

Ordinary Meeting

Meeting Date: Monday, 03 April, 2023
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, recorded and made available on Council's website, 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.

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<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 - 27 March 2023
6. Declaration of Interests
7. Presentation of Petitions
8. Mayoral Minute

9. Deputations and Presentations**10. Call Over of the Business Paper****11. A Committee of the Whole (if necessary)****12. Committee Reports**

CL23.101	Report of the Shoalhaven Arts Board - 8 March 2023	1
AB23.4	Management of the Birkett Weatherhead Gift	
AB23.6	Shoalhaven Arts Board - The Way Forward	

13. ReportsCity Performance

CL23.102	2024 Local Government Election - Constitutional Referendum, Polls and Other Matters	26
CL23.103	Insurance Arrangements - Community Consultative Bodies	30
CL23.104	Australian Council of Local Government (ACLG) Forum 2023	35
CL23.105	Ward Boundary Adjustments - Community Interest Areas	37

City Futures

CL23.106	Draft/Interim Guideline - Proponent-Initiated Planning Proposals	42
CL23.107	Proposed Voluntary Planning Agreement - Dedication of Land - 252 Princes Highway, Ulladulla	46

City Services

CL23.108	Classification of Land - Drainage Reserve - Lot 3 DP 1281802 Taylors Lane, Badagarang (formerly Cambewarra)	49
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14. Notices of Motion / Questions on Notice

Nil

15. Confidential Reports

Nil

CL23.101 Report of the Shoalhaven Arts Board - 8 March 2023

HPERM Ref: D23/106413

Attachments: 1. AB23.4 Table A [↓](#)
2. AB23.4 Table B [↓](#)
3. AB23.4 Table C [↓](#)
4. AB23.4 Table D [↓](#)

AB23.4 Management of the Birkett Weatherhead Gift

HPERM Ref:
D22/418261

Recommendation

That Council:

1. Endorse the advice of the Art Acquisition and Collection Subcommittee.
 - a. To retain the works by Jim Birkett as listed in Table C (Attachment 3) in accordance with the Deed of Gift.
 - b. To sell the works by Jim Birkett as listed in Table D (Attachment 4) in accordance with the Deed of Gift.
2. Defer making a decision on the works by artists other than Jim Birkett.
 - a. Requesting Staff and the Art Acquisition Subcommittee to reconvene to give further consideration to the works by other artists (Table A - Attachment 1 and Table B - Attachment 2).
 - b. Provision of advice to the Arts Board on which works to retain and which works to sell in accordance with the Deed of Gift and report back to a future meeting of the Shoalhaven Arts Board.
3. Note that the funds received from the sale of works in part 1.a will be put into a dedicated Council Reserve and used explicitly for the purpose of the care, storage and exhibition of works retained in the Birkett Weatherhead collection as per the terms of the Birkett Weatherhead Gift.
4. Inform Roy Weatherhead of the outcome of decision made in part 1.

AB23.6 Shoalhaven Arts Board - The Way Forward

HPERM Ref:
D23/76479

Recommendation

That Council:

1. Cover the cost of a professional facilitator to work with the Arts Board to develop and deliver a 5-year strategic plan 2023-2027, for incorporation into Council's Community Strategic Plan.
2. Cover the cost of a professional facilitator to lead a series of public meetings with the arts community of the Shoalhaven, in accordance with the values underpinning the Community Strategic Plan.
3. Provide appropriate venues for public meetings with the arts community of the

CL23.101

Shoalhaven.

4. Consider covering the cost of up to 8 members of the SAB to undertake appropriate first nations Cultural activities. The administration of any costs associated with undertaking cultural awareness first nations activities be administered by the CEO under delegation.
5. Request staff to investigate how consultation is being undertaken by the NSW State Government and provide advice on how the Arts Board can provide feedback with regard to the design of the new City entry at Nowra Bridge.

Note by the CEO:

The actions recommended above by the Shoalhaven Arts Board are currently not resourced nor have associated costs been determined and identified. Therefore, it is suggested that Council consider an alternative recommendation:

That staff, in consultation with the SAB, prepare a report to Council in response to SAB recommendations (AB23.6) providing a project plan, cost estimates, and a funding strategy that would see the requested actions proceed in a timely manner.

Birkett and Weatherhead Collection – Artists other than Jim Birkett



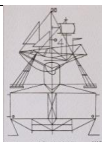
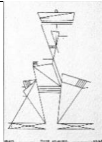
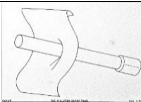




**Birkett and Weatherhead Collection
– Artists other than Jim Birkett Index
Works Recommended for Acquisition**

	Earl Backen , Composition, 1957 <i>Coloured etching 10/20, 51 x 42cm</i>
	Graham Blondel , The Big Goodbye, 1990 <i>Collage, mixed media, 25 x 39cm</i>
	Graham Blondel , Chant for Ganesh, Undated <i>Mixed media on canvas, 46 x 46cm</i>
	Grace Burzese , Graveyard 2, 1995 <i>Drawing, mixed media on paper, 34 x 40.5cm</i>
	Vivienne Dadour , Untitled (Etching), Undated <i>Etching, edition 10/10, 52 x 43cm</i>
	Vivienne Dadour , Head, 1996 <i>Gouache on card, 31.5 x 26.5cm</i>
	Vivienne Dadour , Figure Paintings 3 & 4, Diptych, 1994 <i>Painting, mixed media/collage on paper on canvas, 55 x 86cm</i>
	Isabel Davies , Paarintji Music, 1988 <i>Collage and mixed media, 92 x 66 x 6cm</i>
	Isabel Davies , Aspects of Mungo No1, 1988 <i>Assemblage, 40 x 33cm</i>



Birkett and Weatherhead Collection – Artists other than Jim Birkett

	Isabel Davies , Aspects of Mungo No6, 1988 <i>Assemblage, 40 x 30 x 6cm</i>
	Isabel Davies , Mungo Music, 1988 <i>Mixed media, 85 x 65cm</i>
	Isabel Davies , Interaction- Variation, 1971 <i>Aluminium and Perspex construction, 61 x 61cm</i>
	Fiona Foley , Mask, c1985 <i>Mask, made with natural materials, 38 x 24cm</i>
	Donald Friend , The Patriarch Jacob, 1952 <i>Two paintings, watercolour and ink on paper, together in a double mount, 57.5 x 73.5cm</i>
	Victor Greenaway , Vase with Long Neck, 1986 <i>Ceramic vase, 24 x 10cm</i>
	Frank Hodgkinson , Muruk (Printer's Proof), 1984 <i>Etching on paper, 58.5 x 50.1cm</i>
	Warwick Keen , Untitled, Undated <i>Painting, acrylic on canvas, 170 x 260cm</i>

Birkett and Weatherhead Collection – Artists other than Jim Birkett

	Norman Lindsay , Female Nude, Undated <i>Drawing, pencil on paper, 44 x 29cm</i>
	Shane Pickett , Landscape, 1986 <i>Framed painting, gouache on paper, 24 x 30cm</i>
	Kurt Schranzer , His Beauty was That of a Ship's, 1991 <i>Drawing, ink on paper, 36.5 x 32cm</i>
	Kurt Schranzer , French Sailor Boy, 1991 <i>Drawing, ink on paper, 36.5 x 31.5cm</i>
	Kurt Schranzer , That Violated Blank Page, 1992 <i>Drawing, ink on paper, 32 x 37cm</i>
	Derek Smith , Ceramic Sculpture, 1981 <i>Ceramic sculpture, 20 x 16 x 5cm</i>
	Roland Wakelin , Berry's Bay, c1914 <i>Painting, watercolour on paper, 31 x 36.5cm</i>
	Margaret Woodward , Requiem for the Captain and Rosie, 1997 <i>Painting, oil on canvas, 134 x 164cm</i>
	Margaret Woodward , A Cup of Tea for Mrs Pugh, Undated <i>Mixed media on paper, 15.5 x 14cm</i>

Birkett and Weatherhead Collection – Artists other than Jim Birkett






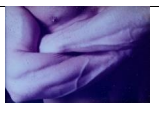
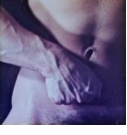



	<p>Margaret Woodward, Still Life with Lemons, 1992 <i>Pastel drawing on paper, 95 x 77cm</i></p>
	<p>Margaret Woodward, Still Life with Jug, 1994 <i>Pastel drawing on paper, 95 x 77cm</i></p>

Birkett and Weatherhead Collection – Artists other than Jim Birkett

Birkett and Weatherhead Collection – Artists other than Jim Birkett Index Works Recommended to Sell

	Chris Bates , Drowned World 2, 2010 <i>Painting, acrylic on canvas, 64 x 63cm</i>
	Margaret Bishop , Eucalyptus Macrocarpa and Shears, 2006 <i>Painting, oil on linen, 134 x 164cm</i>
	Graham Blondel , Alice's Mirror, 1986 <i>Painting, acrylic on canvas board, 19.5 x 14cm</i>
	Graham Blondel , Night Gate, 1986 <i>Painting, acrylic on canvas board, 19.5 x 14cm</i>
	Pamela Blondel , The 1990 Giro-Deco-Mempho-Box, 1990 <i>Textile, 204 x 208cm</i>
	Glenda Borchard , In Flight III, Undated <i>Mixed media on paper, 49 x 49cm</i>
	Ina Burt , Citrus Lemon (Rough) (Nutcote), 1991 <i>Painting, watercolour on paper, 60 x 50cm</i>

Birkett and Weatherhead Collection – Artists other than Jim Birkett

	Maureen Clack , Choose Your Poison, c1990 <i>Lidded timber box, glass items inside, 17 x 20 x 10cm</i>
	Neville Dawson , Roy, Undated <i>Pastel drawing on paper, 67 x 52cm</i>
	Richard Dovey , Portrait No 6, 1995 <i>Drawing, ink on paper, 56.5 x 42.5cm</i>
	Richard Dovey , Seated Nude No 4, 1993 <i>Drawing, ink on paper, 45 x 29cm</i>
	Richard Dovey , Seated Nude No 2, 1993 <i>Drawing, pastel on paper, 71 x 52.5cm</i>
	Joanne Dugan , Male Torso, Undated <i>Photograph, 23 x 28cm</i>
	Joanne Dugan , Male Torso Cat 22, Undated <i>Photograph, 25 x 25cm</i>
	Neil Fenelong , To Stand Beside You, 1994 <i>Hand coloured mono print with gold leaf, 48 x 67cm</i>
	Mark Fraser , Untitled, 1994 <i>Painting, acrylic on canvas, 25.2 x 20.3cm</i>
	Mark Fraser , Untitled 1, 1994 <i>Painting, acrylic on canvas, 29.5 x 27cm</i>

Birkett and Weatherhead Collection – Artists other than Jim Birkett

	Kristian Fredrikson , Tamino (Costume Design for the Magic Flute), 1990 <i>Watercolour on paper, 65 x 57cm</i>
	Rowena Gibbs , Fire Front, 1994 <i>Painting, mixed media on paper, 100 x 70cm</i>
	Daniel Heyman , Self Portrait, 1992 <i>Painting ink, and watercolour on paper, 24 x 24cm</i>
	Daniel Heyman , Nude, 1992 <i>Painting, ink and watercolour on paper, 47 x 37.5cm</i>
	Daniel Heyman , Why Are You Going Into That Now?, Undated <i>Painting, gauche and ink on paper, 70 x 56cm</i>
	Colin Heaney , Iridescent Goblet, 1994 <i>Art glass goblet, 21 x 8.5cm</i>
	Colin Heaney , Untitled, 1998 <i>Painting, acrylic on board tiles, 47 x 46cm</i>
	Bruce Jarvis , Egyptian Mask / Haute Couture, Undated <i>Mask, mixed media, 55 x 35 x 10cm</i>
	Sarah Lowe , Facing Back, Undated <i>Cotton and collage, 80 x 53cm</i>
	Sarah Lowe , 2, Undated <i>Cotton and collage, 81 x 53cm</i>



Birkett and Weatherhead Collection – Artists other than Jim Birkett

	Willie Milkowski, 3 Ceramic Vases, Undated <i>Three ceramic vases with celadon glaze, 34 x 12cm; 26 x 8cm; 20 x 7cm</i>
	Willie Milkowski, 3 Turquoise and Blue Vases <i>Three turquoise and blue ceramic vases, 15 x 6.5cm; 13 x 5cm; 11 x 4.5cm</i>
	L Mod, Bronze Pot with Interior Gold Decoration, Undated <i>Ceramic pot with interior gold decoration, 20.5 x 22cm</i>
	Victor Morrison, Dancing Nudes, Undated <i>Painting, oil stick on board, 42 x 32cm</i>
	Natika Newing-Stern, Thanks for Everything Jim, Undated <i>Sewing frame with hair thread in shape of brain, 10 x 9cm</i>
	Kerrie Nini, Grass Tree Paddock, Woolomin, NSW, 1996 <i>Gouache on paper, 64.5 x 55cm</i>
	Leslie Oliver, Mixed Object Sculpture, Undated <i>Metal sculpture, 59 x 58 c 28cm</i>
	Leslie Oliver, The Square Can't Rest, 1992 <i>Wood and metal sculpture, 37 x 34 x 20cm</i>
	Owen Rye, Two Salt Glazed Pots, 2017 <i>Two salt glazed ceramic pots, 9 x 6.5cm; 12 x 9cm</i>
	Julio Santos, Red Glass Sculpture, 2007 <i>Red glass sculpture, 44 x 8 x 8cm</i>

Birkett and Weatherhead Collection – Artists other than Jim Birkett

	Kurt Schranzer , Young Man on Stage, 1995 <i>Drawing, ink on paper, 22 x 15cm</i>
	Kurt Schranzer , The Enigma of the Raked Garden and the Burning Bird, 1993, <i>oil on board, 17 x 22cm</i>
	Jules Sher , Kimberley Night 1, 1991 <i>Painting, acrylic on paper, 65 x 51.5cm</i>
	Sophie Sourlas , The Magic of Art, 1996 <i>Painting, acrylic on canvas, 76 x 61cm</i>
	Christine [unknown] , Raku Sculpture in Two Pieces, 2008 <i>Ceramic sculpture, raku, 19 x 13cm</i>
	Unknown , Portrait of Martin de Porres, ? <i>Oil on board, 29cm x 25cm</i>
	Unknown , Parade, <i>Opaque watercolour and gold on recycled book paper, 39cm x 38.5cm</i>
	Unknown , Balinese God, <i>Carved wood, 41cm x 13cm x 13cm</i>
	Unknown , Antique Textile assemblage, <i>Mixed media, 214cm x 153cm</i>

Birkett and Weatherhead Collection – Artists other than Jim Birkett

	<p>Unknown, Ceramic Sculpture, <i>Ceramic and Steel 66cm x 13cm x 11cm</i></p>
	<p>Unknown, Batic Fish (Balinese), <i>Batic on fabric, 74.5cm x 96.5cm</i></p>

Birkett and Weatherhead Collection - Works Recommended to Keep

**Birkett and Weatherhead Collection
– Jim Birkett Index
Works recommended to Keep**

Jim Birkett – Works recommended to keep		
1966		Sally (Art School Model), 1966 <i>Drawing, pencil on paper, 67 x 38cm</i>
No date-early (student) work		Untitled (Floral Study), undated <i>Mixed media on paper, 33 x 29cm</i>
1974		Untitled (Brown and Blue Landscape), 1974 <i>Mixed media on paper, 46 x 46cm</i>
1974		Untitled (Pale Landscape), 1974 <i>Mixed media on paper, 46 x 46cm</i>
1983		Untitled (Seedpods / Xanthorrea), 1983 <i>Drawing, crayon on paper, 73 x 52cm</i>
1983		Untitled (Large Pods on Black), 1983 <i>Drawing, crayon on paper, 76 x 56cm</i>
1983		Untitled (Pods with Yellow on Black), 1983 <i>Drawing, crayon on paper, 76 x 56cm</i>
1986		Untitled (Leaves on Orange), 1986 <i>Drawing, crayon on paper, 73 x 51cm</i>

Birkett and Weatherhead Collection - Works Recommended to Keep

		
1996		Ice Front, 1996 <i>Painting, mixed media on board, 29 x 22cm</i>
2002		Silence After Storm, 2002 <i>Painting, mixed media on canvas, 40 x 40cm</i>
2003		Fitzroy Falls, 2003 <i>Painting, acrylic on canvas on board, 31 x 33cm</i>
2003		Fitzroy Falls 2, 2003 <i>Painting, impasto on 3 board panels, 31 x 33cm</i>
2003		Dog House, 2003 <i>Sculpture, timber and ceramic, 33 x 25cm</i>
2003		Reflected Light, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2004		Xanthorrea – Black Rock, 2004 <i>Mixed media on canvas, 76 x 76cm</i>
2004		Xanthorrea – Edge of the Darkness, 2004 <i>Mixed media on canvas, 76 x 76cm</i>

Birkett and Weatherhead Collection - Works Recommended to Keep

2004		Zan-Ruts, 2004 <i>Painting, mixed media on canvas, 40 x 40cm</i>
2005		Skydome, 2005 <i>Painting, mixed media on canvas, 76 x 76cm</i>
2006		Xanthorrea – Contained, 2006 <i>Mixed media on canvas, 107 x 107cm</i>
2009		Horizein (Boundary), 2009 <i>Painting, mixed media on canvas on board, 20 x 50cm</i>
2009		Annulus, 2009 <i>Painting, mixed media on canvas on board, 20 x 50cm</i>
2013		Energy Source 2, 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>
2013		Confusion 1, 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>
2013		Intimacy 2, 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>
2013		Orgasm 3, 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>
2013		Untitled (Intimacy 2), /Orgasm II 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>

Birkett and Weatherhead Collection - Works Recommended to Keep

2013		Energy Source 3 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>
2017		Under Mined, 2017 <i>Mixed media on paper on board, 65 x 84cm</i>
2017		Emergence, 2017 <i>Mixed media on paper on board, 65 x 84cm</i>
2017		Surveyed (no. 28) All below Mixed media on ply 25 x 25cm
2017		East-West (no. 29)
2017		Structured (no.38)
2017		Routes (no.48)
2017		Pathways (no.34)
2017		Breached (no.40)
		Styx (no.24)

Birkett and Weatherhead Collection - Works Recommended to Keep

		<i>Irrigation (no.42)</i>
2017		<i>Mined (no. 51)</i>
2017		<i>Remains (no. 39)</i>
2018		Xanthorrea – After Image, 2018 <i>Mixed media on canvas, 80 x 80cm</i>
2019		Untitled (Red & Blue Lines), 2019 <i>Drawing, pen and ink on paper, 17 x 12cm</i>
2019		Untitled (Gold and Silver Geometric), 2019 <i>Drawing, pen and ink on paper, 17 x 12cm</i>
2019		Untitled (Green / Red / Blue Geometric), 2019 <i>Drawing, pen and ink on paper, 17 x 12cm</i>
2019		Jervis Bay Depths, 2019 <i>Painting, oil and acrylic on canvas, 152 x 101cm</i>
No date		Untitled (Landscape Collage), undated <i>Mixed media on paper, 35 x 50cm</i>

Birkett Collection - Works to Sell

**Birkett and Weatherhead Collection
– Jim Birkett Index
Works recommended to Sell**

1986		Untitled, 1986 <i>Drawing, charcoal on paper, 98 x 61cm</i>
1986		Untitled (Orchid Study), 1986 <i>Drawing, crayon on paper, 73 x 51cm</i>
1986		Untitled (Flowers on Orange), 1986 <i>Drawing, crayon on paper, 73 x 51cm</i>
1991		Water People 2, 1991 <i>Painting, mixed media on board, 12 x 43cm</i>
1991		Morning, 1991 <i>Painting, mixed media on board, 12 x 43cm</i>
1991		Yellow Dawn, 1991 <i>Painting, mixed media on board, 12 x 43cm</i>
1996		Weathering, 1996 <i>Painting, mixed media on board, 58 x 58cm</i>
1996		Untitled, 1996 <i>Painting, mixed media on canvas, 27 x 27cm</i>
2000		Red and Grey Land, c2000 <i>Framed painting, mixed media on board, 42 x 42cm</i>
2001		The Power Ran the Glory, 2001



Birkett Collection - Works to Sell

		<i>Painting, mixed media, size unknown</i>
2002		Temple Depths, 2002 OR 2012 <i>Painting, mixed media on canvas, 15 x 15cm</i>
2002		Horizon, 2002 <i>Painting, mixed media on canvas, 15 x 15cm</i>
2003		Guided Journeys, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2003		Perpendicular Nests, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2003		Point Perpendicular, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2003		Broken Perpendicular, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2003 OR 2006		Dawn Ripples, 2003/2006 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2003		Penetrating Glow, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2003		BlueShield, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>

Birkett Collection - Works to Sell

2003		Blue Wreck, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2003		Moonlight Wreck, 2003 <i>Painting, oil and acrylic on canvas, 60 x 60cm</i>
2004		Zan-Skid, 2004 <i>Painting, mixed media on canvas, 40 x 40cm</i>
2004		Zan-Split, 2004 <i>Painting, mixed media on canvas, 40 x 40cm</i>
2004		Wasteland, 2004 <i>Painting, oil, bitumen and acrylic on canvas, 101.5 x 101.5cm</i>
2005		Ancient Portal, 2005 <i>Painting, mixed media on canvas on board, 15 x 15cm</i>
2005		Shutters, 2005 <i>Painting, mixed media on canvas on board, 15 x 15cm</i>
2005		Ancient Ficus, 2005 <i>Painting, mixed media on canvas on board, 15 x 15cm</i>
2005		Threshold, 2005 <i>Painting, mixed media on canvas on board, 15 x 15cm</i>
2005		Harvest, 2005 <i>Painting, mixed media on canvas on board, 15 x 15cm</i>







Birkett Collection - Works to Sell

2005		Forbidden Access, 2005 <i>Painting, mixed media on canvas on board, 15 x 15cm</i>
2005		Canyon, 2005 <i>Painting, mixed media on canvas, 13 x 13cm</i>
2005		Desert Storm, 2005 <i>Painting, mixed media on canvas, 40 x 40cm</i>
2011		<i>Sphere of Influence</i> 570 x 570mm 2011
2011		Uprooted, 2011 <i>Natural objects and ink on paper on board, 60 x 60cm</i>
2013		Confusion 3, 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>
2013		<i>Division 3</i> 440 x 440mm 2013
2013		Energy Source 3, 2013 <i>Drawing, ink on paper on board, 57 x 57cm</i>
2013		<i>Energy Source 4</i> 570 x 570 mm 2013

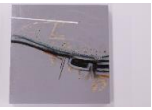







Birkett Collection - Works to Sell

2013		<i>Implant 1</i> 570 x 570mm 2013
2013		<i>Implant 2</i> 570 x 570 mm 2013
2013		<i>Isolation 1</i> 390 x 390 mm 2013
2013		Untitled (Squares and Kidney Shapes), 2013 Drawing, ink on paper on board, 57 x 57cm
2013		Xanthorrea – Land Churn, 2013 Mixed media on canvas, 79 x 79cm
2017		Forgotten Playground, 2017 Mixed media on paper on board, 65 x 84cm
2017		Entombed, 2017 Mixed media on paper on board, 65 x 84cm
2017		Resurfaced, 2017 Mixed media on paper on board, 65 x 84cm
2017		Entrapped, 2017 Mixed media on paper on board, 65 x 84cm
2017		Blue Haze Acrylic on paper 25.5 x 25.5cm







Birkett Collection - Works to Sell

2017		<i>Rivulet</i> (no.25) All below mixed media on board 25 x 25cm
2017		<i>Wasteland</i> (no.49)
2017		<i>Haven</i> (no.41)
2017		<i>Secret Site</i> (no. 47)
2017		<i>Channeled</i> (no.55)
		<i>Excavated</i> (no.46)
2017		<i>Discovered</i> (no.45)
2017		<i>Inserted</i> (no.30)
2017		<i>Fossilized</i> (no.33)
2017		<i>Implant</i> (no.54)

Birkett Collection - Works to Sell

2017		<i>Bottleneck (no.27)</i>
2017		<i>Encampment (no.31)</i>
2017		<i>Trapped (no. 35)</i>
		<i>Untitled</i>
2017		<i>After the Deluge, 2017 Mixed media on paper on board, 26 x 26cm</i>
2018		<i>Untitled, 2018 Framed painting, mixed media on canvas, 48 x 43cm</i>
2018		<i>Xanthorrea – Mid Winter, 2018 Mixed media on canvas, 110 x 110cm</i>
2019		<i>Untitled (Red Leaf 1), 2019 Painting, print, collage, 20 x 25cm</i>
2019		<i>Untitled (Red Leaf 2), 2019 Painting, print, collage, 20 x 25cm</i>

Birkett Collection - Works to Sell

No date		Untitled Series, undated <i>Mixed media on paper on board, 50 x 50cm</i>
No date		Untitled (Black and Bronze), Date unknown <i>Painting, mixed media on canvas, 101.5 x 101.5cm</i>
No date		Untitled Series (possibly Point Perpendicular), Undated <i>Drawing, pen and ink on paper on board, 50 x 50cm</i>
No date		Untitled (possibly Point Perpendicular?), Undated <i>Drawing, pen and ink on paper on board, 45 x 45cm</i>
No date		Untitled Series, Undated <i>Drawing, pen and ink on paper on board, 40 x 40cm</i>
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CL23.102 2024 Local Government Election - Constitutional Referendum, Polls and Other Matters

HPERM Ref: D23/42173

Department: Business Assurance & Risk

Approver: Damian Whittle, Lead Enterprise Risk Manager

Reason for Report

To provide information for Council to make a resolution, as required under the Local Government Act, 1993 (the Act), as to the number of Councillors for Shoalhaven City Council for the term of office commencing 2028.

Recommendation

That Council

1. Not seek a constitutional referendum in conjunction with the 2024 Local Government Election and retain:
 - a. The current process of election of the Mayor by popular election
 - b. The number of Councillors at 13 (12 Councillors, plus popularly elected Mayor)
 - c. The current method of electing Councillors by an electorate comprising all the electors for a ward.
2. Not undertake a Council Poll as part of the 2024 Local Government Election
3. Considers Ward structure and arrangements in a separate report to the Council on the agenda of this meeting.

Options

1. As recommended

Implications: The Council will not hold a constitutional referendum and will retain all current electoral arrangements for the 2024 Local Government Election. No Poll will be conducted.

2. Seek a Constitutional Referendum or amendments to the current electoral arrangements.

Implications: If the Council is of the view that a constitutional referendum, changes to electoral arrangement are required or there is desire to hold a Council Poll, it is suggested that a resolution providing direction to the CEO to undertake investigation on implications of suggested changes. This will allow consultation with the NSW Electoral Commission and detailed advice to be given to Council prior to the required resolution date of September 2023.

CL23.102

Background

A council can decide to conduct one or more constitutional referendum. The following issues can be proposed to the voters:

- whether the mayor should be elected by the voters
- whether to increase or reduce the number of councillors for that council
- whether to divide the council area into wards or abolish all wards
- whether to change the method of election of councillors for an area divided into wards.

For a constitutional referendum to pass a majority of voters in the council area must have voted in support of the proposal.

Voting in a constitutional referendum is compulsory and the result is binding on the council.

If the constitutional referendum is passed, the result takes effect at the next local government elections. In a local government referendum, voters are usually required to tick either 'Yes' or 'No' on the ballot paper.

No resolution on these matters is required under the legislation unless the Council wishes to make changes by constitutional referendum, in which case a resolution will be required before September 2023.

Changing the method for the Election of the Mayor

Section 228 of the Act allows Council to change the method of election of the Mayor (for the 2028 election) by seeking approval at a constitutional referendum that could be held in conjunction with the 2024 election.

In the case of this Council, the Local Government Act provides that popularly elected Mayor is considered additional to the number of Councillors for each ward. If a decision were to be made to change the method of election of the Mayor to being determined by the Councillors (at the call meeting in September each year), it would have the effect of changing the total number of Councillors, noting that each Ward must have the same number of Councillors.

Increase or reduce the number of Councillors for Council

Section 224(2) of the Act requires that not less than 12 months before the next ordinary election, Council is required to determine the number of its Councillors for the following term of office.

A council must have at least 5 and not more than 15 councillors (one of whom is the Mayor). A popularly elected Mayor is not considered within the number of Councillors for this purpose. An adjustment of Councillors would also require adjustment to Wards of the Council, unless the proposal allows for an equal number of representative Councillors for each ward.

If Council proposes to change the number of councillors for the September 2028 Local Government Election, it must, before determining the number, obtain approval from the Minister for the change to be voted on via a constitutional referendum which may be held in conjunction with the 2024 Election.

There has been no need identified at this time for a reduction or increase of Councillors in the Shoalhaven City Local Government Area.

Abolish or change the number of wards

Councils may be either:

- undivided - where the whole council electorate elects all the councillors for the council
- divided into wards - where each ward electorate elects an equal number of councillors to make up the whole council (our current status).

Councils divided into wards must ensure the number of electors in each ward is approximately the same.

A council can only divide its area into wards, or remove all wards in its area, if approval is given at a referendum. All enrolled electors in a council area must vote in a referendum and the result of the referendum is binding on the council.

Section 210(5) of the Act provides that Council may not abolish Wards unless it has obtained approval to do so at a constitutional referendum. If the constitutional referendum supports the abolition of Wards, the decision will take effect at the September 2028 election.

If it is the intention of Council to seek a constitutional referendum to abolish Wards, a constitutional referendum on the matter may be conducted in conjunction with the 2024 election.

Council in 2022 resolved (MIN22.333):

'That at a suitable time in the future, Council receives a report from the CEO on a review of ward boundaries to achieve bringing areas of community interest together, which may require an increase in the number of Wards.'

An example would be Nowra, South Nowra, Worrigee and Sanctuary Point and St Georges Basin.'

A separate report is provided to this meeting with respect to the possible rearrangement of the ward boundaries to achieve the aims of the above resolution. There is no current proposal under consideration to reduce the number of wards or to abandon a ward structure.

Changing the method of election of councillors for an area divided into wards.

The councillors for an area that is divided into wards are to be elected in accordance with either method of election prescribed under section 280 or 281 of the Act.

The method of election under section 280 (method 1) is to apply unless a decision made at a constitutional referendum is in force, which requires the method of election to be conducted under section 281 (method 2).

Method 1 (current method for Council)

- (1) *Each councillor for an area that is divided into wards may be elected by an electorate comprising all the electors for a ward.*
- (2) *The same number of councillors is to be elected for each ward. The mayor is to be excluded when determining that number if the mayor is to be elected by all the electors for the area.*
- (3) *The same person is not to be a candidate for election as a councillor by the electors for more than one ward unless the election is for the mayor as such.*

Method 2 Election of councillors partly by wards, partly by area

- (1) *The councillors for an area that is divided into wards may be elected--*
 - (a) *as to some of them--each by an electorate comprising all the electors for a ward,*
 - and*

- (b) *as to the others--by an electorate comprising all the electors for the area.*
- (2) *The same number of councillors is to be elected for each ward. The mayor is to be excluded when determining that number if the mayor is to be elected by all the electors for the area.*
- (3) *If a person is a candidate for election as a councillor by the electors for a ward, the person must not at the same time be a candidate for election as a councillor by the electors for another ward or a candidate for election as a councillor by all the electors for the area, unless the election is for the mayor as such.*

The decision made at a constitutional referendum to alter the method of election to method 2 must also specify the number of councillors to be elected by the ward electorate and the number of councillors to be elected by the area electorate.

If electors at a constitutional referendum conducted in conjunction with the 2024 ordinary elections approve a change to the method for electing councillors, this change will come into effect for the electoral term commencing in September 2028.

A Council Poll

A council can decide to conduct a poll. A poll can be on any issue and is used to guide the council in its decisions. For example:

- whether to construct a roundabout in the main street.
- to obtain clear direction on a matter of policy

For a council poll to pass a majority of voters must have voted in support of the proposal.

The council can decide whether to poll all voters in the council area or only a portion of voters. As such not all voters may be eligible to vote in a council's poll.

The recommendation outlined in this report is made in the negative simply on the basis that there is no previous direction or indication from the Council that there is a desire to hold a Constitutional Referendum or Poll, and no such need has been identified by staff at this time.

Community Engagement

Should Council determine that it seeks to change constitutional arrangements or conduct a Council Poll, community engagement would occur in conjunction with electoral arrangements.

Financial Implications

A constitutional referendum or poll that is conducted in conjunction with the 2024 Election will involve additional expenditure of the Council. Details of expenses arising from such process will be provided in detail to the Council.

CL23.103 Insurance Arrangements - Community Consultative Bodies

HPERM Ref: D23/101704

Department: Business Assurance & Risk

Approver: Sara McMahon, Acting Director - City Performance

Reason for Report

To address recent resolutions of the Council to address identified deficiencies with respect to Public Liability Insurance for Council's Community Consultative Bodies (CCBs)

Recommendation

That Council

1. Provide a supplement to the current Community Consultative Body (CCB) Administration Subsidy of \$1,000 per CCB per annum to support CCBs to purchase Public Liability Insurance Cover to manage their liability whilst supporting Council to engage with community.
2. Immediately assist those CCBs without Public Liability Insurance coverage to purchase relevant cover.
3. Include in the 23/24 budget and beyond an additional \$24,000 annually towards the operation of CCBs.
4. Receive a report outlining the submissions received in respect to the current community exhibition of the Draft CCB Guidelines which includes the following provisions in the Guidelines proposed for adoption:
 - a. The inclusion of a \$1,000 per year supplement for CCB's to obtain Public Liability Insurance Cover (as outlined at Recommendation 1 above)
 - b. That CCB's be required to provide annually to Council a copy of the Certificate of Currency for their Public Liability Insurance to retain access to the insurance supplement to CCB Administration Fees.

Options

1. Provide additional funding of \$1,000 to CCBs to facilitate their purchase of Public Liability Insurance as outlined in the report recommendation.

Implications: This will equitably address the matter of Public Liability Insurance coverage for CCBs in a way that can be tailored to the operations of the individual CCB. This will cost an additional \$24,000 per year. Relevant amendments will be made to the proposed CCB Guidelines prior to them being presented to Council following the current public exhibition process.

2. That Council obtain insurance limited to cover only the Public Liability arising for use of public halls and facilities by those CCBs who are incorporated and cannot be defined as Casual Hirers.

Implications: Although this may be a cheaper option, it will not be equitable and will not support CCB's to address broader Public Liability exposure.

CL23.103

3. That Council receive the report for information only.

Implications: This would not address the identified deficiencies in public liability cover and would rely upon individual CCB's funding appropriate cover without additional funding at this time. Council may allow CCB's to book a meeting without public liability cover, however any actions or omissions from members that result in injury or loss will not be covered by Council's insurance. This is not recommended.

Background

Council at the Ordinary Meeting held on 28 November 2011 Considered a report (CL22.616) seeking endorsement of the Public Exhibition of the draft Community Consultative Bodies Policy for Public Exhibition. The Council resolved as follows (MIN22.904):

"That Council

1. *Endorse the Draft Community Consultative Body Policy for public exhibition from 9 January 2023 - 6 March 2023 to obtain community feedback.to obtain community feedback.*
2. *Receive a further report be received by Council following the public exhibition period*
3. *Communicate to the Community Consultative Bodies that the Policy is proceeding to public exhibition and request their feedback.*
4. *Council investigate options for public liability insurance whilst CCB's are using Council facilities "*

The amendments outlined in the draft policy related in the main to amendments to the policy to clearly reflect the situation with respect to public liability insurance for CCB's when hiring and using Council facilities and community halls with the insertion of the following wording at Part 3.7 of the Draft Policy

- "a) As independent community groups, CCB's are not covered under Council's Public Liability Insurance Policy.*
- b) In accordance with Council's Terms & Conditions of Hire/Use for Council facilities, when making use of Council facilities such as community halls for CCB meetings, a community group must hold public liability insurance cover with an approved Australian provider for an amount that is determined to be acceptable by Council for the hire of the venue, usually no less than \$20,000,000.*
- c) Community groups are not covered by the Casual Hirer Insurance Policy when utilising Council facilities as this only applies to individuals or groups of individuals who are not part of a community group, sporting club, association, or other entity whether incorporated or not.*
- d) As independent community groups, CCB's are encouraged to have a Public Liability Insurance Policy in place to an indemnity value of no less than \$20,000,000 to cover its interests and provide a level of protection to members/volunteers.*
- e) CCB's are recommended to seek their own independent insurance advice to ensure they have appropriate Public Liability coverage in place. Council is unable to recommend insurance products or give specific insurance advice however can provide the following resources to support CCB's to determine their own insurance requirements."*

Council further considered the matter of the draft CCB Policy and the public exhibition process at the Ordinary Meeting of the Council held on 27 February 2023, when considering a Notice of Motion (CL23.54) on the topic at which time it resolved (MIN23.86):

“That:

- 1. The time for submissions regarding CL22.616 (Review of the Community Consultative Bodies Policy) be extended from 6 March 2023 to 3 April 2023.*
- 2. The CEO endeavour to negotiate with Council's underwriters, an extension of the cover to enable casual hirer status for all community groups regardless of incorporation, subject to the organisations holding more than 11 meetings per year.*
- 3. Council investigate what a reasonable insurance premium might be and whether Council is able to provide funds directly to Community Consultative Bodies to obtain the relevant insurance.*
- 4. The CEO report back to Council on the results of the negotiations.*
- 5. Council investigate the use of Vennu or other similar providers, for insurance coverage.”*

In accordance with the above resolution, the public exhibition period for the draft policy changes closes on the date of the Council meeting on which this report will be considered. A further report will be provided by the Director City Lifestyles with respect to all the submissions received. It is clear, however from correspondence that the matter of insurance for CCB's using Council facilities is, understandably a serious concern for CCB's. At this time this has been the focus of investigations.

Each CCB has been contacted to confirm their current arrangements with respect to Public Liability Insurance and Incorporation:

- There are currently 24 CCBs.
- 8 CCB's have confirmed that they have purchased Public Liability Insurance (33%)
- 12 CCB's have confirmed that they are incorporated associations (50%)
- 4 of the Incorporated CCB's do not have Public Liability Insurance in place.

Investigation has been undertaken by consultation with others who hire facilities such as Vennu and other Councils about the insurance coverage they have in place for hirers.

Council currently has recently invested heavily (more than \$80,000) in the implementation of the Bookable Platform which:

1. Has the core aims of enhancing customer experience when booking council facilities whilst improving efficiencies and effectiveness in booking arrangements?
2. provides unified system of managing bookings for community halls, reserves, sportsgrounds, tennis courts and campgrounds. (Approximately 160 facilities to date)
3. Integrates into existing council financial systems.
4. Provides opportunity for registered hirers to enter and manage their own bookings.
5. Meets the ICT requirements for systems and provides required controls and management practices for both Council and User information.

Since the soft launch of the Bookable system in August 2022, the system has been used for bookings for 4739 hours over 1790 different dates by 217 registered hall users.

Given the investment of Council into the bookable system and the success of the system implementation to date, it would not be a viable proposition for Council to enter a contract

with a third-party booking provider for hall bookings for the single aim of improvement of Public Liability Insurance coverage. Discussions with other providers have confirmed that the matter of Public Liability is one which is best addressed by the procurement of additional insurance to cover the shortfall in liability coverage for CCBs, and as outlined in the report below, can be dealt with separately from consideration of booking platforms.

Additional Insurance Arrangements for CCB's

Council, as part of an Insurance Mutual (Statewide – JLT), has access to a range of insurance products with set features identified to meet most local government insurance requirements. These may be supplemented by other insurance products arranged via brokerage to meet the specific needs of individual Councils.

As previously established, the Casual Hirer Insurance which is purchased by the Council for the purpose of providing access and use of our community facilities by members of the public does not provide liability cover for CCB's who are incorporated or an association.

Council ensures that community members participating in a formal Committee established by Council and community members undertaking direct voluntary work with Council are covered by Council's Public Liability and Personal Accident Insurance Policies. However, whilst CCB's perform a similar service to Council, because of their status as independent community organisations they are ineligible to be covered by Council Public Liability Insurance and Casual Hirers Insurance. CCB members are covered under Personal Accident insurance, whilst performing duties on behalf of council. It is clear that the Council wishes to address the current situation where some CCB activities are unprotected against liability incurred whilst they support Council through their functions as a CCB.

The options available are the following:

1. Council purchase insurance which provides public liability cover for CCBs when using Council facilities.

Council could approach a broker to obtain an additional policy which provides insurance cover which covers the public liability for CCB's who hire Council facilities. This would be limited to the activities of CCBs outlined in the CCB Guidelines which will not include additional activities that some CCB's undertake.

This approach whilst addressing the gaps in insurance coverage would not be considered equitable for all CCBs, as there are a range of differing meeting arrangements and locations in place, as well as additional CCB activities outside the guidelines not being covered. Therefore, not all CCBs would benefit from this approach, however, all would be covered whilst using Council halls, whether incorporated or not for CCB Meetings.

2. Council support all CCB's to obtain Public Liability Insurance to cover their activities.

Whilst option 1 outlined above would address the current gap in coverage, it would not ensure that coverage for public liability would be tailored to the individual arrangements for the CCB or extend to activities undertaken by CCB's in addition to those that fall under the CCB Guidelines.

Noting that 33% of CCB's have already purchased Public Liability Insurance to cover their activities, the proposed approach is that a supplement to the CCB Subsidy is provided to each CCB to support their purchase of Public Liability Insurance which covers their activities under the CCB Guidelines. This would afford the opportunity for CCB's to obtain insurance, which is tailored to their community functions and goals, including activities outside those envisaged under the CCB Guidelines.

On 23 March 2023, JLT confirmed that Local Community Insurance Services (LCIS) is able to provide cover for the Community Consultation Committees (e.g., Shoalhaven CCBs).

The current amount quoted by LCIS for a separate policy for each CCB the current premium for Public and Products Liability of \$20 million is \$986.82. This quotation is for comprehensive insurance for cover with personal injury, property damage and defamation, as well as cover for minor events up to 500 people for the activities listed in the definition of a CCB in the Guidelines. The normal exclusions are applied to the cover, including as examples watercraft, aircraft, asbestos, release of pollution, employment issues, vehicle incidents.

The premium offered by LCIS should be viewed as an indicative reflection of the insurance market and should not be interpreted as a fixed price which may be available to each CCB. Insurance premiums will vary between insurers and each CCB's primary purpose and income will be unique to their community's functions and goals.

It is therefore recommended that:

- a) Council provides a supplement to the CCB Administration Subsidy of \$1,000 per annum to support CCBs to purchase Public Liability Insurance Cover to manage their liability whilst supporting Council to engage with community. This would amount to Council providing in the 23/24 budget and beyond an additional \$24,000 annually towards the operation of CCBs.
- b) Information and support be provided by Council's Enterprise Risk Management team to CCB executive to support, when required, their individual procurement of Public Liability Insurance to meet the needs of their operations.
- c) That CCB's be required to provide a copy of the Certificate of Currency to Council annually to retain access to the insurance supplement to CCB Administration Fees
- d) That the above amendments be included in the Draft CCB Guidelines when they are presented to Council following the current Public Exhibition process.

With respect to seeking an extension of the Casual Hirers insurance for all incorporated organisations (MIN23.86 – part 2), no extension of current cover is available to incorporated parties. Council is currently assessing its insurance coverage holistically. Staff will consider opportunity to address incorporated organisation public liability for hall hire during this assessment.

Financial Implications

Subject to council's adoption of the recommendations, the additional funds required to immediately assist those CCB's without coverage, will be allocated during council's quarterly budget review.

Ongoing financial implications of providing an additional \$1,000 per annum supplement to the CCB Subsidy would be \$36,000 per annum for Council, which is an increase of a further \$24,000 in addition to the current commitment of \$12,000 – noting that this may change should alternate arrangements become available as a result of the current assessment of Council broader insurance coverage.

Risk Implications

This report is provided to address current risks to the established CCBs and Council with respect to gaps in Public Liability Insurance cover for members of CCB's whilst undertaking their organisational activities engaging with the community on behalf of Council.

CL23.104 Australian Council of Local Government (ACLG) Forum 2023

HPERM Ref: D23/109003

Department: Business Assurance & Risk

Approver: Sara McMahon, Acting Director - City Performance

Reason for Report

To consider Councillor attendance at the Australian Council of Local Government (ACLG) Forum 2023 scheduled for Friday 16 June 2023 in Canberra, ACT.

Recommendation

That Council

1. Notes the details of the Australian Council of Local Government (ACLG) Forum 2023 scheduled for Friday 16 June 2023 in Canberra, ACT.
2. Authorises available Councillors to attend the conference and such attendance be deemed Council Business.
3. Travel, registration fees, accommodation and all reasonable out-of-pocket expenses be met in accordance with its adopted policy.
4. Request Councillors attending the conference to provide a written report within 30 days of returning from the conference.

Options

1. As per the recommendation.
2. That Council limit the number of Councillors attending the Conference and such attendance be deemed Council Business.
3. That Council does not approve Councillor attendance at the Conference as Council Business.

Background

The Australian Council of Local Government (ACLG) Forum 2023 is considered relevant to local government. Information in relation to the conference via the link below:

<https://alga.com.au/aclg-to-run-after-2023-nga/>

Costs associated with the conference are estimated as follows:

- registration : TBC
- travel, accommodation and out of pocket expenses: not yet determined.

An option available to Council is to define the number of Councillors attending the conference and for Council to determine the appropriate Councillors authorised to attend. This option is presented having regard to the increase in Councillor expenses in recent years, so that Council may pro-actively control this area of expenses when appropriate.

CL23.104

The Conference commencement and conclusion times are currently not available. However, the linked website advises it will be held at the conclusion of the 2023 National General Assembly. There is no Council Business is scheduled within the period of the conference.

Policy Implications

The Council Members – Payment of Expenses and Provision of Facilities Policy limits attendance at conferences to three per annum per councillor exclusive of any conference arranged by either the State or National Local Government Associations.

Financial Implications:

Funds are available for Councillors to attend this conference.

CL23.105 Ward Boundary Adjustments - Community Interest Areas

HPERM Ref: D23/117301

Department: Business Assurance & Risk

Approver: Stephen Dunshea, Chief Executive Officer

Reason for Report

To provide a responding report for the consideration of Council with respect to the previous resolution of the Council (MIN22.333) seeking an adjustment of Ward Boundaries to achieve bringing areas of community interest together.

Recommendation

That

1. Council receives the report for information.
2. Council does not proceed with a ward boundary adjustment at this time.
3. Council does not seek to remove or reduce the number of Wards in the Shoalhaven Local Government election by way of Constitutional Referendum in conjunction with the 2024 Local Government Elections.
4. Staff continue to monitor the number of electors in wards and report back to the Council when an adjustment to the ward boundaries is required to meet legislative requirements.

Options

1. As recommended.

Implications: No ward boundary adjustment will be undertaken to make changes prior to the September 2024 election, unless there is a significant population change in advance of December 2023 which prompts a report to council to make an urgent adjustment.

2. That Council proceed with further detailed mapping of Option AA outlined in the report
Implications: A further report will be provided to the Council in June/ July 2023 with more detail and updated elector information for the proposed adjustment and which seeks endorsement of the proposed map for public exhibition and other required administrative processes.

3. That Council seek further alternate map options for ward boundary adjustment.

Implications: A further report will be provided to the Council providing a map or maps and relative electoral data addressing the criteria outlined by Council.

Background

Council at its meeting on 9 May 2022 considered a Notice of Motion with respect to Ward Boundaries and resolved as follows:

"That at a suitable time in the future, Council receives a report from the CEO on a review of ward boundaries to achieve bringing areas of community interest together, which may require an increase in the number of Wards."

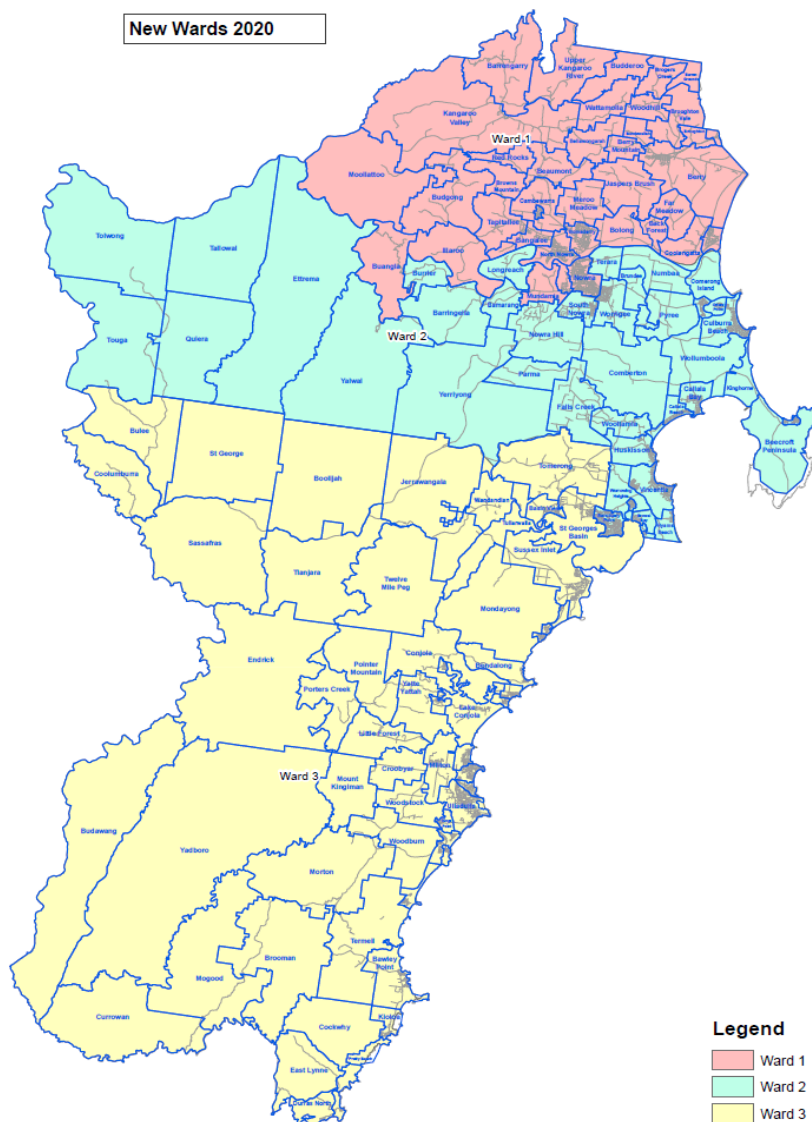
CL23.105

An example would be Nowra, South Nowra, Worrigee and Sanctuary Point and St Georges Basin."

The Shoalhaven Local Government Area has been separated into 3 wards for more than 30 years. In 2019, Council was required to revisit and adjust the ward boundaries as there was more than a 10% variance of electors between wards (12.69%). The provisions for Ward Boundaries set out at [Section 210 of the Local Government Act, 1993](#) outline that

- "7. *The division of a Council's area into wards, or a change to the boundaries of a ward, must not result in a variation of more than 10 per cent between the number of electors in each ward in the area.*"

The resulting current ward boundaries (shown in the map below) came into effect for the 2021 Local Government Election.



CL23.105

Current Trends – Elector Numbers in our Wards

WARD	Dec 2021 (Last Election)	21 July 2022	28 March 2023
Ward 1	28338	28319	28473
Ward 2	28406	28386	28430
Ward 3	27754	27859	28066
TOTAL	84498	84564	84969
% Variation	2.29%	1.85%	1.43%

As outlined in the above table the current variation between wards continues to meet the required statistical requirements outlined in the Local Government Act.

In response to the Council Resolution MIN22.333, mapping was undertaken of possible ways in which the ward boundaries may be adjusted to achieve different groupings of locations sharing the same community interests. The example of Nowra, South Nowra, Worrigee together, and Sanctuary Point and St Georges Basin together formed the basis for mapping options, together with other groupings such as Bay and Basin Villages, Coastal Townships, and urban as opposed to more rural areas etc.

The mapping uses SA1 data of Electors from the Australian Bureau of statistics and in addition to the desires outlined in the Council resolution set out to:

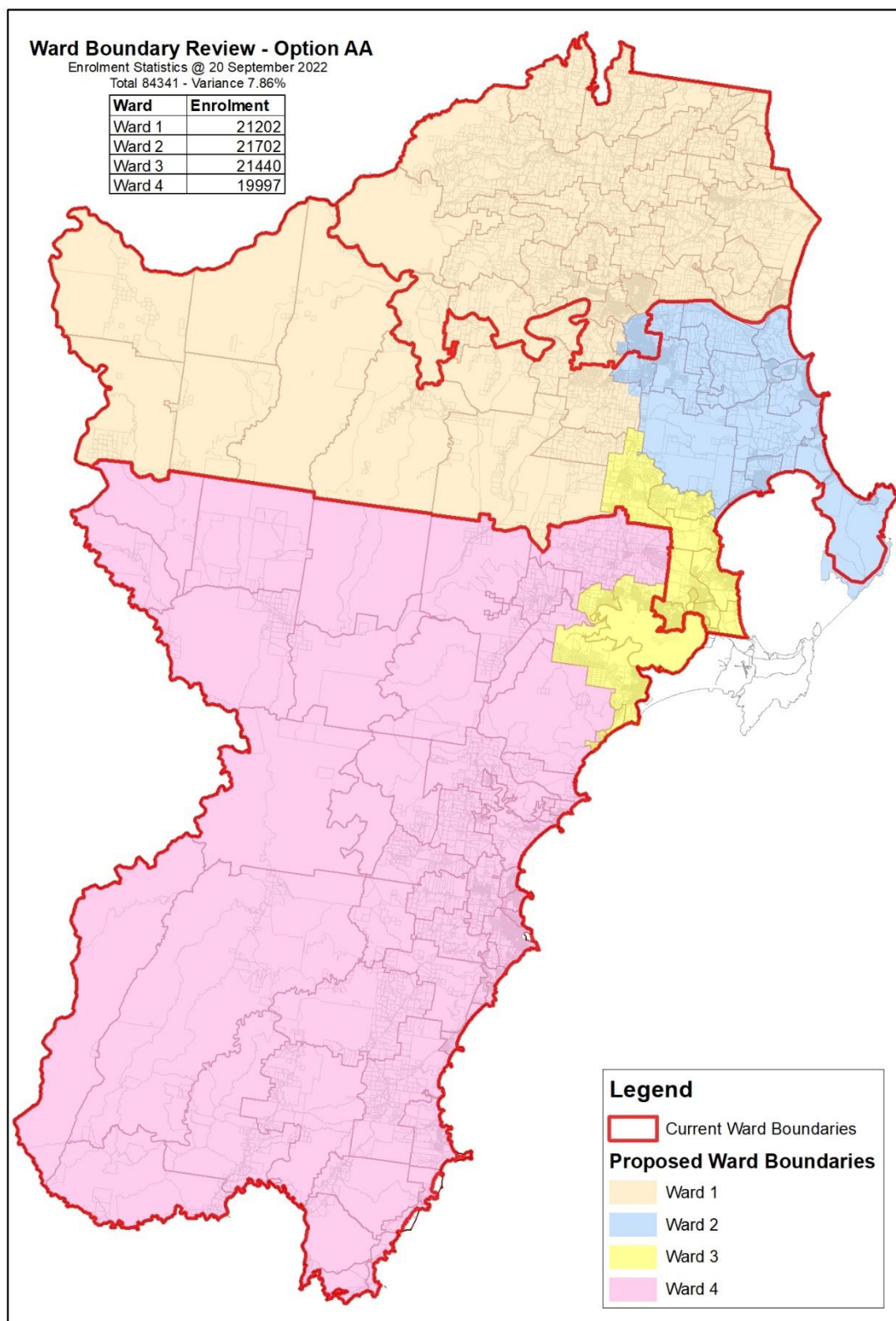
- achieve the minimal variance possible.
- move any boundaries that split towns or suburbs.
- align (where possible) with key geographical features (rivers, roads etc) for clarity of voters.
- Look at trends that show (if a proposed map is close to 10% variance) that the variance will decrease rather than increase in advance of next election.

A briefing was provided for Councillors in October 2022 with respect to the available options for such a change. During the briefing it was clarified that a reduction to two (2) wards was not consider a viable option for Council given the large size of the Local Government Area. If the Council wished to remove all Wards or reduce the number of Wards in the Shoalhaven Local Government Area, a constitutional referendum would be required under [Section 210 of the Local Government Act, 1993](#).

Several map examples were considered but all except following Option AA below either fell outside the required variance levels of electors (as there was greater than 10% variance), or did not provide the desired grouping of locations based on community interest:

Option AA – This option includes the introduction of a fourth ward. It achieves grouping of community interests in the following manner:

1. Ward 1(Orange) being all areas North of the Shoalhaven and including the areas to the west of Nowra and meeting new Wards 2 and 3 in the East.
2. Ward 2 (Blue) being the area south of the Shoalhaven River at Nowra, South Nowra, Worrigee and the area to the coast on the east- incorporating Currarong, Culburra, Greenwell Point, Callala Bay and Callala Beach
3. Ward 3 (Yellow) Bay and Basin and Coastal Villages from Myola down to Berrara on the Coast, reaching inland as far, Tomerong and Basin View.
4. Ward 4 (Pink) – being the Southern area on the coast below Berrara and Western areas of the lower Shoalhaven.



CL23.105

The variance of electors for the Option AA Map was at an acceptable level in September at 7.86%. Given the minimal change in elector numbers in the past 4 months it is not expected that any significant change has occurred.

Concerns were raised with the Option AA ward map proposal on the basis that:

- No map arrangement achieving less than 10% variance could be found which allowed Myola to sit with Callala Beach in the proposed Ward 2
- The distribution of electors would be less desirable than the current ward arrangement and therefore may prompt further adjustment in a shorter timeframe.
- Having 4 wards would require a rearrangement of Councillor representation. There would then be 3 councillors for each ward for the 2024 election. (Councillor numbers may later be changed via a separate constitutional referendum process)
- The potential cost of the consultation processes for the exercise.
- Resultant confusion for voters.

On the basis of feedback from Councillors, Option AA has not been proposed for advancement by Council at this time, and therefore it is proposed that the current ward boundary arrangement be maintained.

Should Council wish to pursue a ward boundary change prior to the next election it is proposed that the following be undertaken:

1. Re- mapping of the Option AA and/or creation of any other desired ward boundary map be completed again in June 2023.
2. In July 2023 a report to be provided to the Council with the view of obtaining a resolution confirming a detailed Ward Boundary Plan for:
 - Public exhibition (statutory 42-day period)
 - Seeking approval from the NSW Electoral Commission and Australian Bureau of Statistics to proceed to the boundary adjustment.
 - Establishing a budget for the adjustment consultation process. The cost of the consultation will vary depending on the number of electors impacted by the proposal)

This would allow the Council to make formal application for the proposed adjustments before December 2023 and complete the required process to establish new ward boundaries for the September 2024 election.

CL23.106 Draft/Interim Guideline - Proponent-Initiated Planning Proposals

HPERM Ref: D23/69216

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

Attachments: 1. Draft/Interim Guideline for Proponent-Initiated PPs (under separate cover) [⇒](#)

Reason for Report

The purpose of this report is to obtain endorsement to exhibit the attached Draft/Interim Guideline for Proponent-Initiated Planning Proposals (the Draft/Interim Guideline).

Council's current Planning Proposal (PP) Guidelines do not reflect the NSW Department of Planning and Environment's (DPE's) new Local Environmental Plan Making Guideline. As such, it is recommended that the Draft/Interim Guideline be adopted and used in the interim until the outcomes of the exhibition are known.

Recommendation

That Council:

1. Endorse the attached Draft/Interim Guideline for Proponent-Initiated Planning Proposals for public exhibition.
2. Exhibit the Draft/Interim Guideline for at least 28 days.
 - a. If no feedback is received, adopt the Guideline as exhibited.
 - b. If feedback is received, report the outcomes of the exhibition to Council.
3. Replace Council's current Planning Proposal Guidelines with the Draft/Interim Guideline on Council's Planning Proposals webpage until the outcomes of the public exhibition are known.
4. Should any minor procedural changes be made to the DPE Guideline, allow the CEO or delegate to revise Council's adopted Guideline without requiring it to be re-exhibited to ensure it is consistent with the DPE Guideline.

Options

1. Endorse the Draft/Interim Guideline for exhibition.

Implications: The Draft/Interim Guideline has been updated to reflect and align with DPE's new Local Environmental Plan Making Guideline. Council's current PP guidelines have been a valuable resource over several years, helping to ensure that proponent initiated PPs are managed in a consistent and transparent manner. However, Council's current PP guidelines pre-date DPE's Guideline and are therefore substantially out of date.

Exhibiting the Draft/Interim Guideline will allow feedback to be sought from the community, and should any feedback be received, for it to be considered by Council. Adopting the Guideline as an Interim Guideline will assist any proponents and staff involved in a pre-lodgement process. Recommended.

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Should Council wish to receive a briefing, the following additional recommendation is suggested to be added to part 2:

c. Arrange a Councillor briefing on the Draft Guideline during the exhibition.

2. Make changes to the Draft/Interim Guideline prior to exhibition.

Implications: This could potentially create an inconsistency with the DPE Guideline. Not recommended unless it can be confirmed that the changes are consistent with DPE's Guideline. Staff can provide advice if required in this regard.

Background

NSW Government's Local Environmental Plan Making Guideline

In December 2021, DPE released the Local Environmental Plan Making Guideline (the DPE Guideline). The DPE Guideline replaced two related guidelines:

- 'Guide to preparing planning proposals' and
- 'Guide to making LEPs',

The DPE Guideline formalised a significant change to the Planning Proposal (PP) / rezoning process without changing the statutory framework (Division 3.4 of the *Environmental Planning and Assessment Act, 1979*). Note: DPE proposed more radical changes to the rezoning process in a Discussion Paper that it released simultaneously with its Guideline in December 2021. These more radical changes, which would have required legislative reform, were abandoned in mid-2022.

To help *facilitate a 33% reduction in assessment timeframes for planning proposals*, the DPE Guideline introduced maximum benchmark times along with several other changes. Consequently, the level of detail required at the initial 'Gateway' step has increased substantially because there is now insufficient time to resolve complex planning and environmental issues/matters after the Gateway step. Previously, the Gateway step allowed DPE to consider the merits of a PP based on relatively limited information: DPE then provided longer and more flexible timeframes and allowed detailed studies to be completed and planning issues resolved 'post-gateway'.

DPE can terminate the PP if the benchmark timeframes are not met, and there have been several instances where this has occurred.

Due to the time limitations that apply to the post-Gateway stage under the new process, a PP must now be largely complete/resolved before a Gateway determination is sought from DPE (i.e., 'pre-gateway'). This means that most, if not all supporting studies, must be completed and the findings incorporated into the PP before it is submitted to DPE for Gateway.

The DPE Guideline outlines a pre-lodgement process which begins with preparation of a **scoping proposal**. The pre-lodgement process is discussed below. For proponents interested in pursuing a PP, pre-lodgement consultation with the relevant council is now essential from a financial risk management perspective (although it is still not a statutory requirement).

Overview of the pre-lodgement (scoping proposal) process

The DPE Guideline encourages proponents to submit a scoping proposal for 'standard' and 'complex' PPs to Council before formally submitting a PP. (The DPE Guideline outlines four categories of PPs: basic, standard, complex, and principal. Most proponent initiated PPs are either standard or complex).

The scoping proposal is then referred to the relevant Council staff and government agencies for review and comment. The feedback is collated, assessed and provided to the proponent at a pre-lodgement meeting. A formal pre-lodgement letter is then issued to the proponent, outlining any issues, and supporting studies that would need to be addressed/completed should a PP request be prepared.

The onus is then on the proponent to prepare the PP and address the issues outlined in Council's pre-lodgement letter. Under DPE's Guideline, there is some scope for Council to reject a PP if the required information has not been prepared or is inadequate.

An updated version of the DPE Guideline was released in September 2022 and is available at: www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/LEP-Making-Guideline.pdf

The DPE Guideline also introduced changes to the rezoning review process and included more detailed guidance on required supporting documentation for certain types of PPs. The DPE Guideline is also supported by the following attachments:

[Attachment A – Scoping Proposal Template](#)

[Attachment B - Interim Authority and Government Agency Planning Proposal Pre-lodgement referral checklist](#)

[Attachment C - Supporting Technical Information](#)

Further information on the PP process and resources are available on DPE's website at:

www.planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning/Making-and-Amending-LEPs

Council's Planning Proposal (Rezoning) Guidelines

Council has had its own PP Guidelines since 2013. The current Guidelines are available at:

<https://doc.shoalhaven.nsw.gov.au/DisplayDoc.aspx?record=D18/394104>

The Council Guidelines were last updated in November 2018 and as such are now inconsistent with key elements of the DPE Guideline such as the new maximum benchmark timeframes. Thus, there is a need to update the Council Guidelines.

Draft/Interim Guideline and Supporting Information

The attached Draft/Interim Guideline for Proponent-Initiated Planning Proposals has been updated/prepared to be consistent with the DPE Guideline – see **Attachment 1**.

It outlines Council's process and procedures for considering and managing proponent initiated PPs through the six stages of the PP process that are described in the DPE Guideline being:

- Stage 1 Pre-Lodgement – scoping the proposal and what should be included in the PP
- Stage 2 Planning Proposal - preparing the PP
- Stage 3 Gateway Determination – DPE review of the PP
- Stage 4 Post-Gateway - actioning Gateway determination conditions
- Stage 5 Public exhibition & and assessment - engaging with the community
- Stage 6 Finalisation - making the LEP

The Draft/Interim Guideline outlines the respective roles of Council and proponents in each stage, but with particular emphasis on the pre-lodgement and lodgement stages (Stages 1 and 2).

Features of the Draft/Interim Guideline include:

- Integrates the criteria in the DPE Guideline for when a PP should be supported, with those in Council's current PP Guidelines, while also adding 'public interest' as a relevant consideration.
- A practical description / interpretation of the PP categories described in the DPE Guideline. Note: the categories are important in respect of the benchmark timeframes, and for determining the applicable Council fees. The Draft/Interim Guideline identifies what Council fees apply and when for the relevant PP categories.
- The inherent risks involved in the PP process in terms of the cost, timing, and outcome. The implications of DPE's benchmark timeframes on proponents' exposure to risks is emphasised, and hence, the increased importance of engaging with Council in the pre-lodgement process.
- An outline of associated planning mechanisms which may be required to support a given PP (determined on a case-by-case basis).
- Criteria for when a PP request will generally be supported; combines information in the DPEs on strategic and site merit, and the criteria in Council's current PP Guidelines.
- The key documents in Council's strategic planning framework are listed.
- Additional guidance on information required to be submitted with a PP request.
- A reminder that Council takes ownership of the PP process if/when Council resolves to support the PP request.
- An outline of Council's process in managing PP requests, including referrals (internal and external), assessment and community notification.

Council staff are also preparing a Shoalhaven-specific Scoping Proposal template to help ensure that scoping proposals received address the issues that typically arise in Shoalhaven. This will be uploaded to Council's Planning Proposal page in due course, as an additional resource to assist proponents.

Community Engagement

It is proposed that the Draft/Interim Guideline be publicly exhibited for a minimum of 28 days.

If no feedback is received, it is recommended that the Draft/Interim Guideline be adopted, however if any feedback is received, the matter will be reported to Council for consideration. In this instance, the submitters would be notified prior to the meeting.

Policy Implications

It is important that Council's PP Guideline is consistent with the new DPE Guideline, for example, to minimise the risk of rezoning reviews occurring and/or being determined against Council. The DPE Guideline is far more detailed than the two guidelines that it replaced, hence the scope for Council to make any policy changes in respect of the PP process is more limited.

Financial Implications

Exhibition of the Draft/Interim Guideline will be managed with Strategic Planning's budget.

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CL23.107 Proposed Voluntary Planning Agreement - Dedication of Land - 252 Princes Highway, Ulladulla

HPERM Ref: D23/93700

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

Reason for Report

The purpose of this report is to seek a resolution from Council to exhibit and enter into a Voluntary Planning Agreement (VPA) with the landowner/developer (Ocean Point Assets Pty Limited) relating to the dedication of land (road reserve) at 252 Princes Highway, Ulladulla.

Recommendation

That Council delegate authority to Council's Chief Executive Officer, or his delegate, to:

1. Prepare the draft VPA and associated Explanatory Note for the dedication of part of 252 Princes Highway, Ulladulla for the purpose of a road.
2. Publicly exhibit the draft VPA and associated Explanatory Note for a minimum period of 28 days as required by legislation.
3. Enter into the VPA consistent with the terms in this report, except where objections or substantial issues relating to the content and merit of the proposed VPA are raised as a result of public notification, in which case the VPA is to be reported to Council before it is entered into.

Options

1. As recommended.

Implications: The proposed VPA will result in a positive public benefit through the dedication of land that is needed to upgrade the intersection at Pitman Avenue to a roundabout, to meet the demands of the NSW Land and Environment Court (the Court) approved development at 252 Princes Highway, Ulladulla. The execution of the VPA is the only deferred commencement condition in the consent, and the resolution of this matter will progress the development of the site. The VPA must be executed by 8 June 2023, otherwise the consent will lapse.

2. Adopt an alternative recommendation.

Implications: An alternative recommendation may affect the timely delivery of the development, which could ultimately result in the lapsing of the development consent if not executed by 8 June 2023.

Background

On 13 June 2021, Council refused (MIN21.440) a development application (DA19/1102) for the construction of a manufactured home estate containing 49 dwelling sites at 252 Princes Highway, Ulladulla (Lot 1 DP 784732). The application was refused on the grounds of the proposal not being in the public interest, being out of character with the proposed

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streetscape, inappropriate bulk and scale and conflict with the zone of the land. The Applicant commenced an appeal to the Court later that year.

On 8 June 2022, consent was granted by the Court for the development. As part of the legal proceedings, the Applicant made an offer of a VPA for the dedication of land for road purposes, which was accepted by the Court. The land dedication will facilitate the required intersection upgrade works (i.e., new roundabout) required to meet the demands of the development.

Figure 1 shows the subject land and Figure 2 shows the approved development layout and proposed land dedication area.



Figure 1: 252 Princes Highway, Ulladulla (the Site)

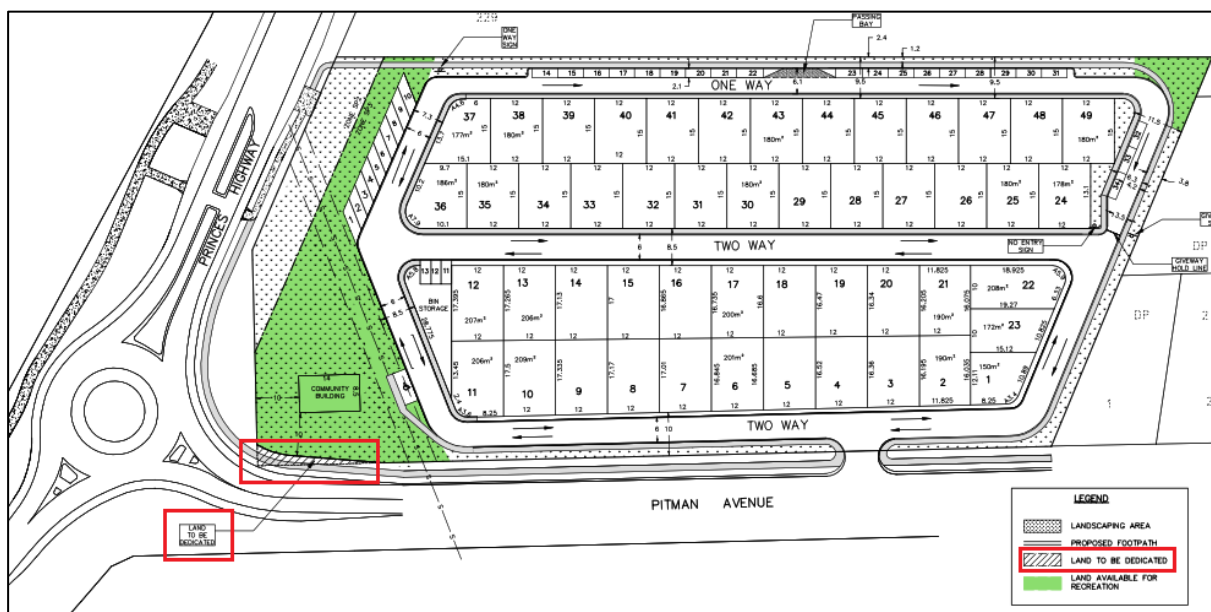


Figure 2: Approved Layout Plan – land to be dedicated outlined in red (adapted from plan by Allen Price and Scarratts)

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As consent has been favourably granted to the development by the Court, there is merit in progressing the VPA to enable the development to progress.

It is noted that the offer was formally presented to staff for consideration on 10 March 2023. The Court issued consent requires that the VPA be executed by 8 June 2023, or the consent will lapse. The timing is tight and there is a risk that the VPA may not be executed by this date, especially as subsequent reporting may be required, should any objections or substantial issues be raised as a result of public notification. The developer is attempting to obtain an extension to the deferred commencement condition timeframe.

Delegation Opportunities

In accordance with Council's [Planning Agreement Policy](#), Council may resolve to delegate authority to Council's Chief Executive Officer, or his delegate, to prepare, publicly notify, enter into and register the Planning Agreement. It is recommended in this case that Council extend delegation for the above functions, unless there are objections or substantial issues raised as a result of public notification, in which case Council will receive a further report prior to finalisation.

Recommendation

As the Court has issued a favourable consent for the development, there is merit in facilitating the dedication the land for road purposes via the proposed VPA. As such, it is recommended that Council proceed to prepare the VPA on behalf of the developer (at the developer's cost) and publicly exhibit the draft VPA for review and comment.

Community Engagement

The *Environmental Planning and Assessment Regulation 2000* requires that the draft VPA be publicly exhibited for a minimum period of 28 days. Community engagement will be encouraged through the public exhibition period.

Based on the history associated with the refusal and appeal, there is a risk that submissions may be received that relate to the development and that process, rather than the merits of the proposed VPA. It is recommended that Council receive another report post exhibition only if objections or substantial issues are raised as a result of public notification that directly relate to the scope/merits of the proposed VPA.

Financial Implications

In accordance with Council's [Planning Agreement Policy](#), the Developer will cover Council's costs (direct and incidental) relating to the preparation and entering into the agreement (including associated legal costs) and enforcing the agreement. In this instance, it is recommended that Council manage the VPA drafting process, and not the developer.

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CL23.108 Classification of Land - Drainage Reserve - Lot 3 DP 1281802 Taylors Lane, Badagarang (formerly Cambewarra)

HPERM Ref: D23/43849

Department: Technical Services

Approver: Craig Exton, Manager - Technical Services

Reason for Report

To provide Council with an opportunity to consider the classification of land being Lot 3 DP 1281802 Taylors Lane, Badagarang (formerly Cambewarra), as 'Operational Land' within the meaning of the Local Government Act 1993.

Recommendation

That Council classify the land described as Lot 3 DP 1281802 Taylors Lane, Badagarang (formerly Cambewarra), as Operational Land within the meaning of the Local Government Act 1993.

Options

1. Adopt as recommended.

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

2. Not adopt as recommended

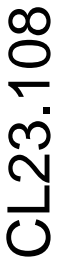
Implications: If the land is not classified as "operational" within 3 months of its acquisition by Council and the land is taken to have been classified as Community Land and be subject to the community land provisions outlined in the Local Government Act 1993.

Background

Lot 3 DP 1281802 is an irregular shaped parcel 7,558 sqm in size, zoned RU1 Primary Production, and is highlighted in yellow outline in the plan below.

The subject land was dedicated to Council as a Drainage Reserve as determined by subdivision application SF10888. The subject land adjoins the Moss Vale Road South Urban Release Area, between Bomaderry and Cambewarra Village, which is now known as Badagarang. It is currently vacant land however is planned to capture drainage from the adjacent subdivision. Land registration date was 31 January 2023.

The classification of Lot 3 as Operational is appropriate to retain the authority of Council and others to undertake drainage related works within the lot.



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

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

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

Nil for the proposed classification as Operational land.

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.