

## Ordinary Meeting

**Meeting Date:** Monday, 12 September, 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 - 22 August 2022
6. **Declarations of Interest**
7. **Presentation of Petitions**

## 8. Mayoral Minute

### Mayoral Minute

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### Notices of Motion / Questions on Notice

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## MM22.17 Mayoral Minute - Development of a Shoalhaven Affordable Housing Fund & Other Measures to Increase Housing Availability in Shoalhaven

**HPERM Ref:** D22/329689

**Attachments:** 1. The Rental Crisis: 2022 (councillors information folder) [⇒](#)

### Recommendation

That Council:

1. Receives a report from staff in a timely manner on potential proactive actions that can be taken to influence the availability of existing housing and increase the amount of affordable housing available in Shoalhaven, that specifically considers the following opportunities/potential Council actions:
  - a. Special rate variation (SRV) to create an affordable housing fund.  
*Note: including how relevant Short Term Rental Accommodation (STRA) properties could be identified; options to create a specific rating category for STRA properties and the associated administrative process, including any legislative impediments, for the movement of relevant properties; the processes required to establish and administer the SRV; and the creation of a restricted reserve account where all funds raised through the SRV are to be used for the purpose of generating additional perpetual affordable housing in Shoalhaven.*
  - b. Land use planning options to better manage the amount of STRA available within Shoalhaven and its use/operation.  
*Note: including the potential for mapping and/or other provisions in Councils Local Environmental Plan and other planning documents to prohibit, cap/limit or allow the continuation of STRA in Shoalhaven.*
  - c. Run a campaign to reach non-resident ratepayers and STRA owners to urge them to consider renting their dwellings longer term to contribute to the local rental accommodation market and assist in the provision of additional much needed affordable housing opportunities.  
*Note: including all possible practical and cost-effective ways of reaching relevant owners, such as direct mail outs, and the potential associated costs.*
2. Considers the potential impact of any actions that are ultimately pursued in this regard on the visitor economy of the City (including research if necessary) and achieve a supportable balanced outcome, if possible, for the future.

### Details

During my time as Mayor of Shoalhaven City, I have tirelessly pushed and advocated for increased social and affordable housing for our City. I have had numerous discussions with many Ministers, all of whom nod their heads in agreement about how we can alleviate the housing issue on many levels, however getting real action in a timely manner has been extremely difficult to achieve.

I know that the broader community, Councillors, Council staff and community organisations are deeply concerned about the homelessness situation here in Shoalhaven, a concern

MM22.17



which is reflected in our Community Strategic Plan where homelessness and the need for affordable housing is an important issue in the resilient, safe and inclusive communities' theme.

People keep asking what can be done? Council has an Affordable Housing Strategy and is working on its actions, has established the Shoalhaven Homelessness Taskforce and many other organisations and groups are doing what they can.

In tackling the shortage of affordable housing, the best win has been the unanimously supported development of Council purchased land in Coomea Street, Bomaderry, where Council took the direct action to purchase several blocks and amalgamated them with existing ones for the express purpose of facilitating an 'exemplar' affordable housing development with Southern Cross Housing. The Council property purchases were funded through the general fund.

However, to date, except for the Bomaderry project, there are few visible signs of broader progress given the enormity of the issue. The situation is getting worse by the day. It is time to explore some potentially fundamental reforms, that will help those who are currently homeless, those facing the threat of homelessness and the flow on affect and impact the shortage of affordable housing is having on our businesses and communities in Shoalhaven.

It is quite clear that the only way Council is going to be able to make a continued meaningful and direct contribution towards more affordable housing is to continue to purchase property and for this burden not to be carried by the general ratepayer, there needs to be a fairer system to distribute wealth.

The 2021 Census data proves what we already anecdotally know; that there is a substantial number of dwellings in Shoalhaven which are often empty, just over 23% were unoccupied on Census night. That is about 13,000 dwellings.

At the same time the Shoalhaven Homeless Hub reports that approximately 100 people come through its doors each week seeking support, and they are seeing around 50 new clients each month.

Empty houses have a significant impact on our communities, with some villages in the Shoalhaven having only 20% resident occupancy. We need to re-build connected communities as we repeatedly hear from residents that empty homes or absentee owner do not contribute to community. Empty homes block our nurses, teachers, chefs and trades people from relocating to Shoalhaven and absentee owners do not spend money in our towns and villages supporting our small businesses. The number of complaints received from business owners who cannot get employees because they cannot get housing is growing rapidly.

There are community groups doing great work in this space, SALT Assisted Housing for example have developed a program where they become the holder of a lease on behalf of a third party, and in doing so assume all the risk involved with full time tenants. They and others have been successful with such programs, but more housing stock is needed to meet the very high demand.

In pursuing a potential new rating category that has a Special Rate Variation (SRV) attached to it, Council could potentially build a fund that could be used, working with others (e.g., Community Housing Providers) to purchase vacant land, homes, or commercial land zoned for dual use with residential and create a significant and meaningful increase in perpetual affordable housing for our City.

We can continue to talk about the issue and the frustration associated with it, or we can find ways to act. To address the impact on investment property owners, we know they currently have access to tax concessions and therefore can offset any increase to their rates.

This Minute also starts to address how we can also sensibly manage the numbers and effects of holiday homes and those being used for Short Term Rental Accommodation

(STRA) within the City. Could we achieve this by identifying areas that should have a focus on permanent residential use and controlling the practice in other areas through possible caps?

It is obvious that parts of our City will most likely never be returned to permanent residential use, but will remain part of the broader tourist accommodation offering that is important to the economy of our City. However, exploring the planning options that are available to achieve a better balance is an important step and as we move through consideration of what can be achieved in this regard, we also need to be cognisant of and consider the potential flow on impacts on tourism.

We know that a SRV process takes some time to prepare, I am motivated for us to get this discussion going in our community and to explore any legislative impediments as we need bold and courageous action to make a real and tangible difference for our region.

Also attached is a paper (The Rental Crisis: 2022) that has been received from a local community member on this issue.

## MM22.18 Mayoral Minute - Aboriginal Knockout Venue Hire Costs

HPERM Ref: D22/373313

### Recommendation

That Shoalhaven City Council waive all fees and bonds for the use of Council facilities, including Rugby Park, Bomaderry Sporting Complex and Bomaderry Aquatic Centre, in relation to the NSW Aboriginal Rugby League Knockout Event for 2022.

### Event Background

The NSW Aboriginal Rugby League Knockout event for 2022 will be hosted in the Shoalhaven from 30 September to 3 October 2022. It is one of the largest Indigenous gatherings in Australia.

Beginning in 1971, the event has grown to over 140 participating teams, with an estimated 15,000 people per day over the five-day event.

The South Coast Black Cockatoo Rugby League Club (SCBC) won the NSW Aboriginal Rugby League Knockout in 2019, making them eligible to host the next event. The event was scheduled to run over the October Long Weekend from Thursday 1 October – Monday 5 October 2020, however, the event was postponed for two years due to COVID-19 restrictions.

The event is scheduled to occur over the 2022 October Long Weekend and is promoted through an integrated marketing campaign which includes a live broadcast through NITV to both domestic and international markets (Europe, US, NZ and Pacific Islands).

### Applicable Fees and Charges

**Table 1** below, shows an outline of estimated total venue hire costs for the event.

**Table 1 - Estimated Total Venue Hire Costs for the Event**

Total Venue Hire Costs	Fees
Venue Hire Rugby Park and Bomaderry Sporting Complex at the Community Hire rate (based on 14-day bump in and out)	\$10,152
Cost to operate Bomaderry Aquatic Centre (including hire fees, operating expenses and foregone income)	\$26,000
Pre and post inspection fee	\$214
Event Application Processing Fee	\$410
<b>Total Cost</b>	<b>\$36,776</b>

MM22.18

### **Rationale for Fee Waiver**

The NSW Aboriginal Rugby League Knockout 2022 is a significant event for NSW, the NRL and Indigenous community that will be run by the SCBC. SCBC has been forced to postpone twice due to COVID-19 and has limited funds available to deliver this event.

In recognition of the work done by the club to organise this important event and to assist with the implications of the COVID-19 pandemic over the last two and a half years, I call upon the Councillors to join me in supporting the event by resolving that Shoalhaven City Council provide access to the necessary venues at no cost to the organisers as in-kind support for the event. This support would include the repair of damage to the fields and venues associated with the activities and uses planned by the organisers.

### **Risk Implications**

With the size of the event and potential ongoing rain events, there is a significant risk that the sporting fields / playing surface may require repairs following the event.

Council staff have been engaging with the following groups to find alternative playing sites during the construction and preparation stages in the lead up to the event. Should this situation eventuate, staff will continue to liaise with these stakeholder for alternate playing sites for summer sports:

- Rugby Park
- Bomaderry Swamp Rats
- Nowra / Bomaderry Jets
- Nowra / Bomaderry AFL
- West Nowra AFL
- Berry Magpie's

Site inspections of the sporting venues and playing surfaces will be undertaken after the event. The scope of any remediation works and associated costings will be determined along with the impact on accessing the facility for summer sport – training and competition. Dependant on the cost of the required works this may require further consideration through the quarterly budget review process to ensure the playing fields are returned to operational status as soon as possible.

## CL22.383 Report of the Shoalhaven Heads Estuary Taskforce - 19 July 2022

HPERM Ref: D22/342155

**Attachments:** 1. Terms of Reference - Shoalhaven Heads Estuary Taskforce (SHET) [↓](#)

**SH22.8 Shoalhaven Heads Estuary Taskforce (SHET) - Terms of Reference**

**HPERM Ref:**  
**D22/282317**

### Recommendation

That Council:

1. Be advised that the attached Terms of Reference have been approved and adopted by the Shoalhaven Heads Estuary Taskforce at its meeting of 19 July 2022.
2. Consider the Terms of Reference for approval and adoption.

CL22.383

# Shoalhaven Heads Estuary Taskforce (SHET) – Terms of Reference

<b>Adoption Date:</b>	
<b>Amendment Date:</b>	
<b>Minute Number:</b>	
<b>Review Date:</b>	
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/173

CL22.383 - Attachment 1

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**Shoalhaven Heads Estuary Taskforce (SHET) – Terms of Reference**

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**1. Purpose**

The purpose of the Shoalhaven Heads Estuary Taskforce (SHET) is to act as an advisory and representative group on matters relating to the Shoalhaven River, its estuary and entrance at Shoalhaven Heads.

**2. Interpretation**

For the purpose of this document:

*Member* means a member of the Taskforce

*CMP* means Coastal Management Program

*Council* means Shoalhaven City Council

*Chairperson / Chair* means the chairpersons of the Taskforce

*Elected members* mean the elected Councillors of Shoalhaven City Council

**3. Status of the Taskforce**

The Taskforce provides non-binding advice to Council for consideration.

**4. Role**

- To receive and disseminate information and updates to and from the Shoalhaven Heads community about the management of the Shoalhaven Heads estuary.
- To provide and receive information to the Northern CMP Advisory Committee in the preparation of the Lower Shoalhaven River CMP.
- To provide and receive information to the Northern Floodplain Risk Management Committee in the development and preparation of the Lower Shoalhaven Flood Risk Management Study/Plan.
- When the Lower Shoalhaven River CMP is adopted by Council on behalf of the community, the SHET will be disestablished.

**5. Delegations**

Advisory Taskforces, such as SHET, may make recommendations to Council on all matters within the role outlined above. These recommendations may be submitted via the minutes of each meeting to Council for consideration.

This does not include substantial issues and recommendations (possibly including expenditure) that will be reported to Council by a separate report from the Manager – Environmental Services.

The Taskforce does not have the power to incur expenditure (directly or indirectly), or the power to bind Council.



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**Natural Areas Volunteers Group – Terms of Reference**

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**6. Membership**

The Taskforce will be chaired by a Councillor, elected by Council. The Taskforce is expected to act in accordance with the Role of the Taskforce as defined above in Section 4. The Taskforce will comprise the following:

- Appointed Chair (Councillor)
- All available Councillors
- Council's Chief Executive Officer (CEO) or nominee
- Member for Kiama or nominee
- Indigenous representative
- Youth representative
- Five (5) Community representatives
- Shoalhaven Heads Community Forum representative
- Greenwell Point Community representative
- Department of Planning and Environment (DPE) representatives
- Transport for NSW (TfNSW) representatives
- New South Wales State Emergency Services (NSW SES) representative
- Local Aboriginal Land Council representative
- Other relevant government agency representatives
- Other such persons as the Chairperson of SHET may deem necessary from time to time.

***Councillor Representatives***

Council appoints (1) Councillor to be the voting Chair of the Taskforce. All other Councillors are welcome to attend meetings of the Taskforce as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

***Community Representatives***

Following an expression of interest process, the CEO appoints a maximum of five (5) local community representatives, one (1) youth representative between ages 16 and 30, one (1) indigenous representative, one (1) Shoalhaven Heads Community Forum representative, and one (1) Greenwell Point CCB representative, that meet the following criteria:

- A broad interest, and understanding of floodplain and/or coastal management.
- A commitment to floodplain and/or coastal management in the nominated Council area.
- Local resident or businessperson living or working in or near a coastal and/or flood prone area.

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#### Natural Areas Volunteers Group – Terms of Reference

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Community representatives with Taskforce membership have voting rights.

#### Community representative appointments:

- Nominations should be advertised throughout the community via an Expression of Interest (EOI) process.
- Appointments to the Taskforce will be for a three (3) year term with a set commencement and finish date (to be disestablished through the adoption of the Lower Shoalhaven CMP by Council – refer Section 4.0).
- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process.
- An assessment panel consisting of a Council staff member (Manager – Environmental Services), the Chairperson of the Taskforce and one (1) suitably qualified independent representative will assess the applications and make recommendations for appointments to Council. Each member of the assessment panel will vote on recommendations with a majority ruling.

#### **Council Officers**

Council officers may attend meetings to provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Council officers do not have voting rights.

#### **Government Agencies**

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate representatives each.

The nominated agency representatives provide advice in relation to their functions and areas of expertise, however, are non-voting members.

#### **Chair and Deputy Chair**

Council appoints one (1) Councillor to be the Chair of the Taskforce. In the absence of the nominated Chair at a particular meeting, the members shall elect a Chair for that meeting.

#### **Terms of Office**

The term of the Chair will be one (1) year which will be reviewed annually in September. Elected members (or their representative) continue as members of the Taskforce until the next ordinary election of the Mayor, or the next general election of Council, or until the Taskforce is disbanded or completes its purpose in accordance with these Terms of Reference.

## **7. Taskforce Meeting**

#### **Agenda**

The agenda will be developed by the Director – City Development with support from the Manager – Environmental Services in view of the prevailing issues. Councillors and member

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**Natural Areas Volunteers Group – Terms of Reference**

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can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to the approval of the Chair and the Director – City Development.

**Quorum**

Five (5) provided that a minimum of one (1) Councillor as Chair or acting chair with voting rights and four (4) community representatives are present. No proxy votes are permitted. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

**Voting**

It is expected that the Taskforce, and any working group, develop recommendations by consensus. If voting is required, a majority shall prevail with the Chair having a casting vote in the case of a tie

Any votes against will be recorded in the minutes.

**Meeting Schedule**

In general, meetings should be held at least quarterly or otherwise as determined by the Chair and conducted either in person or electronically.

**Minutes**

The Taskforce shall provide advice to the Council for consideration. The Taskforce's advice shall be posted on the Council website with minutes reported to the elected council. Following consideration of the advice from the Taskforce, any resolution determined by Council, will be posted on the Council website.

**Confidentiality And Privacy**

Members who may have access to confidential or personal information retained by Council are required to maintain the security of such confidential or personal information and therefore shall not use, or remove any information unless the member is authorised to do so.

**Communication**

In relation to the communication functions of SHET, the following apply:

- Members of the Taskforce are not permitted to speak to the media as Council representatives of the Taskforce unless approved by the Chairperson.
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Taskforce and not of Shoalhaven City Council.
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes.
- The Chair of the Taskforce is the preferred point of contact for communication between Taskforce members and Council staff.
- Council will endeavour to utilise the Chair as the primary point of contact to communicate with Taskforce members.

#### Natural Areas Volunteers Group – Terms of Reference

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### 8. Code of Conduct

All members of the Taskforce are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Taskforce.

A breach of the Code of Conduct may lead to the member being expelled from the Taskforce.

### 9. Document Control

These Terms of Reference are reviewed at the commencement of each term of Council. Amendments to these Terms of Reference are to be reported to Council for approval. A version history (footnote on front page) is included if amendments have been approved.

## **CL22.384 Report of the Aboriginal Advisory Committee - 26 July 2022**

HPERM Ref: D22/371212

### **AA22.18 Additional Item - Consideration of Dedicated Aboriginal Member on all Council Advisory Committees**

Note: the Committee held a discussion as part of item AA22.10 and the following recommendation was made:

#### **Recommendation**

That:

1. Council consider Aboriginal representation on all Council Advisory Committees.
2. In relation to the appointment of Aboriginal people to Council Advisory Committees, the proposed nominees be referred to the AAC Chairperson for information.

CL22.384

## CL22.385 Report of the Shoalhaven City Mayors Relief Fund - 16 August 2022

HPERM Ref: D22/359152

Attachments: 1. DRAFT Mayor's Relief Fund Policy [↓](#)

### MR22.2 Mayors Relief Fund Policy

HPERM Ref:  
D22/279735

#### Recommendation

That Council:

1. Adopt the Mayors Relief Fund Rules (Policy) with the highlighted amendments as **attached** to the report.
2. Acknowledge that the Shoalhaven Minister's Fraternal is no longer operational and appoint a representative from SALT as a member of the Shoalhaven City Mayors Relief Fund.
3. Include the provision for co-opting (non-voting) members by invitation of the Chairperson for advice only.

CARRIED

CL22.385

## Mayor's Relief Fund Rules

<b>Adoption Date:</b>	24/09/2002
<b>Reaffirmed:</b>	28/09/2004, 24/03/2009, 23/04/2013
<b>Amendment Date:</b>	
<b>Minute Number:</b>	MIN02.1294, MIN04.1165, MIN09.339, MIN13.367
<b>Review Date:</b>	
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL16/190



## Mayor's Relief Fund Rules

### 1. Purpose

The fund has been established and maintained as a public fund for the relief of persons in Australia who are in necessitous circumstances and it is intended that the public be invited to contribute to the fund.

A person will be in necessitous circumstances where his or her financial resources are insufficient to obtain all that is necessary, not only for a bare existence, but for a modest standard of living in the Australian community.

Necessitous circumstances may result from a disaster caused by flood, fire, drought, tempest or other calamity.

### 2. Statement

The name of the fund shall be the "Shoalhaven City Mayor's Relief Fund", having its office at the City Administrative Centre, Bridge Road, Nowra and its postal address being PO Box 42, Nowra.

Council reaffirmed these rules in their revised format by Minute 04.1165 on 28<sup>th</sup> September 2004 and Minutes 09.339 on 24<sup>th</sup> March, 2009.

### 3. Provisions

#### 3.1. Non-Distribution of Profits

- a. The income and property of the fund however derived, shall, subject to any obligations under charitable trust law or any other statutory requirements, be used and applied solely in the promotion of its objects and in the exercise of powers conferred upon it by the rules.
- b. No portion of this income and property shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to or amongst the members of the managing committee of the fund or Council.

#### 3.2. Management Committee

The management of the fund shall be vested in the Shoalhaven City Mayor's Relief Fund Committee. Membership of the committee shall consist of:

- The Mayor ~~for the time being~~ of the Shoalhaven City Council (Chairperson)
- The ~~General Manager~~ ~~CEO for the time being~~ of the Shoalhaven City Council (or his nominee) to act as Secretary
- Councillors of Shoalhaven City Council as appointed by Council
- Representative of Salt Care Shoalhaven as being a Shoalhaven wide community and care organisation
- ~~President of the Shoalhaven Minister's Fraternal or nominee;~~
- Shoalhaven City Council Fire Control Officer or nominee;
- Shoalhaven City Council State Emergency Services Co-ordinator or nominee;
- Shoalhaven City Council Director City Performance ~~Finance and Corporate Services Director~~

#### 3.3. Financial Year

#### Mayor's Relief Fund Rules

The financial year of the fund shall operate from 1 July to 30 June.

#### 3.4. Annual General Meeting

The Annual General Meeting of the fund shall be held during the month of August in each year, when the Annual Report and Annual Financial Statements shall be presented. The Annual Financial Statements contain an income statement and a balance sheet.

Meetings of the Fund Committee may be held remotely or and when required decisions may be made via electronic (email) voting.

#### 3.5. Quorum

A quorum of the committee shall be three (3) members.

#### 3.6. Notice of Meetings

Ordinary Meetings shall be called by giving three (3) days clear notice to each member, provided that in case of emergency a meeting can be called as early as it can be conveniently arranged.

#### 3.7. Receipt of Monies

All moneys paid to the fund shall be collected by the Shoalhaven City Council ~~Director of Finance and Corporate Services~~ Director City Performance, or some servant of the Council authorised by the Director ~~of Finance and Corporate Services~~ City Performance. Where requested, Aa receipt will be issued for all ~~for all~~ monies received and shall be banked in the Council's Mayor's Relief Fund.

Receipts issued for tax deductible gifts must state:

- Shoalhaven City Mayor's Relief Fund
- ABN of Shoalhaven City Council
- That the receipt is for a gift

Where a specific event or circumstance requires additional funding injection into the fund an Appeal will be established.

Electronic Fund Raising Platforms may be utilised for the collection of funds both domestically and internationally for appeals. Any such platforms or products used are to meet Council Policy and Procedures with respect to accounting and financial standards and privacy and have minimal transaction fees applied.

#### 3.8. Payment of Monies

Accounts shall be presented and passed for payment at a meeting of the Committee, provided that in case of emergency the Chairperson and Secretary, after consulting as many members as possible, may authorise a payment and submit it to the next meeting of the Committee for confirmation. All accounts shall be paid by ~~cheque~~ EFT or cheque.

#### 3.9. Record Keeping

The persons nominally authorised to operate on the accounts of the Council shall be the persons to operate Council's Mayor's Relief Fund. An accurate account of monies received and monies expended shall be kept.

#### 3.10. Disbursements

The Committee may approve and make payments to:

#### Mayor's Relief Fund Rules

- a. Organisations set up in any locality in Australia for the purpose of providing relief to persons in Australia who have suffered loss or distress as a result of a disaster caused by flood, fire, drought, tempest, or other calamity.
- b. Individuals in Australia who have suffered loss as a result of disaster caused by flood, fire, drought, tempest or other calamity including personal or family calamity.

#### 3.11. Retention of Money

The Committee may hold funds in the Mayor's Relief Fund of the Shoalhaven City Council to enable it to render early relief to persons suffering as a result of disaster.

~~From an established appeal, in To give immediate relief in~~ necessitous cases, the Chairperson and Secretary ~~and the President of the Shoalhaven Minister's Fraternal~~ are authorised to approve payment of up to \$500 ~~from funds donated by the way of as VISA gift cards (not tied to a vendor or supplier) once an appeal is established, to be stored in a locked safe located in the CEO's Group area, if purchased prior to issuing. All serial numbers of the gift cards within the safe are to be kept on a spreadsheet in TRIM complete with the officer's name responsible for locking them in the safe and the officer's name responsible for signing them out to remove and issue them. The recipient of the gift card's details are to be filled out on the spreadsheet next to the relevant serial number issued for reconciliation purposes;~~ provided that any assistance thus rendered shall be reported to an early meeting of the Committee for confirmation.

#### 3.12. Dissolution

- a. The fund shall be dissolved in the event of committee membership less than four persons or upon the vote of a three-fourths majority of members present at a Committee Meeting convened to consider such question.
- b. If the fund is wound up or if the endorsement (if any) of the fund as a deductible gift recipient is revoked, any surplus assets of the fund remaining after the payment of liabilities attributable to it shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made having objects similar to the objects of the fund, which prohibits the distribution of its income and property among its members to an extent at least as great as is imposed by the fund under rule 3. However, in making the distribution, the fund must ensure it satisfies all legal obligations applying to any funds or property over which a charitable trust exists.

#### 3.13. Audit

The accounts of the Fund shall be audited by the Auditors ~~for the time being~~ of the Shoalhaven City Council, Nowra.

#### 3.14. Amendment of Rules

These rules may be amended from time to time by resolution of Council. The Australian Taxation Office and the NSW Office of Liquor, Gaming and Racing may require notification of any amendments to these rules.

#### 3.15. Self Review

The fund shall be reviewed before the Annual General Meeting to ensure that it continues to operate for the purposes for which it was granted status as a Deductable Gift Recipient.

#### 3.16. Change of Committee Membership

#### Mayor's Relief Fund Rules

Any organisation represented on the Management Committee may change its representative from time to time to meet requirements or regulations of the organisation, or may be requested by the Management Committee of this Fund to change their representative.

#### **4. Implementation**

The ~~Finance Corporate & Community Services Group~~ Director City Performance has responsibility for implementation of this policy.

#### **5. Review**

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

## CL22.386 Report of the Shoalhaven Arts Board - 17 August 2022

**HPERM Ref:** D22/365954

**Attachments:**

1. South Coast Cooperative Libraries Collection Development Policy - DRAFT Changes (under separate cover) [⇒](#)
2. Dingle Hughes Bequest - Tables A, B & C (under separate cover) [⇒](#)

**AB22.36 Council Policy Revisions - South Coast Cooperative Libraries Collection Development Policy**

**HPERM Ref:**  
**D22/306943**

### Recommendation

That Council adopt the revisions of the South Coast Cooperative Libraries Collection Development Policy (Attachment 1).

**AB22.40 Management of the Dingle Hughes Bequest - Acquisitions and Archives**

**HPERM Ref:**  
**D22/325409**

### Recommendation

That Council:

1. Advises Max Dingle OAM of the intention to accept the works listed in Table A (Attachment 2) into the City Art Collection on enactment of the Deed of Gift
2. Advises Max Dingle OAM that they are not intending to acquire the works listed in Table B (Attachment 2)
3. Advises Max Dingle OAM of the intention to accept the entirety of the archival collection, including the artworks listed in Table C (Attachment 2) as part of the Deed of Gift.
4. Acknowledge and thank the Council staff involved in this process.

CL22.386

## CL22.387 Draft Community Strategic Plan - Shoalhaven 2032

**HPERM Ref:** D22/346265

**Department:** Corporate Performance & Reporting  
**Approver:** Kevin Voegt, Director - City Performance

**Attachments:** 1. Draft Community Strategic Plan - Shoalhaven 2032 (under separate cover) [⇒](#)

### Reason for Report

The report presents the updated draft Community Strategic Plan – Shoalhaven 2032 to Council for endorsement. The report outlines the amendments that have been made to the post exhibition version presented to Council at the 27 June 2022 Ordinary Meeting.

### Recommendation

That Council:

1. Endorse the Community Strategic Plan – Shoalhaven 2032 with recommended amendments.
2. Publish a copy of the endorsed Community Strategic Plan on Council's website and provide advice to the Office of Local Government.
3. Thank the community for providing their submissions as part of the exhibition and consultation process.

### Options

1. To endorse the Community Strategic Plan - Shoalhaven 2032 as presented  
Implications: The updated Community Strategic Plan will be endorsed as required by legislation.
2. Not endorse the amendments as presented and resolve to make changes to the Community Strategic Plan - Shoalhaven 2032  
Implications: Council would need to provide direction to staff in relation to any further amendments.

### Background

Local Councils in NSW are required to undertake their planning and reporting activities in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021. The Act and Regulation provide guidelines for Councils to follow to ensure community involvement is central to the formation of strategic plans that drive Council's long-term planning and day to day operations.

The Community Strategic Plan (CSP) is the community's plan for the Shoalhaven. It has a minimum ten-year timeframe and should reflect the community's aspirations (needs and wants) for the Shoalhaven. Council's role in the production of the CSP is to facilitate its development and produce the document.

CL22.387

The CSP is not just a Council plan but a community plan and responsibility for achieving our long-term objectives rests with the collective commitment of all levels of government, businesses, industry groups, community organisations and individuals.

A report provided to Council at the Ordinary Meeting on 27 June 2022 which resulted in the following resolution:

*That Council:*

1. *Receive for information the feedback provided by the community on the Draft Community Strategic Plan.*
2. *Adopt the existing Community Strategic Plan (CSP) - Shoalhaven 2027 as its interim Community Strategic Plan -Shoalhaven 2032 to allow for a further review of the Draft 2032 Plan (Attached to the report) within the next 3 months.*

Following further review of community feedback and in consultation with relevant Council staff, further refinement of the draft CSP 2032 has been completed. The proposed changes primarily relate to updates to the wording for one Theme, one Key Priority, various outcome statements and progress measurement.

Further input on Council actions and activities which may be undertaken to progress against the CSP Key Priorities will be developed in future iterations of Council's Delivery Program Operational Plan and/or supporting strategies and plans.

### Summary of main amendments

The following table outlines the main amendments to the post-exhibition version of the draft CSP 2032 which was presented at the Council meeting on 27 June 2022.

CSP Reference	Detail	Background
Key Priority 1.2 – Preserve, support and develop cultural and creative vitality across our communities	<p>New outcome statement - <i>Greater awareness, understanding and respect of local Aboriginal and Torres Strait Islander culture, heritage and Histories</i></p> <p>New measure – <i>Level of engagement on Council's programs including development of the Reconciliation Action Plan (increase)</i></p>	Important to reference a specific outcome to improve engagement and partnerships with our local indigenous community.
Key Priority 1.3 – Support community wellbeing through fostering active and healthy communities	<p>New outcome statement - <i>Improved access to places and activities for people with disability</i></p> <p>New measure - <i>Community satisfaction with facilities and services for people living with a disability (increase)</i></p>	Inclusion of accessibility to facilities and services in supporting community wellbeing.
Key Priority 2.3 – Protect the natural environment and enhance sustainability	<p>Reinstated two environmental measures from the CSP 2027</p> <ul style="list-style-type: none"> <li>- <i>Community satisfaction with management of the natural environment (increase)</i></li> <li>- <i>Community satisfaction with environmental protection and enforcement (e.g. building site</i></li> </ul>	Recognition of the community's input on the importance of protecting the natural environment and mitigating contribution of greenhouse gas emissions to climate change.

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CSP Reference	Detail	Background
	<i>inspections, illegal dumping, tree vandalism or clearing) (increase)</i> New outcome statement - <i>Biodiversity and urban green cover are enhanced</i> New measure - <i>Urban canopy cover on public land (%) (increase)</i> Supporting outcome statement – <i>Greenhouse gas reduction targets for Council and community are met</i> New measure – <i>Community's greenhouse gas emissions (baseline to be established – decrease)</i>	
Theme 3 – Thriving local economies	Addition to theme wording - <i>Thriving local economies that meet community needs</i>	Economic outcomes must support and provide community benefit based on need.
Key Priority 3.1 – Strengthen and diversify the economy	Supporting outcome statement - <i>Enhanced opportunities for a diverse sustainable economy</i> New measure - <i>Percentage of total jobs across the top 10 employing industries (maintain)</i>	This measure will replace the indicator 'Total economic impact of expenditure by all visitors to the Shoalhaven' which is focused on a particular industry and not on the diversity of the wider economy.
Key Priority 4.2 – Provide transparent leadership through effective government and administration	New outcome statement - <i>Provide equity of access to employment opportunities to improve the diversity of Council's workforce</i> New measure - <i>Number of identified positions within Council (increase)</i>	This measure will focus on identified positions; Council will continue implementation of initiatives in this area through the adopted Workforce Management Strategy 2022-26.

### Editorial and Formatting Changes

As part of the review process some minor editorial and formatting changes were identified and made to the final draft document. These include updates to the wording of some outcome statements and progress measures to make it clearer what we will measure. The final draft Community Strategic Plan - Shoalhaven 2032 is included as **Attachment 1**.

### Community Engagement

Engagement activities which occurred during the development of the updated CSP 2032 have been outlined in the previous Council report to the 27 June Ordinary Meeting (CL22.262). This included the public exhibition of the full suite of Integrated Planning & Reporting documents from 11 May until 10 June 2022.

CL22.387

## CL22.388 Ongoing Register of Pecuniary Interest Returns - August 2022

HPERM Ref: D22/368047

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

### Reason for Report

To provide the Council with the Register of Pecuniary Interest Returns from newly designated persons lodged with the Chief Executive Officer for the period of 1 August to 31 August 2022 as required under Section 440AAB of the Local Government Act 1993 and Part 4.26 of the Model Code of Conduct.

### Recommendation

That the report of the Chief Executive Officer regarding the Ongoing Register of Pecuniary Interest Returns lodged for the period of 1 August to 31 August 2022 be received for information.

### Options

1. As Recommended.

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

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

Implications: Not known

### Background

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

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

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

Part 4.26 of the Model Code of Conduct states:

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

This report is one of a series of reports of this nature which will be provided throughout the year to align with the legislative requirements.

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

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Directorate	Name	Designated Position Start Date	Returned
City Services	Belinda Keech	15/8/2022	31/8/2022
City Development	Jitendra Chhetri	4/7/2022	31/8/2022
Shoalhaven Water	Joshua Clugston	4/7/2022	31/8/2022

Advice provided to Council by the Office of Local Government in September 2015 was that 'hard copies' of returns are no longer required to be tabled at the Council meeting. Therefore, the register of returns for this period is listed and tabled. Electronic versions of the documents may be viewed upon request.

Electronic versions of the disclosure documents (with relevant redactions) are available on the Council website, in accordance with requirements under the *Government Information (Public Access) Act, 2009*.

### Risk Implications

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

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## CL22.389 Response to Council Motion - LGNSW Special Conference - Impact of Holiday Homes

**HPERM Ref:** D22/368191

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

**Attachments:** 1. LGNSW Special Conference - Response to Resolution - Minister Dominello - Impacts of Holiday Letting [↓](#)

### Reason for Report

The reason for this report is to inform Council and the public of the response to Council's motion regarding the Impact of Holiday Homes at the Local Government NSW (LGNSW) Special Conference held earlier this year.

### Recommendation

That Council receive the report in regard to the Impact of Holiday Homes for information.

### Options

1. Receive the report for information.

### Background

At the LGNSW Special Conference held earlier this year, Council submitted the following motion:

*"That Local Government NSW asks the NSW Government to consider legislative tools to assist councils with the impact of short-term rental platforms on local communities with respect to long-term rental availability".*

LGNSW made representations to the former Minister for Small Business, Minister for Fair Trading, the Hon E. Petinos MP regarding this issue.

A response to this letter, sent on behalf of Minister Dominello MP, Minister for Customer Service and Digital Government, Minister for Small Business, Minister for Fair Trading has been received and is provided as **Attachment 1**.

The letter was received by LGNSW President, Broken Hill City Council Cr Darriea Turley AM who was elected as President of the Board of LGNSW in December 2021.

CL22.389

Dear Cr Turley

Thank you for your correspondence to the former Minister for Small Business, Minister for Fair Trading about the resolutions of the Local Government NSW Special Conference. Some of the matters raised now fall within the portfolio responsibilities of the Hon Victor Dominello MP, Minister for Customer Service and Digital Government, Minister for Small Business, Minister for Fair Trading. We have been asked to reply on behalf of the Minister.

Regarding **Resolution 27**, the regulatory framework for short term rental accommodation (STRA) is primarily the responsibility of the Minister of Planning, Minister for Homes. However, the Department of Customer Service has been integral to developing and implementing components of the framework and will have some role in administering the regulatory framework. These components include the [Code of Conduct for the STRA industry](#) established under the *Fair Trading Act 1987* and the [Exclusion Register](#) to enable the compliance aspects of the Code of Conduct to have effect.

Regarding **Resolution 29**, it is noted that Item 1(a) relates to affordable housing, which is outside the remit of the Department of Customer Service. As the resolution has also been referred to the Minister of Planning, Minister for Homes for consideration, I will let Minister Roberts respond to this item.

The recent statutory review of the *Residential (Land Lease) Communities Act 2013* (the RLLC Act) made recommendations related to the cost of living in land lease communities. The review proposed changes to the ways site fees are increased and the operator's information disclosure obligations. The proposed changes will enable homeowners to better manage their finances and predict the costs of community living. A copy of the [review report](#) can be found on the NSW Parliament website.

In respect of Items 1(b) and (c), the statutory review made a number of recommendations to increase certainty and reduce disputes, improve the amenity and functionality of life in communities and better clarify the rights and obligations of operators and homeowners. The review also recommends changes to the termination and compensation provisions of the RLLC Act.

For example, recommendation 45 of the review recommends that compensation be payable if an operator has taken action that renders use of a residential site unlawful and has terminated a site agreement on the basis of a lack of authority for use of residential site. The changes aim to ensure homeowners can seek compensation regardless of whether the operator has taken action either before or after the site agreement was entered into.

Work is currently underway to implement the review's recommendations with reforms aimed to be introduced into Parliament over the course of the next year.

**Regarding Resolution 38**, the NSW Government continues to work with regional councils facing shortages of licensed certifiers to meet the needs of their local government area. This includes working with individual councils through the Department of Planning and Environment and Office of Local Government to explore ways to share certifier resources across councils to meet demand across council lines.

The NSW Government is also consulting on a proposal to give more responsibilities to certifier bodies operating professional standards schemes to accredit practitioners before they are registered by NSW Fair Trading. It is hoped this proposal will provide a new pathway into the profession, allowing more competent practitioners to take on the role of certifier.

Further regarding Resolution 38, the NSW Government is progressing Automatic Mutual Recognition (AMR), which offers automatic recognition based on occupational activities and will impact some individual licence holders. The details of its application to each specific licensing scheme in NSW will be published at [nsw.gov.au/nsw-government/projects-and-initiatives/making-it-easier-for-registered-professionals-to-work-interstate](https://nsw.gov.au/nsw-government/projects-and-initiatives/making-it-easier-for-registered-professionals-to-work-interstate). While AMR will provide a new pathway to working in NSW, ongoing obligations around registration for the NSW Planning Portal, insurance and continuing professional development expectations will continue to apply for those working in NSW.

The NSW Government does not support introducing a separate classification for regional certifiers. Having a reduced eligibility standard for regional certifiers would lead to lower quality practitioners working in regional areas, disadvantaging regional customers. The NSW Government is committed to ensuring that its reforms to the construction sector are fully realised in both regional and metropolitan areas.

**Regarding Resolution 91**, it is noted that the motion is directed to the Minister for Energy and Environment, however, Subsidence Advisory NSW administers the *Coal Mine Subsidence Compensation Act 2017* (the CMSC Act). Subsidence Advisory NSW is an agency within the Department of Customer Service.

Many of the matters raised are relevant to the now repealed *Mine Subsidence Compensation Act 1961* and have been addressed by legislative reform and the introduction of the CMSC Act in 2017. The CMSC Act implemented several changes to improve the claims process including an independent assessment and review process. Independent assessors are currently engaged by Subsidence Advisory NSW to carry out comprehensive claim assessments and homeowners have rights to an independent statutory review of their claim by the Department of Customer Service Secretary.

Subsidence Advisory NSW met with Wollondilly Council in 2021 to address concerns and misconceptions regarding the compensation system. Additional sessions can be held to provide further information on the compensation and review process under the CMSC Act.

Community engagement actions are carried out regularly with residents within longwall mining areas prior to and on commencement of coal mining operations. The engagement provides advance support and ongoing contact, including direct delivery of accurate and accessible information in various formats.

When a homeowner lodges a claim for mine subsidence damage, a dedicated Case Advisor provides regular updates during active subsidence periods while the claim is on hold and a 24-hour support service is available to ensure continued serviceability, including urgent and/or temporary repairs.

Claims are typically placed on hold during active subsidence to ensure that all damage is assessed, and compensated repairs are carried out without the risk of further impacts and additional damage. Depending on location, some properties may be influenced by multiple longwalls and predicted to be impacted for significantly longer periods. To ensure residents are not impacted for unreasonable periods of time, the Early Claim Assessment Policy (Policy) was introduced in 2020. Under the Policy, assessment of some claims may be completed prior to the influence of the next longwall.

A cyclical review of the CMSC Act will commence later this year and, with a customer-centric focus, will consider the compensation process and any improvements identified over the past five years.

We trust this information is of assistance.

Kind regards

Department of Customer Service



*This is a no-reply email address, if you wish to send further correspondence, please submit it through the [Minister's webform](#).*



## CL22.390 Planning for Growth in the Milton-Ulladulla Area

**HPERM Ref:** D22/246419

**Department:** Strategic Planning

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

**Attachments:**

1. Milton-Ulladulla Structure Plan Study Area (existing zones) [↓](#)
2. Analysis of Growth Scenarios [↓](#)
3. Preliminary Growth Scenario and Key Sites [↓](#)
4. Growth Options: Opportunities and Considerations [↓](#)
5. Proposed Community Engagement Plan - Preliminary Growth Scenarios [↓](#)

### Reason for Report

The reason for this report is to seek endorsement to publicly exhibit a Preliminary Growth Scenario identifying potential opportunities to accommodate future residential growth in the Milton-Ulladulla area.

### Recommendation

That Council:

1. Endorse the Preliminary Growth Scenario identifying potential sites and opportunities to accommodate future residential growth in the Milton-Ulladulla area for public exhibition.
2. Endorse the Proposed Engagement Plan (Attachment 5) as the basis for community engagement on the identified Preliminary Growth Scenarios.
3. Receive a further report on the outcomes of the public exhibition of the Preliminary Growth Scenario and the resulting next steps.

### Options

1. As recommended.

Implications: This option provides the community and other interested stakeholders the opportunity to engage with land use planning work for the Milton-Ulladulla area and provide feedback on the Preliminary Growth Scenario. The feedback received in response to the exhibition of the scenario will be presented to Council to inform its continued consideration of planning for growth in the Milton-Ulladulla area.

2. An alternative recommendation.

Implications: Will depend on the nature of any recommendation, but it may delay Council's consideration of options for future growth and, subsequently, the supply of new housing required to meet the communities' needs. It may also increase pressure to accommodate growth elsewhere in Shoalhaven or prompt un-coordinated 'one off' Planning Proposals with impacts on Council's resourcing.

3. Not proceed.

Implications: This would effectively mean that growth options may diminish and a range of impacts could emerge as a result, including the emergence of 'one off' Planning Proposals.

CL22.390

## Background

In August 2020, Council resolved to urgently review the *Milton-Ulladulla Settlement Strategy* with the objective of increasing the availability of developable land in Milton-Ulladulla area. **Attachment 1** provides a map of the area considered in the review work and the current zones.

*Settlement Strategies* generally outline how future population growth could be accommodated and how the impacts of that growth could be managed. They set out where anticipated growth will be located and, potentially, identifies a program to release new growth areas.

Council confirmed its commitment to undertake this review in its Local Strategic Planning Statement (*Shoalhaven 2040*) setting it as an immediate action in *Planning Priority 1: Providing homes to meet all needs and lifestyles*. Council also confirmed its focus on developing plans to enable a variety of affordable and appropriately serviced housing options in the current *Delivery Program and Operational Plan* (Action 1.1.05).

Council last set its settlement strategy for the area in 1996, in the *Milton-Ulladulla Structure Plan*. The growth areas identified in this document were rezoned for urban purposes through and LEP amendment that was gazetted in 2003. Development of the residential areas that were rezoned is now well advanced.

The current review is looking forward 25-30 years, to 2050, to evaluate dwelling demand and supply opportunities. It also limits supply opportunities to the current *Milton-Ulladulla Structure Plan* boundary (the study area) but may look beyond that boundary if investigations indicate this is necessary.

The work completed to inform the current review includes:

- A desk top review of current dwelling supply and remaining capacity, infrastructure projects and gaps, and environmental constraints and values of the study area.
- Detailed demographic analysis providing forecast changes to the population (growth and diversity), including increased regional migration in response to the COVID-19 pandemic, and an examination of future housing need and potential impacts on housing affordability.
- An expert analysis of the behaviour of the residential market.
- Land use surveys of commercial and employment land.
- Discussions with relevant infrastructure providers to confirm current capacity and proposed projects.
- A community survey to understand contemporary community values and experiences with housing (availability, affordability etc).
- Meetings with landowners of significant holdings already zoned for residential development and/or benefitting from development consent, to understand their intentions regarding their land.

Council's Strategic Planning Working Party (SPWP) has been kept updated and engaged through the progress of the review so far, including most recently at their meeting on 15 August 2022. Also arising from the SPWP discussions, a Councillor Bus Tour was undertaken on 4 August 2022. The SPWP has provided input and feedback as the review has advanced, however as the SPWP is not a decision-making body, Council still needs to resolve how to proceed.

### Current Dwelling Supply and Demand Situation

At the end of March 2022, an estimated capacity of approximately 1,400 new dwellings remained in the study area (on land zoned to facilitate a residential outcome). This capacity is split between 840 potential greenfield lots and 575 potential dwellings in medium residential areas.

Development trends since 2015 indicate an average completion rate of about 115 new dwellings per year in the study area. The bulk of these occurred in greenfield areas (75%) and most were single, detached dwellings (between 70-75% of dwellings delivered). Multi-unit housing completions have predominantly been dual occupancies or secondary dwellings, rather than higher-density dwelling types.

The remaining available greenfield capacity is equivalent to 7-8 years. The typical timeframe to plan and service a new greenfield residential area can exceed 5 years, reinforcing the urgency of Council's review and the need to identify opportunities to meet future housing need. Expert advice is being sought on potential or perceived barriers to the delivery of higher density dwelling types, for example, land values, feasibility, construction industry skillset, limited finance, etc. This will clarify the opportunities available from these development outcomes.

Expert analysis of population forecasts, demographic change, housing need, housing diversity and housing affordability considerations was commissioned from *Informed Decisions* (known as .id), Council's demographic consultant. *HillPDA* were also engaged to advise on residential market trends and behaviour. Some influences on demand are hard to quantify or are volatile, especially recent changes due to the COVID pandemic. These include changes in regional migration patterns, the number of dwellings purchased or used for short term rental accommodation or holiday homes in response to the demand associated with increased domestic tourism.

*Informed Decisions* estimates the population of the study area will increase by nearly 25% by 2050 (from 16,900 to 20,800) based on planned growth (i.e., in existing zones or known Planning Proposals). This growth suggests a need for at least 1,900 new dwellings by 2050.

*HillPDA* suggests, based on market behaviour, that planning for growth should be based on historic development rates as this is considered more representative of ongoing demand. Extrapolating historic development rates to 2050 indicates a potential need for approximately 3,250 new dwellings. Subtracting the current capacity (1,400) from the estimated need (3,250) indicates the need to identify opportunities to deliver capacity for an additional 1,850 homes to meet anticipated demand.

Both the reviews (demographic and market):

- Concluded that additional housing capacity needs to be made available to cater for demand to 2050, and
- Indicated a shift in demand towards smaller households and greater diversity of housing types to accommodate changing household size.

The market advice further noted that the need for additional capacity will be influenced by the mix of housing that is provided. For example:

- If the current ratio of detached/multi-dwelling housing is maintained, about 80 hectares of additional greenfield land and 4 hectares of land zoned for higher density infill development would be required.

- If the dwelling mix shifted towards higher densities, a total of about 50-hectares of additional zoned land would be required to accommodate both greenfield and infill development.

The Australian Bureau of Statistics (ABS) started to release the 2021 Census results in June 2022, with completion programmed for October 2022. Council's demographic consultant anticipates it will be able to provide revised population forecasts after this time. Considering this timetable, the implications, if any, of updated population data will be considered during the future preparation of a draft Strategy.

### Opportunities to Accommodate Future Demand

Broadly speaking, the future settlement opportunities fall under several general scenarios:

1. Maintain current land use zones and planning controls (e.g., height of buildings, minimum lot size etc)
2. Provide additional capacity focussed in new greenfield urban areas through the incremental growth of existing urban areas (east of the proposed Milton-Ulladulla Bypass).
3. Provide additional capacity in new, remote greenfield urban areas west of the Bypass and/or north of Milton.
4. Deliver additional capacity in existing urban areas, adjusting existing planning controls (zones and height of buildings) to increase medium- and high-density outcomes.
5. Balance additional capacity between new and existing urban areas.

Each of these scenarios is discussed/analysed in **Attachment 2**. This analysis and consideration of it indicates future growth areas should be shared between fringe greenfield areas and infill development in existing urban areas. The extent of, and mix between, greenfield and existing urban growth could be targeted to address forecast housing needs, both in quantum and housing type. A shared growth option would potentially:

- Provide sufficient capacity to meet forecast housing need.
- Facilitate supply across all housing types; important to meet emerging housing need.
- Supply greenfield capacity to facilitate detached dwelling (and potentially low scale medium density) supply.
- Facilitate redevelopment for medium and higher density housing in appropriate existing areas.
- Maximise the use of existing and planned infrastructure and services.
- Contain and manage the costs of delivering infrastructure to new areas.
- Limit impacts on rural land and land with scenic values compared to an all-greenfield approach.

### Preliminary Growth Scenario

The study area was assessed to identify opportunities to supply additional capacity for about 1,850 homes. This work included the review of known environmental constraints (e.g., flood

risk, bushfire etc.) and environmental and community values (e.g., biodiversity resources, scenic values, etc.). Discussions with infrastructure providers confirmed existing systems can generally support growth close to existing urban areas, while more remote growth areas would be more expensive to service. The assessment work identified several potential greenfield and infill locations with capacity for growth.

Three potential greenfield options have been identified adjoining the existing urban area of Milton and an area west of the residential subdivision being delivered on Bishop Drive, Mollymook Beach. These options maintain the scenic land separating the settlements of Milton, Mollymook, and Narrawallee – a confirmed community value identified in the 1996 Structure Plan. The options have been identified as:

1. Corks Lane West
2. Croobyar Road South
3. Bishop Drive West

Four infill options are located within Ulladulla Town Centre and have also been identified as:

1. Ulladulla CBD East (Mixed Use/High Density Residential)
2. Wason Street East (High Density Residential)
3. South Street/Burrill Street South (Medium Density Residential)
4. Camden Street/St Vincent Street (Medium Density Residential)

These options are recommended at this point for inclusion in a Preliminary Growth Scenario for discussion with the community. **Attachment 3** provides maps of the Scenario and **Attachment 4** provides an overview of the opportunities and considerations for each of the growth options.

The greenfield options have the potential to provide at least 66-hectares of land and opportunities for around 1,000 lots (based on an average of 15 lots per hectare). It can be assumed some multi-unit dwelling outcomes such as secondary dwellings (also known as granny flats) and dual occupancies, will also be delivered. Recent development trends suggest about 20% of all new development is being delivered in this manner in the study area. This could increase the capacity of these greenfield areas to about 1,200 dwellings.

Detailed investigations of environmental values and infrastructure requirements, necessary work prior to any future rezoning, as well as Transport for NSW's delivery of the Bypass, will also inform further refinement of the size and potential capacity of the options as they proceed further.

It is difficult to estimate the anticipated yield from infill development due to the diverse range of potential residential outcomes permitted in mixed-use and higher-density residential zones. Estimates based loosely on an industry measure of 20-40 dwellings per hectare provide an indicative range of 400-700 additional dwellings within the identified potential infill locations. A more accurate estimate would require, at a minimum, urban design and feasibility studies to determine appropriate development outcomes. These studies are intended to occur during the preparation of a draft Strategy.

In summary, the Preliminary Growth Scenario potentially provides sufficient zoned land to accommodate 1,600 to 1,900 dwellings and meet the identified dwelling demand to 2050.

## Key Sites

Three Key Sites have also been identified for further consideration alongside the Preliminary Growth Scenario:

- Ulladulla Southern Gateway (including 252 Princes Highway, Ulladulla): This site has not been earmarked to contribute to future residential supply. It is however considered a potentially important contributor, in conjunction with adjoining land to its north, to an altered/upgraded “southern gateway” to Ulladulla Town Centre, particularly with the construction of the Milton-Ulladulla Bypass. Progressing any such initiative would need to involve discussion with the owners of highway frontage land in the vicinity of Pitman Avenue and Dowling Street.
- Deering Street, Ulladulla (Lot 1, DP 1172613): This land is at the western end of Deering Street and is zoned for rural and environmental purposes. The zoning of the subject land was ‘deferred’ from the 2009 LEP for the study area and the rural zone was later applied to approximately 14 hectares of the site during the preparation of the 2014 LEP as a “holding zone” for potential future development. This approach was taken due to the detailed investigations necessary to inform the consideration of the future use of the land. Accordingly, it has not been identified as a future residential supply option at this time.
- Harbour Precinct (including 66 Church Street, 66A St Vincent Street, and the Civic Centre, Ulladulla): This site has not been earmarked to contribute to future residential supply. It is recommended however, in anticipation of the construction of the Milton-Ulladulla Bypass, that specific consideration be given to the potential future use of this precinct capitalising on its proximity to and views of the harbour.

Ownership and development proposals for some of these Key Sites have changed and continue to change as work on the new Strategy progresses. Some owners have requested meetings to discuss specific proposals for their land. It is recommended any such discussions are considered against the backdrop of a publicly available Preliminary Growth Scenario which aims to provide residential supply to meet identified housing need. The exhibition of the Key Sites might also generate additional growth proposals or alternative outcomes.

## Intended Next Steps

The public exhibition of the Preliminary Growth Scenario, including the three Key Sites identified above, would:

- Encourage early community feedback on the Preliminary Growth Scenario, further informing Council’s continued development of a draft Strategy.
- Provide a transparent process for landowners to express their views regarding the inclusion of their land in the Preliminary Growth Scenario.
- Allow focussed discussions with Infrastructure Agencies regarding specific components of the Preliminary Growth Scenario.
- Make the Preliminary Growth Scenario publicly available information and a framework against which alternative proposals from landowners, the development industry, and others can be considered.
- Identify potential future or alternative outcomes for the Key Sites.

## Community Engagement

A Proposed Engagement Plan detailing a proposed community engagement process: public exhibition, notification tasks and engagement activities is provided at **Attachment 5**.

The exhibition of the Preliminary Growth Scenario is proposed to occur before the end of the year (between October and December) for over 8 weeks to provide the community and other stakeholders the time to review the information and provide feedback. There is an option to extend the deadline for submissions until the end of the year.

Notification of the public exhibition will occur through a variety of methods including a leaflet drop across the study area, in local newspapers, and on Council's website and social media outlets. Community Consultative Bodies and Local Aboriginal Land Councils will be notified, as will all the people who have already engaged in the project in some way (responded to an earlier survey or subscribed to receive updates).

The exhibition of the Preliminary Growth Scenario would be supported with a range of supporting explanatory information providing:

- A Summary of the features and considerations of each of the growth options, and
- An explanation of the population information, forecast housing need, and current capacity.

Opportunities for the community to learn more about the exhibition are being considered and could include presentations to relevant Community Consultative Bodies, online webinars (presentation and question and answer sessions), and community information sessions.

A dedicated webpage has been published for this project:

<https://getinvolved.shoalhaven.nsw.gov.au/milton-ulladulla-structure-plan>.

The Preliminary Growth Scenario and supporting information (Fact Sheets etc) will be published on this page.

The Council Project Team are also available to answer questions on the phone or through the online "Question & Answer" function provided on the project webpage.

Previous engagement work included a community survey collecting information on community values and community experiences with housing within the study area. This was conducted over August and September 2021 and over 270 responses were received, with highlights summarised below:

- Occupation of housing stock suitable for larger families by smaller households, suggesting reduced desire to downsize to smaller homes, which may be reflective of a lack of available alternatives.
- Ongoing strong demand for single detached dwellings accompanied by demand for more diverse, adaptable, and accessible homes to support ageing-in-place and lifestyle choices.
- Affordability is a major concern for younger age groups attempting to enter the housing market but less so for those already in the market.
- More support for the development of land with ocean and mountain views than for development of farmland or land with scenic value or involving the removal of vegetation.

- All age groups were generally supportive of low-rise, townhouse style development and (particularly with younger groups) indicated some acceptance of increased densities if appropriately designed.

Approximately 20 owners of strategic land parcels (already zoned for residential development and/or benefitting from development consent) were offered the opportunity to meet with Council staff to discuss the owners' plans (if any) for future use of their land. These meetings were optional, and information gathered was used to inform the analysis of residential demand and supply.

### **Policy Implications**

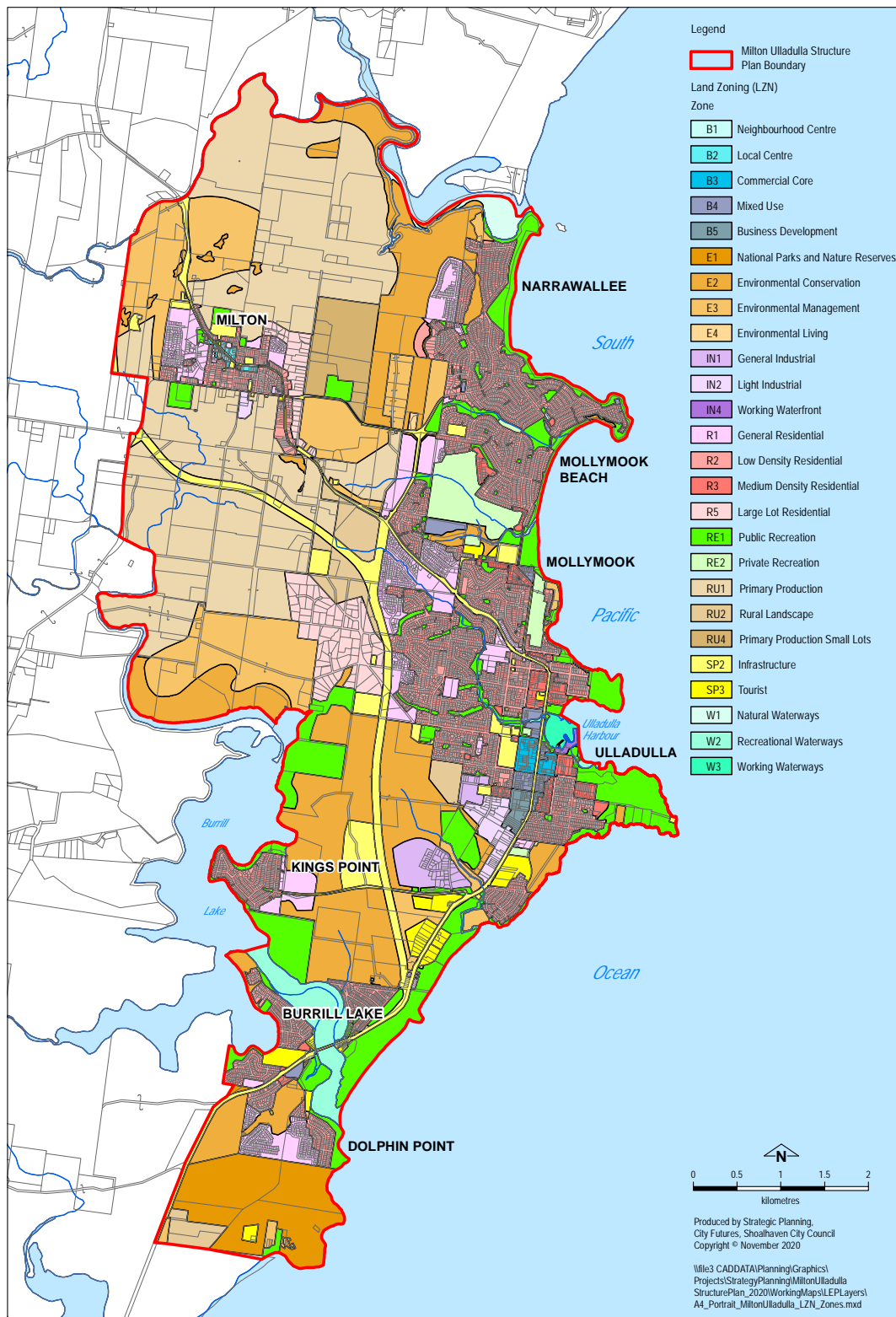
The NSW Government has recently expanded the Greater Sydney Commission to include the Lower Hunter, Greater Newcastle, Central Coast, and Illawarra-Shoalhaven regions. The Commission has been restructured and renamed the Greater Cities Commission.

The role and responsibilities of the Commission are still being determined, but the enabling legislation requires the Commission to identify dwelling targets for the new regions and each local government area. This is anticipated to occur in 2023-2024.

Progressing the development of a draft Strategy will provide key information to inform and allow Council to advocate for responsible dwelling targets.



Attachment - Map of Milton-Ulladulla Study Area



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## **Attachment 2 – Growth Scenario Analysis**

### **1. Maintain currently planned outcomes**

In this scenario, the estimated existing dwelling capacity, particularly for single detached dwellings in new urban areas, will be exhausted in about 8 years or by 2030. As current capacity is used, trends of decreasing housing availability, increasing rental and purchase prices, and limited ability to deliver the housing diversity to communities' needs may continue and may become worse. New homes will need to be delivered elsewhere in Shoalhaven, away from the jobs, shops and services offered in Milton.

Owners and developers may seek alternative outcomes and prepare their own rezoning proposals in and around Milton and Ulladulla. These could result in uncoordinated growth creating community concern about the strategic direction for the area, unplanned demand for infrastructure, and a resource intensive process to manage multiple proposals.

A decision to delay changes to currently planned outcomes would also jeopardise future dwelling supply because the lead time to plan and deliver new urban areas is at least 5 years. This time is required to complete the rezoning process, infrastructure planning and delivery, development approvals, subdivision works, and the construction of the first homes.

Reliance on the status quo appears unlikely to deliver required housing supply or diversity in an efficient and logical manner.

### **2. Greenfield Focus – Urban Fringe**

This scenario secures new housing supply on rezoning land on the fringe of existing urban areas. Most of the land not currently zoned for urban purposes in the study area is zoned for rural or environmental purposes, and impacts on rural land, environmental resources, and scenic values would need to be managed. The benefits of this approach include the potential to access consolidated parcels of land to plan and deliver significant quantities of housing. Infrastructure and servicing costs are smaller, when compared to remote greenfield sites, because of the opportunity to use and distance from existing and planned infrastructure.

### **3. Greenfield Focus – Remote Areas**

In this scenario, new housing supply is provided by rezoning land for urban uses remote from existing urban areas. Potential locations include west of the proposed Milton-Ulladulla Bypass or north of the ridge to the north of Milton. Most of the land not currently zoned for urban purposes in these areas is zoned for rural purposes. Impacts on rural land, environmental resources, and scenic values would need to be managed.

The benefits of this approach include the potential to access consolidated parcels of land to plan and deliver significant quantities of housing. However, urban development in such locations would be physically isolated from existing settlements and communities and, for western locations, could be difficult to connect across the Bypass. Costs of servicing would be significant due to the need for lengthy connections and the biophysical characteristics of the land, particularly its geology.

## **Attachment 2 – Growth Scenario Analysis**

Focussing all new development in greenfield areas would also undermine opportunities to promote delivery of housing and housing diversity in existing centres close to jobs, services and amenities and support such centres with a greater population.

### **4. Existing Urban Areas**

In this scenario growth is accommodated by “upzoning” appropriate urban areas to provide for medium- and high-density residential outcomes. The benefits of this approach include the ability to concentrate development in areas close to urban services and amenities, increase the diversity of dwelling types, and make efficient use of current and planned infrastructure. Although the need for new, and potentially costly, infrastructure would be reduced, retrospective upgrades to support increased densities may be restricted by existing street widths.

Drawback of this approach would include:

- The limited ability to meet the overall dwelling demand or the strong demand for single detached dwellings.
- Concern whether the extent of housing development required to meet forecast need could be achieved at a reasonable cost and in a timely fashion. Development of land already zoned for medium density housing adjoining the Ulladulla Town Centre has been limited, likely reflecting difficulties of assembling appropriate parcels of land given fragmented ownerships.
- Changes to urban character through increased building heights and different built form. Community feedback to date raises concerns with these issues.

### **5. Shared Growth – Greenfield Urban Fringe & Existing Urban Areas**

In this scenario, growth would be accommodated in both greenfield areas on the existing urban fringe and within existing urban locations. The extent of, and mix between, greenfield and urban growth could be targeted to address forecast housing need, both number and type.

A shared growth option has the advantage of facilitating a supply across all housing types, important to meet the communities’ emerging housing needs. It would supply greenfield capacity to facilitate the delivery of detached dwellings and potentially low scale medium-density development and the development of medium and higher density housing outcomes in existing areas.

A shared growth option:

- Allows new development to utilise existing and planned infrastructure and services to a much greater extent than a greenfield only solution, managing the costs of infrastructure augmentation into new areas.
- Helps contain impacts on rural land and land with scenic value compared to an all-greenfield approach.
- Appears most likely to address the need to provide sufficient additional capacity to meet forecast housing needs across the range of housing types to 2050 in a timely and efficient manner.



## Attachment - Preliminary Growth Scenario - Greenfield Sites



CL22.390 - Attachment 3



## Attachment - Preliminary Growth Scenario - Infill Sites



CL22.390 - Attachment 3



Attachment - Preliminary Growth Scenario - Key Site: Ulladulla Southern Gateway



Key Site: Ulladulla Southern Gateway



**Attachment - Preliminary Growth Scenario - Key Site: Deering Street, Ulladulla**





**Attachment - Preliminary growth Scenario - Key Site: Ulladulla Harbour Precinct**



**Key Site: Ulladulla Harbour Precinct**

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## Attachment – Growth Options: Considerations & Opportunities

### Greenfield Options

Corks Lane West	
Approximate Area: 14 hectares	
Opportunities:	Considerations:
<ul style="list-style-type: none"> <li>• Located on urban fringe</li> <li>• Extension of current subdivision works at Corks Lane</li> <li>• Proximity to Milton Town Centre</li> <li>• Limited impact on rural views towards Milton from the north</li> <li>• Clear of native vegetation</li> <li>• Limited natural hazards</li> <li>• Potential access to proposed Bypass</li> </ul>	<ul style="list-style-type: none"> <li>• Current land use (rural)</li> <li>• Servicing constraints due to elevation</li> <li>• Geology and topography</li> <li>• Visual impacts</li> </ul>

Croobyar Road South	
Approximate Area: 43 hectares	
Opportunities:	Considerations:
<ul style="list-style-type: none"> <li>• Located on urban fringe (existing residential area)</li> <li>• Benefits from approved urban development outcome (Seniors Living Concept Masterplan)</li> <li>• Proximity to Milton Town Centre</li> <li>• Clear of native vegetation</li> <li>• Potential access to proposed Bypass</li> </ul>	<ul style="list-style-type: none"> <li>• Current land use (rural)/approved development</li> <li>• Servicing</li> <li>• Geology and topography</li> <li>• Waterways and riparian corridors</li> <li>• Natural hazards (flooding)</li> <li>• Heritage</li> <li>• Visual impacts</li> <li>• Land use conflict (industrial uses)</li> </ul>

Bishop Drive West	
Approximate Area: 9 hectares	
Opportunities:	Considerations:
<ul style="list-style-type: none"> <li>• Located close to existing urban area</li> <li>• Extension of current subdivision works at Bishop Drive</li> <li>• Access to Milton, Mollymook, and Ulladulla</li> <li>• Minimal impact on views and rural setting</li> <li>• Clear of native vegetation</li> <li>• Enhancement of biodiversity corridor</li> </ul>	<ul style="list-style-type: none"> <li>• Current land use (rural)</li> <li>• Servicing</li> <li>• Geology and topography</li> <li>• Waterways and riparian corridors</li> <li>• Significance of surrounding vegetation and wildlife corridors</li> <li>• Natural hazards (flooding and bushfire)</li> <li>• Visual impacts</li> </ul>

## Attachment – Growth Options: Considerations & Opportunities

### Infill Options

Ulladulla CBD East (Mixed Use/High Density Residential)	
Approximate Area: 3 hectares	
Opportunities:	Considerations:
<ul style="list-style-type: none"> <li>• Adjacent to Town Centre</li> <li>• Repurposing of underutilised at-grade carpark</li> <li>• Potential catalyst stimulating similar development outcomes elsewhere in town centre</li> <li>• Public domain improvements</li> <li>• Integration with existing mixed-use development</li> <li>• Flexible business and residential opportunities, including affordable rental housing</li> </ul>	<ul style="list-style-type: none"> <li>• Current land use (car park)</li> <li>• Heritage</li> <li>• Urban design and built form</li> <li>• Scenic values</li> <li>• Feasibility</li> </ul>

Wason Street East (High Density Residential)	
Approximate Area: 1.6 hectares	
Opportunities:	Considerations:
<ul style="list-style-type: none"> <li>• Proximity to Town Centre</li> <li>• Contribution to diversity of dwelling types</li> <li>• Amount of vacant land/ownership pattern</li> <li>• Contribution to supply of short-term rental accommodation</li> </ul>	<ul style="list-style-type: none"> <li>• Current land use (residential)</li> <li>• Urban design and built form</li> <li>• Scenic values</li> <li>• Feasibility</li> </ul>

South Street/Burrill Street South (Medium Density Residential)	
Approximate Area: 3.6 hectares	
Opportunities:	Considerations:
<ul style="list-style-type: none"> <li>• Proximity to Town Centre</li> <li>• Adjacent to land zoned for medium-density residential outcomes</li> <li>• Transition from high- to medium-density development</li> <li>• Widths of roads: infrastructure upgrades, street trees, and enhanced amenity</li> </ul>	<ul style="list-style-type: none"> <li>• Current land use (low-density residential)</li> <li>• Urban design and built form</li> <li>• Lot consolidation</li> <li>• Scenic Values</li> </ul>

Camden Street/St Vincent Street (Medium Density Residential)	
Approximate Area: 4 hectares	
Opportunities:	Considerations:
<ul style="list-style-type: none"> <li>• Proximity to Town Centre and School</li> <li>• Transition from mixed-use to low-density residential development</li> <li>• Consolidated development footprint assists in retention of existing vegetation</li> <li>• Provision of new roads and connections.</li> <li>• Amount of vacant land/ownership pattern</li> </ul>	<ul style="list-style-type: none"> <li>• Current land use (low-density residential)</li> <li>• Current built form</li> <li>• Traffic management</li> <li>• Urban design and built form</li> <li>• Lot consolidation</li> <li>• Existing development application</li> </ul>

**Attachment 5****Planning for Growth in the Milton-Ulladulla Area****Proposed Community Engagement Plan****Public Exhibition**

- 10 October – 9 December 2022 (about 60 days or 8.5 weeks).
- Exhibition Material:
  - Preliminary Growth Scenario and Key Sites (map).
  - Fact Sheets for each Growth Option and Key Site.
  - Fact Sheets of background material (housing need, population change etc).
  - Frequently asked questions (updated through exhibition).
- Material available in Nowra and Ulladulla Administration Buildings, and Ulladulla and Milton Libraries.
- Material available on online project webpage:  
<https://getinvolved.shoalhaven.nsw.gov.au/milton-ulladulla-structure-plan>

**Notification of Exhibition**

- Notification email:
  - Community Consultative Bodies.
  - Local Aboriginal Land Councils
  - Responders to previous surveys about the project.
  - Subscribers to Project Page.
  - Development Industry Mailing List.
  - Key landowners (large sites zoned for residential development or benefitting from a development application for residential development).
- Reminder emails (mid-exhibition and 2-weeks before close of exhibition).
- Newspaper advert (notification and mid-exhibition).
- Leaflet drop across Study Area – dependent on cost/logistics.
- Council's online News Feed: <https://www.shoalhaven.nsw.gov.au/Council/News>.
- Article/s in Council's Community Newsletter and Social Media (notification and reminder posts).

**Engagement Exercises/Support**

- Community drop-in sessions (2) in Milton and Ulladulla (October/November).
- Online Webinar/Presentation (October/November and recorded).
- Presentation to relevant Community Consultative Bodies (October/November).
- Member of Project Team available in Ulladulla office – demand dependent.
- Project team available by phone, email, and online form on project page.

**Receiving Feedback**

- Submissions: in person (at information sessions), by post, by email, or online.
- Submissions deadline 24 December 2022 (option to extend into 2023).

## CL22.391 Medium Density Housing Review – Shoalhaven DCP 2014

**HPERM Ref:** D22/305251

**Department:** Strategic Planning

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

### Reason for Report

The first reason for this report is to present a summary of the community concern raised regarding medium density development across Shoalhaven since 2019 (the Review).

The second reason is to obtain endorsement to prepare a draft amendment or separate amendments to Shoalhaven Development Control Plan (DCP) 2014 to address the key themes raised by the community relating to medium density development.

The third reason is to obtain endorsement to not progress the September 2021 Council direction (MIN21.621(5)) to amend DCP Chapter G21: Car Parking and Traffic relating to the construction of off-street parking facilities.

### Recommendation

That Council:

1. Endorse the preparation of a draft amendment or separate amendments to Shoalhaven Development Control Plan (DCP) 2014 to address the key themes raised by the community relating to medium density development, as outlined in this report.
2. Not progress the amendment to Shoalhaven DCP 2014 regarding the design/construction standards of off-street parking facilities (MIN21.621(5)).
3. Receive a further report to consider the draft amendment or amendments prior to any formal public exhibition.

### Options

1. As recommended.

Implications: This is the preferred option as it enables further detailed investigation of appropriate improvements to Chapter G13: Medium Density and Other Residential Development and other chapters of the DCP to address the dominant community concerns resulting from medium density development since 2018 when the new medium density provisions came into effect. This option endorses the preparation of a draft amendment to the DCP which would be considered by Council in a separate future report.

This option also recommends that the direction made under MIN21.621(5) not progress. The proposal sought to amend DCP Chapter G21: Car Parking and Traffic to reduce the manoeuvring requirements for off-street parking facilities in favour of AS2890.1. The Review indicates that a significant proportion of community concern relates to the potential impacts of insufficient or inappropriate carparking provision for residents and visitors, which results in or impacts upon congestion, safety and traffic movements within the public domain.

2. Adopt an alternative recommendation.

Implications: This is dependent on the nature of the alternative proposal. This could include: more analysis of issues/concerns: early engagement with community,

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development industry etc.; independent design review work or similar. This type of additional work at this stage could delay things and it is possible to build any of these mechanisms into the recommended work on an amendment to the DCP.

3. Not adopt the recommendation.

Implications: This would mean that the existing medium density (and ancillary) provisions in the DCP would be retained as existing. As such, development of medium density development may not achieve best design outcomes and may result in ongoing negative impacts and costs to residents and the broader community.

Further, as development density continues to increase, sustained community concern may result in flow on impacts to Council staff resourcing and community representations to Councillors.

This option would also see the progression of the amendment to Chapter G21 in line with MIN21.621(3) relating to the construction of off-street parking facilities which is not preferred for the reasons outlined in this report.

## Background

In 2018, Council embarked upon a large-scale review of the Shoalhaven DCP 2014 relating to medium density development. This ultimately resulted in a new [Chapter G13: Medium Density and Other Residential Development](#), commencing in 2018. As part of this process, Council resolved (MIN18.646) to make numerous amendments to the exhibited DCP package prior to finalisation. The Chapter was again amended in 2019 following a Notice of Motion (MIN18.993) making further adjustments to its contents.

On 28 March 2022, following consideration of a Mayoral Minute, Council resolved (MM22.4) to receive a report as soon as practicable that:

1. *Considers issues presented by members of the Shoalhaven Community regarding medium density development relating to car parking, private open space, landscaping and accessibility (not exclusively) that have arisen since 2019 when changes occurred.*
2. *Recommends a range of possible resulting improvements that could be made to Chapter G13: Medium Density and Other Residential Development of Shoalhaven Development Control Plan 2014 (and other chapters of the DCP if required) to address these concerns, including the preparation of a potential draft Chapter G13 for consideration.*

In accordance with the resolution, a review has been undertaken that has considered:

- Medium density development applications (primarily dual occupancy and multi dwelling housing) across Shoalhaven within the last three years, that received exceptional critical feedback through the community engagement process.

Seven (7) 'case study' medium density residential development applications, that received a significant number of submissions when exhibited. A total of 342 submissions from 223 households/families were reviewed for the 'case studies' at:

- 101 Hillcrest Avenue, South Nowra (7 submissions) – DA19/1723
- 52 Parker Crescent, Berry (147 submissions) – DA19/1857
- 31 Porter Circuit, Milton (54 submissions) – DA21/1991
- 32 & 36 Yarrawonga Drive, Mollymook (41 & 43 submissions) – DA21/2348 & DA21/2359
- 13 The Bastion, Manyana (32 submissions) – DA22/1281

- 6 Dune Crescent, Manyana (23 submissions) – DA22/1524
- Submissions received through strategic planning processes (e.g. relevant Planning Proposals and Development Control Plan amendments).
- Matters raised via duty enquiries and general correspondence.
- Deputations received by Council on a range relevant of matters.

The review has identified a number of **dominant community concerns** which are outlined in **Table 1** below.

**Table 1 - Dominant Community Concerns**

Theme	Prevailing issues identified
<b>Built Form / character</b>	<ul style="list-style-type: none"> <li>• Design out of character with surrounding development</li> <li>• Development area / density too high</li> <li>• Excessive development height</li> <li>• Poor architectural design and visual dominance</li> <li>• Building setbacks too close to boundaries / adjoining development or setbacks not defined</li> <li>• Unsuitable location – proximity to facilities</li> <li>• Loss of property value due to proximity to development</li> <li>• Potential of new compact development being used for short term rental accommodation (STRA)</li> </ul>
<b>Amenity/Design</b>	<ul style="list-style-type: none"> <li>• Privacy impacts including overlooking and noise</li> <li>• Loss of solar access to living areas and outdoor private open space</li> <li>• Loss of views or outlook</li> <li>• Socio-economic impacts of resultant STRA and loss of property value</li> <li>• Poor accessible and adaptable housing provisions</li> </ul>
<b>Car parking and traffic</b>	<ul style="list-style-type: none"> <li>• Inadequate vehicle parking provision and circulation on-site</li> <li>• Traffic impacts on surrounding road network</li> <li>• Pedestrian safety</li> <li>• Utilisation of carparking allocation for household storage</li> <li>• Adequacy of access for service vehicles including emergency vehicles</li> <li>• Driveway design and location</li> </ul>
<b>Off-site impacts</b>	<ul style="list-style-type: none"> <li>• Stormwater and flooding</li> <li>• Land re-shaping / earthworks, retaining walls</li> <li>• Adequacy of public infrastructure</li> </ul>
<b>Landscaping</b>	<ul style="list-style-type: none"> <li>• Lack of sufficient private open space / landscaping</li> <li>• Habitat loss</li> <li>• Tree removal</li> <li>• Impacts on neighbouring trees</li> </ul>

A summary of the distribution of the dominant community concerns across the ‘case study’ development applications is provided in **Table 2** below. The matrix shows the percentage of total submissions for each development application that touched on each theme.

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**Table 2 - Summary of the distribution of the dominant community concerns across the 'case study' development applications**

Theme	DA19/ 1723	DA19/ 1857	DA21/ 1991	DA21/ 2348	DA21/ 2359	DA22/ 1524	DA22/ 1281
<b>Built form / character</b>	71%	70%	78%	75%	79%	87%	75%
<b>Amenity</b>	100%	57%	54%	24%	37%	30%	34%
<b>Vehicles</b>	42%	57%	83%	68%	81%	43%	40%
<b>Site impacts</b>	-	55%	11%	7%	9%	26%	31%
<b>Landscaping</b>	-	52%	18%	-	9%	-	9%

The above matrix shows that the highest proportion of submissions on the applications were concerned:

- That the proposed development did not reflect or was not consistent with the dominant local character; and/or
- With the interaction of the development in the public realm associated with increased vehicle parking and movements; and/or
- About amenity being lost due to overlooking and overshadowing.

The community responses demonstrate broader concerns around compatibility and context sensitive development, which is a key theme of the NSW Government's [Local Character and Place Guideline 2019](#).

Five (5) of the 'case study' development applications were for properties located within relatively recent residential subdivisions (2001 onwards), where existing development was generally characterised as low-density single dwellings that are geographically located at a distance from town centres. Increased density through compact (medium density) housing, at the scale that is currently occurring, was generally not envisaged as part of the strategic vision or early development planning for these older subdivisions at the time. Ten (10) submissions included commentary regarding the provision of compact housing typologies in premium locations as having a non-contributory impact on housing affordability or meeting the needs of an aging population. These submitters observed that suitably designed compact housing closer to town centres was considered more appropriate to meet these housing needs.

Council's [Shoalhaven 2040: Our Strategic Land-use Planning Statement](#) (LSPS) recognises that compact homes are required for housing diversity, and that these compact homes need to be managed to ensure development contributes to neighbourhood character (Planning Priority 1 and 13).

The NSW Government recognises that higher density residential development is best suited to areas where the future vision is transitioning to higher density housing. Consistent with this expectation, compact housing development located within recently established low density residential subdivision areas received the highest number of negative responses. This may be due to unexpected intensification within areas which are not currently transitioning to higher density or where the location may be unsuitable due to minimal active transport opportunities and the distance to town centres.

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**Table 3** below included as range of recommended changes to the DCP that should be considered to address some of the community concerns regarding medium density residential development and to reinforce the importance of good medium density design and development outcomes across Shoalhaven. The list of recommendations in **Table 2** is not exhaustive, and this report recommends an amendment/s to the DCP that considers all the themes in **Table 1**. For example, this includes accessibility/adaptability, the importance of which is being raised nationally by key peak bodies as part of the discussion on the National Construction Code.

**Table 3 - Recommended DCP Amendments**

Theme	Recommended DCP Amendments	Rationale
<b>Built Form Character Amenity</b>	<p>Inclusion of character statements so that the existing and future character of Shoalhaven's towns and villages can be detailed to ensure that in-fill development contributes to existing and desired future neighbourhood character.</p> <p>Refine the existing site analysis controls to ensure consideration of existing environmental characteristics within a 100m buffer area of a development.</p>	<p>260 submissions (75% of total) related to concerns that medium density development was not consistent with local character.</p> <p><a href="#">The Illawarra- Shoalhaven Regional Plan</a> recognises that the development of local character statements prepared in accordance with the NSW Government's <a href="#">Local Character and Place Guideline</a> can:</p> <p><i>'Support the dominant theme of a region that values its people and places'</i> (Strategy 22.1)</p> <p>The Guideline was developed by the NSW Government to elevate the consideration of local character and provide a framework to integrate consideration of character into the planning framework.</p> <p><a href="#">Shoalhaven 2040 LSPS</a> recognises that the preparation of built form statements is required as a priority to identify the planning and development controls that can be used to influence the quality of neighbourhood character (Action 13.1).</p> <p>The NSW Government's <a href="#">Low-Rise Density Design Guide</a> recognises that:</p> <p><i>'The local character of an area is generally considered to be within the visual catchment of a site or precinct. In most instances, this relates to the area within 100m of the site'. (p140).</i></p>
<b>Amenity Landscaping Site Impacts</b>	<p>Review landscaping controls to:</p> <ul style="list-style-type: none"> <li>• Reduce privacy and amenity impacts.</li> <li>• Ensure appropriately sized landscaped areas which provide benefits of the penetration of stormwater and retained and enhanced tree canopy to foster a</li> </ul>	<p>120 submissions (35% of total) related to concerns about loss of privacy from overlooking and acoustic intrusion.</p> <p>116 (33% of total) related to concerns about inadequate access to sunlight.</p> <p>A priority of the NSW Premier is increasing green cover by planting trees which is considered to be an important contribution to improve local character</p>

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	<p>greater sense of place.</p> <ul style="list-style-type: none"> <li>• Ensure consistency between the DCP and LEP regarding landscaped area definition.</li> <li>• Ensure that development contributes to active street frontages and does not result in the enclosure of the front (street) setback from the public domain.</li> </ul> <p>Review the Private Open Space controls to ensure:</p> <ul style="list-style-type: none"> <li>• Provision of comfortable, sustainable private places that provide access to sunlight and outlook</li> <li>• Private open space is of a sufficient size without being located within the front setback or impacting solar access or privacy of adjoining development.</li> </ul> <p>Review the Tree and Vegetation management controls to ensure:</p> <ul style="list-style-type: none"> <li>• A balanced approach to tree retention to positively contribute to mitigating amenity loss, stormwater inundation and local character loss.</li> </ul> <p><i>Note: Council's upcoming consideration of the 45 Degree Rule will also be an important consideration in relation to this issue.</i></p>	<p>and enhance property values.</p> <p><a href="#">The Illawarra-Shoalhaven Regional Plan</a> recognises the importance of urban tree cover in building sustainable and resilient communities (<i>Strategy 13.1</i>).</p> <p><a href="#">Shoalhaven 2040 LSPS</a> recognises that to ensure resilience to natural hazards and enhance building resilience, Council will commit to investigate measures to improve green cover (Planning Priority 11).</p> <p>The NSW Government's <a href="#">Low-Rise Density Design Guide</a> recognises the importance of solar and daylight access for good sustainable design (<i>P46</i>).</p> <p>The NSW Government provides guidance when planning to respect and enhance local character in <a href="#">Planning Circular PS 21-026</a>:</p> <p><i>'Built form, bulk, scale and height as well as landscaping and good design all play a part in ensuring the character of an area is maintained'.</i></p>
<b>Car Parking and Traffic</b>	<p>Include additional controls to promote safe active transport networks by:</p> <ul style="list-style-type: none"> <li>• Providing flexible parking controls or incentives within a walkability buffer of 400m of town centres, or where it can be demonstrated that there is adequate street characteristics to support parking intensification in the public realm.</li> </ul> <p>Review the car parking and storage controls to:</p> <ul style="list-style-type: none"> <li>• Provide a viable, balanced approach to sufficient on-site car parking provision to accommodate parking needs onsite, enhance road safety and reduce car dominance on the building frontage.</li> <li>• Provide adequate storage provisions to ensure that larger household</li> </ul>	<p>168 objections (48% of total) related to inadequate on-site car parking provision for household needs.</p> <p>202 objections (58% of total) related to concerns regarding additional car parking and movements within local streets.</p> <p>The use of allocated carparking spaces for household storage has potential flow on impacts for street character.</p> <p>The NSW Government <a href="#">Practitioners Guide to Movement &amp; Place</a> supports a well-designed built environment to support sustainable development and improve the amenity of places.</p> <p>A goal of <a href="#">The Illawarra-Shoalhaven Regional Transport Plan</a> is for</p> <p><i>'One in five trips made by walking, cycling or public transport options.</i></p>

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	items can be accommodated within dwellings without reducing on-site carparking availability.	<a href="#"><u>The Illawarra-Shoalhaven Regional Plan</u></a> recognises the importance of increased housing growth close to well serviced strategic centres (objective 18).
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### **Amendment to DCP Chapter G21: Car Parking and Traffic - Off-Street Parking Facilities**

On 7 September 2021, Council resolved (MIN21.621(5)) to amend Shoalhaven DCP 2014 to:  
*"... Draft Amendment 6 ... for public exhibition which adopts the provisions of AS2890.1 in relation to design and construction of off-street parking facilities in place of current unique provisions of Chapter G21".*

Acceptable Solution A12.1 in DCP Chapter G21 currently specifies that the minimum turning paths for medium density development is to be designed for a AS2890.1 B99 Design Vehicle and AUSTROADS Passenger Vehicle.

The requirement to specify the use of the B99 design vehicle was based on a local survey specific to Shoalhaven, which identified that the Australian Standard B99 vehicle is for all intents and purposes consistent with the dimensions of the B85th vehicle registered within Shoalhaven.

This is consistent with the general observation that larger cars are more often than not evident on rural/regional roads. The same survey found that the Australian Standard B85 vehicle was, for all intents and purposes, consistent with the dimensions of a B65th vehicle registered within Shoalhaven. This means that if Council adopted the Australian Standard B85 vehicle, up to 35% of vehicles registered within Shoalhaven would have more difficulty navigating aisles and spaces designed for the B85. This can result in long term manoeuvrability and operational issues within developments, that are not easily or cannot be fixed.

For this reason, Acceptable Solution A12.1 in DCP Chapter G21 specifically details the B99 vehicle so that turning paths are more appropriately designed to address the higher proportion of larger sized vehicles registered and prevalent on Shoalhaven's roads.

On this basis and reflecting on the community concern raised regarding inadequate vehicle circulation on-site, driveway design and traffic impacts for medium density development, it is recommended that the DCP amendment suggested by MIN21.621(5) not proceed.

### **Conclusion**

Medium density development provides an excellent opportunity to provide much needed housing supply and diversity across Shoalhaven in appropriate locations.

Good quality and contextually appropriate DCP provisions that promote well designed medium density development can increase community acceptance of this form of development.

The review of recent community concerns regarding medium density development has highlighted that there are a range of provisions that could be introduced or reconsidered within the Shoalhaven DCP 2014 to address the concerns raised and the resultant outcomes that have been observed. A number of these matters could be addressed by the reintroduction of previously exhibited or effective provisions that were ultimately not progressed or discontinued by the Council since 2018, or through the introduction of new and contemporary provisions that specifically meet Shoalhaven's current and emerging needs.

As such, it is recommended that Council endorse the preparation of a draft amendment to Shoalhaven DCP 2014, focusing on the areas of community concern and the proposed staff response, as outlined in this report.

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## Community Engagement

No community engagement has been undertaken as part of this initial review process; however, it is noted that the views of the community have been considered through the review of submissions, duty enquiry feedback, general correspondence and deputations made by community members relating to medium density development since 2019.

Any amendments to the DCP will include community consultation (including the development industry) in accordance with legislative and project requirements.

## Policy and Risk Implications

It is important to ensure that any change to the DCP is consistent with the *Illawarra-Shoalhaven Regional Plan*, specifically that the proposal will not impact upon the opportunity to provide additional diverse housing growth generally across Shoalhaven. The continued encouragement of compact housing provision located around shops, parks and open space is also consistent with the Shoalhaven 2040 LSPS.

However, it is noted that the continued provision of medium density housing needs to be balanced with the consideration of the long-term amenity and liveability of the resulting dwellings and impact on the public domain, road network and the environment.

Any proposed provisions will also need to be carefully considered and balanced against the provisions in the NSW Government's Codes SEPP, which enables a range of medium density development to be undertaken as 'complying' development without assessment or consideration by Council. This represents a project challenge in terms of consistency (or inconsistency) between the two pathways, as well as consideration of adverse impacts such as contextual sympathy with local / desired character and site-specific traffic impacts.

Depending on the ultimate DCP changes recommended to Council and resources available at the time, it may be appropriate to progress a number of separate amendments to the DCP. The work and how it is undertaken will also need to be considered in the context of the ongoing discussions regarding Councils Strategic Planning Works Program, specifically the option of preparing new land use planning strategy and planning instruments for Shoalhaven.

Whilst a significant number of objections were received for residential flat buildings, a higher density form of development proposing 3 or more storeys, the DCP requires the design to be in accordance with the provisions of the [\*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development\*](#). As the 2018/2019 DCP changes did not result in any significant changes to residential flat buildings provisions, these applications have been excluded from this report; however further consideration of these community concerns could be undertaken in the future, possibly as part of a broader review if needed/appropriate.

## Financial Implications

There are no immediate financial implications for Council as a result of this report. Any future amendment to Shoalhaven DCP 2014 would require a financial commitment from Council. It is anticipated that this would be covered by the Strategic Planning budget allocation, or as otherwise reported to Council.

## CL22.392 Proposed Submission - NSW Coastal Design Guidelines: Draft Update

**HPERM Ref:** D22/343185

**Department:** Strategic Planning  
**Approver:** Carey McIntyre, Director - City Futures

**Attachments:** 1. Draft Submission - Coastal Design Guideline [↓](#)

### Reason for Report

The reason for this report is to seek an endorsement of a proposed submission on the NSW Coastal Design Guidelines – Draft Update (draft Guidelines) to enable its submission to the NSW Department of Planning and Environment (DPE).

### Recommendation

That Council make the submission on the NSW Coastal Design Guidelines – Draft Update, consistent with **Attachment 1**.

### Options

1. Adopt the recommendation and make the submission on the draft Guidelines as proposed in **Attachment 1**.

Implications: This is the preferred option as it will enable Council to provide a submission by the agreed deadline and continue to be involved in this process.

2. Adopt an alternative recommendation to amend or add comments to the proposed submission before submitting.

Implications: This will potentially require an amendment to or redrafting of the attached draft submission, the nature of which will be dependent on the required changes.

3. Do not make a submission.

Implications: This is not preferred as it will be a missed opportunity to provide feedback on the draft Guidelines.

### Background

This matter has been under consideration/review by the NSW Government since 2018. Council provided previously provided feedback submissions in late 2018, early 2020 and early 2021. One of the consistent points that was raised through this feedback was the relationship and crossover with the existing Urban Design Guide for Regional NSW and need for clarity in this regard.

On 29 July 2022, DPE released a draft update of the revised NSW Coastal Design Guidelines for public review and comment.

The draft Guidelines are a review of the existing [2003 Guideline](#), aimed to help provide consistent guidance which is required to be considered when NSW coastal Councils assess Planning Proposals in the coastal zone. The draft Guidelines are also aimed at providing

best-practice urban design guidance for those involved in shaping the built environment within NSW's coastal environments.

The draft Guidelines build on the following work of the NSW Government Architect:

- [Urban Design for Regional NSW – a guide for creating healthy built environments in regional NSW \(2020\).](#)
- [Better Placed – an integrated design policy for the built environment of NSW \(2017\).](#)
- [Draft Greener Places – an urban green infrastructure design framework \(2020\).](#)

The exhibited draft Guidelines and a Frequently Asked Questions (FAQs) sheet are available at the following links:

- Draft Guide: [NSW Coastal Design Guidelines](#)
- FAQs: [Frequently Asked Questions on the NSW Coastal Design Guidelines](#)

The draft Guidelines are structured into the following four chapters shown in **Table 1** below:

**Table 1 – Structure of the Draft NSW Coastal Design Guidelines**

Chapter	Summary of Chapter
<i>Chapter 1</i> <i>Introduction</i>	Identifies the application of the Guidelines either as a mandatory assessment guide for Planning Proposals and an optional application as a best-practice urban design guidance in the preparation of regional and district plans, Local Strategic Planning Statements, master plans and precinct plans and business cases. They can also be applied to the assessment of development applications, including coastal subdivisions. This section also identifies the Guidelines strategic context.
<i>Chapter 2</i> <i>Understanding Coastal Places</i>	Identifies the key factors and features that shape coastal places to assist in informing a 'place based' approach to determining the influences and environmental context of coastal places to inform site analysis.
<i>Chapter 3</i> <i>Planning proposals in the coastal zone</i>	Provides a strategic merit list of mandatory and recommended outcomes that are required to be considered and satisfactorily demonstrated in the assessment of Planning Proposals within the defined coastal zone.
<i>Chapter 4</i> <i>Urban design guidance for the coastal zone</i>	Provides guidance for best practice urban design outcomes for any coastal place. This chapter also provides relevant resources for further consideration within the design process.

### Proposed submission points

The draft submission in **Attachment 1** provides general and specific comments on the draft Guidelines, with the suggested key feedback points as follows:

- The proposed Guidelines are generally a welcome resource; however, it may have been more appropriate for regional coastal environments to have been included within the Urban Design Guide for Regional NSW, rather than the creation of this overlapping Guide.

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- The ability to influence good design in the planning process is becoming more limited through the expansion of 'exempt' and 'complying' development, and the NSW Government's reinforcement that Development Control Plans (DCPs) are only 'guidance' documents.
- With the greater expansion of the Greater Cities Commission (GCC) remit, and incorporation of Shoalhaven within the Commission's area, there is a likely expectation of future mandated housing targets and economic growth strategies. These competing objectives need clarification and clear guidance needs to be provided at a NSW Government level.
- Need to consider how good urban design can be given more relevance/consideration by the development industry.
- Real and relevant case studies of the application of the Guidelines, especially in the process of identifying Aboriginal culture and heritage, would increase accessibility.
- The Guidelines must provide consistency if a responsive 'place-based' approach is to be encouraged.

### Community Engagement

The NSW Government is publicly exhibiting the draft Guidelines between 29 July and 9 September 2022.

To enable the proposed submission to be reported to Council, an extension of time has been granted by DPE for this submission, until 16 September 2022.

### Policy Implications

Planning Proposals located within the coastal zone **must** demonstrate how the mandatory requirements and recommendations set out in section 3.2 of the Guidelines have been addressed.

Where a Planning Proposal is inconsistent with any of the relevant mandatory requirements or recommendations, those inconsistencies must be explained and justified. This level of assessment is an additional consideration to the requirements of other relevant legislation, policies and local planning directions.

The requirement of this section is however generally consistent with the current (2003) Guide and is generally considered to be a logical approach to development within coastal areas.

### Financial Implications

The financial implications of the Guidelines will be minimal, however there may be the need for the training of staff, which will need to be managed within existing budgets where possible.

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**DRAFT Submission – NSW Coastal Design Guidelines: Draft Update**

Thank you for the opportunity to comment on the proposed NSW Coastal Design Guideline: Draft Update (the Guidelines). Council welcomes the NSW Government's continued recognition of the importance of good design and appropriate development in NSW's coastal areas.

The current exhibition material features a considerable amount of content to be reviewed in order to provide a response. Council requires an appropriate amount of time to ensure the preparation of a properly considered and Council-endorsed response, this has been consistently requested. Councils across NSW have been presented with wide ranging and significant reforms recently, which may have broad implications particularly with regard to how these changes are coordinated and rolled out and ultimately impact on users.

We again ask that appropriate timeframes be provided for any future reforms or policy change/reviews announced by the NSW Government.

Your favourable consideration of our request for an extension of time until 16 September 2022 however is appreciated.

This submission has been endorsed by Council at its Ordinary Meeting of 12 September 2022 (MINXXXX):

**INSERT RESOLUTION**

**General Comments**

- The Guidelines are a welcome urban design resource which will help reinforce consideration of coastal environments and will go some way to improving the understanding of coastal constraints within urban design and the importance in creating well-designed responsive built environments. The Guidelines focus primarily on coastal environments within regional areas. Rather than creating another guideline and any associated confusion/overlap, consideration should have been given to an expansion of the existing Urban Design for Regional NSW guideline. This would potentially provide greater clarity. Also, alternatively, there could be scope to include a specific section on coastal design in the existing Housing SEPP or Apartment Design Guidelines (SEPP 65).
- One of the major challenges continuing to be faced by regional Councils is communicating the value and importance of good design and the negative cumulative impacts of poor design to property owners and the development industry, who tend to often view even minor changes to improve environmental or design outcomes as an additional cost imposition. While the objectives of the Guideline are appreciated for assessment of relevant development, being a non-statutory guideline, it is unfortunately unlikely to be widely considered by landowners and the development industry in Shoalhaven.



- The ability for Councils to encourage and influence sustainable and well-designed built outcomes in the planning process, aligned with the suite of design guidance that continues to be made available, is becoming more and more limited through the expansion of 'complying' development and the reinforcement of provisions in the *Environmental Planning and Assessment Act 1979* and associated Regulation that DCP's are guidance documents only. Individual cost savings and timeliness provided to property owners and developers through the 'complying' development pathway should not necessarily come at the cost of well-designed and environmentally sympathetic coastal built environments.
- Development patterns in Shoalhaven consist of dispersed coastal settlements and towns located on the coastal fringe, with a substantial proportion of these existing settlements located within coastal management areas. The Codes SEPP provides a 'one size fits all' approach to residential development and does not specifically consider whether development is appropriate for the location or provide opportunity to mitigate impacts on the natural quality of these coastal environments. The proposed expansion of the Codes SEPP to facilitate agritourism uses have broad ranging implications within Shoalhaven where a significant proportion of rural zoned land is located within the coastal zone, in highly sensitive coastal environments. These competing objectives need clarification and clear guidance to be provided at a State Government level.
- With the greater expansion of the Greater Cities Commission's (GCC) role and the incorporation of Shoalhaven within the Commission's responsibility, there is an expectation of potential future mandated housing targets and economic growth strategies set by the GCC. The potential implications of this could place pressure on dispersed and constrained coastal settlements for housing and employment provision. The Guide must ensure consistency with the strategic vision of the Regional Plans within the coastal management areas, where competing environmental factors often constrain continued growth.
- The Guidelines have the potential to provide focussed outcomes for coastal development through the Planning Proposal (rezoning) stage, however, they do not provide any benchmarks for evaluation and monitoring and will potentially be overlooked by many property owners and the development industry. More specific outcomes depending on coastal typologies could help ensure improvements in design outcomes through more quantifiable provisions. The introduction of relevant case studies at varying scales that reinforces the desired outcomes, and the processes to achieve these outcomes, would be extremely beneficial.

#### **Chapter 1: Introduction**

- Government and most design practitioners generally have a good understanding of the processes and steps required to achieve place responsive design outcomes, whereas individuals and communities in regional NSW tend to be often much more disengaged. The consideration of the 'optional' application of the Guide during the development application



and assessment process in this instance, is likely to mean it is not be utilised by most applicants .

- There is a spelling mistake in paragraph 1, within the Design Guidance section (procuding) – page 10.

#### **Chapter 2: Understanding coastal places**

- Council strongly supports where possible/appropriate the principles of a 'place-based' approach to development within the coastal management areas. The relationship made between the common features and the threats and hazards has been appropriately identified. As discussed previously, the expansion of the Codes SEPP often conflicts with 'place-based' approaches to responsive built form outcomes.
- The inclusion of real, relevant case studies or supplementary information, especially in the process of identifying cultural significance, would be helpful to increase the likely effectiveness of the Guideleines.
- There would be benefits in replacing the image on page 20 (a local community market) with a more relevant image, possibly one that depicts authentic cultural engagement. This is an appropriate considering a key focus of the Guidelines is engagement with traditional custodians to influence design.

#### **Chapter 3: Planning Proposals in the coastal zone**

- The requirement within this section is generally consistent with the current (2003) Guide and industry best practice; and is generally considered to be a logical approach to development within coastal areas.
- This chapter provides a practical assessment tool with the mandatory and recommended requirement checklist. However, this checklist overlaps with the existing statutory objectives and obligations of the *Coastal Management Act 2016* and the Resilience and Hazards SEPP (and other relevant legislation), which provides another level of consideration.
- While the intent is to encourage genuine 'place-based' design that reflects the individual environmental characteristics and features as outlined in Chapter 2, this conflicts with the provision of building height limits (outcome B.2) which sets an overarching height limit guide.
- The re-categorizing of the coastal settlements (towns, villages and cities) on population numbers intended to broadly encompass all coastal areas is not consistent when encouraging a responsive, 'place-based' design approach.

#### **Chapter 4: Urban Design Guidance for the Coastal Zone**

- The considerations provided in the Guidelines, beyond the scope of assessment of Planning Proposals, are unlikely to be interpreted effectively

by landowners and the development industry. With the vast proportion of development applications for new building works within regional coastal communities being landowner as opposed to industry initiated, the high-level language of the checklist is not accessible to many of these stakeholders.

- As noted previously, the inclusion of real case studies demonstrating how the 'place-based' design principles have been enacted would be beneficial to influence landowners and the community of what best practice, 'place-based' design looks like.

## CL22.393 Exhibition Outcomes and Proposed Finalisation - Planning Proposal - 268A Beach Road, Berry - LEP Minimum Lot Size Amendment

**HPERM Ref:** D22/323075

**Department:** Strategic Planning

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

**Attachments:** 1. Redacted NSW DPI Letter for amended proposal (support Concept 2)  
01042022 [↓](#)

### Reason for Report

The reason for this report is to present to the Council, the public exhibition outcomes for this Planning Proposal (PP061) that ultimately facilitates a boundary adjustment subdivision between 268A and 268B Beach Road, Berry, by amending the Minimum Lot Size in Shoalhaven Local Environmental Plan (LEP) 2014 that applies to 268A Beach Road (Lot 1 DP 1081549).

A further reason is to obtain endorsement from Council to finalise the post-exhibition version of PP061 and proceed to amend the LEP accordingly.

### Recommendation

That Council:

1. Adopt and finalise Planning Proposal PP061 to amend the Shoalhaven LEP 2014 Minimum Lot Size map overlay as exhibited, to potentially enable a boundary adjustment subdivision to be considered between 268A and 268B Beach Road, Berry.
2. Liaise with the NSW Parliamentary Counsel's Office to amend the Shoalhaven LEP 2014 Minimum Lot Size map overlay, using Council's delegation.
3. Advise the proponent and adjoining landowners of this outcome.

### Options

1. As recommended.

Implications: This is the preferred option. The resulting LEP amendment will potentially enable a boundary adjustment subdivision between Lots 1 and 2 DP 1081549 (268A and 268B Beach Road) Berry. Both Lots have existing approved dwellings and no further dwelling entitlements will be created. The proposed boundary adjustment would enable the central treed area to be encompassed within one lot. The resulting minimum lot size for Lot 1 DP 1081549 would not be inconsistent with surrounding properties and the accompanying Agricultural Assessment indicates that this would not preclude land use(s) consistent with the applicable *RU4 – Primary Production Small Lots* land-use zoning.

2. Make an alternate resolution.

Implications: Will depend on the nature of any resolution.

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- Reduce Lot 1 DP 1081549 (268A Beach Road) to 4 ha

- Increase Lot 2 DP 1081549 (268B Beach Road) to 16 ha (Note: This does not require an amendment to the current 10 ha minimum lot size requirement.)

The PP will amend Sheet LSZ\_019E of the minimum lot size map overlay in the LEP as it applies to Lot 1 DP 101549. The amendment will affect approximately 4 ha of land within the north-western portion of the subject lot, by replacing the current 10 ha (AB1) minimum lot size with a 4 ha (Z3) minimum lot size. The proposed LSZ mapping change is shown in Figure 2, below:



**Figure 2: Existing (left) and Proposed (right) Minimum Lot Size (LSZ) Maps**

Legally approved dwellings are already established on both lots. The proposed LEP amendment will not create additional dwelling entitlements nor enable further subdivision.

The PP request was considered by Council on 7 September 2021 and it was resolved to:

1. Support the Planning Proposal to amend the Shoalhaven LEP 2014 Minimum Lot Size maps to show a 4ha (Z3) parcel for Lot 1 DP 1081549 (268A Beach Rd BERRY), as identified in the Proposed Minimum Lot Size Map associated with this proposal.
2. Prepare and submit the PP documentation to the NSW Department of Planning and Environment for Gateway determination, and dependent on the outcome proceed to exhibit the PP and report back to Council post-exhibition.
3. Advance as a 'minor' proponent-initiated Planning Proposal with fees charged in accordance with Council's adopted Fees and Charges.
4. Advise the proponent of this resolution.

A Gateway determination was subsequently received permitting this PP to proceed, subject to conditions requiring early consultation with the following Government agencies and public exhibition (14 days):

- NSW Rural Fire Service (RFS)
- NSW Department of Primary Industries (DPI) – Agriculture

## Feedback from Public Authorities

The following formal submissions were received from the required early consultation.

### NSW Rural Fire Service

Comments received on 18 February 2022 - no objection to the PP and no further consultation is necessary.

### NSW Department of Primary Industries Agriculture

As a result of consultation, three (3) letters were received from DPI - Agriculture dated 2 December 2021, 1 April 2022, and 26 May 2022.

Letter dated 2 December 2021 - initially objected to the PP on the basis that part of the smaller proposed lot (Lot 1) "...contains land that is of high agricultural quality". Acknowledged that the proposal retained mapped Biophysical Strategic Agricultural Land (BSAL) within a single Lot but opposed the proposal to separate this land from non-BSAL agricultural resources. Raised further concerns that any boundary adjustment may compromise agricultural practices intended for the RU4 land-use zoning, due to a resulting smaller lot size for Lot 1 (268A Beach Road).

In response to these initial comments from DPI - Agriculture, the proponent prepared an alternative conceptual drawing that sought to further minimise fragmentation of cleared agricultural land. This concept was initially supported by DPI Agriculture in a letter dated 1 April 2022. However on review, it was considered that the original concept on which the Gateway version of the PP was based, facilitated a better overall planning outcome due to:

- Direct access to Beach Road is maintained for both Lots;
- Viability of agricultural land-use is retained for both RU4-zoned Lots, according to the findings of the supporting agricultural assessment;
- The BSAL mapping is not sufficiently fine-grained or ground-truthed to accurately determine its boundaries;
- A large portion of the mapped BSAL land is already compromised by established infrastructure, approved development and effluent disposal area for the existing dwelling on Lot 1;
- Improved management practices are facilitated for the quality environmental land (treed area), by permitting it to be consolidated within a single Lot.

Council staff met with DPI - Agriculture, NSW Department of Planning & Environment (DPE) and the proponent's representative on 26 April 2022, where both options were discussed.

Council subsequently wrote to DPI - Agriculture on 2 May 2022, formally requesting that it reconsider its initial objection to the Gateway version of the PP.

DPI - Agriculture responded to Council on 26 May 2022, stating it *"has no objections to the proposed minimum lot size proposal in the original submission to NSW DPI on 11th November 2021"* - see **Attachment 1**.

As such DPI - Agriculture does not object to the PP and no further consultation with them was necessary.

## Community Engagement

The PP was subsequently publicly exhibited on Council's website and the NSW Planning Portal between **29 June** and **15 July 2022** (inclusive) in accordance with the Gateway determination.

The exhibition package included:

- Planning Proposal (PP061) document
- Explanatory statement

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- Gateway determination
- Exhibition notification

One (1) community submission was received from an adjoining landowner who raised several concerns which are summarised in **Table 1** below. Staff responses are provided are also provided. A copy of the actual submission can be provided to Councillors if required.

**Table 1 – Response to submission (from adjoining landowner)**

Issue / Concern	Staff response
No reasons or justification given for creation of the smaller lot.	The proponent's agricultural assessment states: <i>"It is proposed to reduce the area of Lot 1 to 4 ha and increase the size of Lot 2 to 16 ha to allow increased agricultural use of Lot 2 while retaining agricultural potential for Lot 1."</i> Any resultant proposal by the landowner to create the smaller lot will be assessed on its merits as part of a separate development application.  No change to the PP considered necessary.
The proposed smaller lot will not support a viable number of livestock.	The proponent's agricultural assessment states that intensive agriculture will be viable on the smaller lot. This land-use is compatible with the objectives of the RU4 Primary Production Small Lots zone.  No change to the PP considered necessary.
Creation of the smaller lot will set a precedent for future smaller lot sizes.	The protection of agricultural lands from subdivision is an important element of the strategic planning framework. In this case, the land is already subdivided and developed (dwellings exist), and the PP will not create additional dwelling entitlements or further subdivision potential. The PP will also enable the treed area to be encompassed within the larger lot, which is considered a better environmental outcome. Given these circumstances, it is not considered that the PP will create an undesirable precedent.  No change to the PP considered necessary.
Increased size of Lot 2 will lead to a future subdivision application.	The PP will not create additional dwelling entitlements or further subdivision potential on the larger lot. (As is the case for the smaller lot.)  No change to the PP considered necessary.
No guarantee that additional dwelling entitlements of future subdivision will not occur.	The PP will not create additional dwelling entitlements or further subdivision potential.  No change to the PP considered necessary.

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In summary, the concerns raised by an adjoining owner have, in the view of staff, been anticipated and are covered in the PP. Hence, no changes to the PP are proposed.

### Conclusion

It is proposed to proceed to amend Sheet LSZ\_019E of the minimum lot size map overlay in the LEP as it applies to Lot 1 DP 101549. The amendment will affect approximately 4 ha of land within the north-western portion of the subject lot, by replacing the current 10 ha (AB1) minimum lot size with a 4 ha (Z3) minimum lot size.

The amendment will enable a future development application seeking a boundary adjustment subdivision to be pursued and assessed on its merit when lodged.

### Policy Implications

The NSW planning system places significant emphasis on protecting the state's agricultural lands from fragmentation. This is reiterated through actions in Council's strategic planning documents including [Shoalhaven 2040 - Our Strategic Land-use Planning Statement](#) and Council's [Growth Management Strategy](#).

In this case, the land is already subdivided and developed (dwellings exist) and the PP will not create additional dwelling entitlements or further subdivision potential. The PP will also enable the treed area to be encompassed within the larger lot, which is considered a better environmental outcome. Given these circumstances, it is not considered that the PP has any significant policy implications.

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Department of  
Primary Industries

OUT22/3710

Mr Russ Pigg  
The General Manager  
Shoalhaven City Council  
PO Box 42  
Nowra NSW 25

Attention: Dale Richardson

cc. dale.richardson@shoalhaven.nsw.gov.au

Dear Mr Pigg

**Amended Planning Proposal – Minimum lot size Amendment to lots 101 and 102 DP1081549**

Thank you for the opportunity to provide comment for the above proposal as per your request of 29<sup>th</sup> March 2022. The NSW Department of Primary Industries (NSW DPI) Agriculture is committed to the protection and growth of agricultural industries, and the land and resources upon which these industries depend.

NSW DPI understands that the amended planning proposal would reduce the minimum lot size (MLS) of the subject land to enable a boundary adjustment between lots 101 & 102, DP 1081549. That boundary adjustment will transfer the cleared land and land identified as BSAL from Lot 1 DP 1081549, reduced to 4.1 hectares (ha) to lot 102 increased to 15.9 ha.

NSW DPI has no objections to the proposed amended subdivision proposal because the issues that were raised in previous correspondence (OUT21/17318) have addressed NSW DPI's concerns.

Principally, the transfer of cleared lands to the larger lot will enable the high-quality agricultural lands to be consolidated into the lot with greatest capacity for agriculture. This lot is also currently used for beef grazing. Extensive agriculture requires large areas of land to be competitive and pursue economies of scale. As outlined in the previous correspondence, agriculture is better supported by maintaining larger lot sizes (NSW Agricultural Commissioner titled *'Improving the Prospects for Agriculture and Regional Australia in the NSW Planning System'*, July 2021).

Equally, larger lot sizes reduce the likelihood that rural land will be converted to rural residential development. Amalgamating rural lots will therefore support agricultural productivity to a greater extent than numerous small rural lots. Small lots also create significant pressure for residential lifestyle development, particularly in the RU4 zone and in locations that have high access to townships and beaches.

It should be noted that any subdivision of rural land that has a high potential for the conversion of rural land to residential style purposes should be addressed as part of a strategic planning process that considers a range of factors and localities to identify where and whether that style of development should be supported. The ad hoc development of any rural residential land uses in agricultural areas are one of the main reasons for agricultural land use conflicts.

Should you require clarification on any of the information contained in this response, please contact Wendy Goodburn, Agricultural Land Use Planner on [REDACTED] or by email at [landuse.ag@dpi.nsw.gov.au](mailto:landuse.ag@dpi.nsw.gov.au)

Yours sincerely

[REDACTED]

1/4/2022

**Wendy Goodburn**  
Agricultural Land Use Planner

## CL22.394 Exhibition Outcomes and Finalisation - Planning Proposal (PP005) - 'Deferred' Land at Warrah Road, Bangalee

**HPERM Ref:** D22/319299

**Department:** Strategic Planning

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

**Attachments:** 1. Summary of Submissions [↓](#)

### Reason for Report

The reason for this report is to present the public exhibition outcomes for this revised Planning Proposal (PP005) and the associated biodiversity certification application for 'deferred' land at Warrah Road, Bangalee.

A further reason is to obtain endorsement to finalise the post-exhibition version of PP005 and proceed to amend the LEP accordingly.

### Recommendation

That Council:

1. Adopt and finalise the revised Planning Proposal (PP005) as exhibited between 15 June and 18 July 2022.
2. Forward PP005 to the Office of the NSW Parliamentary Counsel (PCO) with a request to draft the amendment to Shoalhaven LEP 2014.
3. Make the resulting amendment to Shoalhaven LEP 2014 (SLEP) using Council's delegation.
4. Issue a final invoice for the balance of fees outstanding, to be paid by the proponent prior to making the LEP amendment.
5. Post a 'Newsfeed' update to the 'Get Involved' project page and advise all subscribers and the proponent of this resolution.
6. Advise submitters of Council's decision once the LEP amendment has been notified.

### Options

1. As Recommended

Implications: Strongly preferred as this is the only realistic way to resolve this complex legacy PP and future zoning for this part of the Crams Road Urban Release Area identified in the 2008 Nowra-Bomaderry Structure Plan (NBSP). Council previously considered a report and agreed that the revised proposal and associated proposed transfer/dedication of C2 land with a fully funded Biodiversity Stewardship Agreement is a better planning outcome compared to the previously exhibited version of this PP.

The revised PP is supported/not opposed by the relevant NSW Government agencies, Council Sections and the proponent. Residential land will not be released for actual development until the provisions of Part 6 of Shoalhaven LEP 2014 have been satisfied. Council's longstanding position, which was reconfirmed in 2019 (MIN19.289) is that release of this land should not occur until both the Princes Highway / Shoalhaven River

Bridge duplication and the Far North Collector Road projects have been completed. Hence, preparation of the required DCP is not considered a priority at this time.

Finalisation of the PP would allow the proponent to progress the biodiversity certification application for the residential development area and, in due course, a biodiversity stewardship agreement (BSA) for the proposed C2 Environmental Conservation land.

2. Make changes to the Planning Proposal.

Implications: Not supported. This could potentially further unduly delay or jeopardise finalisation of this PP. A small number of submissions could indicate there is a level of community acceptance to the proposed LEP changes. The issues that were raised can be more closely considered and addressed as part of addressing the subsequent requirements of Part 6 of LEP before any land is 'released' for actual development.

3. Not proceed with the Planning Proposal

Implications: Not supported. This is a legacy PP with a complex history dating back to 2013. Considerable resources have been expended to refine and improve the proposal and gain its acceptance from Government agencies. Should Council not proceed with the PP, the opportunity to finally resolve the planning status of this land could be lost. The opportunity to also increase housing supply in North Nowra in the longer term by approximately up to 240 dwellings and to protect, in perpetuity, the environmental values of the proposed C2 Environmental Conservation land could also be lost in the longer term.

**Location**

PP005 applies to Lots 21-24 DP 714096, Warrah Road, Bangalee and approximately 300 linear metres of unmade Council road reserve west of Warrah Road and south of Lochaven Drive as shown in **Figure 1** below.

Lots 21-24 (the 'deferred' land) are currently zoned *Rural 1(d)(General Rural)* under Shoalhaven Local Environmental Plan (LEP) 1985. It is proposed through this PP to resolve the zoning of the land and incorporate this land into the Shoalhaven LEP 2014. The road reserve is currently zoned *C2 Environmental Conservation* under LEP 2014.

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Figure 1 - Subject land



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## Background

### The Planning Proposal

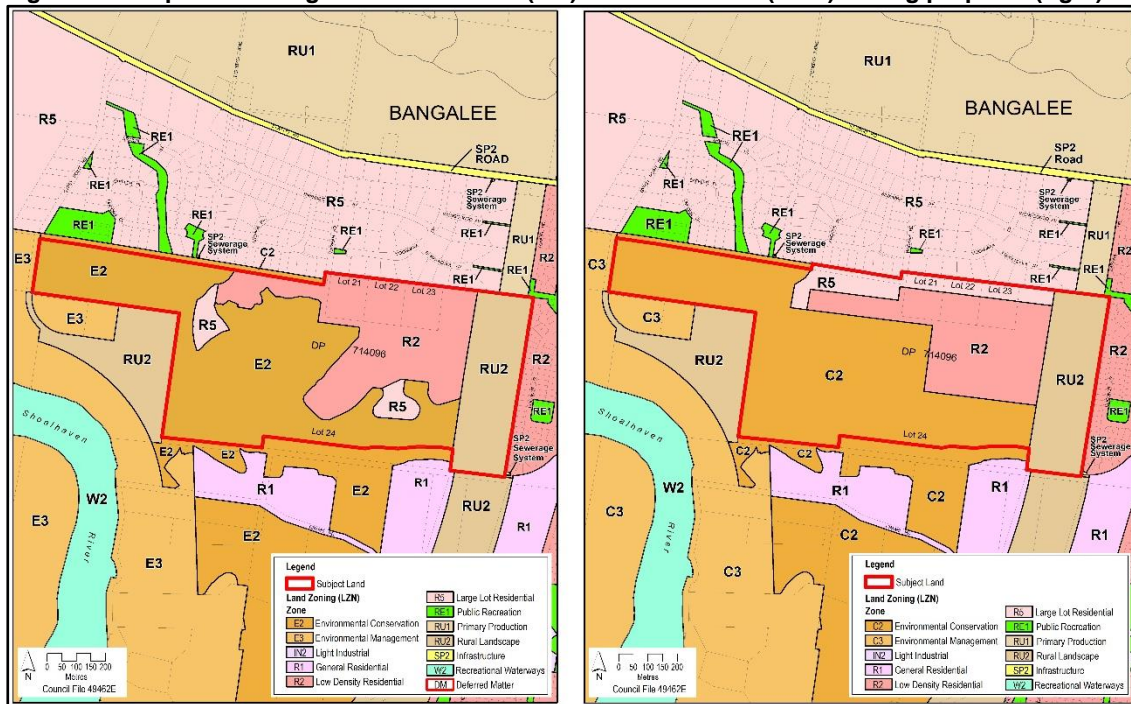
The PP dates back to Nowra-Bomaderry Structure Plan (NBSP) and draft Shoalhaven LEP processes, including in 2013 when the proponent made a submission to the draft city-wide Shoalhaven LEP.

The detailed history of the PP is documented in a [previously exhibited version of the PP](#). The [current version of the PP \(as exhibited – Version 2.6\)](#) details the rationale for revising and re-exhibiting the PP.

The previously exhibited planning proposal (2021) and the revised PP (2022) are compared below at **Figure 2**. Council previously considered a report and agreed that the revised proposal and associated proposed transfer/dedication of C2 land with a fully costed and funded Biodiversity Stewardship Agreement is a superior planning outcome compared to the previously exhibited PP.



Figure 2 – Proposed zoning exhibited in 2021 (left) and the current (2022) zoning proposal (right)



At the [Ordinary meeting on 14 March 2022](#), Council considered a report on the previously exhibited PP and resolved (MIN22.170) to:

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

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### New Gateway determination

As per Council's decision (MIN22.170), an updated PP and Gateway extension request were submitted to DPE on 23 March 2022. The Gateway was due to expire on 25 May 2022. As re-exhibition was required, the project timeline was updated with an *anticipated* completion date of August/September 2022 indicated.

Notwithstanding DPE's support for the revised proposal, Council's Gateway extension request was disappointingly declined. Instead, on 19 April 2022, the Gateway was terminated, and the reasons cited were:

- The original 12month timeframe to complete the proposal had already been extended by three months
- The significant time lapsed to date
- The need to consult on the proposal; and
- Uncertainty that the proposal could be finalised within the additional time requested.

By the time the Gateway was terminated, the updated PP and SLEP mapping to include the additional land (the Council road reserve) had already been completed. Notwithstanding this, re-exhibition could not proceed at that time because the Gateway had been terminated by DPE.

Council staff again amended the PP to reflect the changed Gateway status and requested a new Gateway determination on 4 May 2022.

The decision to terminate generated two additional versions of the PP, consumed Council resources unnecessarily and delayed progression of the PP. The concerns about the need to obtain a new Gateway determination were relayed to DPE's Regional Office.

DPE issued a new Gateway determination for PP005 on 11 May 2022.

### Gateway conditions

The conditions of the new Gateway are summarised below:

- Public exhibition period: 28 days (minimum)
- Exhibition material to comply with DPE's Local Environmental Plan Making Guidelines 2021
- No consultation is required with public authorities or government agencies
- A public hearing is not required
- Council is the delegated local plan-making authority under section 3.36(2) of the EP&A Act subject to:
  - all conditions of the Gateway determination being satisfied
  - the PP being consistent with applicable Section 9.1 Ministerial directions and
  - there being no outstanding objections from public authorities
- The LEP should be completed on or before 13 February 2023

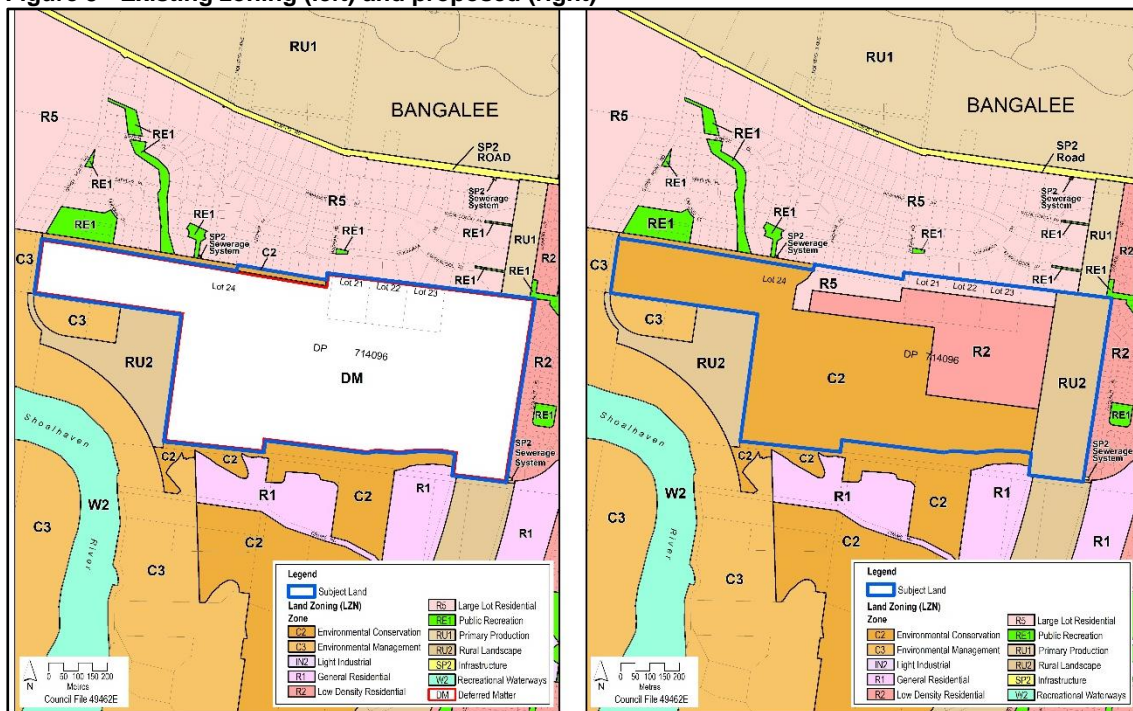
## Resulting Proposed Amendments to Shoalhaven LEP 2014

The following proposed map amendments will result from this PP :

### Land Use Zoning (LZN)

It is proposed to rezone the 'deferred' land to a mix of *R5 – Large Lot Residential*, *R2 – Low Density Residential*, *RU2 – Rural Landscape* and *C2 – Environmental Conservation*. See **Figure 3** below. A section of the Council road reserve is proposed to be included in the R5 zone, consistent with DPE's Practice Note PN 10–001, because the road reserve would form part of a perimeter road network to comply with *Planning for Bushfire Protection 2019*.

**Figure 3 - Existing zoning (left) and proposed (right)**



### Minimum lot size (LSZ)

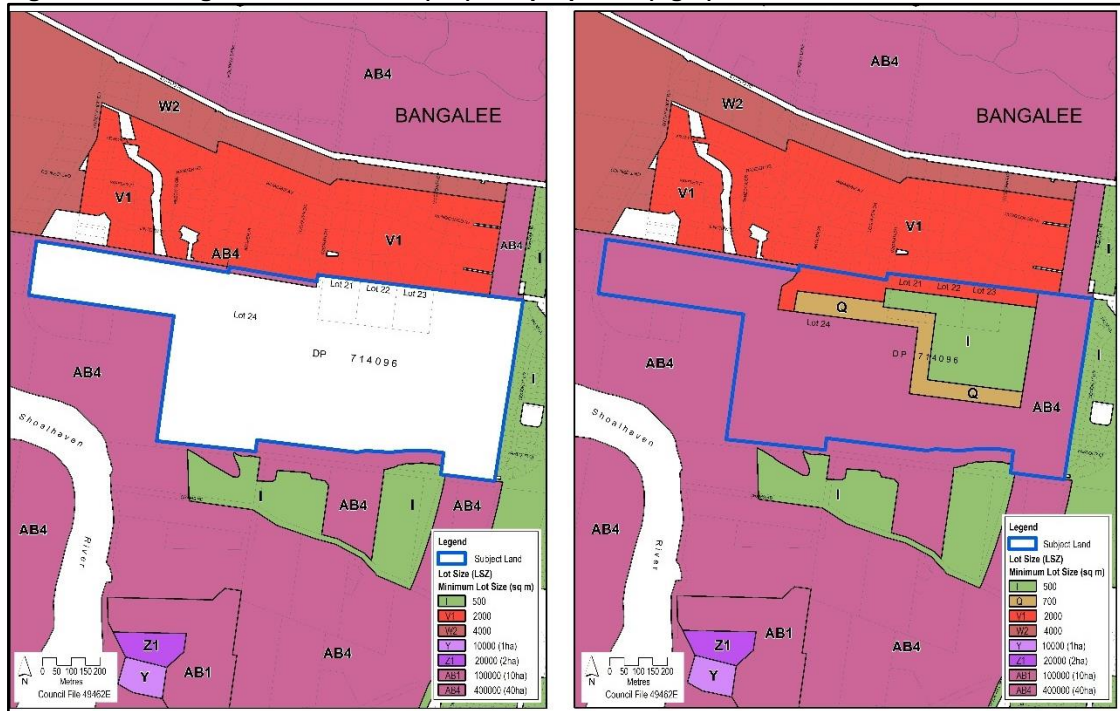
The proposed Minimum Lot Size Map (see **Figure 4** below) has the following elements:

- **R5 zone:** The northern boundary of the site has been allocated a minimum lot size of 2,000 m<sup>2</sup> (V1) to complement the adjoining large lot residential development to the north and provide a buffer to new and most likely denser residential development within the urban release area to the south.
- **R2 zone:** A 500 m<sup>2</sup> lot size (I) is proposed for the least constrained part of the urban release area (R2 zone) for the provision of standard residential lots.
- **R2 Zone:** A 700 m<sup>2</sup> lot size (Q) is proposed for the land identified as a buffer between the 500 m<sup>2</sup> lot size area and adjoining environmental land. Larger lots are required in this location to help accommodate the required bushfire asset protection zones (APZs).
- **RU2 zone:** A 40 ha (AB1) minimum lot size is proposed to recognise the corridor and alignment of the future Western Bypass and to allow this land to be excised and attached to a residential lot within the subdivision until the NSW Government is ready to acquire the land.
- **C2 zone:** The balance of the site is environmental land and will have a 40 ha (AB1) minimum lot size.

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Figure 4 - Existing minimum lot size (left) and proposed (right)



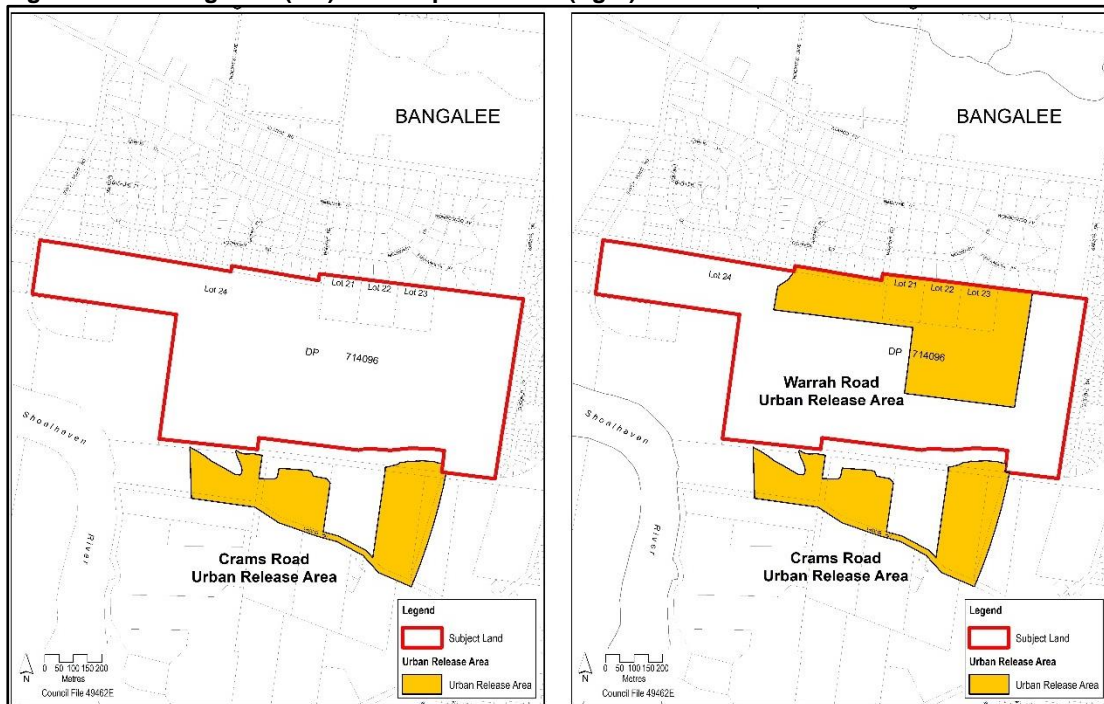
### Urban Release Area (URA)

The area of land to be identified as Urban Release Area (URA) corresponds to the area of land proposed to be zoned *R5 - Large Lot Residential* and *R2 - Low Density Residential* plus the Council road reserve (west of Warrah Road and south of Lochaven Drive) - see **Figure 5** below.

This will mean that Part 6 of the LEP will have to be satisfied before the land can ultimately be subdivided and developed. The proposed URA land, minus the road reserve, is also subject to the Biodiversity Certification Application (BCA) and revised Biodiversity Certification Assessment Report (BCAR), exhibited concurrently with the PP<sup>1</sup>.

<sup>1</sup> A Biodiversity Development Assessment Report (BDAR) would be required for constructing the road on land that is not biodiversity certified, i.e. within this road reserve.

**Figure 5 – Existing URA (left) and Proposed URA (right)**



### Height of Buildings (HOB) Map

The URA is proposed to be allocated a maximum building height of 8.5 m. The existing 11 m maximum height of buildings control is set out in Clause 4.3(2A) of the LEP will continue to apply to the remainder of the subject land.

### Clauses Overlay (CLS) Map

That part of the site to be zoned RU2 Rural Landscape is also proposed to be mapped as being subject to Clause 7.21 of the LEP that relates to the future use of the land for a road corridor.

### Land Application (LAP) Map

Lots 21-24, DP 714096 are currently 'deferred' from Shoalhaven LEP 2014. The Land Application Map will also be amended to include the subject land (so that the land is no longer 'deferred').

### Riparian Lands and Watercourses (WCL) Map

The existing watercourse and its tributaries are proposed to be mapped in the LEP.

### Acid Sulfate Soils (ASS) Map

The subject land is proposed to be mapped as Class 5 on the Acid Sulfate Soils Map under the LEP. This classification is consistent with all land surrounding the subject land.

## **Community Engagement**

### Public Exhibition: June - July 2022

The revised PP was publicly exhibited from 15 June to 18 July 2022 inclusive.

A public notice was placed on Council's website. All adjoining land owners were notified, as were all previous submitters and all subscribers to Council's ['Get Involved' project page](#).

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During the exhibition, the 'Get Involved' project page was updated to assist community engagement on the revised PP and accompanying Biodiversity Certification Application (discussed below).

The PP exhibition package included:

- [1. Exhibition Notice](#)
- [2. Explanatory Document](#)
- [3. FAQs](#)
- [4. Planning Proposal](#)
- [5. Council Report & Minute](#)
- [6. Gateway Determination](#)
- [7. Bushfire Assessment](#)
- [8. Biodiversity Certification Application Form](#)
- [9. Biodiversity Certification Assessment Report](#)

### Submissions

Three (3) submissions were received from Bangalee residents. The key issues raised are briefly outlined below and a more detailed response to submissions is provided as **Attachment 1**. The actual submissions can be provided to Councillors if required.

- Concerns relating to the future construction of a road within the existing road reserve (west of Warrah Road) - Two (2) submitters expressed a concern that it is Council's intent to transfer the road reserve to the proponent for housing.

#### **Comment:**

*This is definitely not the case. This is a 'public road' and approximately 300 m would need to be constructed as part of the perimeter road network if/when the land is rezoned and released for development. An amendment to the Shoalhaven Contributions Plan (CP) or a Voluntary Planning Agreement (VPA) is likely to be needed to establish a funding mechanism for any upgrades to surrounding road infrastructure etc.*

- Concerns about traffic congestion, lack of footpaths, kerb and guttering etc in adjoining residential areas and Illaroo Road.

#### **Comment:**

- *Current traffic issues are acknowledged.*
- *An additional/alternate access from Pitt Street is integral to the proposal. This alternate access will help re-direct and disperse traffic movements between the development area and North Nowra/Nowra, thereby reducing the total number and impact of additional traffic movements within the existing Bangalee road network.*
- *In accordance with Part 6 of the LEP, the subject land would not be able to be subdivided for development before a DCP has been prepared, the new Shoalhaven River Bridge crossing and the Far North Collector Road (FNCR) have been completed, and arrangements are in place for the provision of other essential infrastructure. As noted above, either a CP amendment or a VPA are likely to be required to establish a funding mechanism for any required upgrades to the surrounding road network etc.*

- Detailed controls requiring the provision of local infrastructure such as cycleways, shared paths, parks and sustainability infrastructure are more relevant to the next stages (DCP, subdivision design concept and development application) if/when the land is rezoned and ultimately released for urban development.
- New kerb and gutter (K&G) programs have not been funded for several years. Available funds are directed to replacement/drainage programs or where there is potential risk to property. Almost all new K&G construction is funded by property owners or developers. The need, if any, for K&G extension beyond the boundaries of the proposed URA will be considered during preparation of the DCP.
- Need for a local park.

**Comment:**

*City Lifestyles (Strategic Asset Planning) supports the dedication of a minimum of 4,000 m<sup>2</sup> as public open space within the proposed Urban Release Area (URA) for use by future residents (possibly up to 500). A local park is considered justified on projected population increase as there are no suitable existing parks in the vicinity. Ideally a park would be centrally located to be accessible to all residents of Bangalee. This is a matter that can be further considered during preparation of the required DCP.*

- Fencing to minimise light & noise pollution

**Comment:**

*This is a matter of detail that can be further considered during the preparation of the required DCP, noting that certain forms of low-impact development may be exempt from the need to obtain planning or construction approval under [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#).*

- Tree retention difficulties due to 500 m<sup>2</sup> lot size

**Comment:**

*Minimum lot sizes have been set at 500m<sup>2</sup>, 700m<sup>2</sup> and 2000m<sup>2</sup>. Almost all lots shown in the [subdivision concept plan](#) exceed the minimum. The smaller residential lots (150 lots ranging from +500 m<sup>2</sup> to +900 m<sup>2</sup>) comprise about 75% of the development area. The remaining lots are proposed to be +2000 m<sup>2</sup>.*

*Opportunities for appropriate street trees in public areas, such as road reserves, can also be considered at DCP stage provided that these do not compromise bushfire prevention or interfere with asset protection zones. In addition, Council has initiated a review of Chapter G4 – Tree and Vegetation Management of the DCP and the 45 degree rule that currently sits within it.*

**Summary**

This matter has been exhibited a number of times. The most recent exhibition has resulted in a relatively small number of submissions. The issues that were raised will be more closely considered as part of the process of addressing Part 6 (Urban Release Areas) of the LEP – which must occur before the land can be subdivided/released. This will include preparation of a site-specific Development Control Plan (DCP) and potentially a Contributions Plan and/or Voluntary Planning Agreement (VPA) to address provision and funding of essential infrastructure. No changes to the PP are considered necessary to respond to the issues raised.

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### Biodiversity Certification Application (BCA)

The BCA and associated Biodiversity Certification Assessment Report (BCAR) were updated and amended to reflect the revised proposal, in that all land proposed to be zoned C2 Environmental Conservation is proposed to be transferred to Council with a single, fully costed and funded Biodiversity Stewardship Agreement (BSA).

The updated BCA and BCAR were re-exhibited concurrently with PP in accordance with 'best practice' and no submissions were received.

Detailed discussion about the BCA/BCAR and BSA processes is included in the previous report of [14 March 2021 \(CL22.119\)](#).

### Agency consultation

Consultation with public authorities or government agencies was not required by the most recent Gateway determination. Consultation has already occurred and was considered by Council in the previous report of [14 March 2021 \(CL22.119\)](#). The PP is now supported by the Department of Environment & Planning (DPE), the NSW Rural Fire Service and the Biodiversity & Conservation Division (BCD) of DPE.

### Aboriginal Cultural Heritage

Heritage NSW (HNSW) emphasises the need for ongoing Aboriginal consultation including that Council and any future developers must be aware of their obligations in relation to Aboriginal cultural heritage under the *National Parks and Wildlife Act 1974*. As the development footprint has changed and the 'caretaker lots' removed from the proposal, it was considered prudent to give HNSW the opportunity to review their comments.

HNSW has provided advice to Council on Aboriginal cultural heritage matters in relation to this PP on two previous occasions:

- 20 November 2020 – advice included recommending an Aboriginal Heritage Management Plan be prepared over the 'caretaker lots' and ensuring appropriate buffers and management strategies are in place to protect recorded Aboriginal objects in the E2 (now C2 Environmental Conservation) zoned land.
- 25 June 2021 – previous comments were reiterated, noting that Council has committed to further addressing Aboriginal cultural heritage matters when preparing the Development Control Plan (DCP) and providing advice about the need for an Aboriginal heritage impact permit (AHIP) application should any future land management actions impact on an Aboriginal site located within the C2 land.

HNSW comments dated 20 November 2020 were discussed in the previously exhibited [Planning Proposal](#). HNSW has re-affirmed their previous advice.

In addition to consulting with HNSW, the Nowra Local Aboriginal Land Council (NLALC) and the Jerrinja Tribe were notified. No comments were received from the Jerrinja Tribe. NLALC advised it has "no objection" to the PP.

### Comment

Two Aboriginal sites have been identified; one is located within land proposed to be zoned C2 Environmental Conservation and transferred/dedicated to Council as a fully funded biodiversity stewardship site. Management actions to avoid impacts on known Aboriginal cultural heritage must be included in the BSA when the land is transferred to Council. The second site is in proximity to the boundary between the proposed C2 and RU2 zones and is



yet to be identified on-site. Construction of an alternative access to Pitt Street as part of a subdivision DA would require an Aboriginal Heritage Impact Permit (AHIP) and a new ACHA would be required.

NLALC and Jerrinja Tribe will be engaged further during preparation of a DCP should the PP be finalised.

### **Policy Implications**

The proposed transfer/dedication of the C2 Environmental Conservation land to Council (with a fully funded BSA registered on Title) is facilitated via the Biodiversity & Conservation Act 2016. The proposal will result in a good conservation/management outcome and importantly the proposal will be fully funded, meaning Council will not need to expend funds for ongoing management.

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

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

### **Financial Implications**

Council has fees and charges in place for progressing proponent-initiated Planning Proposals. These seek to recoup costs incurred by Council in progressing the matter, including the costs associated with staff time. In accordance with recommendation 4 (MIN22.170) costs incurred to date were invoiced to, and paid by, the proponent before the PP was re-exhibited. A final invoice would need to be issued for payment before the SLEP Amendment is made.

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

Work on duplication of the Shoalhaven River Bridge Crossing began in 2020 and is expected to be completed by mid-2024. On 21 February 2022 Council resolved to accept a tender to construct stages 2 and 3 of the Far North Collector Road and work is underway. This \$32.8M project is 100% funded by the Australian Government.

### **Conclusion**

Finalisation of the PP as recommended (Option 1) will enable the zoning for this part of the Urban Release Area, originally identified in the 2008 Nowra-Bomaderry Structure Plan (NBSP), to be resolved

The revised footprint for the URA and proposed BSA for the proposed C2 Environmental Conservation zoned land achieves a balanced/robust development/conservation outcome and is also consistent with the 'Planning for Bushfire Protection' 2019 (PBP 2019) guidelines. The PP is supported by the key Government agencies and the Proponent.

Issues/concerns raised during re-exhibition of the PP would be considered when the requirements of Part 6 (Urban release Areas) of the LEP are addressed. No changes to the exhibited PP are considered necessary. If the subject land is rezoned, further consideration of infrastructure provision and funding will occur at the appropriate time, as part of the DCP and CP/VPA preparation process.

Finalisation of the PP would allow the proponent to further progress the biodiversity certification application for the URA and in due course, a Biodiversity Stewardship Agreement for the proposed C2 Environmental Conservation land.

CL22.394



## Summary of Submissions

**PP005: Deferred Land – Lots 21-24 DP 714096 Warrah Road, Bangalee**

**Revised PP: Re-Exhibition – 15 June 2022 to 18 July 2022**

No.	Submitter	Summary of Submission	Comments
1	Individual:	<p><b>Comments/concerns:</b></p> <p><u>Existing Road Reserve (west of Warrah Road)</u></p> <ul style="list-style-type: none"> <li>The revised PP incorporates Council gifting the existing road reserve at the Southern boundary of existing lots on Lochaven Drive. It is unclear if the perimeter road will run along the existing road reserve or if there will be new blocks immediately adjacent to the existing ones with a road to the South of the new blocks.</li> <li>Properties on the southside of Lockhaven Drive drain to the road reserve. The road reserve should be maintained to provide for drainage and the perimeter road should be constructed in this corridor. New lots should be located south of the perimeter road and the road reserve maintained for protection from bushfire.</li> <li>Properties on south side of Lochaven Drive currently enjoy informal rear access from the existing [unmade] road reserve and dwellings have been constructed with this in mind. Please do not remove this access by gifting it to the developer for new housing.</li> </ul> <p><u>Traffic</u></p> <ul style="list-style-type: none"> <li>The lot size is still very small in the south-east of the proposed development and this will substantially increase traffic in the area. [Therefore] alternate access to the development is required as is an</li> </ul>	<p><b>Comments/concerns noted. No changes recommended.</b></p> <p><u>Existing Road Reserve (west of Warrah Road)</u></p> <p>1.1 The Planning Proposal (PP) does <u>not</u> propose to 'gift' the existing (unmade) road reserve to the proponent. This is a public road and approximately 300 linear metres is proposed to be constructed as part of the perimeter road network (at the proponents' expense) if/when the land is rezoned and able to be released for development.</p> <p>1.2 Agree. The revised PP included an indicative <a href="#">subdivision concept plan</a>. The plan shows that the perimeter road:</p> <ul style="list-style-type: none"> <li>is proposed to be located within the existing road reserve; and</li> <li>would create a buffer between the proposed 2000m<sup>2</sup> lots and the existing development south of Lochaven Drive.</li> </ul> <p>If/when Part 6 of the LEP is satisfied and the land is able to be released for development, the subdivision design/works would need to be the subject of a development application (DA) for assessment and approval. Engineering design plans for the works, including roads and drainage, must also be prepared for approval before a subdivision works certificate could be issued. The proposed perimeter road, once constructed, could also function as an informal asset protection zone (APZ) for those properties that share a boundary with the new road.</p>



No.	Submitter	Summary of Submission	Comments
		<p>upgrade of existing road access to Bangalee (Illaroo Road to the West of West Cambewarra Road).</p> <p><u>Local Park</u></p> <p>There are no existing playgrounds or community space in Bangalee and there is none indicated in the new development. A space for the community with some facilities to use socially is pivotal in a development such as this, eg facilities in Twin Waters, South Nowra.</p>	<p>1.3 Agree in part. See response 1.1 above. Properties that may share a boundary with the proposed perimeter road would have an opportunity to formalise rear access if/when the road is constructed.</p> <p><u>Traffic</u></p> <p>Disagree in part. <u>Minimum</u> lot sizes have been set at 500m<sup>2</sup>, 700m<sup>2</sup> and 2000m<sup>2</sup>. Almost all lots shown in the <a href="#">subdivision concept plan</a> exceed the minimum. The smaller residential lots (150 lots ranging from +500 m<sup>2</sup> to +900 m<sup>2</sup>) comprise about 75% of the development area. The remaining lots are proposed to be +2000 m<sup>2</sup>.</p> <p>1.4 An additional/alternate access to the development area from Pitt Street is proposed and is necessary to satisfy the requirements of <i>Planning for Bushfire Protection 2019</i>. The design and approvals process for construction of this alternate access would be addressed in the Development Control Plan (DCP) and subsequent development application/approval process. This alternate access will re-direct and disperse traffic movements between the development area and Nowra, thereby reducing the total number and impact of additional traffic movements within the existing Bangalee road network.</p> <p>1.5 Council has resolved (MIN19.289) that release of this land should not occur until both the Princes Highway (PH) Shoalhaven River Bridge duplication and the Far North Collector Road (FNCR) have been completed. These works, once completed, should substantially improve traffic flow in and out of north Nowra.</p> <p>1.6 Upgrading of Warrah Road (north) and construction of a new roundabout at the intersection of Illaroo Road (if required) would be further considered during DCP preparation. An amendment to the Shoalhaven Contributions Plan or a Voluntary Planning Agreement would be required to establish a funding mechanism for any upgrades to surrounding road infrastructure etc. Any infrastructure improvements to Warrah Road (south), Moondara Drive and Bimbimbie Avenue, required as a direct consequence of the new subdivision, would be considered by the City Services Directorate as</p>

No.	Submitter	Summary of Submission	Comments
			<p>part of the assessment of a development application.</p> <p>1.7 A DCP, as referred to above, must be prepared prior to release of the land for development in accordance with Part 6 of the Shoalhaven LEP 2014. If the land is rezoned, the community (including the submitter) will have the opportunity to comment on the DCP when it is exhibited for public comment. Any future DA will also be advertised and submissions invited.</p> <p><u>Local Park</u></p> <p>City Lifestyles (Strategic Asset Planning) supports the dedication of a minimum of 4,000 m<sup>2</sup> as public open space within the proposed Urban Release Area (URA) for use by future residents (approx. 500). A local park is considered justified on projected population increase as there are no suitable existing park lands in the vicinity. Ideally a park would be centrally located to be accessible to all residents of Bangalee. This is a matter that can be further considered during preparation of the DCP.</p>
2	Individual:	<p><b>Comments/concerns:</b></p> <p>The PP and attached documents fail to address [the following] aspects of life of concern to the existing residents of Bangalee.</p> <p><u>Traffic</u></p> <ul style="list-style-type: none"> <li>The attached traffic report does not mention the congestion experienced every morning at the North Nowra Primary school. An additional 250 houses, many of which will be young families will add considerably to the delays experienced there. How does Council propose to address this issue?</li> </ul> <p><u>Road Quality</u></p> <ul style="list-style-type: none"> <li>Moondara Drive, Bimbimbe Avenue and Illaroo Road were not engineered to take the traffic volume expected from the proposed development. The current state of the road surface bears testament to this. The potholes whilst bad now were all there before the wet weather events of recent months. Does the proposal include the re-engineering of the access roads to a suitable standard?</li> </ul>	<p><b>Comments/concerns noted. No changes recommended.</b></p> <p><u>Traffic</u></p> <p>2.1 See responses 1.4 to 1.8 above in relation to traffic matters. The proposed development area will be mapped as an Urban Release Area (URA) under Part 6 of the Shoalhaven LEP 2014. Part 6 (Urban Release Areas) requires that the following matters must be addressed/resolved before land in a mapped area is subdivided/developed:</p> <ul style="list-style-type: none"> <li>Arrangements for the provision of designated State public infrastructure (clause 6.1);</li> <li>Public utility infrastructure (clause 6.2)</li> <li>Preparation of a site-specific DCP (clause 6.3).</li> </ul> <p>2.2 As the subject land would not be released for development until all required road infrastructure projects, including the new PH Shoalhaven River Bridge crossing, the FNCR and the alternate access to Pitt Street have been completed, it is expected that these projects will help to alleviate congestion around the school and on Illaroo Road generally. Unless the school is a destination in itself, all traffic from the development heading north towards Berry would be</p>

No.	Submitter	Summary of Submission	Comments
		<p><u>Foot Traffic</u></p> <ul style="list-style-type: none"> <li>Currently there no foot paths, kerbs or guttering along most of Illaroo Road and all of Moondarra Drive and Bimbimbe Avenue. Does the proposal include provision of this infrastructure?</li> </ul> <p><u>Fencing</u></p> <ul style="list-style-type: none"> <li>The proposed increase in traffic along the access ways will inevitably bring an increase in noise and light pollution. Will Council permit affected residents to erect sound deadening and light stopping fencing?</li> </ul> <p><u>Proposed block size/tree canopy</u></p> <ul style="list-style-type: none"> <li>Most of the proposal is for 500m<sup>2</sup> blocks. Given the size of modern homes and families with at least 2 and often more cars there will be no room for trees. Does Council really want to turn what is now native bushland into a roof scape with the odd shrub, flower bed and patch of lawn?</li> </ul>	<p>diverted at the FNCR and away from the public school.</p> <p><u>Road Quality</u></p> <p>2.3 As above, it can be anticipated that completion of the new Princes Highway Shoalhaven River Bridge crossing and the FNCR infrastructure projects will contribute to improved road conditions in and around north Nowra. See responses 1.5, 1.6 and 1.7 above for comments in relation to other local road infrastructure considerations.</p> <p><u>Foot Traffic</u></p> <p>2.4 Controls for the provision of local infrastructure such as cycleways, shared paths, parks and sustainability infrastructure are more relevant to the subdivision design concept and development application stage if/when the land is rezoned and released for urban development. City Services has considered opportunities for shared user path options to provide important linkages to existing and new development in the area, in particular, the Bernie Regan sporting complex. These are design elements that can be explored in more detail and possibly negotiated via a Voluntary Planning Agreement (VPA) and included in the DCP. Proposals for on-road cycling and new footpath connections within the existing subdivision are included in Council's <a href="#">Pedestrian Access and Mobility Plan (PAMP)</a>. The PAMP is proposed to be updated in 2022 and there will be an opportunity for the public to comment.</p> <p>2.5 New kerb and gutter (K&amp;G) programs have not been funded for several years. Available funds are directed to replacement/drainage programs or where there is potential risk to property. Almost all new K&amp;G construction is funded by property owners or developers. The need, if any, for K&amp;G extension beyond the boundaries of the proposed URA will be considered during preparation of the DCP.</p> <p><u>Fencing</u></p> <p>2.6 Certain forms of low-impact development may be exempt from the need to obtain planning or construction approval. If certain</p>

No.	Submitter	Summary of Submission	Comments
			<p>development standards are met, specific types of development can be built without needing to be approved by either council or an accredited certifier. However, other legislation requirements for approvals, licences, permits and authorities may still apply. <a href="#">State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)</a> specifies the types of development which are exempt development. The SEPP typically covers small scale structures that will have minimal impact on the local environment, such as fences. If proposed fencing complies with the requirements in the Codes SEPP, approval from Council is not needed. Development which does not meet the listed exempt development criteria requires a complying development certificate or development consent. Additional information is available on the <a href="#">Fences &amp; Gates</a> page on Council's website.</p> <p><u>Proposed block size/tree canopy</u></p> <p>2.7 Disagree in part. See response <b>1.4 in</b> relation to lot sizes.</p> <p>2.8 Lots 21-24 DP 714096, which includes all the land proposed to be zoned C2 – Environmental Protection, is the subject of a Biodiversity Certification Application &amp; Biodiversity Certification Assessment Report (BCAR) that were advertised concurrently with the revised PP. The BCAR proposes that all the land proposed to be zoned C2 be the subject of a fully-funded Biodiversity Stewardship Agreement and transferred to Council so that its environmental values of the land can be enhanced and conserved in perpetuity. Council has agreed, in principle, to accept transfer of the land.</p> <p>2.9 Further at its meeting of 14 March 2022 (MIN22.170) Council resolved to:</p> <p><i>“Prepare any future DCP Chapter for the area in accordance with Part 6 of the LEP including requirements for appropriate tree retention within the subdivision area”.</i></p> <p>2.10 Opportunities for appropriate street trees in public areas, such as road reserves, can also be considered at DCP stage provided that these do not compromise bushfire prevention or interfere with asset protection zones. In addition, Council has initiated a review of</p>

No.	Submitter	Summary of Submission	Comments
			Chapter G4 – Tree and Vegetation Management of the DCP and the 45 degree rule that currently sits within it. An internal workshop was convened at Council's request and the outcomes will be reported to Council in due course.
3	Individual:	<p><b>Concerns:</b></p> <p>The concerns outlined by this submitter are the same concerns expressed by Submitter No. 1, although they are conveyed in slightly different wording. For completeness, and easy reference these concerns are again summarised as follows:</p> <p><u>Existing Road Reserve (west of Warrah Road)</u></p> <ul style="list-style-type: none"> <li>The revised PP includes Council gifting the existing road reserve at the Southern boundary of existing lots on Lochaven Drive. It is unclear if the perimeter road will run along the existing road reserve or if there will be new blocks immediately adjacent to the existing ones with a road to the South of the new blocks.</li> <li>Properties on the southside of Lochaven Drive drain to the road reserve. The road reserve should be maintained to provide for drainage and the perimeter road should be constructed in this corridor. New lots should be located south of the perimeter road and the road reserve maintained for protection from bushfire.</li> <li>Properties on south side of Lochaven Drive currently enjoy informal rear access from the existing (unmade) road reserve and dwellings have been constructed with this in mind. Please do not remove this access by gifting it to the developer for new housing.</li> </ul> <p><u>Traffic</u></p> <ul style="list-style-type: none"> <li>The lot size is still very small in the south-east of the proposed development and this will substantially increase traffic in the area. [Therefore] alternate access to the development is required as is an</li> </ul>	<p><b>Comments/concerns noted. No changes recommended.</b></p> <p><u>Existing Road Reserve (west of Warrah Road)</u> See responses 1.1, 1.2 and 1.3 above.</p> <p><u>Traffic</u> See responses 1.4, 1.5, 1.6, 1.7 and 1.8 above.</p> <p><u>Local Park</u> See response 1.9 above.</p>

No.	Submitter	Summary of Submission	Comments
		<p>upgrade of existing road access to Bangalee (Illaroo Road to the West of West Cambewarra Road).</p> <p><u>Local Park</u></p> <ul style="list-style-type: none"> <li>There are no existing playgrounds or community space in Bangalee and there is none indicated in the new development. A space for the community with some facilities to use socially is pivotal in a development such as this, eg facilities in Twin Waters, South Nowra</li> </ul>	

## CL22.395 Proposed Planning Proposal - 2022 Housekeeping Amendment - Shoalhaven Local Environmental Plan 2014 (PP058)

**HPERM Ref:** D22/322371

**Department:** Strategic Planning

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

**Attachments:** 1. 2022 Housekeeping Planning Proposal (PP058) (under separate cover)



### Reason for Report

The reason for this report is to seek a resolution to progress the 2022 Housekeeping Amendment Planning Proposal (PP058) which seeks to make a range of amendments of a housekeeping nature to Shoalhaven Local Environmental Plan (LEP) 2014.

### Recommendation (Item to be determined under delegated authority)

That Council:

1. Submit Planning Proposal PP058 to the NSW Department of Planning and Environment for an initial Gateway determination and, if favourable:
  - a. proceed to formal public exhibition in accordance with the terms of the determination/legislative requirements; and
  - b. receive a further report following the conclusion of the public exhibition to enable its finalisation.
2. Advise key stakeholders, including relevant Community Consultative Bodies and any directly affected landowners, of the public exhibition arrangements.

### Options

1. As recommended.

Implications: This is the preferred option. Since the commencement of the LEP, anomalies and minor issues continue to be identified that need to be resolved on an ongoing basis. The matters in this PP relate to LEP instrument and mapping issues that were generally identified in the 2021 calendar year. This PP will enable the matters to be resolved to ensure the LEP remains accurate and up to date.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could delay the resolution of the identified housekeeping matters.

3. Not proceed with the PP.

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

### Background

Shoalhaven LEP 2014 commenced on 22 April 2014 and is continuously updated to ensure that it aligns with strategic documents, is improved/corrected where necessary, relevant

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matters are resolved, and positive planning outcomes are delivered for the community. As a result, Council has an ongoing process of housekeeping (annual) amendments to improve the operation and maintain the accuracy of the LEP.

### Proposed 2022 Housekeeping Amendment

The intended outcome of the PP is to make a number of amendments to both the written instrument and maps in Shoalhaven LEP 2014 in order to correct identified anomalies or inconsistencies in the Plan and improve its operation. The amendments identified include:

- One (1) item that requires minor administrative amendments to the LEP written instrument.
- Thirty (30) items that require amendments to the LEP maps, covering a variety of minor mapping issues relating to: Land Zoning, Lot Size, Height of Building, Terrestrial Biodiversity, Clauses, Land Reservation Acquisition, Scenic Protection Area and Heritage.
- Five (5) items that relate to both the LEP instrument (Schedule 5) and the associated Heritage mapping.

The proposed amendments will help to improve the overall operation of the Plan. The proposed PP is included at **Attachment 1** and contains the detail of the proposed LEP amendments. **Table 1** below summarises the key matters/issues, along with the relevant locations, for convenience.

**Table 1: Summary of the 2022 Housekeeping PP key issues**

Issue / Proposed Amendment	Location (and Mapping Item No.)
<b>Mapping</b>	
Private land currently zoned RE1 Public Recreation that should be rezoned to a more appropriate land use zone given it is not in public ownership.	<ul style="list-style-type: none"> <li>• Nowra (1) and (2)</li> <li>• South Nowra (12)</li> <li>• Bendalong (13)</li> </ul>
Council-owned land that should be rezoned to reflect the intended purpose of that land.	<ul style="list-style-type: none"> <li>• Berry (7)</li> <li>• Burrill Lake (14)</li> <li>• North Nowra (15)</li> <li>• Cambewarra (30)</li> </ul>
Applying or removing the minimum lot size layer for consistency with the relevant land use zone.	<ul style="list-style-type: none"> <li>• Sassafras (3)</li> <li>• Coolumburra (5)</li> </ul>
Resolving/tidying up minor anomalies in various mapping layers to ensure consistency with the intended land use and provide greater certainty for landowners.	<ul style="list-style-type: none"> <li>• Coolumburra (4)</li> <li>• Touga (6)</li> <li>• Burrill Lake (8) and (16)</li> <li>• Berry (9) and (18)</li> <li>• Jaspers Brush (10)</li> <li>• Nowra Hill (11)</li> <li>• South Nowra (17)</li> <li>• Conjola Park (26)</li> <li>• Bomaderry (29)</li> <li>• Cambewarra (30)</li> </ul>

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Removal of land reservation acquisition (LRA) layer where no longer required.	<ul style="list-style-type: none"> <li>• Culburra Beach (19)</li> <li>• Mundamia (20)</li> <li>• Berry (21) (22)</li> <li>• Bomaderry (23)</li> <li>• Jaspers Brush (24) (25)</li> </ul>
Refinement of terrestrial biodiversity layers.	<ul style="list-style-type: none"> <li>• Milton (27)</li> <li>• Budgong (28)</li> </ul>
<b>Instrument and Mapping</b>	
Amendments to heritage mapping layers and item descriptions under LEP Schedule 5 to ensure information is accurate and up to date. Includes removal of heritage listing (Item 5).	<ul style="list-style-type: none"> <li>• Terara (1)</li> <li>• Broughton Vale (2)</li> <li>• Berry (5)</li> </ul>
Refinement of heritage mapping layer and item description under LEP Schedule 5.	<ul style="list-style-type: none"> <li>• Nowra wharf (3)</li> </ul>
Addition of new heritage item to LEP Schedule 5 and associated mapping.	<ul style="list-style-type: none"> <li>• 50 BTU Rd, Nowra Hill (4)</li> </ul>

Following initial Council endorsement, the PP will be submitted to the NSW Department of Planning and Environment (DPE) for Gateway determination. Should a favourable determination be received, as detailed in the Project Timeline in the PP (**Attachment 1**), it is anticipated that the resultant LEP amendment would be finalised by mid/late 2023.

### Community Engagement

Should the PP receive a favourable Gateway determination, it will be publicly exhibited in accordance with the relevant legislative and Gateway requirements. The Gateway determination will specify the minimum exhibition period and any government agencies who should be consulted. Early engagement has occurred with WaterNSW in accordance with the relevant Section 9.1 Ministerial Direction, and its response is attached to the PP.

Any directly affected landowners will be advised of the exhibition arrangements in writing, as will all Community Consultative Bodies (CCB's) and relevant stakeholders.

The PP will be reported back to Council following the formal exhibition to enable final consideration.

### Financial Implications

There are no immediate financial implications for Council. The amendment to the LEP will be resourced from the existing Strategic Planning budget.

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## **CL22.396 Transfer of Crown Road to Council - Part Bunkers Hill Road, Barrengarry**

**HPERM Ref:** D22/73708

**Department:** Technical Services

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

### **Reason for Report**

To provide Council with an opportunity to consider accepting the transfer of part of a Crown Road known as Bunkers Hill Road, Barrengarry to Council as a Public Road to enable the process to legalise the road in use, which is not within the Road Reserve.

### **Recommendation**

That:

1. Council accepts the transfer of approximately 4,523sqm of a Crown Road, known as Bunkers Hill Road, Barrengarry.
2. The land be transferred to Council from the Crown as a public road for \$nil consideration.
3. Costs associated with the transfer, including survey costs, are to be paid from M0006165.
4. Council authorises 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: The road will be transferred to Council ownership to secure Council's legal access for construction and maintenance of any future works if required. The transfer will formalise the existing arrangement and provide opportunity for Council to formalise the formed road not being within the road reserve.

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

Implications: The road will remain in Crown ownership. Council will be unable to legalise the formed road being out of the road reserve.

### **Background**

Council is proposing to carry out Natural Disaster reconstruction works to Bunkers Hill Road, Barrengarry. Council's records indicated that the existing road is not within the Crown road reserve for Bunkers Hill Road.

Crown road reserves were established during European settlement of NSW and are owned by the NSW Government. Council cannot close a Crown Road. The subject road is the section of Bunkers Hill Road east from the intersection of Carters Road to just after the Millers Creek crossing. The area of Crown Road reserve to be transferred to Council is shown in yellow in the below aerial. The location of the formed road is shown in purple.

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**Figure 1: Yellow outline shows Crown Road reserve. Purple outline shows formed road.**



The steps required to align the road reserve with the actual position of the built road are as follows:

1. Council to accept the transfer of the existing road reserve from Crown Lands (This Report).
2. Council finalise the land requirements for the upgrade of the Barrengarry Creek Crossing (essentially in accordance with the Design DN170290, from MI Engineers)
3. Subject to future Resolution of Council - Close the unformed road reserve (former Crown road reserve) and ideally do a land swap (the unformed former Crown Road for the land over the existing road) with the adjoining land with the adjoining property owner for the land over the formed road, allowing for the Barrengarry Creek Crossing.
4. Dedicate new road reserve over the formed road.

Council has made an application to Crown Lands to transfer the road to Council at \$nil consideration. Crown Lands now requires resolution of Council to accept the transfer of approximately 4,523sqm of Bunkers Hill Road, Barrengarry.

### **Community Engagement**

Not applicable.

### **Policy Implications**

Not applicable.

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**Financial Implications**

The road is to be transferred to Council for \$nil consideration. Costs associated with the transfer are to be paid from M0006165. Council already maintains the formed road.

**Risk Implications**

Council is proposing to carryout Natural Disaster reconstruction works to Bunkers Hill Road which suffered five landslips between March and July 2022. As part of these works it is appropriate to clean up the road reserve ownership issues.

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## CL22.397 Parkcare Action Plans - Casuarina & Honeysuckle / Kings Point

**HPERM Ref:** D22/310572

**Department:** Works & Services

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

**Attachments:** 1. Draft - Casuarina & Honeysuckle - Burrill Lake Parkcare Action Plan [↓](#)  
2. Draft - Kings Point Parkcare Action Plan [↓](#)

### Reason for Report

To allow Council to consider two updated Parkcare Action Plans that have been prepared by Parkcare Groups in conjunction with Council staff.

The plans are:

1.	Casuarina & Honeysuckle – Parkcare Action Plan	Burrill Lake	Updated
2.	Kings Point – Parkcare Action Plan	Kings Point	Updated

### Recommendation

That Council:

1. Endorse the updated “Parkcare” Plans for
  - a. Casuarina & Honeysuckle – Burrill Lake (UPDATED)
  - b. Kings Point - (UPDATED)
2. Continue to allocate ongoing annual operating funding of \$400 (GST exclusive and CPI adjusted) for each Parkcare Group, totalling \$800 to cover safety PPE, miscellaneous materials, waste disposal and purchase minor tools.

### Options

1. Approve continued endorsement of Casuarina & Honeysuckle – Burrill Lake Parkcare Group and Kings Point Parkcare Group and adopt the Draft Action Plans

Implications: The two groups are currently allocated a total of \$400 for continuing support of Parkcare objectives which are offset by the free resource offered to Council. The total cost of supporting the two Parkcare Groups would be an annual cost of \$800 which would be provided from the Works and Services Operational budget.

2. Not approve the continued endorsement of Casuarina & Honeysuckle – Burrill Lake Parkcare Group and Kings Point Parkcare Group pending any changes to the Action Plans

Implications: This would be a lost opportunity for Council. It is estimated from actual volunteer hours of existing Parkcare Groups, that the additional proposed Action Plans, and the volunteer effort that supports it, allows the Groups to supplement Council's maintenance schedule at a higher level of service thus adding approximately \$16,500 per annum (2 parks x average of 275 volunteer hours x \$30 per hour for labour) to present a high-quality park and reserve to the Berry and Bomaderry Communities.

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## Background

Council engages volunteers such as Parkcare groups to achieve higher levels of maintenance at minimal cost to Council. Council currently has 49 Parkcare Groups with 403 volunteer members under its Parkcare Programme.

The following draft Parkcare Action Plan is up for readoption with one change to the Parkcare Action Plan:

1. Casuarina & Honeysuckle – Burrill Lake Parkcare Action Plan

The reserve between Casuarina Close & Honeysuckle Close (Ireland Street Reserve) has had the Permit to Harm issued by the Department of Primary Industries revised to include an area that was formally a “no mow” zone to a “no mow under 150mm and only once per month” zone.

The following one draft Parkcare Action Plan is up for readoption with two changes to the Parkcare Action Plan:

1. Kings Point Parkcare Action Plan

The Kings Point Parkcare Group have requested the area that they maintain to continue to the left of Parkland Drive for extra mowing by the group. They would also like to include the cleaning of tables, concrete and playground.

## Community Engagement

Participation and involvement in the Parkcare Groups is open to all community members. The attached Action Plans involved consultation, as part of the Bushcare / Parkcare Procedures (PRD20/28), 7.2 Community Consultation.

## Financial Implications

The two groups have been established in the Shoalhaven for a number of years and have been allocated the \$400 in future Works & Services budgets.

The total yearly contribution of \$800 has been provided for in the 2021-2022 Operating budget for Works & Services.





## CASUARINA & HONEYSUCKLE – BURRILL LAKE - PARKCARE ACTION PLAN

**Document Number:** D20/367525 • **Adopted:** Date • **Minute Number:** Minute number • **File:** 31954E • **Produced By:** City Services Group • **Review Date:** Review Date

### CONTACT INFORMATION

<b>Group Name:</b>	Casuarina & Honeysuckle Close Parkcare Group
<b>Contact:</b>	Parks Programmes Officer
<b>Reserve Name:</b>	Ireland St Reserve
<b>Location:</b>	Burrill Lake
<b>Reserve No:</b>	SBL856
<b>Land Tenure</b>	Freehold
<b>Comm Land Type</b>	Community Land

### 1. PARKCARE GROUP GOALS

To keep the parks mown, clean and tidy
Aid in the protection of the known salt marsh areas

### 2. SHOALHAVEN PARKCARE GROUP ACTIVITIES TABLE

GROUP ACTION	PRIORITY	METHOD	TIMING
Dark Green Areas - <b>No mowing permitted as per the Permit to Harm PN22/238</b>	H	Ride on and hand mowers	Ongoing
Light Green Areas - <b>Mowing to a height of 150mm only as per the Permit to Harm – PN22/238 and only once per month</b> Council has laid markers to delineate this area			
Other areas – Normal mowing permitted			
Litter pick up in all areas	H	By hand	Ongoing
Graffiti removal	H	By hand	Ongoing

### 3. PARKCARE GROUP ACTION PLAN MAP



#### 4. PARKCARE GROUP WHS DOCUMENTS

Type of Activity	WHS Document Name	Document No.
Litter pick up	Roadside Waste, Biological Waste & Park Litter Collection	SWMS1417
Mowing with handheld	Mower – Walk Behind	SWI51 (v2)
Mowing with ride on	Operate & Maintain Ride On Mower / Tractor	SWI50 (v2)

#### 5. COUNCIL SUPPORT

Supply materials and advice

#### 6. HAS A SITE HAZARD AND RISK ASSESSMENT BEEN COMPLETED FOR THE PARKCARE SITE?

Risk assessments are completed daily as part of the Site Recording Group Sheet & Site Specific Risk Assessment Form.

#### 7. LIST THE PERSONAL PROTECTION EQUIPMENT REQUIRED FOR VOLUNTEERS WHILST WORKING ON THE SITE

PPE Equipment Required	Date issued
First Aid Kit	As Required
Gloves	As Required
Sunscreen	As Required
Insect repellent	As Required

#### 8. POSSIBLE FUTURE FUNDING

Project	Funding source
Nil	

#### 9. PLAN WILL BE REVIEWED WHEN THE CURRENT PERMIT TO HARM EXPIRES

The Permit to Harm – PN22/238 expires on the 14/6/2025 and a new Permit to Harm will be reissued along with an update of the Parkcare Action Plan at that time

**10. LOCAL OR REGIONAL MANAGEMENT PLANS OR STRATEGIES THAT THIS PLAN RELATES TO**

Name of document	Year it was produced	Produced by
Permit to Harm PN22/238	2022	Department of Primary Industries
Plan of Management Generic Community Land - Parks	2001	Shoalhaven City Council
Foreshore Reserves Policy	2017	Shoalhaven City Council

**11. RECOMMENDED PLANTING SPECIES LIST  
(NO VIEWS TO BE IMPACTED)**

Name or type of plant	Maximum Height	Structural Role in the park vegetation	Number
N/A			

All works undertaken pursuant to this action plan are to be to the satisfaction of the Open Spaces Assets Coordinator

**Parkcare Group Name** Casuarina & Honeysuckle Close Parkcare Group

**Coordinator Name** Brian Smith

**Signature** .....

**Date** ....

Attachment A



**Department of  
Primary Industries**

**Permit under Part 7 of the  
FISHERIES MANAGEMENT ACT 1994**

<b>Permit Number:</b>	PN22/238
<b>Permit Holder:</b>	The General Manager Shoalhaven City Council 36 Bridge Street, NOWRA NSW 2541 RESPONSIBLE PERSON: Parks Programme Officer Ph: 4429 3111
<b>Permit Area:</b>	Council Foreshore Reserve, Burrill Lake, Lot 36 DP262421 and Lot A DP21307
<b>Permit Activity:</b>	to harm marine vegetation in association with or in relation to mowing of saltmarsh in designated areas
<b>Departmental Contact Officer:</b>	Carla Ganassin Ph: (02) 4428 3007 Email: jillian.reynolds@dpi.nsw.gov.au
<b>District Fisheries Officer:</b>	Owen McTavish Ph: 0410 724 466 Email: owen.mctavish@dpi.nsw.gov.au
<b>Expiry Date:</b>	Unless cancelled or suspended sooner, this permit shall remain in force until 14 June 2025

This permit is subject to the following Conditions:

**ADMINISTRATIVE CONDITIONS**

- 1) The **Acceptance of Conditions** form (attached) must be completed and returned to the Officers listed at the bottom of the form before commencing any works authorised by this permit.  
*Reason – To remove any doubt that the Permit Holder understands and accepts the Conditions before work commences.*
- 2) This permit (or a true copy) and a copy of the finalised Construction Environmental Management Plan (CEMP) must be carried by the permit holder or sub-contractor operating on-site at all times during work activity in the permit area.  
*Reason – DPI Fisheries staff may wish to check compliance of works with imposed conditions.*

**NATURE AND EXTENT OF WORKS**

- 3) The permit holder must ensure that all works authorised by this permit are restricted to the permit area and are undertaken in a manner consistent with those described in the permit application dated 8 March 2018 and **Figure 1** attached to this permit. Other works, which have not been described, are not to be undertaken.  
*Reason – This permit has been granted following an assessment of the potential impacts of the described works upon the aquatic and neighbouring environments. Other works, which were not described in the application have not been assessed and may have significant adverse impacts.*

**AVOIDING HARM TO MARINE AND RIPARIAN VEGETATION**

- 4) Shoalhaven City Council is to maintain bollards to delineate the boundary between areas of the foreshore reserve that can be mowed from those where no mowing is permitted. The bollards are to remain located along the boundary lines agreed on-site with DPI staff

In September 2011 and no mowing or vegetation maintenance activities are to occur within the agreed no mowing areas of the reserve, as shown in dark green shading in the attached Figure 1 diagram.

*Reason – To restrict and minimise harm to saltmarsh plants from ongoing mowing and vegetation maintenance activities.*

- 5) In the areas of the Council reserve where mowing or trimming of saltmarsh or other vegetation is permitted, mowing or trimming must be undertaken to a height of no lower than 150mm, as shown in light green shading in the attached Figure 1 diagram.  
*Reason – To minimise harm to saltmarsh plants from ongoing mowing and vegetation maintenance activities.*
- 6) Mowing or trimming of saltmarsh or other vegetation in the reserve is only to be undertaken by Shoalhaven City Council staff or volunteers or sub-contractors registered by Shoalhaven City Council.  
*Reason – To ensure that all individuals undertaking activities authorised by this permit understand and adhere to the conditions of the permit.*
- 7) Mowing or trimming of saltmarsh or other vegetation in the reserve is not to be undertaken more than once per calendar month.  
*Reason – To minimise harm to saltmarsh plants from ongoing mowing and vegetation maintenance activities.*
- 8) Harm to saltmarsh, other marine vegetation, riparian vegetation or water land outside the work footprint approved under the authority of this permit is not permitted and any harm caused is to be documented and reported to the contact officer. Any harm caused is to be restored in accordance with directions provided by the contact officer.  
*Reason – To ensure that impacts on aquatic habitats and the riparian zone are minimised.*

#### FISH KILL CONTINGENCY

- 9) A visual inspection of the waterway for dead or distressed fish (Indicated by fish gasping at the water surface, fish crowding in pools or at the creek's banks) is to be undertaken daily during the works. **Observations of dead or distressed fish are to be immediately reported to the Contact Officer by the Permit Holder.** In such a case all works are to cease until the issue is rectified and approval is given to proceed. If requested, the Permit Holder is to commit resources to the satisfaction of the Contact Officer for an effective fish rescue. If in the view of that officer, a fish kill event is imminent and likely to occur within or adjacent to the works area due to conditions associated with weather, water quality and other parameters.  
*Reason – DPI Fisheries needs to be aware of fish kills so that it can assess the cause and mitigate further incidents in consultation with relevant authorities. They are also potentially contentious incidents from the public perspective. Work practices may need to be modified to reduce the impacts upon the aquatic environment.*

#### IMPORTANT NOTE:

In the event of any inconsistency between the conditions of this approval and:

- the drawings / documents referred to above, the conditions of this approval prevail to the extent of the inconsistency;
- any Government publication referred to in this permit, the most recent document shall prevail to the extent of the inconsistency; and
- the proponent's mitigation measures outlined in the application, the conditions of this approval prevail to the extent of the inconsistency.

#### STOP WORK ORDERS

A Fisheries Officer or other appropriate delegate, who has reasonable cause to suspect that the conditions of this permit have not been complied with, **may order the work to stop immediately.** The order may be given to the permit holder or any person who informs the officer that they are acting in any capacity on behalf of the permit holder. Any damage caused to the habitat outside the specified permit area, or the carrying out of works not in accordance with the conditions specified in this permit and/or the application and that were accepted by the permit holder, could result in a breach of the *Fisheries Management Act 1994 or Regulations*, and penalties of up to



\$220,000 may apply. Orders may also be made requiring work to rectify any damage caused by unauthorised works. Breaching a condition of a permit can incur an on-the-spot penalty notice of \$500 or up to \$11,000 through the courts pursuant to clause 225 of the *Fisheries Management (General) Regulation 2019*.

Yours sincerely,



**Sarah Conacher**  
A/Senior Fisheries Manager – Coastal Systems, Central  
Authorised delegate of the Minister for Agriculture & Western NSW

14/6/2022

cc: Owen McTavish - District Fisheries Officer, Batemans Fisheries Office

cc: Mick Bettanin - Conservation Officer, South

DRAFT

CL22.397 - Attachment 1



## KINGS POINT PARKCARE ACTION PLAN

**Document Number:** D22/235279 • **Adopted:** Date • **Minute Number:** Minute number • **File:** 31954E • **Produced By:** City Services • **Review Date:** Review Date

### CONTACT INFORMATION

<b>Group Name:</b>	Kings Point Parkcare Group
<b>Contact:</b>	Parks Programmes Officer
<b>Reserve Name:</b>	Parkland Drive
<b>Location:</b>	Kings Point
<b>Reserve No:</b>	SKP859, SKP860
<b>Land Tenure</b>	Freehold
<b>Comm Land Type</b>	Park / Natural Area Foreshore

### 1. PARKCARE GROUP GOALS

To maintain the grass and the garden beds and keep free from rubbish (area only within the existing maintained mown areas defined with bollards and as part of the Action Plan Map).

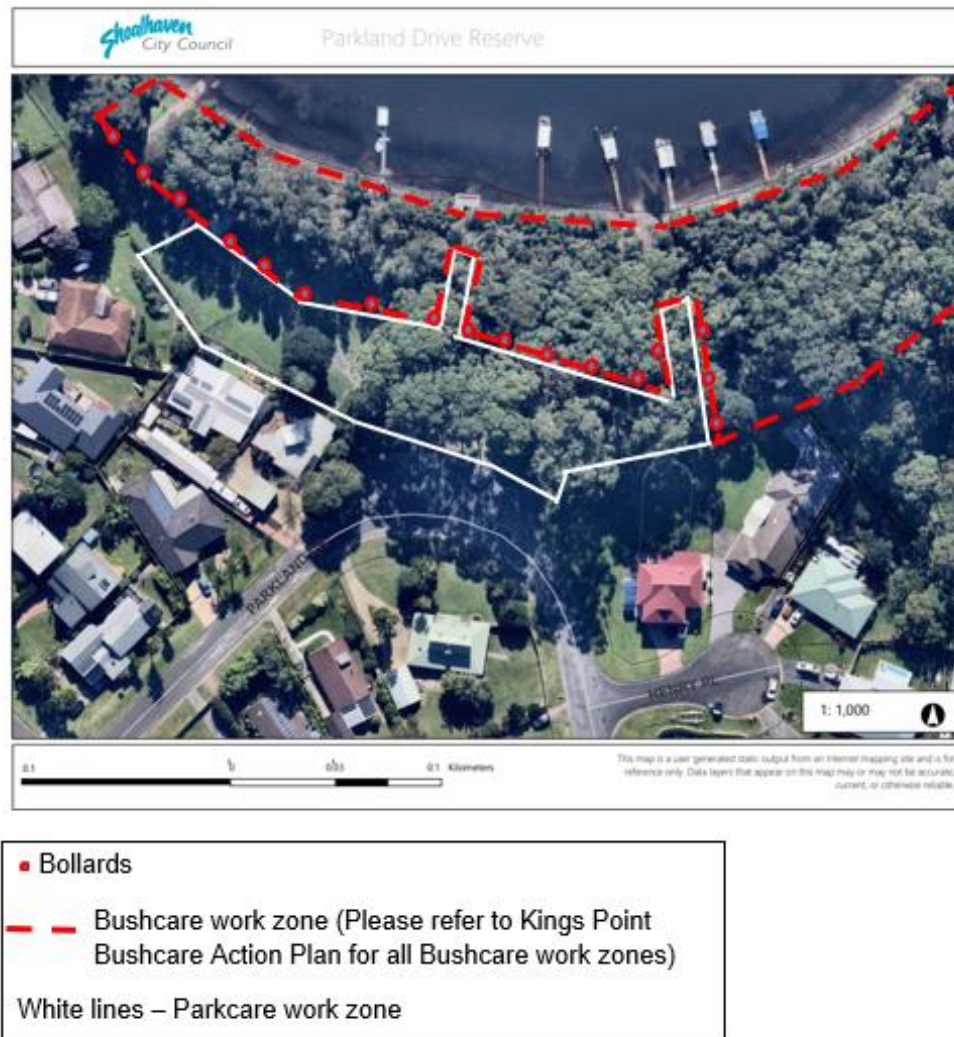
### 2. SHOALHAVEN PARKCARE GROUP ACTIVITIES TABLE

GROUP ACTION (these should relate to your project description)	PRIORITY	METHOD	TIMING
Clean park area	H	Hand tools	Ongoing
Mow lawns & whipper snip	H	Hand held equipment & ride on mower	Ongoing
To maintain and paint existing parkland picnic tables	M	Hand tools	As required
Maintain & weed native garden area near play equipment	H	Hand tools	Ongoing
Gurney table bases, playground	M	Hand tools	As

equipment etc			required
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### 3. PARKCARE GROUP ACTION PLAN MAP

Following bollard line as shown in map below.



#### 4. PARKCARE GROUP WHS DOCUMENTS

Type of Activity	WHS Document Name	Document No.
Landscaping & planting	Operational Risk Assessment	P10.F03 (FM18/139)
Operating whipper snipper	Line trimmer	SWI41 (v2)
Painting & maintaining park furniture	Park Furnishings & Play Equipment Maintenance	SWMS1201
Litter pick up	Roadside Waste, Biological Waste & Park Litter Collection	SWMS1417 (v9)
Using a ride on mower	Operate & Maintain Ride On Mower / Tractor	SWI51 (v2)
Cleaning tables, concrete, playground equipment etc	Pressure Washer - Petrol	SWI66 (v2)
Cleaning tables, concrete, playground equipment etc	Pressure Washer – Electric	SWI65 (v2)

WHS Document Name	Document No.
Workplace Inspection Checklist	D13/177520
Incident Reporting, Investigation and Corrective Action	PRD18/118
Bushcare/Parkcare Policy	POL18/43
Bushcare/Parkcare Procedure	PRD20/28
Contractor & Volunteer Management	PRD18/165
Personal Protective Equipment (PPE)	PRD16/257
Work Health & Safety Policy	POL20/12
Risk Management	PRD18/135

#### 5. COUNCIL SUPPORT

Provision of building materials and paints as necessary
Provision of landscape materials including plants and mulch as necessary
Disposal of waste costs as necessary

**6. HAS A SITE HAZARD AND RISK ASSESSMENT BEEN COMPLETED FOR THE PARKCARE SITE?**

Risk assessments are completed daily as part of the Site Recording Group Sheet & Site Specific Risk Assessment Form.

**7. LIST THE PERSONAL PROTECTION EQUIPMENT REQUIRED FOR VOLUNTEERS WHILST WORKING ON THE SITE**

PPE Equipment Required	Date issued
First Aid Kit	As Required
Gloves	As Required
Sunscreen	As Required
Insect repellent	As Required

**8. POSSIBLE FUTURE FUNDING**

Project	Funding source
Nil	

**9. PLAN WILL BE REVIEWED EVERY SIX YEARS**

**10. LOCAL OR REGIONAL MANAGEMENT PLANS OR STRATEGIES THAT THIS PLAN RELATES TO**

Name of document	Year it was produced	Produced by
Kings Point Foreshore Plan of Management	2000	Shoalhaven City Council
Generic Community Land - Parks – Plan of Management	2001	Shoalhaven City Council
Foreshore Reserves Policy	2017	Shoalhaven City Council
Generic Community Land – Natural Areas – Plan of Management	2001	Shoalhaven City Council

**11. RECOMMENDED PLANTING SPECIES LIST  
(NO VIEWS TO BE IMPACTED)**

Name or type of plant	Maximum Height	Structural Role in the park vegetation	Number
Blue Flax Lily	1.5m	Attractive to birds, evergreen, low maintenance	As required and approved
Mat Rush (Lomandra)	1m	Low maintenance evergreen, attracts bees and other insects	As required and approved
Native Rosemary	1.5m	Hardy evergreen needs little care once established, attractive to native birds	As required and approved
Showy Parrot Pea	1m	Ornamental, does well under established trees	As required and approved

**12. SITE WEED LIST**

Common Name	Extent	Control method used by group

**All works undertaken pursuant to this action plan are to be to the satisfaction of the Open Spaces Assets Coordinator**

**Parkcare Group Name** Kings Point Parkcare Group

**Coordinator Name** Kathleen Basile

**Signature** .....

**Date** ....



## CL22.398 Fire Safety Recommendation - Fire Rescue NSWFSS649 - 10 Central Avenue, South Nowra

**HPERM Ref:** D22/316602

**Department:** Certification & Compliance

**Approver:** James Ruprai, Director - City Development

**Attachments:**

1. DRAFT Notice of Intention to Give a Fire Safety Order - Annexure to Council Report - 10 Central Ave South Nowra - Lot 19 DP 19407 - Redacted [↓](#)
2. Formal Fire Safety Order - Formalise Schedule - 10 Central Ave South Nowra - Lot 19 DP 19407 - Redacted [↓](#)
3. Fire Engineering Report - Mobius Fire - 10 Central Av South Nowra - Lot 19 DP 19407 - Redacted (under separate cover) [⇒](#)
4. FRNSW Inspection Report - 10 Central Ave South Nowra - Lot 19 DP 19407 [↓](#)

### Reason for Report

Council has received a report from Fire and Rescue NSW concerning fire safety matters at 10 Central Avenue, South Nowra.

In accordance with Schedule 5, Part 8, Clause 17 of the Environmental Planning and Assessment Act 1979, any report or recommendations to Council resulting from an inspection by Fire and Rescue NSW must be tabled to the next available Council meeting.

Council's Fire Safety Officers have inspected the premises to confirm the fire safety issues at the site. This report combines the findings of Fire and Rescue NSW and Council's Fire Safety Officer's requirements and recommends the issue of Notices and Orders to have the premises upgraded.

### Recommendation

That Council

1. Issue a Notice of Intention to the owner of the premises to have the premises upgraded for fire safety. The terms of this order are identified in Attachment 1 of this report.
2. Provide written advice to the Commissioner of Fire and Rescue NSW regarding its determination, in accordance with Schedule 5, Part 8, Section 17 (4) of the Environmental Planning and Assessment Act 1979.

### Options

1. Council approves the recommendation as proposed.

Implications: The owners are still afforded the opportunity to discuss the terms of the proposed order in accordance with the procedure set by the Environmental Planning and Assessment Act.

2. Council provides an alternative recommendation

Implications: Council will still need to advise the Commissioner of Fire and Rescue NSW of its determination.

CL22.398

## Background

On 20 June 2022, a Fire Safety order was issued by Council to secure a new Fire Safety Schedule for 10 Central Avenue South Nowra – Lot 19 DP 19407 (the subject property) in the Shoalhaven Local Government Area. The order was issued at the request of the owners to modify the Fire Safety Schedule for the building due to false alarm activations, requiring costly Fire and Rescue NSW (FRNSW) attendance (Refer Attachment 2).

Clause 78 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, provides four mechanisms by which a Fire Safety Schedule can be lawfully secured. These are a development consent with no building work, a construction certificate, a complying development certificate and a Fire Safety Order.

As there was no development consent, construction certificate or complying development certificate, through which a Fire Safety Schedule could be secured, a Fire Safety order is the only remaining mechanism by which a new Fire Safety Schedule for the building could be secured.

The Fire Safety Order was based on a Fire Engineering Report prepared by Mobius Fire Safety Pty Ltd dated 4 February 2022 (Refer Attachment 3).

On 20 June 2022, a copy of the Fire Safety order was forwarded to FRNSW as required by Schedule 5, Part 6, Section 10 of the Environmental Planning and Assessment Act 1979.

On 28 July 2022, Council received a report from FRNSW concerning fire safety issues at the subject property (Refer Attachment 4). FRNSW inspect sites as part of their duties either routinely or on request. The premises highlighted in this report were inspected by FRNSW following receipt of a Fire Safety Order issued by Council on the 20 June 2022. The FRNSW focussed primarily on the fire hydrant system servicing the buildings on the subject premises.

Schedule 5, Part 8, Clause 17 of the Environmental Planning and Assessment Act 1979 requires the any report or recommendations to Council resulting from an inspection by FRNSW to be tabled at the next available Council meeting.

On Tuesday 23 August 2022, staff from Council's Fire Safety Team conducted an inspection of the premises to investigate the matters contained in the FRNSW Report. During this inspection other departures relating to paths of travel, exit signage and emergency lighting were observed. These are only minor issues, and they will be included in the notice and order to the owner of the premises.

**Summary** There are risk implications if Council moves to take no action regarding the recommendations from FRNSW, which may extend to liability in the event of a fire at the subject premises.

In accordance with Schedule 5, Part 8, Section 17 (4) of the Environmental Planning and Assessment Act 1979, Council will need to advise Fire & Rescue NSW of its decision in this matter.



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111  
[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)    

Council Reference: **ON2022/8981 (D22/57583)**  
Council Contact: Shane Gillespie

23 September 2022



By email only: 

Dear Sir and Madam,

**NOTICE OF INTENTION TO GIVE A DEVELOPMENT CONTROL ORDER  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979  
SCHEDULE 5, PART 2, (1) ENSURING & PROMOTING ADEQUATE FIRE SAFETY**

**Premises: 10 Central Ave SOUTH NOWRA - Lot 19 DP 19407**

On the 12 February 2022, a Fire Safety order was issued at the request of the owners. The order was based on a Fire Engineering Report submitted to Council proposing amendments to the current fire safety schedule for the building situated at the 10 Central Ave SOUTH NOWRA - Lot 19 DP 19407.

Pursuant to Schedule 5, Part 6, Section 10, a copy of the Fire Safety order was forwarded to Fire & Rescue NSW (FRNSW). As a result of the Fire Safety order, FRNSW conducted an inspection of the subject property. Subsequent to that inspection, a report was forwarded to Council bearing comments on behalf of the Commissioner of FRNSW, in accordance with Section 9.32 (4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act.

On Tuesday 23 August 2022, staff from Councils Fire Safety Team conducted an inspection of the premises, to investigate the matters contained in the FRNSW Report.

Pursuant to Schedule 5, Part 8, Section 17(2) the report from the Commissioner of FRNSW was tabled at a Council meeting on the 22 September 2022. At this meeting it moved by Council to issue this Notice.

Pursuant to Schedule 5, Part 6, the Council of the City of Shoalhaven gives notice to you (being the person to whom the Order is proposed to be given) of its intention to give an Order in terms of the attached draft which gives the terms of the proposed Order and the period proposed for compliance.

In accordance with Schedule 5, Part 7, you may make representations to Council as to why the Order should not be given or as to the terms of or period for compliance with the Order. In making representation you may represent yourself or you may be represented by a barrister, solicitor or an agent.

In this regard, representations should be made in writing to the Chief Executive Officer or personally to Shane Gillespie, Building Surveyor - Fire Safety, within twenty-eight, (28), days of the date of this Notice.

The Order will be issued on 21 October 2022 (or in a reasonable timeframe from this date), should no representation for the Notice of Intention be forthcoming. Details of the Order will be published on Council's website as required by the Government Information (Public Access) Act 2009.

If you need any further information about this matter, please contact Shane Gillespie, 44293560 between the hours of 9.00am to 10.30am weekdays or email [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au). Please quote Council's reference **ON2022/8981 (D22/57583)**.

Yours faithfully

**Shane Gillespie**  
**Team Supervisor - Fire Safety**  
**City Development**

CL22.398 - Attachment 1



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111  
[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)    

Council Reference: **ON2022/8981 (D22/57583)**  
Council Contact: Shane Gillespie

21 October 2022



By email only: 

Dear Sir and Madam,

**FIRE SAFETY ORDER (1) SCHEDULE 5, PART 2  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**Premises: 10 Central Ave SOUTH NOWRA - Lot 19 DP 19407**

The Council of the City of Shoalhaven has determined to issue you, being the owners, in respect of the premises at the abovementioned premises with a Fire Safety Order under Item 1 of Part 2 of Schedule 5 of the Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act)

**Circumstances in which a Fire Safety Order (1) can be given:**

When provision for fire safety or fire safety awareness is inadequate to—

- prevent fire, or
- suppress fire, or
- prevent the spread of fire.

To ensure or promote the safety of persons in the event of fire.

When lack of maintenance of the premises or the use of the premises constitutes a significant fire hazard.

**Premises the subject of the Order:**

**10 Central Ave SOUTH NOWRA - Lot 19 DP 19407**

**REQUIRED ACTION AND COMPLIANCE PERIOD:**

Specified Works 1 to 6 shall be completed by 18 November 2022.

Specified Works 7 shall be completed within 28 days of completion of Specified Works 1-6.

### **THE SPECIFIED WORKS**

#### **Fire Safety Report**

- 1 Submit to Council a report prepared by an appropriately qualified and insured Building Surveyor – Unrestricted or Certifier – Fire Safety (as defined by the Building & Development Certifiers Regulation 2020), detailing all non-compliances, in the subject premises, with the requirements of Sections C, D, E & G of the National Construction Code.

The report must rationalise and explain the non-compliances (with no assumptions) and clearly recommend in the conclusion, all works required to be completed at the subject premises, to bring the premises into full compliance with relevant fire safety standards.

**NOTE:** If a Fire Engineered Performance Solution is proposed to meet any performance requirement, a Fire Engineering Report must be submitted, including a *performance-based design brief and final report* meeting the requirements of Section A2.2(4) of the National Construction Code 2019 Amendment 1.

No work is to be undertaken. A supplementary order will be issued to authorise any required works within the subject premises.

#### **Hydraulic Engineering Certification – Buildings A, C, D & E**

- 2 Submit to Council certification from an appropriately qualified and insured Certifier - Hydraulic (Specialist) (as defined by the Building & Development Certifiers Regulation 2020) that the fire hydrant system serving Buildings A, C, D & E meets performance requirement EP1.3 of the National Construction Code 2019 Amendment 1 and AS 2419.1-2005.

#### **Reason: 1A Fire Hydrant System – Buildings A, C, D and E**

##### **A. FRNSW observed,**

- i. The building has a footprint of approximately 6800m<sup>2</sup> and a total floor area of 8300m<sup>2</sup>. Table 2.1 of AS 2419.1-2005 requires three hydrants to flow simultaneously. The fire brigade booster comprises three feed hydrants and two boost inlet connections. FRNSW are of the opinion the fire hydrant booster assembly is not designed to permit a flow of 30 litres per second.
- ii. The incoming copper pipework from the reticulated town main is believed to be 100mm in diameter and the fire hydrant block plan states the underground ring main is 100mm in diameter. FRNSW are unable to determine if a 100 mm pipework in the ring main will permit a flow of 30 litres per second to the requirements of the design parameters in Clause 2.2.1 of AS 2419.1-2005.
- iii. FRNSW are of the opinion that hose lay coverage cannot be achieved to Buildings C and D contrary to the requirements Clause 3.2.2.2 of AS 2419.1-2005. Page 44 of the FER, Fire Hydrant Layout Plan, depicts hose lay coverage for the base building only.

Extended hose lay coverage is evident as a result of the layout for self-storage facility. A labyrinth of corridors providing access to each storage garage and the Level 2 stairways are remote to the building access doors varying the base build hose lay report.



FRNSW were advised that additional storage garages will be built over Unit No. 6 and 7. A temporary construction doorway provides access to the intended extension which may require additional hose lay.

Building A, which is within six metres of Building C, is not provided with compliant hose lay coverage.

- iv. The fire hydrant block plan does not comply with the requirements of Clause 7.11 of AS 2419.1-2005. The block plan does not provide a diagrammatic layout of the protected buildings and would suggest that two buildings (C & D) are separated by a six-meter-wide driveway. Level 2 storage units are not detailed. The block plan does not provide sufficient information to undertake firefighting operations.
- v. The fire hydrant block plan on Page 44 of the FER would indicate the fire hydrant pipework has a direct connection with the reticulated main in Oxford Street. This is different to the fire hydrant block plan at the fire brigade booster assembly. FRNSW cannot confirm that a fire hydrant ring main is installed at the premises contrary to the requirements Section 8.5.4 of AS 2419.1-2005.

#### **Hydrant Design – Building B**

- 3. Submit to Council design documentation prepared by an appropriately qualified and insured Certifier - Hydraulic (Specialist) for a fire hydrant system which meets performance requirement EP1.3 of the National Construction Code 2019 Amendment 1 and AS 2419.1-2005, to serve Building B.

**NOTE:** This hydrant system may be incorporated into the design for a hydrant system serving all buildings on the subject property.

#### **Reason: Fire Hydrant System – Building B**

- A. The fire hydrant installation appears to meet the performance requirements of Ordinance 70 or earlier.
- B. A single, in-ground, hydrant is located ten metres from Unit 2a. Firefighters are required to ship a standpipe to undertake firefighting operations. FRNSW were unable to determine if the in-ground hydrant is ball valve or screw valve. Typically fire trucks in the Shoalhaven region would not carry standpipes for use with screw valve hydrants.
- C. FRNSW estimate hose lay coverage to the building exceeds 100 metres.
- D. This hydrant system does not meet the operational needs of FRNSW. FRNSW recommends any fire hydrant system installed in accordance with the provisions of Ordinance 70 and Ministerial Specification 10 (or earlier) should be upgraded to meet the requirements of the current Australian Standard AS 2419.1 for an equivalent new building.

#### **Smoke Detection and Alarm System (SDAS)**

- 4. Provide certification from an appropriately qualified and insured Accredited Practitioner – Fire Safety that the Building Occupant Warning System is initiated upon the activation of the first smoke detection system.
- 5. Provide a block plan which accurately depicts the layout of the buildings on the subject property.

#### **Reason: Smoke Detection and Alarm System (SDAS)**

- A. The block plan does not show the building as built contrary to the requirements Clause 3.10 of AS1670.1-2015. In this regard, the block plan depicts the building (C & D) as single level, is not correctly orientated and is a laminated A3 sheet of paper.
- B. The SDAS maintenance logbook states, "2X ALARMS REQ FOR TONES AND ASE". Should the handwritten note on the maintenance logbook be correct, the activation of the occupant warning will be delayed contrary to the requirements of Clause 3.22 (b) (iv) of AS1670.1-2015, which requires tones on an alarm condition. Occupant evacuation may be hampered due to reduced visibility and exposure to toxic gases, contrary to the requirements of Part E2 of the NCC.

#### **Linings and Construction Materials**

6. Submit to Council certification from an appropriately qualified and insured Accredited Practitioner – Fire Safety that all linings, materials and assemblies meet full compliance with Specification C1.10 of the National Construction Code 2019 Amendment 1.

**Reason:** At the time of the inspection, it was noted that each unit, in Building C and D, is separated by a wall of Insulated Sandwich Panel (ISP). It is noted that Part 4.5 Trial Design of the FER assessment discusses the smoke hazard properties of existing floor linings and their compliance with Spec C1.10 of the NCC. It is at Council's discretion as the appropriate regulatory authority to determine whether the ISP (and any other relevant linings, materials and assemblies) should form part of any FER assessment.

#### **Consultation**

7. Upon receipt of the documentation detailed above, Council will review the material and enter into consultation with the owners regarding any required works. If required, a further Fire Safety order will be issued to enable any required works to be undertaken and to secure a new Fire Safety Schedule.

**NOTE:** No further works are to be undertaken until written authority is received from Council.

#### **RELEVANT AUTHORITY**

The relevant legislative provision is SCHEDULE 5 of the Environmental Planning and Assessment Act, 1979.

#### **MODIFICATION OF ORDERS**

The terms of this Order can only be modified by Council in writing, and only if the person to whom the Order was given agrees to that modification. In no circumstances can the terms of the Order be amended orally.

Any application to Council seeking an amendment of this Order must be writing clearly setting out:

- the term(s) to be modified,
- the reasons for the modification of the term(s) and
- any substitute term(s) to be added to the Order (if applicable).

**IMPORTANT NOTES**

You are advised that the provisions of the Environmental Planning and Assessment Act, 1979 and Regulations made under the Act are not being complied with.

**APPEAL**

If you wish to appeal against this Order or a specified part of this Order, you must appeal to the Land and Environment Court, Level 4, 225 Macquarie Street, Sydney within 28 days of the service of this order upon you.

**PENALTY**

It should be noted that failure to comply with this Order has a maximum monetary penalty of:

Tier 1 offence under part 9 Division 9.37 of the EP&A Act. Under section 9.52, a Tier 1 offence has a maximum monetary penalty, in the case of a corporation of \$5 million, and for a continuing offence a further \$50,000 for each day the offence continues, or in the case of an individual: \$1 million and for a continuing offence a further \$10,000 for each day the offence continues or

Tier 2 offence. - Under section 9.53, a Tier 2 offence has a maximum monetary penalty, in the case of a corporation of \$2 million, and for a continuing offence a further \$20,000 for each day the offence continues, or in the case of an individual: \$500,000 and for a continuing offence a further \$5,000 for each day the offence continues.

In addition, if the Order is not complied with, Council may give effect to the Order and recover the costs of doing so from you.

**COMPLIANCE COST NOTICE**

As a result of the issue of this Order, Council may also issue you with a Compliance Cost Notice under Schedule 5 part 12 of the Act. Where such a notice is issued it will require you to pay a specified amount, being Council's reasonable costs and expenses incurred in monitoring works and ensuring compliance with the Order. This may include the time spent by Council staff; including time spent undertaking inspections, as well as any other expenses incurred in taking steps to ensure that the Order is complied with. Where Council issues you with a Compliance Cost Notice you will have a right of appeal to the Local Court or, where you are also appealing against this Order, the Land and Environment Court in accordance with Division 8.6 Section 8.24 of the Act.

Please be advised that, in line with s281C of the Environmental Planning and Assessment Regulation 2000, the maximum compliance cost charges, in relation to an investigation that requires the serving of a notice of intention to serve an order under this Act, is \$500. Please also be advised that, in line with s281C of the Regulation, the maximum compliance cost charges, in relation to an additional investigation into this matter that results in the serving of a formal order under this Act, is \$1000.

**CONTACT DETAILS**

If you need any further information about this matter, please contact Shane Gillespie, 44293560 between the hours of 9.00am to 10.30am weekdays or email [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au). Please quote Council's reference **ON2022/8981 (D22/57583)**.

Dated

Ordered by and on behalf of Shoalhaven City Council.

.....

**Shane Gillespie**  
***Pursuant to a delegation of authority***

DRAFT

CL22.398 - Attachment 1



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au) [f](#) [@](#) [in](#) [v](#) [t](#)

## Fire Safety Schedule

Issued pursuant to Section 168 of the Environmental Planning and Assessment Regulation 2000

<b>Application Number</b>	ON2022/8981
<b>Property Address Lot &amp; Deposited Plan Number</b>	10 Central Ave SOUTH NOWRA - Lot 19 DP 19407
<b>Owner/s Name &amp; Address</b>	[REDACTED]
<b>Date Issued</b>	TBC

<b>Building Name</b>		Factory 28		
<b>Classification/s</b>		7b & 8		
No.	Measure	Particulars of Measure <i>(including where the requirement for the measure is set out or described i.e. in building plans or in a performance solution report)</i>	Currently Implemented	Proposed
1.	Fail-safe devices (gates on breezeway openings)	BCA D2.21 & AS 1670.1-2015	N	Y
2.	Fire hydrant system	BCA E1.3 & AS 2419.1-2005	Y	Y
3.	Fire hose reels	BCA E1.4 & AS 2441-2005	Y	Y
4.	Portable fire extinguishers	BCA E1.6 & AS 2444-2001	Y	Y
5.	Automatic fire detection and alarm system	BCA Spec E2.2a Cl 4 & AS 1670.1-2015	Y	Y
6.	Fire System Monitoring	BCA Spec E2.2a Cl 7(e), AS 1670.3-2004 & FER by Mobius Fire Safety P/L ref:16245 R1.5 dated 04.02.2022	Y	Y
7.	Emergency lighting	BCA E4.2 and E4.4 & AS 2293.1-2005	Y	Y
8.	Exit signage	BCA E4.5, E4.6 & E4.8, & AS 2293.1-2005	Y	Y
9.	Paths of travel	BCA D1.4 and D1.6 & EP&A Reg 2000, Clause 186	Y	Y
10.	Occupancies of Excessive Hazard	The use of the building must not include any of the hazardous processes, storage or Class 6 use (greater than 10% of the floor area of the storey it is within) as listed in BCA E1.5 and Table E1.5. This must be assessed by a suitability qualified independent person (not the building owner / operator) on an annual basis to ensure that the ongoing use of the building remains outside of all fire sprinkler triggers.	N	Y

CL22.398 - Attachment 1

11.	<b>Fire Engineering Report by Mobius Fire Safety</b> P/L Ref: 16245 rev 1.5 dated 4.02.2022	<ul style="list-style-type: none"> <li>Permit continuous vehicular access that is in excess of 18 m from the building (22m);</li> <li>Permit extended travel distance of up to 25m to a single exit in lieu of 20 m in Unit 5;</li> <li>Permit extended travel distance of up to 44m to the closest exit in Unit 7/8 in lieu of 40m;</li> <li>Permit extended travel distance of up to 70m between alternative exits in lieu of 60m;</li> <li>Permit reduced egress width through the storage unit access corridors in Units 7 and 8; and</li> <li>Permit automatic signal to FRNSW on second smoke detector activation in lieu of one.</li> </ul>	N	Y
-----	---	--	---	---

**A copy of this Schedule and associated Certificate/Statement must be prominently displayed in the building in accordance with Part 9 Division 4 of the Environmental Planning and Assessment Regulation, 2000.**

**Annual Fire Safety Statement**

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

*Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that an accredited practitioner – fire safety (APFS) has assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building*

- a) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Environmental Planning and Assessment Regulation 2000

*Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.*





Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](https://shoalhaven.nsw.gov.au/contact) | 1300 293 111  
[shoalhaven.nsw.gov.au](https://shoalhaven.nsw.gov.au)     

Council Reference: ON2022/8981 (D22/253715)  
Council Contact: Shane Gillespie

20/06/2022



By email only: 

Dear Sir and Madam,

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**SCHEDULE 5, PART 2, (1) ENSURING & PROMOTING ADEQUATE FIRE SAFETY**

**Premises: 10 Central Ave SOUTH NOWRA - Lot 19 DP 19407**

Reference is made to the above mentioned premises and the Notice of Intention to Serve a Fire Safety Order under Schedule 5, Part 2 that was forwarded to you on the 12 February 2022. Council has determined to issue the formal order as drafted.

If you need any further information about this matter, please contact Mackenzie Bailey, 44293448 between the hours of 9.00am to 10.30am weekdays or email [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au). Please quote Council's reference ON2022/8981 (D22/253715).

Yours faithfully

**Building Surveyor – Fire Safety  
City Development**

CL22.398 - Attachment 2



Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111  
[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)     

Council Reference: ON2022/8981 (D22/253715)  
Council Contact: Shane Gillespie

20/06/2022



By email only: 

Dear Sir and Madam,

**FIRE SAFETY ORDER (1) SCHEDULE 5, PART 2  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**Premises: 10 Central Ave SOUTH NOWRA - Lot 19 DP 19407**

The Council of the City of Shoalhaven has determined to issue you, being the owners, in respect of the premises at the abovementioned premises with a Fire Safety Order under Item 1 of Part 2 of Schedule 5 of the Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act)

**Circumstances in which a Fire Safety Order (1) can be given:**

When provision for fire safety or fire safety awareness is inadequate to—

- prevent fire, or
- suppress fire, or
- prevent the spread of fire.

To ensure or promote the safety of persons in the event of fire.

When lack of maintenance of the premises or the use of the premises constitutes a significant fire hazard.

**Premises the subject of the Order:**

**10 Central Ave SOUTH NOWRA - Lot 19 DP 19407**

**REQUIRED ACTION AND COMPLIANCE PERIOD:**

Specified Works 1 to 16 shall be completed by 4 July 2022.

Specified Works 17 shall be completed within one year from the completion of Specified Works 16.

### **THE SPECIFIED WORKS**

#### **Fire Resistance, Stability and Hazard Properties**

1. A certificate shall be provided by an Accredited Structural Engineer to state that the tilt up construction complies with BCA Specification C1.11.
2. The existing floor coverings must be demonstrated to have compliant smoke hazard properties, either by certifying the existing linings to BCA Spec C1.10, or replacing with compliant linings.

#### **Storage unit access doors (Units 7 and 8)**

3. The doors used to access individual storage units in Units 7 and 8 must swing in the direction of egress through the corridor (as shown in Figure 12 on page 27) of the Rev 1.5 FER.

#### **Slip resistance**

4. All stair treads must have nosing strips which have a slip-resistance classification not less than P3 when tested in accordance with AS 4586. All stairs within Units 7 and 8 to be complete before occupation of those Units.

#### **Fire Hydrants**

5. Upgrade the fire hydrant system to achieve compliance with BCA E1.3 and AS 2419.1-2005 (refer Appendix B of the Rev 1.5 FER).

#### **Fire Hose Reels**

6. The building shall be provided with additional fire hose reels to achieve compliance with BCA E1.4 and AS 2441-2005.

#### **Portable Fire Extinguishers**

7. The building shall be provided with portable fire extinguishers (PFEs) in accordance with BCA E1.6 and AS 2444-2001.

#### **Automatic Fire Detection and Alarm System**

8. The building shall be provided with an automatic fire detection and alarm system in accordance with BCA Spec E2.2a Clause 4 and AS 1670.1-2015.

Automatic signal to FRNSW is to be via an approved monitoring service installed to AS 1670.3. The automatic signal is permitted to occur on the simultaneous activation of two detectors in lieu of a single detector. A single heat type detector shall activate the automatic signal to FRNSW.

#### **Building Occupant Warning System**

9. The building shall be provided with a Building Occupant Warning System (BOWS) in accordance with BCA Spec E2.2a Clause 7 and AS 1670.1-2015.

#### **Emergency Lighting and Exit Signage**

10. The building shall be provided with emergency lighting and exit signage in accordance with BCA Part E and AS 2293.1.

#### **Paths of travel (house keeping)**

11. A minimum egress width of 1 m shall be provided through all areas. The existing back of house areas are required to be cleared of stock and storage modified to provide this 1 m clear width to the exits.

**Maintenance Programme**

12. A maintenance program is to be developed with all essential safety measures (active, passive and management) maintained in accordance with AS 1851.

**Egress**

13. The electric gates at the breezeway must be automatically opening on activation of the fire detection system and fail in the open position in the case of power loss.

**Management in Use**

14. The use of the building must not include any of the hazardous processes, storage or Class 6 use (greater than 10% of the floor area of the storey it is within) as listed in BCA E1.5 and Table E1.5. This must be assessed by a suitability qualified independent person (not the building owner / operator) on an annual basis to ensure that the ongoing use of the building remains outside of all fire sprinkler triggers. This is to be listed on the building's Fire Safety Schedule and certified under the Annual Fire Safety Statement process annually.

**Fire Safety Schedule**

15. Formally adopt the attached Fire Safety Schedule as the Fire Safety Schedule for the subject premises.

**Final Fire Safety Certificate**

16. Submit to Council a final fire safety certificate attesting that the essential fire safety measures detailed in the attached Fire Safety Schedule have been assessed by a properly qualified person, and were found, when assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

A copy of the final fire safety certificate is to also be submitted to Fire and Rescue NSW (Private Locked Bag 12, Greenacre 2190) and a further copy is to be displayed in a prominent position in the building for easy inspection by Council or Fire and Rescue NSW. Each year after this original certificate, you are required to prepare and submit an annual fire safety statement to both Council and Fire and Rescue NSW. A copy is also required to be displayed in a prominent position.

**Annual Fire Safety Statement**

17. Submit to Council an annual fire safety statement attesting the essential fire safety measures detailed in the attached Fire Safety Schedule have been assessed by a properly qualified person, and were found, when assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

A copy of the annual fire safety statement is to also be submitted to Fire and Rescue NSW (Private Locked Bag 12, Greenacre 2190) and a further copy is to be displayed in a prominent position in the building for easy inspection by Council or Fire and Rescue NSW.

### **REASONS FOR GIVING THE ORDER**

**Pursuant to Part 4 (5) of the Environmental Planning and Assessment Act 1979, this Order was given for the following reasons:**

1. The reasons for undertaking specified works 1 to 14 are detailed in Fire Engineering Report for B & K Beverley Partners Pty Ltd Revision 1.5 Issued 4th February 2022 Report No. 16245\_FER prepared by Mobius Fire Safety Pty Ltd.
2. Clause 78 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, provides four mechanisms by which a Fire Safety Schedule can be lawfully secured. These are a development consent with no building work, a construction certificate, a complying development certificate and a Fire Safety Order.
3. Therefore, there is no development consent, construction certificate or complying development certificate, through which a Fire Safety Schedule could be secured.
4. A Fire Safety order is the only remaining mechanism by which the Fire Safety Schedule for the building can be secured.

### **RELEVANT AUTHORITY**

The relevant legislative provision is SCHEDULE 5 of the Environmental Planning and Assessment Act, 1979.

### **MODIFICATION OF ORDERS**

The terms of this Order can only be modified by Council in writing, and only if the person to whom the Order was given agrees to that modification. In no circumstances can the terms of the Order be amended orally.

Any application to Council seeking an amendment of this Order must be writing clearly setting out:

- the term(s) to be modified,
- the reasons for the modification of the term(s) and
- any substitute term(s) to be added to the Order (if applicable).

### **IMPORTANT NOTES**

You are advised that the provisions of the Environmental Planning and Assessment Act, 1979 and Regulations made under the Act are not being complied with.

### **APPEAL**

If you wish to appeal against this Order or a specified part of this Order, you must appeal to the Land and Environment Court, Level 4, 225 Macquarie Street, Sydney within 28 days of the service of this order upon you.

**PENALTY**

It should be noted that failure to comply with this Order has a maximum monetary penalty of:

Tier 1 offence under part 9 Division 9.37 of the EP&A Act. Under section 9.52, a Tier 1 offence has a maximum monetary penalty, in the case of a corporation of \$5 million, and for a continuing offence a further \$50,000 for each day the offence continues, or in the case of an individual: \$1 million and for a continuing offence a further \$10,000 for each day the offence continues or

Tier 2 offence. - Under section 9.53, a Tier 2 offence has a maximum monetary penalty, in the case of a corporation of \$2 million, and for a continuing offence a further \$20,000 for each day the offence continues, or in the case of an individual: \$500,000 and for a continuing offence a further \$5,000 for each day the offence continues.

In addition, if the Order is not complied with, Council may give effect to the Order and recover the costs of doing so from you.

**COMPLIANCE COST NOTICE**

As a result of the issue of this Order, Council may also issue you with a Compliance Cost Notice under Schedule 5 part 12 of the Act. Where such a notice is issued it will require you to pay a specified amount, being Council's reasonable costs and expenses incurred in monitoring works and ensuring compliance with the Order. This may include the time spent by Council staff; including time spent undertaking inspections, as well as any other expenses incurred in taking steps to ensure that the Order is complied with. Where Council issues you with a Compliance Cost Notice you will have a right of appeal to the Local Court or, where you are also appealing against this Order, the Land and Environment Court in accordance with Division 8.6 Section 8.24 of the Act.

Please be advised that, in line with s281C of the Environmental Planning and Assessment Regulation 2000, the maximum compliance cost charges, in relation to an investigation that requires the serving of a notice of intention to serve an order under this Act, is \$500. Please also be advised that, in line with s281C of the Regulation, the maximum compliance cost charges, in relation to an additional investigation into this matter that results in the serving of a formal order under this Act, is \$1000.

**CONTACT DETAILS**

If you need any further information about this matter, please contact Mackenzie Bailey, 44293448 between the hours of 9.00am to 10.30am weekdays or email [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au). Please quote Council's reference ON2022/8981 (D22/253715).

Dated 20/06/2022

Ordered by and on behalf of Shoalhaven City Council.



.....  
***Pursuant to a delegation of authority***





Address all correspondence to: The Chief Executive Officer,  
PO Box 42, Nowra NSW 2541 Australia  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact) | 1300 293 111

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

## Fire Safety Schedule

Issued pursuant to Section 168 of the Environmental Planning and Assessment Regulation 2000

<b>Application Number</b>	ON2022/8981
<b>Property Address Lot &amp; Deposited Plan Number</b>	10 Central Ave SOUTH NOWRA - Lot 19 DP 19407
<b>Owner/s Name &amp; Address</b>	
<b>Date Issued</b>	20 June 2022

Building Name		Factory 28		
Classification/s		7b & 8		
No.	Measure	Particulars of Measure <i>(including where the requirement for the measure is set out or described i.e. in building plans or in a performance solution report)</i>	Currently Implemented	Proposed
1.	Fail-safe devices (gates on breezeway openings)	BCA D2.21 & AS 1670.1-2015	N	Y
2.	Fire hydrant system	BCA E1.3 & AS 2419.1-2005	Y	Y
3.	Fire hose reels	BCA E1.4 & AS 2441-2005	Y	Y
4.	Portable fire extinguishers	BCA E1.6 & AS 2444-2001	Y	Y
5.	Automatic fire detection and alarm system	BCA Spec E2.2a Cl 4 & AS 1670.1-2015	Y	Y
6.	Fire System Monitoring	BCA Spec E2.2a Cl 7(e), AS 1670.3-2004 & FER by Mobius Fire Safety P/L ref:16245 R1.5 dated 04.02.2022	Y	Y
7.	Emergency lighting	BCA E4.2 and E4.4 & AS 2293.1-2005	Y	Y
8.	Exit signage	BCA E4.5, E4.6 & E4.8, & AS 2293.1-2005	Y	Y
9.	Paths of travel	BCA D1.4 and D1.6 & EP&A Reg 2000, Clause 186	Y	Y
10.	Occupancies of Excessive Hazard	The use of the building must not include any of the hazardous processes, storage or Class 6 use (greater than 10% of the floor area of the storey it is within) as listed in BCA E1.5 and Table E1.5. This must be assessed by a suitability qualified independent person (not the building owner / operator) on an annual basis to ensure that the ongoing use of the building remains outside of all fire sprinkler triggers.	N	Y

CL22.398 - Attachment 2

11.	<b>Fire Engineering Report by Mobius Fire Safety</b> P/L Ref: 16245 rev 1.5 dated 4.02.2022	<ul style="list-style-type: none"> <li>• Permit continuous vehicular access that is in excess of 18 m from the building (22m);</li> <li>• Permit extended travel distance of up to 25m to a single exit in lieu of 20 m in Unit 5;</li> <li>• Permit extended travel distance of up to 44m to the closest exit in Unit 7/8 in lieu of 40m;</li> <li>• Permit extended travel distance of up to 70m between alternative exits in lieu of 60m;</li> <li>• Permit reduced egress width through the storage unit access corridors in Units 7 and 8; and</li> <li>• Permit automatic signal to FRNSW on second smoke detector activation in lieu of one.</li> </ul>	N	Y
-----	---	--	---	---

**A copy of this Schedule and associated Certificate/Statement must be prominently displayed in the building in accordance with Part 9 Division 4 of the Environmental Planning and Assessment Regulation, 2000.**

**Annual Fire Safety Statement**

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

*Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that an accredited practitioner – fire safety (APFS) has: assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building*

- a) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Environmental Planning and Assessment Regulation 2000

*Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.*

Unclassified



File Ref. No: BFS22/2480 (21513)  
TRIM Ref. No: D22/62670  
Contact: Acting Inspector Paul Scott

19 July 2022

The General Manager  
Shoalhaven City Council  
P.O. Box 42  
NOWRA NSW 2541

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

Attention: Building Compliance Unit

**Re: INSPECTION REPORT  
10 CENTRAL AVENUE SOUTH NOWRA ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

- *Documentation provided with the application includes FER (attached) that does not indicate whether it has been approved by a certifying authority. The FER indicates that the smoke detection system relies on 2 x smoke detectors activating simultaneously in order to notify FRNSW. Further, it is noted that the premises is referred to in the FER as a Large Isolated Building (LIB) with compliance to AS 2419-2005. Concerns are raised that the Hydrant system does not appear meet the required flow for LIB's.*
- *The FER and proposed fire safety schedule contained within, does not appear to meet the requirements of the relevant NCC/BCA requirements and relevant Australian Standards.*

Pursuant to the provisions of Section 9.32 (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 8 June 2022 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

Fire and Rescue NSW

ABN 12 593 473 110

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

Community Safety Directorate  
Fire Safety Compliance Unit

1 Amarina Ave  
Greenacre NSW 2190

T (02) 9742 7434  
F (02) 9742 7483

[Firesafety@fire.nsw.gov.au](mailto:Firesafety@fire.nsw.gov.au)

Page 1 of 52

Unclassified

CL22.398 - Attachment 4

Unclassified

The inspection was limited to the following:

- A visual inspection of the essential Fire Safety Measures as identified in this report only.
- A conceptual overview of the building, where an inspection had been conducted without copies of the development consent or copies of the approved floor plans.

On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 9.32 (4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act. Please be advised that Schedule 5, Part 8, Section 17(2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting.

## COMMENTS

FRNSW received an application to waive the Automatic Fire Alarm (AFA) False Alarm Charges for 'the premises'. To support the application, FRNSW received a Fire Engineering Report (FER) where a performance solution was applied indicating the Owners had undertaken works to prevent further automatic fire alarms associated with the Smoke Detection and Alarm System (SDAS). FRNSW were advised that FER Version 1.5 was not a part of the fire safety schedule for the premises.

During the inspection FRNSW identified that three separate buildings were present on the site (figure 1). Buildings A, C & D are considered one building in accordance with Clause C2.3 (c) of the National Construction Code 2019 Volume One, Building Code of Australia (NCC). Building B and Building E are considered two separate buildings.

The Unit Site Layout plan on Page 39 of the FER does not represent the as built structures.

Two fire hydrant booster assemblies are installed at the premises.

The following items were identified as concerns during the inspection:

### 1. Essential Fire Safety Measures

#### 1A. Fire Hydrant System – Buildings A, C, D and E

- A. The FER states the fire hydrant system installed at the premises meets the standard of performance of Australian Standard (AS) 2419.1-2005. FRNSW observed,
  - i. The building has a footprint of approximately 6800m<sup>2</sup> and a total floor area of 8300m<sup>2</sup>. Table 2.1 of AS 2419.1-2005 requires three hydrants to flow simultaneously. The fire brigade booster comprises three feed hydrants and two boost inlet connections. FRNSW are of the opinion the fire

Unclassified

hydrant booster assembly is not designed to permit a flow of 30 litres per second.

- ii. The incoming copper pipework from the reticulated town main is believed to be 100mm in diameter and the fire hydrant block plan states the underground ring main is 100mm in diameter. FRNSW are unable to determine if a 100 mm pipework in the ring main will permit a flow of 30 litres per second to the requirements of the design parameters in Clause 2.2.1 of AS 2419.1-2005.
- iii. FRNSW are of the opinion that hose lay coverage cannot be achieved to Buildings C and D contrary to the requirements Clause 3.2.2.2 of AS 2419.1-2005. Page 44 of the FER, *Fire Hydrant Layout Plan*, depicts hose lay coverage for the base building only.

Extended hose lay coverage is evident as a result of the layout for self-storage facility. A labyrinth of corridors providing access to each storage garage and the Level 2 stairways are remote to the building access doors varying the base build hose lay report. FRNSW were advised that additional storage garages will be built over Unit No. 6 and 7. A temporary construction doorway provides access to the intended extension which may require additional hose lay.

Building A, which is within six metres of Building C, is not provided with compliant hose lay coverage.

- iv. The fire hydrant block plan does not comply with the requirements of Clause 7.11 of AS 2419.1-2005. The block plan does not provide a diagrammatic layout of the protected buildings and would suggest that two buildings (C & D) are separated by a six-meter-wide driveway. Level 2 storage units are not detailed. The block plan does not provide sufficient information to undertake firefighting operations.
- v. The fire hydrant block plan on Page 44 of the FER would indicate the fire hydrant pipework has a direct connection with the reticulated main in Oxford Street. This is different to the fire hydrant block plan at the fire brigade booster assembly. FRNSW cannot confirm that a fire hydrant ring main is installed at the premises contrary to the requirements Section 8.5.4 of AS 2419.1-2005.

1B. Fire hydrant System – Building B

- A. The fire hydrant installation appears to meet the performance requirements of Ordinance 70 or earlier.

## Unclassified

- B. A single, in-ground, hydrant is located ten metres from Unit 2a. Firefighters are required to ship a standpipe to undertake firefighting operations. FRNSW were unable to determine if the in-ground hydrant is ball valve or screw valve. Typically fire trucks in the Shoalhaven region would not carry standpipes for use with screw valve hydrants.
  - C. FRNSW estimate hose lay coverage to the building exceeds 100 metres.
  - D. This hydrant system does not meet the operational needs of FRNSW. FRNSW recommends any fire hydrant system installed in accordance with the provisions of Ordinance 70 and Ministerial Specification 10 (or earlier) should be upgraded to meet the requirements of the current Australian Standard AS 2419.1 for an equivalent new building.
- 1C. Smoke Detection and Alarm System (SDAS)
- A. The block plan does not show the building as built contrary to the requirements Clause 3.10 of AS1670.1-2015. In this regard, the block plan depicts the building (C & D) as single level, is not correctly orientated and is a laminated A3 sheet of paper.
  - B. The SDAS maintenance logbook states, 2X ALARMS REQ FOR TONES AND ASE". Should the handwritten note on the maintenance logbook be correct, the activation of the occupant warning will be delayed contrary to the requirements of Clause 3.22 (b) (iv) of AS1670.1-2015, which requires tones on an alarm condition. Occupant evacuation may be hampered due to reduced visibility and exposure to toxic gases contrary to the requirements of Part E2 of the NCC.
2. Access and Egress
- 2A. It is noted that Performance Solution 2 of the FER provides for extended travel distances within the building based on a Level A1 alarm system (page 23 of the FER). Should it be confirmed that the BOWS only initiates upon a second detector activation (as per Item 1C(B) above), FRNSW would be of the opinion that this compromises the analysis and conclusion of the aforementioned Performance Solution.
- Based on the information provided in the logbook, further investigation may be required by Council to determine whether a revised analysis of the performance solution is required.
3. Generally
- 3A. FRNSW are of the opinion that the comparisons presented in Part 5.4.8.1.1 of the FER do pertain to Large Isolated Buildings in NSW. It is

**Unclassified**

noted that NSW Table E2.2a of the NCC excludes sub-clause (a) of the “Large isolated buildings” provisions.

- 3B. At the time of the inspection, it was noted that each unit, in Building C and D, is separated by a wall of Insulated Sandwich Panel (ISP). It is noted that Part 4.5 Trial Design of the FER assessment discusses the smoke hazard properties of existing floor linings and their compliance with Spec C1.10 of the NCC. It is at Council’s discretion as the appropriate regulatory authority to determine whether the ISP (and any other relevant linings, materials and assemblies) should form part of any FER assessment.

4. Certification

- 4A. FRNSW records show that an Annual Fire Safety Statement has not been received for the premises and therefore, is unable to determine the minimum standard of performance each fire safety measure is intended to meet.
- 4B. FRNSW received a Fire Safety Order from Shoalhaven City Council relating to the property 20 June 2022 Council ref: ON2022/8981 (D22/253715)
- 4C. The FER received for Buildings A, C and D prepared by Mobius Fire Safety Pty Ltd on 4 February 2022 Report No. 16245\_FER is attached (Appendix 1).

FRNSW is therefore of the opinion that there are inadequate provisions for fire safety within the building.

**RECOMMENDATIONS**

FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on ‘the premises’, and require item no. 1 through to item no. 4 of this report be addressed appropriately.
- b. Upgrade the hydrant system serving Building B to meet the requirements of the current Australian Standard AS 2419.1 for an equivalent new building, as these older fire hydrant systems no longer meet the operational needs of FRNSW.
- c. Survey the fire hydrant system serving, Buildings A, C, D & E to determine if the installation meets the performance requirements of AS 2419.1-2005.

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council’s advice regarding its determination in accordance with Schedule 5, Part 8, Section 17 (4) of the EP&A Act.



Unclassified

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact Acting Inspector Paul Scott of FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference BFS22/2480 (21513) for any future correspondence in relation to this matter.

Yours faithfully



Paul Scott  
Team Leader Fire Safety Compliance  
Fire Safety Compliance Unit

Attachments: Appendix 1 – Fire Engineering Report – 46 Pages

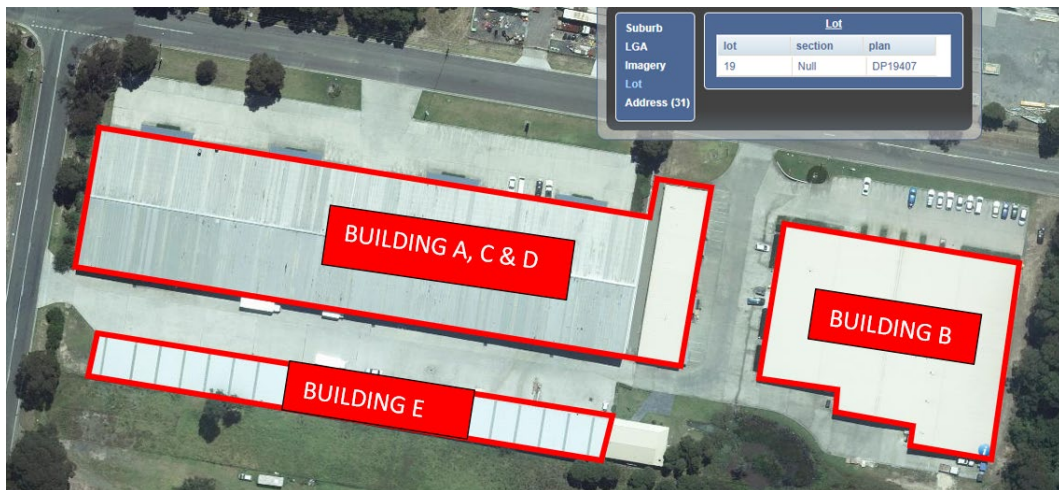


Figure 1- DP19407 – Six Maps – FRNSW mark-up

## CL22.399 Development Application – RA21/1001 – 17 Norfolk Avenue, South Nowra – Lot 116 DP 1122371

**DA. No:** RA21/1001/4

**HPERM Ref:** D22/331453

**Department:** Development Services

**Approver:** James Ruprai, Director - City Development

**Attachments:** 1. Assessment Report [↓](#)  
2. Draft Conditions of Consent [⇒](#)  
3. SDCP 2014 Assessment [⇒](#)

**Description of Development:** 47 industrial units, ancillary café, access, signage, and ancillary works

**Owner:** Shoalhaven City Council

**Applicant:** Richard Amos c/- SET Consultants

**Notification Dates:** 8 December 2021 to 7 January 2022

**No. of Submissions:** One (1)

### Purpose / Reason for consideration by Council

To present the Development Application to Council to enable review the section 4.15 assessment report and draft determination (prepared by an independent consultant) in advance of a meeting of the Southern Regional Planning Panel so that Council's view on the proposal can be put to the Panel.

### Recommendation

That:

1. Council receive and note the s4.15 assessment report for RA21/1001 – 17 Norfolk Ave South Nowra.
2. Council support RA21/1001 for industrial units at 17 Norfolk Ave South Nowra, on the basis that the application has been satisfactorily assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act 1979* and will provide additional industrial premises for local businesses.
3. The resolution made by Council be submitted to the Southern Regional Planning Panel prior to their consideration and determination of RA21/1001.

### Options

1. Support the consultant's recommendation to the Southern Regional Planning Panel (SRPP) for approval of the application by deferred commencement consent and advise the SRPP accordingly.

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Implications: The recommendation would be provided to the SRPP for their information as part of their consideration of the regional application.

2. Make an alternative resolution and make a separate submission to the SRPP.

Implications: The alternative resolution would be provided to the SRPP for their consideration.

The SRPP is the determining authority for the application.

## Location Map



Figure 1 – Site location / Aerial view

## Background

### Why this DA is being reported to the Regional Planning Panel

- The development has a capital investment value (CIV) of more than \$5 million. The CIV is \$8,334,817.
- Shoalhaven City Council has an interest in the proposal being owner of the land.
- The Southern Regional Planning Panel is the determining authority for the application in accordance with section 3 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, (SEPP).

The determination by a Panel also adds a layer of transparency to the assessment process. Furthermore, the application was also independently assessed by a reputable Planning Consultancy – [Creative Planning Solutions](#). These measures are intended to deal with any potential conflicts of interest.

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### Proposed Development

Council is in receipt of a development application (DA) which seeks approval for 47 industrial units. Minor cut and fill for site preparation is proposed. The proposal will also provide an ancillary 'café', a total of 116 parking spaces (two (2) of which will be accessible spaces), and associated works. The units will include mezzanine and 'optional mezzanine' levels to each of the proposed units. The uses of the individual units have not been nominated. Hours of operation have been nominated as 7.00am to 5.00pm Monday to Saturday.

The proposed site plan and elevations are provided in **Figures 2-6**.



Figure 2 – Cover sheet – site plan and overview



Figure 3 – Boundary Elevations

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Figure 5 – Internal Elevations b



Figure 6 – Internal Elevations c with signage detail

### Subject Land

The subject land is Lot 116 DP 1122371 (known as 17 Norfolk Avenue, South Nowra). The land has an area of 1.350ha and is cleared of vegetation. There are existing industrial developments within the locality. The land fronts Norfolk Avenue and is mapped as bushfire prone land. The land is zoned IN1 General Industrial under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014), under which a variety of uses are permitted with the consent of the determining authority.

The objectives of the IN1 General Industrial zone include:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

The proposal is not inconsistent with the objectives of the zone.

### Site & Context

The subject land is situated within the Flinders Industrial Estate. There is a range of existing industrial uses in this location.

### Planning Assessment

Due to the subject land being in Council ownership, with sale pending, the DA has been assessed by an independent consultant. The assessment report has been completed, and the Regional Planning Panel is to determine this DA.

The DA has been assessed under s4.15 of the *Environmental Planning and Assessment Act 1979*. Please refer to **Attachment 1**.

### **Issues**

#### The Café

The independent assessment has recommended changes to the café so that it operates as a food and drink premises which is permissible in the zone, noting that a café is prohibited. To clarify, a take away food and drink premises is defined as follows:

**Take away food and drink premises** means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

#### **Note—**

Take away food and drink premises are a type of food and drink premises—see the definition of that term in this Dictionary.

A café is a type of food and drink premises which is defined as:

**Food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

#### **Note—**

Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.

As per the note above, a 'food and drink premises' is a type of 'retail premises'. 'Retail premises' are prohibited within the IN1 zone under the SLEP 2014.

To deal with this issue, it is recommended that the layout be adjusted and the reference to café be removed from the plans

### Shoalhaven Development Control Plan 2014 (SDCP 2014) Performance / Alternative Solutions

There are areas of 'non-compliance' in relation to the proposal. This is explained and addressed in detail through the s4.15 Assessment Report (**Attachments 1 & 3**).

The planning assessment identified issues with Chapters G1, G20, G21 and G22. These relate to:

- the site analysis plan,
- inadequate solar access information,
- a front setback variation,
- the length of unbroken walls along the side elevations of the building,

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- inadequate pedestrian facilities,
- inadequate manoeuvring space for large vehicles, and
- the size of free-standing signage at the front of the site.

The planning assessment has found that the departures from the acceptable solutions are either justifiable and/or can be addressed by conditions in the event of approval.

In summary:

Site analysis – Information provided to Council (i.e., a survey plan, site plan, etc.) is sufficient for an assessment to identify hazards and constraints, noting that there are no trees on the site, and the site is not constrained by considerations such as views and natural hazards other than bushfires. The lack of a specific site analysis plan is therefore considered to be acceptable in this instance.

Solar access information – Solar access plans were provided showing overshadowing impacts for 22 September rather than for June. Despite such a deficiency, the layout of development on the adjoining industrial site to the south and the proximity of the subject site to the nearest residential development is such that the proposal will not adversely affect the amenity of areas sensitive to overshadowing.

The front setback – The element that breaches the numerical setback is an open / lightweight element that is to be finished in contrasting colours, below the roof parapet at the front of the building. It is the cantilevered 'café' awning.

There is a landscape area in front which will be enhanced as a result of the removal of outdoor dining. The building element that protrudes (awning) does not add to size and bulk.

Proposed setbacks:

- To café roof 'awning': 12.98m
- To building line: 15m

The acceptable solution is a front setback of 15m. The nominated 12.98m setback to the awning is considered an acceptable performance solution.

Length of walls – The visual impact of the development will be reduced to the north, as a result of existing development at 15 Norfolk Avenue that is already built with a zero-side setback to the common boundary. While the location of development on the adjoining site to the south (i.e., 19 Norfolk Avenue) will allow for the variation to be visible from the Norfolk Avenue road reserve, the development controls for the locality likely envision the setbacks of future development to be more akin to that proposed by the subject DA.

It is agreed with the applicant's Statement of Environmental Effects (SEE's) arguments that there are numerous other examples within the Flinders Industrial Estate where industrial developments have been permitted with large unbroken expanses on/close to side boundaries; a review of the area noted examples including:

- 11 Norfolk Avenue
- 35 Norfolk Avenue
- 10 Tom Thumb Avenue
- 28 Trim Street

It is also agreed that the variation will not adversely affect the amenity of surrounding sites (noting that such sites either contain other industrial developments or will remain undeveloped for the foreseeable future), nor will the variation adversely affect defence against bushfires.

Pedestrian facilities – While no issue is raised with the design of facilities for vehicular entry and egress, the proposed development does not demonstrate satisfactory provisions for pedestrian safety. While the site provides for continuous and line-marked paths of travel between the front of the site and Units 1-15 and 36-37, line-marked pathways do not connect these pathways to buildings that will contain Units 18-22 and 23-30.

A condition is therefore recommended that will require amendments to be made to ensure that adequately marked and connected pedestrian pathways are provided through the site in accordance with relevant standards; the condition will require such pathways not be permitted to encroach upon proposed landscaped areas, in order to both maximise landscaped area and visibility of pedestrian routes throughout the site.

Manoeuvring space for large vehicles – The swept path plans provided with the most recent amendments to the plans indicate that the DA seeks consent for access for vehicles up to and including 19-metre-long articulated vehicles (i.e., semi-trailers).

The submitted swept path plans are inadequate, as they indicate that:

- Access from the south is only attainable by using the south-bound lane of Norfolk Avenue (i.e., access from the south requires using the wrong side of the road).
- Egress to the north is only attainable by using the south-bound lane of Norfolk Avenue (i.e., egress to the north requires using the wrong side of the road), and also requires encroachment upon the centre dividing island.
- Manoeuvring space around Unit 23 requires encroachment upon landscape areas (noting that the landscape plans propose wider landscaped areas within this location).
- Manoeuvring space around Unit 24 requires encroachment upon landscape areas.
- It has not been demonstrated that articulated vehicle access and associated manoeuvring to Units 10-15 and 16-19 is possible without reversing a significant distance within the site.
- The proposed loading areas within the industrial units are of insufficient lengths to accommodate a 19-metre-long vehicle without significant encroachment into the 'avenues' throughout the site, and no shared loading facilities for a 19-metre-long vehicle are proposed.

Swept path plans for Heavy Rigid Vehicles (HRVs) also show an impractical approach angle to the site in addition to encroachment upon landscaped areas in order to manoeuvre around Unit 23.

No justification has been provided with regard to the above.

In addition to recommended conditions of consent by Council's Development Engineer, the following consent conditions are recommended that will require the following:

- Prohibition of articulated vehicles from the site, with signage to be erected at the entrance to the site to advise incoming traffic of this restriction.
- Revised swept path plans for HRVs are to be submitted for Council's approval prior to the issue of a Construction Certificate.

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Size of sign – the acceptable solutions are:

- A1.4 Maximum sign face area should not exceed 0.35m<sup>2</sup> of sign face area per linear metre of road frontage.
- A1.5 Maximum sign face area of any one (1) sign is not to exceed 8m<sup>2</sup>.

The signage proposed is:

- A1.4 - 2.23m<sup>2</sup> (or 15.8%)
- A1.5 - 8.38m<sup>2</sup> (or 104.8%)

The variation to the signage area is likely a consequence of the large number of proposed units (and the subsequent need to provide sufficient space on the free-standing sign to provide business identification signs for all proposed businesses), and the design of the free-standing sign will promote suitable rationalisation of signage in areas immediately visible from the public domain. Given the size of the site, site frontage and proposed development, the size of the proposed signage variation is not significant, therefore any variation to the permitted signage area will not be discernible when viewed from the public domain.

Having regard to the particular circumstances of the site, the proposal is unlikely to set an undesirable precedent. The proposed variation is therefore considered to be satisfactory and supportable on merit in this instance.

#### Deferred commencement condition recommendation

The approval is recommended as a deferred commencement consent requiring an easement for drainage, and as easement for APZ to be created over adjoining Lot 40 DP 802671, which is Council Operational land to support the development, (**Attachment 2**).

Deferred commencement is considered appropriate in this instance to ensure the proposal can appropriately connect to the stormwater drainage system to support the development prior to the consent becoming operative, and provide the necessary defensible space as required by Planning for Bushfire Protection.

Upon registration of the easements, the consent will convert to an operational consent.

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

The DA was notified in accordance with the *Environmental Planning and Assessment Regulation 2021* (EP&A Regs) and Council's Community Consultation Policy for Development Applications from **8 December 2021 to 7 January 2022**.

One (1) public submission was received in relation to Council's notification of the development.

The key issue raised as a result of the notification was the Intensification of traffic – in relation to impacts on traffic / existing nearby development.

The submission:

*"...requests that Council carefully consider the intensification of the industrial area, particularly in relation to impacts of increased traffic, the interaction of light and heavy vehicles, and vehicle safety entering/exiting driveways in the vicinity of a busy concrete plant."*

It has been found that, subject to the recommended conditions of consent, the proposed development:

- Will provide for adequate parking,
- Will not result unacceptable impacts noting the subdivision is capable of accommodating the envisaged traffic, and
- Will allow for adequate vehicular access and egress in a manner that will not adversely affect surrounding sites.

### **Financial Implications:**

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending an appeal in the Land and Environment Court, should the applicant utilise appeal rights afforded under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

### **Legal Implications**

Pursuant to section 8.2 of the EP&A Act, a decision of the Panel may be the subject of a review by the applicant in the event of approval or refusal. If such a review is ultimately pursued, the matter would be put to the Panel for consideration.

Alternatively, an applicant may also appeal to the Court against the determination pursuant to section 8.7 of the EP&A Act.

### **Summary and Conclusion**

The planning assessment has concluded that the current proposal meets the provisions of relevant environmental planning instruments and is consistent with the relevant provisions and objectives within the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014) and the *Shoalhaven Development Control Plan 2014* (SDCP 2014). Any potential impacts have been adequately addressed via recommended conditions of consent.

This application has been satisfactorily (and independently) assessed having regard for section 4.15 (Evaluation) under the EP&A Act. Based upon the recommendations of the s4.15 Assessment Report - **Attachment 1**, Development Application No. RA21/1001 is recommended to the Regional Planning Panel to be granted deferred commencement consent subject to the draft conditions of development consent contained in **Attachment 2**.

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## CL22.400 Acceptance of Grant Funding - Multi-Sport Community Facility Fund - Boongaree, Berry and Ulladulla Skate Park, Ulladulla

**HPERM Ref:** D22/267619

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

### Reason for Report

To inform Council of successful grant funding applications under the NSW Office of Sport Multi-Sport Community Facility Fund and seek Council acceptance of the funding for:

- Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields
- Ulladulla Sports Park – All Wheels Skate Park

### Recommendation

That Council;

1. Accept the offer of funding for the successful grant applications under the NSW Office of Sport Multi-Sport Community Facility Fund for:
  - a. Delivery of Junior and Senior Sporting Fields within Boongaree Stages 5 & 7 in the amount of \$1,821,398
  - b. Delivery of an All-Wheels Skate Park at the Ulladulla Sports park in the amount of \$1,500,000
2. Make arrangements to forward letters of thanks to the Minister of Tourism and Sport, The Hon. Stuart Ayres MP.

### Options

1. Adopt the recommendation.

Implications: In line with community expectations, this funding will assist in the progression and delivery of:

- Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields
- Ulladulla Sports Park – All Wheels Skate Park

2. Council adopts an alternative recommendation.

Implications: Depending on the nature of the alternative recommendation, this may not meet community expectations and, given current price escalation, could potentially result in insufficient funds and delay the delivery of Boongaree Stages 5 & 7, and the Ulladulla Skate Park.

### Background

In February 2022, applications under the NSW Office of Sport Multi-Sport Community Facility Fund were made for the following projects:

- Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields - \$1,821,398
- Ulladulla Sports Park – All Wheels Skate Park - \$1,500,000

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In June 2022, Council was advised that these applications were successful, and Council is now required to formally accept the grant funding. Details of each project follows:

#### Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields

The Boongaree Stages 5 & 7 grant application is for funding to contribute towards the overall cost of the project, which includes the delivery of multi-use sporting fields. One field is to be developed for the use of junior soccer, cricket and league. The other field is to be developed for senior cricket, league and soccer.

The development of the fields include irrigation, drainage, lighting to State level standard and associated shared user paths and carparking to accommodate the site. These fields are proposed to provide potential for other grassed field sports such as touch football, AFL, Oz Tag as well as an open space for events and markets.

#### Ulladulla Sports Park – All Wheels Skate Park

The All-Wheels Skate Park grant application is for funding to contribute towards the overall cost of the project, which includes demolition of the existing site, followed by construction of a new regional multi-sport skate park facility with two inclusive toilet amenities building, parking, shared user paths, water bubbler, shade, picnic table seating and electric BBQ.

The project will cater to developing new riders as well as provision of difficult features to further develop high level athletes and future skateboarding Olympians. The site has been developed in coordination with children and families, to create a safe place for all to recreate and grown in their sport – whether it is skateboarding, scooting, roller blading, or BMX.

#### Multi-Sport Community Facility Fund

The NSW Government has committed \$200 million to the Multi-Sport Community Facility Fund. This investment in community sport infrastructure has a primary focus on developing sporting facilities that can be shared and used by multiple sports. The Fund provides \$100 million in funding available per annum over two years, to support new and upgraded multi-sport and multi-use sporting facilities.

This round of the Multi-Sport Community Facility Fund opened in late 2021 and applications were due by 25 February 2022. Funding available for individual projects ranged from \$1M - \$5M.

Funding received from Multi-Sport Community Facility Fund requires construction to commence in 2022, with project completion by 30 June 2025.

### **Community Engagement**

#### Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields

The Boongaree project has involved extensive community engagement since its inception in 2014 as part of the development of a Master Plan for the then Berry District Park. The overarching community engagement process included a Working Group, stakeholder workshops, presentations to community meetings, on site meetings, Get Involved page updates and written correspondence.

#### Ulladulla Sports Park – All Wheels Skate Park

Community consultation has been an integral component of the concept design development for the Ulladulla Skate Park. A series of consultation exercises have been utilised by the consultant including on-site meetings, questionnaires, and workshops. In addition, communications have also been utilised on Council's Facebook page, dedicated Get Involved page, Ulladulla Skate Park Users Facebook page and phone and email

communications to key community representatives, user groups and surrounding schools. The participants who engaged in the community consultation exercises represent a broad spectrum of community including young skaters, older skaters, parents, teachers and skatepark designers.

## **Policy Implications**

### Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields

Boongaree is identified as a Destination Park and the Community Infrastructure Strategic Plan (CISP) recommends the development of the park in line with the Master Plan. Stages 5 & 7 are in accordance with the Boongaree Master Plan.

### Ulladulla Sports Park – All Wheels Skate Park

The Ulladulla Sports Park is identified as a District Recreation Park and the Community Infrastructure Strategic Plan (CISP) recommends investigating the expansion of the park and to develop netball courts and internal paths. The Skate Park aligns with the draft Ulladulla Sports Park Master Plan.

## **Financial Implications**

The combined grant funding for both projects is as follows:

Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields	\$1,821,398
Ulladulla Sports Park – All Wheels Skate Park	\$1,500,000
<b>Total Grant Funding</b>	<b>\$3,321,398</b>

The projects are currently funded as follows in the 2022/23 budget

### Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields

- Loan Funding \$4,594,988

### Ulladulla Sports Park – All Wheels Skate Park

- Loan Funding \$2,285,942

Details of any necessary budget adjustments as a result of the successful grant applications will be reported in a future quarterly budget review following the awarding of tenders for the projects.

### Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields

Construction of Boongaree Stages 2 to 7 has funding identified in the DPOP for the 2022/23 and 2023/24 financial years.

The budget identified in the DPOP is based on initial cost estimates. It should be noted that the market price to construct stages 5 & 7 will be determined through the RFT process, the outcome of which will be reported to a future meeting of Council.

### Ulladulla Sports Park – All Wheels Skate Park

Construction of the Ulladulla Skate Park has funding identified in the DPOP for the 2022/23 financial year. This will be in addition to the 2021/22 budget being carried forward.

The budget identified in the DPOP is based on initial cost estimates. It should be noted that the market price to construct the Ulladulla Skate Park will be determined through the RFT process, the outcome of which will be reported to a future meeting of Council.



**Next Steps**Boongaree Stages 5 & 7 - Junior and Senior Sporting Fields

Upon approval and finalisation of the funding agreement, Council staff will finalise detailed design and commence construction.

Ulladulla Sports Park – All Wheels Skate Park

Upon approval and finalisation of the funding agreement, Council staff will finalise detailed design and commence construction.

## CL22.401 Acceptance of Grant Funding - Children and Young People Wellbeing Recovery Initiative - Resilient Minds, Empowered Youth

**HPERM Ref:** D22/350073

**Department:** Community Connections

**Approver:** Jane Lewis, Director - City Lifestyles

**Attachments:** 1. Successful Outcome Notification - Children and Young People Wellbeing Recovery Initiative - Hon. Ben Franklin [↓](#)

### Reason for Report

To seek Council's approval to accept \$50,000 (excl GST) from the Office of Regional Youth as part of their Children and Young People Wellbeing Recovery Initiative to deliver the Resilient Minds, Empowered Youth project.

### Recommendation

That Council:

1. Accepts the grant funding of \$50,000 (excl GST) from the Office of Regional Youth as part of their Children and Young People Wellbeing Recovery Initiative to deliver the Resilient Minds, Empowered Youth project.
2. Writes to the Office of Regional Youth and The Hon. Benjamin Franklin, MLC, Minister for Regional Youth to thank them for the grant.

### Options

1. Adopt the Recommendation

Implications: The Community Capacity Building Team will be able to deliver all planned aspects of the Resilient Minds, Empowered Youth Project in collaboration with community partners.

2. Request more information.

Implications: Councillors request further information

3. Reject the recommendation

Implications: The funding would not be received, and the Resilient Minds, Empowered Youth project would not be able to go ahead, with further implications for the mental health and wellbeing for young people in the Shoalhaven.

### Background

The Children and Young People Wellbeing Recovery Initiative, a funding round delivered by the Office of Regional Youth, aims to improve access to programs and resources to help young people recover, build resilience, strengthen community networks and improve mental health and wellbeing.

This program has been funded through the NSW COVID-19 Economic Recovery Initiative and the NSW and Commonwealth governments flood and storm Disaster Recovery Funding Arrangements.

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Resilient Minds, Empowered Youth project will provide opportunities for improved mental health, wellbeing, and resilience outcomes for young people across the Shoalhaven. The application details a holistic approach to providing whole of community opportunities so that young people are supported by the broader community in efforts to improve mental health and wellbeing.

The first two components of this project include the delivery of Youth Mental Health First Aid and Teen Mental Health First Aid Training in partnership with Headspace, Sonder Youth and the ISLHD. These are evidence-based training sessions that provide young people and adults who interact with young people with the tools to respond to peers presenting with mental illness or crisis situations.

The third component of this project provides unique and innovative training opportunities to build the capacity of young people through building resilience and mitigating risk of mental illness. To facilitate this, Change the Cycle will be engaged to provide community GRIT programs. GRIT is a high impact, evidence-based workshop which is underpinned and informed by a number of theoretical frameworks.

This project focuses on boosting existing service delivery by providing the resourcing needed to ensure increased and sustained participation.

### **Community Engagement**

This project by Shoalhaven City Council is supported by key community services, such as Headspace Nowra, the Illawarra Shoalhaven Local Health District (ISLHD) Clinical Services Youth Health Team and Sonder Youth, along with key youth focused groups including local high schools and the Youth Advisory Committee.

This process was initiated by a call to action from our Youth Advisory Committee members who noted the increased need for youth mental health and wellbeing services and capacity building initiatives.

Council is involved in a number of interagencies and networks, and all relevant networks to community wellbeing and youth issues have raised concerns over youth mental health and wellbeing along with building resilience, especially as a result of the adverse events faced by young people over the last two years in the Shoalhaven.

This project will have large, continued community engagement. The first two components of this project will be delivered to student and teacher cohorts across five of the seven local high schools who identified support needs for delivering the training. The third component will seek opportunities to engage with a diverse cohort of young people, including those who are disengaged from mainstream education streams.

The Community Capacity Building Team and project partners will manage the ongoing community engagement to ensure relevancy and sustained participation.

### **Financial Implications**

The project application details an expected in-kind contribution by Shoalhaven City Council amounting to \$5,730.72. Council staff will provide project co-ordination and communication/promotion support to this value which will be built into forward work plans.

### **Risk Implications**

There is a reputational risk associated with not accepting the grant. Delays in accepting grant funding may also lead to delays and risk associated with delivery outcomes of the project.

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**The Hon. Ben Franklin MLC**

Minister for Aboriginal Affairs  
Minister for the Arts  
Minister for Regional Youth

BN22/4296  
Your proposal ID: CYPSP - 098

Shoalhaven City Council  
c/- Jessica Richardson  
PO Box 42  
NOWRA NSW 2541

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

Dear Jessica

I am writing to congratulate you on your successful application for the Children and Young People Wellbeing Recovery Initiative administered by the Office for Regional Youth.

To receive your funding, you will need to complete and submit a Funding Deed form in SmartyGrants. This will be attached your online account in the coming days.

If you have any queries regarding your application or need support with your project, please contact the Youth and Community Team at the Office for Regional Youth at [youthcommunity@regional.nsw.gov.au](mailto:youthcommunity@regional.nsw.gov.au) and quote your proposal ID number in the subject header of the email.

Good luck with your project. I look forward to seeing the outcome and the how your project has improved the health and wellbeing of children and young people.

Yours sincerely

**The Hon. Ben Franklin MLC**  
Minister for Aboriginal Affairs  
Minister for the Arts  
Minister for Regional Youth

DATE: 29/7/22

## CL22.402 Boongaree - Additional Vehicle Parking Proposal - Consultation Outcomes and Proposed Way Forward

**HPERM Ref:** D22/342856

**Department:** Community Planning & Projects

**Approver:** Jane Lewis, Director - City Lifestyles

**Attachments:** 1. Signage and Linemarking Plan - Boongaree 2020 [↓](#)  
2. Boongaree Car Parking Survey - Consultation Overview Report (under separate cover) [↗](#)

### Reason for Report

To update Council on the recent community consultation regarding vehicle parking at Boongaree including proposed additional 90-degree car parking spaces along North Street, 80m west of Alexandra Street, Berry and the long vehicle parking provisions to determine a way forward.

### Recommendation

That Council:

1. Receive the outcomes of the recent community consultation of for their information.
2. Progress to the development of construction ready designs and any necessary assessments for the proposed additional 90-degree car parking spaces along North Street, 80m west of Alexandra Street, Berry.
3. Progress to delivery of the additional car parking proposal as soon as possible.
4. Source funding for the additional car parking proposal, with consideration to an alteration to the Low-Cost Loan Initiative.
5. Undertake a Vehicle Turning Assessment for the entry to the proposed long vehicle parking location as per the adopted Master Plan.
6. Subject to the compliance with the Vehicle Turning Assessment proceed with the delivery of the long vehicle parking as part of Stage 5 of the adopted Master Plan.
7. Inform the community of the outcome of the Vehicle Turning Assessment and way forward.
8. Investigate opportunities to introduce appropriate safe passage measures at the intersection of North Street and Prince Alfred Street and prepare a future report to the Shoalhaven Traffic Committee.

### Options

1. Accept the recommendation.

Implications: This aims to address current parking issues at Boongaree in a timely manner, by providing additional formalised car parking options for users. Whilst the additional car parking proposal will not provide a net gain in car parking spaces, but it will formalise an area currently used for informal parking. This is in line with the majority of community expectations. It will also allow for investigation of community safety concerns regarding long vehicles and pedestrian access to be considered.

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2. Do not accept the recommendation and provide further direction.

Implications: Pending the nature of an alternative resolution, this may not address current parking and community safety concerns at Boongaree and not in line with the majority of the community's expectation.

## Background

Boongaree, (previously Berry District Park) has provided a unique opportunity to reinvigorate the northern edge of the township of Berry following the introduction of the Berry bypass. Council endorsed the original Master Plan for the site in December 2018, with 7 stages that have been identified for delivery.

Historically parking planning for Berry has been delivered in line with the town centre development control plan (DCP) rates, with an understanding that parking demands can exceed the minimum DCP rates based on seasonal demands. Availability of car parking in Berry has received increasing pressure in recent years, prior to the opening of Boongaree, with North St having been identified as overflow parking for both town centre and showground users.

The Boongaree signage and line marking plan was reported to the Shoalhaven Traffic Committee. At the Council's Ordinary Meeting on 24 November 2011, Council resolved (MIN20.865):

*"That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed signage and line marking associated with the Boongaree Park Carpark, as per Plan No: D20/473599."*

The signage and line marking plan associated with Boongaree can be viewed in Attachment 1.

Since the opening of Stage 1 Boongaree - Nature Play Park, the attraction has received high visitation rates. The impact of additional visitors and vehicles has had an impact on the local community and more specifically, the neighbouring residents. Although the upcoming Stages 5 and 7 will deliver an additional 190 parking spaces, residents have voiced their concerns on current car parking availability to Council. In response, Council proposed to relieve the parking pressure for residents by immediately delivering additional car parking spaces at Boongaree, including:

- Fast tracking Stage 1B car parking, introducing an additional 48 spaces
- Opening consultation regarding the formalisation of 80 lineal metres along the north side of North St, to the west of the Alexandra St intersection.

The fast tracking of Stage 1B is currently being undertaken and is due to be opened to the public by October 2022.

Taking into consideration the area to the west of Alexandra St intersection had previously been investigated and rejected during consultation of the Boongaree Master Plan, Council recently re-opened consultation for this area as a result of increasing community pressure, as well as regular damage to this area due to use during wet weather conditions.

## Additional Car Parking Proposal

The proposed site for the additional parking spaces is already being utilised as an informal parking area. The current arrangement is resulting in issues with bogging, mud, and no

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direction on method of parking. The proposal will not provide a net gain in parking area, however it will provide additional formalised parking options in all weather conditions.

The 80m stretch of parking is estimated to produce 32 (approximately) 90 degree parking spaces, in addition to the adopted Boongaree Master Plan. The area impacted by the proposal is depicted in red in the images below.



Figure 1. Proposed 80m additional 90-degree carparking spots.



Figure 2. Proposed parking in relation to the Boongaree Master Plan.

### Long Vehicle Parking

The long vehicle parking area is part of the adopted Boongaree Master Plan, which is included under Stage 5. Council has received some representation to remove the long

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vehicle parking from Boongaree, with the expectation that long vehicles can utilise the Berry Showground for parking.

Given the distance from the Berry Showground, it is anticipated that Boongaree users with long vehicles would not utilise parking at Berry Showground. The removal of the formal long vehicle parking from Boongaree would likely result in long vehicles parking at the kerb or illegally in the vicinity of Boongaree.

### **Pedestrian Safe Passage Measures**

The installation of a traffic refuge or similar safe passage measure at the intersection of North St and Prince Alfred Street will create a dedicated connection to the parks' entrance and to the town centre parking.

Council understands that there may be an opportunity to progress this concept with Traffic for New South Wales (TfNSW) and will further investigate the feasibility and funding of this option.

### **Community Engagement**

Community consultation for issues associated with Boongaree Car Parking occurred between 9 June and 10 July 2022.

The consultation was hosted on Council's Get Involved page and the consultation was widely advertised throughout the community. Alternative options to participate were provided for residents who may not have internet access. The two key questions asked in the survey was to obtain level of support for the additional parking proposal, and to provide additional feedback on future parking provisions as per the Master Plan.

A total of 94 survey responses were received. The highest age group represented was 50 years of age and older. The majority of the responders lived in Berry however, the remaining participants represented 20 other Shoalhaven communities and one submission was from Sydney.

A total of 74 respondents (78.7% of responses) support the proposed additional 90-degree car parking along North Street. With 20 respondents (21.3%) were not in support of the proposal. The respondents not in favour of the parking provided feedback, below is a summary of common themes in the responses:

- Additional Stage 7 parking can be delivered concurrently with future stages
- Cars use this area currently – the proposal will not provide more parking
- Decrease in amenity for North Street residents
- Increase in congestion
- Increase in vehicular and pedestrian traffic along North Street
- Lack of adequate parking should have been addressed earlier
- Long vehicles/caravans will need to use Showground for waste disposal
- Pedestrian traffic along North Street as dangerous
- Suggestion for additional parking further towards eastern part of North Street
- Suggestion for overflow parking to be provided at Showground
- Suggestion to reconsider long vehicle parking
- Unsafe pedestrian crossing from Boongaree to Berry Town Centre
- Vehicular traffic as danger to children as main users of Boongaree, and
- Will increase road user conflicts and dangerous manoeuvring.

### **Long Vehicle Parking**

One of the main concerns raised as part of overall parking concerns is the location of the Long Vehicle Parking. Community members believe that they had not been adequately

consulted on the location and have raised concerns on suitability of location with regards to traffic safety, amenity, and suitability of amenities.

Attachment 2 provides a detailed breakdown of the community consultation results.

## Feedback to Common Concerns

### Staging

The staging of car parking surrounding Boongaree was determined to provide the least impact to internal construction. It has been determined that fast tracking Stage 5 and 7 parking would impact future construction activities, such as construction access and public safety implications to users. Stage 7 will be further implicated by ongoing changes to drainage design as a result of updated hydrological models. For the above reasons, fast tracking parking in the upcoming Stages 5 and 7 was deemed a high risk to fast track with insufficient benefits to community outcomes.

The traffic impact assessment undertaken for Boongaree assumed that all of the 237 spaces proposed for the project would be provided for the development, there was no consideration to how these car parking spaces would be delivered in terms of staging. However, staging of initial works were largely driven by availability of grant funding, which was closely linked to playground outcomes.

Council have assessed the delivery of the proposed parking along North St will not impact future construction activities and can be progressed immediately. Once approval is given, this can be delivered in approximately 3 months subject to weather, and availability of contractors.

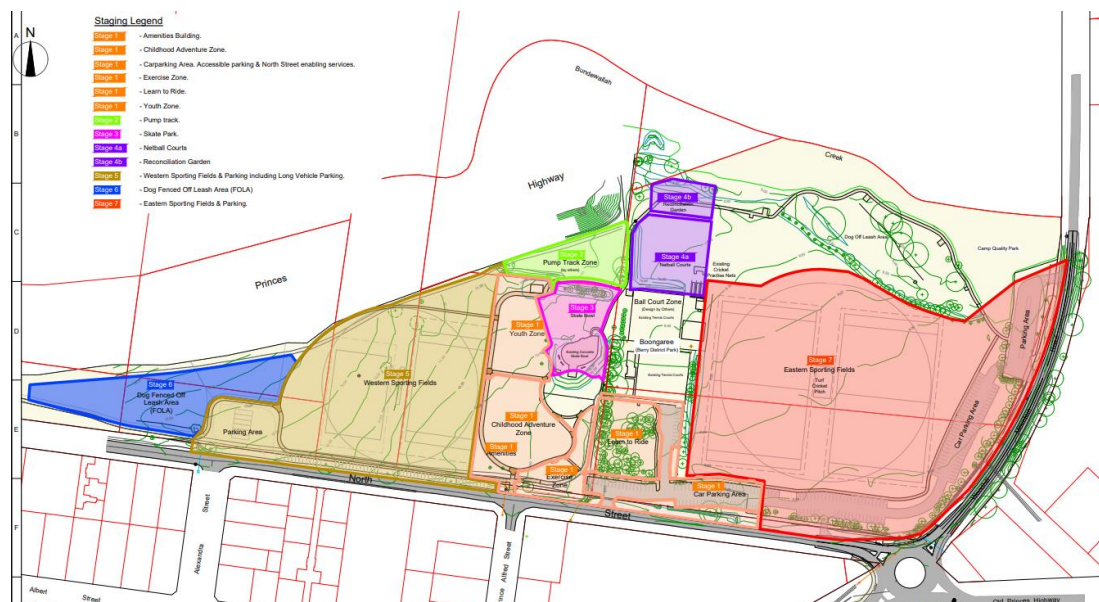


Figure 3. Boongaree Staging Plan.

### Congestion and traffic increases

The additional parking proposal will formalise an area that is already utilised for informal parking. The proposal to formalise this area and provide additional 90-degree parking spaces is not anticipated to attract further vehicular traffic than what is currently being experienced.

### Long Vehicle Parking

Staff consider the community concerns around vehicle safety should be investigated and that a traffic movement study should be undertaken to understand the turning circle required for a

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long vehicle to enter this parking area. Should this Assessment determine that the access is compliant, the long vehicle parking should remain as this location and be delivered in accordance with the adopted Master Plan. Should the Assessment determine the proposal is not compliant further investigations will be undertaken and advised to Council.

### **Next Steps**

#### Additional 90-degree Car Parking

Pending Council's resolution, the Community Planning and Projects Department and Asset Custodians propose to work collaboratively to progress the proposed additional 90-degree car parking spaces along North Street, Berry to detailed design and construction.

Upon the completion of detailed designs and assessments, Council will establish a timeline for delivery and provide an update to the community.

#### Long Vehicle Parking

Pending Council's resolution, the Community Planning and Projects Department will undertake a Vehicle Turning Assessment.

#### Pedestrian Refuge

Pending Council's resolution, Staff will investigate the feasibility of pedestrian safety measures with other internal staff and TfNSW along with potential funding options.

### **Financial Implications**

A budget for the additional car parking proposal has not been allocated to the Boongaree project. With current contracted works, it is unlikely that the current nominated budget will be sufficient to undertake the additional works. It is understood the additional 90-degree car parking will cost approximately \$300,000 to complete, with final costing to be established following finalisation of design.

Potential funding options for the additional parking proposal include:

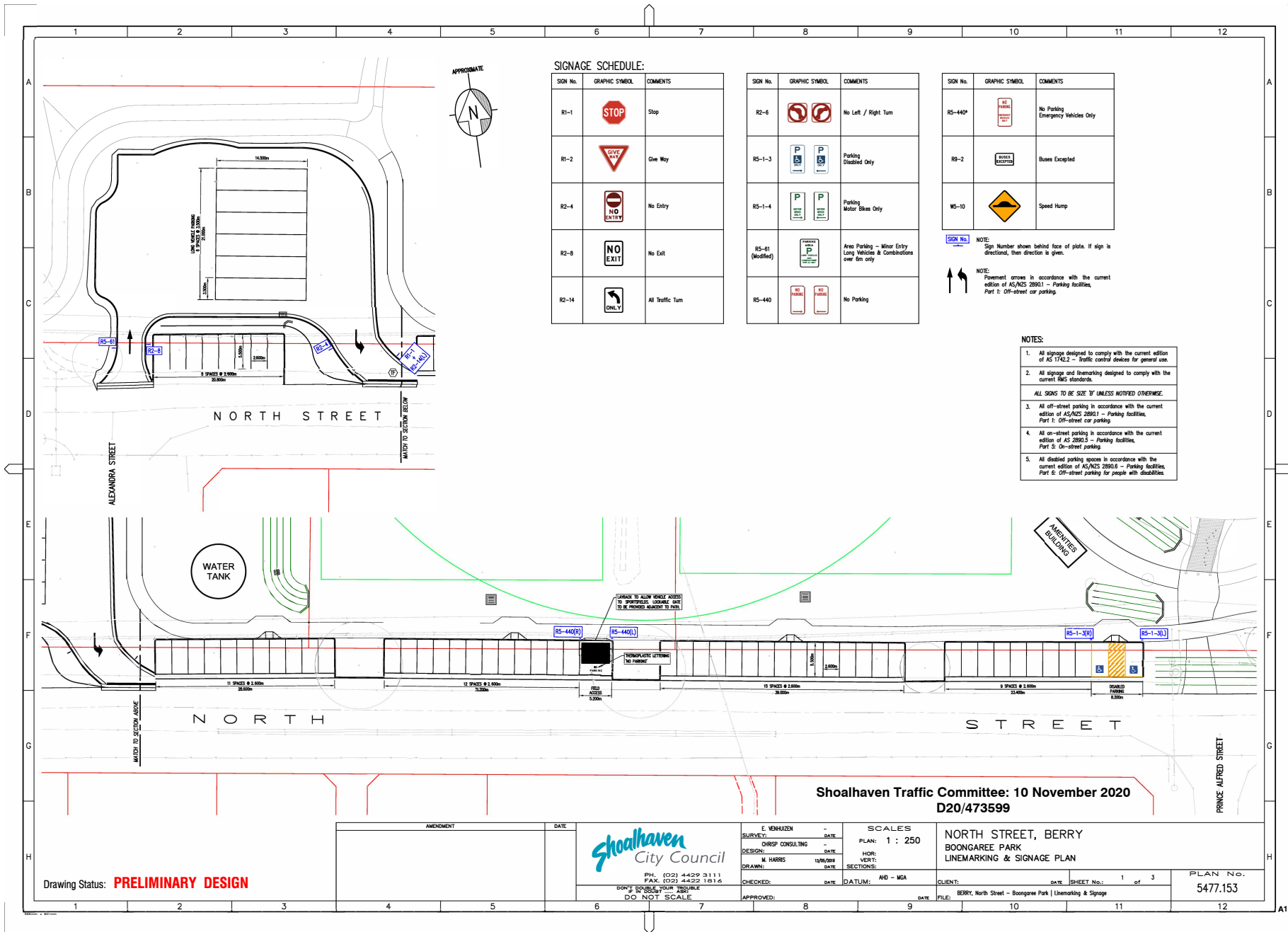
- Reallocation from Multi-Sport Grant for Boongaree Stage 5 and 7
- Alteration to the Low-Cost Loan initiative
- Securing of further grant funding
- Shifting funding from other projects across Council
- Bringing forward funding in outyears

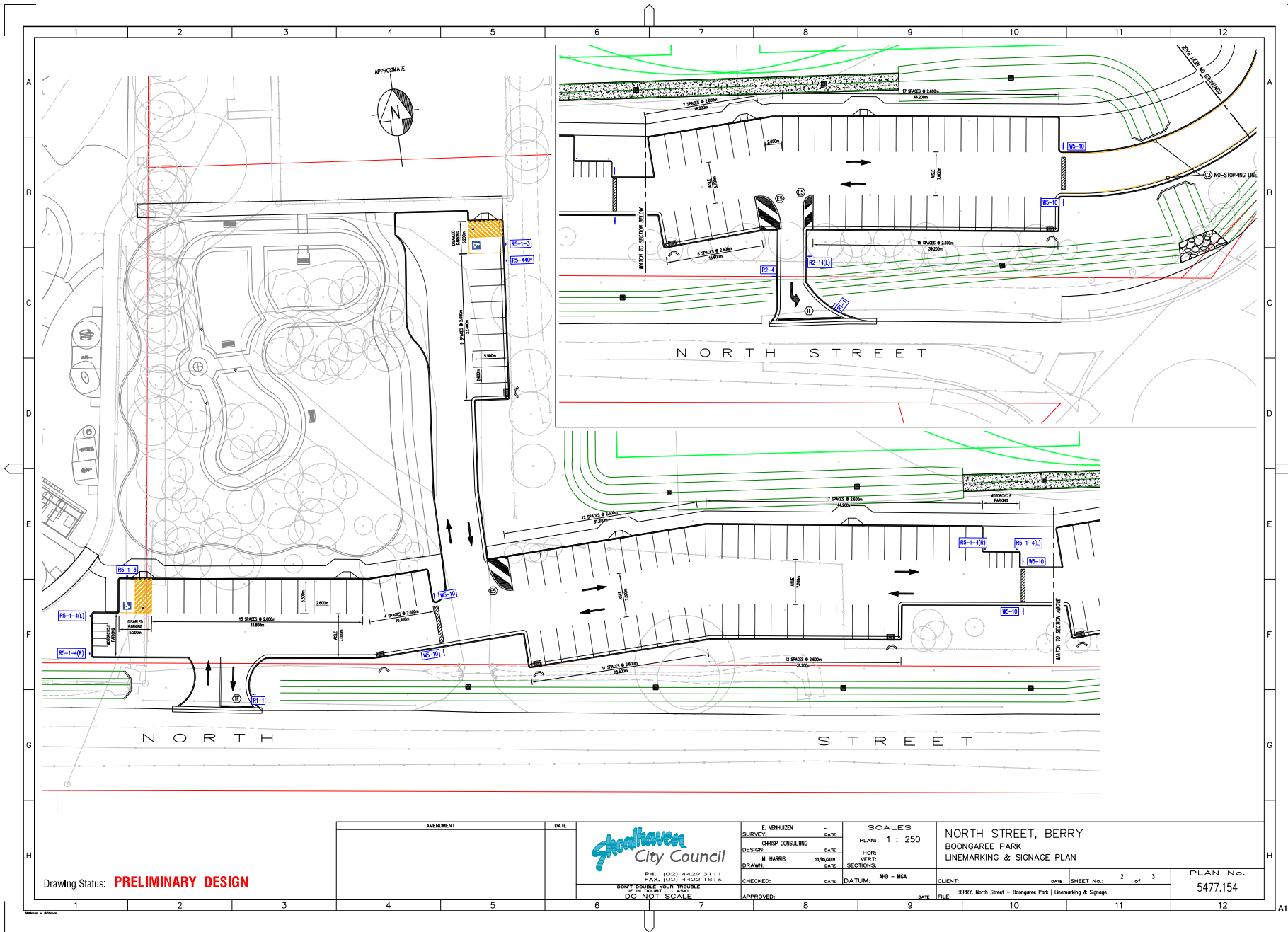
Council will progress with funding of this project, understanding that the preferred funding sources is an alteration to the Low-Cost Loan Initiative (LCLI).

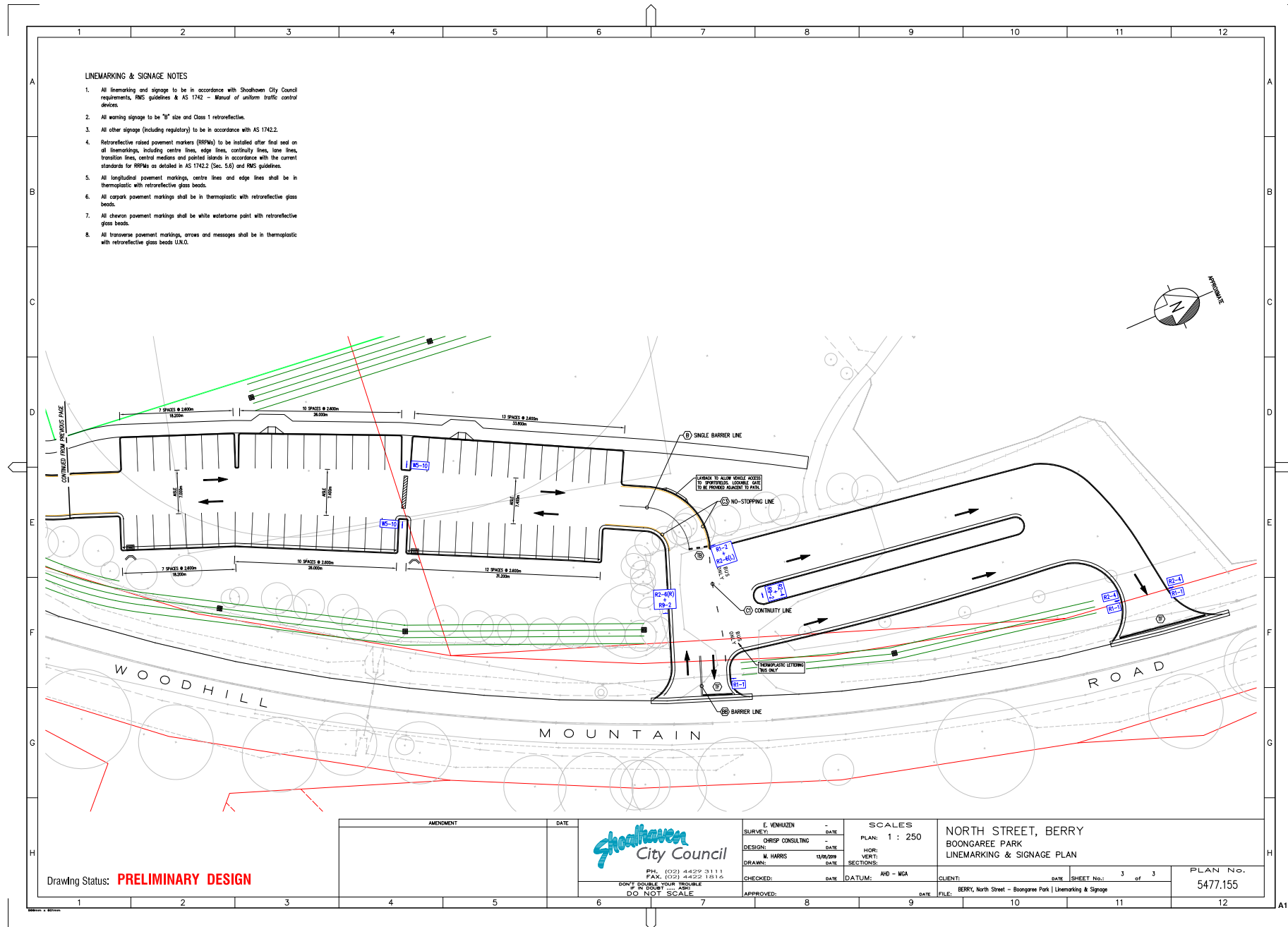
### **Risk Implications**

Given the current visitation rates at Boongaree, the project will need to be delivered timeously to provide benefit to the community, as additional parking within Stages 5 and 7 are expected to become available within 18-24 months.

The impacts of La Nina throughout 2022 have severely impacted construction projects being delivered by Council. With La Nina expected to continue throughout the spring/summer 2022 period, additional impact and delays to projects are possible. La Nina proposes a risk to this project being delivered in a timely manner.









## CL22.403 Grant of Electricity Easements for Pad Mount Substations and Restrictions on the Use of Land to Endeavour Energy - Lot A DP 420566, Lot 262 DP 794245 & Lot 21 DP 1284124

**HPERM Ref:** D22/338625

**Department:** Technical Services

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

**Attachments:**

1. Plan of Easement & Restriction - Lot A DP 420566 [↓](#)
2. Plan of Easement & Restriction - Lot 262 DP 794245 [↓](#)
3. Plan of Easement & Restriction - Lot 21 DP 1284124 [↓](#)

### Reason for Report

This report provides Council with an opportunity to consider granting an Easement for a Pad Mount Substation, Underground Cables and the creation of a Restriction on the Use of Land in favour of Endeavour Energy over Council owned land.

### Recommendation

That Council:

1. Grant an Easement for a Pad Mount Substation 2.75 wide, Underground Cables 1 wide, Electrical Purposes variable width and the creation of a Restriction on the Use of Land in favour of Endeavour Energy over Lot A DP 420566 Illaroo Road, North Nowra
2. Grant an Easement for a Pad Mount Substation 3.77 wide, Underground Cables 3 wide and the creation of a Restriction on the Use of Land in favour of Endeavour Energy over Lot 262 DP 794245 Moss Vale Road, Cambewarra;
3. Grant an Easement for a Pad Mount Substation 3.77 wide and the creation of a Restriction on the Use of Land in favour of Endeavour Energy over Lot 21 DP 1284124 Abernethys Lane, Meroo Meadow;
4. Note that costs associated with the transactions are to be funded from Water and Sewer funds as necessary. The Easements and Restrictions are to be granted at \$nil consideration;
5. Authorise the Chief Executive Officer to sign all documentation required to give effect to this resolution and to affix the Common Seal to the Council of the City of Shoalhaven to all documentation required to be sealed.

### Options

1. Resolve as recommended.

Implications: The easements are required to provide Endeavour Energy with legal access for the operation and maintenance of its essential public infrastructure associated with the Moss Vale Road Urban Release Area.

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2. Not resolve as recommended.

Implications: Endeavour Energy will not have guaranteed access to main the public infrastructure which will have a negative impact on the operation of the Moss Vale Road Urban Release Area infrastructure.

### Background

As part of the delivery of the Moss Vale Road Urban Release Area, three Pad Mount Substations will be constructed over Council owned operational land, being Lot 21 DP 1284124, Lot A DP 420566 and Lot 262 DP 794245.

The Easements over Lot A DP 420566 are required for electrical infrastructure to service the proposed new water pumping station in Illaroo Rd (highlighted yellow on Attachment 1). The Easements over Lot 262 DP 794245 are required for electrical infrastructure to service the proposed new sewer pumping station in Moss Vale Rd (highlighted purple on Attachment 2). The Easements over Lot 21 DP 1284124 are required for electrical infrastructure to service the proposed new sewer pumping station in Abernethys Lane (highlighted blue on Attachment 3). The easements are required to benefit Endeavour Energy for the operation and maintenance of their infrastructure.

The restriction on the use of land being registered is that no building shall be erected or permitted to remain within the restriction site until the building meets requirements outlined by Endeavour Energy.

The easements and restriction will be granted to Endeavour Energy at \$nil consideration.

### Community Engagement

Community engagement is not required for operational purposes such as granting an easement.

### Policy Implications

Nil

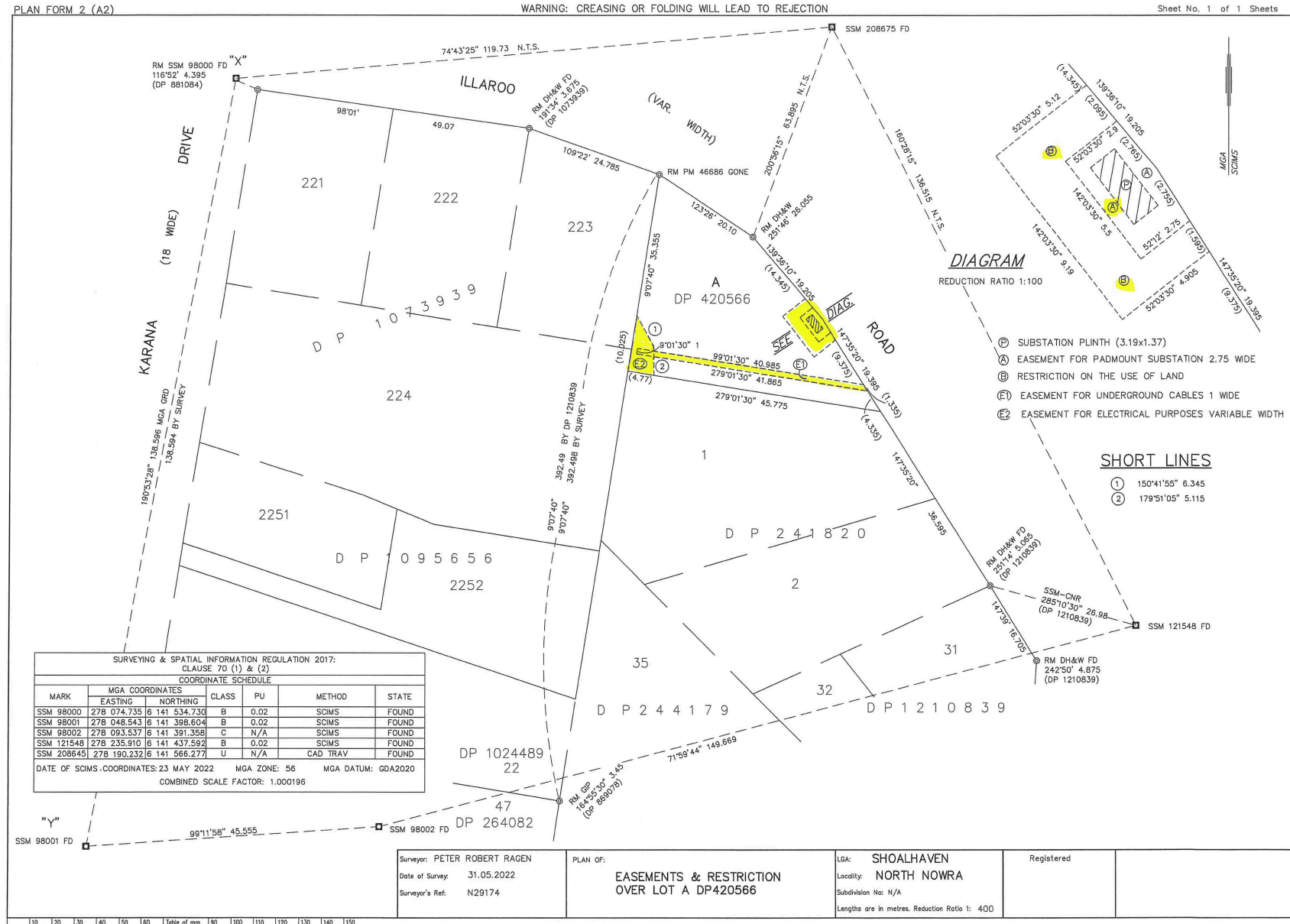
### Financial Implications

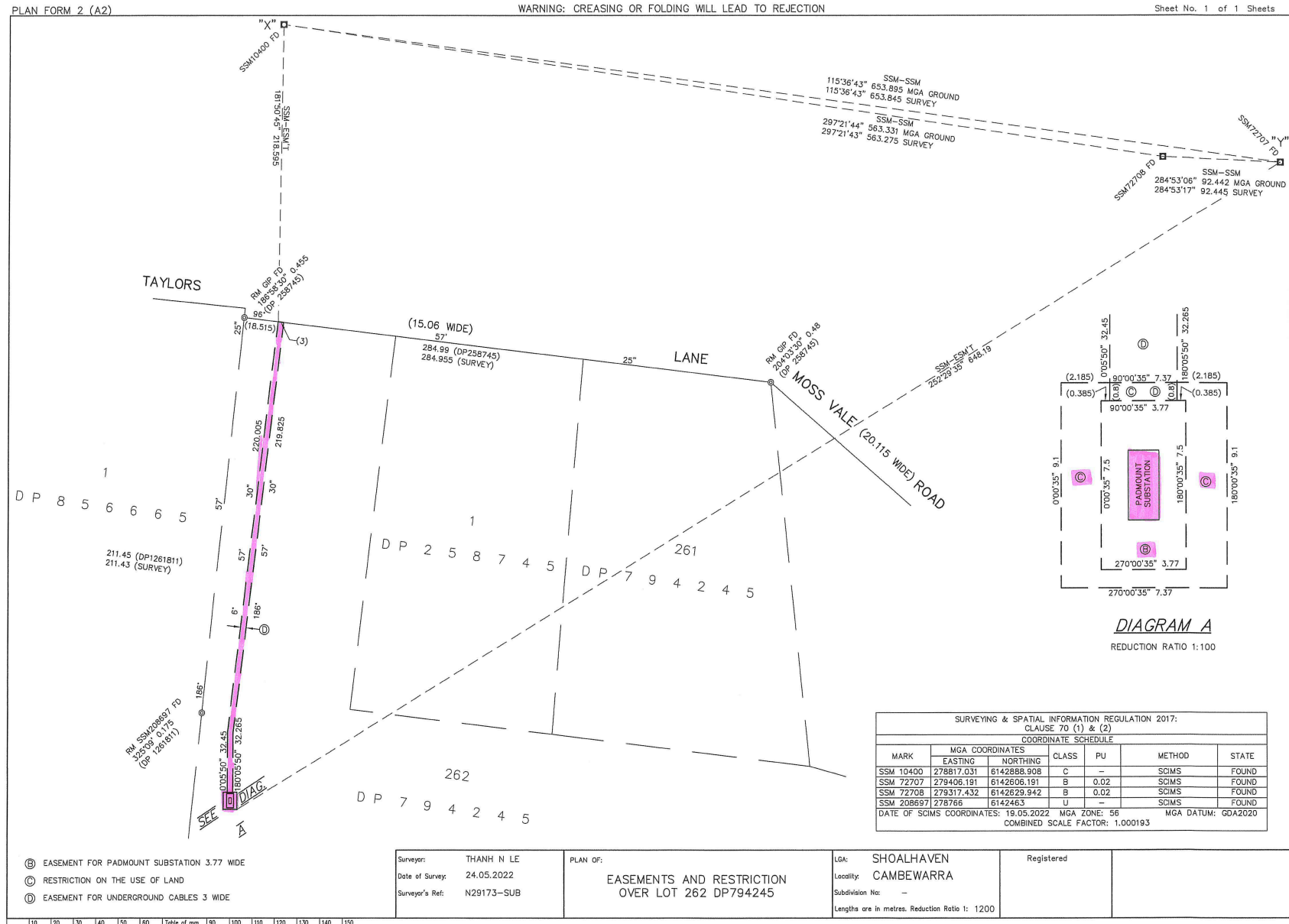
Costs associated with the transactions are to be funded from Work Finance Number 101693 - Sewer Easements & Other Operating Land Matters.

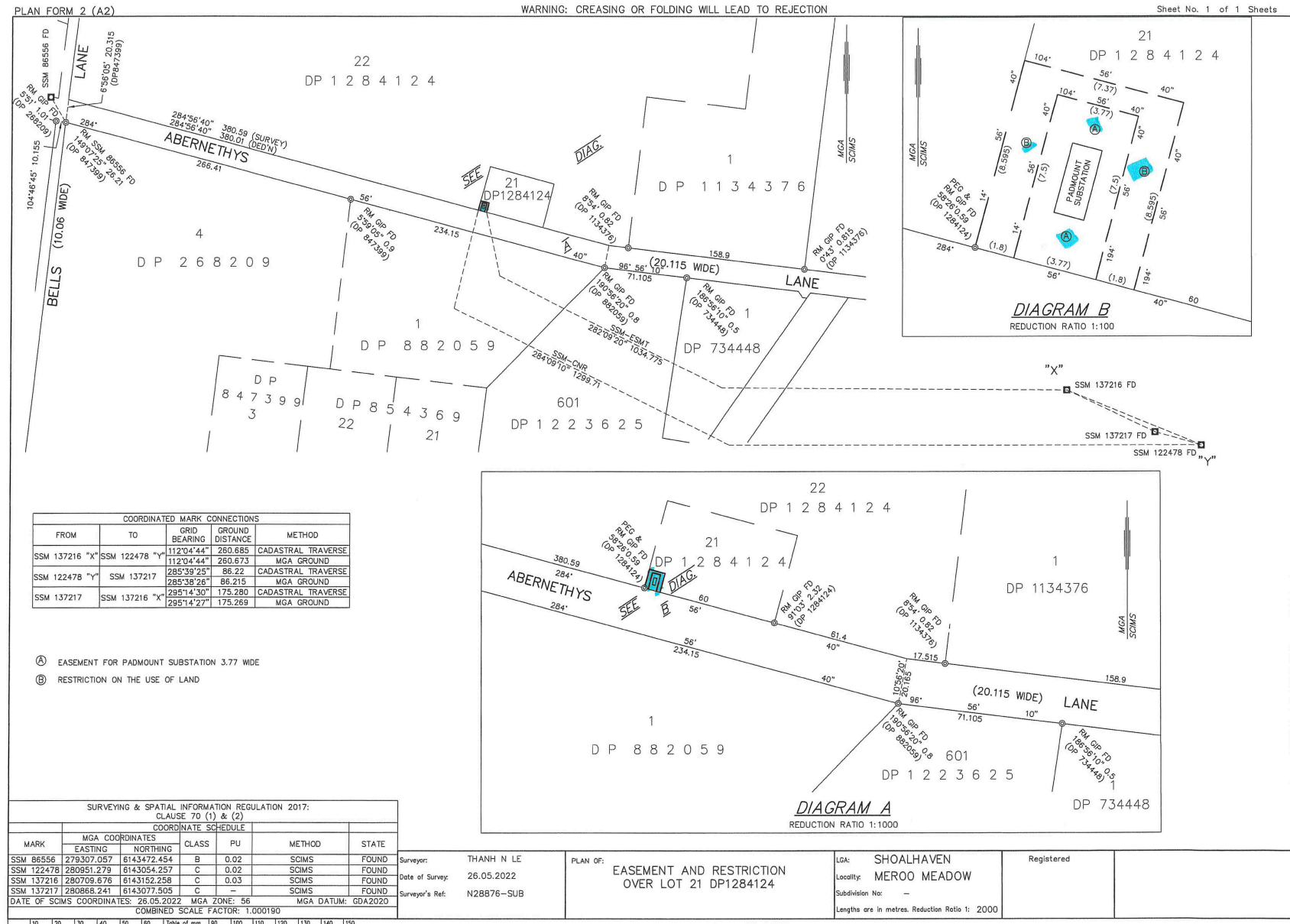
### Risk Implications

Failure to grant an easement to Endeavour Energy will prevent Endeavour Energy from having legal access to the infrastructure for its operation and maintenance. This will have a negative affect the Moss Vale Road Urban Release Area project.

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## CL22.404 Compulsory Acquisition of Water Easement - Lot 203 DP 883494 - 14 Reservoir Lane Cambewarra

**HPERM Ref:** D22/295376

**Department:** Technical Services

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

**Attachments:** 1. Water Easement Acquisition Plan [↓](#)

### Reason for Report

This report provides Council with an opportunity to consider the compulsory acquisition of a water easement under the Land Acquisition (Just Terms Compensation) Act 1991 over Lot 203 DP 883494.

### 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 water over Lot 203 DP 883494, by compulsory process in accordance with the Local Government Act 1993 and Land Acquisition (Just Terms Compensation) Act 1991 for the purpose of a water 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 associated with the acquisition of the water easement from the Water Fund.
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. Resolve as recommended

Implications: Council approve the compulsory acquisition of the required water easement under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 for the purpose of essential infrastructure required to service the Moss Vale Road Urban Release Area. It will provide Council with legal rights to the access, operation & maintenance of the infrastructure.

2. Not resolve as recommended

Implications: Failure to acquire the easement will lead to a delay in the delivery of the required infrastructure to service the Moss Vale Road URA. This has potential to delay the delivery of essential public infrastructure and risk to development of land and housing in the Moss Vale Road Urban Release Area.

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## Background

The subject water easement has been identified as a requirement for essential services to facilitate construction and future operation/maintenance of water supply that will support residential subdivisions within the Moss Vale Road Urban Release Area.

The proposed easement is marked W1 and is outlined in blue over part Lot 203 DP 883494 in Attachment 1.

The negotiation process has failed to reach agreement within the mandatory 6-month negotiation period. Set out below, in chronological date order, is an account of Council's attempts to obtain a mutually agreeable resolution to acquire a water easement by agreement:

- a. 10 February 2022 – Initial contact made with the landowner to arrange on-site meeting and provide preliminary information on the required easement.
- b. 17 February 2022 – On-site meeting with landowner.
- c. 23 February 2022 – Council obtains an independent valuation report which assessed the value of the easement.
- d. 24 February 2022 – Letter of offer for compensation and notification of the commencement of the 6-month negotiation period issued to the landowner.
- e. 25 February 2022 – Landowner rejects Council offer of compensation and requests the location of the pipeline be reviewed.
- f. 01 March 2022 to 08 April 2022 – Discussions with the landowner confirming the location of the pipeline and acquisition process.
- g. 08 April 2022 to 27 May 2022 – No correspondence from landowner received.
- h. 27 May 2022 – Landowner's solicitor contacts Council Officer, advising that they have been engaged to act on behalf of the landowner.
- i. 30 May 2022 to 07 July 2022 – Solicitor arranging a second independent valuation on behalf of the landowner.
- j. 08 July 2022 – Council Officer accepts fee proposal for valuation to be completed by independent valuer.

Given the above and the delivery timeframes of the Moss Vale Road Urban Release Area, Council is seeking to progress to compulsory acquisition as the stipulated minimum negotiation time frame in the Land Acquisition (Just Terms) Compensation Act has been exceeded.

Notwithstanding the above, it is always Council's preference to acquire interests in land by agreement. Staff will continue to negotiate with the landowners in the hope of an early resolution and agreement prior to the issue of a Proposed Acquisition Notice to the landowner.

## Community Engagement

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

## Policy Implications

Nil.

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**Financial Implications**

Compensation and all costs associated with the acquisition are to be funded from Council's Water Fund. Should early resolution not be achieved, the compensation will be determined by the Valuer General, as detailed in the above Recommendation.

**Risk Implications**

Acquisition of the easement is necessary to secure Shoalhaven Water's legal rights to construct, access, operate and maintain essential public infrastructure.

CL22.404





## CL22.405 Notice of Motion - Bus Zone Review - Bolton and Erina Roads Huskisson

HPERM Ref: D22/344929

Submitted by: Cllr Greg Watson

### Purpose / Summary

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

### Recommendation

That Council request the Shoalhaven Traffic Committee to review the location of the Bus zone recently installed at the corner of Bolton and Erina Roads Huskisson.

### Background

My name is Blake, I own a small business on Bolton Rd Huskisson (Woollamia Industrial area). I'm writing in regards to a review into a new bus zone that has been placed on the corner of Bolton and Erina Rds, Huskisson. I have some concerns about the impact this may have on local businesses. We have had no consultation in regards to this matter.

The survey of this area was conducted on a Friday afternoon at around 4.30 pm by an RMS representative. I approached the gentleman to discuss what he was surveying and was told it was for a bus zone. I'm unsure why the survey wasn't done on a Monday. Traffic on a Friday afternoon at 4.30 pm is very low and most cars are not parked in this area.

We have a large number of vehicles from local businesses that park in this area from the Jervis Bay Mussel Farm employees to your own Shoalhaven City Council works yard workers. The street is very congested and is dangerous to have a bus route on this road as traffic from local businesses like Ison Hardware have many builders utes with trailers that convey down this road.

Could I please be advised as to why this site was chosen and why consultation with local business owners was not considered in this decision?

### Note by the CEO

Council understands that the concerns raised in the Background to this Notice of Motion have been addressed with the following advice received from TfNSW:

*"Following discussions with Paul Sutton and the adjacent business owner (Blake from JB Tyre Place), TfNSW has made the decision to change the bus route that was proposed to run in both directions along Bolton Road, to instead run all buses in a northbound clockwise direction through the Estate, avoiding the need for bus stops on both sides of the road. I can confirm from my conversations with both Blake and Paul today that they are happy with this outcome and I am pleased we were able to work together to quickly implement this change."*

*The Bus Zone installed yesterday on the eastern side of Erina Road was removed today, leaving just the bus zone on the western side.*

*TfNSW intends to advise Shoalhaven Traffic Committee of this change at its next meeting, in order for it to be documented."*

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## **CL22.406 Notice of Motion - Bay and Basin Boxing Club - Identification of a Site for Building**

**HPERM Ref:** D22/345134

**Submitted by:** Cllr Greg Watson

### **Purpose / Summary**

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

### **Recommendation**

That Council investigate for the location of a suitable site to establish a facility for the Bay and Basin Boxing Club.

### **Background**

We would like to investigate into the possibility of the use of council land at the Clifton Park area in Sanctuary Point (opposite to Idlewild av.) to locate a shed to be used as a boxing and fitness gym for our boxing club which has served in this community for almost 18 years. In the past near 18 years I have used my own financial backing to provide a place for people in our community to engage in boxing and other related health and fitness activities at a cost of over \$240,000. I am now asking for help with continuing this service as Covid has substantially affected my ability to do this alone anymore.

I have identified an area that is suitable for our needs of placing a 20x20m shed to house a boxing ring and equipment necessary to participate in the sport along with the potential to offer the space to other similar types of combative sports in the area that would benefit from this type of setup. Our goal is simply to keep providing the activity in the district as we have over the years to help with the following benefits to the community:-

1. We provide a service that helps with the control of violence and physical related criminal activity within the community. Our boxing program provides a safe and controlled environment where both kids and adults have the opportunity to have a physical outlet that is otherwise not provided for in the general public areas or in other gyms.
2. We support and mentor youth and young adults in the area to become better people and to understand and respect community values.
3. Our club and coach are registered and licenced to allow people from our district to compete across Australia in the sport of boxing and kickboxing and in the past we have achieved great success for our local community with NSW State title holders from Novice to Elite levels, an East Coast Lightweight Champion as well as brining the first Female competitors in the whole region into the sport.
4. Some of our volunteering members are from the older age range in our community who assist in the mentoring and support of the younger generation which serves as both an inclusive and a diverse platform where we bring every generation together with a common interest. Some of these older generation volunteers are previous Olympic Champions boasting multiple gold medals for Australia along with a range of other huge achievements for sport in our country.
5. By offering our services we battle the boredom factor for young people in the area giving them direction in their lives and provide a healthy and challenging sport to focus their time and efforts on. This has shown in the past with many success stories that we do

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have an impact on the lives of young people who would have otherwise followed the path of crime and un-employment in the area. We have seen kids destined for failure in life gain employment, start business in the area that have stayed to support local industry and development, take on mentoring roles themselves to help others like them, marriages and families initiated through the gym and many other wonderful stories all coming directly from our club.

6. Promoting a healthy lifestyle to the community for both physical and mental well-being.
7. We also help families, kids and adults with everyday life issues. With our community within the club there are tradies, business owners, mentors and many other professions that are only too happy to help others in any way they can when it is identified that some people need help but don't ask for it. We have helped with food, clothing, equipment, travel, household items and employment. We can refer people to services that can help them overcome any adversities in their lives through a strong network of individuals involved with our club.
8. There is a strong message of acceptance and anti-bullying or anti-violence in our club which we promote to young and old. Empathy and understanding are the fundamentals to our ethos along with balance in life. It is no secret that during and after Covid's effects on our society that there is a huge disconnect in community and we have seen a horrible trend in the spike of violence in the community especially amongst younger generations. Mistrust for authority and government is at an all time high along with depression and a feeling of helplessness. Our club is a way for people to reconnect and hopefully over time a way for everyone to come together again and regain the ability to have control over their lives.

Whilst we understand that our sport is not for everyone and some people don't understand why we do what we do, boxing and combat sports have been around for a very long time and have been providing the above-mentioned benefits to communities everywhere behind the scenes. We are as essential to society as a doctor or supermarket or other types of essential services. We deal with parts of the community that most chose to turn a blind eye to or that come from backgrounds or situations most people have no understanding of. I can only say thank God they don't know too! Over the years I have seen and heard things that I sometimes wished I never knew too. But I also realised that by pretending these things don't happen to kids or adults I too become part of the problem that perpetuates these issues in society. I promised myself and many people that reached out for help that I will never turn my back on them and do whatever I can to save as many as I can from the fates they are dealt with. This is why I am appealing to you for help for our club to keep existing because as long as we can make a change in people's lives I will fight for them to my last breath.

My idea for this gym is to access any grants/funding that is available for this type of project and build a 20x20m shed fitted out with amenities and equipment necessary for our activity. Ballparking a total cost of around \$120,000 to complete. We have people in the club in trades that can assist to reduce this cost where possible. A percentage of profits will be returned into community programs in the area that also need help along with referrals to youth mentoring services, welfare agencies and other similar sporting clubs where possible. The remaining profits would be used to pay our way for the future sustainability of the club in its location through a leasing arrangement with Council for the use of land. The location has minimal effect on the surrounding community being in an area set away from houses in a high traffic area where our noise would not be noticed by any residents in the vicinity of the gym.

I appreciate your time in this matter and simply asking that you help me in this fight to help others.

Kind regards

Justin ...

(Head Coach) Bay and Basin Boxing Club

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## **CL22.407 Notice of Motion - Shoalhaven Bushfire Management Plan Audit and Review**

**HPERM Ref:** D22/348238

**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. The CEO report back on the status of the requested audit of SBMP by the Commissioner.
2. If the Audit has not been carried out make another request for an audit of the SBMP by the Commissioner.

### **CEO Note:**

The Shoalhaven RFS District Manager informs Council that; the Next Generation Bush Fire Risk Management Plans are currently being developed State wide following the NSW Bushfire Inquiry. The Shoalhaven Bush Fire Risk Management Plan is normally due for review every 5 years. The last adopted Shoalhaven Bush Fire Risk Management Plan was 2018 therefore the review for this document will commence in early 2023 and take into account the Next Generation changes.

There is a number of letter exchanges between Council, the Commissioner of the RFS and the local RFS District Office and these can be tabled if Council resolves to receive a report back.

CL22.407

## **CL22.408 Notice of Motion - Call in DA22/1524 - 6 Dune Cres, Manyana - Lot 123 DP 1248050 - Dual Occupancy & Torrens Title Subdivision**

**HPERM Ref:** D22/367099

**Submitted by:** Cllr Amanda Findley

### **Purpose / Summary**

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

### **Recommendation**

That DA22/1524 - 6 Dune Cres, Manyana - Lot 123 DP 1248050 be called in for determination by Council due to public interest.

CL22.408

## CL22.409 Notice of Motion - Shoalhaven Animal Welfare and Protection Advisory Group

HPERM Ref: D22/371508

Submitted by: Cllr Paul Ell  
Cllr Evan Christen

### Purpose / Summary

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

### Recommendation

That Council:

1. Recognises the importance of promoting domestic and native animal welfare and protection throughout the City.
2. Facilitates a workshop style meeting to discuss Animal Welfare and Protection, which is to have the purpose to inform, educate and advise Shoalhaven City Council, its staff and residents on animal welfare and protection by:
  - a. Providing a forum for local animal welfare organisations and stakeholders to liaise directly with Council and each other;
  - b. Raising awareness in the Council, with its staff and in the community around animal welfare and protection;
  - c. Inform the development, implementation, and review of Council's policies concerning animal welfare and protection;
  - d. Providing advice and make recommendations to Council on measures relating to animal welfare and protection in the Shoalhaven including where relevant making submissions and representations to other levels of government; and
  - e. Be a conduit for information and communication between the community and Council.
3. Requests staff arrange an Animal Welfare and Protection meeting and send invitations to relevant organisations, including the following: - Wildlife Rescue South Coast; - Animal Welfare League Shoalhaven; - RSPCA NSW Shoalhaven Volunteer Branch; - Shoalhaven Animal Shelter; and - NSW National Parks (including marine).

### Background

This motion is concerning the facilitation of a forum specifically focused on animal welfare and their protection throughout the Shoalhaven. This initial meeting will bring together representatives from a range of animal welfare organisations to provide advice and recommendations to Council regarding the development of policies and initiatives to support animal welfare objectives. The forum will provide various involved and interested parties to discuss the elements of Animal Welfare that are relevant to them, and provide a mechanism for any required future discussions on how our community and the entities with direct interest in animal welfare can further interact and achieve suitable outcomes across the Shoalhaven.

CL22.409



The results of the meeting may be reported back to Council for any relevant outcomes and issues that either require further resolution (including those with a resource or advocacy input).

## **CL22.410 Notice of Motion - Call in - Subdivision at 31 Porter Ct Milton – SF10958**

**HPERM Ref:** D22/376817

**Submitted by:** Cllr Liza Butler

### **Purpose / Summary**

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

### **Recommendation**

That:

1. Council call in this Subdivision Application number SF10958 located at 31 Porter Ct Milton NSW 2538.
2. A Councillor Briefing is held in regard to SF10958 prior to being heard at an Ordinary Meeting of Council

### **Background**

A previous application (DA21/1991) for a multi dwelling development was lodged and called in to Council for a briefing and determination.

Councillors determined that this was not an appropriate development size for this parcel of land.

The applicant has now applied to subdivide the same parcel of land (SF10958). The submission period for this application has now expired.

Councillors need to understand:

- What the ramifications are in approving this current application? and
- What would be allowed to be built on this parcel of land under current planning laws?

This Notice of Motion seeks to:

- Inform Councillors via a Briefing so that they may understand the ramifications of approving this subdivision and a variation to the DCP as per SF/10958 and what would be permissible under current planning laws.
- Call in for determination at an Ordinary Meeting of Council.

CL22.410

## 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.