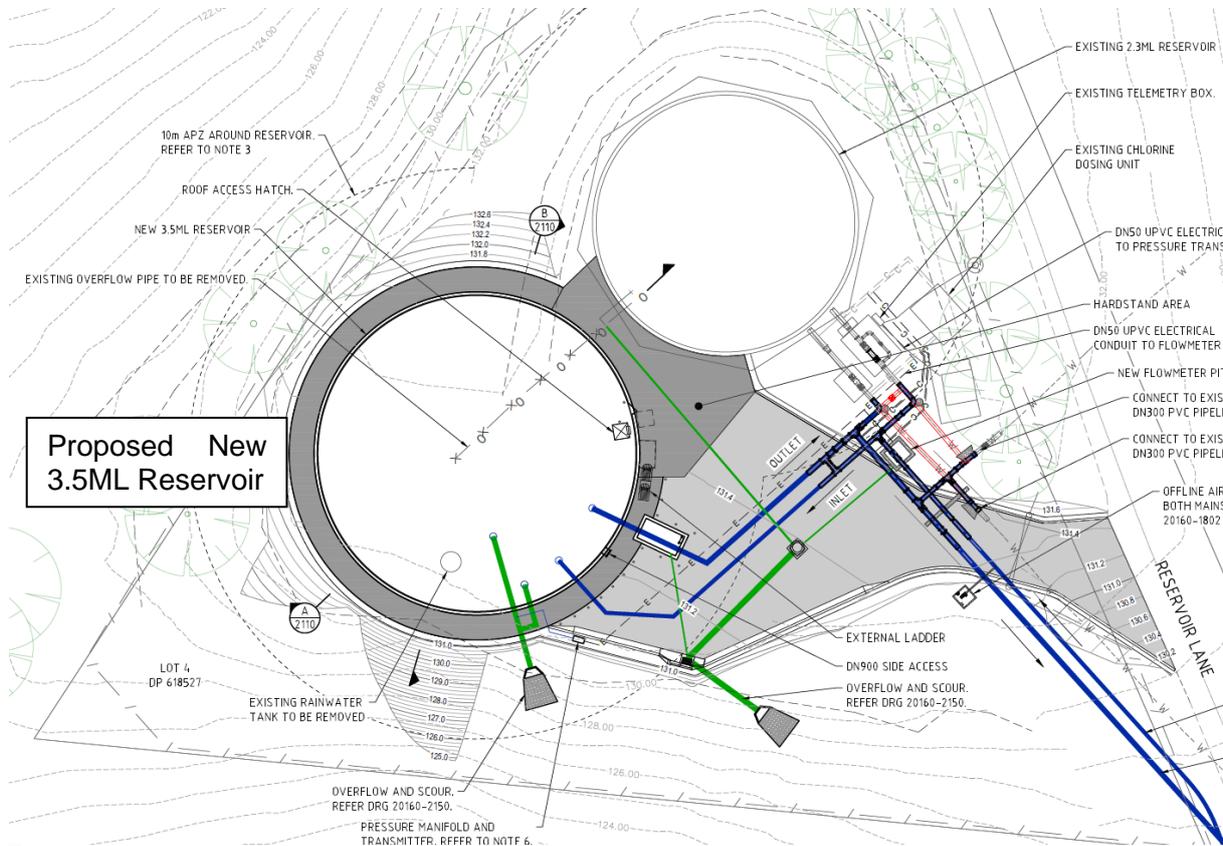
To improve resilience in water supply to service the Kangaroo Valley population, a new 0.5ML reservoir is to be constructed at the Kangaroo Valley water treatment plant. The current reservoir servicing the Bendeela area has been identified to have minor issues that affect the delivery of water to users. When the reservoir is emptied for inspections or maintenance, the township is currently fully reliant on the continual operation of the water treatment plant (WTP). This proposed 0.5ML reservoir will further allow for increased capacity of the Kangaroo Valley water supply, and assist support the township during peak flows, particularly holiday periods.

CL22.380



Project 2: Cambewarra Reservoir

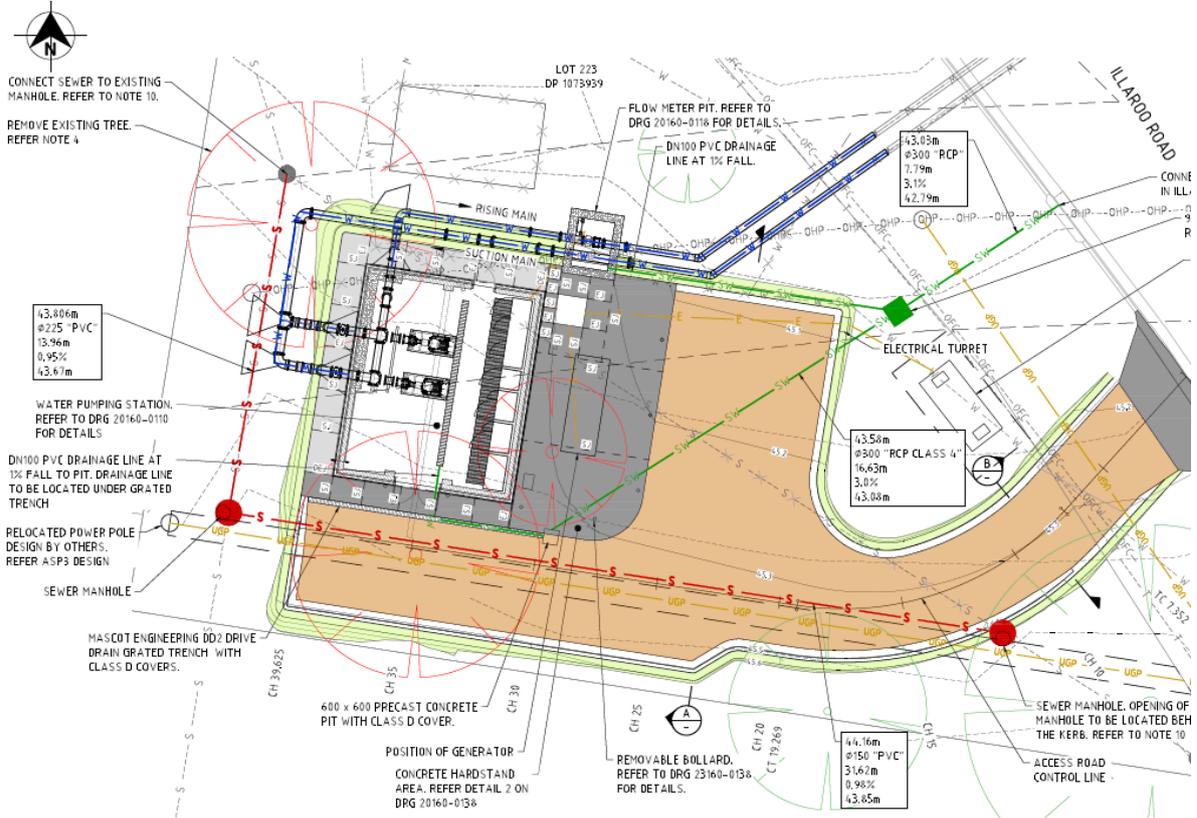
As part of the Moss Vale Road Urban Release Area (URA), and to support the overall water serving strategy of the URA; a new 3.5ML concrete reservoir is proposed to be constructed on the existing Cambewarra Reservoir site.



CL22.380

Project 3: Illaroo Road Water Pumping Station

As part of the Moss Vale Road URA development, a full upgrade of the existing Illaroo Road Water Pumping Station has been identified as necessary to service the proposed development area. The upgrade is proposed at the existing Illaroo Road Water Pumping Station site and entails the construction of the upgraded facility as per the previously procured detailed design.



CL22.380

Tendering

Council called tenders for the Bendeela Reservoir, Cambewarra Reservoir & Illaroo Road Water Pump Station Design and Construction Projects on 14 June 2022, which closed 10:00am on 26 July 2022. For this tender, bidders could choose to either bid on a single project, multiple projects or all three (3) projects.

At the time of closing both Project 1 Bendeela Reservoir and Project 3 Illaroo Road Water Pump Station received nil (0) tenders and will therefore be subject to future standalone procurement approaches.

One (1) tender was received at the time of closing, in relation to Project 2 Cambewarra Reservoir, with the tender received from the following:

Tenderer	Location
Precision Civil Infrastructure Pty Ltd	Level 1, 155 Macquarie Rd Springwood, NSW, 2777

Details relating the evaluation of the submitted tender is contained in the associated confidential report.

Community Engagement:

Community and stakeholder engagement prior to and during construction is proposed. A dedicated project webpage has been established under Council's 'Major Projects & Works' Portal.

Policy Implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993.

Financial Implications:

Sufficient funds have been allocated in the Moss Vale Road Water Infrastructure Project budget for 2022/23 and 2023/24 financial years. Funding is available to cover the tender amount including other project costs.

CL22.294 Notice of Motion - Living on the Coast Documentaries Sponsorship

HPERM Ref: D22/251385

Submitted by: Clr Patricia White
Clr Amanda Findley

Purpose / Summary

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

Recommendation

That:

1. Council support the Living on the Coast Documentaries with sponsorship of \$20,000 for 3 new episodes in season 2 of the series to be produced and aired in 2022/23. Funding to be provided from unallocated donations 2021/22.
2. In accordance with Section 356(2) of the Local Government Act, the proposed funding be advertised for a period of 28 days. Should Council receive any submissions objecting to the funding, a further report is to be provided to the Council outlining those submissions before payment is made.
3. Terms and conditions of the sponsorship to be determined by the CEO or his nominee.

Background

LIVING ON THE COAST – SERIES 2 – AIRING ON CHANNEL 9

It is with great excitement Michael Pignataro of Essential Films and Allan Baptist OAM, announced that the Nine Network has agreed to screen the first series 'Living on the Coast-Shoalhaven Recovers'.

The three half hour episodes will air on the NINE NETWORK starting on Saturday June 18 at midday on Channel 9 to all Australian Capital cities and throughout regional Australia on the WIN Network, with a potential audience of millions of Australians.

The national broadcaster has also asked for an additional 3 episodes to be developed.

Living on the Coast Season 2, a brand-new series, will be similar to the first and focus on coastal living themes with new stories of recovery, new characters and wonderful projects and events.

It may also visit its immediate neighbours and further introduce Australia to the region's entrepreneurs, artists, events, its food and wine and present our resilient, community minded locals, all of whom exude an attitude of energy and eagerness toward a bright future 'Living on the Coast'.

'Living on the Coast' has support from Channel 9 & the WIN Network to rescreen Season 1 and introduce Season 2 and are respectfully seeking sponsorship funding which supports the costs of filming, editing and production so that a 2022-23 screening can be realised.

The very successful first series screened, in regional Australia in 2021, to over 134,000 viewers also attracting 400,000 social media positive responses. An episode for viewing can be supplied if required.

CL22.294

I seek the support of all Councillors for this wonderful opportunity to showcase the Shoalhaven and our recovery from Fires, Floods and Covid to the whole of Australia.

Note by the CEO

This item was deferred to a Councillor Briefing at the Ordinary Meeting 27 June 2022 (MIN22.451). The resolution stated:

That:

- 1. The option of sponsorship or financial support for the documentaries by Council be referred to Media, Arts, Tourism and other relevant staff for further investigation, including whether there is potential for the documentaries to be sold.*
- 2. Councillors be informed of the investigation findings via a Councillor Briefing, with Mr Pignataro (Essential Films) and Mr Baptist being invited to make a presentation to the Briefing*
- 3. The proposed \$20,000 be rolled over from 2021/2022 Unallocated Donations Budget.*

The Councillor Briefing was held Thursday 28 July 2022 and consequently the Notice of Motion is being reintroduced for resolution.

The 2021/22 Unallocated Donations budget currently has sufficient funds available.

CL22.381 Notice of Motion - Cultural Immersion

HPERM Ref: D22/311700

Submitted by: Clr Patricia White
Clr Amanda Findley
Clr Tonia Gray
Clr Evan Christen

Purpose / Summary

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

Recommendation

That Council:

1. Acknowledges the value and importance of Cultural Immersion workshops to inform the non-Aboriginal community of their privilege and how that ongoing position of privilege continues to affect the Aboriginal community.
2. Recognise Waminda as a valued provider for this training and thank them for facilitating these conversations with Councillor and Staff and for opening our eyes and hearts to our White Privilege and White Fragility.
3. Develop and implement a list of specific actions that will be taken personally by Councillors and Senior Staff (via the Chief Executive Officer), specifically in response to the learnings of the Immersion experience.
4. Strongly encourages Councillors, Council staff, particularly its executive and senior staff and other organisations/agencies to attend similar experiences where the opportunity is available. Consider delivering five (5) Cultural Immersion sessions for Councillors, Senior Leadership Teams, and Senior Managers with Shoalhaven City Council.
5. Report this Notice of Motion recommendation, and Council resolution to the Aboriginal Advisory Group.

Background

As part of the Councillor Induction Program, the Shoalhaven Mayor, three Councillors, three Directors and Staff members attended Cultural Immersion Decolonisation Workshop/Training facilitated by Waminda.

This Cultural Immersion training provided an opportunity to hear the history, stories and experiences through truth telling local Aboriginal people Cleona and Hayley, who shared confronting stories of their own families' experiences and those of their communities. They took us on an intimate journey through our true Australian history and invited attendees to see local history through a non-dominant, indigenous lens. Deeply listening to, and hearing from our Aboriginal community on their lived experiences in the Shoalhaven was significant for all.

We learnt about White Privilege and White Fragility to better our understanding of systematic racism, entrenched white frames of reference and colonial structures. The profound impact of the dominant group status upon the everyday lives of Aboriginal and Torres Strait Island people currently perpetuates this impasse. Not knowing, not caring, and not addressing

CL22.381

these issues are part of the problem. We as non-indigenous Australians, can amplify these insights so that the Shoalhaven can become more socially and culturally aware.

We discussed: -

- What we can do in our workplace
- What white people can and must do with their privilege
- What other actions we can take
- What white people generally worry about in this space

In summary the workshop was informative, challenging and a positive step toward forward in Council Reconciliation work and relationships in our local Community.

We seek continued support and engagement from all Councillors.

CL22.382 Notice of Motion - Mixed Facilities Wowly Creek Callala Bay Scoping Report

HPERM Ref: D22/336321

Submitted by: Cllr Greg Watson

Purpose / Summary

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

Recommendation

That

1. Council undertakes a scoping and feasibility study into the provision of the following in the Wowly Creek precinct.
 - a. Toilets.
 - b. An Electric barbeque.
 - c. Seating and a shade structure.
2. The cost of the report be funded from operation funds to be adjusted in a quarterly review.
3. The matter be reported back to Council with possible funding options.

CL22.382

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.