

Ordinary Meeting

Meeting Date: Monday, 03 June, 2024
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 - 20 May 2024
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**

Nil

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Spare Parts to Shoalhaven Water44**14. Notices of Motion / Questions on Notice**Notices of Motion / Questions on NoticeCL24.170 Notice of Motion - Removal of 77 Princess Street, Berry from Land
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15. Confidential Reports

Reports

CCL24.17 Tender - Management & Operation - Holiday Haven Bendalong

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

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

CCL24.18 Tenders - Panel of Suppliers to Supply Pumps, Ancillary Items & Spare Parts to Shoalhaven Water

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

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

CL24.159 ARIC Committee Membership, ARIC Terms of Reference and Internal Audit Charter

HPERM Ref: D24/200824

Department: Office of the CEO

Approver: Robyn Stevens, Chief Executive Officer

Attachments:

1. Biography of Independent ARIC Members [↓](#)
2. ARIC Terms of Reference (under separate cover)
3. Internal Audit Charter (under separate cover)

Reason for Report

The purpose of this paper is to inform and seek endorsement from Council on the progress on the implementation of *Local Government (General) Amendment (Audit Risk and Improvement Committee) Regulation 2023*, in particular the Audit Risk & Improvement Committee (ARIC) Membership, ARIC Terms of Reference and Internal Audit Charter.

Recommendation

That Council:

1. Endorse the appointment of Ms Donna Rygate (existing independent ARIC member) as the ARIC Chairperson until 31 December 2026.
2. Endorse the appointment of Ms Deborah Goodyer as the new independent member on the ARIC commencing 1 July 2024, for a period of four years (ending 30 June 2028) with an option to extend for further four years, in accordance with the requirements of the Regulation.
3. Adopt the ARIC Terms of Reference (Charter) and the Internal Audit Charter.

Options

1. Endorse the recommendations made.

Implications: Council will be compliant with the Local Government (General) Amendment (Audit Risk and Improvement Committee) Regulation 2023.

2. Make an alternative recommendation.

Implications: Compliance with Regulation will not be achieved within the deadline, 30 June 2024.

Background

At the 25 March 2024 Ordinary Council meeting, a paper CL24.69 (D24/98773) titled '*Local Government (General) Amendment (Audit Risk and Improvement Committee) Regulation 2023*' was tabled to provide information and to obtain approval from Council on the implementation of the requirements of the Regulation which comes into effect 1 July 2024.

This Regulation amendments prescribe the requirements for Audit Risk and Improvement Committee, Internal Audit and Risk Management in Councils.

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Following the endorsement of the recommendations by Council (MIN24.153), staff undertook the following process to comply with the Regulation:

Election of the Independent ARIC Chairperson

Nomination for the ARIC Chairperson was called prior to the 13 May 2024 ARIC meeting as per the established procedures in the ARIC Terms of Reference. Only one nomination for Ms Donna Rygate was received. At the ARIC meeting, Ms Donna Rygate was elected as the ARIC Chairperson until her term on the ARIC (30 December 2026).

Ms Donna Rygate is an experienced Independent Chair/Director, business leader and skilled problem solver. She has been an Independent Member of Council's ARIC since January 2019. Ms Rygate satisfies the eligibility requirements for Chairperson as per the Regulation (216D Eligibility for appointment as Chairperson – the Act, Sch 6, cl 19B). She currently chairs four other Local Government ARIC.

The biography for Ms Rygate is attached as Attachment 1 – Biography of Independent ARIC Members to this paper.

The Regulation requires Council to endorse the appointment of the ARIC Chairperson.

Appointment of New Independent ARIC Member

A recruitment process was initiated following Council approval on 25 March 2024. The vacancy was advertised through multiple agencies and the recruitment was undertaken as per the established procedures in the ARIC Terms of Reference. The interview panel comprising of the Chief Executive Officer, Mayor and one Independent ARIC member was convened. Council received a high number of applications. After careful consideration of all the applications, three candidates were shortlisted for interviews.

Following interviews and reference checks, the panel selected Ms Deborah Goodyer as the new Independent ARIC Member commencing 1 July 2024 for a period of four years (ending 30 June 2028, with an option to extend for a further four-year term in accordance with the Regulation).

Ms Deborah Goodyer brings a wealth of knowledge in accounting, assurance and integrity. She has vast experience in local government through employment and ARIC roles. Ms Goodyer currently chairs two other Local Government ARIC.

The biography for Ms Goodyer is attached as Attachment 1 – Biography of independent ARIC Members to this paper.

The Regulation requires Council to endorse the appointment of the ARIC Chairperson.

ARIC Terms of Reference and Internal Audit Charter

Division 6A Auditing and Audit, Risk and Improvement Committees		
<u>Regulation Requirement</u>		<u>Status</u>
216K Terms of reference – the Act, Sch 6, cl 19B	(1) A council must adopt terms of reference for the council's Audit, Risk and Improvement Committee.	The ARIC Terms of Reference sets out the committee's objectives, authority, composition and tenure, roles and responsibilities, reporting and administrative arrangements.
	(2) The adoption must occur by resolution of the council.	
	(3) The council must consider model terms of reference	The attached ARIC Terms of Reference (ARIC Charter) has been

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Division 6A Auditing and Audit, Risk and Improvement Committees		
<u>Regulation Requirement</u>	<u>Status</u>	
	<p>approved by the Departmental Chief Executive before adopting terms of reference.</p> <p>(4) Terms of reference must be consistent with the Act and this regulation.</p> <p>(5) An Audit, Risk and Improvement Committee must exercise its functions in accordance with the adopted terms of reference.</p>	<p>reviewed based on the model terms of reference approved by OLG.</p> <p>Feedback received from ARIC members has been incorporated on the attached ARIC Terms of Reference.</p> <p>The ARIC Terms of Reference (Charter), attached as Attachment 2 is tabled for Council's adoption.</p>
216O Internal audit charter – the Act, Sch 6, cl 8A	<p>(1) A council must adopt an internal audit charter setting out how the council will exercise its internal audit functions.</p> <p>(2) The adoption must occur by resolution of the council.</p> <p>(3) The council must consider a model internal audit charter approved by the Departmental Chief Executive before adopting an internal audit charter.</p> <p>(4) An internal audit charter must be consistent with the Act and this regulation.</p> <p>(5) The council must exercise its internal audit functions in accordance with the adopted internal audit charter.</p>	<p>The Internal Audit Charter provides the framework for the conduct of the Internal Audit Department.</p> <p>The attached Internal Audit Charter has been reviewed based on the model internal audit charter approved by OLG. ARIC has provided their feedback on the internal audit charter which is reflected on the attached.</p> <p>The Internal Audit Charter, attached as Attachment 3 is tabled for Council's adoption.</p>

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Internal Consultations

The Executive Management Team and Audit Risk and Improvement Committee members have been updated on the ARIC Terms of Reference and the Internal Audit Charter.

Risk Implications

Compliance with Regulation is supported as it demonstrates Council's commitment to good governance and accountability. Failure to implement the requirements of the Regulation will result in non-compliance resulting in reputational risk for Council.

APPENDIX 1 – BIOGRAPHY OF INDEPENDENT ARIC MEMBERS

1. Donna Rygate

Donna Rygate is an experienced independent chair/director, business leader and skilled problem solver. In addition to holding various board, panel and committee chair and/or member roles, and doing some consultancy, she loves working on the farming and grazing property she co-owns at Canowindra in Central Western NSW.

From 2014 to 2018 Donna was Chief Executive of Local Government NSW, the peak industry association that represented the interests all NSW general purpose councils and other related organisations.

Donna previously worked in executive, policy, communications, governance and operational roles in the NSW public sector for more than 25 years.

She was Chief Executive of the NSW Office of Communities (responsible for Sport & Recreation, Venues NSW, Sydney Olympic Park Authority, Penrith Lakes, Youth, Veterans' Affairs, Volunteering, the Commission for Children & Young People, the Children's Guardian and Aboriginal Affairs).

Donna also headed Corporate Governance and Policy in the then NSW Department of Planning & Infrastructure; and was the Deputy Director General Strategy, Communication and Governance with the then NSW Department of Community Services. Her broad experience also included roles in central agencies, transport, conservation and environment protection.

Donna has an Economics degree with Honours in Government and Public Administration, a Masters degree in Planning, a Diploma of Governance, and a Juris Doctor degree (law masters). She is also an Australian Institute of Company Directors course graduate.

Donna is a Fellow of the Institute of Public Administration and a Fellow of the Institute of Community Directors Australia.

2. Deborah Goodyer

Deborah Goodyer is an experienced assurance and integrity professional having worked with State, Local and Commonwealth governments for 30 years. Deborah has a Bachelor of Commerce degree (Accounting) and is a CPA and Certified Internal Auditor.

Deborah has held senior leadership roles including as internal audit and corruption prevention manager in NSW Health and chief audit executive roles at two NSW councils. She currently provides consulting services across public, private and not for profit entities including in internal audit, governance, and workplace conduct and culture. She has training and experience in fraud and corruption control, investigations, forensic accounting, data analytics, and corporate governance and strategy.

In 2021 Deborah obtained certification in wellbeing services including stress management and mental health first aid, and she undertakes ongoing training in corporate wellbeing issues and strategies.

Deborah is chair of two audit, risk & improvement committees and an independent member of four.

CL24.160 Financial Sustainability Monthly Report

HPERM Ref: D24/209217

Department: Financial Sustainability

Approver: Robyn Stevens, Chief Executive Officer

Reason for Report

The purpose of this report is to adopt the recommendations tabled in the Financial Sustainability workshops and report the status of the Financial Sustainability project.

Recommendation

That Council receive the financial sustainability monthly report for the period of May 2024 for information.

Options

1. Council receives the report for information.

Implications: Nil

2. Council receives the report and provides additional direction for future reports.

Implications: Any changes or additional matters can be added to future reports.

Background

In November 2023, AEC provided a report (CL23.420) to Council on its financial sustainability. In this report, Council was informed that the general fund net operating position has been in a deficit position over the past eight years and there is a structural deficit to fund recurrent expenditure of \$25-35 million per annum. AEC made 27 recommendations, including an SRV, and that all had to be implemented to ensure Council's financial sustainability.

In January 2024, Council resolved under MIN24.44 not to proceed with an application for a special rate variation with IPART. A special rate variation is considered to be a necessary step in improving Council's financial position. Instead, Council resolved to pursue all other recommendations in the AEC report as well as additional actions to improve financial sustainability.

The Financial Sustainability project has been established to coordinate Financial Sustainability actions and initiatives in response to MIN23.667, MIN24.44 and from report CL23.420 – AEC Financial Sustainability review from November 2023. The project commenced in February 2024 and has 3 major workstreams:

1. Asset and Project Management
2. Financial Management
3. Service Planning

The Financial Sustainability project will report to Council monthly on all matters relating to Council's financial sustainability that were tabled in the November 20 and January 29 Ordinary meetings. This report will provide:

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- Summary of work undertaken in the period, including items workshopped with Councillors.
- Status of project workstreams.
- Recommendations to Council to support the improvement of Council's financial position.

Recommendations may call for projects to be paused until Council's financial position improves. This means that projects will be reconsidered by Council at a point in time where Council has met the defined measures of financial sustainability:

- Maintain Council's unrestricted cash reserve at \$15 million.
- Achieve and maintain an operating surplus of at least 4%.
- Met the asset renewal ratio of 85%.

Paused projects are retained on the capital projects list, managed by the enterprise project management office, for prioritisation by Council when funding becomes available.

Internal Consultations

A workshop schedule has been agreed with Councillors, with the first workshop occurring on the 20 February 2024. The workshops are exploring all financial sustainability items raised in MIN23.667, MIN24.44 and the recommendations from the AEC report CL23.420.

The workshops held to date include:

Workshop	Agenda	Report to Council
Workshop 1 – 20 February	Budget parameters Strategic projects review	CL24.68
Workshop 2 – 5 March	Community donations program Outdoor dining annual fees Strategic projects review	CL24.68
Workshop 3 – 12 March	2024/25 budget workshop 1	CL24.95
Workshop 4 – 19 March	Excess and under-utilised assets Use of consultants and contractors Strategic projects review	CL24.95
Workshop 5 – 4 April	2024/25 budget workshop 2	CL24.117
Workshop 6 – 16 April	Service planning Strategic projects review	CL24.117
Workshop 7 – 30 April	Asset Management Plans overview Bereavement Services overview	In this report
Workshop 8 – 28 May	Service planning update Plant and fleet service review	In this report

From May, financial sustainability workshops have moved from a fortnightly schedule to a monthly schedule. The financial sustainability project is moving from scope definition into

project delivery. During scope definition, the project team required frequent sessions with Councillors to ensure all subject areas flagged for workshop were completed in a timely manner.

Now that the project is in project delivery, the monthly workshops will be used to present back on service review recommendations and other financial sustainability workstream delivery outcomes.

Workshop 7 overview – 30 April

The Mayor and 10 Councillors were present at the 4 April workshop, with apologies received from Cr Watson and Cr D'Ath.

The agenda for this workshop included:

- Asset Management Plans overview
- Bereavement Services overview

Workshop 7 – summary of financial sustainability items discussed

1. Asset Management Plans

The purpose of this workshop session was to provide an overview to Councillors on Asset Management Planning across all Shoalhaven City Council asset classes, including:

- What is an Asset Management Plan (AMP)
- Definition of the asset performance metrics
- Background on Shoalhaven City Council's AMPs since 2003
- Current operational responsibilities for AMPs
- Status of Shoalhaven City Council's AMPs across the 27 asset classes
- AMP action plan and next steps

This overview provided the Councillors an understanding of Asset Management Planning to support the asset management improvement initiatives that will be undertaken as part of the financial sustainability project, including:

- Improve asset management processes, including the creation of a program to review/update asset management plans and asset condition data.
- Develop a state of the assets report.
- Asset custodian model review.

The following update was shared during the workshop:

- Asset Management Plans (AMPs) are a written representation of the intended asset management programs for an asset class (maintenance, renewal, upgrade, new and disposal).
- Shoalhaven City Council is not meeting asset management performance metrics defined by the Office of Local Government. These include infrastructure backlog ratio, asset management ratio and building and infrastructure renewal ratio.
- Shoalhaven City Council relies upon data of variable quality to report on performance metrics defined by the Office of Local Government. These include infrastructure backlog ratio, asset management ratio and building and infrastructure renewal ratio. Anecdotally it is believed that Council would currently be achieving results below the OLG benchmarks on all performance metrics if higher quality data was sourced.

- Council's AMPs are in a varied state – with some documents updated regularly and others outdated.
- Asset management responsibilities sit across 8 departments, with these departments responsible for asset management and operational management of the assets. This has led to a deterioration of asset management planning, as operational demands will take priority over strategic planning activities.

The recommendations and next steps are:

- Centralise responsibility for asset management planning.
- Prioritise asset management plans corporately to work on the most critical plans first.
- Prioritise collection of condition data (road, storm water, paths).

2. Bereavement Services overview

The purpose of this workshop session was to brief Councillors on the current business model for Bereavement Services and discuss the proposed service review scope. This service review was one of the high priority reviews identified to be completed under the financial sustainability project and is scheduled to commence in July 2024.

Bereavement Services aims to provide continuing compassionate care and support the Shoalhaven community through the provision of caring, end of life services. They offer cremation services, internments (burials/ash placements), memorialisation, chapel services, function centre and funerary items.

Throughout the Shoalhaven, Council maintains 13 historical cemeteries and 7 active cemeteries and memorial gardens.

The NSW Government has introduced the Interment Industry Scheme as part of the Cemeteries and Crematoria Regulation 2022 – a licensing system for cemetery and crematorium operators. This has imposed licence conditions related to the following:

- Consumer contracts
- Cemetery maintenance
- Pricing transparency
- Customer service
- Religious and cultural principles
- Aboriginal cultural and spiritual principles

The scheme commenced in July 2023 and Shoalhaven City Council needs to be compliant with the licence operating conditions by July 2024.

The following risks and opportunities have been identified for further investigation during the service review:

- Review of operating structure at Shoalhaven Memorial Gardens and Lawn Cemetery (SMGLC), including cremation facilities and sale/lease considerations.
- Pressure on revenue due to competing cremation facilities.
- Pressure on costs due to historical cemetery take-on, new legislation and licencing obligations, and rising operational costs.
- Resourcing required to maintain cemeteries to meet licensing requirements and community expectations.
- Remaining years usage forecasted and impact of Aboriginal land claim at SMGLC.

- Review of fees and charges structures.

The service review proposed terms of reference was supported by Councillors in the workshop and Council staff will now finalise the service review plan and engage a specialist to undertake the review, commencing in July 2024.

Workshop 8 overview – 28 May

The Mayor and 7 Councillors were present at the 28 May workshop, with apologies received from Cr Watson, Cr Kitchener, Cr Christen, Cr Gray and Cr D'Ath.

The agenda for this workshop included:

- Service planning workstream update
- Plant and fleet service review

Workshop 7 – summary of financial sustainability items discussed

1. Service planning workstream update

Councillors were provided with an update on the progress of service planning scope items, including status of service reviews and the other efficiency ideas from staff.

Service review programme update

Service Review	Type	Status
Bereavement Services	Major business model	Planning in progress – commence in FY25
Holiday Haven	Major business model	Not started – to commence after Bereavement Services review
Family Day Care	Major business model	Analyse/review in progress
Shoalhaven Entertainment Centre	Major business model	Not started – schedule to be confirmed
Fleet	Internal process/structure	Endorse/implement in progress
Legal	Business model	Analyse/review in progress
Tourism (Visitor Centre)	Internal process/structure	Analyse/review in progress
Workers Compensation Insurance	Business model	Analyse/review in progress
Asset Custodian Model	Internal process/structure	Work started, need to move under a formal service review
Comms and Media	Internal process/structure	Planning in progress
Customer Experience	Internal process/structure	Planning in progress
Library Services	Business process improvement	On hold, pending Library Manager appointment
Holiday Haven	Business process improvement	Report complete

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Please note that the Visitor Centre was previously reported as a standalone review but is considered within scope of the Tourism review.

As service reviews are complete, the key findings and recommendations will be presented to Councillors through the financial sustainability workshops.

Other efficiency ideas – from staff

Throughout May, the Shoalhaven Leadership Team (SLT) were tasked with identifying cost savings and revenue generating initiatives that will contribute to the savings target. As part of this ideas generation, the SLT submitted 284 ideas for consideration:

- 156 budget reduction ideas
- 85 revenue generation ideas
- 43 general business improvement ideas (may lead to efficiencies but no direct financial benefit identified)

These ideas have been triaged, and classified as:

- 119 progress immediately
- 114 business case or workplace change impact assessment needed
- 51 future consideration

As efficiency ideas are implemented, they will be reported through the quarterly productivity and efficiency report and adjustment made to Council's budget through the quarterly budget review process.

2. Plant and fleet service review

Councillors received a presentation summarising the key findings and recommendations of the plant and fleet service review that commenced in March 2024 and completed in May 2024. The desired outcomes of the review included:

- Review of Council's utilisation of plant and fleet to deliver necessary functions.
- Identify opportunities for potential savings.
- Review of management of the plant/fleet record keeping and maintenance.
- Recommend replacement schedule to minimise annual plant/fleet replacement turnover cost.
- Determine realistic plant hire charge to reflect full cost recovery.
- Identify sustainable income to be able to move forward with innovations and improvements.
- Recommend improvements in the quality of the asset data
- The general fund plant reserve to be able to sustain perpetual replacements and operations.

The 19 findings and recommendations of the review were defined as:

- 7 under corporate governance
- 5 under service enablers
- 7 under management focus areas

The major recommendations that support Council's financial sustainability include:

- Consider sale of under-utilised assets (reduce annual operating costs and replacement costs).
- Extend replacement timeframe of lower utilised plant assets, where the plant is not replace based on age but the impacts of condition, utilisation, technological obsolescence, downtime, future operational needs and residual value.
- Extend replacement timeframe of motor vehicles.
- Administration of external plant hire to be facilitated by fleet management to ensure that Council receives best value for money from external hire and optimises the utilisation of Council's assets.
- Improved technical specifications of plant to reduce capital investment required.
- Establishment of a Plant and Fleet working group.
- Adopt a Fleet Management Policy and Motor Vehicle Policy.
- Establish key reporting indicators including compulsory recording of meter readings.

All recommendations identified within the plant and fleet service review will be tracked for implementation in Council's business improvement register.

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CL24.161 Investment Report - April 2024

HPERM Ref: D24/199153

Department: Finance

Approver: Kerrie Hamilton, Director City Performance

Attachments: 1. Shoalhaven Monthly Investment Report - April 2024 (under separate cover)

Reason for Report

The reason for this report is to inform the Councillors and the Community on Council's investment returns. The report also ensures compliance with Section 625 of the Local Government Act 1993 and Clause 212 of the Local Government (General) Regulation 2021, that requires a written report is provided to Council setting out the details of all funds it has invested.

Recommendation

That Council:

1. Receive the Record of Investments for the period to 30 April 2024.
2. Note that Council's total Investment Portfolio returned 5.08% per annum for the month of April 2024, outperforming the benchmark AusBond Bank Bill Index (4.37% pa) by 71 basis points (0.71%).

Options

1. The report on the Record of Investments for the period to 30 April 2024 be received for information.

Implications: Nil

2. Further information regarding the Record of Investments for the period to 30 April 2024 be requested.

Implications: Nil

3. The report of the record of Investments for the period to 30 April 2024 be received for information, with any changes requested for the Record of Investments to be reflected in the report for the period to 31 May 2024.

Implications: Nil

Background

Please refer to the attached monthly reports provided by Council's Independent Investment Advisor, Arlo Advisory Pty Ltd (formally Imperium Markets Pty Ltd).

Portfolio Return

The investment returns were a stable 5.08% p.a. in April 2024, outperforming the benchmark AusBond Bank Bill Index (4.37% p.a.) by seventy-one basis points (0.71%).

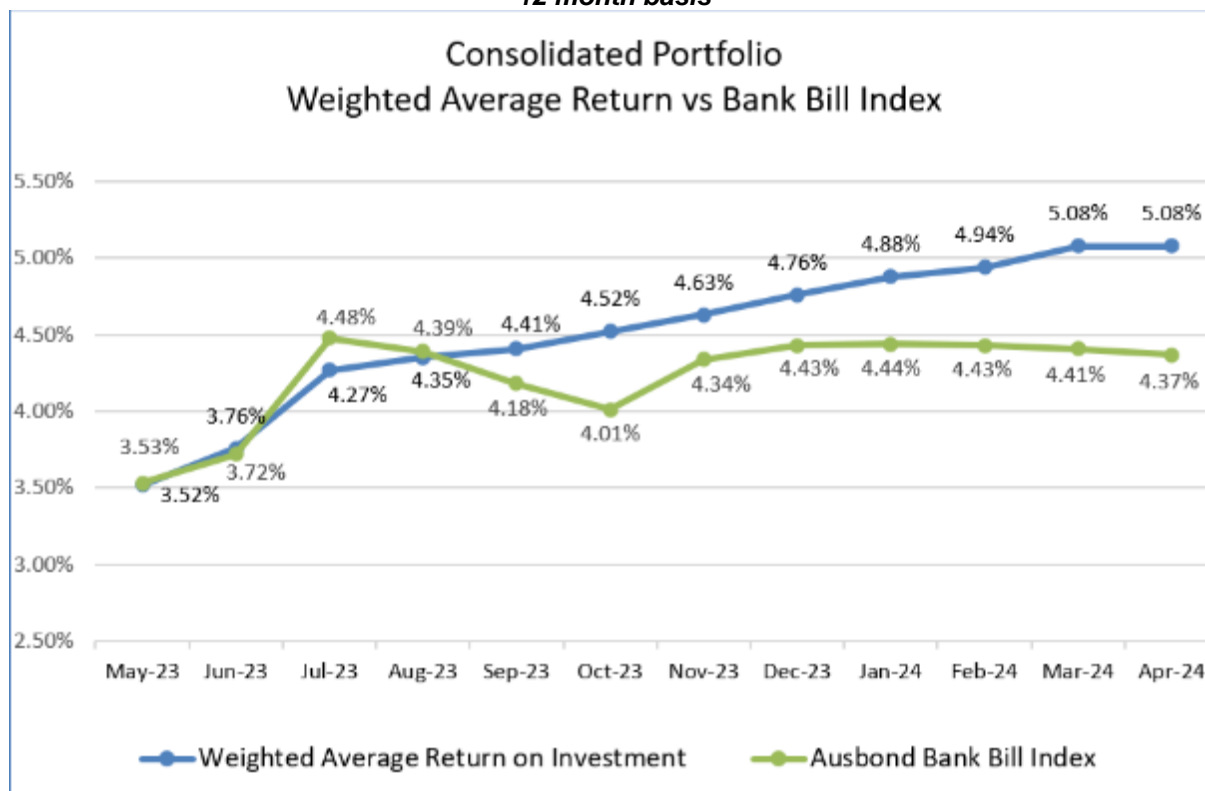
CL24.161

The Reserve Bank of Australia left interest rates unchanged at 4.35% at its April meeting.

Investments

Graph 1 below, shows the performance of Council's Investment Portfolio against the benchmark on a rolling 12-month basis.

Graph 1 - Performance of Council's Investment Portfolio against the benchmark on a rolling 12 month basis



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Investment Interest Earned – April 2024

Table 1 below, shows the interest earned for the month of April 2024.

Table 1- Interest Earned for the Month of April 2024

Fund	Monthly Revised Budget \$	Actual Earned \$	Difference \$
General	272,257	324,367	52,110
Water	85,151	176,410	91,259
Sewer	55,068	68,288	13,220
Total	412,476	569,065	156,589

The interest earned for the month of April, was \$569,065.00 compared to the monthly revised budget of \$412,476.00.

Investment Interest Earned - Year to Date

Table 2 below, demonstrates how the actual amount of interest earned year to date has performed against the total budget.

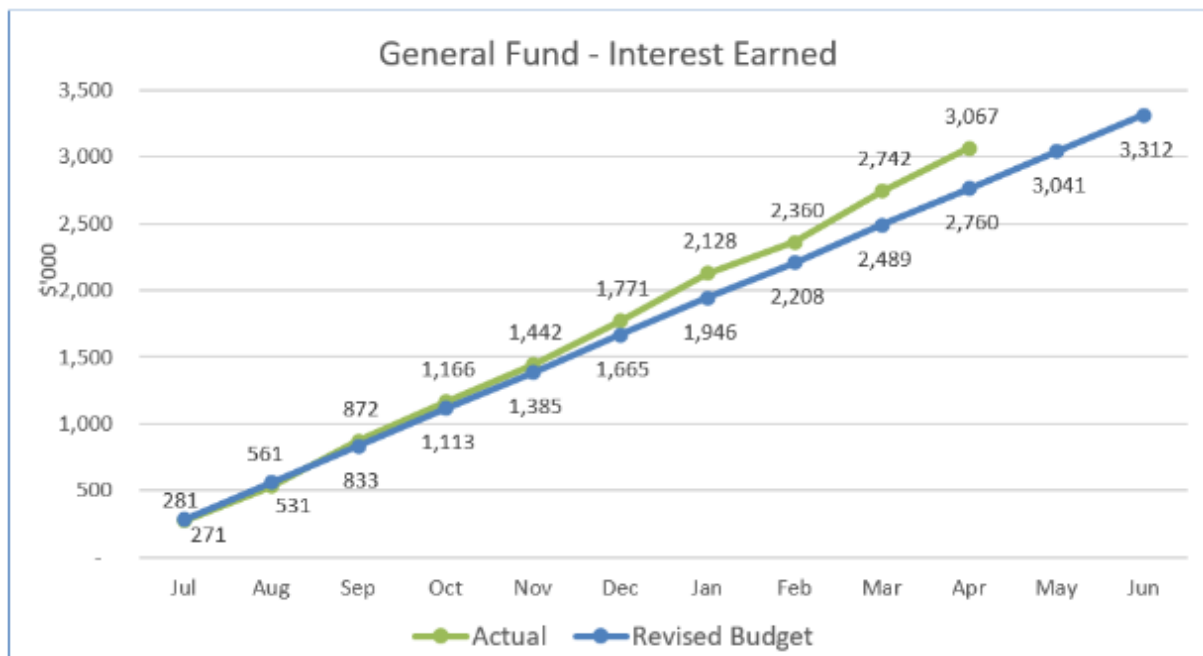
Table 2 - Amount of interest earned year to date, against the total budget.

Fund	Revised Total Annual Budget \$	Actual YTD \$	% Achieved
General	3,312,464	3,066,700	92.58%
Water	1,036,000	1,667,854	160.99%
Sewer	670,000	645,621	96.36%
Total	5,018,464	5,380,175	107.21%

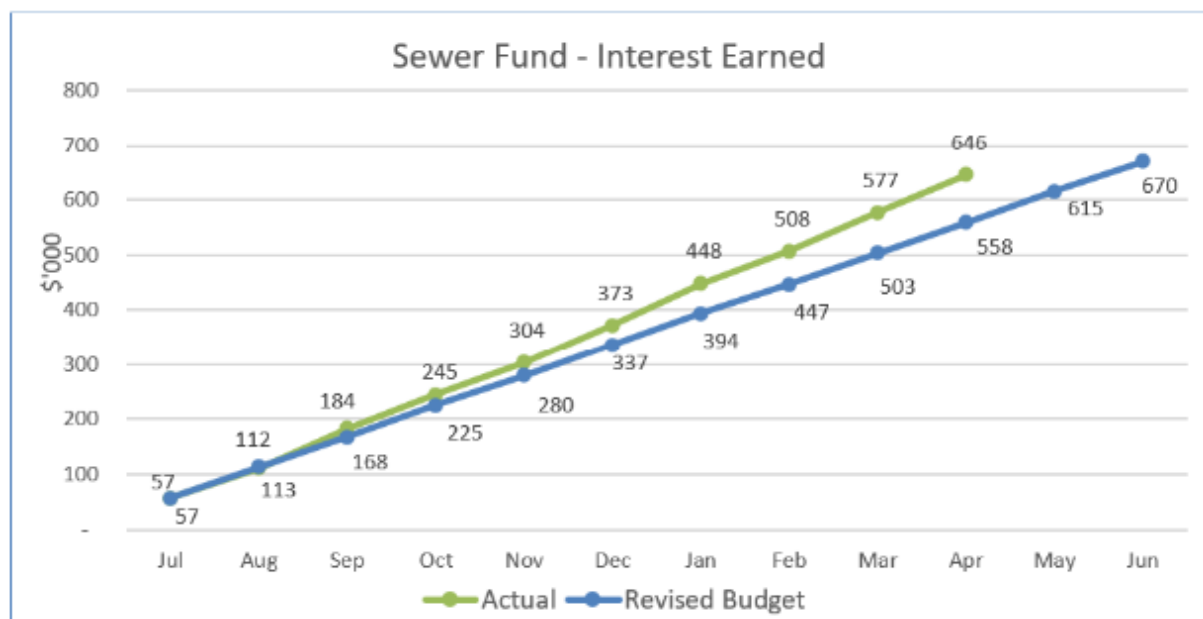
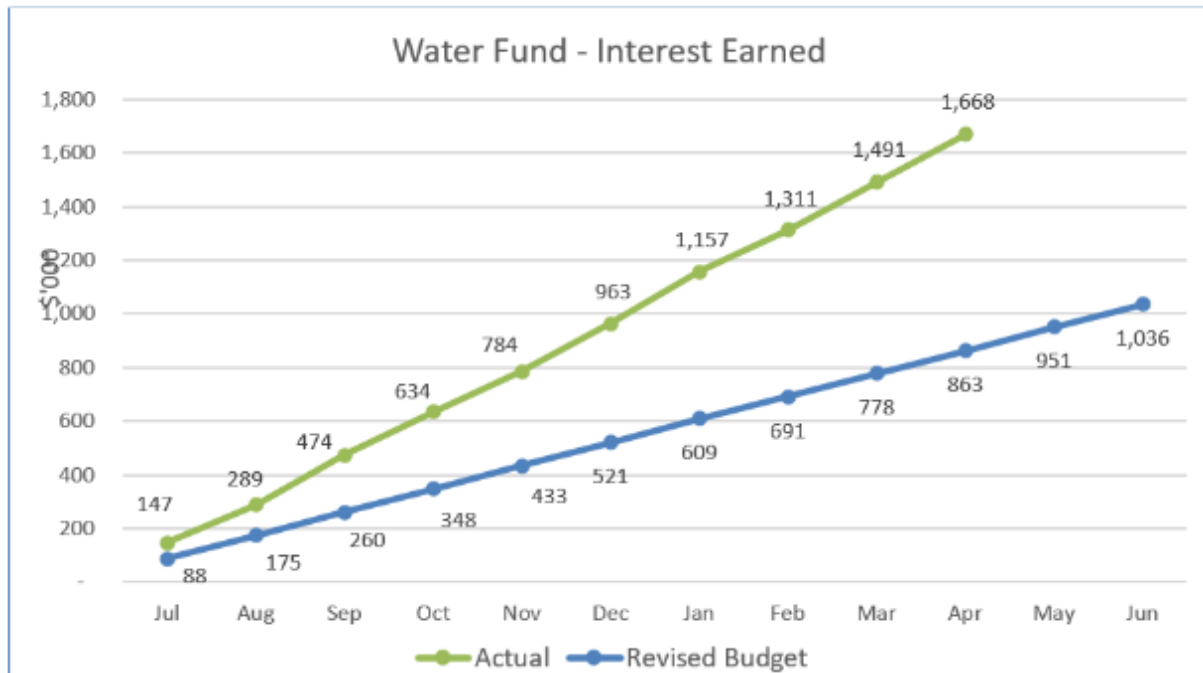
The cumulative interest earned for the year (July to April) was \$5,380,175 which is 107.21% of the current full year revised budget.

Graph 2 (3 separate graphs) below, illustrates the cumulative interest earned for the year for each fund (General, Water and Sewer) against budget:

Graph 2 - Cumulative interest earned for the year for each fund against budget.



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Cash and Restricted Assets, Restricted Asset Movements and Liquidity Indicators

As at 30 June 2023, Council had spent \$35M in grants spent in advance. In accordance with Council's adopted Liquidity Contingency Plan, internal restrictions were utilised to fund the grants spent in advance.

Since 30 June 2023 and up to 30 April 2024, Council received \$22.2M of the outstanding grants spent in advance balance.

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Statement by Responsible Accounting Officer

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

K Buckman

Katie Buckman

Date: 10 May 2024

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CL24.162 Post Exhibition Finalisation Report - Proposed Voluntary Planning Agreement - Dedication of Land - Suncrest Avenue Sussex Inlet

HPERM Ref: D24/166114

Department: Strategic Planning

Approver: Coralie McCarthy, Acting Director - City Futures

Reason for Report

The purpose of this report is to consider the outcomes of the public notification of the proposed Voluntary Planning Agreement (VPA) relating to Lot 22 DP 1270620, Suncrest Avenue, Sussex Inlet (subject land) and consider the finalisation of the VPA.

Recommendation

That Council:

1. Finalise and enter into the Voluntary Planning Agreement related to Lot 22 DP 1270620 Suncrest Avenue, Sussex Inlet consistent with the exhibited terms.
2. Notify the landowner/developer of this decision.

Options

1. As recommended

Implications: Should it proceed, the proposed VPA will result in a positive public benefit through the dedication of land that is required to manage stormwater and maintain water quality from the approved residential subdivision in perpetuity. The execution of the VPA is the only deferred commencement condition in the consent that needs to be satisfied before the consent becomes operational.

2. Adopt an alternative recommendation.

Implications: An alternative recommendation may affect the timely delivery of the development.

Background

On 11 December 2023, Council considered a report on the preparation of a VPA for the dedication of land for drainage infrastructure, relating to a 45 lot residential subdivision (SF10916) at Suncrest Avenue and Lakeshore Parade, Sussex Inlet.

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

CL24.162



Figure 1: Lot 22 DP 1270620; Suncrest Av, Sussex Inlet (the Site)

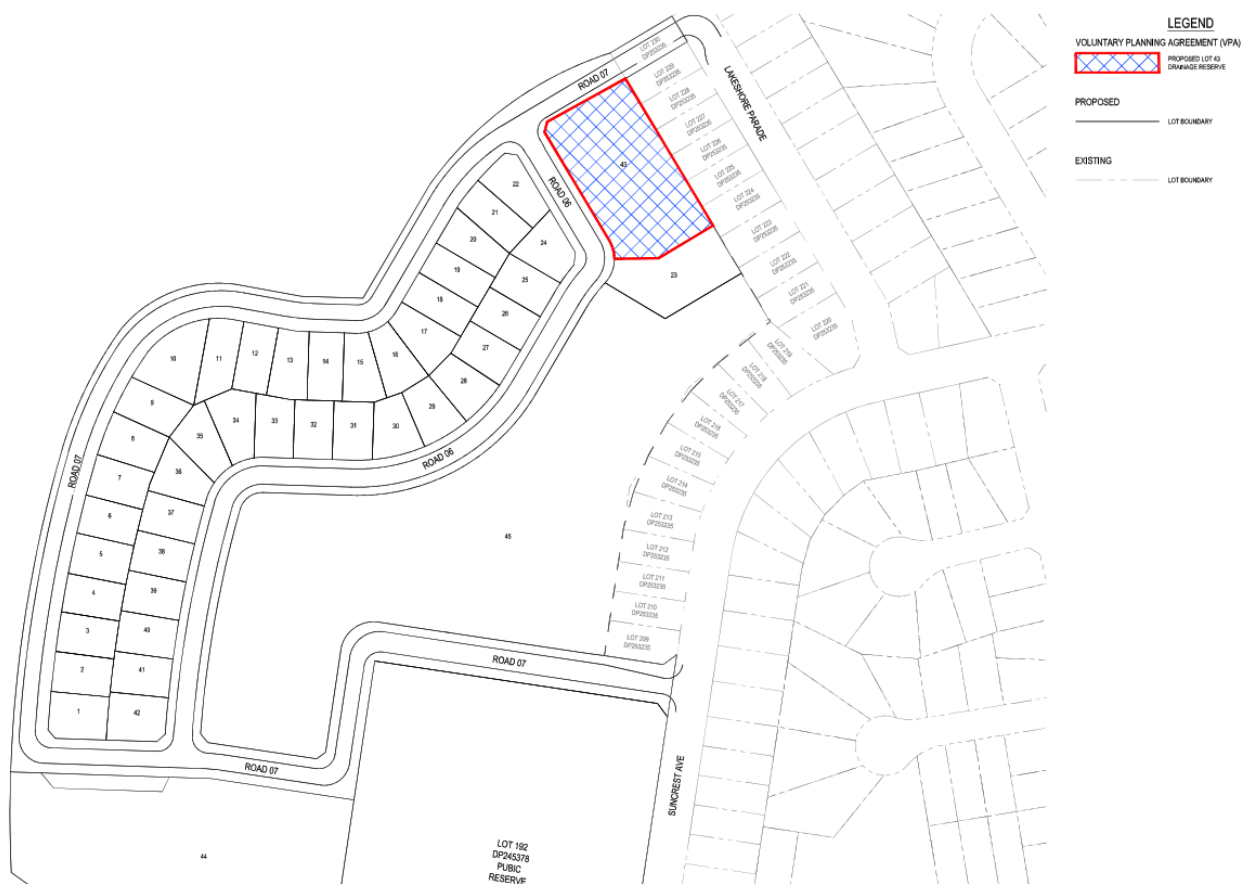


Figure 2: Approved Layout Plan SF10916 – land to be dedicated outlined in red
(adapted from plan by MAKER Engineers)

CL24.162

The land dedication will facilitate the management of stormwater to a level required to meet the demands of the proposed residential subdivision.

Council approved the development application (deferred commencement) for subdivision on 24 December 2023. The VPA now needs to be executed before the development consent can become operational.

Council resolved (MIN23.732) on 11 December 2023 as follows:

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

- 1. Provide 'in-principle' support to enter into a Voluntary Planning Agreement (VPA) for the dedication of part of Lot 22 DP 1270620; Suncrest Avenue, Sussex Inlet for the purpose of a drainage reserve.*
- 2. Prepare the draft VPA and associated Explanatory Note and proceed to public notification for a minimum period of 28 days as required by legislation.*
- 3. Following public notification, report back the VPA to Council before it is entered into.*

Parts 1 and 2 of the resolution have been actioned, and this report responds to Part 3.

Public Notification

In accordance with the resolution, the draft VPA package was publicly notified for a period of at least 28 days from 3 April to 3 May 2024 (inclusive) in accordance with legislative requirements.

The Amendment was notified on Council's website and could also be viewed if required at Council's Nowra and Ulladulla Administrative Offices. The notification material included:

- The [draft VPA](#) and its [Explanatory Note](#).
- The [public notice](#).

The landowner and all immediately surrounding landowners were notified of the of the arrangements. **No submissions were received.**

Conclusion

As Council has issued consent for the development and the public notification period has concluded without any submissions received, it is now recommended that the VPA be finalised and entered into so the relevant land can be dedicated for drainage purposes in accordance with the terms in the agreement.

Community Consultation

The *Environmental Planning and Assessment Regulation 2000* requires that the draft VPA be publicly notified for a minimum period of 28 days – the draft was exhibited for a period of 31 days and no submissions were received.

Financial Implications

In accordance with Council's VPA Policy, any costs associated with executing the VPA will be payable by the developer.

CL24.163 Report Back - MIN23.645 - Update on Oyster Lease Permissible Land Use - Farm Gate Sales

HPERM Ref: D24/187630

Department: Certification & Compliance

Approver: Coralie McCarthy, Acting Director - City Futures

Reason for Report

To provide a report back in response a Resolution of Council regarding Land Use permissibility for oyster farmers in Orient Point (and Greenwell Point).

Recommendation

That Council:

1. Reaffirm support for the Oyster Industry in the Shoalhaven and note the economic benefit the oyster farmers bring to our region.
2. Receive the report as an update on MIN23.405 and note no rezoning is required currently.

Options

1. As recommended.

Implications: Council will continue to play an active role in working to support the Oyster Industry.

2. Request more information.

Background

In November 2023, Council resolved the following in response to a Notice of Motion (MIN23.645)

That Council:

1. *Acknowledge the economic benefit and length of operation of oyster farmers at Orient Point operating under Crown Land lease arrangements.*
2. *Direct the CEO (Directors, City Futures and City Development) to:*
 - a. *Assess the land use permissibility of current oyster farming operations, ancillary activities and related structures on council managed Crown Lands in the Orient Point area.*
 - b. *Provide a report to Council with recommendations on agritourism potential and farmgate sales, current permissibility and pathways to achieve ongoing consent to operate.*
 - c. *Where land use or zoning amendments are required, engage with the NSW Department of Planning and Environment to assist in applying urgent changes to the Shoalhaven LEP 2014 to allow for continuing operations for the duration of their leases.*

At the time, it was noted that Council had been approached by NSW Crown Lands on oyster lease matters within the Shoalhaven LGA. The State has relayed that the current lease agreements prevent sub-leases where appropriate approvals are not in place.

Council is the appropriate regulatory authority for development without consent matters, however at present, has not undertaken (and is not bound to undertake) regulatory compliance action in this matter where development without consent is identified. NSW Crown Lands are the administering agency for oyster leases, and the content, as well as conditions of such leases are their responsibility.

Following the Resolution, Council staff (Director City Futures and Director City Services) met with the business owners and sent follow up advice in writing.

The Business Group provided advise that there was ongoing discussion with the Crown regarding updating lease and licences, the group requested: *"The farmers believe that if "Farm Gate Premises" was included in the Shoalhaven LEP, it would legally protect and sustain land use for oyster farming and permit sale of oyster produce from the land. We would like information from Council regarding the procedure to include "Farm Gate Premises" into Shoalhaven LEP, Schedule 1 Additional Permitted Uses Clause 5 Uses of certain land at Greens Road, Greenwell Point.*

This was subsequently supplied to the group in writing.

Land Use Permissibility – Ancillary Activities

The land identified as 'Oyster Farms' in Greenwell Point is currently zoned C2 Environmental Conservation under Shoalhaven Local Environmental Plan (LEP) 2014. 'Oyster aquaculture' is listed as a permissible use with consent under this zoning. Additionally, the following 'Additional permitted use' also specifically applies under the LEP to the subject land:

- Use of certain land at Green Road, Greenwell Point
- This clause applies to land identified as 'Sch 1.10" on the Clauses Map, being Lot 118, DP 45810, Greens Road, Greenwell Point.
- Development for the purposes of rural industries being the processing of fish (oysters), is permitted with development consent.

Council is the appropriate approval authority for development on land above the high-tide mark, including (generally) local building and land use approvals under the Environmental Planning and Assessment Act 1979. Given the above, undertaking genuine farmgate sales in the C2 zone where approved oyster farming and processing activities are operating would generally be considered an activity ancillary to the predominate oyster aquaculture use under the LEP. Where an activity or use of this nature can be shown to be the dominant site use, a farmgate sale would accordingly be suitable as an ancillary use.

The LEP does not restrict farmgate sales in this ancillary context and development consent could be issued (with appropriate owners' consent) to allow these uses to continue, should they not exist already. The specifics of each will however depend upon the exact nature of the ancillary development and Council staff will be happy to undertake pre-lodgement discussions with any operators/proponents to outline whether approvals for the ancillary uses can be obtained. The Crown as the landowner will need to provide landowner consent for any applications that may ultimately be needed.

Importantly this does not automatically allow structures or other approved uses, which would all need to be assessed in the context of the LEP and the Building Code of Australia requirements.

It is also worth noting that the agritourism reforms do not apply generally to the C2 zone (i.e. agritourism, farm gate premises or farm experience premises are all prohibited uses). Also 'commercial premises' (and all sub terms) are also prohibited in the zone.

It is concluded that as the LEP already allows Farm Gate sales in this location, no changes in policy are currently required or recommended.

Current Status – Update on Current oyster farming operations, ancillary activities and related structures on Crown Lands in the Orient Point area.

The resolution called for an update activity on Council managed Crown Lands, however, the land is in Crown Land Management and does not involve Council in a land management capacity.

Council does play a role in compliance and staff have undertaken a comprehensive review of all developments and structures over Lot 118 DP45810, 170 Greens Road, Greenwell Point.

This included a review of all prior approvals on Council records examining over 50 Building and Development applications dating back to 1980.

The applications mainly covered the construction of sheds and ancillary structures for the purpose of Oyster processing activities. Each application is varied through the development process with a majority of applications and approvals not meeting the mandatory building certification requirements or failing to obtain final occupation certificates.

Council has identified many of these developments which will need to be rectified through the Building Information Certificate (BIC) pathway to address the Building Code requirements. The objective of the BIC application is to ensure that acceptable standards of structural sufficiency, fire safety, health and amenity, are maintained for the benefit of the community now and in the future.

Further uses occurring on the land without approval will need to be legalised through the submission of Development applications to Council. Under NSW planning law, development applications cannot be approved without landowner's consent. It is envisaged that once the occupiers obtain landowner's consent they will have a pathway to address the outstanding developments on their respective areas. This process will be protracted, however Council is committed in supporting the continued rectification of all unauthorised developments identified in order to bring the area back into compliance. Council's investigation assessment report has been provided to Crown Lands.

Internal Consultation

This report has been prepared collaboratively between City Futures and City Development.

External Consultations

Correspondence

- Letter of advice to Liza Butler, Member for South Coast
- Letter of advice sent to Oyster Businesses
- Letter of advice sent to Crown Land

Cross Government Collaboration

- Council staff have been working with the Crown to address proactively any matters pertaining to Oyster businesses on a regular basis.

Policy Implications

As the current LEP allows Farm Gate sales in the zoning, no changes in policy are currently required or recommended.

Financial Implications

No further action required, as such, no budget allocation.

CL24.164 Report Back - Notice of Motion - Bayswood Estate Vincentia - Parking and Vegetation Maintenance Investigations

HPERM Ref: D24/126236

Department: Works & Services

Approver: Robyn Stevens, Chief Executive Officer

Reason for Report

The reason for this report is to outline results of investigations into maintenance costs and parking arrangements within the Bayswood Estate in response to resolution MIN23.606.

Recommendation

That Council:

1. Note the provision of vegetation in Seagrass Ave is pending capital budget allocation.
2. Note that significant capital investment is required to construct additional parking within the road reserve.
3. Rescind the requirement for a community survey regarding parking options.

Options

1. As recommended
2. Proceed with survey regarding parking, despite the absence of any available budget to design or construct any improvements.

Implications: This may increase community expectations that parking improvements are forthcoming and will require investment in some design work.

Background

The 'Bayswood Estate' is a relatively new and larger scale residential development in the West of Vincentia. Previously, due to concerns about road safety and visibility at intersections, portions of the vegetation have been removed by Council. Due to a combination of the type of plants originally installed and the resources available it was not feasible to keep this vegetation pruned to a safe size.

In response to resident concerns about parking and upkeep and maintenance of the large amounts of public gardens / vegetated areas council resolved the following on 4 October 2023 (MIN23.606).

That Council:

1. Investigate and plan for the ongoing asset maintenance and gardening costs for the Bayswood Estate with a view to establishing a recurrent amount of funding to be considered in future budgets.
2. Provide and maintain low maintenance vegetation in Seagrass Street medium strip as soon as possible.

CL24.164

3. Investigate the off-street parking requirements in Bayswood including:-

- a. Limitations in Seagrass Street*
- b. Survey residents of Bayswood regarding off-street parking*
- c. Improvements that could be undertaken to increase off street parking*

4. Receive a further report following the investigations.

1. Ongoing asset maintenance and gardening costs

- The estimated required annual allocation for gardening and vegetation maintenance in the Bayswood Estate is \$75,000.
- Current annual allocation is estimated at approximately \$20,000.
- An increase in annual operational expenditure of approximately \$55,000 is required.
- Note that this is for gardening and vegetation maintenance only. The following is excluded and requires additional investigation for less frequent interventions required:
 - Maintenance of structures, footbridges, lighting, playgrounds etc.
 - Maintenance of water sensitive urban design elements, i.e. detention or sediment basins, gross pollutant traps, wetlands.
 - Other non-parkland or open space assets such as roads, stormwater systems and footpaths.

2. Provision of vegetation in Seagrass Ave median strip

- This is estimated to require \$46,000 in capital funding to establish low maintenance vegetation as resolved by Council.

3. Investigation of off-street parking requirements in Bayswood

Limitations in Seagrass St

- Seagrass Ave (like most of the Bayswood Estate), has narrow roads without paved shoulders.
- There are several existing paved parallel parking areas that have been placed wherever they would fit between intersections / significant trees. These are shown in red on Figure 1 below.
- The relatively narrow lot frontage and wide driveways (when compared with other parts of Vincentia) provide less opportunity to use these parking areas, since the driveways must be kept clear. An example of this is shown in **Figure 2** below.
- Where the road adjoins parkland or open space, there is generally continuous grassed parallel parking provided. This is shown in blue on **Figure 1** and in **Figure 3** below.



Figure 1 - Current on street parking situation in Bayswood. Blue indicates continuous grassed parallel parking. Red indicates intermittent paved parallel parking bays.



Figure 2 - Intersection of Seagrass Ave and Liner St showing existing paved parallel parking areas constrained by driveways. (typical red line above)



Figure 3 - Corner of Summer-cloud Cr and Compass St showing continuous grassed parallel parking area. (Typical blue line above)

CL24.164

Improvements that could be undertaken to increase off street parking

- Given the limitations above, the most economical solution to increase off street parking on Seagrass Ave appears to be provision of median parking within the wider sections of the median strip.
- Further investigation and design may reveal that this is inappropriate due to:
 - Traffic safety concerns,
 - Environmental restrictions on clearing of additional vegetation, or
 - Stormwater drainage impacts due to the increased rainwater runoff from new parking areas.

Survey of residents regarding off-street parking

- At this point a resident survey has not been conducted regarding off street parking.
- Any potential change to the off-street parking situation will require significant capital investment.
- As a result, in order to manage expectations, it is recommended at this stage that Council not proceed with a survey, until funding to progress improvements to the parking situation is allocated.

Community Consultations

Community consultation has not yet occurred on options for parking. As discussed above in the absence of available budget to alter the status quo, it is not recommended to seek feedback on how / what residents would like changed. Hence, it is recommended Council rescind the requirement for a community survey regarding parking options from MIN 23.606.

Financial Implications

To maintain all garden areas to a high standard an increase in annual garden maintenance budget in the order of \$55,000 is required.

To re-vegetate Seagrass avenue with lower maintenance vegetation a capital investment in the order of \$46,000 is required.

Construction of in median parking within the Bayswood Estate will require detailed investigation and design, at this early stage construction costs are estimated to be in the hundreds of thousands.

CL24.165 Tender - Management & Operation - Holiday Haven Bendalong

HPERM Ref: D24/194869

Department: Commercial Services

Approver: Carey McIntyre, Director - City Services

Reason for Report

The reason for this report is to inform Council of the tender process for Management and Operation of Holiday Haven Bendalong.

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

Recommendation

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

Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution

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

Details

Project Description

Management and operations of Holiday Haven Bendalong's Holiday Park.

1 Waratah Street ,Bendalong NSW 2539

Tendering

Council called tenders for Management and Operation of Holiday Haven Bendalong on 8 April 2024 which closed at 10:00am on 30 April 2024. Three tenders were received at the time of closing. Tenders were received from the following in no particular order:

CL24.165

Table 1: Tender ranking table:

Tenderer	Location
So Fresh South Coast	Mollymook
PM Hospitality Group Pty Ltd	Lake Tabourie
SE Monaghan Pty Ltd	Milton

Details relating the evaluation of the tenders are contained in the confidential report.

Policy Implications

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

Financial Implications:

Sufficient funds have been allocated in the proposed Management and Operation of Holiday Haven Bendalong general fund budget for 2024/2025. Funding is available to cover the tender amount including other project costs.

Risk Implications

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

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CL24.166 Membership Application - Central Floodplain Risk Management Committee

HPERM Ref: D24/170803

Department: Environmental Services

Approver: James Ruprai, Director - City Development

Reason for Report

Seeking Council's formal endorsement of a community member application for the Central Floodplain Risk Management Committee.

Recommendation

That Council formally endorse Mr Charles Court as a community member for the Central Floodplain Risk Management Committee.

Options

1. Council formally endorse Mr Charles Court as a community member for the Central Floodplain Risk Management Committee.

Implications: Appointing the above member will fill one of the three membership vacancies, improving the chance of reaching a quorum in future meetings.

2. Council may choose to decline the endorsement of Mr Charles Court's application as a community member for the Central Floodplain Risk Management Committee.

Implications: Council may be unable to reach a quorum in future meetings until the current vacancies have been filled.

3. Provide an alternative recommendation.

Implications: These will depend upon the nature of the recommendation.

Background

Council has several current vacancies for the Northern Floodplain Risk Management Committee (NFRMC), Central Northern Floodplain Risk Management Committee (CFRMC) and Southern Floodplain Risk Management Committee (SFRMC). This includes two (2) vacancies on the SFRMC, one (1) youth representative and one (1) community representatives; three (3) vacancies on the CFRMC, one (1) youth representative and two (2) community representative; and one (1) vacancy on the NFRMC of one (1) youth representative.

As a result, Council has issued an expression of interest (EOI) to fill these vacancies and to enable these committees to be fully functional.

As per the Terms of Reference, memberships for *Local Representatives* on the committee consists of:

"...five (5) local community representatives, one (1) youth representative between ages 16 and 30, and one (1) indigenous representative, that meet the following criteria:

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- *A broad interest, knowledge and understanding of floodplain management and the areas within the committee's jurisdiction.*
- *A commitment to floodplain management in the nominated Council area; and*
- *Local resident or business person living or working in or near a flood prone area."*

More information can be found in the Committee's Terms of Reference, available on Council's website.

[Terms of Reference Northern / Central / Southern Floodplain Risk Management Committees](#)

The EOI was advertised in August 2023. Since then, one application has been received for a community representative for the CFRMC from Mr Charles Court.

Mr Court is currently the Liaison Officer of the Safe Navigation Action Group Inc (SNAG) and walks daily in the local area. Mr Court is often asked for updates by community members that he interacts with. This gives him a great opportunity to disseminate information to the community from the Committee and vice versa. Mr Court has a deep connection with the local area, knowledge and understanding of local waterways, and wishes to contribute to the wellbeing of his community.

Council is recommending Mr Charles Court as a community member for the CFRMC as his local knowledge and experience would be invaluable to assist the CFRMC in its role of overseeing floodplain management activities pertaining to the area.

The EOI will remain open until the remaining vacancies on the NFRMC, CFRMC and SFRMC have been filled.

The next CFRMC meeting has not been planned yet. However, it would be beneficial to endorse the application as soon as practically possible to ensure Mr Court's continued interest in contributing to the CFRMC.

Furthermore, Council's Floodplain Management Unit is preparing an induction program for all community representatives on the committee. This induction program is planned to be released in the near future. Mr Court's timely appointment will ensure participation in the induction program and obtain the benefits of it.

Community Consultations

The EOI has been open in an ongoing manner since August 2023 to fill the remaining vacant positions on the Committee. The EOI has been published on Council's website and information relation to this provided to the NFRMC, CFRMC and SFRMC for dissemination into the community.

Policy Implications

The recommendation is in accordance with the Committee's [Terms of Reference](#) adopted by Council on 5 December 2022.

Risk Implications

Council may be unable to reach a quorum in future CFRMC meetings until the current vacancies have been filled.

Without a quorum at CFRMC meetings, flood investigations will not be endorsed for future adoption by Council.

Council is currently undertaking the St Georges Basin Floodplain Risk Management Study and Plan and the Lower Shoalhaven River and St Georges Basin Flood Evacuation Capability Assessment and Triggers within the CFRMC region. The continuation and completion of these, and their dissemination by committee members, are also at risk without quorum.

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Financial Implications

The St Georges Basin Floodplain Risk Management Study and Plan requires extensive community consultation and endorsement by the committee prior to undertaking this. Further, the project is 2/3 funded by the NSW Government where payments from the grant body are received once milestones have been completed. Unable to reach a quorum at a meeting may result in Council being unable to meet milestones as required to claim expenses incurred and to complete the project on time.

CL24.166

CL24.167 Development Application – DA24/1188 - 9 Jindalee Crescent, NOWRA - Lot 915 DP 1240172

DA. No: DA24/1188/4

HPERM Ref: D24/171343

Department: Development Services
Approver: James Ruprai, Director - City Development

Attachments:

1. Draft Notice of Determination - DA24/1188 - 9 Jindalee Cres NOWRA, Lot 915 DP 1240172 (under separate cover)
2. Sect 4.15 Assessment Report DA2024/1188 - 9 Jindalee Crescent NOWRA - Lot 915 DP 1240172 (under separate cover)
3. Plans - Plan of Subdivision - 9 Jindalee Crescent NOWRA NSW 2541 - Lot 915 DP 1240172 [↓](#)

Description of Development: Two (2) lot Torrens Title subdivision of existing dual occupancy (attached)

Owner: Bridget J Eaton & Anthony M Johnson

Applicant: Cowman Stoddart Pty Ltd

Notification Dates: Notification not required in accordance with Section 3.3.1, Table 1 of the Community Consultation Policy. (Note: The proposal is for subdivision of an existing approved development. There is no material change to the development.).

No. of Submissions: Nil

Purpose / Reason for consideration by Council

DA24/1188 proposes a variation of 23.7% and 28.9% to the development standard set by clause 4.1 (minimum subdivision lot size) of *Shoalhaven Local Environmental Plan 2014* (SLEP 14).

The departure from the development standard is >10%, therefore the application and variation must be considered and determined by the Council.

Recommendation

That Council confirm that it supports the Clause 4.6 variation of 23.7% for Lot 1 and 28.9% for Lot 2, with respect to the lot size of the proposed subdivision and approve the Development Application DA24/1188 for Torrens Title subdivision of existing and approved dual occupancy (attached) development at 9 Jindalee Crescent, Nowra - Lot 915 DP 1240172, as detailed in the draft conditions of consent (Attachment 1) to this report.

Options

1. That Council approve the recommendation as printed.

Implications: This would enable the development to proceed according to the recommended conditions of consent.

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2. Refuse the Development Application (DA).

Implications: The development is unable to proceed as applied for. The applicant can, however, apply for a section 8.2A review of Council's decision and/or could lodge an appeal with the NSW Land and Environment Court (LEC) against Council's decision.

3. Adopt an alternative recommendation.

Implications: Council will need to specify an alternative recommendation and advise staff accordingly.

Location Map



Figure 1 – Location Map

Background

The proposed development is for a two (2) lot Torrens title subdivision of an approved dual occupancy (attached) (DA19/1263) which will include minor realignment of internal sewer lines.

DA19/1263 was approved by Council on 07 May 2019 and pre-dates the operation of the current wording of clause 4.1A in SLEP 2014.

The proposed Torrens title subdivision would result in the creation of two lots with the following lot areas:

- Proposed Lot 1 (9B Jindalee Crescent, Nowra) – 381.4m² total site area.

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- Proposed Lot 2 (9A Jindalee Crescent, Nowra) – 355.3m² total site area.

The proposal is for subdivision only and therefore, the physical environment does not change from that approved by DA19/1263. Figure 2 shows the proposed subdivision layout.

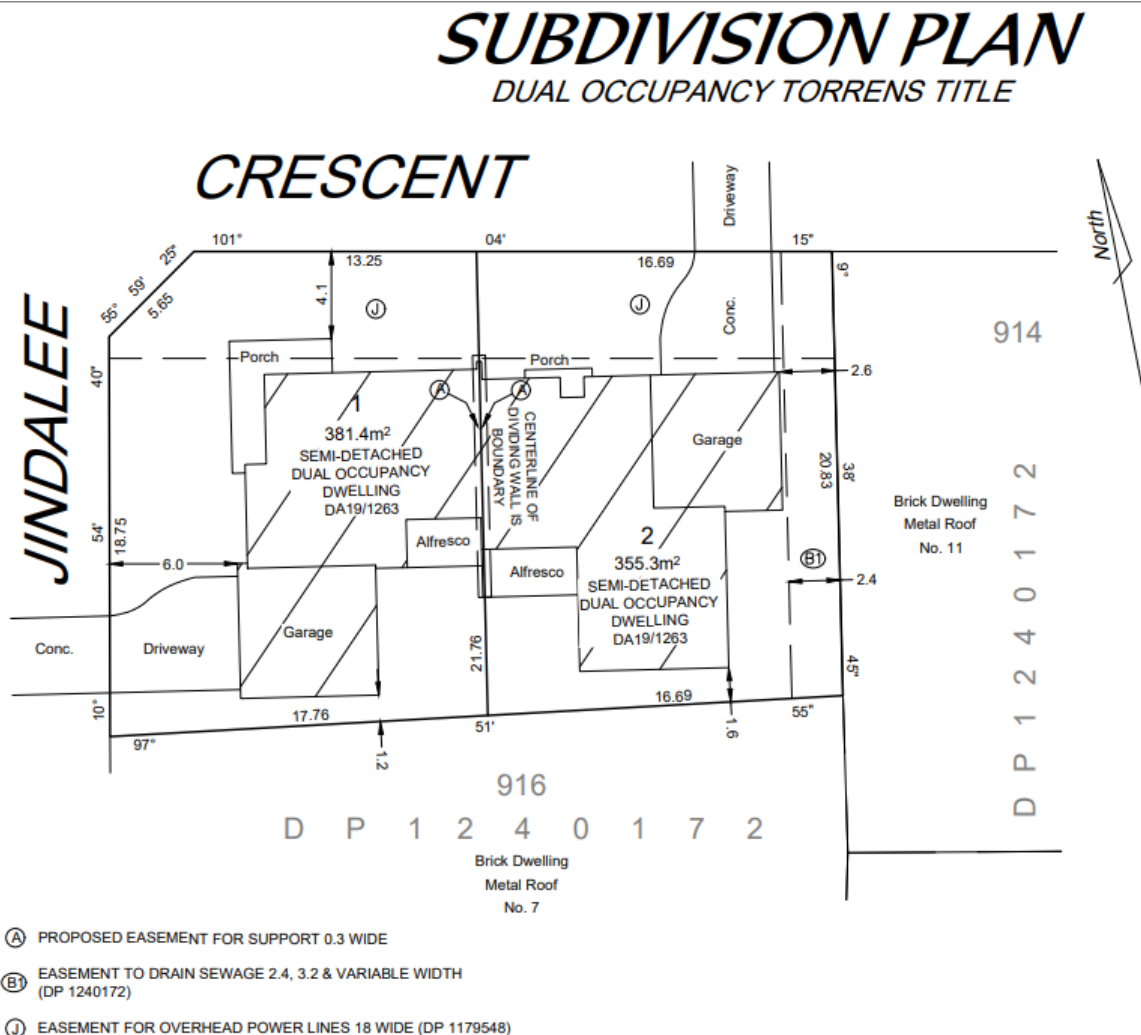


Figure 2: Proposed Subdivision Layout

The current clause 4.1A (4) allows for the subdivision of a dual occupancy approved under that clause to be subdivided into lots of any size, enabling the resulting individual dwellings to those lots to have separate titles.

Given the approval of **DA19/1263** pre-dates amendment No. 35 to SLEP 14 (i.e. the date of operation of the current version of cl. 4.1A), the Savings provisions under 1.8A [subclause (2)] requires the application to be determined as if that Plan had not commenced and therefore the application does not benefit from clause 4.1A [subclause (4)].

As such, the proposed subdivision is required to be undertaken pursuant to clause 4.1 of SLEP 2014 where a minimum lot size of 500m² applies to the site.

Proposed Lot 1 and 2 have areas less than 500m² and therefore a variation to the minimum lot size development standard is required. Any determination of the Development Application

must consider the requirements of clause 4.6 – Exceptions to Development Standards of SLEP 2014.

It is noted that despite being technically non-compliant with the minimum lot size requirement under clause 4.1, the proposed development remains consistent with SLEP 2014.

The proposed subdivision has no impacts upon the surrounding locality above and beyond that already considered at dual occupancy stage. The subdivision essentially enables individual land titles to be created for the existing development.

Accordingly, under these circumstances, there is no utility in maintaining the minimum lot size development standard under clause 4.1 in this case, as the respective subdivision for dual occupancy beneath the minimum lot size is now permitted under clause 4.1A (4).

It is noted that Council has considered previous similar proposals having regard to the subdivision of existing dual occupancies.

Subject Land

The development site comprises Lot 915 DP 1240172, located at 9 Jindalee Crescent, Nowra. The site has an area of 736.70 m² and is regular in shape.

Site & Context

The site currently contains an approved dual occupancy (attached) and adjoins residential development to the north, south, east, and west. The locality is within the zone R1 General Residential (see Figure 3).

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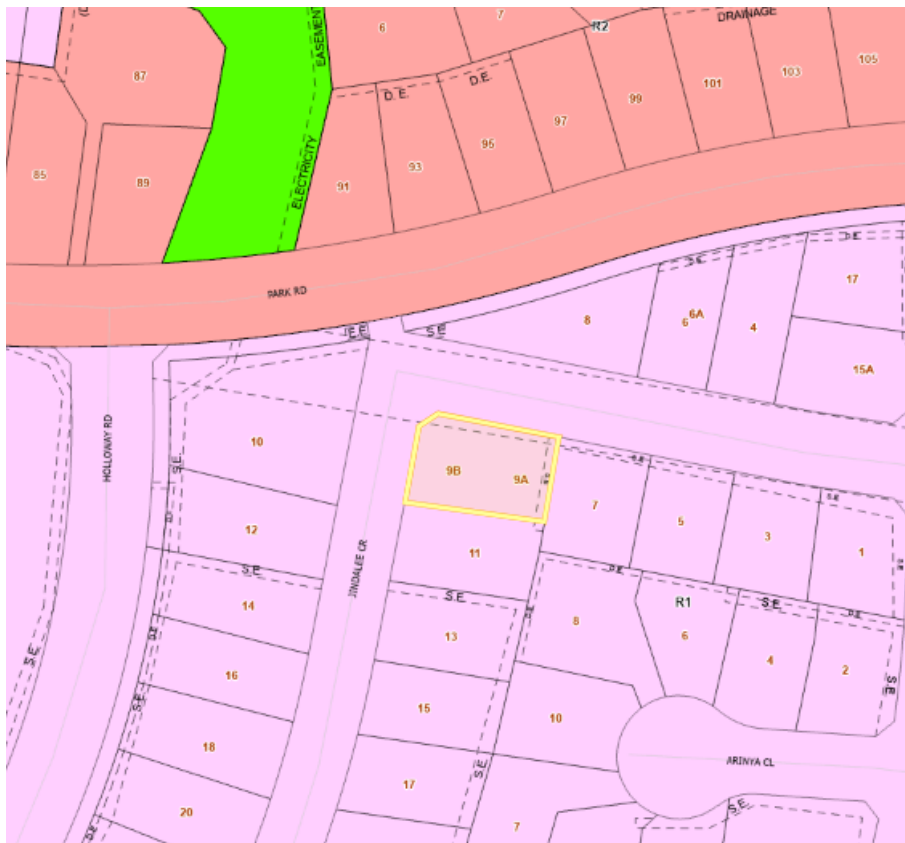


Figure 3: Zone Mapping – SLEP 2014

Issue - Clause 4.1 – Minimum Subdivision Lot Size of SLEP 2014

The proposed subdivision results in two lots with the following site areas

- Proposed Lot 1 – 381.4m²
- Proposed Lot 2 – 355.3m²

Proposed Lot 1 is 118.6m² under the minimum lot size requirement. This is representative of a departure to development standard of 23.7%.

Proposed Lot 2 is 144.7m² under the minimum lot size requirement. This is representative of a departure to development standard of 28.9%.

Written Request Provided by the Applicant

Under clause 4.6(4) of the Shoalhaven Local Environmental Plan (SLEP) 2014, development consent is not permitted to be granted for development that contravenes a standard unless the consent authority is satisfied that:

- the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) in that the application has demonstrated that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard, and
- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The Applicant has provided the following commentary in the written request to vary the development standard:

To enable the highest and best use of the land in line with the residential densities planned in the R1 General Residential zone - as intended by Amendment 35 of the Shoalhaven LEP 2014 - this proposed 4.6 Variation is seeking exemption to the 500 m² development standard:

- *Proposed Lot 1 is below the 500m² minimum lot size being 381.5m² which equates to 23.7% or 115.5m²*
- *Proposed Lot 2 is below the 500m² minimum lot size being 355.3m² which equates to 28.9% or 144.7m²*

This Clause 4.6 variation statement demonstrates that the justification for varying the development standard is well founded because:

- *The physical development already exists and subdivision will not change its physical appearance;*
- *The proposed subdivision will not undermine the integrity of the subdivision and character of the area and is compliant with the 500m² minimum lot size requirement for detached dual occupancies;*
- *The proposed subdivision will not have a negative impact on the existing amenity of the area or impact neighbouring properties;*
- *There are no works proposed as a result of the subdivision including parking, servicing and vehicle manoeuvring areas;*
- *The proposed subdivision is consistent with the residential densities planned in the zone following Council's Subdivision Review;*

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- *There are no environmental planning grounds that warrant maintaining and/or enforcing the numerical lot size standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the lot size control allowed by Clause 4.6 of the Shoalhaven LEP 2014.*
- *The variation sought represents an appropriate degree of flexibility within the scope of Clause 4.6. The non-compliance achieves better outcomes for and from development.*

The variation to the development standards will not result in any adverse impacts to surrounding residents, is consistent with the envisaged low-density character of the local area and is consistent with residential densities planned in the R1 General Residential zone.

The proposal is considered to have sufficient planning grounds to justify departure to the minimum lot size development standard in this case.

There are no environmental planning grounds that warrant maintaining and/or enforcing the numerical lot size standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the lot size control allowed.

Compliance with Development Standard is Unnecessary or Unreasonable

Council staff concur with the rationale and clause 4.6 variation statement set out by the applicant, and strict compliance with the clause 4.1 minimum lot size development standard is considered unreasonable in this instance as it would be inconsistent with the form of development permitted under clause 4.1A if the dual occupancy was approved after 21 August 2020 under amendment no. 35 of SLEP 2014.

There is no utility in maintaining the minimum lot size development standard under cl. 4.1 in this case, as the respective subdivision for dual occupancy beneath the minimum lot size is now permitted under cl. 4.1A (4).

The proposal is not contrary to the objectives of the development standard and SLEP 2014, and objectives of the development standard are achieved notwithstanding noncompliance with the development standard in this instance.

Sufficient Environmental Planning Grounds

Council staff concur with the rationale and clause 4.6 variation statement set out by the applicant that there are sufficient environmental planning grounds to justify the contravention to the subdivision minimum lot size development standard in this instance. The proposed subdivision promotes the orderly development of land and is consistent with the type of development that would be permitted under Amendment 35 of the Shoalhaven LEP 2014.

Public Interest

The development site is zoned R1 General Residential. The objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To identify land suitable for future urban expansion.*

The proposed development is not contrary to the zone objectives.

The objectives of SLEP 2014 clause 4.1 are:

- *to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,*
- *to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
- *to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

The proposal is consistent with the objectives of the R1 General Residential zone and clause 4.1 of Shoalhaven LEP 2014. The proposed development is considered to be in the public interest.

Planning Assessment

The DA has been assessed under section 4.15 of the Environmental Planning and Assessment Act 1979. Please refer to Attachment 2.

Internal Consultations

The application was referred to Council's GIS unit for street number allocation and Shoalhaven Water. No issues were identified as a result of the referrals.

External Consultations

Nil.

Community Consultations

Pursuant to Section 3.3.1, Table 1 of Council's Community Consultation Policy, development which involves a two (2) lot Torrens subdivision of an approved dual occupancy development is not required to be notified within the surrounding locality. This is because the subject application does not involve any physical works and notification was already carried out as part of the assessment of the dual occupancy development within Council's approved Development Application No. DA19/1112.

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 of NSW.

Legal Implications

Pursuant to section 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a decision of the Council may be subject of a review by the applicant in the event of an approval or refusal. If such a review is ultimately pursued the matter would be put to Council for consideration.

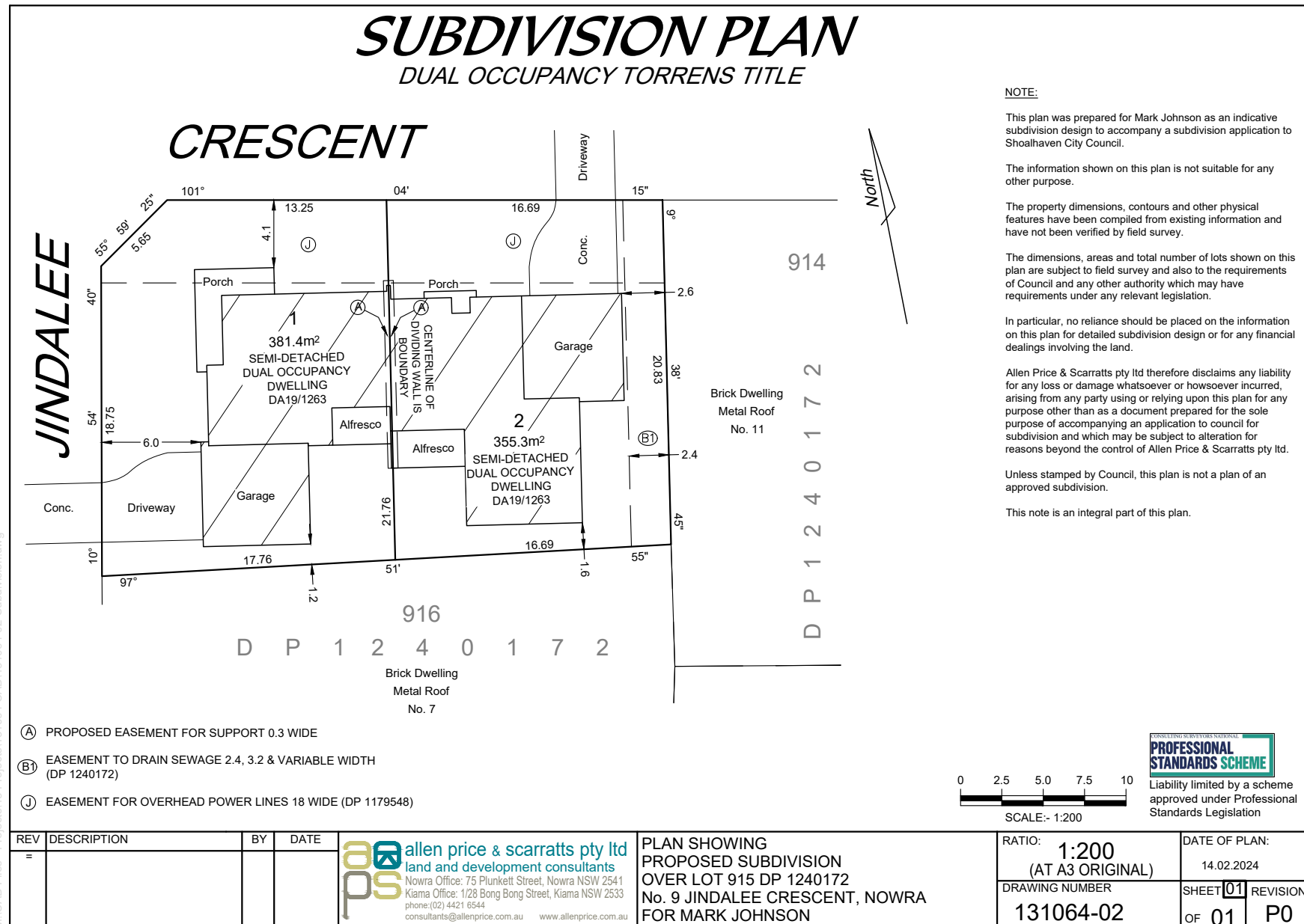
Alternatively, an applicant may also appeal to the Court against the determination pursuant to section 8.7 of the EP&A Act.

Summary and Conclusion

This application has been satisfactorily assessed having regard for section 4.15 (Evaluation) under the EP&A Act). Having regard to the assessment and the matters described in 'Issues' above, the proposal is recommended for determination by way of approval.

A draft determination has been prepared and is located at Attachment 1 to this Report for consideration.

CL24.167



CL24.168 Connection to Town Sewerage System - Beecroft Ranger Station - Currarong Road Beecroft Peninsula

HPERM Ref: D24/191964

Department: Water Asset Planning & Development

Approver: Robert Horner, Executive Manager Shoalhaven Water

Reason for Report

Shoalhaven Water is in receipt of an application under the Non-Urban Wastewater Connection Policy to connect part of Lot 1 DP 609281, Beecroft Ranger Station at Currarong Road Beecroft to Council's Sewerage System. The land is zoned SP1 Defence.

Recommendation

That Council approve the connection of Lot 1 DP 609281, Beecroft Ranger Station at Currarong Road Beecroft to the Currarong Sewerage Scheme by a pressure sewer system, subject to the applicant complying with all conditions specified in the Shoalhaven Water Development Notice.

Options

1. Adopt the recommendation.

Implications: This is recommended as there is sufficient capacity in the Currarong Sewerage Scheme, the proposal is considered minor development that will have only minor impact to the capacity of the Currarong Scheme.

2. Council may choose not to permit the property to connect to the town sewerage scheme.

Implications: The applicant will continue to manage their effluent via on-site sewage management in accordance with other Regulations, Codes and Standards.

Background

The Commonwealth Department of Defence is undergoing various upgrades to the Beecroft Ranger Station and as part of these works has requested a connection to the nearby Currarong Sewerage Scheme, to better manage their effluent and allow for future expansions.

The Beecroft Ranger Station is the only entrance to the Northern part of the Australian Capital Territory that surrounds Jervis Bay. As well as monitoring/regulating the public entry to popular tourist havens (e.g. Honeymoon Bay and Point Perpendicular) it also functions as a maintenance facility for the management of the surrounding lands.

Currently, the buildings are serviced by an on-site sewage management facility of unknown age. Part of the proposed development works cannot connect to the existing on-site facility and therefore required a review of alternative options. The preferred option is to install a council-owned pressure sewer system and connect to the nearby Currarong Sewerage Scheme.

CL24.168

Pressure Sewer Servicing

Consultants working on behalf of the applicant have recommended (in consultation with Shoalhaven Water) the best option for sewer servicing of the facility, and to allow for future expansion/alterations, is by a Council owned and maintained Pressure Sewer System.

Design plans have been submitted to and reviewed by Shoalhaven Water Regulatory & Development Unit and are prepared in accordance with Shoalhaven Water's adopted Standards and Specifications.

The design and construction work would include:

- The on-site pressure sewer unit, boundary kit and control panel (these works are carried out by Shoalhaven Water), and
- Approximately 330 metres of 63mm diameter HDPE sewer rising main (from the maintenance facility building in an easterly direction to the existing sewer manhole on corner of Nowra and Currarong Roads). This work would be carried out by the developer with assistance of Shoalhaven Water staff.

In accordance with Section 3.4 of the Non-Urban Wastewater Connection Policy, all works are at the applicant's cost. In addition, the applicant will need to obtain written approval for works within the road reserve of Currarong Road from Council.



Policy Implications

Assessment under the Non-Urban Wastewater Connection Policy:

Council's policy provides for non-urban zoned properties to connect to the town sewerage system subject to compliance with Section 3.3 *Criteria For Determination of an Application for a Property to Connect to Council's Sewerage System*, which states:

"Connection to Council's sewerage system will only be made available to non-urban properties upon written application in the following circumstances:

- *Where capacity exists in the existing system, and*
- *Where the current levels of service can be provided, and*
- *Where the property is paying the wastewater availability charge.*

CL24.168

Properties not paying the wastewater availability charge will only be considered for connection to Council's sewerage system if it is not possible to manage wastewater by on-site treatment. Approval in this situation is subject to Council resolution."

Assessment in accordance with each of these criteria is outlined below:

1. Where capacity exists in the existing system

The calculated loading is 1.0 Equivalent Tenement (ET). There is possibility of future expansion/connection of other buildings to the pressure sewer system and would be subject to further assessment by Shoalhaven Water. The town sewerage system does have capacity to support the proposed connection and future expansion now and into the future.

2. Where the current levels of service can be provided

Current levels of service via pressure sewer can be provided as it is relatively close to the existing sewerage system.

3. Where the property is paying the wastewater availability charge

The property is not paying the wastewater availability charge.

Properties not paying the wastewater availability charge will only be considered for connection to Council's sewerage system if it is not possible to manage wastewater by on site treatment. Approval in this situation is subject to Council resolution.

The age of the existing on-site system is unknown and would likely require an upgrade to support any additions or alterations to the facility. This will be problematic due to the surrounding sensitive environment.

Discussions between Shoalhaven Water staff and Council's Environmental Services Unit were held, with the latter supportive that a connection to the town sewerage system be supported.

Financial Implications

There are no negative financial implications to Council.

If approval is granted Council would benefit via the sewer availability charge and sewer usage charge being applied to the lot.

The applicant will also be levied the once off Separate System Connection Fee of \$8,339.00 (2023/24) through a condition on the Water Development Notice.

Risk Implications

There are no new risk implications to Shoalhaven Water's role in maintain the new pressure sewer main and pressure sewer unit on the property.

CL24.169 Tenders - Panel of Suppliers to Supply Pumps, Ancillary Items & Spare Parts to Shoalhaven Water

HPERM Ref: D24/191475

Approver: Robert Horner, Executive Manager Shoalhaven Water

Reason for Report

To inform Council of the tender process for the establishment of a Panel of Suppliers to supply Pumps, Ancillary Items & Spare Parts to Shoalhaven Water for a period of three years with optional extension of up to two years.

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

Recommendation

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

Options

1. Accept the recommendation

Implications: The confidential report will be considered.

2. Propose an alternative process for consideration of the issue.

Implications: This is not recommended as a tender process has been undertaken in accordance with the Tender Evaluation Plan.

Details

The confidential report provides the outcomes of a tender process undertaken by staff, whereby proposals were sought from pump manufacturers/suppliers to supply Water and Sewer Pumps, Ancillary Items & Spare Parts for a minimum period of three (3) years with the option of an additional two (2) year extension.

Shoalhaven Water operates over 220 sewage pumping stations comprising approximately 500 pumps, and 26 water pumping stations comprising approximately 60 pumps. To provide adequate services to the community Shoalhaven Water is conducting ongoing asset replacements. From 2013 to 2024 Shoalhaven Water have procured pumps and ancillary items through previous supply contracts. This current arrangement is due to expire on 30 June 2024 and renewal of a similar arrangement is the key driver for the tender.

CL24.169

Shoalhaven Water is seeking to minimise procurement costs (without compromising product quality and service) and improve the exchangeability of pump parts and equipment between different sites and pump sets.

To support a cost effective and efficient pump asset replacement/upgrade program Shoalhaven Water recommends a strategy which involves a Pump Procurement Supplier Panel with one or more approved suppliers. Tenders were called on this basis in an open tender process.

Tendering

Council called tenders for the Provision of a Panel of Suppliers to supply Pumps, Ancillary Items & Spare Parts to Shoalhaven Water on 15 March 2024 and closed at 10am on 24 April 2024.

Five (5) tenders were received from the following companies:

- JAC Pump Services Pty Ltd
- National Pump & Energy Pty Ltd
- Xylem Water Solutions Ltd
- Beck Water Pty Ltd
- Enviro One Services and Installations Pty Ltd

Shoalhaven Water seeks suppliers that provide value for money for a wide range of pumps (and associated equipment) while supporting an experienced professional team that has demonstrated quality before and after sales service.

The Procurement Evaluation Plan (PEP) prepared for the assessment included mandatory, price and non-price criteria.

Details relating the evaluation of the tenders are contained in the separate Confidential Report.

Community Engagement:

Water and sewage pumping stations are critical assets and the efficient management of these assets is crucial to the protection of the environment and public health.

The proposed contractual arrangement will provide for greater efficiency in the purchase of new pumps, thus reducing the risks associated with the safe delivery of water and minimising the risk of overflows from sewage pumping stations.

Policy Implications

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

Financial Implications:

Sufficient funds have been allocated in the Water and Sewer Funds to accommodate the proposed pump replacement program.

CL24.170 Notice of Motion - Removal of 77 Princess Street, Berry from Land Sales Strategy Program

HPERM Ref: D24/219996

Submitted by: Cllr Patricia White
Cllr John Wells

Purpose / Summary

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

Recommendation

That Council:

1. Direct Council staff to remove Lot 1 DP 209665 77 Princess Street, Berry from Council's Land Sales Strategy and notify Berry Forum and Councils 'Get Involved' page of this resolution.
2. Maintain 77 Princess Street, Berry as Special Purpose 2 (Car Park and Servicing) public car parking for Berry.
3. Ensure this Council property is not provided for carparking use for any proposed private developments.
4. Note Council's property file for 77 Princess Street Berry by the inclusion of this Notice of Motion and resulting resolution for further reference.

Background

At the 8 April Ordinary meeting, the resolution (MIN24.179) for Item 10 to -

"Commence investigation to rezone and/or reclassify (77 Princess St) identified within Table 4with a further report brought to Council on the outcomes of this investigation"

was based on the information presented in CL24.89 Council's Land Sale Strategy - Update which listed potential land sales, in which 77 Princess Street, Berry was categorised as an *"Underperforming community facility"*.

Parking Concerns

- In response to the Mayor's request *"to hear from residents about any of the properties listed for sale to determine if they are suitable for sale,"* many Berry residents strongly dispute the assertion that 77 Princess St is *"underutilised and surplus to the needs of the community, based on current & potential use"*.

The land was acquired by Council in 2014 to provide a new **public** carpark and one-way service lane for Queen Street shops. The car park is well used, despite most residents being unaware that it is a public car park because there is no signage.

Community investigations undertaken have identified that the proposed sale is not consistent with Council's Asset Management Policy, Asset Management Strategy or Asset Management Plans.

The lack of parking in Berry for residents and visitors is a serious concern, which will be exacerbated by the cancellation of the planned 180 car park spaces at Boongaree.

CL24.170

The onsite parking proposed in the Berry Hotel DA is grossly inadequate to cater for the projected 470 customers and staff and will result in substantial overflow on-road parking.

Significant relevant circumstances not disclosed in CL24.89 Report

- 77 Princess Street was rezoned Special Purpose 2 (Car Park and Servicing) in 2014 to provide key supporting infrastructure aligned with the Objectives of SDCP Ch.N2 Berry Town Centre, SDCP.
- The car park is adjacent to a right of carriageway from Princess Street to the Berry Hotel.
- The Hotel owners' application (RA23/1002), which states "*The proposed development also provides 17 sealed spaces on Council's land at 77 Princess Street*" is before the Southern Regional Planning Panel for determination and the subject of a referral to the LEC on the grounds of deemed refusal.
- The inclusion of 77 Princess Street in a private sector DA has necessitated:
 - Referral of the assessment of the application to an external independent town planning consultant; and
 - A Council Conflict of Interest Management Statement on DA tracking.
 - Any enabling mechanism, such as a planning agreement, that may have been agreed to by Council to allow inclusion of 77 Princess Street in the Hotel DA has not been publicly notified or made available for inspection and comment.
- 77 Princess Street was described as Lot 1 DP 209665 in the report to Council and was not identified as a car park, whereas -
 - four other car parks in the Land Sales Strategy Update were identified and reported to Council as car parks, and
 - other properties in Mundamia, Nowra and Berry, which are the subject of various Council actions, were specified in the Strategy Update with the Council actions explained. However, the report was silent about matters relating to 77 Princess Street.

Council's Development and/or Disposal of Council Lands policy

Provisions:

- To ensure the public interest is uppermost and overrides any private interest of any party.

Principles

- c) The focus of Council's preliminary assessment should be on planning considerations under Council's regulatory role, in assuring the best public/community interest following ESD principles.

CL24.170

CL24.171 Notice of Motion - “Call In” MA2024/1134 - Lot 22, DP717323 Wells Place, Shoalhaven Heads

HPERM Ref: D24/220178

Submitted by: Cllr Patricia White

Purpose / Summary

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

Recommendation

That Council “Call In” MA2024/1134 relating to Lot 22, DP717323 Wells Place, Shoalhaven Heads be reported to Council for determination due to the public interest.

CL24.171

CL24.172 Notice of Motion - Frances Ryan Reserve Sanctuary Point

HPERM Ref: D24/220468

Submitted by: Cllr Paul Ell

Purpose / Summary

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

Recommendation

That Council:

1. Notes the need for improved facilities the Frances Ryan Reserve, Sanctuary Point
2. Notes that Council staff have made enquiries about whether the \$398,000.00 NSW Stronger Country Communities Fund grant can be repurposed.
3. Directs the CEO (City Lifestyles) to provide a timely report on the status of the representations made to the funding body and options for the use of the grant for projects connected with the Frances Ryan Reserve as part of the finalisation of the 2024-25 Delivery Program Operational Plan & Budget.

Background

Councillors were recently briefed on the Bob Proudfoot Pavilion and other proposed works at the Frances Ryan Reserve.

Whilst it is disappointing that the Pavilion project won't be able to proceed at this time, approval is being sought from the State Government to repurpose the Stronger Country Communities Grant for the improvement works at the facility.

I have also received representations from the St Georges Basin Junior Rugby League Club about the importance of the new fencing for the club. They have also raised significant funds towards this goal.

I hope Councillors will support this motion to receive a report with an update on the representations to the funding body as well as options for how the Stronger Country Communities Fund Grant can be utilised to deliver much needed community infrastructure for Sanctuary Point.

CL24.172

CL24.173 Notice of Motion - Calling for Stricter Regulation of Tobacco and Vape Stores

HPERM Ref: D24/220550

Submitted by: Cllr Serena Copley

Purpose / Summary

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

Recommendation

That Council:

1. Acknowledges that smoking is the leading cause of preventable disease and death in Australia.*
2. Advocate to the NSW Government that the standard instrument LEP zonings related to mixed-use and employment zones, and the exempt and complying criteria under the SEPP (Exempt and Complying Development Codes) 2008 are revised to mandate that tobacconist stores (whether attached to gift shops as a commercial premises or not) require approval through a development application.
3. Investigate, as part of the current LEP review process, any existing mechanisms to require development applications for tobacconist stores to open in the Shoalhaven Local Government Area, even where it is a change of use of an existing retail or commercial space.
4. Advocate to the NSW Government that there be a limit and possibly a reduction in the number of tobacconist stores authorised to operate in NSW and a cap on the number of these businesses in the Shoalhaven.
5. Review and identify the number of tobacconist stores currently located close to schools in the Shoalhaven for ongoing review and use in any determinations for which Council is currently, or may be in the future, the approval authority.
6. Write to the NSW Government seeking their cooperation in enacting these changes.
7. Receive a report back to Council identifying all local and state regulatory and planning powers and pathways that can be activated to achieve the objectives stated above.

*<https://www.health.gov.au/topics/smoking-vaping-and-tobacco/about-smoking/effects#:~:text=Heart%20disease%2C%20stroke%20and%20blood,the%20heart%2C%20brain%20or%20legs.>

Background

As part of the current legislated allowances, the Nowra CBD has seen a number of tobacco shops open, with seven prevalent in the CBD, and a further two in the Nowra Centre Plaza, formally known as Stockland (totalling nine in the central Nowra locale). All within walking distance of schools.

Vapes containing nicotine and the importation of disposable vapes were banned on 1 January, 2024.

CL24.173

The siting of these shops and the sale of harmful products is not regulated by land use to the degree that would allow full assessment of the impacts where proximity to other land uses presents potential conflict (for example schools). A new bottle shop for example will require a development application and social impact assessment. However, a tobacconist can open and trade by filling out a few forms. The high number of businesses of this kind opening in close proximity to primary and secondary schools poses a significant health risk to children and must be addressed as a matter of urgency.

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.