

Ordinary Meeting

Meeting Date: Monday, 29 July, 2024

Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

Attachments (Under Separate Cover)

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Fee Waivers and Subsidies Policy

Adoption Date:	
Amendment Date:	21/11/2017, 15/05/2018
Minute Number:	MIN15.721, MIN17.979, MIN18.353
Review Date:	30/05/2024
Directorate:	City Performance
Record Number:	POL22/77

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1. Purpose

This Policy:

- Cover the hire of Council managed assets including public reserves, public halls, sports fields, waterways, and any other facility which Council manages (excluding the Shoalhaven Entertainment Centre)
- Defines the framework for assessment of applications and calculation of subsidies, waivers or any other form of fee relief or support
- Satisfies Clause 610E of the Local Government Act by determining categories under which Council may waive or subsidise fees.
- Applies to the hire of Council managed assets (exclusions are noted in item 2)
- Ensures that subsidies provided under this Policy are equitable, transparent and effective, reducing the risk of corrupt conduct
- Ensures that subsidies comply with all known legislation, guidelines and regulations
- Defines Council's criteria for the approval under delegation of any reduction in adopted fees, clearly identifying responsibility and accountability levels
- Encourages optimal use of community facilities and assets by local community organisations and recreation groups
- Recognises the social value and benefits of services and activities organised and provided by community-based groups and supports these groups by community-based pricing
- Ensures that Council obtains contributions from user groups towards the costs of providing facilities, services and assets
- Documents the reporting requirements for subsidies given to each community group

2. Statement

Shoalhaven City Council owns and manages facilities throughout the Shoalhaven, providing for a range of social, political and economic service provision. Council recoups a small percentage of these costs through service provision and hire Fees and Charges, with the intention that the users of facilities contribute in an equitable and transparent manner.

Council's Fees and Charges Policy determines the fees and charges for the hire of Council's facilities. Fees and charges are calculated annually and exhibited for 28 days in line with the Local Government Act 1993, normally during the months of April and May each year. Under the Local Government Act, any further changes to Fees and Charges throughout the year are required to be adopted by Council and placed on public exhibition for a required period.

This Policy defines the framework by which Council may provide fee waivers, subsidies or support beyond the Fees and Charges Policy without the requirement for public exhibition. Subsidies are calculated using the Fee Subsidy Calculator, which documents and considers a range of socio-economic variables and determines a percentage discount for a hire event.

Fee support is subject to budgetary constraints which will be reviewed by the Council's Asset Custodian for facilities and/or services.

The Policy applies to all applications for fee support for Council managed community facilities for either casual or regular hire, including:

- Public parks and reserves directly managed by Council
- Public facilities and buildings directly managed by Council
- Council's Section 355 Management Committee community facilities

Excepting Clause 3.5, this Policy does not apply to:

- Water or Sewer Funds, which are separately covered under the Community Service Obligation Policy consistent with the NSW Government Water Supply, Sewerage and Trade Waste Pricing Guidelines adopted by Council
- Shoalhaven Entertainment Centre, which has its own hiring policy given the different arrangements in place but will reference this policy when waivers are being evaluated.
- Ranger or Shoalhaven Animal Shelter waiving of fees as determined under the *Fee Waivers – Ranger Services Unit*
- Development applications and other fees that are determined under the *Fees – Waiving of Development Application and Other Fees for Charitable Organisations and Community Groups*
- Most lease arrangements as determined by Property under Occupation of Council Owned or Managed Land, where commercial arrangements are optimised

2.1 Definitions

Term	Meaning
Competitive neutrality	Competitive neutrality principles require that a government agency that is engaged in a "significant business activity" must not enjoy any net competitive advantage over its private sector competitors by virtue of its public ownership. Such advantages might include

	immunity from certain government charges, lower capital costs or statutory immunity from regulatory compliance.
Direct cost	All costs that can be specifically and easily identified with the service being provided, including employee benefits and non-salary items
Employee benefits	Comprises salary and wages expenses together with associated on-costs (annual leave, long service leave, sick leave, superannuation, payroll tax, training, etc)
Fee support	A general term referring to either Subsidy or Waiver provided by Council
Subsidy	A financial contribution to help or encourage an event to happen. A subsidy can take the form of a transfer of funds or foregone revenue.
Waiver	An approved full relinquishment granted to an eligible organisation

3. Provisions

3.1. Fee Support – Other Funding Bodies and Government Agencies

Council provides facilities at highly subsidised rates of partial cost recovery.

It is required that before any subsidy or waiver is considered an approach is made by the hirer to State or Federal Government agencies or other funding bodies to seek support. Grant funding bodies such as Sports Australia, Department of Regional NSW, Office of Sport and Destination NSW frequently offer funding opportunities to event organisers.

3.2. Eligibility

Levels of subsidy may be applicable under this Policy, based on the following conditions:

- Benefits accrue to a wider group than direct users
- Services are provided specifically to groups who do not have the capacity to pay
- Council has a long-term policy objective of encouraging or supporting an activity or a specific group of people
- The proposed use of the facility or asset is consistent with the main purpose of the organisation and the event is open to the public
- The proposed use is for a non-commercial community-based event, which may be for community development, education and/or awareness activities

To be eligible for a subsidy, organisations are required to provide the following information:

- Evidence of registration as a Charity or Incorporated Not For Profit organisation, registered within the Shoalhaven Local Government Area
- Evidence of what is being done to provide community betterment if a non-incorporated body or individual
- Financial statements of the organisation, i.e. bank statements and financial reports (Bank Statement, Profit and Loss and Balance Sheet, as a minimum)
- Details of any previous subsidies provided or alternate funding from other sources

Fee Subsidies are calculated in accordance with the Fee Calculator (Attachment 1), taking into consideration the degree of eligibility criteria as above.

Applications must be submitted by Application Form (Attachment 2), a minimum of three months prior to the date of the booking.

No retrospective requests will be considered.

3.3. Public Programs

From time to time, Council will introduce Public Programs which need to be individually costed with any subsidies determined being applied to the individual programs and reported to Council.

3.4. Applications

Applications will be assessed by the Asset Custodian, or Council Department overseeing the service in accordance with the Fee Waivers and Subsidies Policy and Procedure (PRD21/91).

3.5. Promotional and Marketing Activities

From time-to-time certain businesses within Council will offer initiatives or promotional ticketing to market an event or facility. These offers may include:

- Reduced pricing offers or vouchers for accommodation in Holiday Haven
- Tickets to events at the Entertainment Centre
- Reduced pricing to events at aquatic centres

These offers will be documented and captured in Council's annual Report.

3.6. Ineligible Waivers

Fees cannot be waived under the following conditions:

- Management Committees do not have authority to waive/subsidise fees. Applications will be assessed under this Policy by Council's Asset Custodian. Alternatively, application could be made for a donation under Council's Donations Policy
- Where other Council assistance is provided for the event or to the organisation in the same Financial Year
- For meetings of an organisation that are closed to the community
- For marketing, advertising or promotion of a commercial entity
- Where fees are for Bonds, additional garbage or waste services or the cost of cleaning associated with the event /activity and use of the facilities (i.e. hard costs such as labour, electricity, etc.)

Note: Bonds are held to reimburse Council for damage or cleaning costs and may be partially or fully waived based on past dealings with the hirer or the type of activity to be undertaken, in accordance with this procedure or at the discretion of the Asset Custodian. If the extent of damage or cleaning exceeds the bond, then Council may seek compensation for all associated costs.

3.7. Delegations and Authorities

Authority levels for fee waivers and subsidies for approved organisations shall be as follows:

Waiver / subsidy amount	Approver
All subsidies over \$1,000 and under \$4,000	Director
Any subsidies over \$4,000	Council
Waiver or subsidy to an individual – any amount	Council

In accordance with Section 377 of the Local Government Act 1993, the Chief Executive Officer may authorise payment of a Subsidy or Waiver adopted by Council, other than where it is a decision under Section 356(2) to contribute money or otherwise grant financial assistance to an individual. Financial assistance or payment to an individual must be authorised by Council resolution and following a 28-day public exhibition period, if applicable.

3.8. Reporting

An annual report shall be submitted to Council detailing all fee support granted under this Policy. The fee support shall be recognised in Council's Annual Report.

4. Implementation

The Director City Performance will be responsible for co-ordinating the review of this policy.

5. Review

The responsibility for the review of this policy sits with the relevant departments i.e., Hire of Community Facilities, etc.

To be reviewed:

- within one year of the appointment of a new elected Council
- as directed by Council
- as a result of a review in legislation that affects this policy

Attachment 1 – Fee Waivers and Subsidies Calculator (D17/139578)

Shoalhaven City council **Update all Yellow highlighted cells**

Public Program Price Calculator
for the 15/16 Year

Council Department:
Council Program:

(i) Operating Expenses (enter actual costs for the program)

Direct Costs:-

Employment Costs	
Facility Hire costs	
Marketing Costs	
Depreciation annually	
Materials	
Other Costs	
subtotal	

Indirect Costs:-

Statutory Fees (if applicable)	
On-costs	
Internal Overheads	8%
subtotal	

(ii)a. WDV of Assets Employed (enter total value)

Infrastructure	
Property	
Plant & Equipment	
total	

(ii)b. Net Working Capital Utilised (enter only if required)

Cash	
Debtors	
Stores	
total	

Total Assets Employed/Utilised

(iii) Return on Capital

Long Term Commonwealth Bond Rate	4.0%
Required Return on Capital	

(iv) Commercial Return

Rate of Required Return (incl. Return on Capital) Enter as a percent	2.0%
Required Profit	

No. of Participants
No. of Ratepayers

No. of Days Program to run
Duration of Program (hrs)

(a) Other Revenues

Grants	
Interest on Investments	
Other income offsets	
total	

GST
Enter percentage GST if applicable

Bond Amount
Should this be included in the cost recovery?

(1) Net Cost Analysis (before Pricing Policy)

Net Direct	A + Indirect	B + ROC	B + CR

(2) Price per program

Price	Subsidy	Subsidy	Net Cost
per program	per program	per Ratepayer	ie. Total

Direct + Indirect Costs

Price	Subsidy	Subsidy	ie. Total
per program	per program	per Ratepayer	Subsidy

Prices inclusive of GST if applicable

Price	Subsidy	Subsidy	Net Cost
per program	per program	per Ratepayer	ie. Total

***User Pays (DC) - Full Recovery of Direct Costs**
***User Pays (DCO) - Full Recovery of Direct Costs + on-costs / Overheads**
***User Pays (ROC) - Cost Recovery + Return on Capital**
***User Pays (Mkt) - Commercial Return / Market Prices**

CL24.216 - Attachment 1

Attachment 1 (cont.) – Fee Waivers and Subsidies Calculator (D17/139578)

HIRER (Enter Name of Hirer)		TYPE OF HIRER	
PREMISES (Enter Location)		FINANCIAL SUPPORT RECEIVED	
		Sports Club	

CATEGORY TABLE
DETERMINING THE LEVEL OF SUBSIDISATION

The level of subsidisation will be determined by assessing each user against the criteria and evaluating their weighted distribution across the categories.

Category	Level of Subsidisation	From (%)	To (%)
A	High	95%	100%
B	Medium	50%	90%
C	Low	0%	50%
D	None	0%	0%

Criteria	Category A (90%-100% subsidy). Each answer worth 4 points.	Rating	Category B (50%-90% subsidy). Each answer worth 3 points.	Rating	Category C (1-50% subsidy). Each answer worth 2 points.	Rating	Category D (No subsidy). Each answer worth 1 point.	Rating
Extent of Service provided by the organisation or sporting group	Broad community (more than 40%) is a beneficiary of service provided by organisation or sporting group.	4	Service is significantly used (more than 20%) by a number of specific sections of local community (families & children).	3	While the organisation/sporting group provides a direct service to only a small number in the local community, it forms part of a larger service.	2	Service/Sport only used by small number of local community (less than 1,000 people).	1
Extent of availability of Facility/Event/Sport to general community	Facilities/Event/Sports are available to everyone in Shoalhaven community.	4	Facilities/Event/Sports generally available to Shoalhaven community.	3	Facilities/Event/Sports have limited availability to others in Shoalhaven community.	2	Facilities/Event/Sports not accessible or has limited access to others in community.	1
Number/Type of Service Providers	A unique service/sport (only one of a kind).	4	One of a number of providers of a community service/sport.	3	One of a number of providers meeting a less critical community need.	2	Provider meets only one social or recreational need only.	1
Organisations ability to charge fees & raise income	Limited or no ability to raise revenue by charging fees and raising income.	4	Some ability to raise revenue & charge fees which may be varied to reflect ability of clients to pay.	3	Has ability to charge fees & raise revenue.	2	Operates or has ability to operate on profit basis.	1
Access to Other Sources of Funding	No access to other funding sources other than donations.	4	Limited access to other sources of funding (no more than 5% total).	3	Access to other sources of funding - State, Federal or Local, grants, VUCS and sponsorship funding which provided between 5-30% of total funding.	2	Access to other sources of funding - State, Federal & Local funding which provided more than 30% of funding.	1
Do they provide direct competition to commercial ventures	No. Main activity is not a commercial activity.	4	While main business is not a commercial activity, some aspects of business are in direct competition with commercial providers.	3	While they are in direct competition with commercial providers they provide added or differentiated service to users.	2	In direct competition with commercial providers.	1
Does their service impact on Council's need to provide similar service?	Without this service provision Council would be required to provide this service.	4	Lack of service would have some impact on Council's provision.	3	Service is not core responsibility of local government but could be provided.	2	Service is not responsibility of local government.	1
Organisation status and structure	Locally based, stand alone and not for profit. Voluntary management committee, including local area representatives.	4	Locally based with a regional focus. Financially independent, self governing, not for profit. Has a voluntary management committee, including local area representatives.	3	Locally based organisation, part of a larger not for profit organisation. Operates on voluntary advisory committee, including local area representatives.	2	Part of a larger not for profit organisation with limited or no representation on advisory committee. Or profitable business.	1
Reactive & Ongoing maintenance/structural integrity	Takes responsibility for all internal & external reactive maintenance.	4	Takes responsibility for almost all of the internal & external reactive maintenance.	3	Takes responsibility for some of internal & external reactive maintenance.	2	Does not take responsibility for internal & external reactive maintenance.	1
Capacity to undertake range of administrative and management responsibilities	Dependent on assistance from volunteers for all administrative and management functions.	4	Paid staff undertake some of the administrative and management functions and volunteers assist with other tasks.	3	Staff undertake majority of administrative and management functions with additional assistance provided by umbrella organisation.	2	Umbrella organisation carries out majority of administrative and management functions.	1
Social and community benefit from the event or sporting activity	Service is unique or specific and meets a high level of need. Or service meets identified social/community needs with most service users from low socio-economic background.	4	Service meets identified social/community needs, with service users from range of socio-economic backgrounds.	3	Service meets a broad social/community need.	2	Service is valued by community but it is not focused on meeting an identified social/community need.	1
Council Financial Support	Have received no Council support funding this financial year.	4	Has received less than \$500 in Council support funding this financial year.	3	Has received more than \$500 and less than \$1,000 in Council support funding this financial year.	2	Has received more than \$1,000 in Council funding this financial year or is a business.	1
Are any social inclusion criteria met?	Does the organisation cover at least 3 of the following criteria: players over 65, socially disadvantaged, disabled, culturally or linguistically challenged or female (depending on the sport). Or is it a priority area for Council?	4	Does the organisation cover at least 2 of the following criteria: players over 65, socially disadvantaged, disabled, culturally or linguistically challenged or female (depending on the sport). Or is it a priority area for Council?	3	Does the organisation cover at least 1 of the following criteria: players over 65, socially disadvantaged, disabled, culturally or linguistically challenged or female (depending on the sport). Or is it a priority area for Council?	2	Does the organisation does not cover any of the following criteria: players over 65, socially disadvantaged, disabled, culturally or linguistically challenged or female (depending on the sport). Or is it a priority area for Council?	1
NUMBER OF ANSWERS MET in each category		24		0		10		2
TOTAL SCORE	Category A	36	Category B		Category C		Category D	
RANGE FROM	37		25		13		9	
RANGE TO	52		36		24		12	
HIRER FALLS INTO CATEGORY			Category B					
LOWEST LEVEL OF RANGE IN EACH CATEGORY TO TOTAL SCORE OVER TOTAL NUMBER OF RANGE (ie if Total Score equals 28 then Category B applies hence 28 minus 25 divided by 12 i.e. Category B range 25-36)			100.00%					
NUMBER OF PERCENTAGE ABOVE			40.00%					
LEVEL OF SUBSIDY			90.00%					
TOTAL LEVEL OF SUBS		90.00%						

CL24.216 - Attachment 1

Attachment 2 – Fee Waivers and Subsidies Application Form

Application for Fee Support in **Financial Year** ____/____

Please note – fee support is subject to budget constraints and may not be approved

This form must be submitted a minimum of three (3) months prior to the booking

No retrospective requests will be considered

Date: _____

Details of Applicant:

1. Name of Applicant Signature:
Email Phone:

2. Position in Organisation

3. Name of Organisation responsible for the event/activity?
.....

4. Quoted Hire Fees for this event \$.....

5. Amount of assistance being sought: \$.....

6. Organisation type: Non-Profit / Charity / Incorporated/other (*please circle*)

Please attach documentation/certification for above, according to one of the following registrations:

a. Charities registered on the Australian Charities and Not-for-profits Commission (ACNC) Register.

b. Other organisations:

- Incorporated as an Association with the Department of Fair Trading - provide incorporation number (as per 2009 Association and Incorporation Act, Number 4, clause 3), or
- Endorsed by the ATO to obtain Deductible Gift Recipient status on the Australian Business Register - <http://www.abr.business.gov.au/>

Commercial undertaking YES / NO

Do membership fees apply YES / NO

Amount charged for membership \$ _____

Number of people in organisation/members _____

7. Office bearers of organisation (President, Secretary, Treasurer or Project Manager):

.....
.....

8. Please provide details in relation to financial sustainability of the organisation, including a copy of applicant's/organisations Profit and Loss Statement and Balance Sheet for the previous Financial Year, as a minimum. This information is provided to show

evidence that the organisation is financially sustainable without further support from Council

Title of Event/Project

1. Please give a brief description of the event/project for which assistance is sought:
.....
.....
.....
Number of attendees expected:
2. Is this proposed to be an annual event/project? YES/NO
3. Date/s of the proposed event/project.....
4. Where will the event/project take place?
5. Is the event open to the community?
6. How will the event cater for social inclusion and provide social benefit?
Which groups will benefit?
.....
7. Does the service/event impact on the need for Council to provide similar services
.....
8. Will an entry fee be charged?
9. Name of Public Liability Insurer
10. Amount of insurance cover \$
11. Will the event/project support charities YES/NO
If YES, % events income \$

Funding

1. Is this event receiving financial support from other SCC departments? Provide details including how much and which department?
.....
2. Cost of the total event/project \$
3. How much are you seeking from Council \$
4. Organisation's funds available at present to go towards event. Please provide a project budget/plan. \$.....
5. How are funds to be raised?.....
.....
.....
6. Has Council previously granted subsidies or assisted/sponsored your organisation?

YES/NO

7. What was the amount (per annum) of the assistance from Council? \$.....
- YEAR \$
- YEAR \$
8. Have you applied for funding from other government organisations, groups, agencies or organisations? (Note from the Policy: Before any subsidies to a fee or charge are considered an approach is to be made to State or Federal Government agencies or other organisations to determine if they can provide support).
- YES/NO
9. If YES
- How much has been sought \$.....
- Name of Group or organisation
- Successful amount \$.....
- How much has been sought \$.....
- Name of Group or organisation.....
- Successful amount \$.....
10. Will this event/project be self-funding in the future? YES/NO
- If NO, will the event/project be dependent on future funding from Council? YES/NO
11. Detail the benefit to Council arising from the fee support (eg. increases participation by community / activation of Council facilities / aligns with Council's Integrated Strategic Plan):
-
-
-
-
12. How will you recognise and acknowledge Council's support arising from the fee support?
-
-
-

<p><u>Council Use Only</u></p> <p>Fee as stated in the Fees & Charges</p> <p>Is this request over \$4,000 - Report to Council required?</p>

<p>Comments:</p> <p><input type="checkbox"/> Officer</p> <p>Date.....</p> <p>Comments.....</p> <p>.....</p> <p><input type="checkbox"/> Officer.....</p> <p>Date.....</p> <p>Comments.....</p> <p>.....</p> <p><input type="checkbox"/> Officer</p> <p>Date.....</p> <p>Comments.....</p> <p>.....</p>

<p>Finance Authority:</p> <p>Subsidy information has been added to the Financial summary Yes/No</p> <p>This payment is not a subsequent funding for this year</p> <p>Yes / NoDate.....</p> <p>Previous Payment Made \$.....Date</p> <p>Comments.....</p> <p>.....</p> <p>Completed Yes/No</p>
--

<p>Comments:</p> <p>Manager.....Date.....</p> <p>Comments.....</p> <p>Supported Yes / No</p> <p>Department ManagerDate.....</p>
--

Comments.....
Supported Yes / No

Comments:
Director Dependent upon group.....Date.....
Comments.....
Approved / Declined up to \$4,000 (otherwise report to Council)

This form is for the purpose of Shoalhaven City Council insurance requirements and for administrative purposes. The information will be used solely by Council officials for the purpose mentioned above. The applicant understands that this information is provided on a voluntary basis and they may apply to Council for access to, or amendment of, the information at any time.

CL24.216 - Attachment 1



Monthly Investment Review



June 2024

Arlo Advisory Pty Ltd
ABN: 55 668 191 795
Authorised Representative of InterPrac Financial Planning Pty Ltd
AFSL 246 638
Phone: +61 2 9053 2987
Email: michael.chandra@arloadvisory.com.au / melissa.villamin@arloadvisory.com.au
125 Middle Harbour Road, East Lindfield NSW 2070

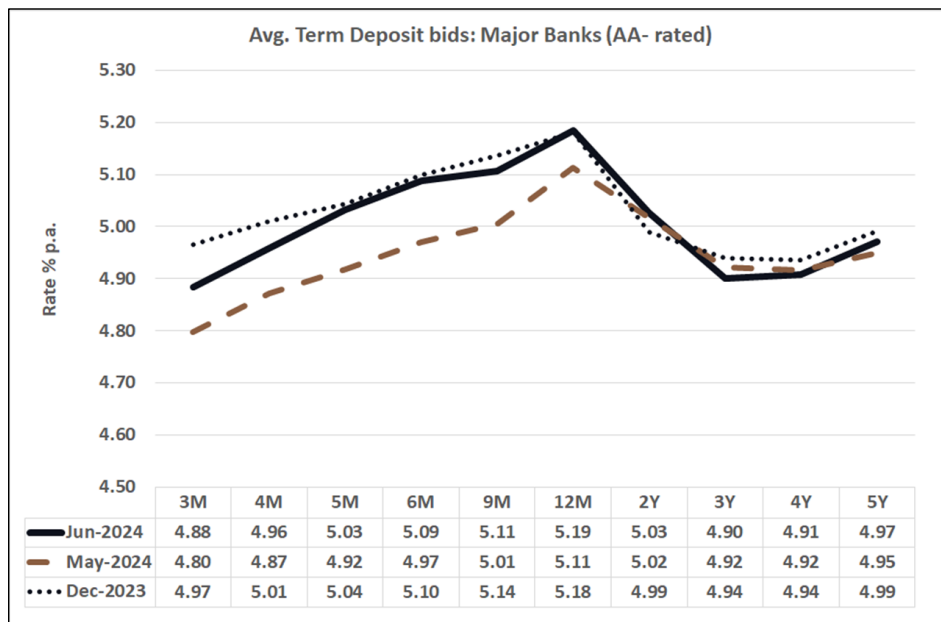
CL24.217 - Attachment 1



Market Update Summary

In June, financial markets continue to reprice the time of rate cuts across several developed countries. Domestically, the market is now actually forecasting the small chance of a hike in coming months in response to ongoing inflationary pressures.

In the deposit market, over June, the average deposit rates offered by the major banks at the short-end (up to 12 months) rose between 8-11bp following the higher than expected monthly inflation figure. In the medium-longer term (2-5 years), the average bids from the major banks remained relatively flat, reflective of the market still factoring rate cuts in future years. The deposit curve is largely back to where it was 6 months ago (Dec 2023).



Source: Imperium Markets

With a global economic downturn and interest rate cuts still being priced over the next 18-24 months, investors should consider diversifying and taking an 'insurance policy' against a potentially lower rate environment by investing across 2-5 year fixed deposits, targeting rates above 5% p.a. (small allocation only).



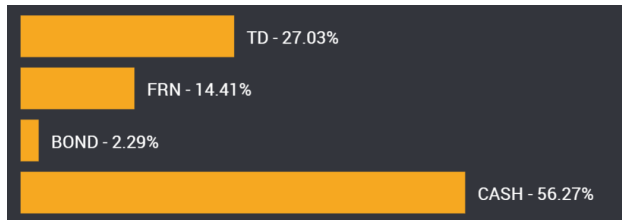
Shoalhaven City Council 's Portfolio & Compliance

Asset Allocation

The majority of the portfolio is directed to cash or cash notice accounts followed by fixed and floating rate term deposits. The remainder of the portfolio is directed to liquid senior FRNs and fixed bonds.

Senior FRNs remain relatively attractive as spreads have generally widened over the past 2 years. New issuances may be considered again on a case by case scenario. In the interim, staggering a mix of fixed deposits between 9-12 months to 3 years remains a more optimal strategy to maximise returns over a longer-term cycle.

With interest rate cuts and a global economic downturn being priced in coming years, investors can choose to allocate a small proportion of longer-term funds and undertake an insurance policy against any potential future rate cuts by investing across 2-5 year fixed deposits, locking in and targeting yields above 5% p.a.





Term to Maturity

All maturity limits (minimum and maximum) comply with the Investment Policy. Short-Medium Term (1-2 years) assets account for around 7.8% of the total investment portfolio, with capacity of ~\$135m remaining.

Once the immediate capital projects are completed, we recommend a proportion of longer-dated funds be allocated to 1-3 year fixed term deposits in combination with any attractive new FRNs (3-5 years) as they come to market (refer to respective sections below).

Compliant	Horizon	Invested (\$)	Invested (%)	Min. Limit (%)	Max. Limit (%)	Available (\$)
✓	0 - 90 days	\$145,803,540	66.80%	0%	100%	\$72,454,340
✓	91 - 365 days	\$29,101,052	13.33%	0%	100%	\$189,156,828
✓	1 - 2 years	\$17,086,192	7.83%	0%	70%	\$135,694,324
✓	2 - 5 years	\$26,267,096	12.04%	0%	50%	\$82,861,844
✓	5 - 10 years	\$0	0.00%	0%	25%	\$54,564,470
		\$218,257,880	100.00%			

CL24.217 - Attachment 1



Counterparty

As at the end of June 2024, all counterparty exposures comply within the Policy limits. Capacity limits are also dependent on the movement in the cash balances. Overall, the portfolio is well diversified across the entire credit spectrum, including some exposure to the regional bank (lower rated) ADIs.

Compliant	Issuer	Rating	Invested (\$)	Invested (%)	Max. Limit (%)	Available (\$)
✓	DBS Cov	AAA	\$1,002,216	0.46%	100.00%	\$217,255,664
✓	Suncorp Cov	AAA	\$2,015,432	0.92%	100.00%	\$216,242,448
✓	ANZ	AA-	\$2,513,638	1.15%	100.00%	\$215,744,243
✓	CBA	AA-	\$119,525,404	54.76%	100.00%	\$98,732,477
✓	HSBC Bank	AA-	\$2,012,190	0.92%	100.00%	\$216,245,690
✓	NAB	AA-	\$34,004,516	15.58%	100.00%	\$184,253,364
✓	Northern Terr.	AA-	\$5,000,000	2.29%	100.00%	\$213,257,880
✓	NSW (SIRA)	AA+	\$6,675,000	3.06%	100.00%	\$211,582,880
✓	Macquarie	A+	\$3,992,488	1.83%	100.00%	\$214,265,392
✓	Rabobank	A+	\$4,005,708	1.84%	100.00%	\$214,252,172
✓	Suncorp	A+	\$18,048,244	8.27%	100.00%	\$200,209,636
✓	ING Bank	A	\$15,000,000	6.87%	100.00%	\$203,257,880
✓	AMP Bank	BBB+	\$2,361,993	1.08%	5.00%	\$8,550,901
✓	Newcastle PBS	BBB+	\$2,101,052	0.96%	5.00%	\$8,811,842
			\$218,257,880	100.00%		

In February 2024, ANZ's takeover of Suncorp was given the green light by the Australian Competition Tribunal (ACT), six months after the Australian Competition and Consumer Commission (ACCC) blocked the deal on the grounds that it could lessen competition in the mortgage market. As such, Suncorp's assets are likely to be upgraded to AA- in the near future by S&P (but also, they may be flagged as an ADI lending to the fossil fuel industry in future).

In early April 2024, BoQ and Bendigo-Adelaide were upgraded by S&P from BBB+ to A-. Separately, several other regional banks were upgraded from BBB to BBB+, as well as BBB- to BBB. This has resulted in increased capacity to invest in some of these individual institutions from a counterparty perspective, as well as the aggregate "BBB" rated category (see Credit Quality section).



Credit Quality

The portfolio is well diversified from a credit ratings perspective. The portfolio is predominately invested amongst the investment grade ADIs (BBB- or higher). There is no exposure to Unrated assets now following the disposal of the TCorp Long-Term Growth Fund.

All ratings categories are within the Policy limits:

Compliant	Credit Rating	Invested (\$)	Invested (%)	Max. Limit (%)	Available (\$)
✓	AAA Category	\$3,017,648	1%	100%	\$215,240,232
✓	AA Category	\$169,730,747	78%	100%	\$48,527,133
✓	A+ to A Category	\$41,046,440	19%	100%	\$177,211,440
✓	A- Category	\$0	0%	40%	\$87,303,152
✓	BBB+ to BBB Category	\$4,463,045	2%	30%	\$61,014,319
✓	BBB- & NR Category	\$0	0%	5%	\$10,912,894
✓	NSW TCorp LTGF	\$0	0%	100%	\$218,257,880
		\$218,257,880	100.00%		

CL24.217 - Attachment 1



Performance

Council's performance for the month ending June 2024 (excluding cash) is summarised as follows:

Performance (Actual)	1 month	3 months	6 months	FYTD	1 year
Official Cash Rate	0.35%	1.07%	2.15%	4.28%	4.28%
AusBond Bank Bill Index	0.35%	1.08%	2.18%	4.37%	4.37%
T/D Portfolio	0.42%	1.25%	2.48%	4.67%	4.67%
FRT/D Portfolio	0.28%	1.15%	2.46%	5.15%	5.15%
FRN Portfolio	0.43%	1.28%	2.55%	5.14%	5.14%
Bond Portfolio	0.09%	0.27%	0.54%	1.08%	1.08%
Council's Fixed Interest [^]	0.41%	1.21%	2.41%	4.63%	4.63%
Council's Total Portfolio ^{^^}	0.41%	1.24%	3.20%	6.07%	6.07%
Relative (to Bank Bills)	0.06%	0.16%	1.02%	1.70%	1.70%

[^]Council's Fixed Interest portfolio returns excludes Council's cash account holdings.

^{^^} Total portfolio returns includes historical holdings in the TCorp LTGF.

Performance (Annualised)	1 month	3 months	6 months	FYTD	1 year
Official Cash Rate	4.35%	4.35%	4.35%	4.28%	4.28%
AusBond Bank Bill Index	4.35%	4.41%	4.42%	4.37%	4.37%
T/D Portfolio	5.23%	5.12%	5.04%	4.67%	4.67%
FRT/D Portfolio	3.50%	4.70%	5.00%	5.15%	5.15%
FRN Portfolio	5.35%	5.22%	5.18%	5.14%	5.14%
Bond Portfolio	1.12%	1.09%	1.09%	1.08%	1.08%
Council's Fixed Interest [^]	5.06%	4.96%	4.88%	4.63%	4.63%
Council's Total Portfolio ^{^^}	5.06%	5.05%	6.53%	6.07%	6.07%
Relative (to Bank Bills)	0.72%	0.65%	2.11%	1.70%	1.70%

[^]Council's Fixed Interest portfolio returns excludes Council's cash account holdings.

^{^^} Total portfolio returns includes historical holdings in the TCorp LTGF.

For the month of June, the total portfolio (excluding cash) provided a return of +0.41% (actual) or +5.06% p.a. (annualised), outperforming the benchmark AusBond Bank Bill Index return of +0.35% (actual) or +4.35% p.a. (annualised). The longer-term positive performance continues to be anchored by the handful of deposits that were originally placed for terms greater than 12 months.



Recommendations for Council

AMP Business Saver & Notice Account

We note the AMP Business Saver and AMP 31 Day Notice Account are now sub optimal investments given the rise in deposit yields in recent months. We recommend switching into short-dated fixed deposits with the major banks yielding a considerably higher rate of return, or simply just redeem to replenish capital reserves.

Term Deposits

As at the end of June 2024, Council's **deposit** portfolio was yielding 5.06% p.a. (down 2bp from the previous month), with a weighted average duration of ~241 days (~8 months).

Going forward, once immediate capital projects are completed, a more optimal strategy would be staggering deposits across 9-24 months terms – this is likely to earn up to ¼-½% p.a. higher compared to shorter tenors in a normal market environment. There is growing belief that interest rate cuts and a global economic downturn is forthcoming and so locking in rates above 5% p.a. across 1-5 year tenors may provide some income protection against a lower rate environment.

Please refer to the section below for further details on the Term Deposit market.

Securities

Primary (new) Senior FRNs (with maturities between 3-5 years) continue to be appealing (particularly for those investors with portfolios skewed towards fixed assets) and should be considered on a case by case scenario. Please refer to the section below for further details on the FRN market.

Council's FRN Portfolio

We recommend that Council retains all its FRNs at this stage (most are marked at a slight discount to par at month-end). We will continue to monitor them individually and will advise when it is appropriate to sell to boost the overall returns of the portfolio in future.

Should there be a compelling new issue available (or in the case of an emergency), the following two FRNs are up for consideration to be sold:

Issuer	Rating	Maturity Date	ISIN	Face Value	Trading Margin	~Capital Price (\$)	~Unrealised Gain (\$)
CBA	AA-	14/01/2027	AU3FN0065579	\$2,750,000	+63.1bp	\$100.115	\$3,171
NAB	AA-	25/02/2027	AU3FN0066528	\$4,000,000	+65.1bp	\$100.113	\$4,516



Council's Senior Fixed Bonds

In September 2020, Council invested into the following NTTC (AA-) fixed bonds:

Investment Date	Maturity Date	Principal	Rate % p.a.	Interest Paid
15/09/2021	15/12/2024	\$3,000,000	1.00%	Annually
15/09/2021	15/12/2025	\$2,000,000	1.10%	Annually
Totals / Wgt. Avg.		\$5,000,000	1.04%	

We believe this was prudent at the time of investment given the low rate environment and particularly after the RBA's easing decision in early November 2020 to 0.10% and their forward guidance towards official interest rates (no rate rises "until at least 2024").

The NTTC bonds are a 'retail' offering and not 'wholesale' issuances. Given the lack of liquidity and high penalty costs if they were to be sold/redeemed prior to the maturity date, they are considered to be a hold-to-maturity investment and will be marked at par value (\$100.00) throughout the term of investment.



Term Deposit Market Review

Current Term Deposits Rates

As at the end of June, we see value in the following:

ADI	LT Credit Rating	Term	Rate % p.a.
ING	A	5 years	5.38%
BoQ	A-	5 years	5.20%
ING	A	4 years	5.32%
BoQ	A-	4 years	5.20%
ING	A	3 years	5.29%
BoQ	A-	3 years	5.10%
ING	A	2 years	5.35%
BoQ	A-	2 years	5.20%
Bank of Us	BBB+	2 years	5.20%
NAB	AA-	2 years	5.10%

The above deposits are suitable for investors looking to maintain diversification and lock-in a slight premium compared to purely investing short-term.

For terms under 12 months, we believe the strongest value is currently being offered by the following ADIs (*we stress that rates are indicative, dependent on daily funding requirements and different for industry segments*):



ADI	LT Credit Rating	Term	Rate % p.a.
Bank of Sydney	Unrated	12 months	5.47%
NAB	AA-	12 months	5.45%
ING	A	12 months	5.43%
ICBC	A	12 months	5.33%
Bank of Us	BBB+	12 months	5.31%
NAB	AA-	9 months	5.35%
Police CU	Unrated	9 months	5.35%
BoQ	A-	9 months	5.30%
NAB	AA-	6 months	5.30%
Suncorp	A+	6 months	5.23%
ICBC	A	6 months	5.20%
NAB	AA-	3 months	5.15%
ICBC	A	3 months	5.10%

If Council does not require high levels of liquidity and can stagger a proportion of its investments across the longer term horizons (1–5 years), it will be rewarded over a longer-term cycle. Investing a spread of 12 months to 3 year horizons is likely to yield, on average, up to ¼–½% p.a. higher compared to those investors that entirely invest in short-dated deposits (under 6–9 months).

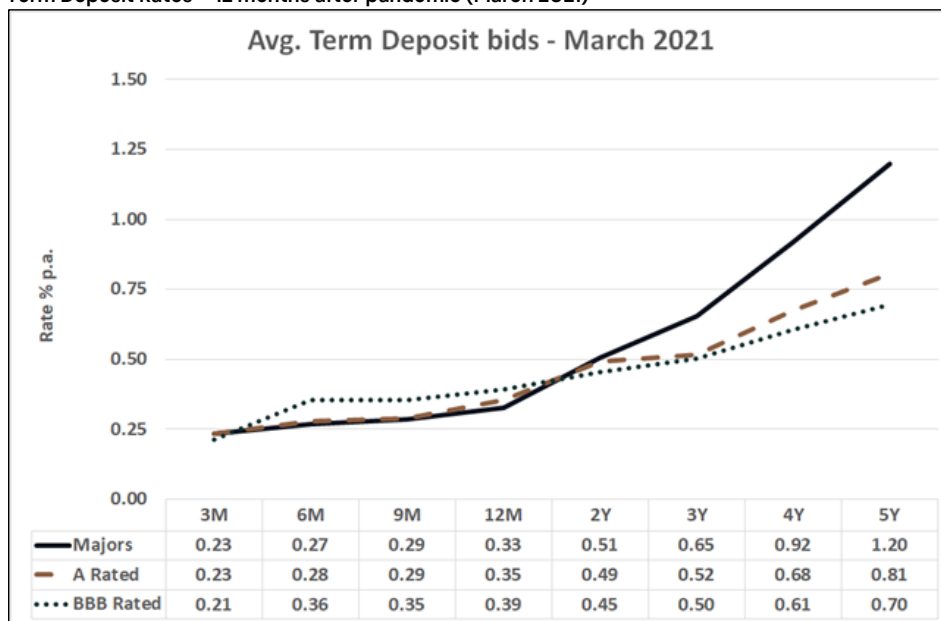
With a global economic slowdown and interest rate cuts being priced over the next few years, investors should strongly consider diversifying by allocating some longer term surplus funds and undertake an insurance policy by investing across 2–5 year fixed deposits and locking in rates above 5% p.a. This will provide some income protection with central banks now potentially looking to cut rates in 2025.



Term Deposits Analysis

Pre-pandemic (March 2020), a 'normal' marketplace meant the lower rated ADIs (i.e. BBB category) were offering higher rates on term deposits compared to the higher rated ADIs (i.e. A or AA rated). But due to the cheap funding available provided by the RBA via their Term Funding Facility (TFF) during mid-2020, allowing the ADIs to borrow as low as 0.10% p.a. fixed for 3 years, those lower rated ADIs (BBB rated) did not require deposit funding from the wholesale deposit. Given the higher rated banks had more capacity to lend (as they have a greater pool of mortgage borrowers), they subsequently were offering higher deposit rates. In fact, some of the lower rated banks were not even offering deposit rates at all. As a result, most investors placed a higher proportion of their deposit investments with the higher rated (A or AA) ADIs over the past three years.

Term Deposit Rates – 12 months after pandemic (March 2021)



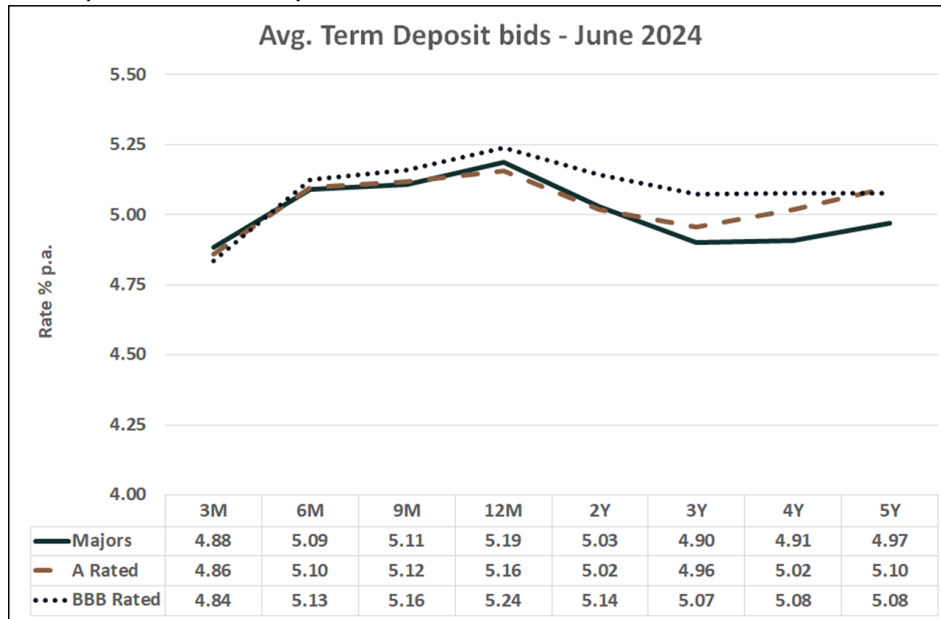
Source: Imperium Markets

The abnormal marketplace experienced during the pandemic is starting to reverse as the competition for deposits slowly increases, partially driven by the RBA's term funding facility coming to an end. In recent months, we have started to periodically see some of the lower rated ADIs ("A" and "BBB" rated) offering slightly higher rates compared to the domestic major banks ("AA" rated) on different parts of the curve (i.e. pre-pandemic environment). Some of this has been attributed to lags in adjusting their deposit rates as some banks (mainly the lower rated ADIs) simply set their rates for the week.



Going forward, Council should have a larger opportunity to invest a higher proportion of its funds with the lower rated institutions (up to Policy limits), from which the majority are not lending to the Fossil Fuel industry or considered 'ethical'. We are slowly seeing this trend emerge (as was the case this month), although the major banks always seem to react more quickly than the rest of the market during periods of volatility:

Term Deposit Rates – Currently (June 2024)



Source: Imperium Markets

Regional & Unrated ADI Sector

Ratings agency S&P has commented that "mergers remain compelling for mutual lenders" in providing smaller lenders greater economies of scale and assisting them in being able to price competitively and will see "the banking landscape will settle with a small number of larger mutual players". S&P expects that consolidation to continue over the next two years.

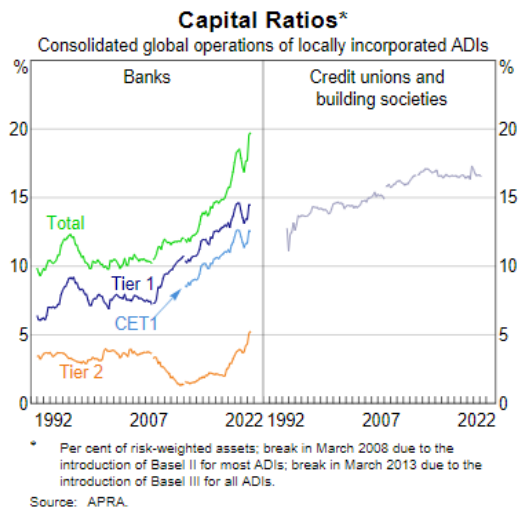
We remain supportive of the regional and unrated ADI sector (and have been even throughout the post-GFC period). They continue to remain solid, incorporate strong balance sheets, while exhibiting high levels of capital – typically, much higher compared to the higher rated ADIs. Some unrated ADIs have up to 25-40% more capital than the domestic major banks, and well above the Basel III requirements.



Overall, the lower rated ADIs (BBB and unrated) are generally now in a better financial position than they have been historically (see the Capital Ratio figure below). The financial regulator, APRA has noted that the Common Equity Tier 1 capital of Australian banks now exceeds a quarter of a trillion dollars. It has increased by \$110 billion, or more than 70%, over the past decade. Over the same time, banks' assets have grown by 44%. Some of the extra capital is supporting growth in the banking system itself but clearly, there has been a strengthening in overall resilience and leverage in the system is lower.

We believe that deposit investments with the lower rated ADIs should be considered going forward, particularly when they offer 'above market' specials. Not only would it diversify the investment portfolio and reduce credit risk, it would also improve the portfolio's overall returns. The lower rated entities are generally deemed to be the more 'ethical' ADIs compared to the higher rated ADIs.

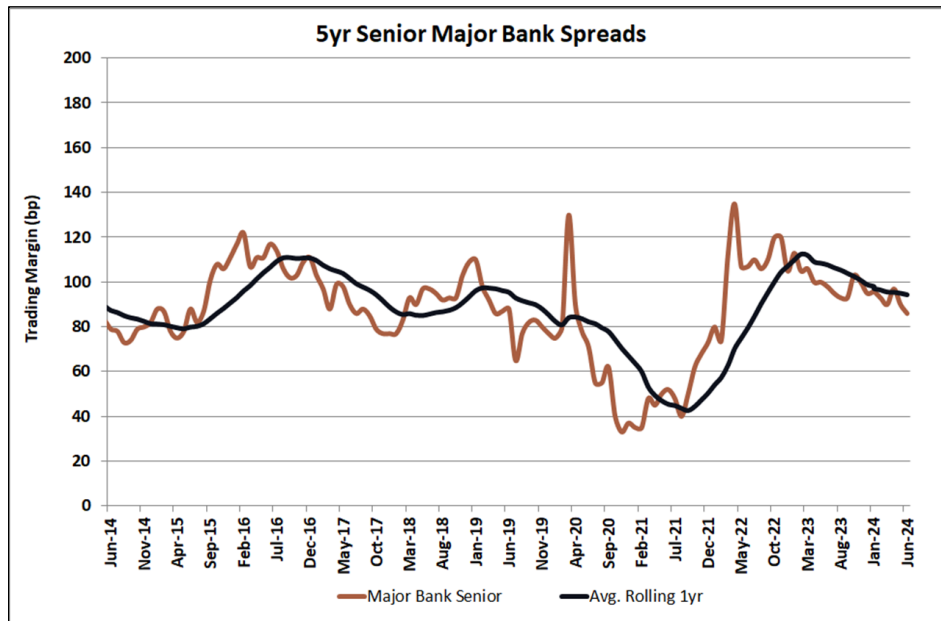
In the current environment of high regulation and scrutiny, all domestic (and international) ADIs continue to carry high levels of capital. There is minimal (if any) probability of any ADI defaulting on their deposits going forward – this was stress tested during the GFC and the pandemic period. APRA's mandate is to "protect depositors" and provide "financial stability".





Senior FRNs Market Review

Over June, amongst the senior major bank FRNs, physical credit securities tightened by around 4bp at the 5 year part of the curve. During the month, ANZ (AA-) issued a dual 3 & 5 year senior deal at +70bp and +86bp respectively. Major bank senior securities remain at fair value on a historical basis although looking fairly expensive if the 5yr margin tightens to +80bp in the near future.



Source: IBS Capital

There was minimal issuance again during the month apart from:

- Bendigo-Adelaide (A-) 1 year senior FRN at +60bp
- Teachers Mutual (BBB+) 3 year senior FRN at +130bp

Amongst the "A" rated sector, the securities remained flat at the longer-end of the curve, whilst the "BBB" rated sector tightened around 30bp at the 3 year part of the curve due to Teacher's Mutual deal. Overall, credit securities are looking more attractive given the widening of spreads over the past 2-3 years. FRNs will continue to play a role in investors' portfolios mainly on the basis of their liquidity and the ability to roll down the curve and gross up returns over ensuing years (in a relatively stable credit environment), whilst also providing some diversification to those investors skewed towards fixed assets.



Senior FRNs (ADIs)	28/06/2024	31/05/2024
"AA" rated – 5yrs	+86bp	+90bp
"AA" rated – 3yrs	+71bp	+68bp
"A" rated – 5yrs	+105bp	+105bp
"A" rated – 3yrs	+82bp	+85bp
"BBB" rated – 3yrs	+130bp	+160bp

Source: IBS Capital

We now generally recommend switches ('benchmark' issues only) into new primary issues, out of the following senior FRNs that are maturing:

- On or before mid-2026 for the "AA" rated ADIs (domestic major banks);
- On or before mid-2025 for the "A" rated ADIs; and
- Within 6–9 months for the "BBB" rated ADIs (consider case by case).

Investors holding onto the above senior FRNs ('benchmark' issues only) in their last few years are now generally holding sub optimal investments and are not maximising returns by foregoing realised capital gains. In the current challenging economic environment, any boost in overall returns should be locked in when it is advantageous to do so, particularly as switch opportunities become available.



Senior Fixed Bonds – ADIs (Secondary Market)

With global inflation still high by historical standards, this has seen a significant lift in longer-term bond yields over the past 2–3 years (valuations have fallen) as markets have reacted sharply.

This has resulted in some opportunities in the secondary market. We currently see value in the following fixed bond lines, with the majority now being marked at a significant discount to par (please note supply in the secondary market may be limited on any day):

ISIN	Issuer	Rating	Capital Structure	Maturity Date	~Remain. Term (yrs)	Fixed Coupon	Indicative Yield
AU3CB0278174	UBS	A+	Senior	26/02/2026	1.67	1.1000%	5.25%
AU3CB0280030	BoQ	A-	Senior	06/05/2026	1.86	1.4000%	5.47%
AU3CB0299337	Bendigo	A-	Senior	15/05/2026	1.88	4.7000%	5.37%
AU3CB0296168	BoQ	A-	Senior	27/01/2027	2.59	4.7000%	5.46%
AU3CB0308955	BoQ	A-	Senior	30/04/2029	4.84	5.3580%	5.54%

CL24.217 - Attachment 1



Economic Commentary

International Market

In June, risk assets traded in a relatively narrow range despite further evidence of sticky inflation pushing back expectations of rate cuts across several advanced economies.

Across equity markets, the S&P 500 Index rose +3.47% over the month, whilst the NASDAQ surged +5.91%. In contrast, Europe's main indices fell across the board, led by France's CAC (-6.42%), Germany's DAX (-1.42%), and UK's FTSE (-1.34%).

The US unemployment rate increased to 4.0% from 3.9%, the highest level in over two years.

US headline CPI came in cooler than expected at +0.0% m/m vs. +0.1% expected (annual terms at +3.3% versus +3.4% expected). The core CPI also came in below expectations at +3.4% y/y versus +3.5% y/y.

Canadian CPI in May was +2.9% y/y from +2.7% (expected +2.6%). The average of the median and trim core measures rose 0.1% to +2.85%. The lift came from services inflation at +4.6% y/y from +4.2% and driven by health.

Eurozone CPI suggested the same goods vs. sticky services dynamic of the US. Core CPI printed at +2.9% y/y vs. +2.7% expected.

Canada became the second G10 nation, after Sweden, to initiate a monetary policy easing cycle. They cut rates by 25bp to 4.75% as expected, whilst signalling more easing ahead. The ECB then followed by easing monetary policy, dropping all key rates by 25bp and taking the Deposit Rate to 3.75%.

The Swiss National Bank lowered its policy rate for a second consecutive time, down 25bp to 1.25%. The central bank believes the policy rate is now balanced and it also had lowered its inflation forecasts.

The Bank of England kept its policy rate steady at 5.25% despite the slowdown in UK inflation to +2.0% y/y in May. The BoE signalled a rate reduction is possible at its next meeting in August.

The MSCI World ex-Aus Index rose +1.93% for the month of June:

Index	1m	3m	1yr	3yr	5yr	10yr
S&P 500 Index	+3.47%	+3.92%	+22.70%	+8.31%	+13.17%	+10.79%
MSCI World ex-AUS	+1.93%	+2.18%	+18.55%	+5.32%	+10.20%	+7.44%
S&P ASX 200 Accum. Index	+1.01%	-1.05%	+12.10%	+6.37%	+7.26%	+8.06%

Source: S&P, MSCI



Domestic Market

The RBA left the cash rate on hold at 4.35% as widely expected. The Board reiterated that all options are still on the table in its fight against inflation. The Board *"did discuss the case"* for a possible rate hike at its June meeting, but ultimately decided to keep the policy rate unchanged. RBA Governor Bullock added, *"I wouldn't say that the case for a rate rise is increasing"*, but *"...there's been a few things that have made the Board alert to the upside risks"*.

The Monthly CPI Indicator surged by 0.4% to +4.0% y/y in May from +3.6%. The ex-volatiles and travel reading did marginally slow, from +4.1% to +4.0% and key services categories remain too strong but do show some cooling.

The unemployment rate fell 0.1% to 4.0% from 4.1%. That fallback was expected because there was an unusually elevated number of unemployed people waiting to start a new job in April that moved into employment in May.

GDP rose by +0.1% q/q (+1.1% y/y), slightly weaker than consensus and the RBA's average quarterly expectation for H1. Overall, aggregate GDP growth continued to soften in both annual and quarterly terms (and is still falling in per capita terms).

The April trade balance widened to \$6.5bn, back to around its February level after a surge in imports in March saw the surplus dip to its lowest since November 2020. In the month, exports fell -2.5%, while good imports fell -7.5% m/m.

The Australian dollar fell -0.20%, finishing the month at US66.24 cents (from US66.37 cents the previous month).

Credit Market

The global credit indices finally widened across the board in June. They remain at their levels in early 2022 (prior to the rate hike cycle from most central banks):

Index	June 2024	May 2024
CDX North American 5yr CDS	54bp	51bp
iTraxx Europe 5yr CDS	62bp	52bp
iTraxx Australia 5yr CDS	71bp	65bp

Source: Markit



Fixed Interest Review

Benchmark Index Returns

Index	June 2024	May 2024
Bloomberg AusBond Bank Bill Index (0+YR)	+0.35%	+0.37%
Bloomberg AusBond Composite Bond Index (0+YR)	+0.77%	+0.39%
Bloomberg AusBond Credit FRN Index (0+YR)	+0.41%	+0.50%
Bloomberg AusBond Credit Index (0+YR)	+0.44%	+0.70%
Bloomberg AusBond Treasury Index (0+YR)	+0.69%	+0.35%
Bloomberg AusBond Inflation Gov't Index (0+YR)	+0.55%	-0.30%

Source: Bloomberg

Other Key Rates

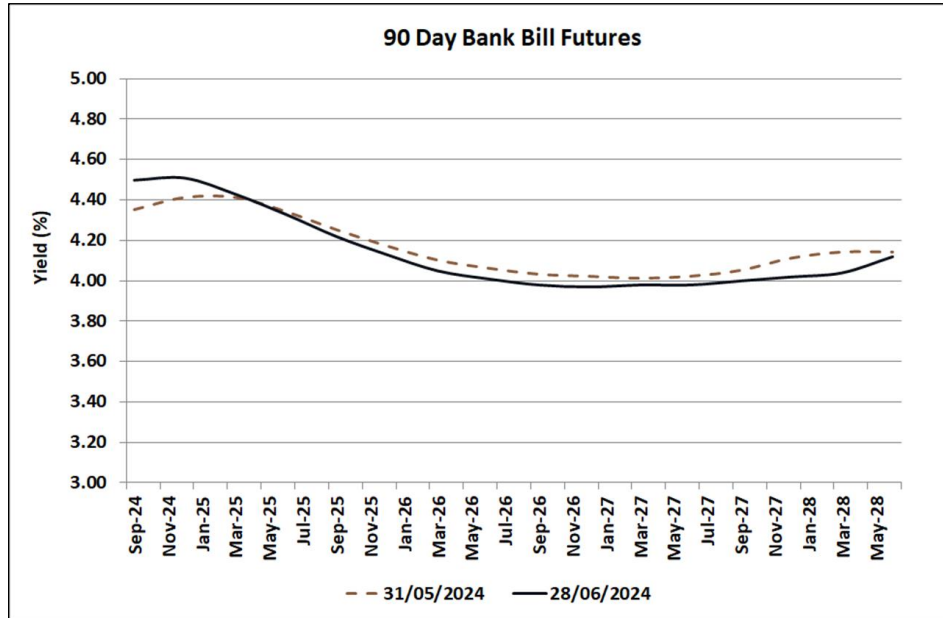
Index	June 2024	May 2024
RBA Official Cash Rate	4.35%	4.35%
90 Day (3 month) BBSW Rate	4.45%	4.35%
3yr Australian Government Bonds	4.07%	4.05%
10yr Australian Government Bonds	4.31%	4.41%
US Fed Funds Rate	5.25%-5.50%	5.25%-5.50%
2yr US Treasury Bonds	4.71%	4.89%
10yr US Treasury Bonds	4.36%	4.51%

Source: RBA, ASX, US Department of Treasury



90 Day Bill Futures

Bill futures remained relatively flat at the long-end this month, despite ongoing evidence of sticky inflation. Markets continue to push back their expectations of when the first rate cut will be delivered, resulting in a flattening of the curve.



Source: ASX

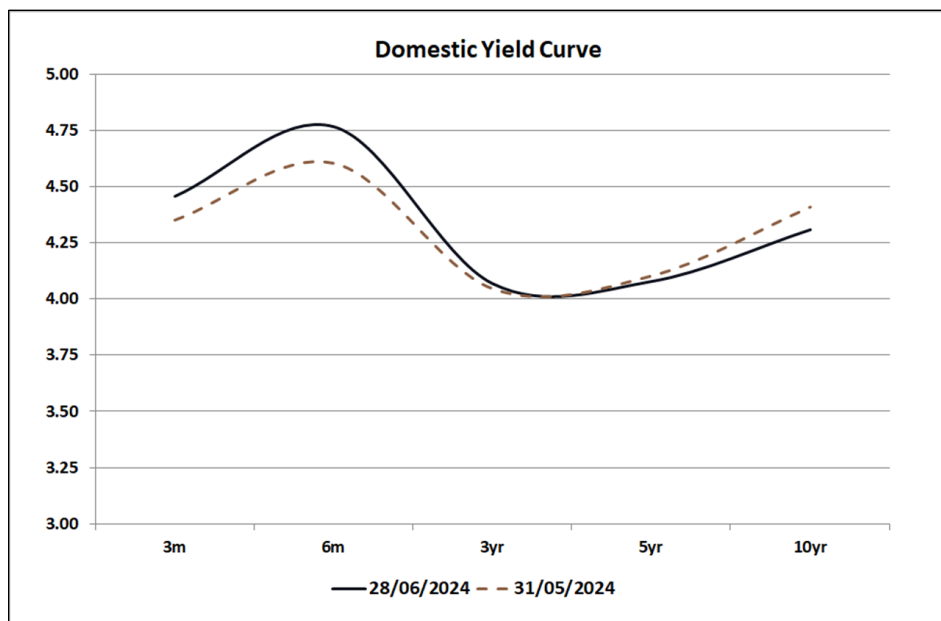


Fixed Interest Outlook

US Federal Reserve officials again highlighted the importance of waiting for further progress in bringing inflation back to the Fed's 2% target before cutting rates. Policymakers currently expect the policy rate would be cut by just a single 25bp this year, down from at least three reductions earlier this year. The longer-run median US Fed dot plot is currently around 2.80%. US Fed Chair Powell commented that officials were "coming to the view that rates are less likely to go down to their pre pandemic level".

Domestically, the RBA kept the cash rate unchanged at its June meeting, with the central bank emphasising, "The board is not ruling anything in or out...we still think we're on the narrow path, [but] it does appear to be getting a bit narrower." As is the case with most central banks at the moment, the RBA is waiting for current economic data to show a clear trend before taking any decisive action. The June quarter inflation data will be published on 31 July and will therefore give the RBA a comprehensive view of what is happening with inflation prior to its next policy meeting on 6 August.

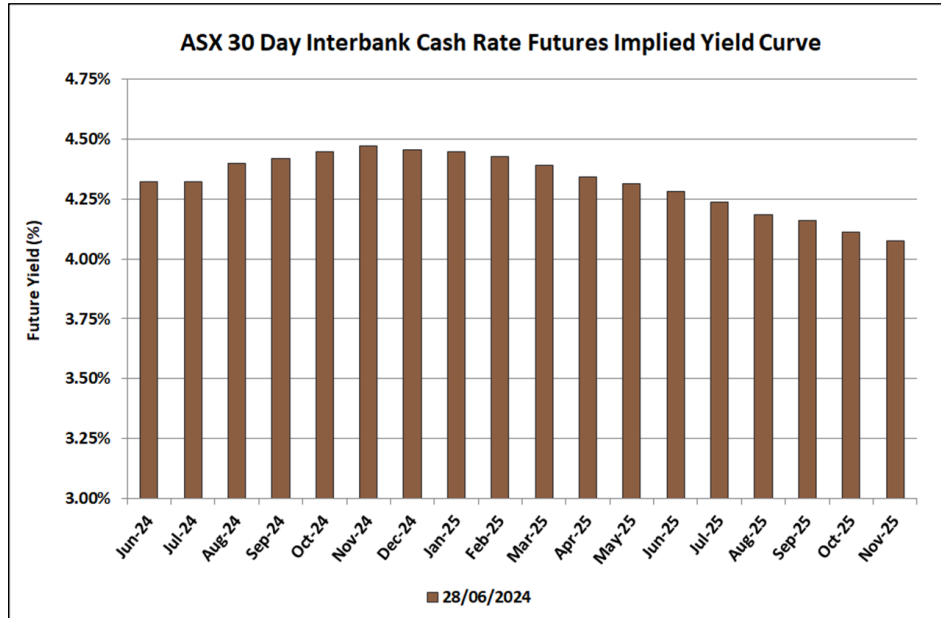
Over the month, longer-term yields fell around 10bp at the very long end of the curve (remains an inverse yield curve):



Source: ASX, RBA



The market is now factoring the potential of another rate hike later this year with inflation seemingly remaining sticky. Financial markets have pushed back their expectations of rate cuts, with the first cut pencilled in for mid-late 2025.



Source: ASX

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Princess Street, Berry

Assessment of Proposed Heritage Conservation Area



Louise Thom Heritage Consultants

M 0421 983 971

E info@louisethomheritage.com.au

W www.louisethomheritage.com.au

P.O. Box 155, Corrimall NSW 2518

Princess Street HCA Heritage Assessment

Cover Image: Top – View from corner of Victoria Street looking north along Prince Alfred Street.
Bottom – View looking east along Princess Street from Princess Street Reserve.
(Images taken between 60m and 80m above ground, Photographer Jo Belford)

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Executive Summary

This study has found that the proposed Princess Street Heritage Conservation Area has heritage significance and should be included in the heritage schedule of Shoalhaven Local Environmental Plan. The study recommends a slightly different curtilage to the one proposed in order to include Princess Street Reserve and lands to the east to Broughton Mill Creek while recommending the exclusion of uncharacteristic properties in Victoria Street. The study has nominated 9 properties as potential heritage items for inclusion in the heritage schedule and a heritage data sheet has been prepared for each property. Part 6 contains a table where all properties have been attributed with a classification according to their significance. The recommendations are based upon historical research and physical evidence the results of which are summarised below.

Berry is framed by Broughton Creek and Broughton Mill Creek and their tributaries, Bundewallah Creek to the north, Hitchcocks Tributary to the south, with Town Creek dissecting the town from the south east to the north west. Broughton Creek provided the earliest transport for goods and passengers to the coast and beyond, before roads were fully formed. Broughton Mill Creek defined the extent of the original Village of Broughton Creek by constraining development to two narrow ridges. The contribution these creeks make to the historical significance of Berry is considerable. When the Town of Berry was surveyed Town Creek ran through the town plan having particular influence on Alexandra Street and Princess Street, alienating land from residential development and creating Alexandra Park and Princess Street Reserve. These two parklands with their natural watercourse contribute to the aesthetic value of the proposed Princess Street Heritage Conservation Area.

Prior to the 1912 sale of town sites Sir John Hay undertook an extensive tree planting scheme. Trees and shrubs were acquired between 1899 and 1913 from the Royal Botanical Gardens. Berry became known as the 'Town of Trees' due to its diverse and mature collection of deciduous and evergreen trees that contribute considerable historic and scenic value to the town. The mild climate and abundance of water has ensured historic trees have thrived. These now mature trees are a defining feature of the proposed HCA.

Prince Alfred Street, originally the road down to the wharf, was integral to the historical development of the town. The earliest businesses were located along this road and along Queen Street. Properties predating the 1912 subdivision sale still exist in Prince Alfred Street. Physical evidence of the early road can be seen in the surviving sandstone kerbing on the western side of the street.

Broughton Mill Creek is highly significant in the historical development of Berry and the farmlands between the creek and the old wharf road are part of the cultural landscape setting of the Town of Berry and the former Village of Broughton Creek.

Princess Street is defined by significant trees and buildings of historic value such as St Lukes Church and Presbytery and the School of Arts. There are significant views along Princess Street to Berry Mountain and along Alexandra Street and Prince Alfred Streets north to the escarpment. Victoria Street is a wide street with generous verges and views to landmark trees in Alexandra Street and Prince Alfred Street.

The proposed HCA adjoins the Queen Street HCA, the Showground HCA and Pullman Street HCA. The proposed HCA has shared values with the three existing HCA. The significance of each is supported by and interconnected to each other area.

Princess Street HCA Heritage Assessment

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1. Introduction

Location and Study Area



Figure 1. Location of Berry (SIX Maps, 2024)

The study area was based upon a proposal for a heritage conservation area prepared by Berry District Historical Society and included the surrounding context.

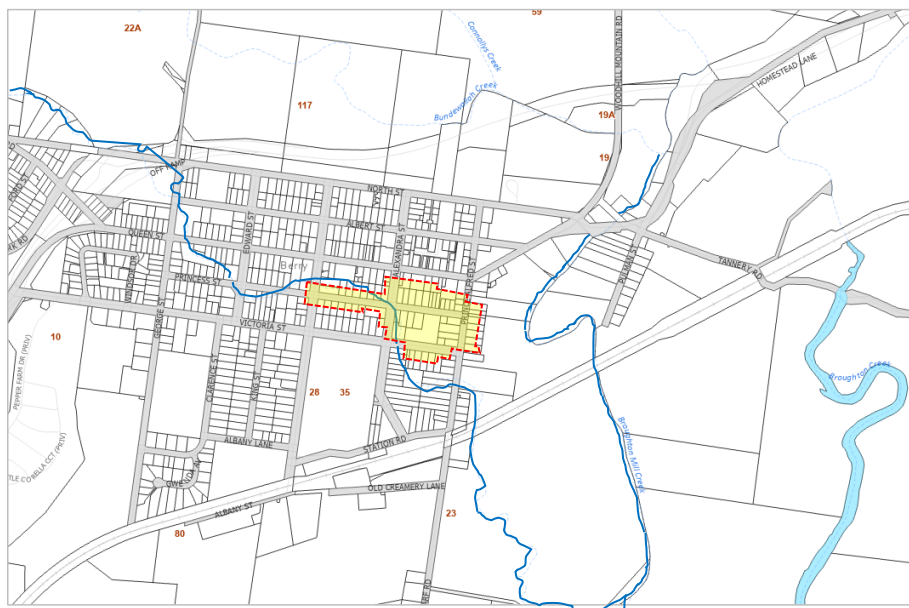


Figure 2. Berry Town Map. Proposed HCA Study Area outlined in red. (Shoalhaven City Council, 2024)

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Methodology

Resource documents used in this assessment:

- Australia ICOMOS Burra Charter 2013
- *Assessing Heritage Significance, Guidelines for assessing places and objects against the Heritage Council of NSW criteria*, Department of Planning and Environment 2023 (Department of Planning and Environment, 2023)
- *Conservation Area Appraisal, Designation and Management, Historic England Advice Note 1 (Second Addition)* Historic England 2019
- *Character Assessment Toolkit*, Oxford City Council, https://www.oxford.gov.uk/info/20193/character_assessment_toolkit/878/character_assessment_toolkit

Authorship

This report was prepared by Louise Thom, Heritage Consultant. All photographs unless otherwise specified were taken by Louise Thom on 31 January 2024, 2 February 2024, 13 February 2024 and 15 April 2024.

Assessment limitations

No community consultation has been undertaken by the author however Shoalhaven City Council has engaged with the community during preparation of its Development Control Plan which is being prepared in parallel with this study.

No archaeological assessment has been undertaken as part of this study. Indigenous cultural heritage assessment has not been included in the study.

Unless otherwise specified inspections were undertaken from the public domain.

2. Existing HCA and heritage items

Shoalhaven Local Environmental Plan 2014, Schedule 5

The following properties are located within the study area.

Part 1 Heritage Items

Locality	Item	Address	Property description	Significance	Item no
Berry	<i>Araucaria cunninghamii</i> (Hoop Pine)	62 Princess Street	Part of Lot A, DP 411591 and adjacent road reserve	Local	37
Berry	<i>Berry School of Arts</i>	19 Alexandra Street	Lot 8, DP 924675	Local	31
Berry	<i>Avenue of Remembrance (tree-lined)</i>	Alexandra Street	Road reserve between Lot 26, Section 5, DP 8058 and Lot A, DP 411591	Local	35
Berry	<i>Former Federation weatherboard shop</i>	21 Prince Alfred Street	Lot 16, Section 3, DP 8058	Local	50
Berry	<i>Former Berry Estate Bakery and residence</i>	23 Prince Alfred Street	Lot 2, DP 532935	Local	51

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Locality	Item	Address	Property description	Significance	Item no
Berry	<i>Federation weatherboard cottage</i>	25 Prince Alfred Street	Lot A, DP 380097	Local	52
Berry	<i>Federation weatherboard cottage and trees</i>	31 Prince Alfred Street	Lot 3, DP 932362	Local	53
Berry	<i>Federation weatherboard cottage and garden</i>	32 Prince Alfred Street	Lot 1, DP 970121	Local	54
Berry	<i>Federation Weatherboard Cottage</i>	36 Prince Alfred Street	Lot 61, DP 703237	Local	543
Berry	<i>Araucaria heterophylla (Norfolk Island Pines-2)</i>	40 Prince Alfred Street	Part of Lot 1, DP 950717 and adjacent road reserve	Local	55
Berry	<i>Quercus virginiana (American Live Oak)</i>	67 Princess Street	Part of Lot 1012, DP 872963; Part of Lot 9, Section 3, DP 8058	Local	69
Berry	<i>Inter-war weatherboard Californian bungalow</i>	52 Princess Street	Lot 1, DP 304729	Local	64
Berry	<i>Inter-war weatherboard and fibro cottage</i>	54 Princess Street	Lot 18, Section 8, DP 8058	Local	65
Berry	<i>Federation Weatherboard Cottage</i>	64 Princess Street	Lot 1, DP 617648	Local	544
Berry	<i>Inter-war brick residence including doctor's surgery and garden</i>	65–67 Princess Street	Lots 8 and 9, Section 3, DP 8058	Local	66
Berry	<i>Quercus virginiana (American Live Oak)</i>	67 Princess Street	Part of Lot 1012, DP 872963; Part of Lot 9, Section 3, DP 8058	Local	69
Berry	<i>Former two storey Anglican rectory and garden</i>	68 Princess Street	Lot 20, DP 840778	Local	67
Berry	<i>St Luke's Anglican Church including memorial gates and trees, including Araucaria heterophylla (Norfolk Island Pine)</i>	68A Princess Street	Lot 21, DP 840778 and adjacent road reserve	Local	68
Berry	<i>Federation Weatherboard Cottage</i>	71 Princess Street	Lot 1, DP 920044	Local	545

The following HCA are adjacent to the study area.

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Part 2 – Heritage conservation areas

Name of area	Identification on Heritage Map	Significance
Berry Showground Heritage Conservation Area	Shown by red hatching and labelled “C7”	Local Area
Queen Street Heritage Conservation Area	Shown by red hatching and labelled “C6”	Local

The Pullman Street HCA is in the vicinity of the study area.

Name of area	Identification on Heritage Map	Significance
Pulman Street Heritage Conservation Area	Shown by red hatching and labelled “C1”	Local Area



Figure 3. Existing Heritage Map Shoalhaven LEP 2014 showing the study area. Heritage items are shaded brown and conservation areas are cross hatched. Black numbers are Heritage Item numbers. (NSW Government, 2024)

3. Historical Background

Indigenous people in the Shoalhaven were first seen by Europeans in 1770 when Cook and Banks observed fires on the Murramarang shore. Later Aboriginal people and their canoes were seen in Jervis Bay and first contact was made by crew of a shipwrecked whaling boat in 1791. The first official visit by Lady Nelson was in 1801 when a landing party was sent ashore at Jervis Bay. Aboriginal people of the Shoalhaven region believe they have always lived in the area since time began. Using knowledge passed down from their ancestors the Salt Water people lived comfortably off the land, the rivers and the sea until the arrival of the European settlers. After this time the life of Aboriginal people changed dramatically. (Bennett, 2003)

Indicative of the disintegration of the Aboriginal way of life during the twenty years after 1881 four Aboriginal reserves were created. In 1881 280 hectares were laid aside at Wreck Bay, in 1890 150

Princess Street HCA Heritage Assessment

hectares at Kangaroo Valley in 1899 17 hectares at Seven Mile Reserve at Nowra and in 1901 26 hectares at Roseby Park on the southern side of Crookhaven estuary.

The mountain known as Cullunghutti (Coolangatta) played an important role in the spiritual life of Aboriginal people it is said to be a place of connection to the afterlife as well as being an important place of connections between people up and down the coast.

Settlement

Significant attempts were made for a land route from the Southern Highlands to the coast by the Bong Bong settler Charles Throsby in 1818 coming from Sutton Forest. This was initiated by James Meehan based on the discovery of the ford at Burrier 13 years earlier. Throsby, assisted by two Aboriginal guides established a pack horse track down to Jervis Bay. Dr Charles Throsby moved to the Illawarra after being told of good grazing areas at Five Islands by Aboriginal people from the area. Throsby was guided by Aboriginal guides, Bundle and Broughton.

Broughton (also called Toodwick) was to play a significant role in Alexander Berry's estate. In 1822 he acted as guide and translator and went on to help to manage the estate and the large Aboriginal work force, even helping to construct Berry's first house at Coolangatta.

Alexander Berry and Edward Wollstonecraft together acquired a huge land holding. Having arrived in Sydney from England they were granted 14,000 acres of land. Using a workforce of convicts and local Aboriginal people they cut cedar, grew maize, tobacco and vines. When the cedar ran out, they ran cattle. By 1840 the estate in Berry's hands had grown to 40,000 acres, with the headquarters based at Coolangatta. Alexander was succeeded by David Berry who died in 1889 and David Hay took over the estate. Hay made changes to the vast estate by breaking it up into portions that were sold off to small farmers between 1889 and 1902. (Jeans, 1990)

Settlement at Broughton Creek

Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The first settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, called Broughton Creek, was strung out along the ridge now called Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as an important centre for goods distribution the settlement had a significant social role. Wilsons Store at the corner of Pullman Street played a significant role in the life of the district. As the village grew plans were made to expand to the west beyond the confines of the creeks.

Berry

A survey for a new town was first made in 1883 when David Berry set aside lands for a courthouse, four churches, a park and a school. Many properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were already established by the end of the 19th century. After David Berry's death in 1889 his cousin Dr John Hay who had been helping manage the estate took over the entire estate and together with Roxburgh set about selling portions to pay outstanding debts. The village of Broughton Creek became known as the Town of Berry and a railway station was opened in 1893. Streets in the plan only became formalised slowly with Princess Street not being constructed until 1885-1886.

In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan. (Gazetted 8-07-

Princess Street HCA Heritage Assessment

1905). The survey shows the existing streets of Berry along with existing buildings. As older properties had been built prior to the survey some did not align with the town plan. By the time the Deposited Plan (DP8058) was surveyed in 1912 the streets had been realigned and some buildings demolished. Site specific history is available in the heritage inventory sheet for each property. Prior to the 1912 sale of town sites Sir John Hay undertook an extensive tree planting scheme. Trees and shrubs were acquired between 1899 and 1913 from the Royal Botanical Gardens. Hence Berry became known as the 'Town of Trees' due to its diverse and mature collection of deciduous and evergreen trees that contribute considerable historic and scenic value to the town. The mild climate and abundance of water has ensured historic trees have thrived. These now mature trees are a defining feature of the proposed HCA.

4. Physical Evidence

Town Creek

Berry is located near the confluence of Broughton Creek and Broughton Mill Creek and framed by their tributaries, Bundewallah Creek to the north, Hitchcocks Tributary to the south, with Town Creek dissecting the town from the south east to the north west.

When the Town of Berry was surveyed Town Creek ran through the town plan having particular influence on Alexandra Street and Princess Street. Land was alienated from residential development by the watercourse and became Alexandra Park and Princess Street Reserve. These two parklands with their natural watercourse contribute to the aesthetic value of the HCA.

Views

All streets in the proposed HCA have significant views including:

- Views to Woodhill Mountain looking north up Alexandra Street.
- Views to Berry Mountain looking west along Princess Street.
- Glimpses to the rural lands between Prince Alfred Street and Broughton Mill Creek to the east.
- View west along Princess Street capturing significant trees from the corner of Prince Alfred Street.
- The view from the junction of Princess Street and Alexandra Street showing significant trees.
- Views along Victoria Street looking east to significant trees.
- Views north and south along Prince Alfred Street capturing significant trees.

Trees

The diversity of mature and historic trees in Berry is a defining feature in its character. The significant trees in the proposed HCA are of high aesthetic value both in their own right and for the contribution they make to the HCA.

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Figure 4. The view from the junction of Princess Street and Alexandra Street shows the dominance of significant trees.

Alexandra Street

Within the study area Alexandra Street starts at the corner of Princess Street and ends at the corner of Victoria Street. The street is one of the widest streets in Berry – according to the 1905 Gazetted alignment the street was given a carriageway of 66 feet and footways of 12 feet.

There are a number of heritage items within this section of Alexandra Street. The School of Arts on the western side of the street on the corner of Princess Street is a large Federation Arts and Crafts building with a strong built form. The two storey brick building has an awning and a large hipped roof and faces Alexandra Street.

Although not in the proposed HCA the church on the western corner of Alexandra and Victoria Streets is a significant historic building facing Alexandra Street.

The eastern side of Alexandra Street is dominated by a series of significant trees which are included in schedule 5 of SLEP as *Avenue of Remembrance (tree-lined)* and *Araucaria cunninghamii* (Hoop Pine). Some of the trees are in the road reserve and some are in Alexandra Park.

The Hoop Pine is a landmark tree visible from surrounding streets as well as Alexandra Street.



Figure 5. The Hoop Pine is a central landmark and item of high value in the proposed HCA.

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Figure 6. View north along Alexandra Street to Woodhill Mountain.

Alexandra Park

Alexandra Park is on the eastern side of Alexandra Street – it includes 62 Princess Street and 85 Victoria Street as well as the road reserve of Alexandra Street.

Town Creek travels under the road from Princess Street Reserve and reemerges at the corner of Princess Street and Alexandra Street and travels as an open landscaped creek to a culvert at Victoria Street. Town Creek defines this area of open space called Alexandra Park.

There are framed views from the park to significant heritage items in all directions, through trees to the Presbyterian Church, the showground and the School of Arts.

Views across Town Creek to the heritage items to the east – 64 Princess Street and the Rectory and the two Norfolk Island Pine trees.

Alexandra Park has high aesthetic value for the contribution made by the trees in the park, including the trees in the road reserve whose root systems and canopies extend into the park.

Alexandra Park is recommended for inclusion as a heritage item in the LEP.

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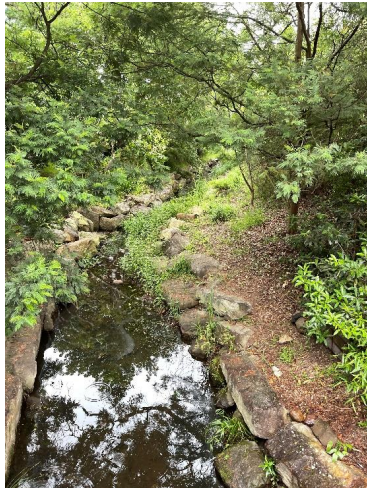


Figure 7. Town Creek is a feature of Alexandra Park



Figure 8. The park is landscaped between the creek and the Avenue of Remembrance and supplemented by other landscaping.

Prince Alfred Street

One of the oldest streets in Berry, Prince Alfred Street was an important access route to the wharf. Properties were developed along this route prior to the making of the 1912 deposited plan.

Properties on the eastern side of Prince Alfred Street were created under an earlier deposited plan (DP5270) surveyed in 1906, however the plan showed most of the buildings were already existing.

The study area includes Prince Alfred Street from the corner of Princess Street, including 28 Prince Alfred Street and terminates at 33 and 40 Prince Alfred Street. This assessment report also considered the wider area to Broughton Mill Creek and Town Creek in the south.

There is physical evidence of the early historical development of Prince Alfred Street (Wharf Road) in the surviving sandstone kerbing on the western side of the street. This kerbing matches that which is also present in Queen Street.

Surviving commercial buildings from the early development of Wharf Road are important in defining the historic character of the HCA.

Proposed new heritage items are:

- 19 Prince Alfred Street,
- 29 Prince Alfred Street,
- 30 Prince Alfred Street,
- 40 Prince Alfred Street,
- Sandstone kerbing.

Places that make a positive contribution to Prince Alfred Street are:

- 44 Prince Alfred Street,
- 38 Prince Alfred Street,
- 33 Prince Alfred Street,
- 28 Prince Alfred Street,

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Figure 9. View looking south from in front of 25 Prince Alfred Street. The Norfolk Is Pines at 40 are dominant in the streetscape.



Figure 10. Sandstone paving on the western side of Prince Alfred Street

CL24.218 - Attachment 1

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Figure 11. Views through 36 Princess Street to the farmland beyond.



Figure 12. View from the end of Pullman Street to Broughtan Mill Creek



Figure 13. The driveway to farmland at number 44 from Prince Alfred Street

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Figure 14. 23 Prince Alfred Street on the corner of Princess Street.



Figure 15. 21 Prince Alfred Street

Princess Street

The study area includes Princess Street from Albany Street to Prince Alfred Street. This street takes in two blocks and includes properties on both sides of the street.

Proposed heritage items in Princess Street are listed below.

- 44 Princess Street
- 62 Princess, Alexandra Park
- 66 Princess Street

Proposed contributory¹ items are listed below.

- 48 Princess Street
- 70 Princess Street
- 73 Princess Street
- Princess Street Reserve

Full details can be found in individual heritage inventory data sheets.

Princess Street between Albany Street and Alexandra Street

The study area has been expanded to include Princess Street Reserve due to the historic significance of Town Creek. On the north side is Town Creek and Princess Street Reserve. The northern side of the street has no kerb and guttering which gives an informal edge to the reserve and supports the character established by the natural creek. There is dense planting along the creek, a mixture of planted and weed species, which collectively contribute to the aesthetic value of the landscape character of the HCA. Three timber bridges over the creek have aesthetic value for their traditional timber construction and for the views through to the heritage items on the opposite side of the road. The street verges on both sides are lined with Fried Egg Trees (*Polyspora axillaris*).

¹ A contributory item is a property that has some heritage value but not enough to warrant listing as a heritage item. It is contributory because it makes a positive contribution to the heritage values of the HCA.

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Figure 16. Along Town Creek the vegetation is dense. The street is not kerb and guttered on the northern side alongside Princess Street Reserve.



Figure 17. View from northern side of Town Creek to heritage listed houses



Figure 18. Princess Street viewed from the junction with Alexandra Street. Princess Street Reserve contributes a densely landscaped edge.

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Figure 19. View to Berry Mountain looking west along Princess Street.

Princess Street between Alexandra Street and Prince Alfred Street

Juniper Hearth, a heritage item at 65-67 Princess Street, has an advanced garden and presents a green wall to Princess Street. Opposite is the start of Alexandra Park and the mature trees associated with the Avenue of Remembrance. Town Creek re-emerges at this southern corner of Princess and Alexandra Streets. A dominant feature in the section of Princess Street is an American Live Oak, a very large tree with a wide canopy which is historically and aesthetically significant. It is an important tree in the proposed HCA as well as the Town of Berry.

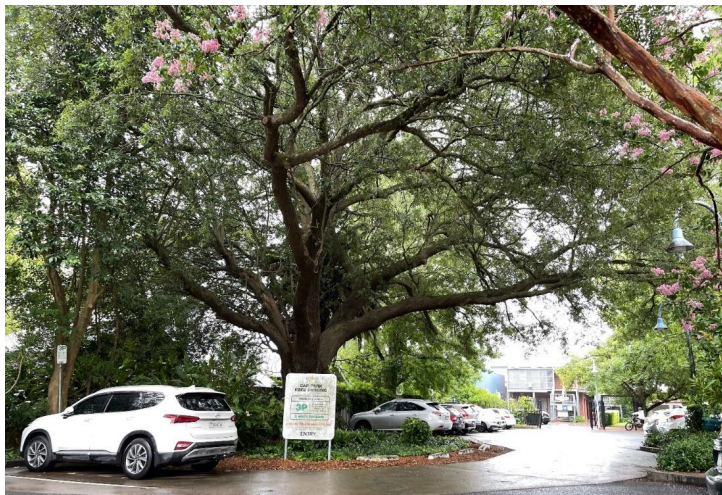


Figure 20. Heritage listed *Quercus virginiana* (American Live Oak)

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On the southern side of this section of Princess Street are two mature Norfolk Island Pine Trees which are landmarks in the proposed HCA. Both trees are associated with the Church of England site which was set aside by David Hay in the first town survey. Both trees are visible from surrounding streets.

There is kerb and guttering both sides of the street and Fried Egg Trees (*Polyspora axillaris*) have been planted evenly spaced along both sides of the street. The verges are grassed and power poles and wires line the southern side of street. There is a view to Berry Mountain to the west and Prince Alfred Street to the east. Terminating Princess Street at the eastern end are two historic commercial buildings facing Prince Alfred Street.

Victoria Street

Victoria Street was surveyed to be 87 feet wide, with a 63 foot carriage way and a 12 footway. Other wide streets in the Town of Berry are Alexandra, Albany and Edward Streets.

The width of Victoria Street has produced wide verges which have been planted with recent but distinctive street trees at the Prince Alfred Street end and the Alexandra Street end. In between there are not as many trees and many properties use the area for informal parking of vehicles. A group of three trees on the verge outside 29 Prince Alfred Street frame the intersection with Victoria and Prince Alfred Streets and the entrance to Victoria Street from the east. The trees do not have historic value as they were planted after the 1960s but they have aesthetic contributory value. The wide verge and the absence of formal gutters give the street a relaxed landscape/parkland quality.

Proposed heritage items in Victoria Street are listed below.

- 85 Victoria Street Alexandra Park
- 97 Victoria Street

Full details can be found in individual heritage inventory data sheets.

Number 76 Victoria Street makes a positive contribution to the historic and aesthetic values of the proposed HCA and is included within the curtilage.

Properties within the original study area: 68, 70, 72 and 74 Victoria Street have been excluded from the proposed HCA as they do not make any contribution to historic or aesthetic values.



Figure 21. Victoria Street looking towards Prince Alfred Street.

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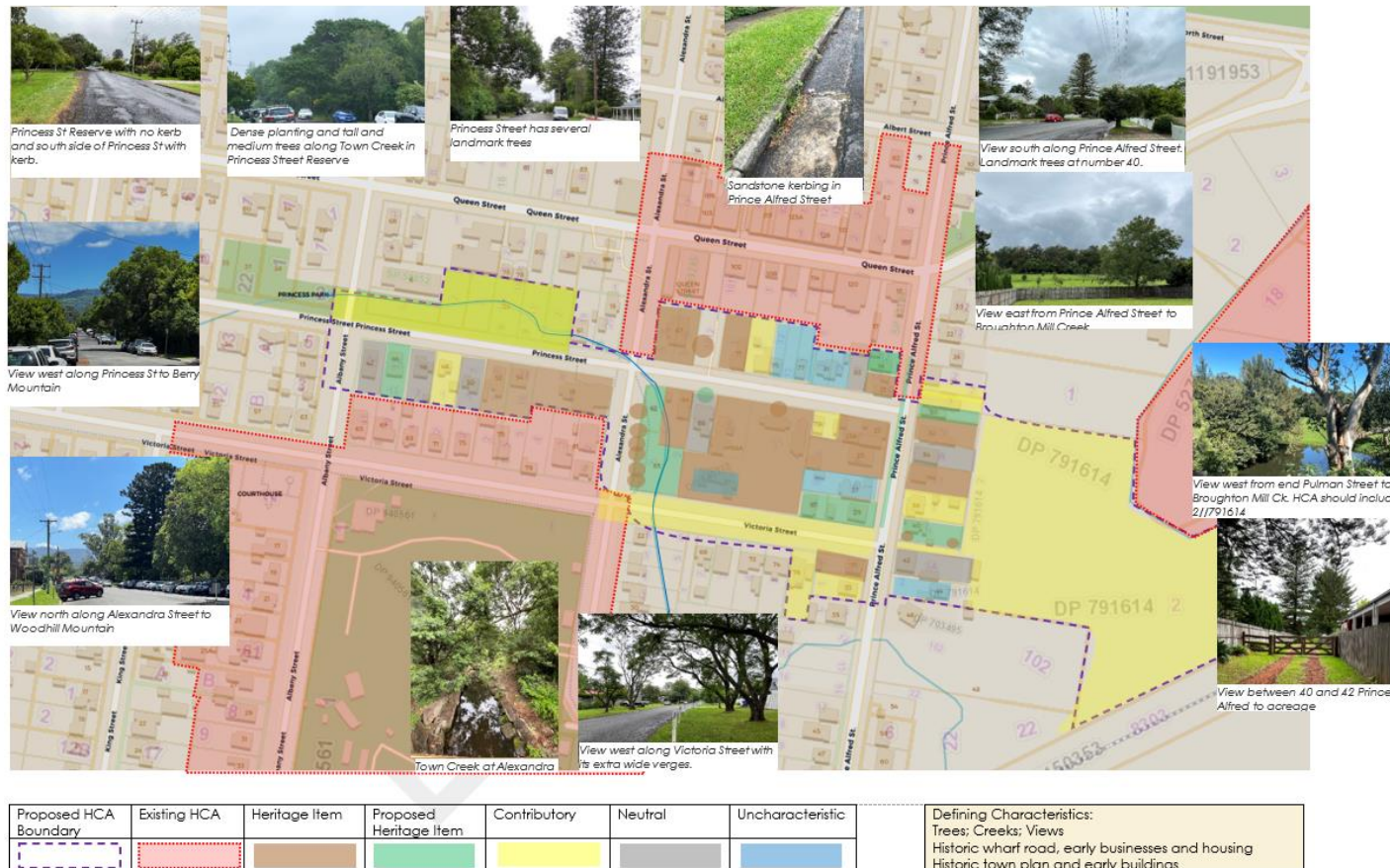


Figure 22. The trees adjacent to the corner of Prince Alfred Street frame the view into Victoria Street

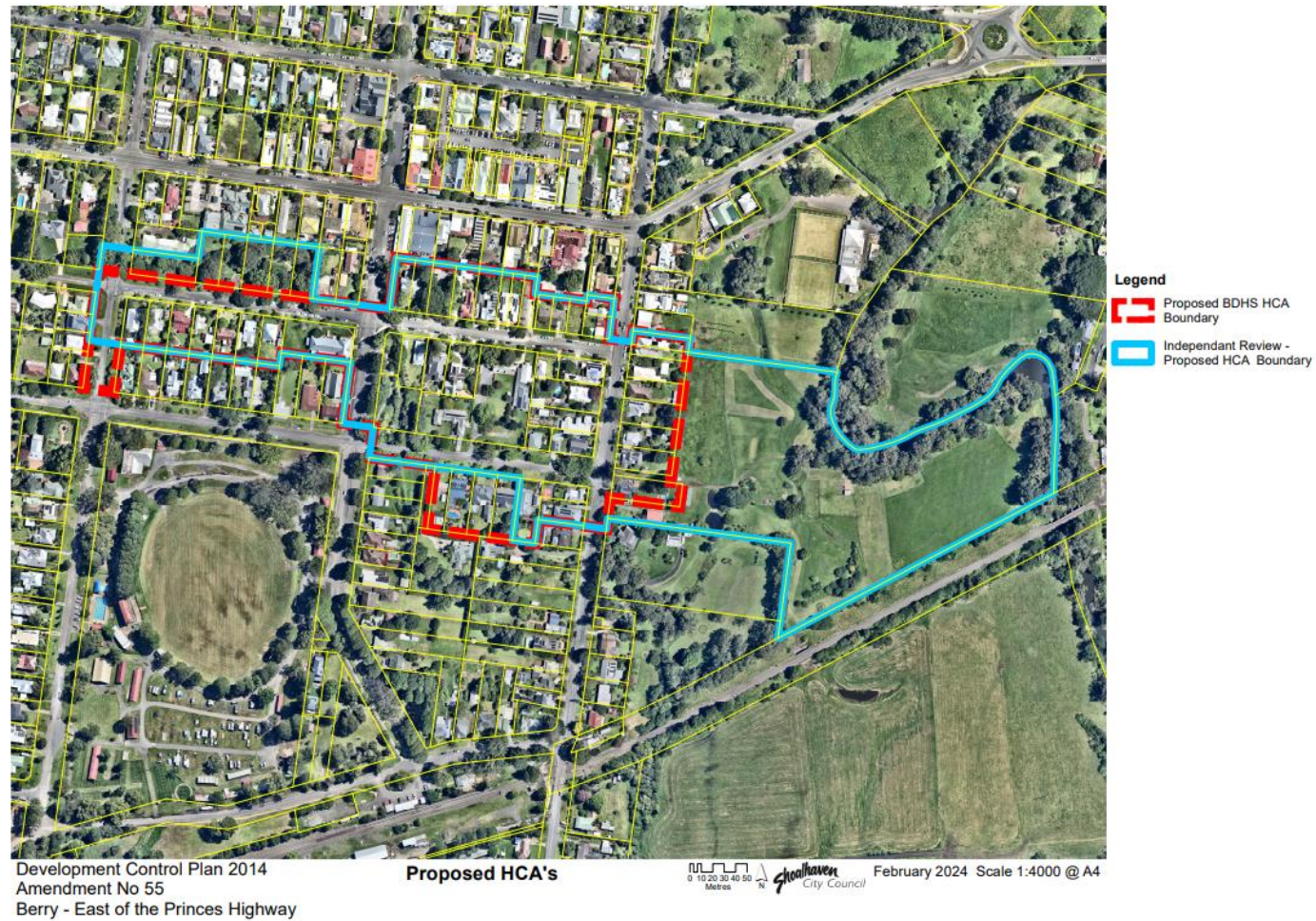


Figure 23. A view showing the Norfolk Island Pine Tree at 40 Prince Alfred Street viewed west along Victoria Street

5. Curtilage – Proposed Boundary of HCA



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Character

The proposed Princess Street HCA has a treed character resulting from its street trees and mature trees on private lots and in Alexandra Park and Princess Street Reserve. The tree lined Town Creek in the two parks contributes to their natural amenity.

Private gardens and large open lots such as the Church of England site contribute to the open space established by the wide streets of Victoria Street and Alexandra Street. An important feature of its character are the views to the surrounding escarpment and to the landmark trees. The dramatic form of the escarpment to the north and west contrasts with the agricultural land beneath it and the flood plains of the Broughton and Broughton Mill Creeks. It is present in numerous vistas and glimpses from within the town.

The essential rural township character of the proposed HCA is established by 19th and early 20th century single storey, pitched roofed residential buildings, including many timber buildings, in combination with their gardens and street trees. The Prince Alfred Street commercial timber buildings, some of which are now residences, that survive from the beginning of the 20th century are particularly important in defining the character of the HCA.

The relationship of the HCA to the Pullman, Queen and Showground HCA is important in defining the contained character.

The proposed curtilage is defined by the following key characteristics and elements:

- Mature historic trees.
- Broughton Mill Creek to the east.
- Town Creek, a tributary of Broughton Mill Creek running through the Town of Berry defining layout and up take of lots.
- Views to Berry Mountain and Woodhill Mountain.
- Glimpses of the farmland/floodplain east of Prince Alfred Street.
- Historic Wharf Road (Prince Alfred Street) with surviving early commercial buildings and early housing.
- Historic ecclesiastical and civic buildings.
- Historic 1912 town plan and buildings built in the first decades after the subdivision sale.

The proposed curtilage adjoins the three other Berry HCA:

- Berry Showground Heritage Conservation Area
- Queen Street Heritage Conservation Area
- Pullman Street Heritage Conservation Area

6. Classification of properties

Within the proposed HCA each property has been assessed according to its potential heritage value.

The properties are divided into five classifications:

- Existing heritage item – The property is already listed in the heritage schedule of Shoalhaven LEP.
- Proposed heritage item – The property has high heritage value and warrants inclusion in the heritage schedule of Shoalhaven LEP.
- Contributory item – The property adds to the significance of the HCA but does not warrant heritage listing.

Princess Street HCA Heritage Assessment

- Neutral Item – The property does not contribute to or detract from the significance of the HCA.
- Uncharacteristic – The property detracts from the significance of the HCA.

Street No.	Street Name	Current Title	Recommendation
19	Alexandra Street		Existing Heritage Item
Street	Alexandra Street		Existing Heritage Item
62	Princess Street Alexandra Park	Lot A DP411591	Existing Heritage Item
32	Prince Alfred Street		Existing Heritage Item
36	Prince Alfred Street		Existing Heritage Item
21	Prince Alfred Street		Existing Heritage Item
23	Prince Alfred Street		Existing Heritage Item
25	Prince Alfred Street		Existing Heritage Item
31	Prince Alfred Street		Existing Heritage Item
52	Princess Street		Existing Heritage Item
54	Princess Street		Existing Heritage Item
62	Princess Street		Existing Heritage Item
64	Princess Street		Existing Heritage Item
68	Princess Street		Existing Heritage Item
68A	Princess Street		Existing Heritage Item
65-67	Princess Street		Existing Heritage Item
69	Princess Street		Existing Heritage Item
71	Princess Street		Existing Heritage Item
19	Prince Alfred Street	17/3/8058	Potential Heritage Item
29	Prince Alfred Street	1//307805	Potential Heritage Item
30	Prince Alfred Street	1//952372	Potential Heritage Item
40	Prince Alfred Street	1//950717	Potential Heritage Item
44	Princess Street	13/08/8058	Potential heritage item
62	Princess, Alexandra Park	Lot A DP411591	Potential Heritage Item
66	Princess Street	1/605825	Potential heritage item
85	Victoria Street	2//617648	Potential Heritage Item
97	Victoria Street	4//667521	Potential Heritage Item
85-87	Victoria, Alexandra Park	Lot 2 DP617648	Potential Heritage Item
Sandstone Kerbing	Western side of Prince Alfred Street between Queen and Victoria Streets.		Potential heritage item

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Street No.	Street Name	Current Title	Recommendation
28	Prince Alfred Street	1//953827	Contributory
33	Prince Alfred Street	1/926508	Contributory
38	Prince Alfred Street	1//951287	Contributory
44	Prince Alfred Street		Contributory
48	Princess Street	1//327819	Contributory
70	Princess Street	1//532935	Contributory
73	Princess Street	2//1038574	Contributory
76	Victoria Street	4/05/8058	Contributory
51-59	Princess Street Reserve		Contributory
Street	Victoria Street		Contributory
34	Prince Alfred Street	A//310331	Neutral
42	Prince Alfred Street	5A//354126	Neutral
42	Princess Street	12/08/8058	Neutral
46	Princess Street	3/604982	Neutral
50	Princess Street	1//210451	Neutral
83	Princess Street	1//342913	Neutral
27	Prince Alfred Street	B//380097	Uncharacteristic
75A -75B	Princess Street	12/03/8508 and 13/03/8508	Uncharacteristic
77	Princess Street	1//209665	Uncharacteristic
79-81	Princess Street	2//342913 and 3//342913	Uncharacteristic
87	Victoria Street	21//840778	Uncharacteristic

7. Significance Assessment

Significance Assessment Criteria

The following criteria are used in the assessment of cultural heritage significance. These criteria are the standard criteria for use in NSW that have been prepared by Heritage NSW, Department of Planning and Environment. (Department of Planning and Environment, 2023)

For a place to be deemed to be significant it must meet at least one of the following criteria:

- an item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area);
- an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area);

Princess Street HCA Heritage Assessment

- c) an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);
- d) an item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons;
- e) an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area);
- f) an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area);
- g) an item is important in demonstrating the principal characteristics of a class of NSW's - cultural or natural places; or - cultural or natural environments. (Or a class of the local area's cultural or natural places; or - cultural or natural environments).

Significance of proposed Princess Street Heritage Conservation Area

The following significance assessment is for the HCA as a whole. For assessments of individual properties recommended for inclusion as heritage items in the LEP please refer to individual heritage inventory data sheets.

Criterion (a) Historical Value: - *an item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area);*

The Princess Street Heritage Conservation Area provides physical evidence of the historical evolution of Berry. Evidence of the private town of Broughton Creek owned by the Berry Estate is still present in properties along Wharf Road (Prince Alfred Street) and the surviving sandstone kerbing. The lands to the east of Prince Alfred Street provide a physical link with Broughton Mill Creek and Pullman Street.

The HCA demonstrates the key historic period of growth of the Town of Berry when the town subdivision was put up for private sale in 1912.

Historic trees provide physical evidence of the extensive tree planting scheme started by Sir John Hay and continued from 1899 and 1912 when trees and shrubs were acquired from the Royal Botanical Gardens to beautify the town.

The park provides evidence of the first town survey and the influence of Town Creek upon the subsequent take up of lots after 1912.

Criterion (b) Historical Association: - *an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).*

The HCA is historically associated with the Berry Estate upon which the private town of Berry was established in the 19th century. Historically associated with the HCA is David Berry who created the 1883 subdivision and donated four large parcels of land for churches one of which is St Lukes in Princess Street. The HCA is also associated with Sir John Hay who had the foresight to acquire trees and shrubs from the Royal Botanical Gardens for the beautification of the town.

Criterion (c) Aesthetic Value: - *an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);*

The northern and western views along Princess Street, Alexandra Street and Prince Alfred Street frame the dramatic form of the escarpment which is so significant to the setting of Berry. Tree lined Broughton Mill Creek contributes to the rural character to the east. Tall historic trees are situated throughout the HCA providing landmarks and aesthetic continuity. The HCA is characterised by a

Princess Street HCA Heritage Assessment

variety and diversity of species in both the public and private domain. The variety of exotic and native trees in the HCA provide an excellent example of the historic trends in Australian tree planting. The 19" and 20" century single storey, pitched roofed residential buildings, including many timber buildings, in combination with their gardens and street trees create the essential rural township character of the HCA.

Buildings with their associated mature gardens such as St Lukes Church, St Lukes Presbytery and Juniper Hearth make an important contribution to the HCA. The two parks, street trees and private gardens reinforce the character of Berry as the 'Town of Trees'.

Criterion (d) Social Value: - an item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons;

Whilst strong community interest initiated the investigation into the Princess Street HCA. No special social or spiritual association has been demonstrated.

Does not meet this criterion.

Criterion (e) Research Potential: - an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area);

Does not meet this criterion.

Criterion (f) Rarity: - an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area);

Does not meet this criterion.

Criterion (g) Representativeness: - an item is important in demonstrating the principal characteristics of a class of NSW's - cultural or natural places; or - cultural or natural environments. (Or a class of the local area's cultural or natural places; or - cultural or natural environments).

The Princess Street Conservation Area provides representative evidence of a private town on a large estate established in the mid-19th century and finally put out to private sale in 1912.

Summary Statement of Significance

The Princess Street Heritage Conservation Area provides physical evidence of the historical evolution of Berry. Evidence of the private town of Broughton Creek owned by the Berry Estate is still present in properties along Wharf Road (Prince Alfred Street) and the surviving sandstone kerbing. The lands to the east of Prince Alfred Street provide a physical link with Broughton Mill Creek and Pullman Street.

The HCA is historically associated with the Berry Estate upon which the private town of Berry was established in the 19th century. Historically associated with the HCA is David Berry who created the 1883 subdivision and donated four large parcels of land for churches one of which is St Lukes in Princess Street. The HCA is also associated with Sir John Hay who had the foresight to acquire trees and shrubs from the Royal Botanical Gardens for the beautification of the town. Surviving historic trees provide physical evidence of the extensive tree planting scheme started by Sir John Hay and continued from 1899 and 1912. Tall historic trees are situated throughout the HCA providing landmarks and aesthetic continuity. The HCA is characterised by a variety and diversity of species in both the public and private domain which has led to Berry being known as the 'Town of Trees'. The variety of exotic and native trees in the HCA provide an excellent example of historic trends in Australian tree planting.

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The HCA demonstrates the key historic period of growth of the Town of Berry when the town subdivision was put up for private sale in 1912. It provides evidence of the influence of Town Creek upon the town plan and subsequent take up of lots. Town Creek ran through the town plan having particular influence on Alexandra Street and Princess Street, alienating land from residential development and creating Alexandra Park and Princess Street Reserve. These two treed parklands together with the natural watercourse contribute to the aesthetic value of the proposed Princess Street Heritage Conservation Area.

The northern and western views along Princess Street, Alexandra Street and Prince Alfred Street frame the dramatic form of the escarpment which is so significant to the setting of Berry. Tree lined Broughton Mill Creek contributes to the rural character to the east. The 19th and 20th century single storey, pitched roofed residential buildings, including many timber buildings, in combination with their gardens and street trees create the essential rural township character of the HCA.

Buildings with their associated mature gardens such as St Lukes Church, St Lukes Presbytery and Juniper Hearth make an import contribution to the HCA. The two parks, street trees and private gardens reinforce the character of Berry as the ‘Town of Trees’.

8. Recommendations

1. The proposed Princess Street Heritage Conservation Area has historic, aesthetic and representative value at a local level and should be included in Schedule 5 of Shoalhaven Local Environmental plan 2014. The curtilage shown in Section 5 of this report should be adopted as the HCA boundary.
2. The identified potential heritage items have significance as shown in the individual heritage information data sheets and should be listed in Schedule 5 of Shoalhaven Local Environmental plan 2014.
3. The classifications table in Section 6 of this report should be used to implement appropriate development controls. Items identified as contributory should be retained.

9. References

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Summary of proposed items of Environmental Heritage

Proposed Princess Street Heritage Conservation Area (HCA) & Heritage Items

The proposed Princess Street HCA in the Louise Thom Heritage peer review is recommended for inclusion in Schedule 5 (Part 2) of Shoalhaven LEP 2014, as indicated in **Figure A1**.

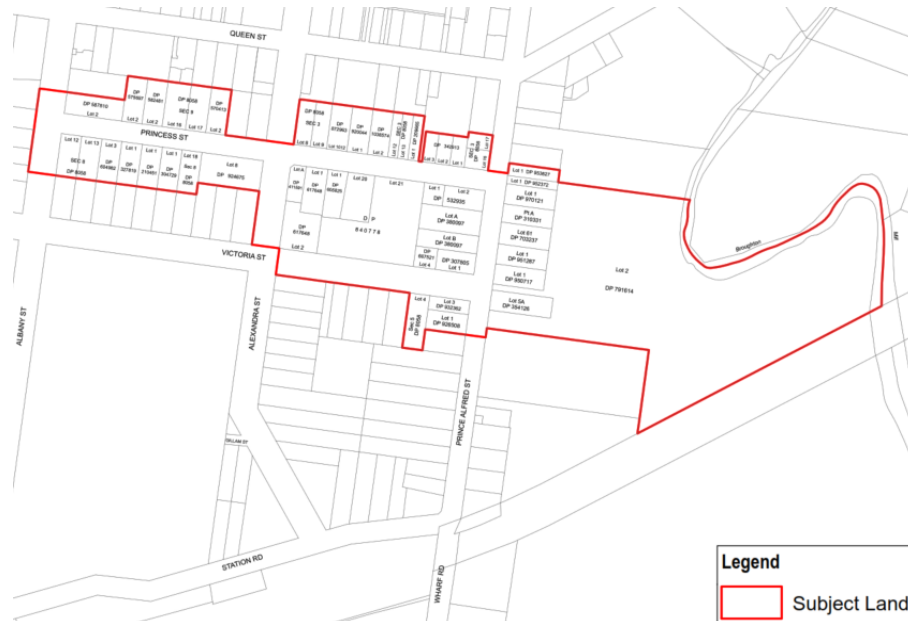


Figure A1: Proposed Princess Street HCA boundary proposed by independent Heritage Consultant (Louise Thom Heritage)

Table A1 below identifies the properties within the proposed HCA, inclusive of the following within:

- The existing heritage listed items.
- The nine proposed items with potential heritage significance that are recommended for inclusion in Schedule 5 (Part 1) of Shoalhaven LEP 2014.
- The 10 proposed contributory items that should be retained through appropriate development controls.

Details of the existing heritage items can be found in [Schedule 5 of Shoalhaven LEP 2014](#) and the [NSW Government's State Heritage Inventory](#).

Table A1: Proposed Princess Street HCA and related items

Address	Category
Existing Heritage Items	
Alexandra Street road reserve	Existing Item 35, Item 37 (part)
19 Alexandra Street	Existing Item 31
Princess Street road reserve	Existing Item 68 (part)

52 Princess Street	Existing Item 64
54 Princess Street	Existing Item 65
62 Princess Street	Existing Item 37 (part)
64 Princess Street	Existing Item 544
65 Princess Street	Existing Item 66
67 Princess Street	Existing Item 66, Item 69 (part)
Princess Street (car park)	Existing Item 69 (part)
68 Princess Street	Existing Item 67
68A Princess Street	Existing Item 68 (part)
71 Princess Street	Existing Item 545
21 Prince Alfred Street	Existing Item 50
23 Prince Alfred Street	Existing Item 51
25 Prince Alfred Street	Existing Item 52
31 Prince Alfred Street	Existing Item 53
32 Prince Alfred Street	Existing Item 54
36 Prince Alfred Street	Existing Item 543
40 Prince Alfred Street	Existing item 55 (part)
Prince Alfred Street road reserve	Existing item 55 (part)
Proposed Heritage Items	
44 Princess Street *	Weatherboard and Fibro Bungalow
62 Princess Street 85 Victoria Street	Alexandra Park
66 Princess Street Princess Street road reserve	<i>Araucaria heterophylla</i> (Norfolk Island Pine)
19 Prince Alfred Street *	Victorian Cottage
29 Prince Alfred Street *	Inter-war Bungalow
30 Prince Alfred Street	Late Victorian Cottage
40 Prince Alfred Street *	Federation Weatherboard House
97 Victoria Street	Inter-war Cottage
Prince Alfred Street road reserve Princess Street road reserve	Sandstone kerbing on the western side of Prince Alfred Street, between Queen and Victoria Streets
Proposed Contributory Items	
Lot 2 Albany Street 51 - 59 Princess Street	Princes Street Reserve
48 Princess Street	Dwelling
70 Princess Street	Dwelling
73 Princess Street *	Dwelling and palm
28 Prince Alfred Street	Dwelling

33 Prince Alfred Street *	Dwelling
38 Prince Alfred Street	Dwelling
44 Prince Alfred Street	Farmland and creek
76 Victoria Street	Dwelling
Victoria Street road reserve	Road reserve
Neutral Items	
42 Princess Street	Dwelling
46 Princess Street	Dwelling
50 Princess Street	Dwelling
66 Princess Street	Dwelling
83 Princess Street	Dwelling
34 Prince Alfred Street	Dwelling
42 Prince Alfred Street	Dwelling
Uncharacteristic Items	
27 Prince Alfred Street	Dwelling
75A Princess Street	Dwelling
75B Princess Street	Dwelling
77 Princess Street	Carpark and access
79 – 81 Princess Street	Dwelling
68A Princess Street	Dwelling (fronting Victoria Street)
Road Reserves & Car Parks	
Prince Alfred Street road reserve	
Princess Street road reserve	
Alexandra Street road reserve	
Albany Street road reserve	
Victoria Street road reserve	

* Recommended in the Berry & District Historical Society (BDHS) assessment for heritage listing.

Additional potential heritage items identified in 2019

Nine items with potential heritage significance, located outside the proposed Princess Street HCA boundary, are recommended for inclusion in Schedule 5 (Part 1) of Shoalhaven LEP 2014 (**Table A2**). These items were identified as part of the Shoalhaven Local Environmental Plan 2014 Amendment 43 process, however they were not pursued at the time (land owners 'opted-out').

Table A2: Potential individual heritage items outside the proposed Princess Street HCA

Location	Description
45 Prince Alfred Street	Inter-war Weatherboard Bungalow

73 Victoria Street	Federation Weatherboard Cottage
17 Albany Street	Victorian Brick Residence
30 Alexandra Street	Inter-war House
40 Alexandra Street	Federation Bungalow
53 Queen Street	Inter-war Weatherboard Cottage
59 Queen Street	Federation Weatherboard Cottage
68 Queen Street	Federation Weatherboard Cottage
70 Queen Street	Inter-war Weatherboard Bungalow

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ITEM DETAILS						
Name of Item	Princess Street Heritage Conservation Area					
Other Name/s Former Name/s						
Item type (if known)						
Item group (if known)						
Item category (if known)						
Area, Group, or Collection Name	Berry Heritage Conservation Areas including Pullman Street HCA, the Showground HCA and Queen Street HCA.					
Street number						
Street name						
Suburb/town	Berry				Postcode	2535
Local Government Area/s	Shoalhaven					
Property description						
Location - Lat/long	Latitude				Longitude	
Location - AMG (if no street address)	Zone		Easting		Northing	
Owner						
Current use						
Former Use						
Statement of significance	<p>The Princess Street Heritage Conservation Area provides physical evidence of the historical evolution of Berry. Evidence of the private town of Broughton Creek owned by the Berry Estate is still present in properties along Wharf Road (Prince Alfred Street) and the surviving sandstone kerbing. The lands to the east of Prince Alfred Street provide a physical link with Broughton Mill Creek and Pullman Street. The HCA is historically associated with the Berry Estate upon which the private town of Berry was established in the 19th century. Historically associated with the HCA is David Berry who created the 1883 subdivision and donated four large parcels of land for churches one of which is St Lukes in Princess Street. The HCA is also associated with Sir John Hay who had the foresight to acquire trees and shrubs from the Royal Botanical Gardens for the beautification of the town. Surviving historic trees provide physical evidence of the extensive tree planting scheme started by Sir John Hay and continued from 1899 and 1912. Tall historic trees are situated throughout the HCA providing landmarks and aesthetic continuity. The HCA is characterised by a variety and diversity of species in both the public and private domain which has led to Berry being known as the 'Town of Trees'. The variety of exotic and native trees in the HCA provide an excellent example of historic trends in Australian tree planting.</p> <p>The HCA demonstrates the key historic period of growth of the Town of Berry when the town subdivision was put up for private sale in 1912. It provides evidence of the influence of Town Creek upon the town plan and subsequent take up of lots. Town Creek ran through the town plan having particular influence on Alexandra Street and Princess Street, alienating land from residential development and creating Alexandra Park and Princess Street Reserve. These two treed parklands together with the natural watercourse contribute to the aesthetic value of the proposed Princess Street Heritage Conservation Area.</p> <p>The northern and western views along Princess Street, Alexandra Street and Prince Alfred Street frame the dramatic form of the escarpment which is so significant to the setting of Berry. Tree lined Broughton Mill Creek contributes to the rural character to the east. The 19th and 20th century single</p>					

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

	storey, pitched roofed residential buildings, including many timber buildings, in combination with their gardens and street trees create the essential rural township character of the HCA. Buildings with their associated mature gardens such as St Lukes Church, St Lukes Presbytery and Juniper Hearth make an import contribution to the HCA. The two parks, street trees and private gardens reinforce the character of Berry as the 'Town of Trees'.	
Level of Significance	State <input type="checkbox"/>	Local <input checked="" type="checkbox"/>

DESCRIPTION					
Designer					
Builder/ maker					
Physical Description	<p>The Princess Street Heritage Conservation Area commences at Prince Alfred Street following the boundary of the Queen Street HCA continuing along Princess Street and including the whole of Princess Street Reserve to the western edge of Albany Street. The boundary then proceeds south along Albany Street crossing over and following along the rear of properties from 42 Princess Street to the School of Arts. The boundary then turns south along the western side of Alexandra Street following the Showground HCA boundary at Alexandra Street and Victoria Street and proceeding east along the southern side of Victoria Street. The boundary includes 76 Victoria Street and returns alongside the southern boundary of 33 Prince Alfred Street crossing Prince Alfred Street and proceeding east to enclose Lot 2 DP 791614 following the western bend in Broughton Mill Creek where it adjoins the Pullman Street HCA. The HCA boundary includes 32 Prince Alfred Street and adjoins the Queen Street HCA.</p> <p>Physical characteristics of the HCA include Broughton Mill Creek to the east and Town Creek running diagonally through the town, large historic trees, street trees and landscaping in Alexandria Park and Princess Street Reserve, historic Prince Alfred Street, small cottages from early 20th century and Interwar buildings built after the sale of the 1912 subdivision, St Lukes Church and rectory and the School of Arts.</p>				
Physical condition and Archaeological potential					
Construction years	Start year		Finish year		Circa <input type="checkbox"/>
Modifications and dates					
Further comments					

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village of some size, Broughton Creek, was situated along the ridge of Pullman Street and along the high ground to the west of Broughton Mill Creek which formed the Great South Road (Queen Street) and Wharf Road (Prince Alfred Street). The only access to the village from other settlements was by pack horse. As well as being an important centre for goods distribution the settlement played a significant role in the social life of the district. As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey of the town was first made in 1883 when David Berry also set aside lands for a courthouse, four churches, a park and a school. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>Many of the properties along Prince Alfred Street and Queen Street were developed in the 1880s and 1890s. Prince Alfred Street provided access to the wharves on Broughton Creek and was a busy commercial part of the village. With the opening of the railway in 1893 a horse drawn bus used the road to get passengers to the train. The road eventually connected to the Coolangatta Estate and later Shoalhaven Heads. The Deposited Plan (DP5270) of lands between Prince Alfred Street and Broughton Mill Creek was drawn in 1906, at that time the lots facing Prince Alfred Street extended as far as Broughton Mill Creek and lots 2 to 8 were shown with existing buildings. The properties with existing buildings were subdivided into smaller lots under DP8513 in 1916. In 1912 a Deposited Plan (DP8058) was surveyed for the lands west of Prince Alfred Street including the properties on the western side of the street. When the plan of subdivision went on sale it showed those properties that had already been developed.</p> <p>In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan (Gazetted 8-07-1905). This realignment lead to buildings being moved or demolished and wells being covered over. Princess Street was opened in 1896 although access to St Lukes Anglican Church would have already in place as the church opened in 1885.</p> <p>Prior to the 1912 sale of town sites Sir John Hay undertook an extensive tree planting scheme. Trees and shrubs were acquired between 1899 and 1913 from the Royal Botanical Gardens. Tree planting and garden development continued throughout the 20th century in the public and private domains, establishing Berry as the 'Town of Trees'. Berry has a diverse and mature collection of deciduous and evergreen trees which have thrived because of the mild climate and abundance of water. A memorial avenue of trees was planted in Alexandra Street in 1919 (circa). Partially located in Alexandra Park and on the road reserve these trees make a considerable contribution to the character of the Princess Street HCA. Other significant trees are the American Live Oak marking the first School of Arts site and the two Norfolk Island Pines marking the corner of St Lukes original lot. In Prince Alfred Street there are two large Norfolk Island Pines at 40 Prince Alfred Street which are visible from the surrounding streets. Town Creek influenced the town plan creating Princess Street Reserve and Alexandra Park due to the resumption of land alienated by flooding. As a result, these parks have greatly contributed to the landscape character of Princess Street HCA.</p>

THEMES	
National historical theme	<ol style="list-style-type: none"> 2. Peopling the continent 3. Developing local, regional and national economies 4. Building settlements, towns and cities

Shoalhaven Heritage Data Form

State historical theme	Towns, suburbs and villages Land tenure Accommodation Leisure Religion
-------------------------------	--

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	<p>The Princess Street Heritage Conservation Area provides physical evidence of the historical evolution of Berry. Evidence of the private town of Broughton Creek owned by the Berry Estate is still present in properties along Wharf Road (Prince Alfred Street) and the surviving sandstone kerbing. The lands to the east of Prince Alfred Street provide a physical link with Broughton Mill Creek and Pullman Street. The HCA demonstrates the key historic period of growth of the Town of Berry when the town subdivision was put up for private sale in 1912.</p> <p>Historic trees provide physical evidence of the extensive tree planting scheme started by Sir John Hay and continued from 1899 and 1912 when trees and shrubs were acquired from the Royal Botanical Gardens to beautify the town.</p> <p>The park provides evidence of the first town survey and the influence of Town Creek upon the subsequent take up of lots after 1912.</p>
Historical association SHR criteria (b)	<p>The HCA is historically associated with the Berry Estate upon which the private town of Berry was established in the 19th century. Historically associated with the HCA is David Berry who created the 1883 subdivision and donated four large parcels of land for churches one of which is St Lukes in Princess Street. The HCA is also associated with Sir John Hay who had the foresight to acquire trees and shrubs from the Royal Botanical Gardens for the beautification of the town.</p>
Aesthetic significance SHR criteria (c)	<p>The northern and western views along Princess Street, Alexandra Street and Prince Alfred Street frame the dramatic form of the escarpment which is so significant to the setting of Berry. Tree lined Broughton Mill Creek contributes to the rural character to the east. Tall historic trees are situated throughout the HCA providing landmarks and aesthetic continuity. The HCA is characterised by a variety and diversity of species in both the public and private domain. The variety of exotic and native trees in the HCA provide an excellent example of the historic trends in Australian tree planting. The 19th and 20th century single storey, pitched roofed residential buildings, including many timber buildings, in combination with their gardens and street trees create the essential rural township character of the HCA.</p> <p>Buildings with their associated mature gardens such as St Lukes Church, St Lukes Presbytery and Juniper Hearth make an import contribution to the HCA. The two parks, street trees and private gardens reinforce the character of Berry as the 'Town of Trees'.</p>
Social significance SHR criteria (d)	<p>The community of Berry hold their town in high esteem and there is community support for the proposed conservation area. However, the threshold for this criterion has not been met at this time as there is insufficient evidence to demonstrate social value.</p>
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	<p>The Princess Street Conservation Area provides representative evidence of a private town on a large estate established in the mid-19th century and finally put out to private sale in 1912.</p>
Integrity	The integrity of the HCA is high.

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	Yes numerous, see background report.

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Book	Mary Lidbetter	Historic Sites of Berry	1993	
Collection	Various	Berry District Historical Society	2024	Berry Museum
Book	P. Milthorpe and H. King	Historic Trees of Berry	2020	

RECOMMENDATIONS	
Recommendations	Include the Princess Street Heritage Conservation Area in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a HCA of local significance.

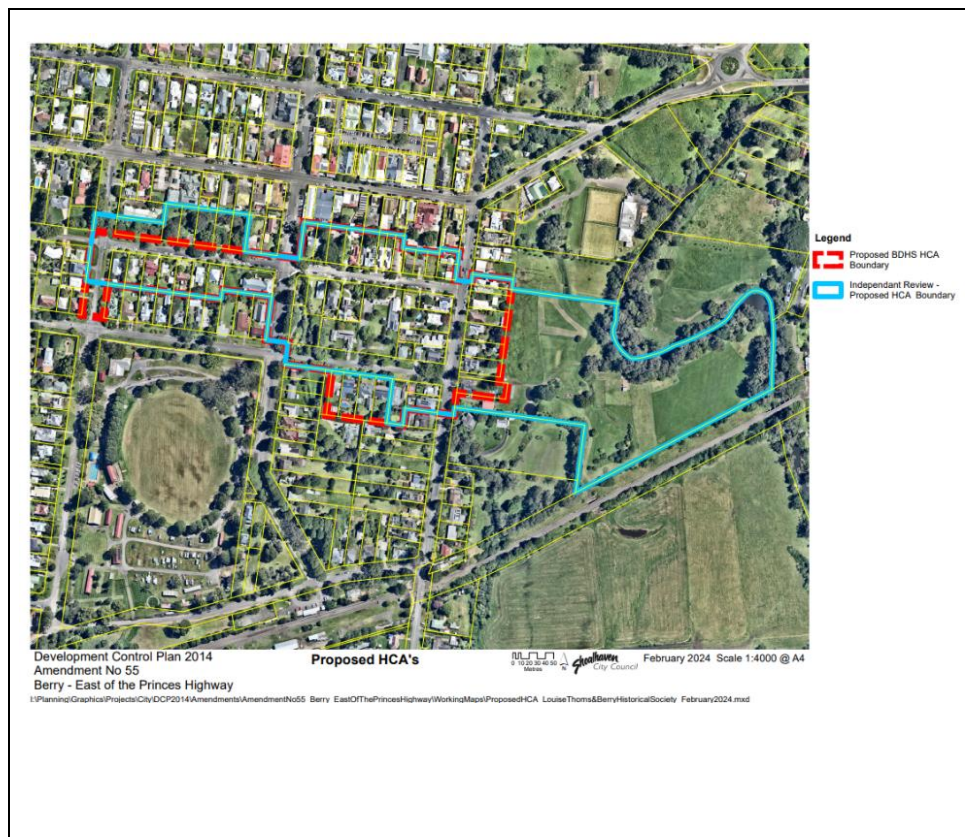
SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Proposed HCA boundary shown in blue.				
Image year	2024	Image by	Shoalhaven City Council	Image copyright holder	Shoalhaven City Council



Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	This photo shows Prince Alfred Street looking north. The Norfolk Island Pine in the fore ground is at 40 Prince Alfred Street opposite Victoria Street. On the left mid ground is St Lukes Anglican Church and Norfolk Island Pine and beyond it the American Live Oak. The escarpment and lands to the north are visible along Prince Alfred, Alexandra and Princess Streets.				
Image year	2024	Image by	Jo Belford & Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	This view is from Prince Alfred Street looking east to the tree lined Broughton Mill Creek.				
Image year	2024	Image by	Jo Belford and Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Princess Street viewed from the intersection with Albany Street looking east. Princess Street Reserve is on the left of the image.				
Image year	2024	Image by	Jo Belford and Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Alexandra Street looking north with Alexandra Park on the right, the School of Arts on the corner of Princess Street. The HCA does not include the Presbyterian Church and Church Hall.				
Image year	2024	Image by	Jo Belford and Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Looking east along Victoria Street. The Norfolk Island Pine at 40 Prince Alfred Street can be seen at the end of the street. On the left of the picture in the fore ground is Alexandra Park and the Town Creek crossing.				
Image year	2024	Image by	Jo Belford and Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The scenic dominance of trees in the 'Town of Trees' can be seen in Alexandra Park.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The former St Lukes Rectory makes a significant contribution to the historic and aesthetic significance of the HCA.				
Image year	2018	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Small houses built after the 1912 sale of lots such as 44 Princess Street demonstrate the early development of the HCA.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Surviving cottages and shops in Prince Alfred Street contribute considerable historic significance to the HCA as well as rural vernacular character.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Sandstone kerbing in Prince Alfred Street provides evidence of the early history of the oldest street in the HCA.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



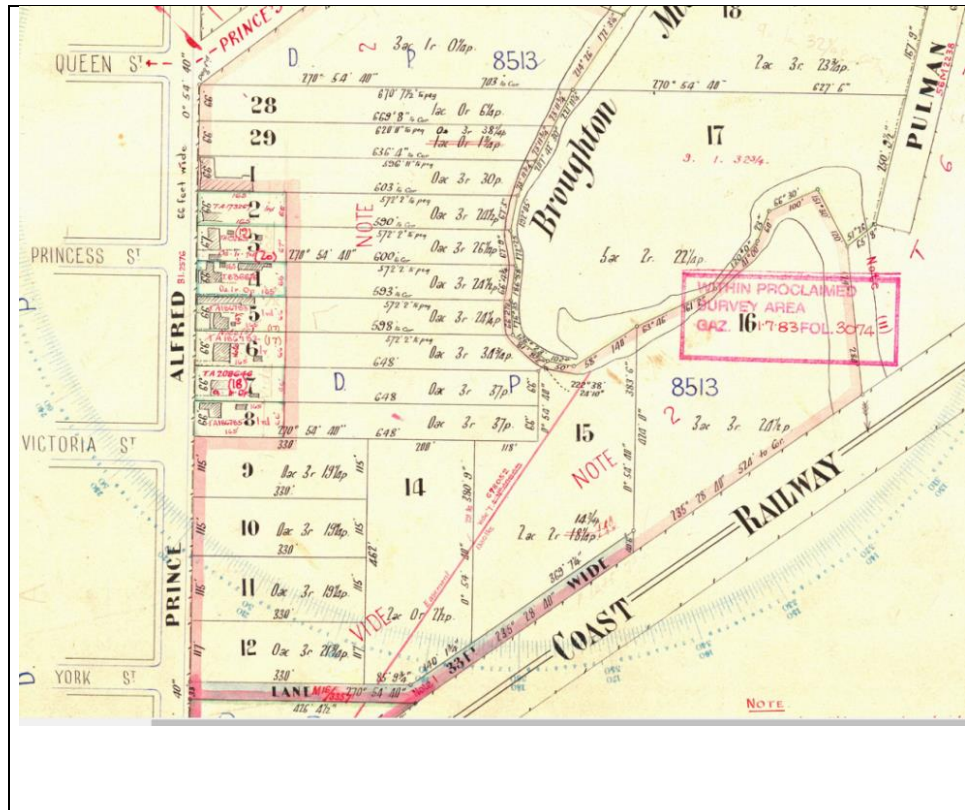
CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The original Deposited Plan 5027 overlayed with a later subdivision DP8513 shows the connecting lands between Prince Alfred Street and Broughton Mill Creek. The properties facing Prince Alfred Street originally had land down to the creek.				
Image year	1906	Image by	Land Registry Services	Image copyright holder	NSW Government



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

ITEM DETAILS					
Name of Item	Alexandra Park				
Other Name/s Former Name/s					
Item type (if known)	Park				
Item group (if known)					
Item category (if known)	Landscape				
Area, Group, or Collection Name					
Street number	85 Victoria Street; 62 Princess Street;				
Street name	Alexandra Street				
Suburb/town	Berry	Postcode		2535	
Local Government Area/s	Shoalhaven				
Property description	Lot A DP411591; Lot 2 DP 617648				
Location - Lat/long	Latitude	-34.776976		Longitude	150.696568
Location - AMG (if no street address)	Zone		Easting		Northing
Owner	Shoalhaven City Council				
Current use	Park				
Former Use	Undeveloped land affected by flooding				
Statement of significance	<p>Alexandra Park displays two of the principal characteristics which contribute to the significance of Berry – a place of outstanding scenic beauty defined by creeks and its mature parkland and street trees. The variety of exotic and native trees in Alexandra Park including those on the verge which extend into the park, provide an excellent example of the historic trends in Australian tree planting. Alexandra Park contains physical evidence of the extensive tree planting scheme started by Sir John Hay and continued from 1899 and 1912 when trees and shrubs were acquired from the Royal Botanical Gardens to beautify the town.</p> <p>Alexander Park exemplifies the character of Berry as the 'Town of Trees' due to its diverse and mature collection of deciduous and evergreen trees, many of which can be seen as landmarks in the town. Alexandra Park has considerable scenic value in the Princess Street HCA. The mature trees in Alexandra Park including those in the Alexandra Street road reserve that extend into the park, are fundamental to the aesthetic character and significance of Berry.</p> <p>The park provides evidence of the first town survey and the influence of Town Creek upon the subsequent take up of lots after 1912.</p>				
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>		

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

DESCRIPTION					
Designer	Unknown				
Builder/ maker	Unknown				
Physical Description	<p>The canopies and root systems of the mature trees in the Avenue of Remembrance on the east of Alexandra Street extend into Alexandra Park. The bows of the trees frame views to significant heritage buildings – the Presbyterian Church and the School of Arts. The trees form a dense green canopy along the eastern side of Alexandra Street, contrasting with the unplanted urban edge to the west. Town Creek runs through the park from north to south. A local Parkcare group has been regularly caring for the landscaping along the creek since at least 2016 as a result the park and creek have a well maintained and attractive appearance.</p>				
Physical condition and Archaeological potential	Very good				
Construction years	Start year		Finish year		Circa <input type="checkbox"/>
Modifications and dates					
Further comments					

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, Broughton Creek, was strung out along the ridge along Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as being an important centre for goods distribution the settlement played a significant role in the social life of the district.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry also set aside lands for a courthouse, four churches, a park and a school. Properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed early. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>Prior to the 1912 sale of town sites Sir John Hay undertook an extensive tree planting scheme. Trees and shrubs were acquired between 1899 and 1913 from the Royal Botanical Gardens. Hence Berry became known as the 'Town of Trees' due to its diverse and mature collection of deciduous and evergreen trees that contribute considerable historic and scenic value to the town. The mild climate and abundance of water has ensured historic trees have thrived.</p> <p>Site specific history: When Berry was surveyed Town Creek ran through the town plan having particular influence on Alexandra Street and Princess Street. Land that was alienated from residential development by the watercourse eventually became Alexandra Park and Princess Street Reserve. In the 1920s the Avenue of Remembrance was planted along Alexandra Street to commemorate World War I.</p> <p>In September 1912 the lot between the Church of England lands and Alexandra Street, a parcel of 3 roods and 3 ¼ perches, was purchased by Elizabeth Johnston from the Berry Estate. Elizabeth and her husband Alexander, who was a builder, built the current house at 64 Princess Street. The rest of the lot remained undeveloped. An early undated map describes the land as a paddock. In 1930 the Johnstons sold the whole lot to Clarence Gillard who sold it to James Irvine in 1954. By 1960 the lot had been subdivided to create Lot A which is described as 62 Princess Street. Lot A was purchased by Lesley Macindoe in 1960 and sold to Shoalhaven Shire Council in 1974. In 1981 a new deposited plan created Lot 1 (64 Princess Street) and Lot 2 (85 Victoria Street). Shoalhaven Shire Council acquired Lot 2 in 1981. The aesthetic value of the established trees in Alexandra Park has since been enhanced by the landscaping and restoration of Town Creek by Alexandra Street Berry Parkcare Group.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure

Shoalhaven Heritage Data Form

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The variety of exotic and native trees in Alexandra Park, including those on the verge which extend into the park, provide an excellent example of the historic trends in Australian tree planting. Alexandra Park contains physical evidence of the extensive tree planting scheme started by Sir John Hay and continued from 1899 and 1912 when trees and shrubs were acquired from the Royal Botanical Gardens to beautify the town. The park provides evidence of the first town survey and the influence of Town Creek upon the subsequent take up of lots after 1912.
Historical association significance SHR criteria (b)	Does not meet this criterion.
Aesthetic significance SHR criteria (c)	Alexandra Park exemplifies the character of Berry as the 'Town of Trees' due to its diverse and mature collection of deciduous and evergreen trees, many of which can be seen as landmarks in the town. Alexandra Park has a variety of exotic and native trees which collectively have considerable scenic value. The mature trees in Alexandra Park including those in the Alexandra Street road reserve that extend into the park, are essential to the aesthetic character and significance of Berry. Alexandra Park makes an important contribution to the aesthetic significance of the Princess Street HCA.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	Alexandra Park displays two of the principal characteristics which contribute to the significance of Berry – a place of outstanding scenic beauty defined by creeks and its mature parkland and street trees.
Integrity	High.

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	Araucaria cunninghamii (Hoop Pine), 62 Princess Street, Berry. Local Item 37.
	Avenue of Remembrance (tree-lined), Alexandra Street, Berry Local Item 35.

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Book	Peter Milthorpe, Hazel King	Trees of Historic Berry	2020	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Collection	Berry District Historical Society	Various		Berry Museum

RECOMMENDATIONS	
Recommendations	<p>Include Alexandra Park, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance.</p> <p>Include in the proposed Princess Street Heritage Conservation Area.</p>

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2024

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Alexandra Park on the right of the photo. The School of Arts and the Presbyterian Church are on the left of the photo. The escarpment to the north.				
Image year	2024	Image by	Jo Belford & Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Alexandra Park on the right with views to the escarpment to the north.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Alexandra Park on the left looking south.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Inside Alexandra Park looking north east, 64 Princess Street can be seen on the other side of Town Creek and the Norfolk Island Pine Tree at 66 Princess Street beyond.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Inside the park planting and sculpture alongside Town Creek.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



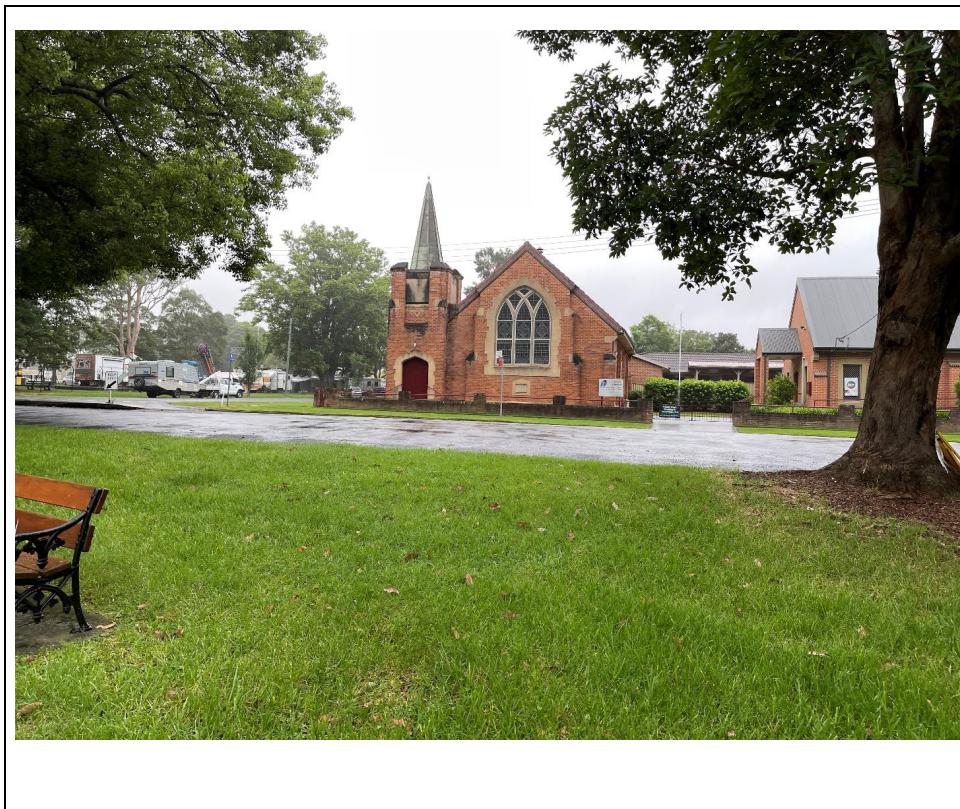
CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Views from Alexandra Park to heritage item Presbyterian Church.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



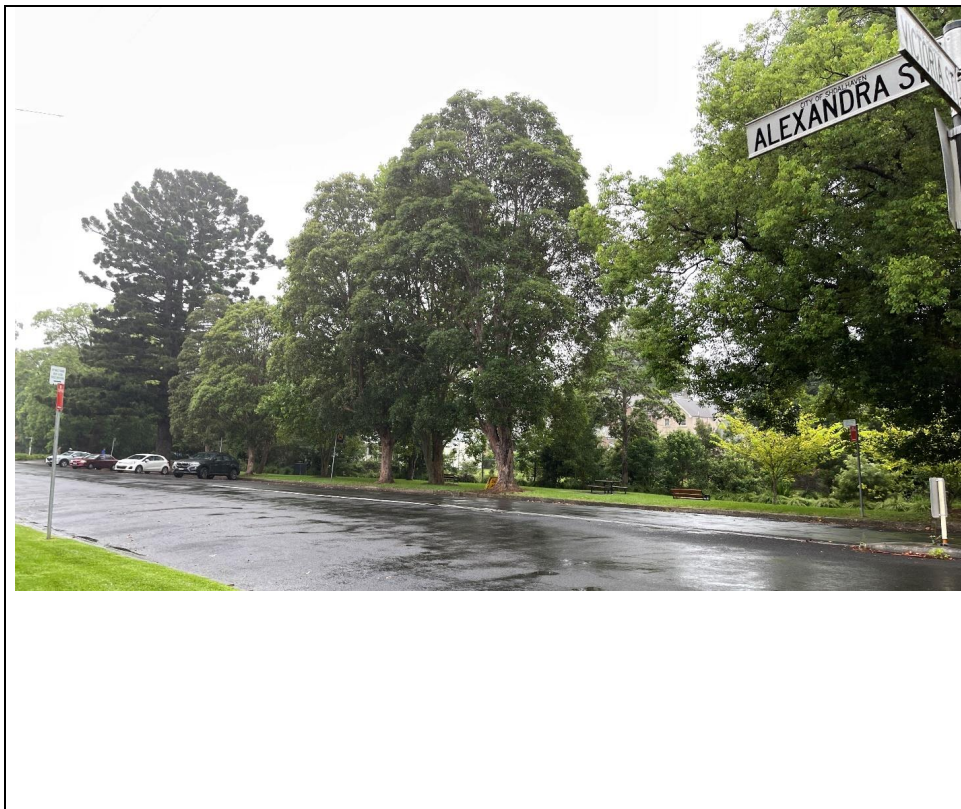
CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to park from western side of Alexandra Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



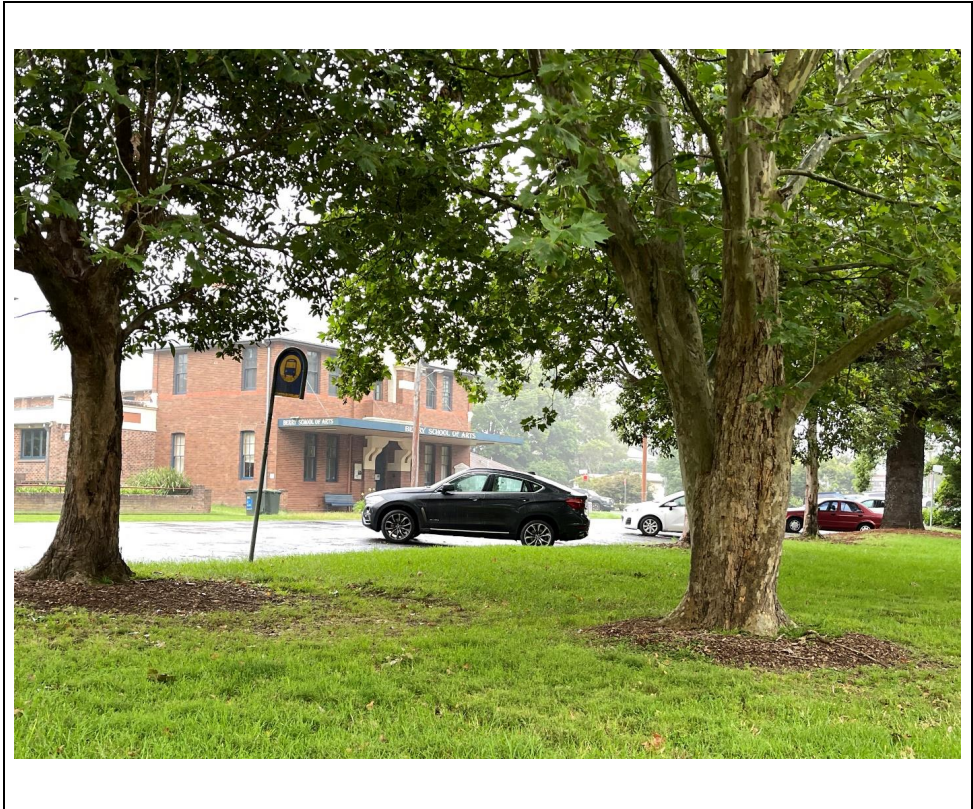
CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to north west to School of Arts				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

ITEM DETAILS							
Name of Item	Victorian cottage						
Other Name/s Former Name/s							
Item type (if known)	Dwelling						
Item group (if known)	Residential properties attached to commercial premises in Wharf Road						
Item category (if known)	Cottage						
Area, Group, or Collection Name							
Street number	19						
Street name	Prince Alfred Street						
Suburb/town	Berry					Postcode	2535
Local Government Area/s	Shoalhaven						
Property description	Lot 17 Section 3 DP 8058						
Location - Lat/long	Latitude	-34.776445			Longitude	150.698568	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Dwelling						
Former Use	Dwelling and shop						
Statement of significance	<p>19 Prince Alfred Street is a rare example of a surviving late 19th century cottage that was attached to a commercial development on Wharf Road in Broughton Creek Village.</p> <p>The property at 19 Prince Alfred Street provides important evidence of the historical development of Broughton Creek Village which was later to become the Town of Berry. The residence provides physical evidence of the early commercial properties and adjoining residences which were located along the road to the wharf. Predating the physical making of streets such as Princess Street which didn't open until 1896, the surviving commercial properties and their associated residences provide important historical evidence of the evolution of the town. The residence is significant as a building erected on the Berry Estate prior to subdivision and private sale.</p> <p>The property at 19 Prince Alfred Street has historic association with the following businesses that operated from this property at the end of the 19th century – King's Saddlery, William Bennie's boot making business and Bainbridge's' Grocery Store. The property has association with the Warden family who have resided at the property for 5 generations.</p> <p>19 Prince Alfred Street exhibits the principal characteristics of a Victorian cottage erected on the Berry Estate. It is a representative example of the small timber Victorian residences associated with commercial properties on Wharf Road.</p> <p>19 Prince Alfred Street has some aesthetic value as a Victorian cottage that has been modified. The interior of the cottage has been retained largely intact with minor modifications.</p>						
Level of Significance	State <input type="checkbox"/>				Local <input checked="" type="checkbox"/>		

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

DESCRIPTION						
Designer	Not known					
Builder/ maker	Not known					
Physical Description	<p>19 Prince Alfred Street is a small modified Victorian cottage. The building is timber on stumps and clad externally in timber weather boards and corrugated steel. It has a hipped corrugated steel roof with a side gable facing north. The original bull nosed verandah has been removed and replaced with a small porch with concrete columns and brick rendered balustrade.</p> <p>The building is lined internally with boards which have been covered in lining sheets. The floors are original and the layout of the cottage is intact with a central hallway and rooms either side. At the rear was a wing on the southern side – the original external north facing wall and windows have been retained, there is an enclosed verandah built to the north. The rear wing has a gable roof. The original kitchen has been extended and fitted out with a new kitchen. The original kitchen chimney has been removed.</p> <p>A garage is located along the northern boundary and there is a small rear yard.</p>					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1890	Finish year	1890	Circa	<input checked="" type="checkbox"/>
Modifications and dates	<p>1937 – 1965 Commercial building located on the northern side fronting the road removed</p> <p>Bullnosed front verandah removed and replaced with small porch with flat roof and rendered balustrade.</p> <p>Northern rear verandah enclosed.</p> <p>Rear wing roofed with a gable roof.</p> <p>Some original windows replaced.</p> <p>Some cladding replaced with corrugated steel.</p>					
Further comments	<p>The unusual gable on the front roof possibly attached to the roof of the shop, joining the cottage and the shop buildings.</p>					

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, called Broughton Creek, was strung out along the ridge now called Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as an important centre for goods distribution the settlement had a significant social role.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry set aside lands for a courthouse, four churches, a park and a school. Many properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed by the end of the 19th century. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan. (Gazetted 8-07-1905). The 1912 subdivision sale plan also recorded existing buildings on the plan along with those lots not for sale and the names of the owners of those lots. This information can be cross referenced with the certificate of title for Berry which lists the town parcels sold by Hay and Roxburgh (Vol.1907 Fol.15).</p> <p>Site specific history: 19 Prince Alfred Street was originally King's Saddlery until the 1890s when it was occupied by Bainbridge's Grocery Store. In 1896 William Bennie moved his boot making shop from 21 Prince Alfred Street to 19 Prince Alfred Street where he stayed until 1912. One of the last businesses at the property was a tailor shop run by Mr McIlvride¹.</p> <p>The 1902 survey as well as the 1912 subdivision sale plan both show two buildings on the lot which is now 19 Prince Alfred Street. One is set back with a front verandah and is likely to have been a residence. The building on the northern side is forward on the lot and is likely to have been the shop front, this building is no longer extant. The buildings would have been rented from the Berry Estate. In November 1915 James Molloy, a saw mill proprietor from Woonona, purchased Lots 16 and 17 in Section 3 as well as Lot 7 in Section 5 of DP8058 from Hay and Roxburgh (CT 2624-32).</p> <p>In 1937 an oblique aerial photo was taken that shows the two buildings at 19 Prince Alfred Street. By 1963 the northern building is no longer extant.</p> <p>The building has been the home of the Warden family for five generations.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation

¹ Notes on properties in Wharf Road/ Prince Alfred Street in the Berry District Historical Society Collection. Also mentioned in Lidbetter, where the property is described as 17 Prince Alfred Street.

Shoalhaven Heritage Data Form

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The property at 19 Prince Alfred Street provides important evidence of the historical development of Broughton Creek Village which was later to become the Town of Berry. The residence provides physical evidence of the early commercial properties and adjoining residences which were located along the road to the wharf. Predating the physical making of streets such as Princess Street which didn't open until 1896, the surviving commercial properties and their associated residences provide important historical evidence of the evolution of the town. The residence is significant as a building erected on the Berry Estate prior to subdivision and private sale.
Historical association significance SHR criteria (b)	The property at 19 Prince Alfred Street has historic association with the following businesses that operated from this property at the end of the 19 th century – King's Saddlery, William Bennie's boot making business and Bainbridge's' Grocery Store. The property has association with the Warden family who have resided at the property for 5 generations.
Aesthetic significance SHR criteria (c)	19 Prince Alfred Street has some aesthetic value as a Victorian cottage that has been modified. The interior of the cottage has been retained largely intact with minor modifications.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	19 Prince Alfred Street is a rare example of a surviving late 19 th century cottage that was attached to a commercial development on Wharf Road in Broughton Creek Village.
Representativeness SHR criteria (g)	19 Prince Alfred Street exhibits the principal characteristics of a Victorian cottage erected on the Berry Estate. It is a representative example of the small timber Victorian residences associated with commercial properties on Wharf Road.
Integrity	The commercial building has been removed but the residence retains much of its essential defining characteristics.

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Book	Mary Lidbetter	Historic Sites of Berry	1993	
Collection	Various	Berry District Historical Society	-	Berry Museum

RECOMMENDATIONS	
Recommendations	Include 19 Prince Alfred Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance. Include in the proposed Princess Street Heritage Conservation Area.

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2024

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The front of 19 Prince Alfred Street viewed from the northern side				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The front porch viewed from Prince Alfred Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Rear of the cottage showing the original building at the front and the enclosed rear side verandah.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The garage and the concrete driveway on the northern side of the lot.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Extract from the 1902 survey. 19 Prince Alfred Street highlighted in yellow. The diagram shows the commercial building on the north side of the lot which was removed sometime after 1937. It also shows the bullnosed verandah which has been replaced with a porch.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

ITEM DETAILS					
Name of Item	Inter-war Bungalow				
Other Name/s Former Name/s	Site of the Lancers Barracks				
Item type (if known)	Dwelling				
Item group (if known)	Residential buildings (private)				
Item category (if known)	House				
Area, Group, or Collection Name					
Street number	29				
Street name	Prince Alfred Street				
Suburb/town	Berry	Postcode		2535	
Local Government Area/s	Shoalhaven				
Property description	Lot 1 DP 307805				
Location - Lat/long	Latitude	-34.777489		Longitude	150.698306
Location - AMG (if no street address)	Zone		Easting		Northing
Owner					
Current use	Dwelling				
Former Use	Dwelling				
Statement of significance	<p>The existing building has historic value for its ability to demonstrate the development history of Berry in the early 20th century. The property at 29 Prince Alfred Street has historic value as the former site of the Berry Lancers. The site demonstrates the changes to the town after the 1902 survey was gazetted and encroaching buildings such as the Lancers Barracks were moved to align the streets with the town plan. The property has historic association with the No. 2 Berry Half Squadron of the New South Wales Lancers.</p> <p>29 Prince Alfred Street exhibits characteristics of a timber Inter-war Bungalow. The timber shingled gable ends and timber weatherboard cladding are elements applied in Craftsman style bungalows originating in America along with the Shingle Style whose influences were prevalent in Australia in the beginning of the 20th century. 29 Prince Alfred Street is a representative example of an Inter-war bungalow. The building is characteristic of the growth and development of Berry in the 1920s.</p>				
Level of Significance	State		Local <input checked="" type="checkbox"/>		

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

DESCRIPTION						
Designer	Unknown					
Builder/ maker	Unknown					
Physical Description	<p>29 Prince Alfred Street is a timber bungalow with large single gable roof with the gable end facing Alfred Street. The gable ends are infilled with timber shingles which was common in the 1920s. The building has a skillion roofed verandah along the front and the along the southern side facing Victoria Street. There is a small side addition under a skillion roof on the northern side. On the south there is an original brick chimney. The rear gable end is also shingled indicating the roof is likely to be intact. Interior photos from a 2015 Real Estate web site show the interior is consistent with a modified 1920s interior.</p>					
Physical condition and Archaeological potential	Evidence showing the original Lancer's Barracks may be present on the site and the road reserve of Victoria Street.					
Construction years	Start year	1923	Finish year	1923	Circa	<input checked="" type="checkbox"/>
Modifications and dates	There is a double garage with a loft and north facing dormers at the rear.					
Further comments						

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, Broughton Creek, was strung out along the ridge along Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as being an important centre for goods distribution the settlement played a significant role in the social life of the district.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry also set aside lands for a courthouse, four churches, a park and a school. Properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed early. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan (Gazetted 8-07-1905). The 1912 subdivision sale plan also recorded existing buildings on the plan along with those lots not for sale and the names of the owners of those lots. This information can be cross referenced with the certificate of title for Berry which lists the town parcels sold by Hay and Roxburgh (Vol.1907 Fol.15).</p> <p>Site specific history:</p> <p>In 1902 the land on which 29 Prince Alfred Street is situated was part of a larger lot that included the land where present day 97 Victoria Street is located. The southern boundary facing Victoria Street was substantially misaligned with the rest of Victoria Street. The 1902 survey shows there was a building with a front verandah facing Prince Alfred Street and a smaller building at the rear attached to the front building by a narrow covered way. The building shown on the 1902 plan matches the building shown in a photograph described as the Lancer's Barracks (although the photo on display in the Berry Museum is dated 1930).</p> <p>The No. 2 Berry Half Squadron of the New South Wales Lancers was formed on 1 July 1896. (NSW Government Gazette p4453, 30 June 1896). The Barracks were built in 1896 and extended in 1898 by (Sir) John Hay, owner of the Berry Estate. The Berry Lancer's continued well into the 20th century. According to a National Trust report the barracks were converted to a residence for the headmaster of the Berry Primary School in the mid to late 1920s. However it is likely the barracks were relocated as the property was affected by the 1905 realignment of streets in Berry.</p> <p>After the 1902 survey was made the roads and footways were aligned to match the new Deposited Plan (DP8058). The 1912 sale plan based on this DP shows Victoria Street realigned and no building present on the north west corner of Victoria Street and Prince Alfred Street. The existing building at 29 Prince Alfred Street does not match the photograph of the lancers building at Berry Museum.</p> <p>Lot 4 Section 4 DP8058 was purchased from Hay and Roxburgh in 1915 (CT.2600-101) by Kate Blanchfield, wife of John Blanchfield Jamberoo Butter Factory manager, on 23 August 1915. Blanchfield subdivided lot 4 into 2 parts in 1923 keeping the smaller portion and selling the part facing Prince Alfred Street to William John Irvine (CT3523-73) on 2/11/1923. Irvine was a grazier from Kangaroo River, his portion of Lot 4 totalled 30 ½ perches. He retained the property until 1934 when he sold it to Herbert Cook.</p> <p>Summary:</p> <p>The lot was originally part of the land where the No. 2 Berry Half Squadron of the NSW Lancers had their barracks. Realignment of Victoria Street occurred after the 1905 gazette which would have required the barracks to be moved as they were encroaching on Victoria Street. No building is shown on the 1912 sale plan and the realigned lot was purchased by Kate Blanchfield in 1915. It is most likely the existing building was likely built by William Irvine who purchased the lot in 1923.</p>

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The existing building has historic value for its ability to demonstrate the development history of Berry in the early 20 th century. The property at 29 Prince Alfred Street has historic value as the former site of the Berry Lancers. The site demonstrates the changes to the town after the 1902 survey was gazetted and encroaching buildings such as the Lancers Barracks were moved to align the streets with the town plan.
Historical association significance SHR criteria (b)	The property has historic association with the No. 2 Berry Half Squadron of the New South Wales Lancers.
Aesthetic significance SHR criteria (c)	29 Prince Alfred Street exhibits characteristics of a timber Inter-war Bungalow. The timber shingled gable ends and timber weatherboard cladding are elements applied in Craftsman style bungalows originating in America along with the Shingle Style whose influences were prevalent in Australia in the beginning of the 20 th century.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	29 Prince Alfred Street is an example of an Inter-war bungalow. The building is representative of the growth and development of Berry in the 1920s.
Integrity	Good, the dwelling appears to be reasonably intact.

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Book	Mary Lidbetter	Historic Sites of Berry	1993	
Collection	Various	Berry District Historical Society	2024	Berry Museum

RECOMMENDATIONS	
Recommendations	Include 29 Prince Alfred Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance. Include in the proposed Princess Street Heritage Conservation Area.

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	29 Prince Alfred Street viewed from the street. The building is hidden by a large hedge.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The eastern elevation facing Prince Alfred Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The double garage with loft facing Victoria Street.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Victoria Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

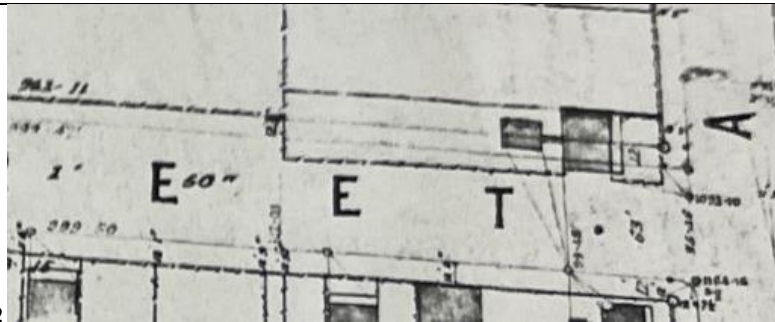
Shoalhaven Heritage Data Form

IMAGES - 1 per page

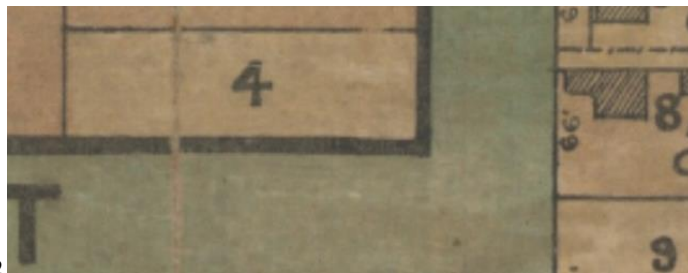
Please supply images of each elevation, the interior and the setting.

Image caption	Extract from 1902 survey showing how the Lancer's Barracks building and its boundary to Victoria Street encroached on the street. The second image is from the 1912 sale plan which recorded all buildings existing at the time of the survey, no buildings are shown on the lot in 1912. The certificate of title after the boundaries have been realigned and the subdivided portion of 30 ½ perches sold to William Irvine in 1923.				
Image year	1902 and 1915	Image by	BDHS, National Library, Land Registry Services	Image copyright holder	NSW Govt

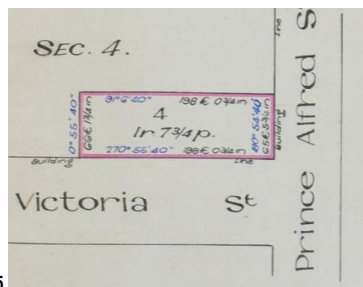
1902



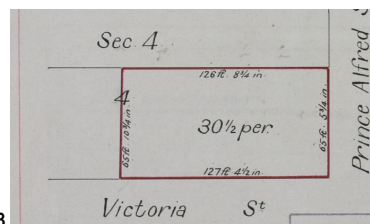
1912



1915



1923



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Image from the Berry Museum				
Image year	2015 circa	Image by	BDHS	Image copyright holder	BDHS



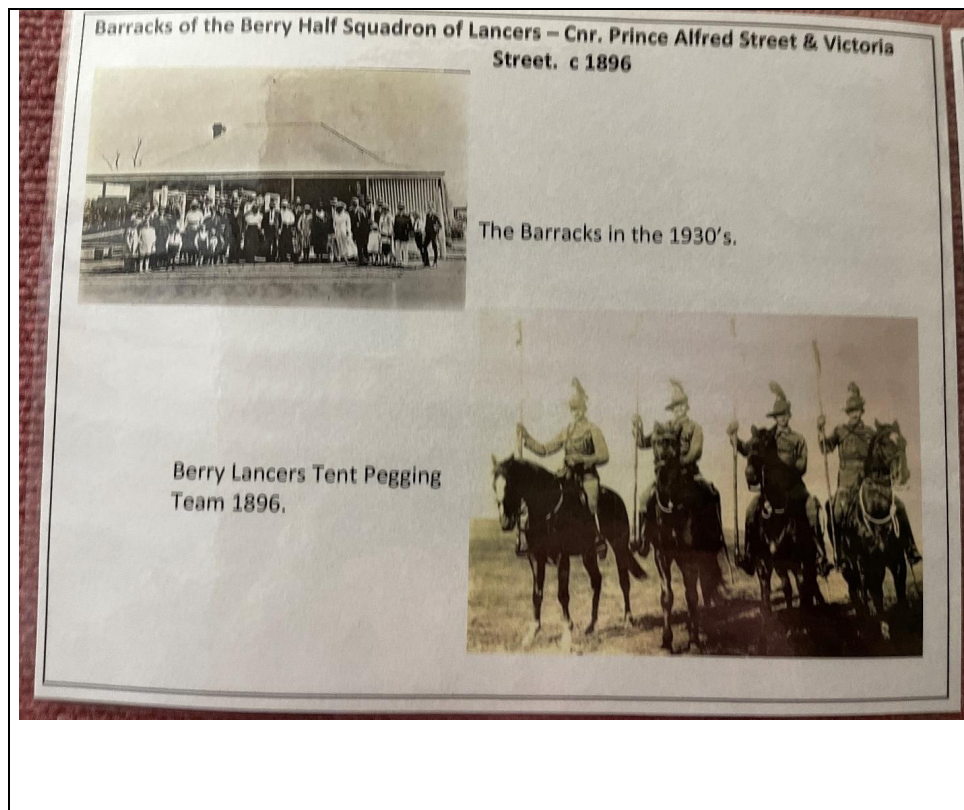
CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Photo on display at Berry Museum. The photo shown as the Lancers Barracks matches the building in the 1902 survey but does not match the existing building.				
Image year	Unknown	Image by	BDHS	Image copyright holder	BDHS



Shoalhaven Heritage Data Form

ITEM DETAILS									
Name of Item	Late Victorian Cottage								
Other Name/s Former Name/s									
Item type (if known)	Dwelling								
Item group (if known)	Residential properties attached to commercial premises in Wharf Road								
Item category (if known)	Cottage								
Area, Group, or Collection Name									
Street number	30								
Street name	Prince Alfred Street								
Suburb/town	Berry						Postcode	2535	
Local Government Area/s	Shoalhaven								
Property description	Lot 1 DP 952372								
Location - Lat/long	Latitude					Longitude			
Location - AMG (if no street address)	Zone		Easting			Northing			
Owner									
Current use	Dwelling								
Former Use	Dwelling								
Statement of significance	<p>Erected prior to 1902 the cottage at 30 Prince Alfred Steet provides historic evidence of the development of Broughton Creek Village as it spread out along the road to the wharf. Goods and services supplied along this route were essential in the growth of the village. The cottage was the home of Jack Blow and his family who operated a building supplies shop from a building next door. Predating the 1912 sale of lots in the Town of Berry the surviving commercial properties and their associated residences in Prince Alfred Street provide important historical evidence of the early growth of the town. The residence is significant as a building erected on the Berry Estate prior to subdivision and private sale.</p> <p>The building is associated with Jack Blow who was a local builder and active member of the local community. The cottage is a modest late Victorian timber dwelling. It displays the principal characteristics of small timber vernacular buildings erected at the end of the 19th century. The surviving cottage provides rare evidence of residences associated with commercial buildings constructed along the road to the wharf. The cottage is a representative example of a late Victorian timber cottage.</p>								
Level of Significance							Local <input checked="" type="checkbox"/>		

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

DESCRIPTION						
Designer	Not known					
Builder/ maker	Jack Blow					
Physical Description	The cottage at 30 Prince Alfred Street is a small timber building with a forward facing gable roof at the front and a long hipped roof with a skillion roofed verandah at the front and along part of the northern side. Entrance to the building is via a door off the side verandah. The building has a small setback from the street which has been densely planted.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1890	Finish year	1900	Circa	<input checked="" type="checkbox"/>
Modifications and dates	1997 – A pergola and awning was approved.					
Further comments						

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, Broughton Creek, was strung out along the ridge along Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as being an important centre for goods distribution the settlement played a significant role in the social life of the district.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry also set aside lands for a courthouse, four churches, a park and a school. Properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed early. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan (Gazetted 8-07-1905). The 1912 subdivision sale plan also recorded existing buildings on the plan along with those lots not for sale and the names of the owners of those lots. This information can be cross referenced with the certificate of title for Berry which lists the town parcels sold by Hay and Roxburgh (Vol.1907 Fol.15).</p> <p>Site specific history: On 17 August 1915 John Alfred Blow purchased from Hay and Roxburgh part of Lot 3 DP 5270 comprising 1 Rood and ½ perches (CT2598-3). Between August 2015 and April 1916 Blow subdivided the lot creating two parts. The northern side of the lots he sold to Frank Mahoney and the residue to Reginal Skelton. The residue already had a building on the lot and this building is still extant at 30 Prince Alfred Street.</p> <p>J.A.(Jack) Blow was a builder and also had a building supplies shop in Prince Alfred Street adjacent to the cottage at 30 Prince Alfred Street.</p> <p>In 1914 application Berry Council approved an application to build a kitchen at J Blows property in Prince Alfred Street.</p> <p>In 1939 property owners Blow, Burt, and Deamer wrote to Council requesting kerb and guttering in Prince Alfred Street, indicating the Blow family was still living and/or working in Prince Alfred Street.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation

Shoalhaven Heritage Data Form

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	Erected prior to 1902 the cottage at 30 Prince Alfred Steet provides historic evidence of the development of Broughton Creek Village as it spread out along the road to the wharf. Goods and services supplied along this route were essential in the growth of the village. The cottage was the home of Jack Blow and his family who operated a building supplies shop from a building next door. Predating the 1912 sale of lots in the Town of Berry the surviving commercial properties and their associated residences in Prince Alfred Street provide important historical evidence of the early growth of the town. The residence is significant as a building erected on the Berry Estate prior to subdivision and private sale.
Historical association significance SHR criteria (b)	The building is associated with Jack Blow who was a local builder and businessman at the end of the 19 th century and first few decades of the 20 th century.
Aesthetic significance SHR criteria (c)	The cottage is a modest late Victorian timber dwelling. It displays the principal characteristics of small timber vernacular buildings erected at the end of the 19 th century.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	The surviving cottage provides rare evidence of residences associated with commercial buildings constructed along the road to the wharf.
Representativeness SHR criteria (g)	The cottage is a representative example of a late Victorian timber cottage built on the Berry Estate.
Integrity	Good. The form of the house appears to be quite intact.

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Book	Mary Lidbetter	Historic Sites of Berry	1993	
Collection	Various	Berry District Historical Society	2024	Berry Museum

RECOMMENDATIONS	
Recommendations	Include 30 Prince Alfred Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance. Include in the proposed Princess Street Heritage Conservation Area.

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2024

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	30 Prince Alfred Street viewed from the street.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	30 Prince Alfred Street viewed from the street.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Image on display in Berry Museum				
Image year	Unknown	Image by	Berry District Historical Society	Image copyright holder	BDHS



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Image on display at Berry Museum and in Lidbetter				
Image year	1913	Image by	Berry District Historical Society	Image copyright holder	BDHS

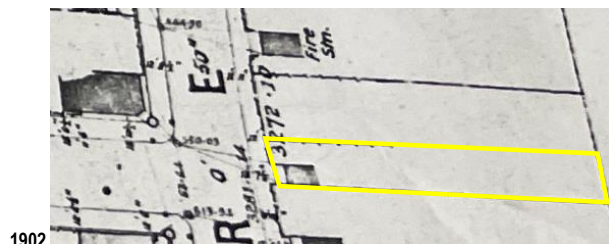


CL24.218 - Attachment 3

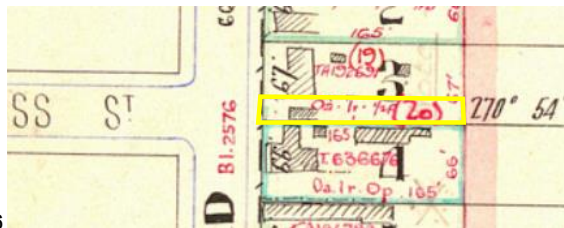
Shoalhaven Heritage Data Form

IMAGES - 1 per page

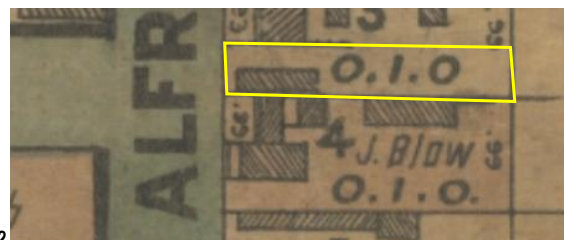
Image caption	1902 survey; 1906 Survey DP 5270; 1912 subdivision sale plan.				
Image year	1902; 1906; 1912	Image by	HLRV	Image copyright holder	NSW Govt



1902



1906



1912

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

ITEM DETAILS									
Name of Item	Federation weatherboard house								
Other Name/s Former Name/s	Moore's bootmakers shop								
Item type (if known)	Dwelling								
Item group (if known)	Residential buildings (private)								
Item category (if known)	House								
Area, Group, or Collection Name									
Street number	40								
Street name	Prince Alfred Street								
Suburb/town	Berry						Postcode	2535	
Local Government Area/s	Shoalhaven								
Property description	Lot 1 DP 950717								
Location - Lat/long	Latitude					Longitude			
Location - AMG (if no street address)	Zone		Easting			Northing			
Owner									
Current use	Dwelling								
Former Use	Dwelling and shop								
Statement of significance	<p>40 Prince Alfred Street is a rare surviving example of a Federation house and shop in the original Wharf Road. The former bootmaker's shop at 40 Prince Alfred Street was established at the beginning of the 20th century to meet the needs of the early settlement. Located on the route to the wharf it provides evidence of the early growth and development of Berry. The house and shop are historically of value as an example of lands and buildings leased from the Berry Estate that were purchased by their occupants when the town lots were put up for sale by Hay and Roxburgh.</p> <p>40 Prince Alfred Street is historically associated with R.R. (Bobby) Moore who was a village bootmaker for the first quarter of the 20th century. The house exhibits the principal characteristics of modest scaled timber Federation dwelling built in the Shoalhaven. The two Norfolk Island Pine trees have landmark value and contribute aesthetic value to the Princess Street heritage conservation area. The house and trees contribute to the streetscape of Prince Alfred Street.</p>								
Level of Significance	State <input type="checkbox"/>					Local <input checked="" type="checkbox"/>			

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

DESCRIPTION						
Designer						
Builder/ maker						
Physical Description	<p>The building is clad in timber weatherboards and has a corrugated galvanised steel roof. There is a forward facing gable roof over a side wing facing the street with a scalloped barge board and finial. The front gable intersects the main roof which is oriented north to south. A skillion roofed verandah wraps the south western front corner of the house. The southern side of the verandah is enclosed. There is a main front door adjacent to the side wing with two side lights and three lights above. Adjacent to the front door is another less ornate door providing entrance to the side wing which may have originally been the bootmakers shop.</p>					
Physical condition and Archaeological potential	<p>The property is well maintained and appears to be in good condition.</p>					
Construction years	Start year	1902	Finish year	1906	Circa	<input type="checkbox"/>
Modifications and dates	<p>Modifications – 1988 Additions (BA88/0558) This addition included a small addition to the south and a larger addition to the rear.</p>					
Further comments						

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, Broughton Creek, was strung out along the ridge along Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as being an important centre for goods distribution the settlement played a significant role in the social life of the district.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry also set aside lands for a courthouse, four churches, a park and a school. Properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed early. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan (Gazetted 8-07-1905). The 1912 subdivision sale plan also recorded existing buildings on the plan along with those lots not for sale and the names of the owners of those lots. This information can be cross referenced with the certificate of title for Berry which lists the town parcels sold by Hay and Roxburgh (Vol.1907 Fol.15).</p> <p>Site specific history: The existing house at 40 Prince Alfred Street is not shown on the 1902 survey map. However a building footprint matching the existing house is shown on the 1906 Deposited Plan (DP5270). The 1912 sale plan shows E. Moore as residing on this lot which suggests it may have belonged to the Berry Estate and been tenanted by the Moore's. Lydia Moore purchased this property, part of Lot 8 DP5207, from Hay and Roxburgh on 17/08/1915. R.R. (Bobby) Moore was a bootmaker and had a shop in the building from the early 1900s for about 25 years¹. The building has a separate entry off the front verandah which may have been the entrance to the bootmaker's shop. The house at 40 Prince Alfred Street was built between 1902 and 1906. The two substantial Norfolk Island Pine Trees, one at the rear and one at the front, likely originate from the early development of the site.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation

¹ Lidbetter, Mary. *Historic Sites of Berry*

Shoalhaven Heritage Data Form

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The bootmaker's shop at 40 Prince Alfred Street was established at the beginning of the 20 th century to meet the needs of the early settlement. Located on the route to the wharf it provides evidence of the early growth and development of Berry. The house and shop are historically of value as an example of lands and buildings leased from the Berry Estate that were purchased by their occupants when the town lots were put up for sale by Hay and Roxburgh.
Historical association significance SHR criteria (b)	40 Prince Alfred Street is historically associated with R.R. (Bobby) Moore who was a village bootmaker for the first quarter of the 20 th century.
Aesthetic significance SHR criteria (c)	The house at 40 Prince Alfred Street is a good example of a weatherboard Federation house. It exhibits the principal characteristics of modest scaled timber Federation dwelling built in the Shoalhaven. The two Norfolk Island Pine trees have landmark value and contribute aesthetic value to the Princess Street heritage conservation area. The house and trees contribute to the streetscape of Prince Alfred Street.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	40 Prince Alfred Street is a rare surviving example of a Federation house and shop in the original Wharf Road.
Representativeness SHR criteria (g)	40 Prince Alfred Street is a good representative example of a timber weatherboard Federation house and former shop.
Integrity	The house and trees have a high degree of integrity. It is not known how much evidence of the shop is retained on the interior.

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	The two Norfolk Island Pine Trees – one at the rear and one at the front are listed in the Shoalhaven LEP as a heritage item (number 55).

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Book	Mary Lidbetter	Historic sites of Berry	1993	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Collection	Berry District Historical Society	Various		Berry Museum

RECOMMENDATIONS	
Recommendations	Include 40 Prince Alfred Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance. Include in the proposed Princess Street Heritage Conservation Area.

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2024

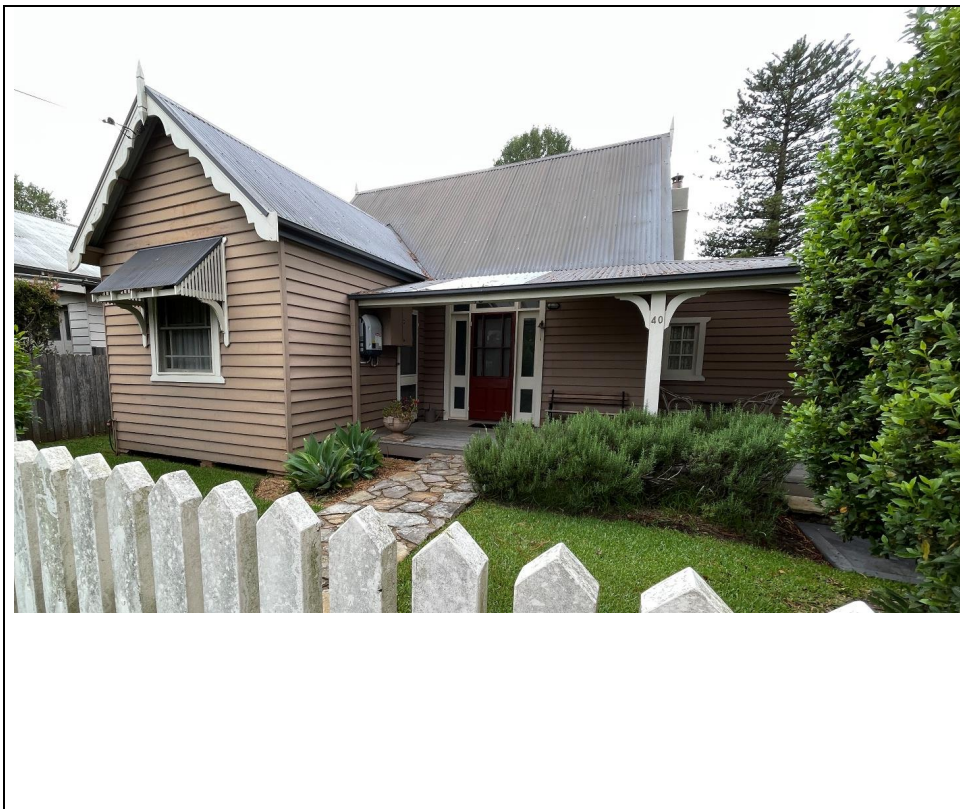
CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	40 Prince Alfred Street, Berry. There is an extra door at the front which may have been an entrance to the bootmaker's shop.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The large Norfolk Island Pine Tree at the front of 40 Prince Alfred Street and a side view of the house and carport.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View of the house and the two trees				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



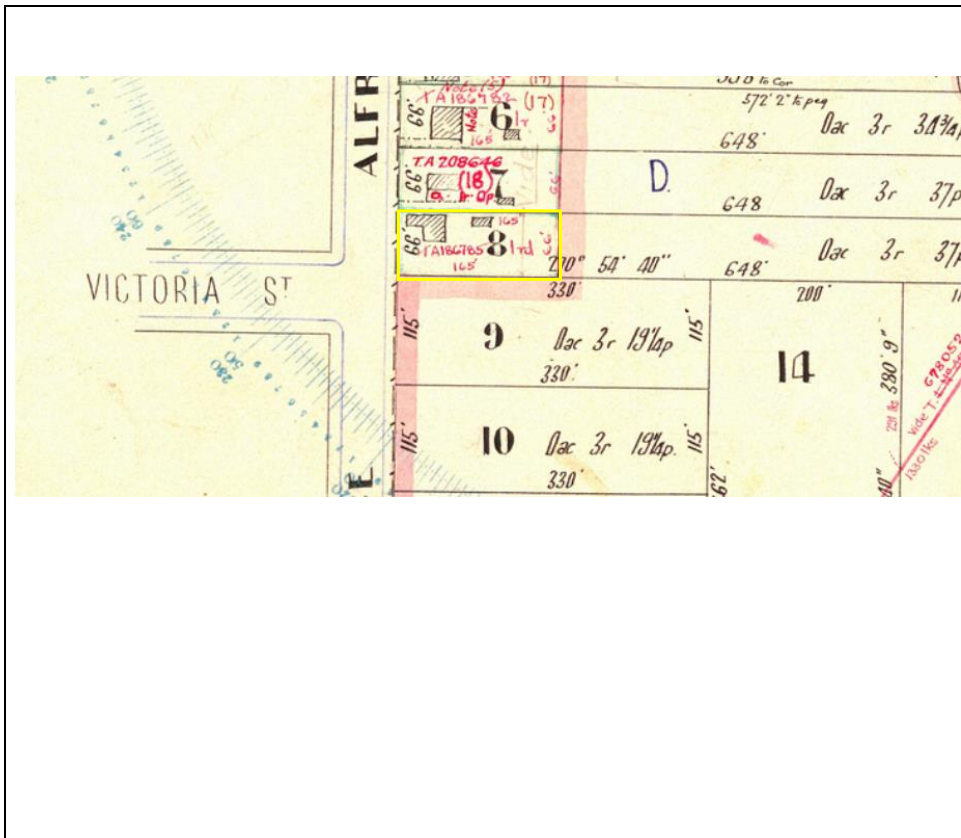
CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Extract from survey for Deposited Plan 5270				
Image year	Drawn 1906	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

ITEM DETAILS					
Name of Item	Norfolk Island Pine Tree				
Other Name/s Former Name/s	Araucaria heterophylla				
Item type (if known)	Tree				
Item group (if known)	Landscape				
Item category (if known)	Landscape				
Area, Group, or Collection Name					
Street number	66				
Street name	Princess Street				
Suburb/town	Berry	Postcode		2535	
Local Government Area/s	Shoalhaven				
Property description	Lot 1 DP 605825				
Location - Lat/long	Latitude	-34.776669		Longitude	150.696974
Location - AMG (if no street address)	Zone		Easting		Northing
Owner					
Current use	Private residence				
Former Use	Church of England grounds				
Statement of significance	<p>The Norfolk Island Pine at 66 Princess Street has historical value as a planting on the original Church of England lands set aside in 1884. The tree provides physical evidence of the original lot boundary of St Luke's Church which has since been subdivided. The tree is significant in the history of tree planting in Berry as it is a surviving example of the trees and shrubs acquired by Sir John Hay from the Royal Botanical Gardens to beautify the town prior to the 1912 subdivision sale.</p> <p>The Norfolk Island Pine at 66 Princess Street has landmark value in Princess Street and surrounding streets. The height of the tree creates a visual dialogue with other similar height pine trees in Princess Street, Alexandra Street and Prince Alfred Street. The tree contributes aesthetic value to the character of Berry as the 'town of trees'.</p> <p>The Norfolk Island Pine Tree at 66 Princess Street provides rare surviving evidence of the practice of planting the borders of church lands with pine trees when they were established from 1884.</p> <p>The Norfolk Island Pine is an excellent example of the species which was commonly planted at the end of the 19th century in eastern NSW.</p>				
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>		

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

DESCRIPTION						
Designer	Sir John Hay					
Builder/ maker	Royal Botanical Gardens					
Physical Description	The Norfolk Island Pine tree is from the Araucariaceae family, its botanical name is <i>Araucaria heterophylla</i> . It is a tall evergreen pyramidal shaped pine tree with a maximum recorded height of 70metres. It has distinctive horizontal branches and originates from Norfolk Island. The specimen at 66 Princess Street is mature and has a split trunk and is visible from surrounding streets.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1896	Finish year		Circa	<input checked="" type="checkbox"/>
Modifications and dates	Subdivision has separated the tree from the original church lot.					
Further comments						

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, Broughton Creek, was strung out along the ridge along Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as being an important centre for goods distribution the settlement played a significant role in the social life of the district.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry also set aside lands for a courthouse, four churches, a park and a school. Properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed early. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>Prior to the 1912 sale of town sites Sir John Hay undertook an extensive tree planting scheme. Trees and shrubs were acquired between 1899 and 1913 from the Royal Botanical Gardens. Hence Berry became known as the 'Town of Trees' due to its diverse and mature collection of deciduous and evergreen trees that contribute considerable historic and scenic value to the town. The mild climate and abundance of water has ensured historic trees have thrived.</p> <p>Site specific history: In 1884 David Berry set aside land grants for four churches in Broughton Creek Village (later the Town of Berry) and these were generally planted around their borders with pine trees. A Norfolk Island Pine remains on the Church of England site and another at 66 Princess Street which was originally part of land dedicated to the Church of England. In the front of the existing dwelling at 66 Princess Street the large Norfolk Island Pine (<i>Araucaria heterophylla</i>) is a similar scale to the church tree and both trees have split trunks. The tree at 66 Princess Street marks the north western boundary of the former Church property. The tree was part of a dispatchment of seedlings acquired from the Sydney Botanical Gardens.</p> <p>The existing house at 66 Princess Street is on a lot that has been subdivided from the church lot. It is a brick dwelling built in a traditional style constructed between 1994 and 1997.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure

Shoalhaven Heritage Data Form

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The Norfolk Island Pine at 66 Princess Street has historical value as a planting on the original Church of England lands set aside in 1884. The tree provides physical evidence of the original lot boundary of St Luke's Church which has since been subdivided. The tree is significant in the history of tree planting in Berry as it is a surviving example of the trees and shrubs acquired by Sir John Hay from the Royal Botanical Gardens to beautify the town prior to the 1912 subdivision sale.
Historical association significance SHR criteria (b)	The tree has historic association with David Berry and Sir John Hay.
Aesthetic significance SHR criteria (c)	The Norfolk Island Pine at 66 Princess Street has landmark value in Princess Street and surrounding streets. The height of the tree creates a visual dialogue with other similar height pine trees in Princess Street, Alexandra Street and Prince Alfred Street. The tree contributes considerable aesthetic value to the character of Berry as the 'Town of Trees'.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	The Norfolk Island Pine Tree at 66 Princess Street provides rare surviving evidence of the practice of planting the borders of church lands with pine trees when they were established from 1884.
Representativeness SHR criteria (g)	The Norfolk Island Pine is a species commonly planted at the end of the 19 th century in eastern NSW. The tree at 66 Princess Street is an excellent example of a mature pine tree that was established to mark the grounds granted to the four churches in Berry.
Integrity	Good. The trunk is split at the top.

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Book	Peter Milthorpe, Hazel King	Trees of Historic Berry	2020	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Collection	Berry District Historical Society	Various		Berry Museum

RECOMMENDATIONS	
Recommendations	Include the Norfolk Island Pine at 66 Princess Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance. Include in the proposed Princess Street Heritage Conservation Area.

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2024

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Elevated view from southern end of Alexandra Park showing the visual dialogue between Pine Trees.				
Image year	2024	Image by	Jo Belford & Louise Thom	Image copyright holder	Shoalhaven City Council



A = 66 Princess Street
B = St Luke's Church
C = Hoop Pine in Alexandra Park

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to Norfolk Island Pine from corner of Princess Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to Norfolk Island Pine from Princess Street				
Image year	2023	Image by	Google	Image copyright holder	Google 2024



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to the Norfolk Island Pine at 66 Princess Street from Alexandra Park. The house in the foreground is 64 Princess Street.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The house at 66 Princess Street was built between 1994 and 1997 and does not have heritage value. The Norfolk Island Pine is located in the front yard.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

ITEM DETAILS							
Name of Item	Weatherboard and fibro bungalow						
Other Name/s Former Name/s							
Item type (if known)	Dwelling						
Item group (if known)	Residential buildings (private)						
Item category (if known)	House						
Area, Group, or Collection Name							
Street number	44						
Street name	Princess Street						
Suburb/town	Berry				Postcode	2535	
Local Government Area/s	Shoalhaven						
Property description	Lot 13 Section 8 DP8058						
Location - Lat/long	Latitude	-34.776406			Longitude	150.694357	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Dwelling						
Former Use	Dwelling						
Statement of significance	<p>The weatherboard and fibro bungalow at 44 Princess Street provides physical evidence of the historical development of Berry in the transition between the Federation and Inter-war periods. The house has historic value for its ability to demonstrate the way larger lots in the 1912 Berry Township subdivision were divided and sold in the second decade of the 20th century. The half-timbered bungalow is a good example of a vernacular timber and fibro dwelling constructed in the Shoalhaven in 1917. The building has aesthetic value for the contribution it makes to the streetscapes of Berry and the Princess Street heritage conservation area. The property has historical association with Reverend Samuel Gilby who was one of the early Methodist Ministers in Berry.</p>						
Level of Significance	State <input type="checkbox"/>			Local <input checked="" type="checkbox"/>			

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

DESCRIPTION						
Designer	Not known					
Builder/ maker	Not known					
Physical Description	Half-timbered symmetrical bungalow with large gable roof and hipped roof to the rear, with second smaller gable over a front north facing verandah. Timber weatherboards to sill height and Durasbestos cladding above including the infill to the gables. Central front door and double hung windows either side. A side verandah with decorative brackets has been added to eastern elevation. Similar reproduction decorative brackets and a trelliswork frieze has been added to the front verandah. The original brick chimney is still extant on the eastern side. The property has a low picket fence and a tall hedge facing the street. There is a driveway and a small timber weatherboard garage on the east side of the lot set back in line with the house.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1917	Finish year	1917	Circa	Yes
Modifications and dates	<p>BA89/2725 amended 8/12/1999. Urban dwelling additions including the addition of the side verandah and an additional bedroom on the eastern side. Addition to the rear for new family room and dining with small rear verandah. The original rear hipped roof has been extended from the Chimney in a matching hip.</p> <p>DA97/180 Home activity - cake baking</p>					
Further comments						

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, Broughton Creek, was strung out along the ridge along Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as being an important centre for goods distribution the settlement played a significant role in the social life of the district.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry also set aside lands for a courthouse, four churches, a park and a school. Properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed early. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan (Gazetted 8-07-1905). The 1912 subdivision sale plan also recorded existing buildings on the plan along with those lots not for sale and the names of the owners of those lots. This information can be cross referenced with the certificate of title for Berry which lists the town parcels sold by Hay and Roxburgh (Vol.1907 Fol.15).</p> <p>Site specific history:</p> <p>When the town was surveyed in 1902 the lot which became 44 Princess Street was shown as part of a large unsubdivided and undeveloped lot facing Albany Street and Princess Street and Victoria Street. In 1912 the new town subdivision created Lot 13 Sec. 8, of Berry Town DP 8058 which became 44 Princess Street, a lot of 33 1/3 perches. The sale subdivision map of 1912 shows no buildings on the lot. In 1916 the land known as Lot 13 of Section 8 in DP8058 was purchased by Samuel Gilby of Berry, a Methodist Minister who also purchased Lot 10. In total the land was 1 Rood 26 3/4 perches with a 66 foot frontage to Princess Street and the same to Victoria Street (CT.2676-124).</p> <p>Reverend Gilby and his family arrived in Berry in 1913¹. In 1917 the Shoalhaven Telegraph's report of a Berry Municipal Council meeting recorded plans for a residence for Rev. S. Gilby². After 5 years as the Methodist minister Reverend Samuel Gilby and his wife departed Berry for a new post in Molong. Rev. Gilby stated at his farewell celebration that he wished to retire in Berry³.</p> <p>In 1924 Rebecca Gilby and George Gilby inherited the two lots. In 1954 the two lots were sold separately for the first time. Lot 13 (44 Princess Street) was sold to Rebecca Goodyer, a widow from Foxground. In 1967 Albert Irvine Goodyer, a farmer from Cambewarra and John Leslie Goodyer a North Nowra truck driver were registered as joint tenants. The property was purchased by Phyllis Annie Blissett in 1974 who then sold it to Graeme and Anne Pauley of Jaspers Brush, in 1978.</p> <p>The house was most likely built for the Rev. Samuel Gilby in 1917.</p> <p>Lot 10 became known as 67 Victoria Street and remained vacant until the early 1980s⁴.</p>

¹ Shoalhaven Telegraph (NSW : 1881 - 1937), Wednesday 30 April 1913, page 12

² Shoalhaven Telegraph (NSW : 1881 - 1937), Wednesday 14 February 1917, page 4

³ Shoalhaven News and South Coast Districts Advertiser (NSW : 1891 - 1937), Saturday 13 April 1918, page 3

⁴ The dwelling at 67 Victoria Street appears to have been built in the early 1980s. The 1963 and 1979 aerial photographs show a vacant lot the house first appears in the 1984 aerial photograph.

Shoalhaven Heritage Data Form

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	44 Princess Street provides physical evidence of the historical development of the Town of Berry. The house has historic value for its ability to demonstrate the way larger lots in the 1912 Berry Township subdivision were divided and sold in the second decade of the 20 th century. The house provides evidence of the earliest housing built on lands purchased from Hay and Roxburgh after 1915.
Historical association significance SHR criteria (b)	44 Princess Street has historical association with one of Berry's early Methodist Ministers, Reverend Samuel Gilby.
Aesthetic significance SHR criteria (c)	44 Princess Street exhibits the principal characteristics of modest houses built in the transition between Federation period and the Inter-war period. The building is a good example of a half-timbered vernacular dwelling constructed in the Shoalhaven in the second decade of the 20 th century. The building has aesthetic value for the contribution it makes to the streetscapes of Berry.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	44 Princess Street is a good representative example of a bungalow built in the transition between Federation period and the Inter-war period. The timber and Durasbestos house built in the early 20 th century in the Shoalhaven is a good example of the use of the half timbering building technique.
Integrity	The house demonstrates a high degree of integrity.

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include 44 Princess Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance. Include in the proposed Princess Street Heritage Conservation Area.

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2024

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Princess Street showing half timbering and nested gables				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from the street of the eastern side				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS							
Name of Item	Sandstone Kerbing						
Other Name/s Former Name/s							
Item type (if known)	Kerbing						
Item group (if known)	Road						
Item category (if known)							
Area, Group, or Collection Name	Sandstone kerbing in Queen Street HCA						
Street number	From 19 Prince Alfred Street to 29 Prince Alfred Street						
Street name	West side of Prince Alfred Street						
Suburb/town	Berry					Postcode	2535
Local Government Area/s	Shoalhaven						
Property description	Road reserve						
Location - Lat/long	Latitude	-34.777064			Longitude	150.698581	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Kerbing						
Former Use	Kerbing						
Statement of significance	<p>The sandstone kerbing provides physical evidence of the importance of Prince Alfred Street in the development history of Berry. Prince Alfred Street provided access to the wharves on Broughton Creek which in turn connected the district to shipping to other centres as well as access to the railway station and commercial properties along the street. Along with Queen Street it was the earliest street developed west of Broughton Mill Creek. The sandstone kerbing provides evidence of the early development of Berry before the sale of the town plan in 1912. The kerbing has association with Berry Council at the turn of the 19th Century.</p> <p>The sandstone kerbing is a feature that contributes to the historic character of Berry.</p> <p>The sandstone kerbing has the potential to provides further information about the history of early roads and their construction in the Shoalhaven. The kerbing is representative of early road making techniques.</p>						
Level of Significance						Local <input checked="" type="checkbox"/>	

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer						
Builder/ maker						
Physical Description	The sandstone kerbs are in lengths of approximately 1 metre. The guttering is concrete with a large aggregate also in short lengths suggesting it was precast. There are concrete crossovers at each property and one concrete drainage culvert at the front of 29 Prince Alfred Street..					
Physical condition and Archaeological potential	The sandstone kerb is damaged out the front of 23 Prince Alfred Street.					
Construction years	Start year	1903	Finish year	1905	Circa	<input checked="" type="checkbox"/>
Modifications and dates						
Further comments						

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, Broughton Creek, was strung out along the ridge along Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. By 1866 the village of Broughton Creek had a post office, school, tannery and store located in Pullman Street and across Broughton Mill Creek an Inn was established on the site of the existing Berry Hotel on the Great South Road. Significant development occurred along this road (Queen Street) in the last two decades of the 19th century.</p> <p>A town plan was drawn up in 1883 for the lands west of Broughton Mill Creek. Businesses and cottages were already present along Wharf Road which was eventually renamed Prince Alfred Street. Prince Alfred Street and Queen Street were to become the main streets of the town in the 1880s and 1890s. Prince Alfred Street provided access to the wharves on Broughton Creek and was a thriving commercial part of the village. With the opening of the railway in 1893 a horse drawn bus used the road to get passengers to the train. The road eventually connected to the Coolangatta Estate and later Shoalhaven Heads.</p> <p>In 1895 tenders were accepted for breaking metal in Prince Alfred Street and in 1903 Berry Council received tenders for metalling Prince Alfred Street. This would indicate the road was probably a dirt road until this time. Metal referred to broken stone laid after excavation with drainage provided on the sides. This could have been the time when sandstone kerb was laid.</p> <p>Kerbing and guttering was undertaken in Queen Street by December 1904¹. The existing kerbing in Queen Street is similar to that in Prince Alfred Street and the laying of road metal in Prince Alfred Street had also occurred at this time. Although further research would provide greater accuracy, it is likely the kerbing in Prince Alfred Street was installed around 1905.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Transport Towns, suburbs and villages

¹ The Shoalhaven Telegraph 21 Dec 1904, p.14 Berry Council.

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The sandstone kerbing provides physical evidence of the importance of Prince Alfred Street in the development history of Berry. Prince Alfred Street provided access to the wharves on Broughton Creek which in turn connected the district to shipping to other centres as well as access to the railway station and commercial properties along the street. Along with Queen Street it was the earliest street developed west of Broughton Mill Creek. The sandstone kerbing provides evidence of the early development of Berry before the sale of the town plan in 1912.
Historical association significance SHR criteria (b)	The kerbing has association with Berry Council at the turn of the 19 th Century.
Aesthetic significance SHR criteria (c)	The sandstone kerbing is a feature that contributes to the historic character of Berry.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	The sandstone kerbing has the potential to provides further information about the history of early roads and their construction in the Shoalhaven.
Rarity SHR criteria (f)	Surviving sections of sandstone kerbing are rare in the Shoalhaven.
Representativeness SHR criteria (g)	The sandstone kerbing is representative of early road making techniques.
Integrity	Fair, some stones have been removed at concrete crossovers and culverts.

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	National Library	Historic Newspapers	2024	Trove
Web Archive	Land and Property Information Service	Historic Land Titles	2024	Historic Land Records Viewer
Book	Mary Lidbetter	Historic Sites of Berry	1993	
Collection	Various	Berry District Historical Society	2024	Berry Museum

RECOMMENDATIONS	
Recommendations	<p>Include the sandstone kerbing on the western side of Prince Alfred Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance.</p> <p>Include in the proposed Princess Street Heritage Conservation Area.</p> <p>Prepare an asset management strategy for conservation of the kerbs with a program of storage and replacement when impacted by crossovers or drainage.</p>

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
This form completed by	Louise Thom	Date	April 2024

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Sandstone kerbing in Prince Alfred Street. The gutter is concrete.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Sandstone kerb outside 21 Prince Alfred Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Stone kerb outside 29 Prince Alfred Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

ITEM DETAILS					
Name of Item	Inter-war Cottage				
Other Name/s Former Name/s					
Item type (if known)	Dwelling				
Item group (if known)	Residential buildings (private)				
Item category (if known)	House				
Area, Group, or Collection Name					
Street number	97				
Street name	Victoria Street				
Suburb/town	Berry	Postcode		2535	
Local Government Area/s	Shoalhaven				
Property description	Lot 4 DP 667521				
Location - Lat/long	Latitude	-34.777457		Longitude	150.697904
Location - AMG (if no street address)	Zone		Easting		Northing
Owner					
Current use	Residential dwelling				
Former Use	Residential dwelling				
Statement of significance	<p>The house at 97 Victoria Street has historical value for its ability to demonstrate the uptake of lots after the 1912 Town of Berry subdivision was put on sale by Hay and Wolstonecraft. Built between 1915 and 1923 the house provides evidence of the early Inter-war period in Berry. The property has some association with the No. 2 Berry Half Squadron of the New South Wales Lancers who occupied this lot prior to the realignment of streets after the 1902 survey.</p> <p>The dwelling is a good example of a late Federation style building constructed in the transition period to the Inter-war period. The timber vernacular dwelling makes a positive aesthetic contribution to the streetscapes of Berry.</p> <p>97 Victoria Street is a good representative example of dwellings constructed in the early Inter-war period after the commencement of the sale of lots from the Town of Berry plan.</p>				
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

DESCRIPTION						
Designer						
Builder/ maker						
Physical Description	<p>The building at 97 Victoria Street is a timber house with a hipped corrugated roof and an attached verandah roof over a traditional front verandah. The front door is central to the front façade and there are double hung timber framed windows either side. The verandah roof is supported on for posts with decorative brackets and a timber picket balustrade. The house is clad in timber weather boards and currently painted dark grey with white trim and has a wrap around verandah at the rear and west side. There is a white square picket fence at the front.</p>					
Physical condition and Archaeological potential	The house is in very good condition					
Construction years	Start year	1915	Finish year	1923	Circa	<input checked="" type="checkbox"/>
Modifications and dates	<p>2002 additions and alterations were made to the dwelling. The building has retained its front rooms and hallway and form with the front verandah roof. The building has been modified at the rear and a bathroom has been added discretely at the eastern side.</p>					
Further comments	<p>The house was inspected from the street. Photographs of the interior and yard were viewed at Realestate.com.au.</p>					

CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

HISTORY	
Historical notes	<p>Berry is located at the confluence of Broughton Creek and its important tributary Broughton Mill Creek which were pivotal in the location of the early settlement by providing transport, power and fresh water. The Town of Berry is located west of Broughton Creek and Broughton Mill Creek on the estate of Alexander Berry and Robert Wolstonecraft which was later inherited by David Berry. Alexander Berry was guided to the area by Aboriginal man Broughton (Toodwick 1798–1850) who'd also guided Charles Throsby in his explorations south of Sydney. Broughton went on to play a significant role in the management of Berry's estate along with a substantial work force of other Aboriginal people and convicts who made it possible for Berry to construct his home and estate on the side of the mountain Cullunghutti (Coolangatta).</p> <p>Alexander Berry and Edward Wolstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first substantial settlement was located on high ground between Broughton Creek and Broughton Mill Creek which provided access by water to the Shoalhaven and transport for goods. The first village, called Broughton Creek, was strung out along the ridge now called Pullman Street and along Tannery Road. The only access through the bush from other settlements was by pack horse. As well as an important centre for goods distribution the settlement had a significant social role.</p> <p>As the town grew plans were made to expand the town to the west beyond the confines of the creeks. A survey was first made in 1883 when David Berry set aside lands for a courthouse, four churches, a park and a school. Properties along Wharf Road (Prince Alfred Street) and the South Road (Queen Street) were developed early. In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time and in 1893 the railway was opened.</p> <p>In 1902 a survey of the carriageways and footways of Berry was made to record the layout of existing streets and buildings prior to realignment under the new deposited plan. (Gazetted 8-07-1905). The 1912 subdivision sale plan also recorded existing buildings on the plan along with those lots not for sale and the names of the owners of those lots. This information can be cross referenced with the certificate of title for Berry which lists the town parcels sold by Hay and Roxburgh (Vol.1907 Fol.15).</p> <p>Site specific history:</p> <p>In 1902 the land on which 97 Victoria Street is located was part of a lot facing Prince Alfred Street and its southern boundary was substantially misaligned with Victoria Street. The 1902 survey stated there were buildings and fences encroaching on Victoria Street. A building is shown facing Prince Alfred Street but nothing on the rear of the lot. The 1912 subdivision sale plan shows Victoria Street has been realigned and there are no buildings on the lot which has been marked Lot 4 Section 4 Deposited Plan 8058.</p> <p>Kate Blanchfield, wife of John Blanchfield Jamberoo Butter Factory manager, purchased Lot 4 Section 4 DP8058 from Alexander Hay and David Roxburgh on 23 August 1915. At that time the lot still faced Prince Alfred Street and Victoria Street and the rear boundary adjoined the lands of the Church of England. The lot was shown as undeveloped in 1912 when the subdivision sale plan was drawn.</p> <p>In November 1923 the front part of Lot 4 was transferred to William Irvine and the part which is now 97 Victoria Street was retained by Kate Blanchfield, by then a widow (17 ¼ perches). In 1944 the property was transferred to Margaret and Henry Kellett, farmer of Berry, who sold it in 1951. The house was most likely built by Kate and John Blanchfield between 1915 and 1923.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation

Shoalhaven Heritage Data Form

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The house at 97 Victoria Street has historical value for its ability to demonstrate the uptake of lots after the 1912 Town of Berry subdivision was put on sale by Hay and Wolstonecraft. Built between 1915 and 1923 the house provides evidence of the early Inter-war period in Berry.
Historical association significance SHR criteria (b)	The property has some association with the No. 2 Berry Half Squadron of the New South Wales Lancers who occupied this lot and 29 Prince Alfred Street prior to the realignment of streets after the 1902 survey.
Aesthetic significance SHR criteria (c)	The dwelling is a good example of a late Federation style building constructed in the transition period to the Inter-war period. The timber vernacular dwelling makes a positive aesthetic contribution to the streetscapes of Berry.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	97 Victoria Street is a good representative example of dwellings constructed in the early Inter-war period after the commencement of the sale of lots from the Town of Berry plan.
Integrity	

Shoalhaven Heritage Data Form

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Louise Thom Heritage	Princess Street HCA Study	2024	Shoalhaven City Council
Web	Land and Property Information Service	Historic Land Records Viewer	2024	NSW Government
Collection	Berry District Historical Society	Various		Berry Museum
Book	Mary Lidbetter	Historic Sites of Berry	1993	
Web	Realestate.com.au	29 Victoria Street, Berry	2024	

RECOMMENDATIONS	
Recommendations	Include 29 Prince Alfred Street, Berry in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) as a heritage item of local significance. Include in the proposed Princess Street Heritage Conservation Area.

SOURCE OF THIS INFORMATION			
Name of study or report	Princess Street Heritage Conservation Area Study	Year of study or report	2024
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2024

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	97 Victoria Street, Berry				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Side view from Victoria Street				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Viewed from across Victoria Street. Norfolk Island Pine on Princess Street at front of St Lukes Church visible behind.				
Image year	2024	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

IMAGES - 1 per page

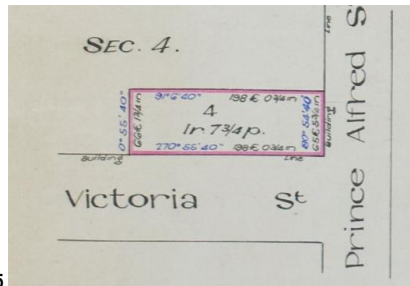
Please supply images of each elevation, the interior and the setting.

Image caption	Extract from 1902 survey showing how the existing building and its boundary to Victoria Street encroached on the street. The second image is from the 1915 certificate of title after the boundaries have been realigned.				
Image year	1902 and 1915	Image by		Image copyright holder	Shoalhaven City Council

1902



1915



CL24.218 - Attachment 3

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS							
Name of Item	Victorian Brick Residence						
Other Name/s Former Name/s	Victorian Georgian Brick Residence						
Item type (if known)	Built						
Item group (if known)	Residential building (private)						
Item category (if known)	House						
Area, Group, or Collection Name	Berry Showground Heritage Conservation Area						
Street number	17						
Street name	Albany						
Suburb/town	Berry					Postcode	2535
Local Government Area/s	Shoalhaven						
Property description	Lot B DP390864						
Location - Lat/long	Latitude	-34.77772			Longitude	150.693083	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Residence						
Former Use	Residence						
Statement of significance	<p>The Victorian residence at 17 Albany Street provides early physical evidence of the historical development of Berry. The house is a rare example of the early residential development of Berry after the focus of the town shifted from Broughton Creek. It demonstrates early residential development prior to the marketing of the town lots and general sale in 1912 which started the growth of Berry. The property is historically significant for its role in the development history of Berry at the end of the 19th century.</p> <p>17 Albany Street is an excellent representative example of a Victorian Georgian style house demonstrating transition elements from the Federation period. The house and garden make a positive contribution to the aesthetic qualities of the streetscape and the Berry Showground precinct. The house is a fine vernacular example of a late 19th century house in the Shoalhaven.</p>						
Level of Significance	State <input type="checkbox"/>				Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer	Unknown					
Builder/ maker	Unknown					
Physical Description	17 Albany Street is located on a large parcel of land with a generous front set back due to the wide footpath. The building is a painted masonry building with a Victorian form. It has a hipped galvanised corrugated roof with two chimneys. At the front there is a verandah with a detached roof. The cottage is double fronted with a central door with side lights and double hung window on each side. The front verandah columns have been shortened with the introduction of a brick balustrade. There are two rear wings with an original chimney on the narrower southern wing joined to the wider northern rear wing by a box gutter. There is an addition to the rear and a garage however the addition is not described in recent Council records. The property has a substantial mature garden which contributes to the aesthetic value of the property.					
Physical condition and Archaeological potential	Very good condition					
Construction years	Start year	1891	Finish year	1900	Circa	Yes
Modifications and dates						
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Broughton (Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB). When Alexander Berry came to the area in 1822 Broughton acted as his guide and went on to play a significant role in the management of Berry's Coolangatta estate. Berry had a substantial work force of other Aboriginal people and convicts who made it possible for him to construct his home and the estate administration on the side of the mountain Cullunghutti. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. When Alexander Berry died in 1873 his younger brother David, who was already involved in the management of Coolangatta, inherited the estate. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school (Cousins 1994:262). In 1883 cousin of David Berry, Dr John Hay, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time. By 1892 the majority of the vast estate had been broken up and sold (Subdivision Catalogue 1892). The railway opened in 1893 facilitating the town's growth.</p> <p>The deposited plan of the subdivision of the Town of Berry was lodged by A. Hay and D.W. Roxburgh to a survey made in 1912 and lodged in 1915 (Certificate of title Volume 1907 Folio 15 (Deposited Plan 8058)).</p> <p>Site specific history: Originally the lot was part of 320 acres purchased by Alexander Berry in 1863 which became part of a larger parcel owned by the estate of David Berry in 1890 and transferred to John Hay in 1899. The lot between Albany Street and King Street was created in the Town of Berry subdivision of 1912 in Section 16 Portion 2 (DP8058). It was located adjacent to the Court House allotment and had a 70 foot frontage to Albany Street and King Street. In the subdivision sale plan of 1912 the long lot is shown divided into Lot 25 facing King Street and Lot 2 facing Albany Street. It was owned by Margaret Pepper a widow of Broughton Village who is believed to have built the cottage between 1890 and 1900. An existing building is drawn on the plan facing Albany Street and marked 'cottage'. The existing cottage appears to match the sketch shown on the subdivision sale plan. It is possible the building was constructed at a similar time to the development of the Courthouse in 1891. No connection between the property and the courthouse has been found but further research may reveal a link. Lot 2 was purchased by John J McClelland on the 14th August 1913 and comprised 2 roods 12 1/2 perches.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The Victorian residence at 17 Albany Street provides early physical evidence of the historical development of Berry. The house demonstrates early residential development prior to the marketing of the town lots and general sale in 1912 which started the growth of Berry. The property is historically significant for its role in the development history of Berry at the end of the 19 th century.
Historical association significance SHR criteria (b)	The house at 17 Albany Street may have historical association with the Courthouse but this has not been proven. Does not meet this criterion
Aesthetic significance SHR criteria (c)	The house at 17 Albany Street is a Victorian Georgian style house that incorporates details showing the transition into the Federation period. The house and garden make a positive contribution to the aesthetic qualities of the streetscape and the Berry Showground precinct.
Social significance SHR criteria (d)	Does not meet this criterion
Technical/Research significance SHR criteria (e)	Further research has the potential to reveal any links to the Court House.
Rarity SHR criteria (f)	The Victorian house at 17 Albany Street is a rare example of the early residential development of Berry after the focus of the town shifted from Broughton Creek.
Representativeness SHR criteria (g)	17 Albany Street is an excellent representative example of a Victorian Georgian style house demonstrating transition elements from the Federation period. The house is a fine example of a vernacular late 19 th century house in the Shoalhaven.
Integrity	The property is substantially intact and has a high degree of integrity.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Web Archive	Land and Property Information Service	Historic Land Titles		Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP) Include the item within the curtilage of the Berry Showground HCA.

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View of front of house from Albany Street				
Image year	2018	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View of front of house from Albany Street				
Image year	2018	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

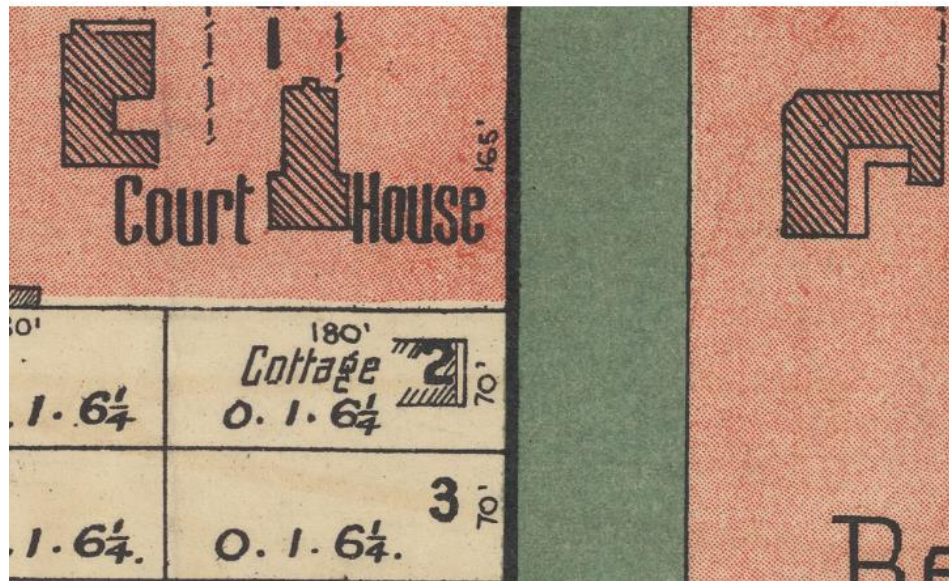
Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	For auction sale, Berry Estate. Berry town subdivision ... 21st February, 1912 (Extract showing cottage existing at 17 Albany Street)				
Image year	1912	Image by	State Library of NSW	Image copyright holder	State Library of NSW



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

ITEM DETAILS							
Name of Item	Inter-war House						
Other Name/s Former Name/s	Inter War Weatherboard House						
Item type (if known)	Dwelling						
Item group (if known)	Residential buildings (private)						
Item category (if known)	House						
Area, Group, or Collection Name							
Street number	30						
Street name	Alexandra Street						
Suburb/town	Berry					Postcode	2535
Local Government Area/s	Shoalhaven						
Property description	Lot 2 DP17926						
Location - Lat/long	Latitude	-34.778189769			Longitude	150.696356242	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Dwelling						
Former Use	Dwelling						
Statement of significance	<p>The house at 30 Alexandra Street provides physical evidence of the historical development of Berry in the late Inter-war period (just prior to WWII). The house has historic value for its ability to demonstrate early development through gradual subdivision of larger lots that took place after the 1912 subdivision which formed the basis of the town of Berry.</p> <p>The house at 30 Alexandra Street exhibits the principal characteristic of the late Inter-war style of architecture as applied to a domestic dwelling. The building makes a positive contribution to the landscaped setting of Alexandra Street.</p> <p>30 Alexandra Street is a good representative example of a late Inter-war timber house and exhibits a high degree of integrity. The house is a good representative example of vernacular architecture in the Shoalhaven in the first half of the twentieth century.</p>						
Level of Significance	State <input type="checkbox"/>				Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

DESCRIPTION						
Designer						
Builder/ maker						
Physical Description	<p>Number 30 Alexandra Street is a late Inter-war house. The exterior walls are clad in shiplap timber weatherboards and the hipped roof in Marseille tiles. It has a symmetrical façade with a central entry porch. The flat porch roof extends to either side to form the roofs of the bay windows that flank the entry. The porch has a low brick balustrade and short Corinthian columns supporting the roof. The garage appears to be of the same date as the original house.</p> <p>The original lot has been reduced to align with the creek.</p>					
Physical condition and Archaeological potential	Externally the building appears to be highly intact and in good condition.					
Construction years	Start year	1937	Finish year	1937	Circa	Yes
Modifications and dates	<p>There is a small carport attached to the garage on the southern side at the rear of the house and a swimming pool at the rear.</p>					
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

HISTORY	
Historical notes	<p>Broughton (Aboriginal name Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations. (ADB) When Alexander Berry came to the area in 1922 Broughton played a significant role in the establishment of Berry's estate, and worked with him for many years along with a substantial work force of other Aboriginal people and convicts. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, a vast area including what is now Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. It became a Municipality in 1868 after considerable lobbying by locals such as Joseph Tindall. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school. (Cousins 1994:262) David Berry died in 1889 and the town was renamed Berry to commemorate the Berry family. The railway opened in 1893 facilitating the town's growth.</p> <p>In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. By 1892 the majority of the vast estate had been broken up and sold.(Subdivision Catalogue 1892)</p> <p>Site specific history: The land at 30 Alexandra Street was originally part of an acre lot on the corner of Alexandra and Victoria Streets. George Gillam, a painter from Berry, bought the land from Alexander Hay and David Roxburgh on 20 June 1913. The block comprised 1 acre, 1 rood and 31 perches and had a creek flowing diagonally across the lot. In 1936 Gillam subdivided some of the lot into smaller parcels. In 1937 Lot 2 of these smaller lots was sold to Roy Herbert Laughlin, a hairdresser from Berry. Laughlin transferred the lot in the same year to Austin Raymond Wiggins, a baker from Berry. Wiggins held onto the property until 1953 so it is likely he built the house in circa 1937.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The house at 30 Alexandra Street provides physical evidence of the historical development of Berry in the late Inter-war period. The house has historic value for its ability to demonstrate early development through subdivision of some of the larger lots that took place after the 1912 subdivision which formed the basis of the town of Berry
Historical association significance SHR criteria (b)	Does not meet this criterion.
Aesthetic significance SHR criteria (c)	The house at 30 Alexandra Street exhibits the principal characteristic of the late Inter-war style of architecture as applied to a domestic dwelling. The building makes a positive contribution to the landscaped setting of Alexandra Street.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	30 Alexandra Street is a good representative example of a late Inter-war timber house. The house is a representative example of vernacular architecture in the Shoalhaven in the first half of the twentieth century.
Integrity	The dwelling appears to have a high degree of intactness.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Archive	Land and Property Information Service	Historic Land Titles		Historic Land records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	July 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Alexandra Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Close view of front facade				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

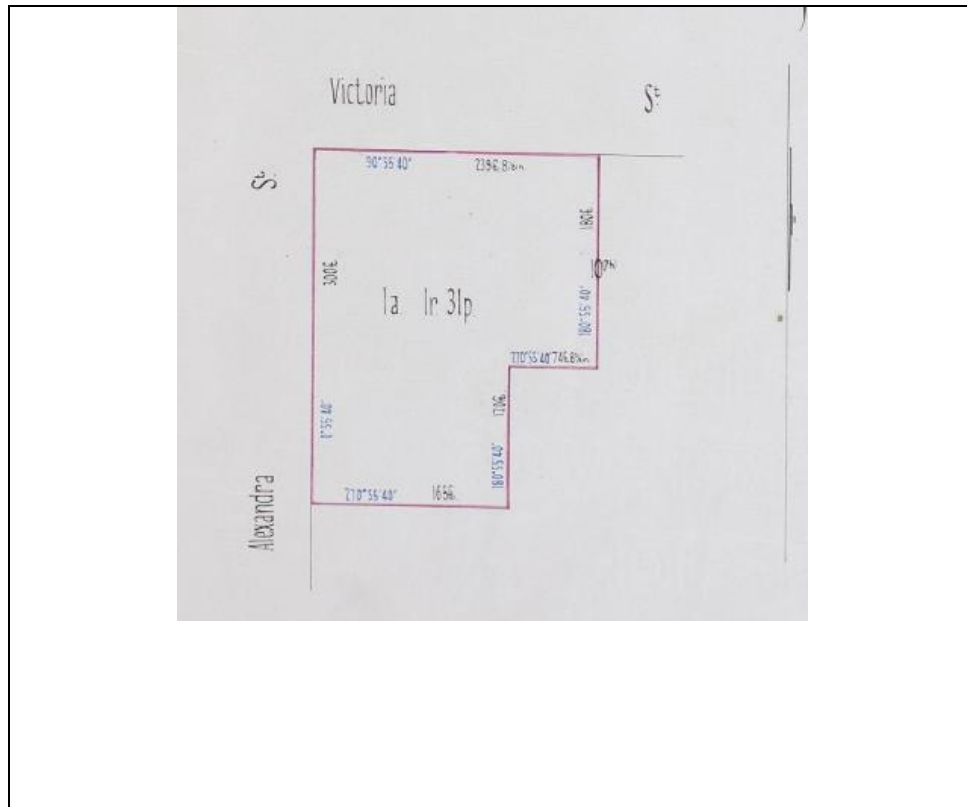
Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Extract from certificate of title Vol.2376 Fol.159. Shows original large lot purchased in 1913 by George Gillam from Hay and Roxburgh.				
Image year	1913	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

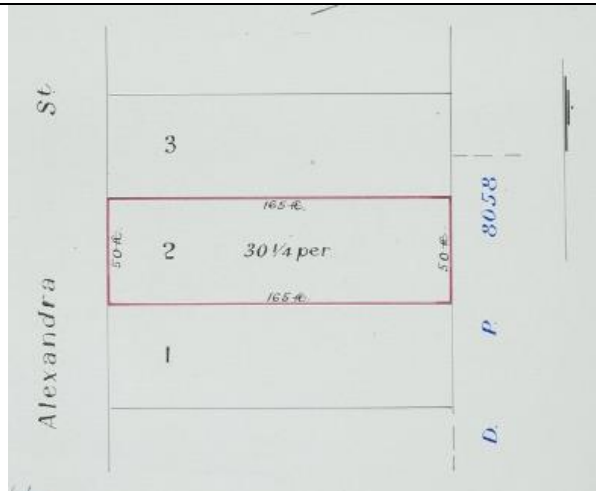
Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Extract from Certificate of Title Vol.4818 Fol.27. Shows the subdivided lot that the house at 30 Alexandra Street is built upon. The lot has since been reduced to exclude the land west of the creek.				
Image year	1937	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

ITEM DETAILS							
Name of Item	Federation bungalow						
Other Name/s Former Name/s	Late Federation house						
Item type (if known)	Dwelling						
Item group (if known)	Residential buildings (private)						
Item category (if known)	House						
Area, Group, or Collection Name							
Street number	40						
Street name	Alexandra Street						
Suburb/town	Berry					Postcode	2535
Local Government Area/s	Shoalhaven						
Property description	Lot 28 Section 5 DP 8508						
Location - Lat/long	Latitude	-34.77900931			Longitude	150.696375017	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Dwelling						
Former Use	Dwelling						
Statement of significance	<p>The Federation Weatherboard Cottage at 40 Alexandra Street provides physical evidence of the historical development of Berry in the early 20th century and demonstrates the historical development of Berry after the shift from Broughton Creek Village. 40 Alexandra Street has aesthetic value as a highly intact Federation bungalow demonstrating the key characteristics of the architectural period and makes a positive contribution to the landscaped setting of Alexandra Street. The timber building illustrates early 20th century home design and construction methods in the Shoalhaven. The house at 40 Alexandra Street is a good representative example of a late Federation era dwelling. The cottage is a good example of vernacular architecture of the early 20th century in Berry and the Shoalhaven. The building has a high degree of integrity.</p>						
Level of Significance	State <input type="checkbox"/>				Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

DESCRIPTION						
Designer	Alexander Johnston					
Builder/ maker	Alexander Johnston					
Physical Description	<p>The house at 40 Alexandra Street is a Federation style bungalow. The exterior walls are clad in timber bevelled lap siding and the roof is clad in corrugated steel. The main roof is hipped with a forward facing side gable. The main roof also covers a verandah that wraps the building at the front and along the side. Windows are double hung and timber framed. The roof over the verandah is supported on timber columns with decorative brackets. The gable end of the side wing is infilled with battened fibro. In the side wing there is a double window and awning with decorative brackets. The verandah has a timber picket balustrade.</p> <p>At the front of the property is a wire fence with brick piers.</p>					
Physical condition and Archaeological potential	The building appears to be intact.					
Construction years	Start year	1918	Finish year	1918	Circa	Yes
Modifications and dates	No modifications were identified.					
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

HISTORY	
Historical notes	<p>Broughton (Aboriginal name Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB) When Alexander Berry came to the area in 1922 Broughton played a significant role in the establishment of Berry's estate, and worked with him for many years along with a substantial work force of other Aboriginal people and convicts. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, a vast area including what is now Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. It became a Municipality in 1868 after considerable lobbying by locals such as Joseph Tindall. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school. (Cousins 1994:262) David Berry died in 1889 and the town was renamed Berry to commemorate the berry family. The railway opened in 1893 facilitating the town's growth.</p> <p>In 1883 Dr John Hay, a cousin of David Berry, settled at Coolangatta and after Berry's death in 1889 were left in charge of administering the estate. By 1892 the majority of the vast estate had been broken up and sold.(Subdivision Catalogue 1892)</p> <p>Site specific history: The original 1911 Diagram of Berry Township (Map Plot 151 prior DP8508) shows Alexandra Street with a north south orientation aligned with the street grid. However a road reserve for a bend in the southern end can be seen on the plan. The subdivision sale plan shows no bend and a street called York Street intersecting the block which was never formed. The final layout of the block between Alexandra Street and Prince Alfred Street, south of Victoria Street, became section 5 of DP 8508. Alexander Johnston, a builder from Berry, purchased Lot 18 and lot 28 of Section 5 of DP8058 in 1918. It is likely that Johnston built the house at 40 Alexandra Street after the 1916 purchase and sold it in 1922. He may then have built the house on Lot 18 which became 45 Prince Alfred Street. (Vol.2818 Fol.127)</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The Federation weatherboard bungalow at 40 Alexandra Street provides physical evidence of the historical development of Berry in the early 20 th century. The house demonstrates the historical development of Berry after the shift from Broughton Creek Village.
Historical association significance SHR criteria (b)	Does not meet this criterion.
Aesthetic significance SHR criteria (c)	40 Alexandra Street has aesthetic value as a highly intact Federation bungalow demonstrating the key characteristics of the architectural period. The timber building illustrates early 20 th century home design and construction methods in the Shoalhaven.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	The house at 40 Alexandra Street is a good representative example of a late Federation era dwelling. The cottage is a good example of vernacular architecture of the early 20 th century in Berry and the Shoalhaven.
Integrity	The building has a high degree of integrity.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Web Archive	Land and Property Information Service	Historic Land Titles		Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	July 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Front view				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Alexandra Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

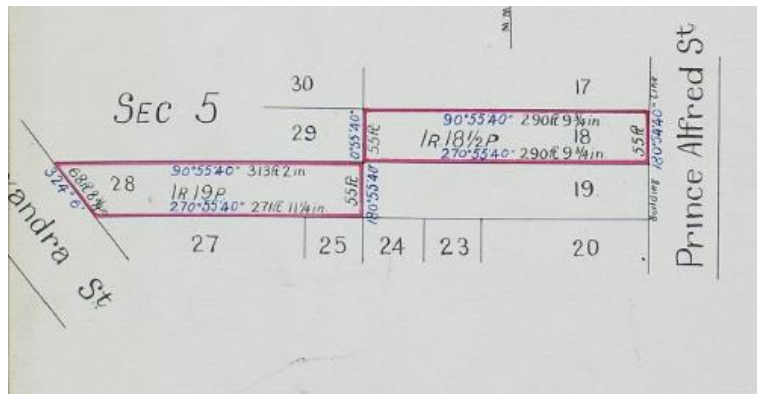
Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2019

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Certificate of title Vol. 2821 Fol. 127 (Extract)				
Image year	1918	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS							
Name of Item	Inter-war weatherboard bungalow						
Other Name/s Former Name/s	Weatherboard Cottage						
Item type (if known)	Dwelling						
Item group (if known)	Residential buildings (private)						
Item category (if known)	House						
Area, Group, or Collection Name							
Street number	45						
Street name	Prince Alfred Street						
Suburb/town	Berry					Postcode	2535
Local Government Area/s	Shoalhaven						
Property description	Lot 18 Section 5 DP8058						
Location - Lat/long	Latitude	-34.779015			Longitude	150.697868	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Dwelling						
Former Use	Dwelling						
Statement of significance	<p>The Inter-war weatherboard bungalow at 45 Prince Alfred Street provides physical evidence of the historical development of Berry in the Inter-war period. The house has historic value for its ability to demonstrate the way lots along an early historic road were developed after the 1912 Berry Township subdivision and during the Inter-war period. The bungalow exhibits the principal characteristic of the Inter-war style of architecture as applied to a domestic dwelling in the 1920s. The bungalow has aesthetic value for its contribution to the streetscape values of Prince Alfred Street which is a key road within the historic Berry Estate. The Inter-war bungalow is a fine representative example of a timber vernacular house built in the early 20th century in the Shoalhaven.</p>						
Level of Significance	State <input type="checkbox"/>				Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer						
Builder/ maker						
Physical Description	Asymmetrical cottage of weatherboard walls and corrugated iron roof. Front facing gable with battened fibro infill. A verandah to both the front and the side. Sympathetically altered with original metal and wire front gates.					
Physical condition and Archaeological potential						
Construction years	Start year	1924	Finish year	1929	Circa	Yes
Modifications and dates	<p>2008 Addition of a new living area at the rear of the house. New deck area at the rear. New semi in-ground pool in the deck area. New carport at the side of the house.</p> <p>2012 Detached habitable room located behind the existing dwelling on the eastern boundary, south of the zone of the sewer line.</p>					
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Broughton (Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB). When Alexander Berry came to the area in 1822 Broughton acted as his guide and went on to play a significant role in the management of Berry's Coolangatta estate. Berry had a substantial work force of other Aboriginal people and convicts who made it possible for him to construct his home and the estate administration on the side of the mountain Cullunghutti. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. When Alexander Berry died in 1873 his younger brother David, who was already involved in the management of Coolangatta, inherited the estate. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school (Cousins 1994:262). In 1883 cousin of David Berry, Dr John Hay, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time. By 1892 the majority of the vast estate had been broken up and sold (Subdivision Catalogue 1892). The railway opened in 1893 facilitating the town's growth.</p> <p>The deposited plan of the subdivision of the Town of Berry was lodged by A. Hay and D.W. Roxburgh to a survey made in 1912 and lodged in 1915 (Certificate of title Volume 1907 Folio 15 (Deposited Plan 8058)).</p> <p>Site specific history:</p> <p>The 1912 subdivision sale map shows Section 5 divided into two and a road called York Road running between Prince Alfred Street and Alexandra Street. This road was not constructed instead in DP8058 Section 5 encompassed lands between Victoria Street, Prince Alfred Street, Station Street and Alexandra street. 45 Prince Alfred Street is located on Lot 18 of Sec. 5 comprising 1 rood 18 ½ perches. The property was purchased from Hay by Alexander Johnston, a builder from Berry, on 23 June 1916. By 1923 the land was still not improved and was owned by Mrs Johnston. It is assumed Alexander Johnston built the house in the 1920s after 1923.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The Inter-war weatherboard bungalow at 45 Prince Alfred Street provides physical evidence of the historical development of the town of Berry in the Inter-war period. The house has historic value for its ability to demonstrate the way lots along an early historic road were developed after the 1912 Berry Township subdivision and during the Inter-war period.
Historical association significance SHR criteria (b)	Does not meet this criterion.
Aesthetic significance SHR criteria (c)	The bungalow exhibits the principal characteristic of the Inter-war style of architecture as applied to a domestic dwelling in the 1920s. The cottage has aesthetic value for its contribution to the streetscape values of Prince Alfred Street which is a key road within the historic Berry Estate.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	The Inter-war bungalow is a fine representative example of a timber vernacular house built in the early 20 th century in the Shoalhaven.
Integrity	The house appears to demonstrate a high degree of intactness.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Web Archive	Land and Property Information Service	Historic Land Titles		Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Prince Alfred Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Prince Alfred Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

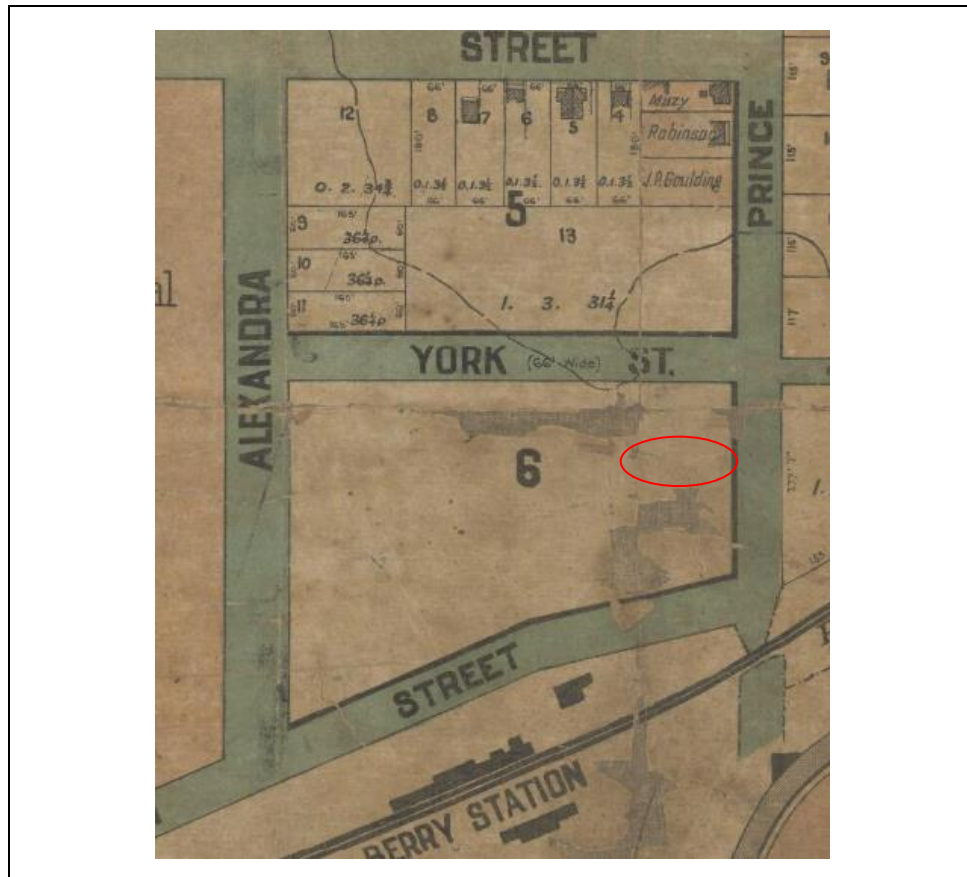
Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Extract from 'For auction sale, Berry Estate. Berry town subdivision ... 21st February, 1912'				
Image year	1912	Image by	State Library of NSW	Image copyright holder	State Library of NSW



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS					
Name of Item	Inter-war Weatherboard Cottage				
Other Name/s Former Name/s					
Item type (if known)	Dwelling				
Item group (if known)	Residential buildings (private)				
Item category (if known)	House				
Area, Group, or Collection Name					
Street number	53				
Street name	Queen Street				
Suburb/town	Berry	Postcode	2535		
Local Government Area/s	Shoalhaven				
Property description	Lot A DP 332021				
Location - Lat/long	Latitude	-34.77473	Longitude	150.692622	
Location - AMG (if no street address)	Zone		Easting		Northing
Owner					
Current use	Dwelling				
Former Use	Dwelling				
Statement of significance	<p>The Inter-war Weatherboard Cottage at 53 Queen Street provides physical evidence of the historical development of Berry in the late Inter-war period. The house has historic value for its ability to demonstrate the early development through subdivision of some of the larger lots that took place after the 1912 subdivision which formed the basis of the town of Berry. 53 Queen Street provides physical evidence of the historical development of the town of Berry in the late inter-war period. The house has historic value for its ability to demonstrate the early development through subdivision of some of the larger lots that took place after the 1912 subdivision which formed the basis of the town of Berry. 53 Queen Street is a good representative example of a late Inter-war timber house. The house is a representative example of vernacular architecture in the Shoalhaven in the first half of the twentieth century.</p>				
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer	Not known					
Builder/ maker	Not known					
Physical Description	53 Queen Street is a late Inter-war weatherboard house. It has a pyramid Marseille tiled roof that covers the verandahs to the front and side. The wrap around verandah is deeply inset with timber weatherboards framing the opening onto the verandah. These weather board walls sit on a decorative timber valance and timber posts with a timber picket balustrade. On the left of the front verandah is a canted bay window with a flat roof. The house has a face brick strip footing and chimney. The front of the property has a picket fence.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1929	Finish year	1934	Circa	Yes
Modifications and dates	No recorded development applications					
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Broughton (Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB). When Alexander Berry came to the area in 1822 Broughton acted as his guide and went on to play a significant role in the management of Berry's Coolangatta estate. Berry had a substantial work force of other Aboriginal people and convicts who made it possible for him to construct his home and the estate administration on the side of the mountain Cullunghutti. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. When Alexander Berry died in 1873 his younger brother David, who was already involved in the management of Coolangatta, inherited the estate. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school (Cousins 1994:262). In 1883 cousin of David Berry, Dr John Hay, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time. By 1892 the majority of the vast estate had been broken up and sold (Subdivision Catalogue 1892). The railway opened in 1893 facilitating the town's growth.</p> <p>The deposited plan of the subdivision of the Town of Berry was lodged by A. Hay and D.W. Roxburgh to a survey made in 1912 and lodged in 1915 (Certificate of title Volume 1907 Folio 15 (Deposited Plan 8058)).</p> <p>Site specific history:</p> <p>In 1914 George William Ulrick, a labourer of Berry purchased from Hay and Roxburgh the lot adjoining that of John Logan. (V.2503 F.114) The original Lot A was shown on the 1912 subdivision sale map as Lot 11 in Sec.13. Number 53 Queen Street is located on what was lot 11 and is now Lot A. The whole of Section 13 was shown as undeveloped in 1912.</p> <p>Larger than Logan's lot it was subdivided and one rood and $\frac{3}{4}$ perches were sold in 1935 to Frederick Hale as Lot A.</p> <p>Ulrick held the land until its sale in 1935 it is possible he developed it between 1914 and 1934, especially as he worked in the building industry. Presumably George Ulrick was a relative of Percy Ulrick who also held property in Queen Street. The design of the property indicates it was built late in the Inter-war period so it is possible Frederick Hale built it in 1935.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	53 Queen Street provides physical evidence of the historical development of Berry in the late Inter-war period. The house has historic value for its ability to demonstrate early development through subdivision of some of the larger lots that took place after the 1912 subdivision which formed the basis of the town of Berry.
Historical association significance SHR criteria (b)	Does not meet this criterion.
Aesthetic significance SHR criteria (c)	The house at 53 Queen Street exhibits the principal characteristic of the Inter-war style of architecture as applied to a domestic dwelling.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	53 Queen Street is a good representative example of a late Inter-war timber house. The house is a representative example of vernacular architecture in the Shoalhaven in the first half of the twentieth century.
Integrity	The dwelling appears to have a high degree of intactness.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Archive	Land and Property Information Service	Historic Land Titles		Historic Land records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Queen Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from across Queen Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS					
Name of Item	Federation Weatherboard Cottage				
Other Name/s Former Name/s					
Item type (if known)	Dwelling				
Item group (if known)	Residential buildings (private)				
Item category (if known)	House				
Area, Group, or Collection Name					
Street number	59				
Street name	Queen Street				
Suburb/town	Berry	Postcode	2535		
Local Government Area/s	Shoalhaven				
Property description	Lot B DP411284				
Location - Lat/long	Latitude		Longitude		
Location - AMG (if no street address)	Zone		Easting	Northing	
Owner					
Current use	Dwelling				
Former Use	Dwelling				
Statement of significance	<p>The Federation Weatherboard Cottage at 59 Queen Street provides early physical evidence of the historical development of Berry. The house has historic value for its ability to demonstrate early residential development in the 1912 Hay subdivision which precipitated the growth of the Township of Berry. The house exhibits the principal characteristic of the Victorian/Federation transition style of architecture as applied to a domestic dwelling in the early 20th century. 59 Queen Street is a good representative example of a timber Federation house exhibiting Victorian features built in the early 20th century in the Shoalhaven.</p>				
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>		

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer	Not known					
Builder/ maker	Not known					
Physical Description	The house at 59 Queen Street is a late Victorian/ Federation transition style dwelling. It has a corrugated metal hipped roof and timber weatherboards. There is a front verandah which wraps the front and eastern side of the dwelling. Part of the verandah on the eastern side is enclosed. The verandah roof is incorporated with the main roof and is supported on timber posts. The roof cladding is corrugated metal. There is a side addition on the western side integrated with the main roof. On the eastern side is a large double car port with a gable roof.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1914	Finish year	1916	Circa	Yes
Modifications and dates	None on record					
Further comments	Vegetation screening the house prevented a detailed description					

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Broughton (Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB). When Alexander Berry came to the area in 1822 Broughton acted as his guide and went on to play a significant role in the management of Berry's Coolangatta estate. Berry had a substantial work force of other Aboriginal people and convicts who made it possible for him to construct his home and the estate administration on the side of the mountain Cullunghutti. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. When Alexander Berry died in 1873 his younger brother David, who was already involved in the management of Coolangatta, inherited the estate. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school (Cousins 1994:262). In 1883 cousin of David Berry, Dr John Hay, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time. By 1892 the majority of the vast estate had been broken up and sold (Subdivision Catalogue 1892). The railway opened in 1893 facilitating the town's growth.</p> <p>The deposited plan of the subdivision of the Town of Berry was lodged by A. Hay and D.W. Roxburgh to a survey made in 1912 and lodged in 1915 (Certificate of title Volume 1907 Folio 15 (Deposited Plan 8058)).</p> <p>Site specific history:</p> <p>In 1914 Adam Percival Ulrick, a labourer of Berry purchased 1 acre 3 ½ perches in section 13 from Hay and Roxburgh. Ulrick owned Lots 3, 4, 13 and 14 in Section 13. The Valuation Record book from 1940 describes Percy Ulrick paying rates on lots and a residence in Queen Street.</p> <p>The land was subdivided in 1959 into two lots, Lot A taking ¾ of the lot and Lot B the smaller of the two lots facing Queen Street. 59 Queen Street is located on Lot B originally Lot 14 in Section 13.</p> <p>The style of the house at 59 Queen Street is Federation with Victorian transition detailing, it is likely then that Ulrick built the house soon after purchasing the land in 1914.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The house at 59 Queen Street provides early physical evidence of the historical development of the town of Berry. The house has historic value for its ability to demonstrate early residential development in the 1912 Hay subdivision which started the growth of the town of Berry.
Historical association significance SHR criteria (b)	Does not meet this criterion.
Aesthetic significance SHR criteria (c)	The house exhibits the principal characteristic of the Victorian/Federation transition style of architecture as applied to a domestic dwelling in the early 20 th century.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	59 Queen Street is a good representative example of a Federation house exhibiting Victorian features in the Shoalhaven. The house is a representative example of a timber vernacular house built in the early 20 th century in the Shoalhaven.
Integrity	The house demonstrates a high degree of intactness.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Web Archive	Land and Property Information Service	Historic Land Titles		Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Front of the house viewed from Queen Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View showing the main house and recent car port				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from the western side				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS					
Name of Item	Federation Weatherboard Cottage				
Other Name/s Former Name/s	Federation Georgian style Weatherboard Cottage				
Item type (if known)	Dwelling				
Item group (if known)	Residential buildings (private)				
Item category (if known)	House				
Area, Group, or Collection Name					
Street number	68				
Street name	Queen Street				
Suburb/town	Berry	Postcode	2535		
Local Government Area/s	Shoalhaven				
Property description	Lot 2 DP286357				
Location - Lat/long	Latitude		Longitude		
Location - AMG (if no street address)	Zone		Easting		Northing
Owner					
Current use	Holiday Accommodation				
Former Use	Dwelling				
Statement of significance	<p>The house at 68 Queen Street provides early physical evidence of the historical development of Berry. The house has historic value for its ability to demonstrate early residential development in the 1912 Hay subdivision which started the growth of Berry. The house exhibits the principal characteristic of the Victorian/Federation transition style of architecture as applied to a domestic dwelling in the early 20th century. 68 Queen Street is a good representative example of a timber Federation house exhibiting Victorian features built in the early 20th century in the Shoalhaven.</p>				
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer	Not known					
Builder/ maker	Not known					
Physical Description	The house at 68 Queen Street is a late Victorian/ Federation transition style dwelling. It has a corrugated metal hipped roof and timber weatherboards. There is a front verandah which wraps the front and eastern side of the dwelling. The verandah roof is bull-nosed and separate from the main roof and is supported on timber posts with timber brackets and a decorative timber valence. There is a side wing on the western side integrated with the main roof and terminating in a hip at the rear. The windows have tradition flat metal awnings on timber brackets. There is a substantial rendered brick chimney in the centre of the side wing.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1912	Finish year	1912	Circa	Yes
Modifications and dates	2008 Creation of a new unit (dual occupancy with existing dwelling) and subdivision of property. A new dwelling has been constructed on the new lot at the rear.					
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Broughton (Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB). When Alexander Berry came to the area in 1822 Broughton acted as his guide and went on to play a significant role in the management of Berry's Coolangatta estate. Berry had a substantial work force of other Aboriginal people and convicts who made it possible for him to construct his home and the estate administration on the side of the mountain Cullunghutti. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. When Alexander Berry died in 1873 his younger brother David, who was already involved in the management of Coolangatta, inherited the estate. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school (Cousins 1994:262). In 1883 cousin of David Berry, Dr John Hay, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time. By 1892 the majority of the vast estate had been broken up and sold (Subdivision Catalogue 1892). The railway opened in 1893 facilitating the town's growth.</p> <p>The deposited plan of the subdivision of the Town of Berry was lodged by A. Hay and D.W. Roxburgh to a survey made in 1912 and lodged in 1915 (Certificate of title Volume 1907 Folio 15 (Deposited Plan 8058)).</p> <p>Site specific history:</p> <p>In 1912 Thomas Henry Lamond, a farmer of Wattamolla, purchased 3 roods 13 perches from Hay and Roxburgh. The lot encompassed the whole street front of Albany street from the corner of Queen to Princess Streets. On the subdivision sale plan of 1912 it included lots 9, 10, 11 and 12 in Section 8. 68 Queen Street is located on the former Lot 10 of Section 8 DP8058. Valuation Records show that Thomas Lamond was still the owner of Lot 10 in 1940 the record describes a residence. Unfortunately earlier Valuation Records do not contain detail of development on the lots.</p> <p>Given the architectural style of the building it was most likely built by Lamond soon after he purchased the land in 1912.</p> <p>A sign on the property describes the house as circa 1890, however no evidence has been found to substantiate this date. No building is shown on the lot on the 1912 subdivision plan.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The house at 68 Queen Street provides early physical evidence of the historical development of the town of Berry. The house has historic value for its ability to demonstrate early residential development in the 1912 Hay subdivision which started the growth of the town of Berry.
Historical association significance SHR criteria (b)	The property has historical association with Thomas Almond who purchased several other properties in the 1912 Berry town sale. Not sufficient to meet the threshold for local significance.
Aesthetic significance SHR criteria (c)	The house exhibits the principal characteristic of the Victorian/Federation transition style of architecture as applied to a domestic dwelling in the early 20 th century.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	68 Queen Street is a good representative example of a Federation house exhibiting Victorian features in the Shoalhaven. The house is a representative example of a timber vernacular house built in the early 20 th century in the Shoalhaven.
Integrity	The house demonstrates a high degree of intactness.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Web Archive	Land and Property Information Service	Historic Land Titles		Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to the front verandah and front door from Queen Street				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The property is located on the corner of Queen and Albany Streets				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Side elevation showing the side wing and chimney				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Rear				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS							
Name of Item	Inter-war Weatherboard Bungalow						
Other Name/s Former Name/s							
Item type (if known)	Built						
Item group (if known)	Residential buildings (private)						
Item category (if known)	House						
Area, Group, or Collection Name							
Street number	70						
Street name	Queen Street						
Suburb/town	Berry					Postcode	2535
Local Government Area/s	Shoalhaven						
Property description	Lot 1 DP100024						
Location - Lat/long	Latitude	-34.775486			Longitude	150.694519	
Location - AMG (if no street address)	Zone		Easting		Northing		
Owner							
Current use	Dwelling						
Former Use	Dwelling						
Statement of significance	<p>The Bungalow at 70 Queen Street provides physical evidence of the historical development of the town of Berry in the Inter-war period. The house has historic value for its ability to demonstrate the way larger lots in the 1912 Berry Township subdivision were divided and sold in the first half of the 20th century. The Bungalow exhibits the principal characteristic of the Californian Bungalow style of architecture as applied to a domestic dwelling in the 1920s. 70 Queen Street is an excellent example of an Inter-war Californian Bungalow and is a fine representative example of a timber vernacular house built in the early 20th century in the Shoalhaven.</p>						
Level of Significance	State <input type="checkbox"/>				Local <input checked="" type="checkbox"/>		

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer	Unknown					
Builder/ maker	Unknown					
Physical Description	The house at 70 Queen Street is a timber building with traditional Californian Bungalow features such as the low slung gable roofs facing the street and the deeply recessed front verandah. The verandah has a flat roof on squat columns resting on rendered brick piers. The gable ends are half timbered and the barge boards are long with tapered ends. The front window in the side wing is a triple framed timber window with decorative lead light sashes. Over the window is a traditional flat metal awning supported on a latticed timber brackets. The roof is a corrugated metal roof and there is an original face brick chimney.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1925	Finish year	1929	Circa	Yes
Modifications and dates	None recorded.					
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Broughton (Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB). When Alexander Berry came to the area in 1822 Broughton acted as his guide and went on to play a significant role in the management of Berry's Coolangatta estate. Berry had a substantial work force of other Aboriginal people and convicts who made it possible for him to construct his home and the estate administration on the side of the mountain Cullunghutti. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. When Alexander Berry died in 1873 his younger brother David, who was already involved in the management of Coolangatta, inherited the estate. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school (Cousins 1994:262). In 1883 cousin of David Berry, Dr John Hay, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time. By 1892 the majority of the vast estate had been broken up and sold (Subdivision Catalogue 1892). The railway opened in 1893 facilitating the town's growth.</p> <p>The deposited plan of the subdivision of the Town of Berry was lodged by A. Hay and D.W. Roxburgh to a survey made in 1912 and lodged in 1915 (Certificate of title Volume 1907 Folio 15 (Deposited Plan 8058)).</p> <p>Site specific history:</p> <p>In 1912 Thomas Henry Lamond, a farmer of Wattamolla, purchased 3 roods 13 perches from Hay and Roxburgh (V.2325 F.62). The lot encompassed the whole street front of Albany street from the corner of Queen to Princess Streets. On the subdivision sale plan of 1912 it included Section 9 Lots 9, 10, 11 and 12. In 1934 Elsie Wymer purchased Lot 9 known as 70 Queen Street, comprising 30 ¾ perches (V. 4654 Fol.3).</p> <p>It is likely that Lamond built the house in the 1920s and created the new lot which was then sold with the house to Wymer in 1934.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The Bungalow at 70 Queen Street provides physical evidence of the historical development of the town of Berry in the Inter-war period. The house has historic value for its ability to demonstrate the way larger lots in the 1912 Berry Township subdivision were divided and sold in the first half of the 20 th century.
Historical association significance SHR criteria (b)	The property has historical association with Thomas Lamond who purchased a large number of lots in the 1912 Berry Township subdivision. Not sufficient to meet the threshold for local significance.
Aesthetic significance SHR criteria (c)	The Bungalow exhibits the principal characteristic of the Californian Bungalow style of architecture as applied to a domestic dwelling in the 1920s.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	Does not meet this criterion.
Representativeness SHR criteria (g)	70 Queen Street is an excellent example of an Inter-war Californian Bungalow. The house is a fine representative example of a timber vernacular house built in the early 20 th century in the Shoalhaven.
Integrity	The house demonstrates a high degree of intactness.

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Web Archive	Land and Property Information Service	Historic Land Titles		Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2019

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from Queen Street to the front of the Bungalow				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to the front of the building				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View showing the chimney and verandah detail.				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

ITEM DETAILS					
Name of Item	Federation Weatherboard Cottage				
Other Name/s Former Name/s	Federation House				
Item type (if known)	Dwelling				
Item group (if known)	Residential buildings (private)				
Item category (if known)	House				
Area, Group, or Collection Name					
Street number	73				
Street name	Victoria Street				
Suburb/town	Berry	Postcode	2535		
Local Government Area/s	Shoalhaven				
Property description	Lot 2 DP 210451				
Location - Lat/long	Latitude	-34.776982	Longitude	150.694914	
Location - AMG (if no street address)	Zone		Easting		Northings
Owner					
Current use	Dwelling				
Former Use	Dwelling				
Statement of significance	<p>The Federation Weatherboard Cottage at 73 Victoria Street provides early physical evidence of the historical development of the town of Berry. The house is historically significant as it demonstrates early residential development prior to the marketing of the town lots and general sale in 1912 which started the growth of Berry. The house has aesthetic value as it exhibits the principal characteristic of the Federation style of architecture as applied to a domestic dwelling in the early 20th century. The cottage has aesthetic value for its contribution to the streetscapes of the Showground precinct. 73 Victoria Street is rare as one of the few surviving houses in Berry township that predate the 1912 town subdivision sales. 73 Victoria Street is a good representative example of a Federation timber vernacular house in the Shoalhaven.</p>				
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>		

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

DESCRIPTION						
Designer	Not known					
Builder/ maker	Not known					
Physical Description	The house is a Federation style timber weatherboard building. It has a side wing with a forward facing gable with a barge supported on timber brackets and infilled by half timbering. There is a triple framed timber window with an awning facing the street. The main roof is hipped and clad in corrugated metal. A skillion roofed verandah faces the front with timber posts and decorative brackets. The eastern end of the verandah is enclosed. The rendered brick chimney is still extant. The front fence is a traditional wire fence between brick piers.					
Physical condition and Archaeological potential	Good					
Construction years	Start year	1911	Finish year	1911	Circa	1911
Modifications and dates	No recorded DAs for modifications					
Further comments						

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HISTORY	
Historical notes	<p>Broughton (Toodwick 1798–1850) was an Aboriginal man from the area who worked for Dr Charles Throsby as a translator and guide in his southern explorations (ADB). When Alexander Berry came to the area in 1822 Broughton acted as his guide and went on to play a significant role in the management of Berry's Coolangatta estate. Berry had a substantial work force of other Aboriginal people and convicts who made it possible for him to construct his home and the estate administration on the side of the mountain Cullunghutti. Alexander Berry and Edward Wollstonecraft were granted 10,000 acres, which Berry expanded to 40,000 acres, including the area that became the Town of Berry. The first settlement at Berry was located on Broughton Creek, and by 1861 had a schoolhouse and postmaster. When Alexander Berry died in 1873 his younger brother David, who was already involved in the management of Coolangatta, inherited the estate. In 1879 Broughton Creek Village was surveyed and a plan for the town was made on higher ground to the west. David Berry gave land for four churches and a park and land was resumed for a school (Cousins 1994:262). In 1883 cousin of David Berry, Dr John Hay, settled at Coolangatta and after Berry's death in 1889 was left in charge of administering the estate. The town was renamed Berry at this time. By 1892 the majority of the vast estate had been broken up and sold (Subdivision Catalogue 1892). The railway opened in 1893 facilitating the town's growth.</p> <p>The deposited plan of the subdivision of the Town of Berry was lodged by A. Hay and D.W. Roxburgh to a survey made in 1912 and lodged in 1915 (Certificate of title Volume 1907 Folio 15 (Deposited Plan 8058)).</p> <p>Site specific history: Originally the lot was part of 320 acres purchased by Alexander Berry in 1863 which became part of a larger parcel owned by the estate of David Berry in 1890 and transferred to John Hay in 1899. It was purchased by Charles Wesley Osborne, solicitor of Berry from Hay and Roxburgh in 1911. The parcel comprised one rood 26 ½ perches and stretched between Princess Street and Victoria Street. By the time of the publication of the subdivision sale plan a house was shown fronting Victoria Street and the lot was described as Lots 7 and 16 in Section 8 of DP 8058. The subdivision of the land into two portions was not undertaken until 1962. The property at 69 Victoria Street was Lot 2 of DP210451s. The house was likely to have been built by Charles Wesley Osborne circa 1911 as it is shown on the 1912 sale poster.</p>

THEMES	
National historical theme	4. Building settlements, towns and cities
State historical theme	Towns, suburbs and villages Land tenure Accommodation Domestic life

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	The Federation Weatherboard Cottage at 73 Victoria Street provides early physical evidence of the historical development of the Township of Berry. The house demonstrates early residential development prior to the marketing of the town lots and general sale in 1912 which started the growth of Berry.
Historical association significance SHR criteria (b)	The property has historical association with Charles Wesley Osborne, solicitor of Berry. Not sufficient to meet the threshold for local significance.
Aesthetic significance SHR criteria (c)	The Weatherboard Cottage exhibits the principal characteristic of the Federation style of architecture as applied to a domestic dwelling in the early 20 th century. The cottage has aesthetic value for its contribution to the streetscapes of the Showground precinct.
Social significance SHR criteria (d)	Does not meet this criterion.
Technical/Research significance SHR criteria (e)	Does not meet this criterion.
Rarity SHR criteria (f)	73 Victoria Street is one of the few surviving houses in Berry township that were built prior to the marketing of the 1912 town subdivision.
Representativeness SHR criteria (g)	73 Victoria Street is a good representative example of a Federation house in the Shoalhaven. The House is a representative example of a timber vernacular house built in the early 20 th century in the Shoalhaven.
Integrity	The house demonstrates a high degree of intactness.

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

HERITAGE LISTINGS	
Heritage listing/s	None

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter Freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council
Book	Cousins, Arthur	The Garden of New South Wales	1994	
Web	Campbell, Keith	Australian Dictionary of Biography	2018	National Centre of Biography, ANU
Archive	Berry Municipal Council	Berry Valuation Books	1923-1940	NSW Archives
Web Archive	Land and Property Information Service	Historic Land Titles		Historic Land Records Viewer

RECOMMENDATIONS	
Recommendations	Include the item in Schedule 5 of Shoalhaven Local Environmental Plan (SLEP)

SOURCE OF THIS INFORMATION			
Name of study or report	Shoalhaven Heritage Review – Certain Items in Berry	Year of study or report	2019
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	April 2019

CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	73 Victoria Street viewed from the front.				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Front of the property showing the fence and verandah				
Image year	2019	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

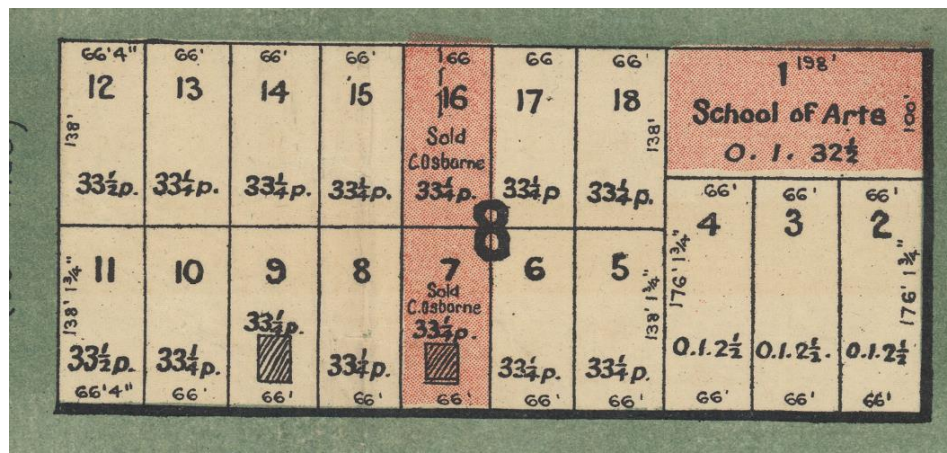
Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Extract from <i>For auction sale, Berry Estate. Berry town subdivision ...</i> 21st February, 1912				
Image year	2018	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



CL24.218 - Attachment 4

Shoalhaven Heritage Data Form

Shoalhaven Heritage Review – Certain Items in Berry 2018

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption					
Image year	2018	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council

IMAGE

photograph, sketch, map

CL24.218 - Attachment 4



Shoalhaven City Council



Community Engagement for a new DCP Chapter (Berry – East of Princes Highway) Engagement Outcomes Report

June 2024

CL24.218 - Attachment 5



Acknowledgment of Country

We acknowledge the Dharawal people as the original custodians of the land on which Berry is located. We pay our respects to ancestors and Elders, past, present and emerging.

localé consulting

ABN: 73 140 973 735

T 0419 700 401
A 1/27 River Street Woolgoolga NSW 2456
P PO Box 53 Woolgoolga NSW 2456
E info@localeconsulting.com.au
W www.localeconsulting.com.au

Document Control

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Client: Shoalhaven City Council

Job Contact: Kate Lynch – Strategic Planner

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1	18/06/2024	Cinnamon Dunsford	Emma Broomfield
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Disclaimer:

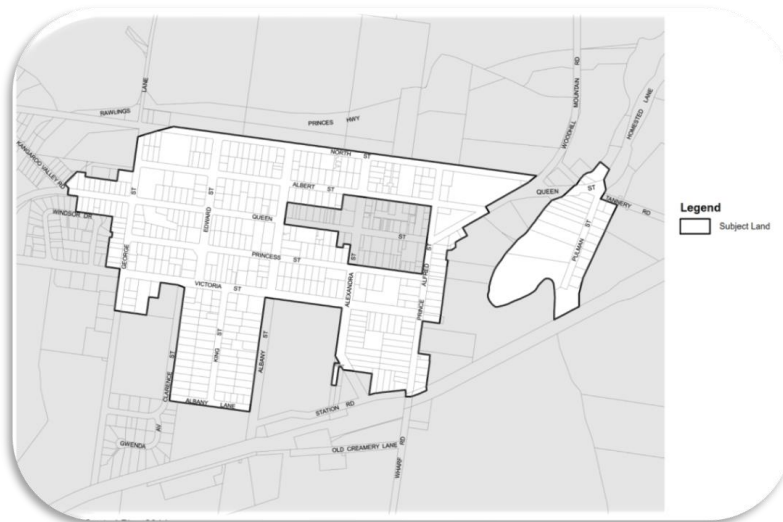
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1. Initial Consultation Overview

Council resolved to investigate and prepare a new Development Control Plan (DCP) Chapter for part of Berry (east of the Princes Highway), and a new Princess Street Heritage Conservation Area (between the existing Queen Street and Berry Showground Heritage Conservation Areas). This Council resolution was the result of the submission to Council of a draft DCP by the Berry Forum, and a draft Heritage Conservation Area (HCA) by the Berry District Historical Society. It is noted Council has separately engaged a heritage consultant to complete an independent review of the proposed HCA. As the project is in its early stages the final boundary of a new DCP and new HCA is unknown, however an indicative area for the new DCP area is shown on the map below:



The initial engagement process for the new DCP Chapter was undertaken between December 2023 – June 2024. This engagement process involved:

1. An initial online survey
2. In person engagement activities being two targeted stakeholder workshops and a community drop-in session
3. Follow up online survey

This engagement process aimed to ensure all community stakeholder planning issues and concerns, in the context of a DCP and what a DCP can address, have been independently heard before the DCP is prepared by Council. In summary, there were 633 responses to the initial survey, around 150 participants at the in-person activities and a further 279 responses to the follow up survey.

Council was responsible for informing the community of the surveys and in-person engagement activities. This involved the implementation of an internal Communications Strategy that included:

- Establishment and regular updates of a project dedicated "Get Involved" page on Council's website
- Media Release
- Direct notification to Community Consultative Bodies (CCBs) and all Councillors
- Direct mail out of colour information brochure to 1,091 property owners within the study area and surrounds
- Social media posts on Facebook and Instagram

The predominant key insight, in the context of future planning controls, was an overall community desire to not preclude change but rather respond to different site and area-based constraints and opportunities across Berry. Most importantly the community appreciate the need to focus new planning controls on areas with the most significant heritage values and ensure concise and clear planning controls are developed.

More specifically consultation highlighted the high value the community place on the following future planning control matters:

- landscaping and vegetation
- setbacks and site coverage
- infrastructure provision & associated funding – primarily roads, footpaths, drainage
- views and the rural landscape

More generally, it is evident that the community place great importance on the natural environment, open spaces (between residential buildings, rural lands and public land), connections to other people/ family and viability of the town to provide for residents, tourists and future generations.

The high level of response and willingness to share during the engagement process reinforced that the Berry community was thankful for the opportunity to get involved in the creation of new planning controls and should continue to be directly engaged as the project continues.



2. Purpose of Report

The purpose of this report is to:

- Document the key findings from the three phases of engagement.
- Enable Council to consider the key findings as they determine the next steps in the creation of planning controls for Berry, including the inter-related HCA and other planning projects.
- Provide clear recommendations (based on the community engagement) to inform the preparation of the DCP Chapter.



CL24.218 - Attachment 5

3. Initial Online Survey

An initial community survey was hosted on Council's 'Get Involved' webpage between 15 December 2023 and 16 February 2024. A copy of the survey is provided in Appendix A. Hard copies of the survey were also made available at collection points in Berry and the Council's Administration Centres in Nowra and Ulladulla. Further, the survey could also be downloaded from Council's website, printed, completed and mailed to Council. The survey received a total of 633 responses with an annotated summary of survey results presented below.

Overview of Respondents

Part 1 of the survey aimed to create a snapshot of the respondents. In terms of where respondents were from, approximately:

- 40% were Berry residents living east of the Princes Highway
- 22% were Berry residents living west of the Princes Highway
- 22% were residents from the area surrounding Berry (Jaspers Brush, Broughton Vale, Bundewallah, Far Meadow, Meroo Meadow, Back Forest, Woodhill, Bellawongarah and Wattamolla)
- 11% were residents of another town or village within the Shoalhaven Local Government Area
- 10% were business owners or operators in Berry
- Less than 8% were non resident Berry property owners
- 3% were visitors to the area

(Note: the percentages above do not add to 100% as people could select multiple responses if relevant to their circumstance)

The majority of respondents (30%) were between the 65 to 74 age bracket, with over 22% of respondents between the 55 to 64 age bracket and 15% of respondents between the 45 – 54 age bracket, as shown in **Figure 1** below.

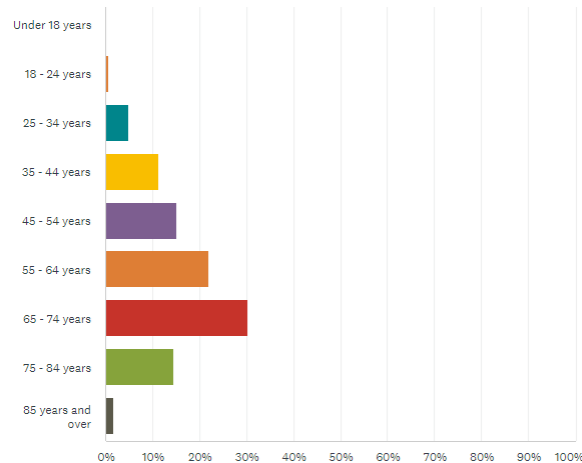


Figure 1: Respondents age brackets

Part 2 of the survey aimed to confirm what respondents value about Berry.

Questions 3 – 6 referenced the “existing character statement” and “future character statement” that Council has adopted for Berry, from the Shoalhaven Character Assessment Report (prepared by Roberts Day, February 2020).

Existing Character Statement (Roberts Day, 2020)

Leafy and surrounded by rolling countryside, Berry is a charming, historic town, set within a rural landscape and undulating terrain that oozes sophistication. It is a predominantly residential town with an established retail and commercial core, centered around a vibrant and busy main street. Newer development is located on the settlement edges, to the south and west. Formal and traditional buildings and high quality landscaping contribute to the rural village character of this town. It is highly accessible by road and train and is a destination for visitors. Berry is the gateway to Shoalhaven, and delights and welcomes with its unique and local offer of boutique

Future Character Statement (Roberts Day, 2020)

Berry, the ‘Town of Trees’, will continue to be an iconic heritage town that people love to live in and visit. The town values, respects and relies on its unique physical characteristics and rural, boutique character to attract visitors, which underpins its identity and economy. Its historic and leafy setting, showcased through a consistent built form and material palette, will be maintained and reflected in future development, including higher densities. Formal and well maintained trees and landscaping will continue to adorn the streets, and Queen Street will provide a curated, trendy and highly local offer. Berry will invite people to visit, play and stay, but not to the detriment of

People were asked to indicate their level of agreement with the character statements.

85% of respondents to these questions either agreed or strongly agreed with the existing character statement and 60% of respondents either agreed or strongly agreed with the future character statement, as shown in **Figure 2** below.

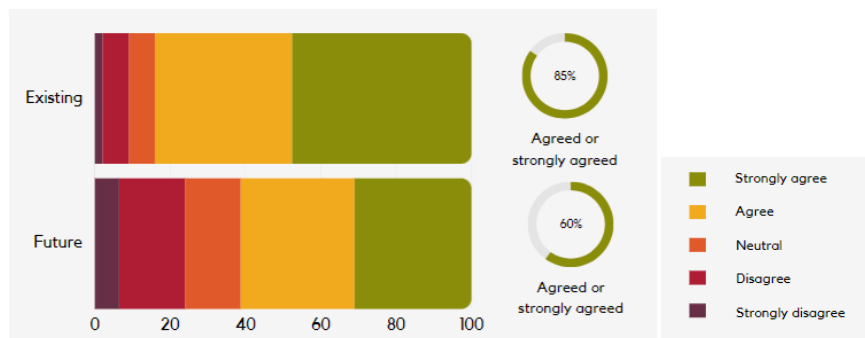


Figure 2: Existing and Future Character Statements

A broad range of reasons were provided for the responses above and these included:

- Heritage, rural village character, rural/ agricultural surrounds, size of Berry and trees were of the highest importance and many felt these values were evident in the existing & future character statements.
- The character statements encapsulate the reason many respondents moved to Berry.
- A desire to review and update the existing character statement to reflect the impact of the bypass.
- A desire to see future development comply with and respect the future character statement.
- Concern around future character and role of town to serve: 'tourist' v 'resident' and 'long term resident' v 'new resident'.
- Concern about accuracy or relevance of specific phrases in the existing character statement including 'oozes sophistication' and 'predominantly residential town' with some noting less permanently occupied homes and an increase in tourism.
- Concern about accuracy and relevance of specific phrases in the future character statement, including 'higher densities' not being aligned with the character that should be retained and 'curated, trendy and highly local offer' with less high quality businesses now being located in the township.

Question 7 then asked respondents what else they feel is important about Berry's existing or future character. Respondents generally indicated:

- Acceptance of managed/ planned change, appreciation that new development is inevitable and support for new DCP.
- Strong respect for the heritage value, including heritage landscape and heritage architecture. With concern that private certification, state government rules and non-local developers will have a negative impact on these and their key importance to both the existing and future character.
- Strong desire to maintain rural, 'country town' (not a suburban) feel and agricultural surrounds. ie. maintain the small scale.
- Importance of considering infrastructure provision, design, funding, upgrades and capabilities in Berry.
- Importance of respecting and protecting the natural environment, and proactively supporting sustainability.



Question 8 asked those respondents that live in Berry to indicate what makes them stay in the area. The main responses included:

- Local community
- Local scale
- People
- Family connections
- Historic charm/ historic buildings
- Green spaces/ feeling of space in general
- Country/ rural feel & landscape
- Strong sense of well being

“

The lifestyle, the peacefulness and above all the people

”

“

Berry's distinctive village character and green spaces

”

“

Proximity to larger service centres... but this also brings external development pressures

”

Question 9 asked those respondents that don't live in Berry to indicate what makes them visit the area. The main responses included:

- Shops, cafes (unique offerings)
- Spend time with family & friends
- Work
- Character town
- Easy day trip from southern Sydney

“

the friendly small-town conversations with locals... and feeling like I am part of a small community.

”

“

Nice to escape the urban sprawl of large houses on small blocks and no trees

”

“

Gorgeous shops, restaurants and cafes, the lovely streetscape

”

Part 3 of the survey aimed to identify the planning issues of greatest importance to respondents. Question 10 asked people to consider 21 different planning elements and pick the top five that mattered most to them. The top five were:

1. Built form, architectural design and character
2. Environmental elements and sustainability
3. Heritage – European
4. Streetscapes
5. Community Facilities

As shown in **Figure 3** the planning element that mattered most (built form, architectural design and character) was selected by almost 75% of respondents. However, there were a number of other planning elements of very similar importance to respondents as the fifth most important matter (community facilities). These included: pedestrian access & circulation (including pathways/ cycleways), flooding, drainage & stormwater, public domain (including open space & parks), landscaping and heritage (Aboriginal cultural).

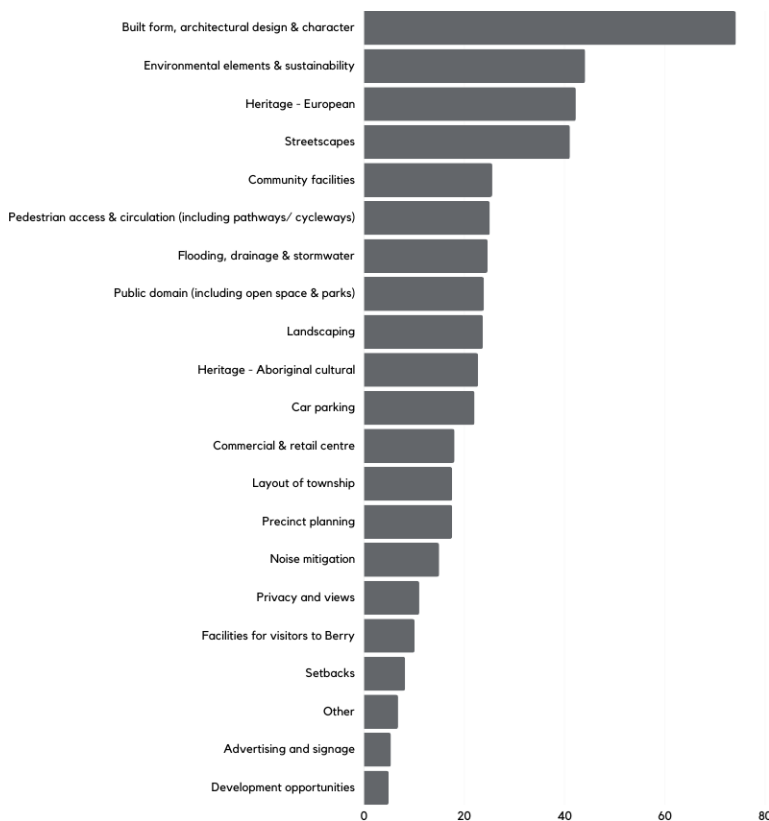


Figure 3: Planning elements on most importance to respondents

Respondents were then asked in Question 11 what makes each of the five planning elements they selected important to them. The responses received indicated the following:

- Desire to maintain the rural historic nature of Berry
- Desire to maintain the current character of Berry
- Desire to preserve the charm and scale of Berry village
- Need for specific infrastructure and community facilities
- Need to cater to tourists and residents
- Desire to protect the natural environment
- Need to address climate change

“

Ensuring the character of the town is preserved for future generations of locals and visitors ”

“

Community facilities are more important now as the town has grown ”

“

All elements are important to retain the rural, country feel ”

Question 12 further explored the planning elements and asked people to identify which planning elements needed the most improvement. The top five were:

1. Built form, architectural design & character
2. Parking
3. Heritage – European
4. Pedestrian access & circulation (including pathways/ cycleways)
5. Other – road condition, maintenance/ mowing of public land, tree maintenance, no need for improvement, one is not enough on its own, Council to stop wasting money

As shown in **Figure 4** the planning element that needs the most improvement (built form, architectural design and character) was selected by almost 35% of respondents. However, there was a clustering of planning elements considered to have a similar need of improvement to the ‘other’ options. These included: flooding, drainage & stormwater, precinct planning and environmental elements & sustainability.



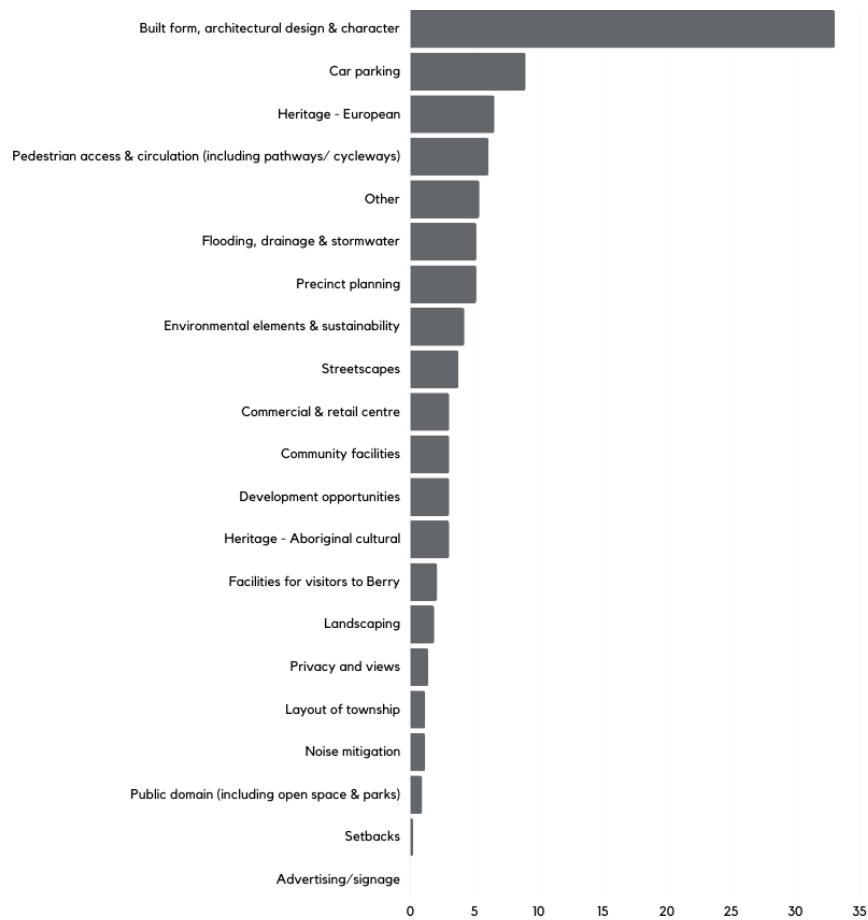


Figure 4: Planning elements that need the most improvement

Question 13 asked how the planning elements needing improvement could be improved.

The responses received indicated the following:

- Better decisions around parking, including limiting car parks, development designed around available parking, dedicated parking areas, paid parking etc.
- More & improved footpaths and pathways
- Specific infrastructure requirements
- Stronger planning controls (eg. setbacks, pitched roofs, guttering, drainage, heights, views)
- Controls that safeguard the unique character
- Restrict development on flood plains
- Sustainable development vision/ response to & respect natural environment

“

Make a plan that takes into account what makes Berry special, and stick to it

”

“

Restricting of higher density development and strict controls on infill development

”

“

Develop and maintain infrastructure to an acceptable standard

”

The initial survey concluded with a question inviting respondents to indicate how and when they would like the in person engagement activities to be conducted. The responses to this question indicated a preference for a drop in community information session – *“where the session will be held over a set time and you can drop in for as long or as little as you like. It will involve you dropping in to share your thoughts on planning issues in an informal manner. This may be written or verbal. The planning issues will be identified by the results of this survey. It is noted that as there is no registration required for this form of engagement there can be wait times”*.

This then informed the design of the next phase of the engagement as outlined in Section 4 below.

CL24.218 - Attachment 5



4. In Person Engagement Activities

The in person engagement activities were conducted across Sunday 17 March and Monday 18 March 2024 and included:

- 2 x workshops with targeted stakeholders (1 x resident community stakeholders and 1 x business community stakeholders) that were directly invited to attend (held from 2pm – 4pm and 5pm – 7pm at the Berry School of Arts on Sunday 17 March 2024)
- 1 x community drop in session (held from 5:30pm – 7:30pm at the Berry School of Arts on Monday 18 March 2024)

Each workshop was attended by approximately 25 community members and 2 Council. Councillor White, Councillor Gray, Councillor Norris and Councillor Kitchener were in attendance as observers at the resident community stakeholder workshop. Councillor Gray, Councillor Norris and Councillor Copley were in attendance as observers at the business community stakeholder workshop.

More than 100 community members are estimated to have attended the community drop in session, including some of the Councillors as observers.



4.1 Targeted Stakeholder Workshops

4.1.1 Format

The workshop format enabled whole group discussion and smaller focus groups. Following a welcome and introduction from the facilitator, each focus group was conducted as follows:

1

Part 1 – A story sharing session where each participant wrote down their ‘top of mind’ thought in relation to the following question: “So we can understand your perspective please think about what led to the submission of the DCP. In your mind what was the burning issue?”

2

Part 2 – Snapshot of the initial survey findings provided by the facilitator.

3

Part 3 – The participants workshoped the following two questions in small focus groups of 5-8 people, and each group provided feedback on each question to the overall group:

1. With the snapshot of survey findings in mind, what do you now see as the most important issue/s for the DCP to address?
2. Thinking from a planning control perspective in relation to recent development examples in the proposed DCP area, answer the following two questions: What Worked? What Didn’t Work?

4

Part 4 – A brief whole of group visioning exercise where the facilitator asked participants to close their eyes and imagine being aged 18 -25 years old. The facilitator then asked: “What would be most important to you (as an 18-25 year old living in Berry) in respect to housing and development?”

5

Part 5 - The facilitator advised how the focus group feedback will be used and next steps in the engagement project.

4.1.2 Findings

The feedback received at the workshops is summarised below, with key themes identified. It was observed that whilst each of the workshop groups had a different focus, quite similar feedback on planning issues was received at both workshops.



Top of Mind Activity

Almost all participants completed the top of mind activities. There was a wide range of top of mind ‘burning issues’ around what the participants thought led to the submission of the draft DCP to Council, as outlined below:

- Several participants stated it was in response to the overdevelopment and recent unsympathetic or inappropriate development outcomes in Berry.
- Several participants stated it was due to the disempowerment of community in relation to development in the town.
- Several participants stated it was in response to non-local developers, their greed and their lack of understanding of/ respect for Berry’s character.
- Several participants stated it was to prevent the loss of Berry’s ‘character and charm’ - which included a range of references to heritage buildings, size of the town, scale of development, town personality, business vitality, tourism and a sense of community.
- Several participants stated there is a need to clarify and create cohesive planning rules (especially in the context of complying development and other planning controls that apply to Berry) and then consistently apply them, including development consent conditions.
- Several participants stated there is a disconnect or gap between what different community members want the planning controls to achieve, noting that they believe a small group of residents are opposed to change and want to maintain the status quo but this is not representative of the overall Berry community, especially the younger generation.
- Several participants stated the DCP needs to consider more than heritage to support the future of Berry and to continue to attract new residents and visitors alike.
- Several participants stated it is because Berry warrants and is due for a review of planning controls – which included a range of references to the recent bypass, Huntingdale, need for precinct planning, need for facilities planning, increase in development pressures, changes to tourism and the impact that has had on Berry and unique heritage character (such as in Milton and Kangaroo Valley where DCPs exist).
- Several participants stated the implementation of planning controls is as important as reviewing planning controls.

Focus Groups

In relation to Question 1 (With the snapshot of survey findings in mind, what do you now see as the most important issue/s for the DCP to address?) the focus groups provided the range of responses (grouped into key themes) as outlined in **Table 1** below:

Theme	Issue
Strategic Planning	<p>Pre-planning for future growth in a controlled manner</p> <p>Managed growth to enable diversity of business types</p> <p>Not a coastal village – rural town in the Shoalhaven needs to be protected</p> <p>Develop a public domain plan – there is a mismatch of seating, paving, light fittings, bins etc.</p> <p>Housing affordability and availability should be a consideration in the planning controls</p>
General DCP Specific Planning Matters	<p>The survey results aren't surprising as they reinforce existing DCP themes/ issues.</p> <p>Urgency of DCP is important to specific outcomes to large DAs eg. The Berry Hotel proposal.</p> <p>The DCP needs to be appropriate and simply worded</p> <p>The DCP needs to have strength in the Land & Environment Court</p> <p>The DCP needs to be implementable and be implemented by Council</p> <p>An education / engagement program needs to accompany the DCP so the community and developers understand it</p> <p>Enforce site ratios that allow space for trees/ gardens</p> <p>Maintain sight lines / view corridors to escarpment, rural lands and within town</p> <p>Guard against overdevelopment (eg. Infill overwhelms scale) – two storey okay, but not 3, 4 or 5 storey</p> <p>Need more specific guidelines and a quick decision / turnaround for applications</p> <p>Resist “museumification” of town</p> <p>Consistent aesthetic across the village – look, feel and finish</p> <p>Retain green feeling in town – including wide verges, tree lined streets and succession planting</p>
Architectural Design	<p>Respect and maintain heritage value of streetscape – including maintaining the existing built form - need to define and clarify areas of heritage value (ie all of village or more refined area)</p> <p>Maintain the heritage feel of Old Creamery Lane area, Railway Precinct and David Berry Hospital</p> <p>Contemporary architecture should be okay as contemporary buildings can be entirely consistent with heritage themes – doesn't need to be all heritage design</p> <p>Not everything has to look like its stuck in the olden days</p> <p>Don't want homogenous housing</p> <p>More strength /defined rules to inform LEP (ie. Bulk / scale/ overshadowing of housing development)</p>



Theme	Issue
	<p>“Heritage” needs to apply to buildings over 100 years (can be restrictive)</p> <p>No blanket rules for whole town – want mix of building types. Rules can be assessed by Council staff on individual basis</p>
Business & Tourism	<p>Businesses need to balance weekend trade and local customer base</p> <p>Need parking for business (both employees and owners)</p> <p>Need more single night accommodation for weddings and to attract workers</p> <p>Variety of businesses in town</p> <p>Support for businesses on long weekend and peak season</p> <p>Better night life for residents and visitors</p> <p>More accommodation in town to improve night time economy</p> <p>Appropriate services for temporary residents (ie tourists)</p>
Transport & Parking	<p>Better public transport (train frequency)</p> <p>Uber / taxi services</p> <p>More parking for events</p> <p>Resolve parking issues/ pressures - Boongaree Park, day trippers, Short Term Rental Accommodation (STRA), long vehicle parking</p>
Open Space	<p>Consider youth and amount of open space</p>
Infrastructure	<p>More public toilets and better cleaning</p> <p>More bins in town</p> <p>More bike friendly / connected paths for families and tourists</p> <p>Drainage – need to manage impacts in town</p> <p>Community facilities not great utilisation – needs to be better</p> <p>Telecommunication infrastructure needs to be improved</p> <p>Need more electric vehicle (EV) facilities in the future</p> <p>Road maintenance (eg. road near the school)</p>
Community Building	<p>Retain sense of community and try to avoid too much division in community</p> <p>STRA impacting sense of community – needs to be limited due to abundance of often empty houses</p>

Table 1 - Most important issue/s for the DCP to address

In relation to Question 2 (Thinking from a planning control perspective in relation to recent development examples in the proposed DCP area, answer the following two questions: What Worked? What Didn't Work?) the focus groups provided the range of responses (grouped into key themes) in **Table 2** below:

	What Worked	What Didn't Work
Site Specific Developments	<p>7 King Street – 2 x 2 storey buildings with upper storey setback and no parking at front</p> <p>2 King Street – hedge in front of old house & black pod (secondary dwelling) in the rear</p> <p>140 North Street – 2 bedroom detached villas</p> <p>39 George Street – good renovation of an old farmhouse</p> <p>Managa/ Berry View precinct looks good now. Makes a good entry to town (worked despite objection from the community)</p> <p>Edward / George Street -good example of medium density development</p> <p>Queen / Edward Street – scale is a bit too heavy but fencing is better (ie hedge)</p> <p>Prince Street/ Alfred Street development</p> <p>75 Queen Street (community referred to site as OTR site) outcome, but future remains unknown. Petrol station not built (but consultation did not work, need to identify “what might work on the site?”, and site is still undeveloped without an outcome)</p> <p>Arbour development – medium density, contemporary, great drainage – now expanded</p> <p>Restoration of Berry train master house (but still needs a use)</p> <p>No major developments have occurred in town</p>	<p>19-22 Albert Street – heritage cottage is overwhelmed by a 2 storey building</p> <p>Triangular site next to the old smash repairs is overdevelopment</p> <p>Purpose built tourist accommodation opposite the Catholic Church – too dense / flat roof/ insufficient parking</p> <p>Queen / Edward Street – dual occupancy – insufficient landscaping. Could have had a different lot layout to preserve streetscape and enable density at the rear. Community member stated it appears to be complying development</p> <p>Fences often forgotten but very important to streetscape – example opposite Masonic Village that is not sympathetic</p> <p>The Berry Hotel proposed development</p> <p>Albert Street cul de sac – first 2 storey duplexes – too many and flood prone site</p>
Huntingdale		<p>The top of Huntingdale is a poor development outcome</p> <p>Huntingdale doesn't have sufficient community facilities/ neighbourhood hub</p>



	What Worked	What Didn't Work
STRA		<p>Appreciate STRA falls outside of the DCP but STRA is not working in Berry (ie. parking, noise, erosion of community)</p> <p>Demolition and rebuilds that are specifically for STRA – quality builds but restricts housing</p>
Business Area	<p>Activation of Queen Street by viable businesses</p> <p>Keeping chain stores out of Berry</p>	
Berry Community	Great advocates for the maintaining the character of the town	
Planning Controls		<p>Gutter / no gutter – new development requires it, but makes streetscape inconsistent</p> <p>Flat / pitch roofs – different views about what is acceptable. Need to accommodate different styles</p> <p>State Significant Development gets around/ avoids objection from community</p> <p>David Berry Hospital planning</p> <p>Conflicting needs in Council over DA requirements</p> <p>Guidelines need to be clearer / resolve issues quickly</p> <p>Excessive and ridiculous requirements that are delaying development (eg. Berry View fire rating)</p> <p>Should be conserving heritage</p>
Infrastructure	<p>Bypass – but has split town in two / noise / landscaping entry and exit into town need improvement</p> <p>Park / sporting facilities – except car parking which is inadequate</p> <p>Showground use</p> <p>Pathways and bikeways</p>	<p>Bypass</p> <p>Communication towers</p> <p>Lack of lighting</p> <p>No Indigenous placemaking</p> <p>NBN / telecommunications</p> <p>Berry Public School servicing</p> <p>Park – needs more toilets & dog off-leash area location</p>

Table 2 – Planning Controls - What Worked and What Didn't Work



The results of the answers provided by the participants to the group visioning exercise where the facilitator asked participants to close their eyes and imagine being aged 18 -25 years old and then asked: “What would be most important to you (as an 18-25 year old living in Berry) in respect to housing and development?” are shown in the word cloud in **Figure 5** below.

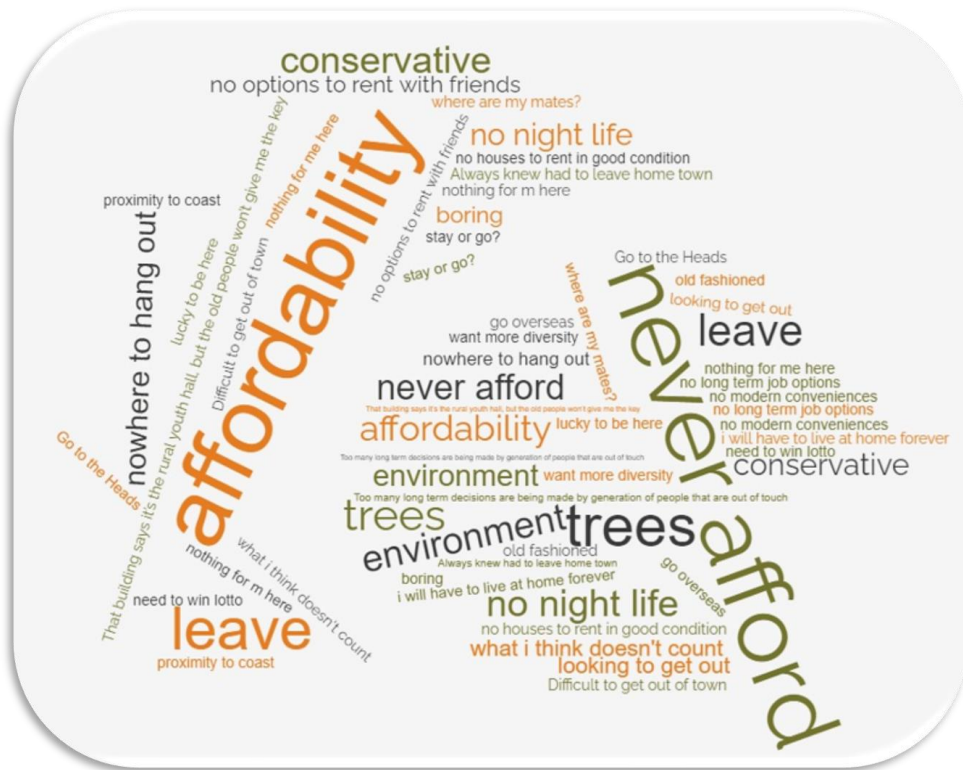
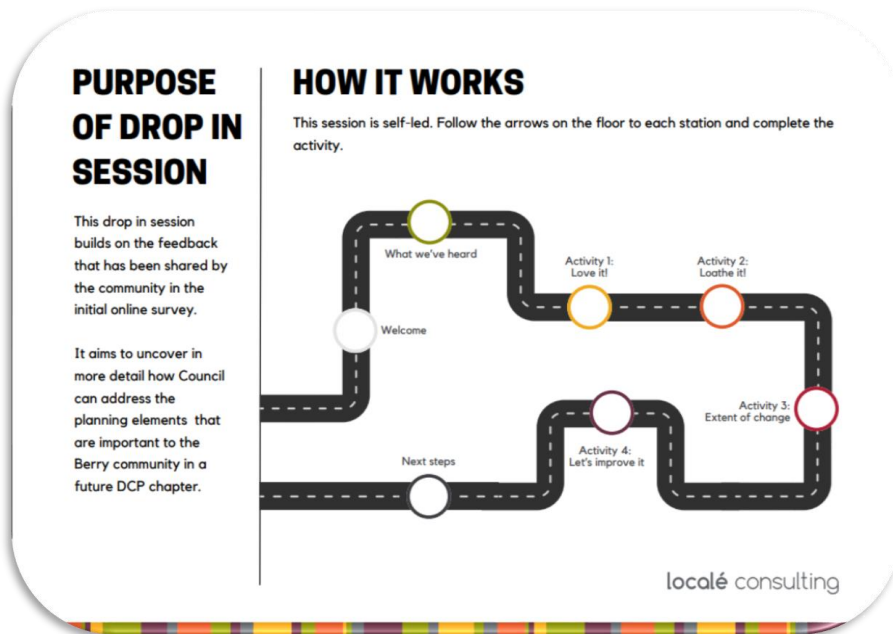


Figure 5: Visioning Exercise Word Cloud

4.2 Community Drop In Session

4.2.1 Format

The community drop in session format enabled the community members to work their way through four self paced activities. Prior to undertaking the activities, a snapshot of the project and initial survey outcomes was provided in a series of posters for the community members to review and read.



The four activities were:

1

Activity 1 - Love it – where participants looked at an aerial photo of Berry and found an example of a building or space that they love. They then wrote down what they like about the building or space and stuck it on the aerial photo.

2

Activity 2 - Loathe it - where participants looked at an aerial photo of Berry and found an example of a building or space that they loathe. They then wrote down what they loathe about the building or space and stuck it on the aerial photo.

3

Activity 3 - Extent of change – where participants reviewed 12 images and were asked to consider how each of the images fit with the desired future of Berry. They then placed a sticker on a sliding scale to share their thoughts on each image. They could also share the reason why they placed their sticker where they did on the sliding scale.

4

Activity 4 - Let's improve it – where participants reviewed various existing streetscapes in Berry in the proposed DCP area. They were asked to think about the different “planning elements” identified in the initial survey and to consider what could be improved in each streetscape. They then wrote down their thoughts about improvements and stuck it on the streetscape.

Further:

- There was a drawing table set up in the middle of the activities for children (and others) to draw and record their ideas and thoughts.
- Facilitators recorded any feedback they received verbally from participants on feedback forms and accepted hard copy documentation from participants who wished to share it with the facilitators.

The findings from the drawing table and thoughts shared verbally by participants with the facilitators are included in Section 4.3 below.



CL24.218 - Attachment 5

4.2.2 Findings

The key findings from each activity are outlined in **Figure 6** below.



Figure 6: Community Drop In Session - Key Findings

Combined with the findings of the initial survey (as documented in Section 3 of this report) the findings from the in person engagement activities informed the design of the next phase of the engagement as outlined in Section 5 below.



CL24.218 - Attachment 5



5. Follow Up Online Survey

A follow up community survey was hosted on Council's 'Get Involved' webpage between 15 May and 7 June 2024. A copy of the survey is provided in Appendix B. Hard copies of the survey were also made available at collection points in Berry. The survey received a total of 279 responses with an annotated summary of survey results presented below.

Overview of Respondents

Part 1 of the survey aimed to create a snapshot of the respondents. In terms of where respondents were from, approximately:

- 42% were Berry residents living east of the Princes Highway
- 23% were Berry residents living west of the Princes Highway
- 22% were business owners or operators in Berry
- 20% were residents from the area surrounding Berry (Jaspers Brush, Broughton Vale, Bundewallah, Far Meadow, Meroo Meadow, Back Forest, Woodhill, Bellawongarah and Wattamolla).
- 8% were residents of another town or village within the Shoalhaven LGA
- Less than 7% were non resident Berry property owners
- 1% were visitors to the area

(Note: the percentages above do not add to 100% as people could select multiple responses if relevant to their circumstance)

The majority of respondents (27%) were between the 45 to 54 age bracket, with over 20% of respondents between the 55 to 64 age bracket, 20% of respondents between the 65 – 74 age bracket and 18% of respondents being between the 35 – 44 age bracket as shown in **Figure 7** below.

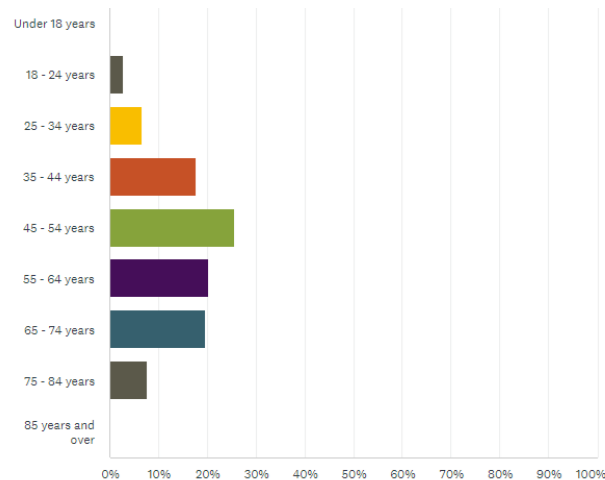


Figure 7: Respondents age brackets

Question 3 asked respondents if they completed the first survey. 42% of respondents answered “Yes” and 58% answered “No”, as shown in **Figure 8** below.

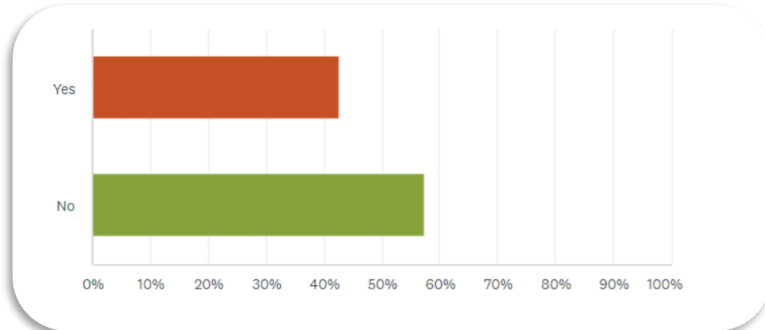


Figure 8: First Survey Completion

Question 4 asked respondents if they attended a face to face engagement event on 17 or 18 March 2024. 87% of respondents answered “No” and 13% of respondents answered “Yes”, as shown in **Figure 9** below.

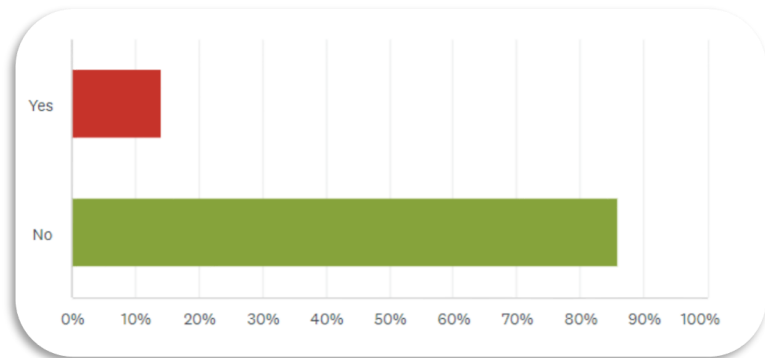


Figure 9: Attendance at Face to Face Engagement Events

Part 2 of the survey aimed to confirm respondents views on potential planning controls both within and outside of a HCA. The potential planning control statements listed in this part of the survey were specifically derived from the feedback received in the first two phases of engagement.

It is noted that 20% of respondents did not complete Part 2 of the survey, and that more respondents strongly agreed or agreed with the statements in Part 2, rather than disagreeing or strongly disagreeing.

The responses received to Part 2 of the survey indicated the following:

Within a HCA

- The statement that received the highest percentage of ‘strong agreement’ was: “Landscaping around a building can improve the buildings contribution to the streetscape”. This was closely followed by: “Drainage outcomes are equally important as built form or architectural design outcomes” and “Footpaths are important and should be provided where density is increased on a site”
- The statement that received the highest percentage of ‘agreement’ was: “The colour of a building can improve its contribution to the streetscape”. This was closely followed by: “Fencing design, colours and materials can improve a buildings contribution to the streetscape”, “Secondary dwellings and dual occupancies that cannot be viewed from the street are a good development outcome”, “Environmental sustainability is as important as built form or architectural design outcomes” and “Landscaping around a building can improve the buildings contribution to the streetscape”.
- The statement that received the highest percentage of ‘disagreement’ and ‘strong disagreement’ was : “On street parking for new development is an acceptable outcome instead of on site parking”.

Outside of a HCA

- The statement that received the highest percentage of ‘strong agreement’ was: “Landscaping around a building can improve the buildings contribution to the streetscape”. This was closely followed by: “Drainage outcomes are equally important as built form or architectural design outcomes” and “Footpaths are important and should be provided where density is increased on a site”.
- The statement that received the highest percentage of ‘agreement’ was: “The colour of a building can improve its contribution to the streetscape”. This was closely followed by: “Fencing design, colours and materials can improve a buildings contribution to the streetscape”, “Secondary dwellings and dual occupancies that cannot be viewed from the street are a good development outcome”, “Footpaths are important and should be provided where density is increased on a site” and “Drainage outcomes are equally important as built form or architectural design outcomes”.
- The statement that received the highest percentage of ‘disagreement’ was: “On street parking for new development is an acceptable outcome instead of on site parking”. This was closely followed by: “No part of a building should be altered to accommodate a carport in a front or side setback”.
- The statement that received the highest percentage of ‘strong disagreement’ was: “On street parking for new development is an acceptable outcome instead of on site parking”.



More generally the second survey results indicated:

- The respondents answered Part 2 in a similar way both within and outside of a HCA.
- The responses underpinned the importance of the following matters to the community (as was highlighted in the first two phases of engagement):
 - vegetation
 - the design and built form of any future development
 - infrastructure provision (particularly drainage and footpaths)
 - how parking is provided for any future development
- A wide range of the planning controls explored in the second survey are required to achieve the outcomes envisaged by the respondents.



6. Recommendations

The following recommendations for the development of the DCP encapsulate the key issues that have been raised in the community engagement conducted between December 2023 – June 2024, and how these may be addressed by Council moving forward with future planning controls.

It is noted that a key consideration in progressing the DCP is the completion of the independent review of the proposed HCA.

The reference to ‘planning guidelines’ in the recommendation below includes the proposed development of a DCP and other relevant planning controls that also apply to certain development and land uses in Berry. The DCP can’t be written or considered in isolation due to the inter-relationship with other Council planning projects and planning controls in the NSW planning system.

- 1 Planning guidelines implement the desired future character of Berry, with controls that underpin the importance of heritage, rural/ agricultural surrounds, scale of development within the township, site coverage, tree retention and vegetation.
- 2 Planning guidelines do not preclude change but rather respond to different site and area based constraints and opportunities. This can be achieved (in part) with controls based on the planning matters explored in the second survey.
- 3 Planning guidelines that relate to heritage, aim to ensure that the significant heritage elements of the past and heritage precincts are recognised and appropriately responded to by new development, but this does not extend beyond those elements and precincts.
- 4 Planning guidelines recognise the importance of and respond to the specific need for certain infrastructure provision to support new development, including drainage, parking and pedestrian access.
- 5 Planning guidelines are clear, concise and applicable (in the context of the NSW planning system) where they can have the most impact on the desired future character of Berry.
- 6 The Berry community and the development industry continue to be engaged and educated as any new planning guidelines are developed and implemented.
- 7 Planning guidelines are implemented consistently and in a timely fashion, appreciating process and available resources.



Appendix A – Initial Online Survey

CL24.218 - Attachment 5



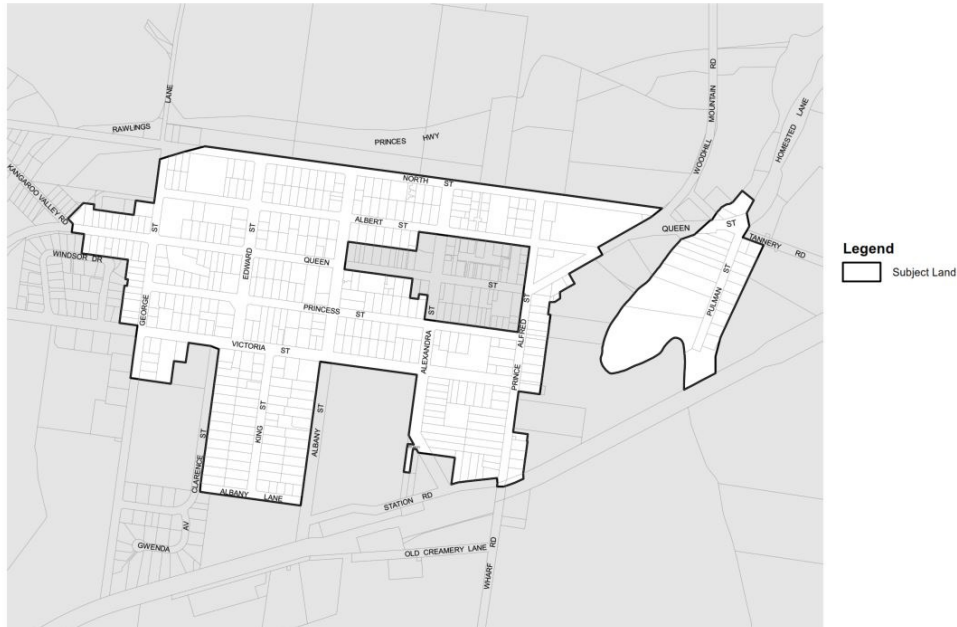


Planning and Heritage Investigations for Berry Initial Community Survey

Introduction

Council is in the initial stages of gathering community feedback and ideas to inform the preparation of a draft Development Control Plan (DCP) for Berry, east of the Princes Highway, and the possible progression of a new Heritage Conservation Area (HCA) in the vicinity of Princess Street Berry.

The initial boundary of the DCP investigation area is shown on the map below and will be refined through the project process



A brief overview and background to the project (including FAQs) is available on Council's Get Involved page which may assist you further in completing the survey below.

Your input will be used to help inform the future planning and character of this part of Berry.

Part one.

A bit about yourself

1. What is your relationship to the Berry area? (select multiple if applicable)

- ☐ Berry resident (East of the Princes Highway)
- ☐ Berry resident (West of the Princes Highway)
- ☐ Berry property owner (non resident - East of the Princes Highway)
- ☐ Berry property owner (non resident - West of the Princes Highway)
- ☐ Business owner or operator in Berry
- ☐ Resident from surrounding areas (Jaspers Brush, Broughton Vale, Bundewallah, Far Meadow, Meroo Meadow, Back Forest, Woodhill, Bellawongarah, Wattamolla)
- ☐ Business owner from surrounding areas (Jaspers Brush, Broughton Vale, Bundewallah, Far Meadow, Meroo Meadow, Back Forest, Woodhill, Bellawongarah, Wattamolla)
- ☐ Traditional owner
- ☐ Resident of other town or village within Shoalhaven Local Government Area
Resident of an area outside Shoalhaven Local Government Area
- ☐ Visitor to the area
- ☐ Other (please specify)

2. Age group

- ☐ Under 18 years
- ☐ 18 - 24 years
- ☐ 25 - 34 years
- ☐ 35 - 44 years
- ☐ 45 - 54 years
- ☐ 55 - 64 years
- ☐ 65 - 74 years
- ☐ 75 - 84 years
- ☐ 85 years and over

Part two.

This part aims to confirm what you value about Berry

Council has adopted the Shoalhaven Character Assessment Report (prepared by Roberts Day, February 2020)

The Roberts Day report includes the following “existing character statement” for Berry:

Leafy and surrounded by rolling countryside, Berry is a charming historic town, set within a rural landscape and undulating terrain that oozes sophistication. It is a predominantly residential town with an established retail and commercial core, centered around a vibrant and busy main street. Newer development is located on the settlement edges, to the south and west. Formal and traditional buildings and high quality landscaping contribute to the rural village character of this town. It is highly accessible by road and train and is a destination for visitors. Berry is the gateway to Shoalhaven, and delights and welcomes with its unique and local offer of boutique shops, heritage hotels, cafes, galleries, and restaurants.

The Roberts Day report also includes the following “future character statement” for Berry:

Berry, the ‘Town of Trees’, will continue to be an iconic heritage town that people love to live in and visit. The town values, respects and relies on its unique physical characteristics and rural, boutique character to attract visitors, which underpins its identity and economy. Its historic and leafy setting, showcased through a consistent built form and material palette, will be maintained and reflected in future development, including higher densities. Formal and well maintained trees and landscaping will continue to adorn the streets, and Queen Street will provide a curated, trendy and highly local offer. Berry will invite people to visit, play and stay, but not to the detriment of locals that use the centre every day.

3. To what level do you agree with the “existing character statement”?

Strongly Agree	Agree	Neutral	Disagree	Strongly disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Why did you choose the answer above?

5. To what level do you agree with the “future character statement”?

Strongly Agree

Agree

Neutral

Disagree

Strongly disagree

☐☐☐☐☐

6. Why did you choose the answer above?

7. What else do you feel is important about Berry’s existing or future character?

8. If you live in Berry, what makes you stay in this area?

9. If you don’t live in Berry, what brings you to the area to visit ?

Part three.

This part aims to identify the planning issues of greatest importance to you

10. When considering the planning related elements that are associated with the part of Berry located east of the Princes Highway, what 5 elements matter most to you?

- ☐ advertising/ signage
- ☐ built form, architectural design & character
- ☐ car parking
- ☐ commercial & retail centre
- ☐ community facilities
- ☐ development opportunities
- ☐ environmental elements & sustainability
- ☐ facilities for visitors to Berry
- ☐ flooding, drainage & stormwater
- ☐ heritage - European
- ☐ heritage - Aboriginal cultural
- ☐ landscaping
- ☐ layout of township
- ☐ noise mitigation
- ☐ pedestrian access & circulation (including pathways/ cycleways)
- ☐ precinct planning privacy & views
- ☐ public domain (including open space & parks)
- ☐ setbacks
- ☐ streetscapes
- ☐ Other (please specify)

11. With these 5 selected planning elements in mind, please share what makes each of these important to you?

12. When considering the part of Berry that is located east of the Princes Highway, which one of the planning elements do you feel needs the most improvement?

- ☐ advertising/ signage
- ☐ built form, architectural design & character
- ☐ car parking
- ☐ commercial & retail centre
- ☐ community facilities
- ☐ development opportunities
- ☐ environmental elements & sustainability
- ☐ facilities for visitors to Berry
- ☐ flooding, drainage & stormwater
- ☐ heritage - European
- ☐ heritage - Aboriginal cultural
- ☐ landscaping
- ☐ layout of township
- ☐ noise mitigation
- ☐ pedestrian access & circulation (including pathways/
- ☐ cycleways) precinct planning
- ☐ privacy & views
- ☐ public domain (including open space & parks)
- ☐ setbacks
- ☐ streetscapes
- ☐ Other (please specify)

13. Building on your answer to Q12 above, how could this planning element be improved?

Part four.

Next steps in the project

This survey is the first stage of our early engagement regarding potential additional planning controls for Berry. The second stage of the consultation process will be in-person and seeks to build upon the initial feedback we receive through this survey.

14. How would you like the in-person engagement activities (second stage of the consultation) to be run?

- ☐ **Structured workshop or focus groups** – the session will be held over a set time and you will need to register and attend for the whole time. It will involve you working in various sized groups to respond to targeted planning questions in a timed manner. This will involve discussion and written responses. The questions will be based on the results of this survey.
- ☐ **Drop in community information session** – the session will be held over a set time and you can drop in for as long or as little as you like. It will involve you dropping in to share your thoughts on planning issues in an informal manner. This may be written or verbal. The planning issues will be identified by the results of this survey. It is noted that as there is no registration required for this form of engagement there can be wait times.
- ☐ **Interactive, activity based workshop** – this session will be held over a set time and you will need to register and attend for the whole time. It will involve you circulating as an individual between various activities that respond to planning issues. This will involve written responses. The planning issues will be identified by the results of this survey.
- ☐ Other (please specify)

Part five.

Thank you for completing this survey

The findings of this survey will be made available at the in-person engagement activities being held in March 2024.

15. Please provide your postal address or email address. Your postal address or email address will be used for communications with you about this project only and is required to ensure your survey response is considered.

The survey will be available online and via The Get Involved page until **16 February 2024**.

You can return your completed survey:

- In person
 - Nowra City Administration Centre.
 - Ulladulla Branch Office.
 - Berry Village Pool, Albany Street Berry (during opening hours).
- By mail - P.O. Box 42 Nowra NSW 2541
- By email - council@shoalhaven.nsw.gov.au

Appendix B – Follow up Online Survey

CL24.218 - Attachment 5





Planning and Heritage Investigations for Berry Second Community Survey

Introduction

Council is continuing to gather community feedback to inform the preparation of new planning controls for part of Berry (east of the Princes Highway).

This is the final stage in gathering community feedback to inform the preparation of a draft Development Control Plan (DCP). The interrelated Heritage Conservation Area (HCA) project is expected to be completed at the same time.

An initial survey was conducted from mid December 2023 to mid February 2024 with 631 survey responses received. Face to face engagement activities were conducted on 17 & 18 March 2024 with approximately 130 people participating. Council appreciates the interest and extensive feedback that has already been received from the community.

This second, concise, concluding survey therefore includes questions that directly stem from what Council has heard. To date, Council has heard that the community want future planning controls to:

- focus on areas with the most significant heritage values
- not preclude change but rather respond to different site and area-based constraints and opportunities across Berry
- respond to infrastructure needs
- ensure landscaping and vegetation is a key consideration
- continue to value and place emphasis on views and the rural landscape

You can find out more information about the project (including a snapshot of the initial survey findings and FAQs) on Council's Get Involved page [Get Involved]. This may help you in completing this survey.

Your input will be used to help inform the future planning controls to be included in a DCP for Berry.

Part one.

A bit about yourself

1. What is your relationship to the Berry area? (select multiple if applicable)

- ☐ Berry resident (East of the Princes Highway)
- ☐ Berry resident (West of the Princes Highway)
- ☐ Berry property owner (non resident - East of the Princes Highway)
- ☐ Berry property owner (non resident - West of the Princes Highway)
- ☐ Business owner or operator in Berry
- ☐ Resident from surrounding areas (Jaspers Brush, Broughton Vale, Bundewallah, Far Meadow, Meroo Meadow, Back Forest, Woodhill, Bellawongarah, Wattamolla)
- ☐ Business owner from surrounding areas (Jaspers Brush, Broughton Vale, Bundewallah, Far Meadow, Meroo Meadow, Back Forest, Woodhill, Bellawongarah, Wattamolla)
- ☐ Traditional owner
- ☐ Resident of other town or village within Shoalhaven Local Government Area
- ☐ Resident of an area outside Shoalhaven Local Government Area
- ☐ Visitor to the area
- ☐ Other (please specify)

2. Age group

- | | |
|---|--|
| <input type="checkbox"/> Under 18 years | <input type="checkbox"/> 55 - 64 years |
| <input type="checkbox"/> 18 - 24 years | <input type="checkbox"/> 65 - 74 years |
| <input type="checkbox"/> 25 - 34 years | <input type="checkbox"/> 75 - 84 years |
| <input type="checkbox"/> 35 - 44 years | <input type="checkbox"/> 85 years and over |
| <input type="checkbox"/> 45 - 54 years | |

3. Did you complete the first survey?

Yes/ No

4. Did you attend a face to face engagement event on 17 or 18 March?

Yes/ No

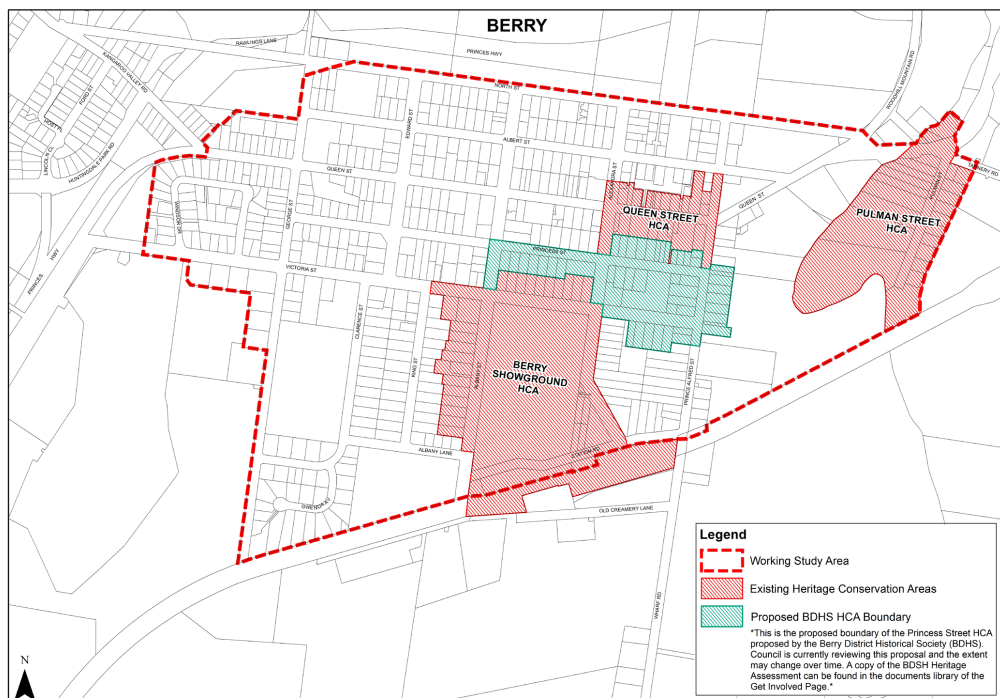
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Part two.

This part aims to confirm what you think about desired possible controls to be included in a DCP.

The part of Berry that the new DCP chapter will apply to currently contains three (3) existing HCAs and one (1) additional HCA is proposed.

The map of the proposed HCA as submitted by the Berry District Historical Society is provided below. This proposed HCA is currently under peer review that will be documented in a report to Council alongside the outcomes of this engagement project.



5. To what level do you agree with the following statements where they apply:

- ☐ within the boundary of a Heritage Conservation Area (HCA)?
- ☐ outside of the boundary of a Heritage Conservation Area (HCA)?

1. Strongly Agree 2. Agree 3. Neutral 4. Disagree 5. Strongly disagree

	Within the boundary of HCA	Outside of boundary of HCA
The colour of a building can improve its contribution to the streetscape		
New development should not be required to use traditional materials, colours or finishes, where it can otherwise be shown to consider and respond to setting.		
Primary colours should be avoided in buildings.		
Secondary dwellings and dual occupancies that cannot be viewed from the street are a good development outcome.		
Footpaths are important and should be provided where density is increased on a site.		
Kerb & guttering is important and should be provided where density is increased on site.		
Drainage outcomes are equally important as built form or architectural design outcomes.		
On street parking for new development is an acceptable outcome instead of on site parking.		
Carports/ garages should not dominate residential development.		
No part of a building should be altered to accommodate a carport in a front or side setback.		
Environmental sustainability is as important as built form or architectural design outcomes.		
Landscaping around a building can improve the buildings contribution to the streetscape.		
Retention of existing trees (on private and public land) is vital to the streetscapes of Berry.		
Increased densities are achievable whilst responding to significant heritage elements of a site or surrounds.		
The value of the character and views to and from the rural landscape should be a key consideration in all new housing development.		
Increased densities bring vibrancy to a town/ village.		
Fencing design, colours and materials can improve a buildings contribution to the streetscape.		
No front fencing can create a good streetscape outcome.		

Part three.

This survey is the final stage of our early engagement about additional planning controls for Berry.

The results of the engagement will be documented in a report which will be presented to Council in coming months.

Thank you for completing this important survey.

CL24.218 - Attachment 5

localé consulting

T 0419 700 401
A 1/27 River Street Woolgoolga NSW 2456
P PO Box 53 Woolgoolga NSW 2456
E info@localeconsulting.com.au
W www.localeconsulting.com.au



Shoalhaven Development Control Plan 2014

Draft Chapter NB4: Moss Vale Road North Urban Release Area

Chapter NB4: Moss Vale Road North Urban Release Area

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Shoalhaven Development Control Plan 2014

Draft Chapter NB4: Moss Vale Road North Urban Release Area

Amendment History			
Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1			Draft

Shoalhaven Development Control Plan 2014

Draft Chapter NB4: Moss Vale Road North Urban Release Area

1 Purpose

The purpose of this Chapter is to guide the **development** of the Moss Vale Road North **Urban Release Area** (URA) in accordance with the provisions of Part 6 of Shoalhaven Local Environmental Plan 2014 (**SLEP 2014**).

Advisory Note: In addition to the provisions outlined in this Chapter, you must also refer to:

- Supporting Document 1: Integrated Water Cycle Assessment.
- Supporting Document 2: Landscape Specifications.
- Supporting Document 3: Vegetation Management Plan Requirements.
- Moss Vale Road North Species List [[link](#)].

In the event of an inconsistency between a provision in this Chapter and a provision in a generic Chapter in this **Development Control Plan**, the provision in this Chapter will prevail to the extent of the inconsistency.

2 Application

This Chapter applies to the Moss Vale Road North URA within the suburb of Badagarang (Error! Reference source not found.).

3 Context

The URA was first identified as a “New Living Area” in Council’s adopted *Nowra-Bomaderry Structure Plan* (2008). It was confirmed with land use zones and other planning controls guiding its release in SLEP 2014. The URA is also recognised as part of the Nowra-Bomaderry Regional Release Area identified in the *Illawarra-Shoalhaven Regional Plan* (2021). The URA has a significant role in providing a supply of new, diverse, and affordable homes and the infrastructure necessary to support a new community.

The URA is located in a pastoral landscape of scenic value providing a transition in land use and topography from the heavily forested Cambewarra Range and the urban settlement of Nowra-Bomaderry. Located on the lower, southern slopes of the Cambewarra Range, the area is highly visible from Moss Vale Road, the Cambewarra Mountain Lookout, and the Princes Highway.

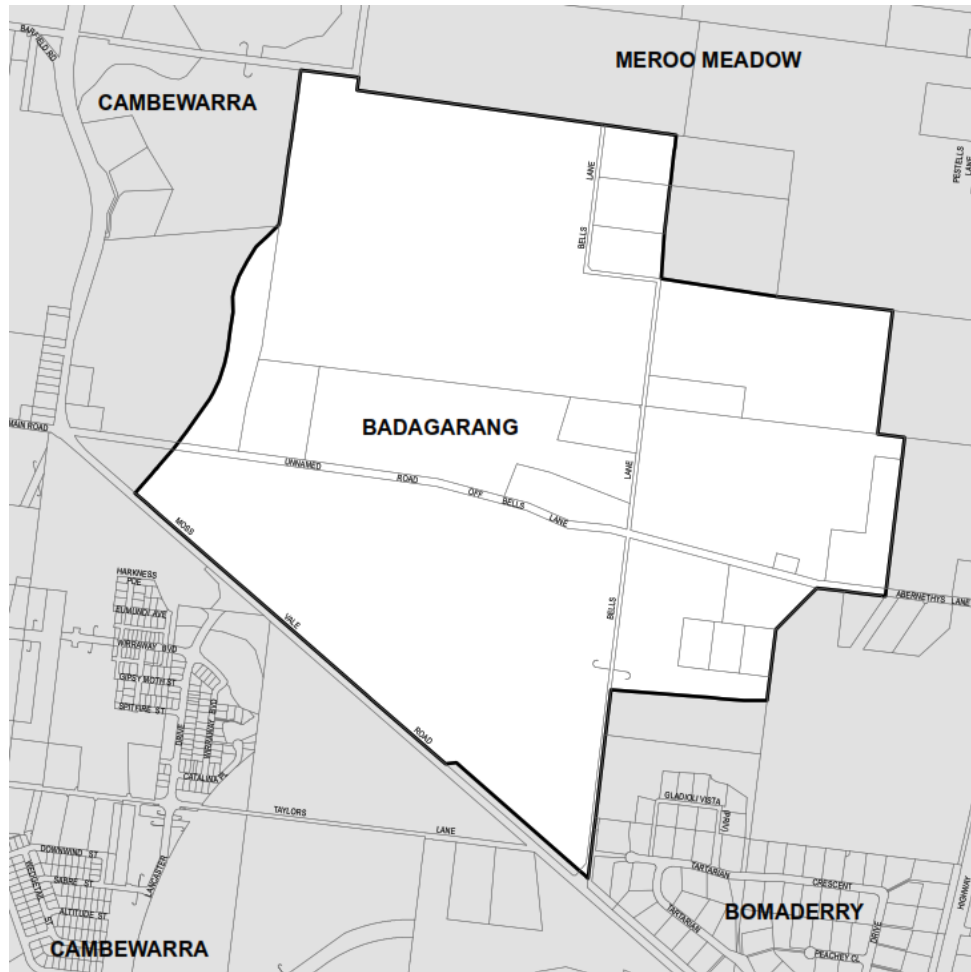


Figure 1: Subject Land

4 Objectives

The **objectives** of this Chapter are to:

- i. Provide key development objectives and controls to deliver sustainable living, economic vitality, and community wellbeing principles.
- ii. Promote neighbourhood design which achieves healthy, active and high-quality urban design outcomes.
- iii. Ensure the environmentally sensitive development of the Moss Vale Road North URA occurs in an integrated and efficient manner.

Shoalhaven Development Control Plan 2014

Draft Chapter NB4: Moss Vale Road North Urban Release Area

5 Vision

The Moss Vale Road North URA is a highly desirable residential area providing a variety of lot sizes, dwelling types, styles, and densities to meet a range of budgets. A diverse range of housing appeals to potential residents, including first-home buyers, downsizing retirees, and young families. Higher densities are concentrated in high amenity areas, easily serviced by public transport, and close to **public open space**, with lower housing density transitioning into the rural landscape adjacent to the URA.

The URA complements its natural environment by retaining significant assets, including riparian corridors and elaborate **views** of natural features including creeks, wooded backdrops, and pastoral landscapes. The URA incorporates large environmental areas enabling management of riparian corridors, significant and **remnant vegetation**, and integration of **water sensitive urban design**. Emphasis is placed on the conservation of existing **vegetation** in riparian corridors and open space areas.

The URA contains a passive open space network providing a variety of recreational opportunities complemented by an integrated movement network for pedestrians and cyclists.

6 Key Development Outcomes for Moss Vale Road North URA

The Indicative Layout Plan (ILP) at **Figure 2** illustrates the key desired outcomes for the URA.

Shoalhaven Development Control Plan 2014

Draft Chapter NB4: Moss Vale Road North Urban Release Area

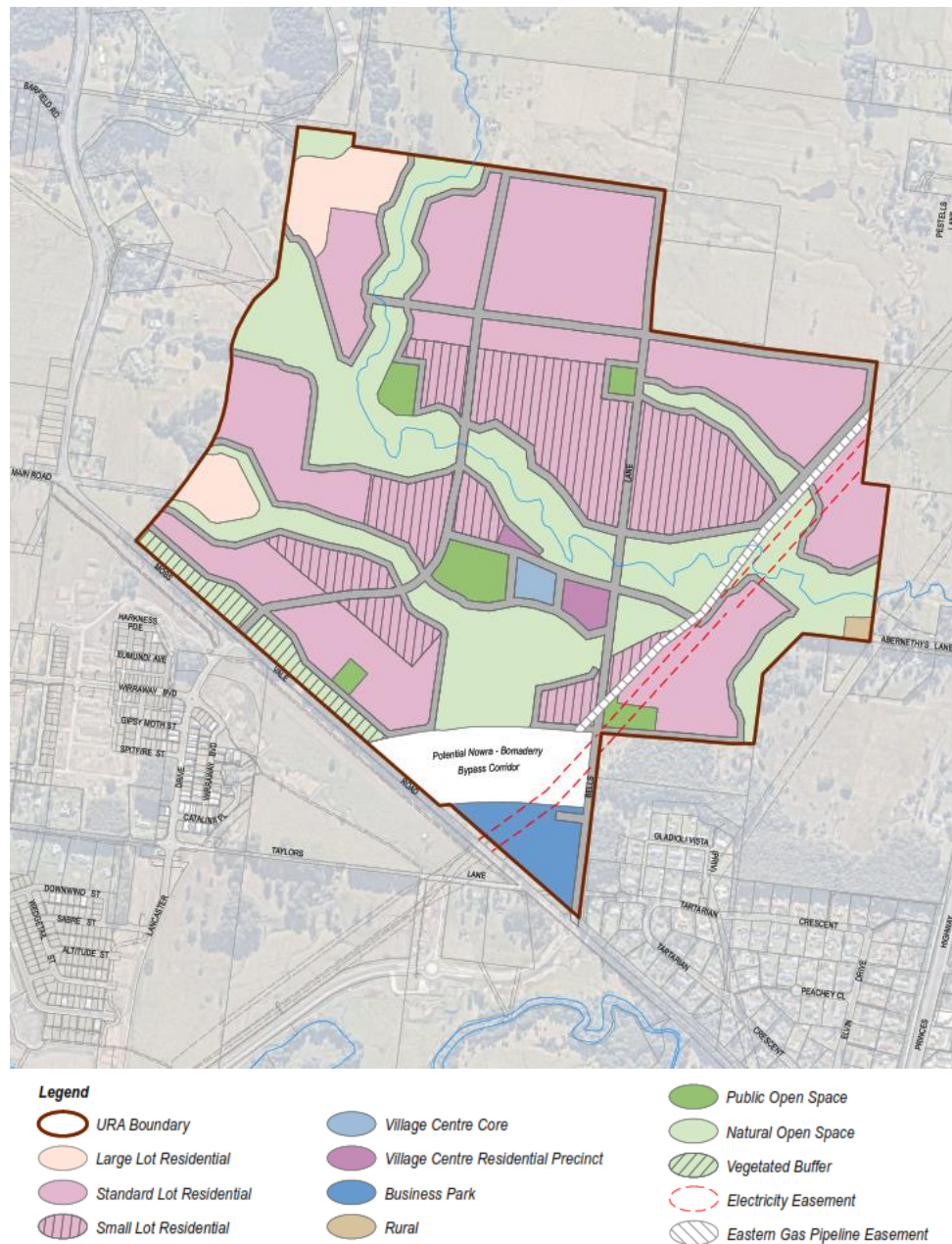


Figure 2: Indicative Layout Plan

CL24.220 - Attachment 1

Shoalhaven Development Control Plan 2014

Draft Chapter NB4: Moss Vale Road North Urban Release Area

Setting and achieving key development outcomes ensures the URA meets the Vision. Each application seeking Council's development consent for the subdivision of the URA should address the following objectives in a Design Verification Statement:

1. The URA provides housing diversity by enabling the development of various dwelling types to meet the Shoalhaven's communities' identified housing needs.
 - a. Medium density development is concentrated in areas within 400m of the Village Centre, areas of high amenity adjacent to the riparian corridors and open space areas and areas adjacent to certain **collector roads**.
 - b. Medium density development directly fronting the Village Centre Core and the Village Green provides an active frontage of business or allied health uses addressing the street to encourage pedestrian activity, enhance public security, improve the amenity of the public domain, and support the economic viability of the Village Centre.
 - c. Where small **lots** (**lots** under 500m²) are provided they:
 - i. Are generally located within 400m of the Village Centre and formal open space,
 - ii. Engage with the street and open space by minimising the dominance of garages and vehicular **parking spaces**, especially where adjoining riparian roads, and
 - iii. Maximise access to open space areas.
2. The defined street hierarchy is determined by the placement and design of **road** types and achievement of the intended function. The street hierarchy is important to enable a safe, accessible and well-connected movement network of shared use pathways and public transport routes. The street types include:
 - a. **Collector Roads (Entry)** - provide an attractive entry boulevard characterised by tree lined verges, planted road blisters and shaded footpaths that connect two large open space areas. Tree-lined boulevards are generally access restricted streets and are the focus for small lot development.
 - b. **Collector Roads (Tier 1 and Tier 2)** – provide an attractive circulation network through the URA which will facilitate future public transport routes. All **dwelling**s within the URA are approximately 400m walking distance, and a maximum of two intermediate intersections from the **Collector Road** network. **Collector Roads** are characterised by **tree** lined verges and shaded footpaths.
 - c. **Local Streets** – provide access from the **Collector Roads** and circulation within residential areas. Local streets are important components of the street network as they facilitate permeability within the URA.
 - d. **Retail Streets** – provide access within the Village Centre. Local streets are important components of the street network as they encourage pedestrian activity.
 - e. **Access Streets (Tier 1 and Tier 2)** - provide lower tier access and circulation within residential areas.

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- f. *Riparian Streets* – provide access to the high amenity riparian areas and a connection to the wider URA.
 - g. *Rear Laneways* – provide rear access and waste collection for small lots. They are designed to be short in length to optimise passive surveillance and minimise the visual impact of the laneways. They are functional and include a level of amenity.
3. Open space areas will meet environmental sustainability objectives and be adaptable spaces. They will function to protect and enhance riparian corridors and significant and remnant vegetation, incorporate water sensitive urban design elements, and create opportunities for passive recreation. The controls for the open space network also ensures:
 - a. elements of environmental heritage are incorporated within open space areas to contribute to their protection and management.
 - b. all homes are within an 800m walk via a formed footpath to more than one open space area.
 - c. users feel safe and secure.
 - d. adequate places are provided to sit and dwell.
4. Prior to development in the URA, adequate essential infrastructure must be in place or arrangements made to provide it, to ensure the orderly and economical delivery of the URA. The specific infrastructure considered to be essential in this regard is set out in **Section 7** of this Chapter. New development should not occur in the absence of the provision, or satisfactory arrangements for the provision, of such essential infrastructure.

7 Satisfactory Arrangements for Local Infrastructure

When assessing a development application, Council will consider whether satisfactory arrangements exist or are proposed by the developer for the provision of good quality infrastructure essential to support the proposed development and the orderly and economic development of the URA.

Infrastructure includes, but is not limited to, open spaces, parks, local roads, footpaths and stormwater drainage. The provision of this essential infrastructure is important as it facilitates the timely delivery of new housing, increases liveability, and meets the ongoing needs of a growing population. New development should not occur in the absence of the provision of or satisfactory arrangements for the provision of such essential infrastructure.

The URA is a large and diverse new urban area which requires a range of infrastructure to support it during the development phase and into the future. The infrastructure listed in Table 7Table 1 is considered essential to support the orderly and economic development of land within the URA. The table categorises the infrastructure to be funded and delivered through a Local Infrastructure Contributions Framework and the infrastructure required to be delivered as part of any development.

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The Local Infrastructure Contributions Framework for the URA could include, but is not limited to, the *Shoalhaven Development Contributions Plan 2019*, a new development contribution plan specific to the release area, voluntary planning agreements, and Government funding initiatives. Any proposal for future dedication of land to Council should ensure that a suitable mechanism for the land dedication is established at Development Application stage in accordance with Council's [Planning Agreement Policy](#).

The essential infrastructure is identified in **Figure 3**.

Table 1: List of Essential Infrastructure

Council Contributions Framework	Delivered by Development
Road Infrastructure	
<ul style="list-style-type: none"> External connections (3) to the existing road network at Moss Vale Road, Bells Lane and Pestells Lane. The construction of specified lengths of Collector Roads and key roundabouts identified in Figure 3. The design of these components will contribute to delivering the flood evacuation route in accordance with section 8.4. 	<ul style="list-style-type: none"> Network of roads in accordance with section 8.9 and providing a flood evacuation route in accordance with section 8.4. Dedication of roads to Council at no cost and subject to standard dedication process.
Bridges	
New or upgraded bridges (5) on specified parts of the Collector Road Network and identified in Figure 3 .	<ul style="list-style-type: none"> New or upgraded bridge on Abernethys Lane identified in Figure 3.
Drainage Infrastructure	
Nil.	<ul style="list-style-type: none"> 1 wetland, 1 detention basin, 13 bio-retention basins and a selection of other devices (e.g. gross pollutant traps, sediment basins and trash racks) identified in Supporting Document 1: Integrated Water Cycle Assessment. Dedication of infrastructure to Council at no cost. Subject to entering into a planning agreement at Development Application stage.
Open Space	
<ul style="list-style-type: none"> A district park (2.38ha) containing a multi-sports court, playground, amenities block, car parking (including provision for mobile library service) and embellishment. A district park (1.15ha) containing a nature-based playground, amenities block, and car parking. 	<ul style="list-style-type: none"> 3 Local Parks in accordance with locations identified on the ILP (Figure 2) containing embellishments such as nature play/playground, exercise equipment, seating etc in accordance with the <i>Shoalhaven Community Infrastructure Strategic Plan</i>. Dedication of land and infrastructure to Council at no cost. Subject to entering into a

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Council Contributions Framework	Delivered by Development
	planning agreement at Development Application stage.
Natural Areas	
Nil	<ul style="list-style-type: none"> Vegetation establishment and management, extended developer maintenance and handover periods, and maintenance funding. Dedication of land to Council at no cost. Subject to entering into a planning agreement at Development Application stage.
Contributions to Established City-wide Infrastructure	
<ul style="list-style-type: none"> Northern Shoalhaven Sports Stadium Nowra Swimming Pool Extension Planning Area 1 Recreation Facilities Upgrade Nowra Integrated Youth Services centre Shoalhaven Community and Recreation Precinct Shoalhaven Entertainment Centre Shoalhaven City Library Extensions Shoalhaven Regional Gallery Citywide Fire & emergency Services Shoalhaven Fire Control Centre Contributions Management and Administration 	Nil

The provision of essential infrastructure needs to be properly sequenced to result in the best outcome for the MVRN URA. Core infrastructure, services and facilities are to be established at the early phases of each development stage (refer to **Figure 3**).

Note: Refer to the Shoalhaven Contributions Plan 2019 for further detail on the local infrastructure projects for the URA.

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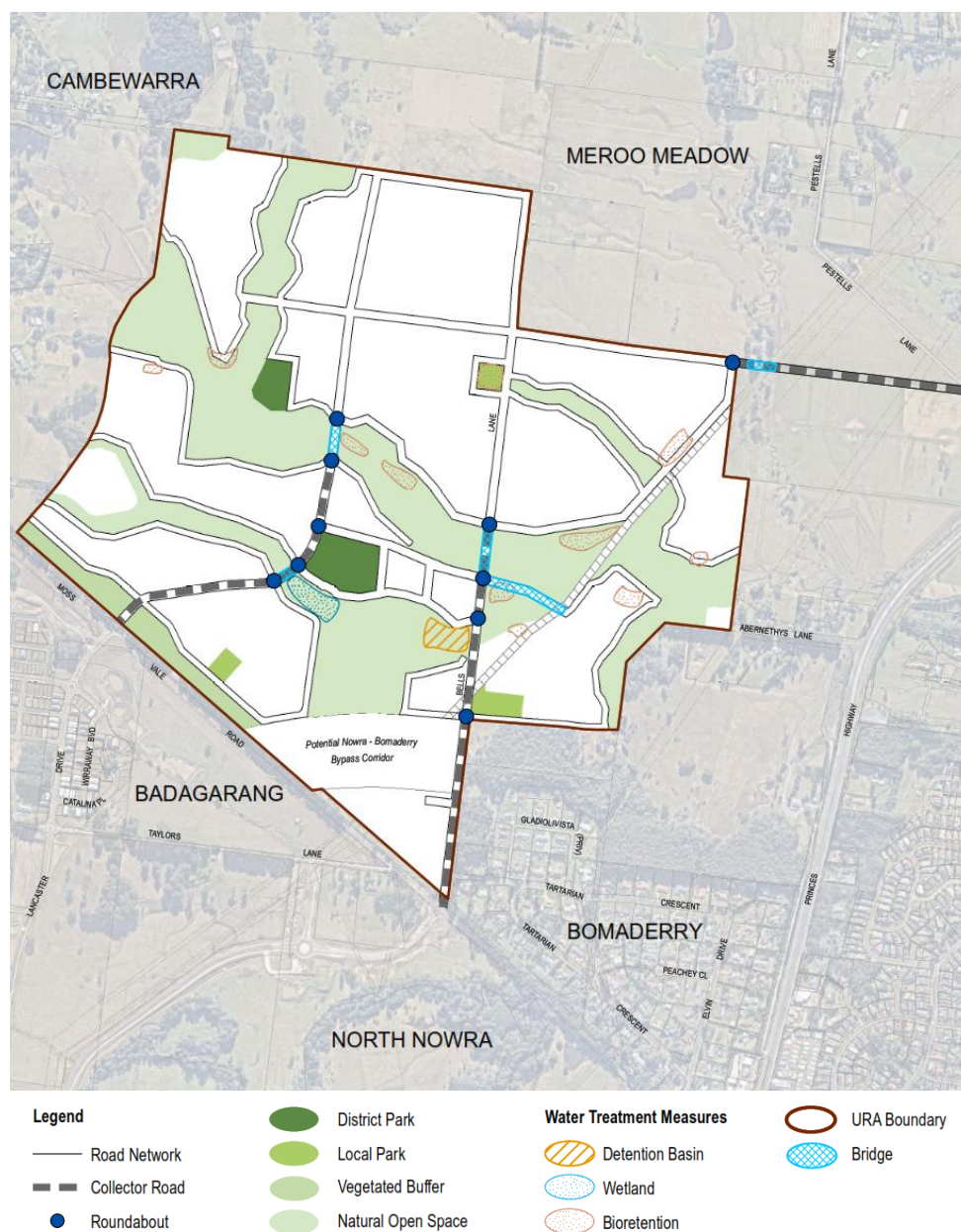


Figure 3: Satisfactory Arrangements for Infrastructure

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8 Subdivision Controls

8.1 Indicative Layout Plan

The Indicative Layout Plan (ILP) at **Figure 2** illustrates the key outcomes for the URA.

The specific **objectives** are to:

- i. Ensure development is undertaken in a coordinated manner which responds to the topography, **views**, natural environment, and in accordance with the Indicative Layout and Staging Plan.
- ii. Provide a variety of **lot** sizes to facilitate a range of housing types in appropriate locations.
- iii. Deliver a vibrant mixed use neighbourhood centre to service the needs of the suburb of Badagarang.
- iv. Require a well-connected and legible movement network providing a variety of routes for vehicles, pedestrians, and cyclists both within the URA and connecting to surrounding areas.
- v. Supply **public open space** which enhances existing landscape values, protects significant and **remnant vegetation**, provides opportunities for **stormwater** management, and improves the amenity for future residents.

Performance Criteria	Acceptable Solutions
P1 Development is undertaken in a coordinated manner consistent with the ILP.	<p>A1.1 Development within the URA is in accordance with the ILP (Figure 2).</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>Note: The ILP is to be read in conjunction with the provisions in this Chapter, broader Development Control Plan, SLEP 2014 and other relevant policy documentation and legislation.</p> <p>Variations to the ILP may be considered where the applicant provides sound justification and can demonstrate that the proposal meets the intent of the relevant objectives and provisions in this Chapter. This justification to be provided in the required Design Verification Statement.</p> </div> <p>A1.2 Subdivisions must demonstrate consistency with the following residential density targets in relation to the ILP:</p> <ul style="list-style-type: none"> • Large Lot Residential (1,000m²+ lots): less than or equal to 10 dwellings per hectare. • Standard Lot Residential (500-999m² lots): 11-20 dwellings per hectare.

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- Small **Lot** Residential and Medium Density / Integrated Housing (300-499m² **lots**): 21-33 **dwelling**s per hectare.

Note: Density is measured exclusive of **roads**.

Note: Development under the high voltage power line easement is restricted. Early discussions with Endeavour Energy regarding underground trenching and alternative infrastructure/ easement arrangements is encouraged.

8.2 Staging

The specific **objectives** are to:

- Recognise development of the URA will occur progressively over several years and that early stages have the potential to influence long term outcomes for the area.
- Ensure the development of the URA is appropriately sequenced and enables efficient, orderly release of residential land, business land and essential infrastructure.
- Supply a coordinated and managed open space network delivered in a timely manner with development at each stage.
- Provide for reasonable flexibility in development staging where appropriate.
- Mitigate against adverse impacts on the community and environment during and following development.

Performance Criteria	Acceptable Solutions
P2 Development is staged to enable orderly development and provision of necessary infrastructure.	<p>A2.1 The staging of the URA is undertaken in accordance with Figure 4 and development and infrastructure are delivered in an orderly manner ensuring the needs of the community are appropriately met.</p> <p>A2.2 Variations to the staging plan shown in Figure 4 (including substages and concurrent delivery of stages) will be considered if the orderly delivery of the overall development and associated infrastructure is not compromised and the community is not unreasonably impacted. Where alternative staging is proposed it must demonstrate:</p> <ul style="list-style-type: none"> • Sufficient utility services and infrastructure (including reticulated water, sewage, electricity, gas,

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stormwater, telecommunications, road, pedestrian, cyclist and community) is or will be made available to service the proposed development prior to its delivery.

- The design of the infrastructure takes into account demands generated by projected growth associated with future development stages.
- Contiguous vehicular access to an existing street network will be provided at each stage of development.
- Waste vehicles can safely and efficiently service each stage of development.
- Adequate evacuation routes for bushfire and flooding will be provided at each stage of development.
- Contiguous active transport connections to open space and collector roads will be provided at each stage of development.
- Adverse drainage/stormwater and landform impacts will be avoided in respect of nearby/neighbouring properties and the public realm.
- An appropriate quantum and type of open space will be delivered to support the needs of the community at each stage of development in accordance with the Shoalhaven Community Infrastructure Strategic Plan.
- Development will not excessively or unreasonably impact on amenity or the activities of the community including residents, businesses and visitors to the area.

Note: To ensure access to residential properties is provided in the early stages of development, Council may consent to the construction and operation of temporary access roads.

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Temporary access arrangements must comply with Council's Engineering Specifications.

Temporary turning heads may be required to facilitate waste collection and must be sealed.

- A2.3 To the extent that it is practical, early development in the URA is to consider the layout, orientation and scale of future stages of development and whether the proposed development cohesively integrates with and complements these stages. Council may require the applicant to submit concept plans showing how the proposed development would integrate with potential future stages of development on the land or on adjoining land.

Note: Early coordination with adjacent sub-stages/ owners regarding infrastructure delivery is encouraged.

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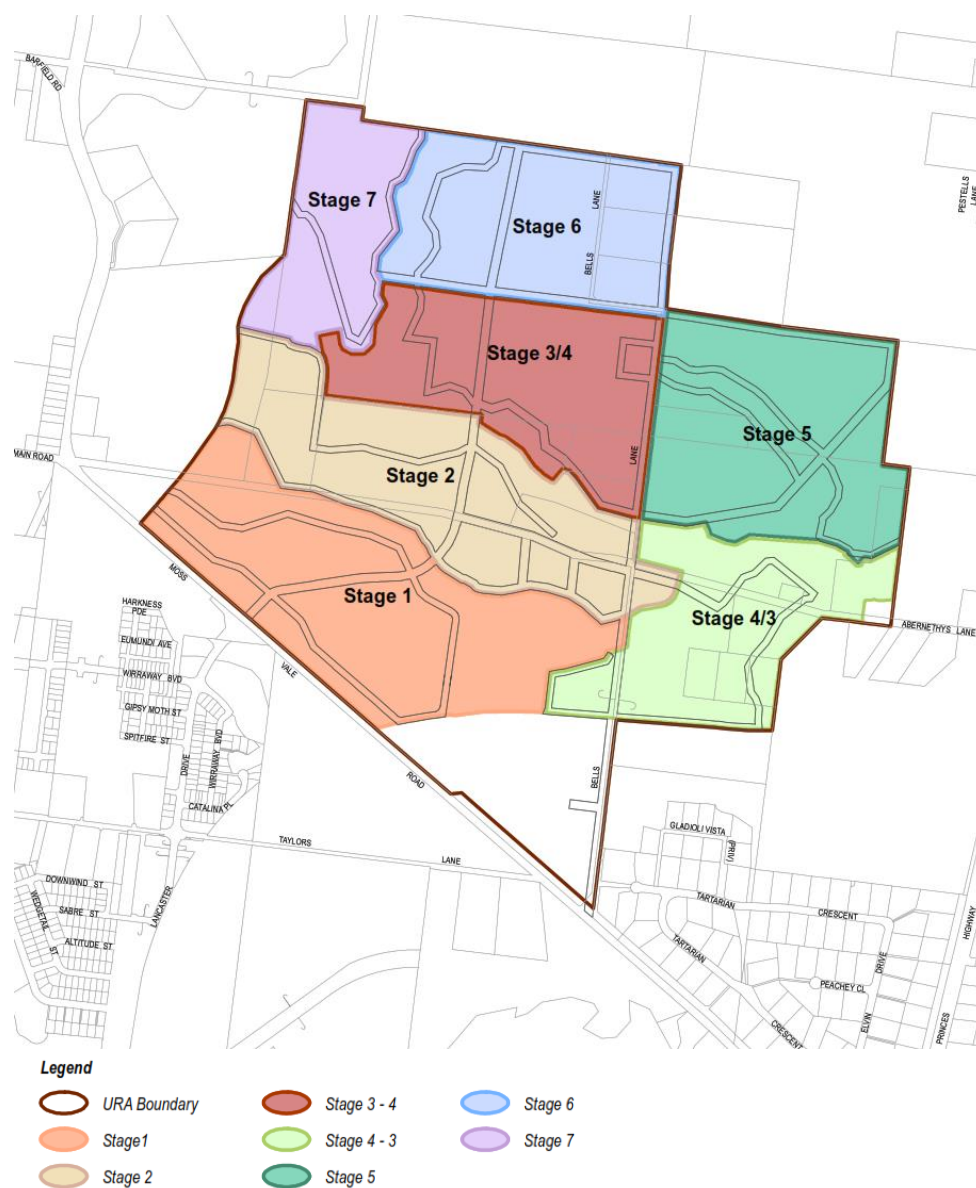


Figure 4: Indicative Staging Plan

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8.3 Aboriginal Cultural Heritage

The specific **objectives** are to:

- i. Recognise Aboriginal people as the First Nations' People of Australia and traditional custodians of the land.
- ii. Conserve Aboriginal objects and Aboriginal places of heritage significance.
- iii. Minimise impacts of development on Aboriginal cultural heritage.
- iv. Celebrate Aboriginal culture and language and recognise and reflect Aboriginal connection to Country.

Mandatory Controls

- 1) Subdivision applications are to be accompanied by an Aboriginal Cultural Heritage Assessment (ACHA), prepared in respect of all proposed impacts (inclusive of riparian corridor enhancement works). The ACHA must be undertaken by an archaeologist in accordance with the current State government guidelines, policies and codes of practice including in regard to consultation.

Performance Criteria	Acceptable Solution
P3 Aboriginal cultural heritage is protected, respected and celebrated.	<p>A3.1 Aboriginal Cultural Heritage is considered and managed in accordance with Shoalhaven DCP Chapter 2: General and Environmental Considerations.</p> <p>A3.2 Subdivision layout, the design of the public domain areas and the design of the Village Centre incorporate the NSW Government's Connecting with Country Framework as part of the design approach, drawing on ACHA findings and developed in consultation with relevant Aboriginal stakeholders. This includes (but is not limited to) the design of wayfinding signage and interpretive elements such as signage, art, furniture and facilities.</p> <p>Note: Clause 5.10(8) of Shoalhaven Local Environmental Plan 2014 outlines the consent requirements for carrying out development in an Aboriginal place of heritage significance.</p>
P4 Place names incorporate local Aboriginal language to enhance and strengthen the cultural connection to place.	<p>A4.1 New public spaces, places and roads give preference to the use of local Aboriginal language for naming purposes.</p> <p>A4.2 For Aboriginal naming, the NSW Geographical Names Board, Traditional</p>

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	Custodians and local language subject matter experts are consulted.
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8.4 Managing Flood Risk

Parts of the URA are currently exposed to high hazard flash flooding from the Abernethys Creek catchment and tributaries. The nature of this flooding makes early evacuation difficult and safe occupation of flood prone land during flood events is an unviable risk management strategy. In order to reduce the risk of flooding on future **development** within the URA, filling is required to a level at or above the Probable Maximum Flood (PMF) event. Error! Reference source not found. identifies the current PMF extent and the indicative area that is required to be filled. Once filling in the locations indicated on Error! Reference source not found. has occurred, flow routes will be altered and the PMF extent in future **development** areas will be reduced.

Flood modelling has been undertaken to investigate any potential impacts associated with the required filling on flood impacts and risk within the catchment. This modelling confirmed the required filling within the URA would result in no adverse flood impacts on downstream communities.

The existing road network servicing the URA, including the Princes Highway, is at risk of inundation from various flood events. Evacuation of the URA may be necessary for floods larger than the 1% Annual Exceedance Probability (AEP) event; alternatively, residents may need to remain-in-place for the duration of any isolation resulting from flooding of local roads and the Princes Highway. An evacuation route will be provided from the release areas using the Collector Road network connecting Moss Vale Road and Pestells Lane (identified in Error! Reference source not found.).

The site is in the South East Zone of the NSW State Emergency Service (SES). Council will work with the NSW SES to include evacuation requirements into the Local Flood Plan.

The specific **objectives** are to:

- v. Ensure **development** on flood prone land is consistent with the NSW Flood Prone Land Policy (2023), the NSW Flood Risk Management Manual (2023), and the Flood Risk Management Toolkit (2023) (or any subsequent versions).
- vi. Minimise the flood risk to life and property, including to downstream properties, associated with the use of land considering the full range of flooding.
- vii. Enable key community services and infrastructure that respond to flood events to function during flooding.
- viii. Allow **development** on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change.
- ix. Consider areas within the floodplain for amenity and recreation use where compatible with flood function and flood risk.
- x. Avoid adverse or cumulative impacts on flood behaviour and the environment.
- xi. Enable the safe occupation and efficient evacuation of people in the event of a flood.

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Mandatory Controls

- 1) The finished level of all lots and roads must be at or above the Probable Maximum Flood Level (PMF) level.
- 2) Fill must not extend into the riparian corridors of Abernathy's Creek and its tributaries.
- 3) Subdivision and drainage infrastructure must be provided to ensure no adverse downstream flood impacts.

Performance Criteria	Acceptable Solution
P5 The design and construction of the subdivision including evacuation routes and stormwater drainage infrastructure ensure communities are kept safe from flood impacts.	<p>A6.1 Flood risk is considered and managed in accordance with the Shoalhaven Development Control Plan Chapter G9: Development on Flood Prone Land and the NSW Government's NSW Flood Prone Land Policy, NSW Flood Risk Management Manual and Flood Risk Management Toolkit.</p> <p>A6.2 Stormwater detention infrastructure has been provided in accordance with the Moss Vale Road North Integrated Water Cycle Management Strategy (IWCMS) and Contributions Plan.</p> <p>Note: Refer to Clauses 5.21 and 5.22 of SLEP 2014 which set out requirements for flood planning and special flood considerations.</p>
P6 Stormwater treatment and detention infrastructure is protected from flood damage.	A6.1 Stormwater treatment and detention infrastructure must be installed above the 1% AEP flood level as identified using Australian Rainfall and Runoff (ARR1987) design parameters.

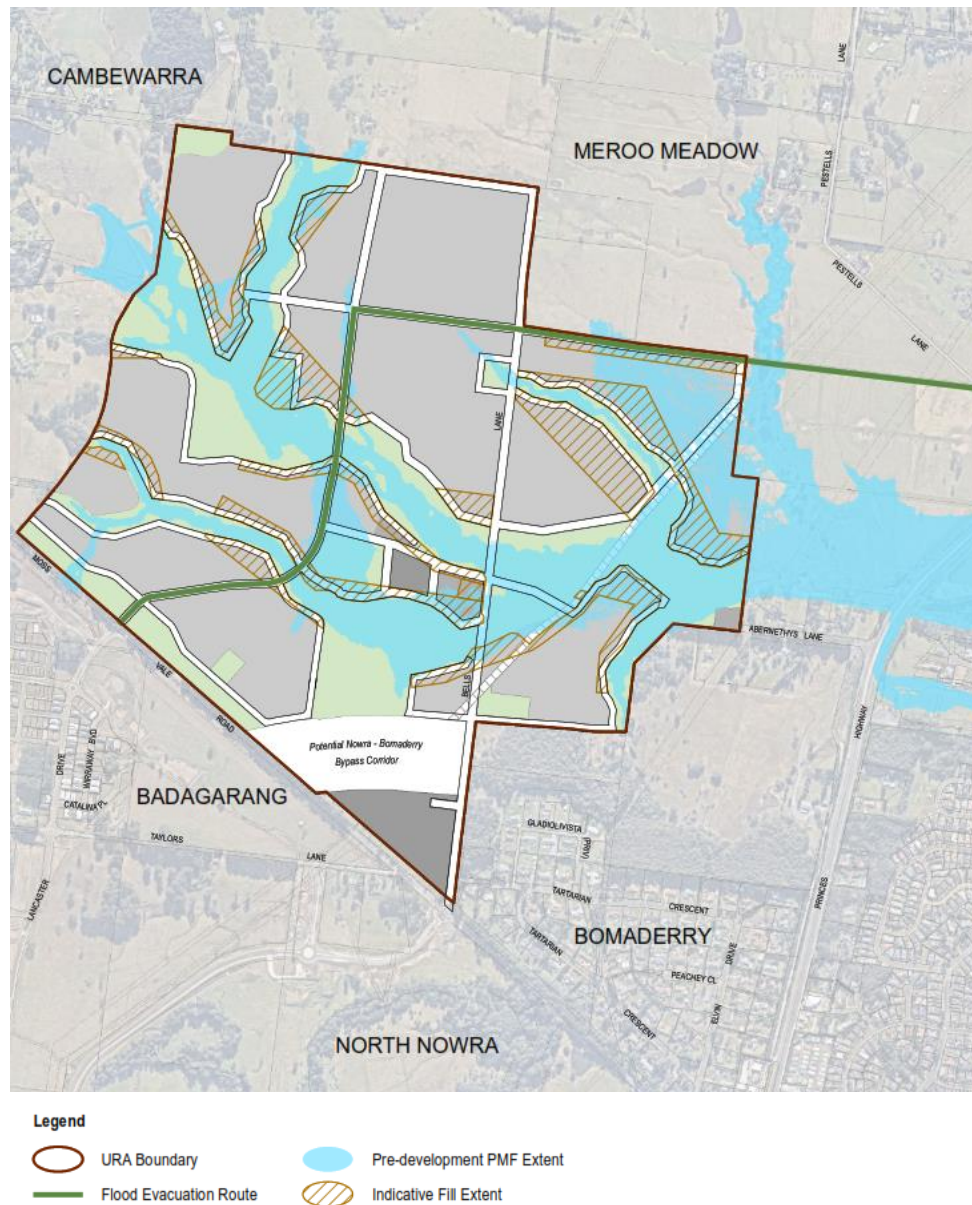


Figure 5: Extent of Flooding and Indicative Area of Fill and Flood Evacuation Route

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8.5 Bushfire Considerations

The MVRN URA is characterised as **bush fire prone land** and this risk has been carefully considered through the planning process for the URA.

The subdivision of land within the URA must comply with *Planning for Bush Fire Protection 2019* (PBP), especially (not exclusively):

- Provision of **asset protection zones** (APZs) to comply with Table A1.12.2 for residential **development** and Table A1.12.1 of PBP for Special Fire Protection Purpose (SFPP) developments.
- Access is to be provided in accordance with Table 5.3b of PBP which will include, but not limited to, a staging plan that demonstrates more than one access **road** in and out of the development at each subdivision stage (where that stage includes three or more **allotments**).

Note: Residential subdivision on **bush fire prone land** requires an approval from the NSW Rural Fire Service, known as a Bush Fire Safety Authority. Applications for the NSW Rural Fire Service's approval must address the extent to which the subdivision complies with Planning for Bushfire Protection, including the preparation of a bushfire assessment. For full requirements, refer to Appendix 2 of PBP *Submission Requirements, Performance based Solutions, and Bush Fire Design Briefs*.

Indicative **APZ** requirements have been established based on residential **development** and potential future bushfire fuel loads (**Error! Reference source not found.**). Greater **APZs** will be required for Special Fire Protection Purpose developments. **APZs** may increase or decrease depending on the **development** outcomes of the bushfire assessments that will be required at the subdivision stage.

Note: Asset protection zones along Riparian and Vegetated Buffer Streets are to be located within the road reserve where possible (except where adjacent to the large lot areas). The entire road reserve should provide for the APZ. The verge (riparian and buffer side) is to be widened as required*. Where there is a transition between APZ widths, a smooth transition is preferable (i.e., not stepped). Short-fire run modelling results endorsed by the NSW Rural Fire Service should inform reduced APZs. Refer to **Error! Reference source not found.**

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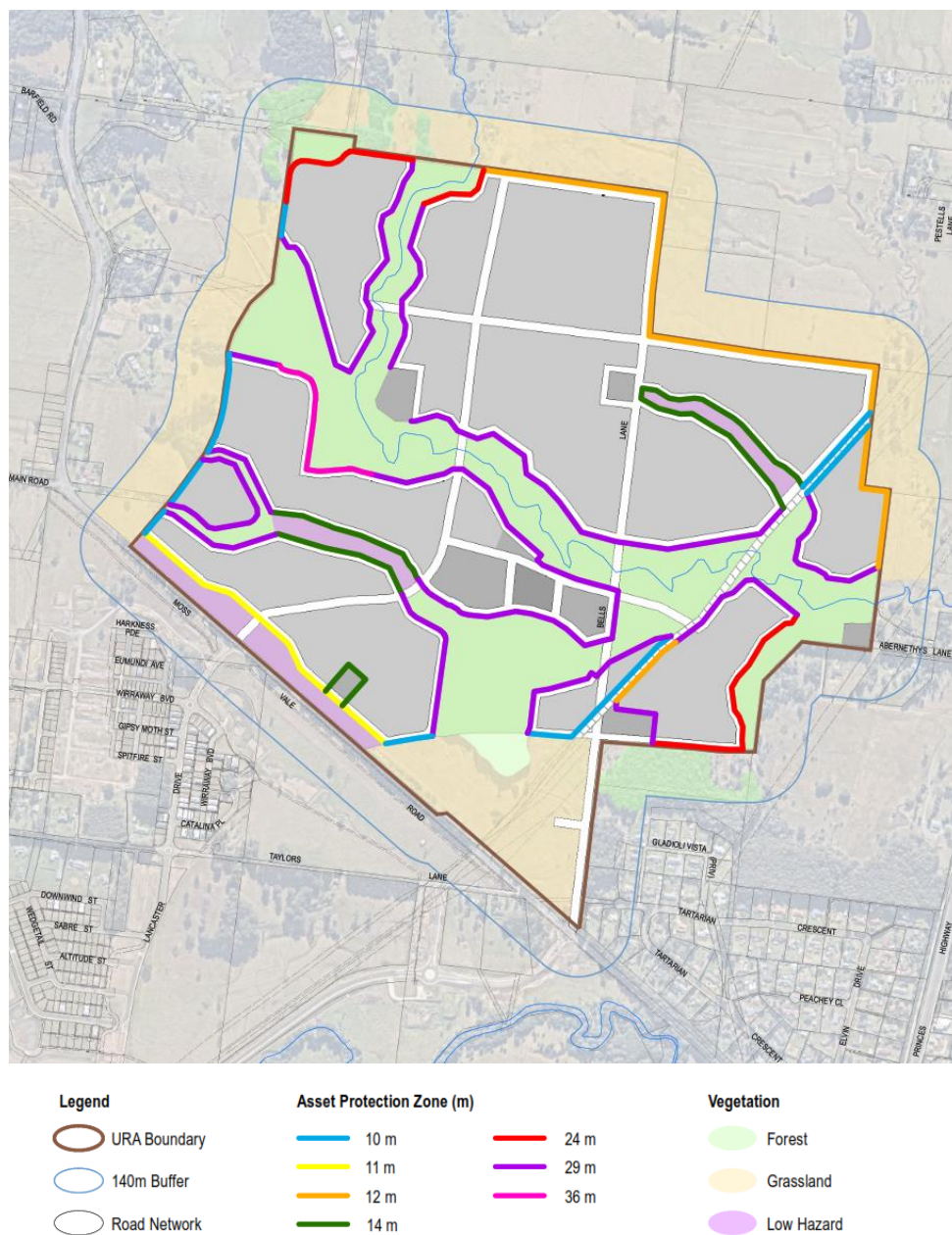


Figure 6: Bushfire Considerations – Asset Protection Zones

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8.6 Managing Natural Resources and Environmental Heritage

The specific **objectives** are to:

- i. Achieve a high standard of environmental performance and management of natural assets and environmental heritage.
- ii. Protect and enhance **remnant vegetation** through incorporation within the open space and **stormwater** network.
- iii. Retain the maximum number of established **trees** as possible in the public domain within the URA.
- iv. Mitigate the impacts of **development** on water quality and quantity.

Performance Criteria	Acceptable Solutions
P7 Significant and remnant vegetation and habitat for threatened species is retained and protected.	<p>A7.1 Significant and remnant vegetation (including native vegetation) within the public domain, including in open space areas, is retained and opportunities for enhancement are included.</p> <p>Note: Threatened species have been identified in this URA.</p> <p>A comprehensive flora and fauna assessment is to be prepared by a suitably qualified and experienced person and is to include an analysis of constraints and opportunities and identify/ map areas for rehabilitation. Refer to Chapter G5: Biodiversity Impact Assessment of this Development Control Plan for further information.</p> <p>An arborist report may be required to consider any trees for removal for risk and safe useful life expectance (SULE).</p> <p>A7.2 Hollow bearing trees are to be retained except where tree removal is required for safety reasons. Where removal is required, the trunks and large limbs (>20cm diameter) are to be re-used as coarse woody debris in the riparian E2 Environmental Conservation zone in locations where they are unlikely to be washed downstream.</p> <p>Note: An arborist assessment may be required to identify any unsound trees that require removal.</p> <p>Conditions of consent may be imposed regarding the removal of hollow bearing trees, including but not limited to fauna protection measures such as hollow inspections pre and post felling, soft</p>

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		felling and ecologist presence during felling.
	A7.3	Impact mitigation and management measures shall be proposed to protect threatened species, including, but not limited to, bats.
P8 Riparian corridors are protected and improved to:	A8.1	Continuous riparian zones are provided along Abernethy's Creek and other unnamed tributary creeks.
<ul style="list-style-type: none"> • Improve water quality and riparian vegetation. • Improve ecological health and integrity. • Maintain and enhance habitat values. 		<p>Note: It is anticipated that the riparian corridor will be dedicated to Council and managed as one continuous natural area.</p>
	A8.2	Each development application that includes the subdivision of land zoned E2 Environmental Conservation must be accompanied by a 5-year Vegetation Management Plan (VMP) that has been prepared in accordance with Supporting Document 3.
	A8.3	Each development application is supported by appropriate erosion and sedimentation controls to minimise exposed earth forming in the riparian zones during earth forming stages of the subdivision, and until the site is fully developed.
	A8.4	Riparian zones and associated buffers are to be retained and enhanced using local native species to improve the ecological functions of the watercourses.
	A8.5	Buffers are vegetated to protect the integrity of the riparian zone from weed invasion, littering, sedimentation, erosion control pollution, impacts of climate change and to provide wildlife corridors to facilitate the movement of fauna through the landscape.
	A8.6	Flat metal grass edging is required to separate turfed areas and riparian vegetated areas along Riparian Streets.
	A8.7	Fencing within riparian corridors shall be minimised and is not permitted across watercourses. Where fencing is required for safety purposes, the design must allow terrestrial and aquatic fauna to pass through.

Note: The riparian corridors are linear tracts of land associated with the Shoalhaven River drainage system. They are important for maintaining biodiversity, water quality and bank stability. They are a significant component of the Nowra-Bomaderry conservation strategy and represent both constraints and opportunities to urban development.

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	A8.8	Waterway crossings are to be designed in accordance with NSW Department of Primary Industries Fish Passage Requirements for Waterway Crossings (see the Council and Developer Toolkit for more information).
P9 Elements of environmental heritage are incorporated within open space areas to ensure their protection	A9.1	Subdivision layout, the design of the public domain areas and the design of the Village Centre incorporate identified environmental heritage. This includes (but is not limited to) wayfinding signage and interpretive elements such as signage, art, furniture and facilities.

8.7 Landscape Strategy

The specific [objectives](#) are to:

- Achieve a landscape setting to balance the built form through well planted streets, open spaces, [treed](#) backdrops and [lot](#) sizes that provide opportunities for planting in [private open space](#) areas.
- Protect, maintain and enhance areas containing environmental heritage, [remnant vegetation](#) and established [trees](#).
- Enhance both the public and private amenity within the URA.
- Contribute to the overall [water sensitive urban design](#) approach within the URA.
- Protect the valuable landscape and environmental values of the URA.
- Establish a vegetated buffer adjacent to Moss Vale Road to mitigate acoustic and visual impacts.

Performance Criteria	Acceptable Solutions
P10 Landscaping is provided to complement and soften the built form and surrounding natural landscape and provide high levels of amenity.	<p>A10.1 A landscape strategy, prepared by a suitably qualified person, is submitted at the subdivision DA stage consistent with:</p> <ul style="list-style-type: none"> Chapter G3: Landscaping Design Guidelines of this Development Control Plan, Chapter G11: Subdivision, Supporting Document 2: Landscape Specifications, and Shoalhaven City Council's Community Infrastructure Strategic Plan.

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	<p>As a minimum, the landscape strategy is to include:</p> <ul style="list-style-type: none"> • A Landscape Plan. • Entry treatment (only for stages that include entry from Moss Vale Road, including Bells Lane). • Extensive landscaping and street tree planting that incorporates deep rooted canopy trees as per Supporting Document 2. • Protection of remnant vegetation and established trees in the public domain. • Allow for the protection and enhancement of riparian corridors and works in conjunction with the Vegetation Management Plan (See Section Error! Reference source not found. below). • Provision of avenue tree planting along the collector road system. • Establishment of a street lighting and furniture palette consistent with Supporting Document 2. • Inclusion of any relevant signage detailing local history, Aboriginal cultural values, environmental education themes and the like. • Deep soil planting to enable a substantial tree cover to be created over time. • Detail of vegetation (low growing shrubs and ground covers only) within the electricity easement area which must not exceed 3m. • Removal of existing noxious and environmental weed species. • Rehabilitation of E2 Environmental Conservation zones in accordance with the Vegetation Management Plan for the land.
P11 Landscaping works are delivered in a timely manner.	A11.1 Street tree planting is to be implemented at the subdivision stage to ensure plantings are visually consistent in

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		height, spread and form across each stage of the development .
P12	A vegetated buffer:	
	<ul style="list-style-type: none"> Provides a visual and acoustic buffer. Rehabilitates and regenerates natural vegetation via a VMP prepared by a suitably qualified ecologist/restoration contractor. Minimises chance of vehicle strike along Moss Vale Road. 	
A12.1	A 45-75m vegetated buffer is to be provided along Moss Vale Road (refer to Error! Reference source not found. and the ILP at Error! Reference source not found.) and is to include:	
	<ul style="list-style-type: none"> Rehabilitation of native vegetation via a VMP. The VMP must include natural regeneration occurring on the site, as well as revegetation (including multi-strata and canopy species) of any areas as required. A fauna fence along Moss Vale Road to minimise chance of vehicle strike. 	
		<p>Note: It is anticipated that the vegetated buffer will be dedicated to Council.</p> <p>The VMP may be an addendum to any riparian VMP.</p> <p>The perimeter road reserves are to be located outside the Vegetated Buffer as indicated in Figure 7.</p>

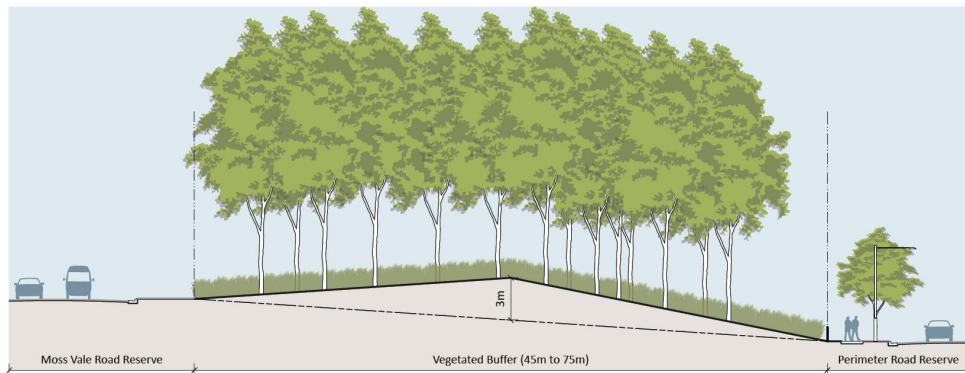


Figure 7: Vegetated Buffer Typical Section

8.8 Open Space System

The specific **objectives** are to:

- i. Provide future residents of all ages, abilities and backgrounds access to high quality, high amenity open space areas catering for a range of passive and active recreational, social and cultural activities.

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- ii. Ensure the connected network of open spaces within the URA are accessible and incorporate pedestrian and cycle routes.
- iii. Provide multi-functional open space areas recognising and responding to the different functions, characteristics and topographical qualities of the area.
- iv. Incorporate significant areas of natural value within the open space network.
- v. Ensure the design and embellishment of the open space is of high quality, robust, low maintenance and addresses the vision of the URA and the Shoalhaven City Council's Community Infrastructure Strategic Plan.

Performance Criteria	Acceptable Solutions
P13 Open space areas are of a high amenity, safe, accessible, inclusive, comfortable, well connected, and provide for a diversity of uses (both passive and active) to encourage physical movement, activity and social interaction.	<p>A13.1 Open space areas are provided in accordance with Chapter G11: Subdivision of Land and the Shoalhaven Community Infrastructure Strategic Plan (CISP), including the desired standards of service (quantum, access, characteristics, level of embellishment) specified in the CISP.</p> <p>A13.2 Open space areas are delivered in accordance with the Indicative Layout Plan shown in Figure 2 (in terms of both quantum and location) and include the overall provision of:</p> <ul style="list-style-type: none"> • 64 ha of public open space (including parks, riparian corridors and vegetated buffers). • 2 district parks (as per the classification framework and provision standards defined in the Shoalhaven CISP). • 3 local parks (as per the classification framework and provision standards defined in the Shoalhaven CISP). • Linear recreation areas within riparian corridors and along infrastructure easements. <p>A13.3 Variations to the Indicative Layout Plan shown in Figure 2 may be considered if an equal or better outcome can be demonstrated that ensures at a minimum:</p> <ul style="list-style-type: none"> • An equal or greater total quantum of public open space is provided.

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		<ul style="list-style-type: none"> • A minimum of five parks are provided including at least 2 district parks and 3 local parks. • Diversity of uses, functionality, accessibility, safety and amenity are equal or improved. • Active transport connections to public opens spaces are equal or improved (including in terms of quality, safety and distances). • Water sensitive urban design measures and the management of stormwater and floodwater are equal or improved. • Environmental and sustainability outcomes are equal or improved.
	A13.4	All parks are accessible via a shared use pathway and bike parking is provided within all parks.
	A13.5	Open space embellishment does not compromise revegetation through any Vegetation Management Plan .
		<div> Note: Refer to Supporting Document 2 for plant species and furniture/embellishments suitable for open space areas. </div>
	A13.6	
P14	Open space is delivered in a timely manner	A14.1 Open space is to be provided at final design levels prior to the issuing of any occupation certificates for a development stage or in accordance with a planning agreement for the site.

8.9 Street Network and Hierarchy

The specific [objectives](#) are to:

- Achieve a safe, functional and convenient movement network for private vehicles, public transport, pedestrians and cyclists.
- Provide a high quality, visually attractive, connected and clearly discernible hierarchy of streets within and beyond the URA that is informed by natural features, terrain and [views](#). Street types are discernible through variations in carriageway width, pedestrian amenities, street tree planting, and on-street parking.
- Ensure adequate carriageway and verge widths are provided to allow streets to perform their designated functions within the street network and to accommodate essential services and stormwater drainage.

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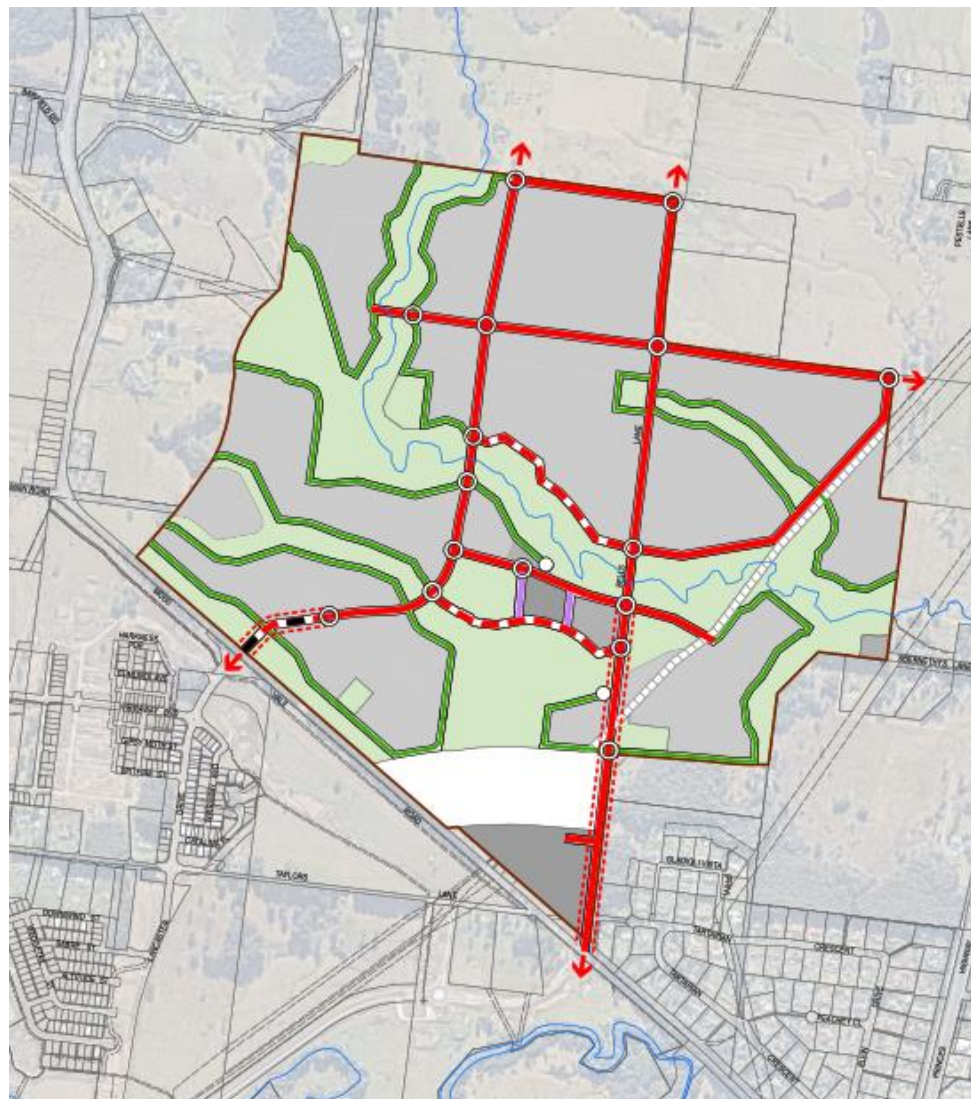
- iv. Promote passive surveillance of publicly accessible areas to increase pedestrian and cyclist safety.

Mandatory Controls

- 1) The major street network is to be provided in accordance with the Indicative Layout Plan at **Error! Reference source not found.** and the Street Hierarchy and Network Plan at **Error! Reference source not found.** The major Street Network includes Collector Roads, Retail Streets, and Riparian Streets.
- 2) The proposed minor street network, and any variation to the major street network is to be designed to achieve the following principles:
 - A defined street hierarchy and permeable, grid-based street network as per the key development **objectives**.
 - Minimise the number of roads and road crossings in vegetated buffer areas and riparian corridors to ensure minimal roads are established on land zoned for environmental purposes.
 - Walking and cycling is encouraged by ensuring the majority of **allotments** are within 400m walking distance from the **Collector Road** and open space network.
 - Maximised connectivity between residential areas, the village centre, and open space.
 - Take account of topography and accommodate significant and **remnant vegetation**.
 - Optimise **solar access** opportunities for **dwelling**s.
 - Provide frontage to and maximise surveillance of open space and riparian corridors.
 - Provide **views** and **vistas** to key landscape features, including riparian corridors.
 - Maximise the use of **water sensitive urban design** measures.
 - Provide well landscaped, traffic-calming, and connected streets.

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Legend

- | | | |
|-------------------------------|----------------------|-------------------|
| URA Boundary | Collector Road Entry | Restricted Access |
| Eastern Gas Pipeline Easement | Collector Tier 1 | Riparian Street |
| Roundabout | Collector Tier 2 | Retail Street |
| Cul-de-sac Locations | | |

Figure 8: Street Hierarchy and Network Plan

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- 3) Streets are designed in accordance with Chapter G11: Subdivision and [Supporting Document 1: Subdivision Technical Guidelines](#), unless specifically varied in this section. **Table 7 to Table 7** and Error! Reference source not found. in this section identify these variations. **Carriageway Table** widths are measured from invert to invert.

Note: Construction of **roads** is to be in accordance with the requirements of Chapter G11: Subdivision of Land. Indicative layouts are diagrammatic only and do not represent the minimum widths to true scale.

- 4) No direct vehicular access or **waste** collection is permitted on the restricted access section of the **Collector Roads**, as illustrated by the dashed line in **Error! Reference source not found.**

Note: At the subdivision stage, a restriction is to be included on a Section 88B Instrument on **lots** located on the restricted access section of the **Collector Roads** to restrict vehicular access to a rear laneway or shared driveway only.

- 5) The Collector **Road** network is designed to accommodate buses facilitating future public transport planning and delivery of services.

Note: **Collector Roads** (Tier 1 and Tier 2) and Local Streets have been designed to accommodate buses to provide flexibility for future route planning.

The requirements of Transport for NSW's Guidelines for Bus Capable Infrastructure in Greenfield Sites must be considered and complied with in any application.

- 6) All streets must incorporate appropriate **road** geometry, traffic management, and calming devices to produce a low-speed traffic environment. Traffic management devices are to be identified at subdivision DA stage.
- 7) Street **trees** are required on all streets and are to be placed within the verge. Placement of street **trees** will consider underground services, driveways and easements. Street **tree** species are to be selected from the relevant street plan list at Supporting Document 2. Street **trees** are planted with appropriate root guards to protect underground infrastructure, pathways, kerb and gutters. Street **tree** planting is alternated with street lighting.
- 8) Construction of verges provide adequate space for underground service allocation and street **trees** as per:
- For verges between 3-3.6m in width: In accordance with Figure 3 of Chapter [G11: Subdivision - Supporting Document 1: Subdivision Technical Guidelines](#).
 - For verges greater than 3.6m in width: The NSW Streets Opening Coordination Council's [Guide to Codes and Practices for Streets Opening](#).

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Note: Where rear laneways are required, underground service allocation is to be provided along the primary street frontage, not the laneway.

The centre line for street **trees** is determined as an equal distance from the kerb to the trench for the water service allocation.

If water mains are located under the footpath or hard stand areas, connections and service lines must be installed at the time of water main construction and extended into the property boundary by a minimum 0.5m. Pathcocks are to be raised to surface and incorporated if located in hardstand and footpaths. Early consultation with Shoalhaven Water is encouraged.

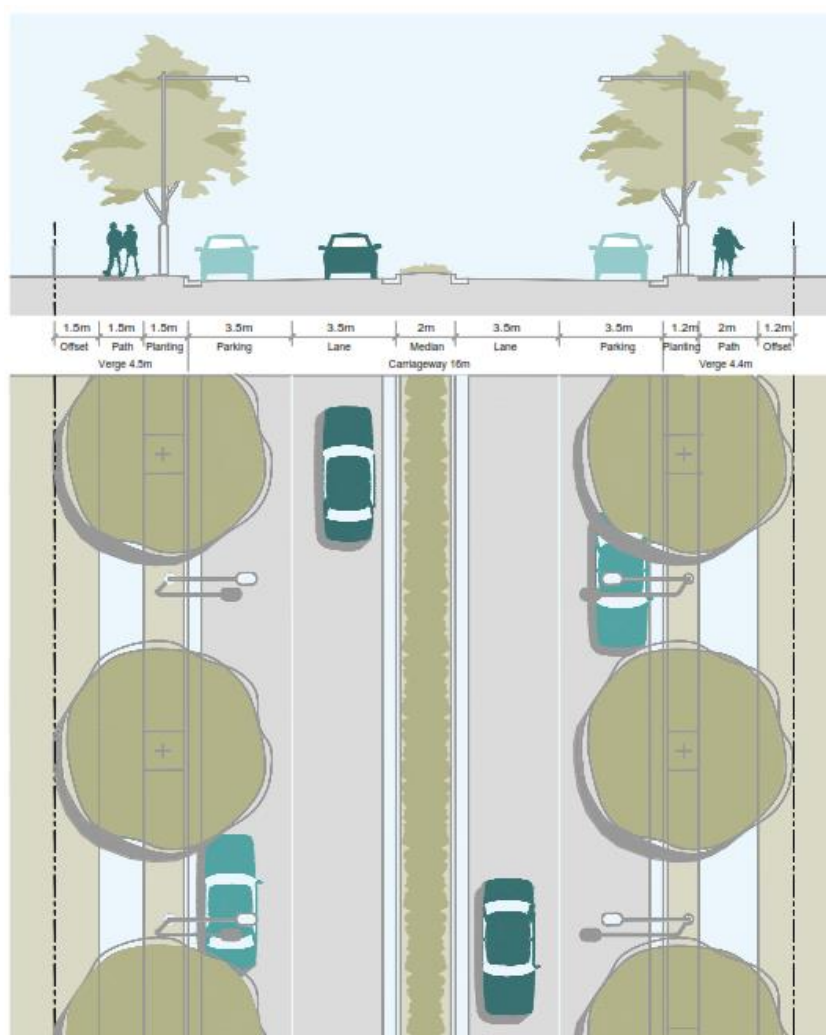
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8.9.1 Collector Road (Entry)

Table 2: Minimum Cross-section Widths –Collector Road (Entry)

Verge (m)			Carriageway (m)			Verge (m)			Total Reserve
Offset	Path	Plant	Lane			Plant	Shared Path	Offset	
1.5	1.5	1.5	7	2	7	1.2	2	1.2	24.9m
	4.5		16				4.4		



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Figure 9: Typical Plan and Section – Collector Road (Entry)

8.9.2 Retail Streets

Table 3: Minimum Cross-section Widths –Retail Streets

Verge (m)		Carriageway (m)			Verge (m)			Total Reserve
Retail Path	Plant	Parking	Lane	Parking	Plant	Path	Offset	
3	2	2.5	7	2.5	2	1.8	1	21.8m
5		12			4.8			
Driveways are not to be provided along sides of retail streets – rear servicing is required.								
Raingardens are encouraged within verge planting areas and between carparking bays								

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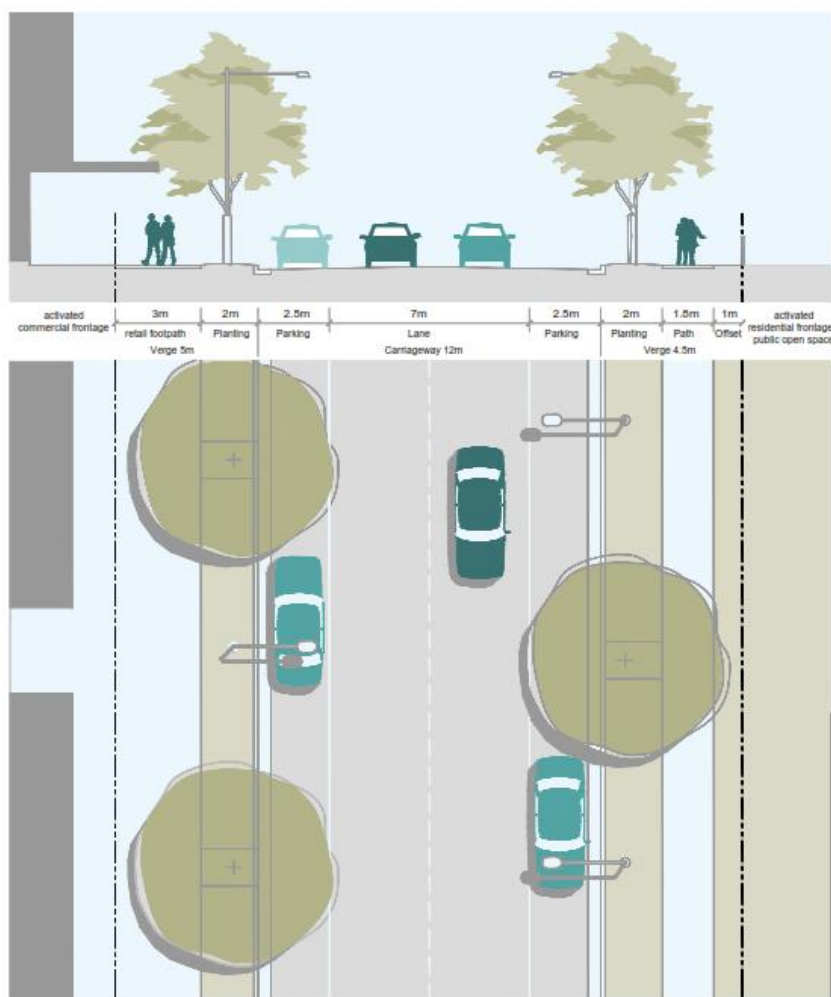


Figure 10: Typical Plan and Section –Retail Streets

8.9.3 Access Street – Tier 1

Table 4: Minimum Cross-section Widths – Access Street – Tier 1

Offset	Verge (m)		Carriageway (m) Lane	Verge (m)			Total Reserve
	Path	Plant		Plant	Path	Offset	
1	1.5	1.5	9	1.5	1.5	1	17m
	4			4			

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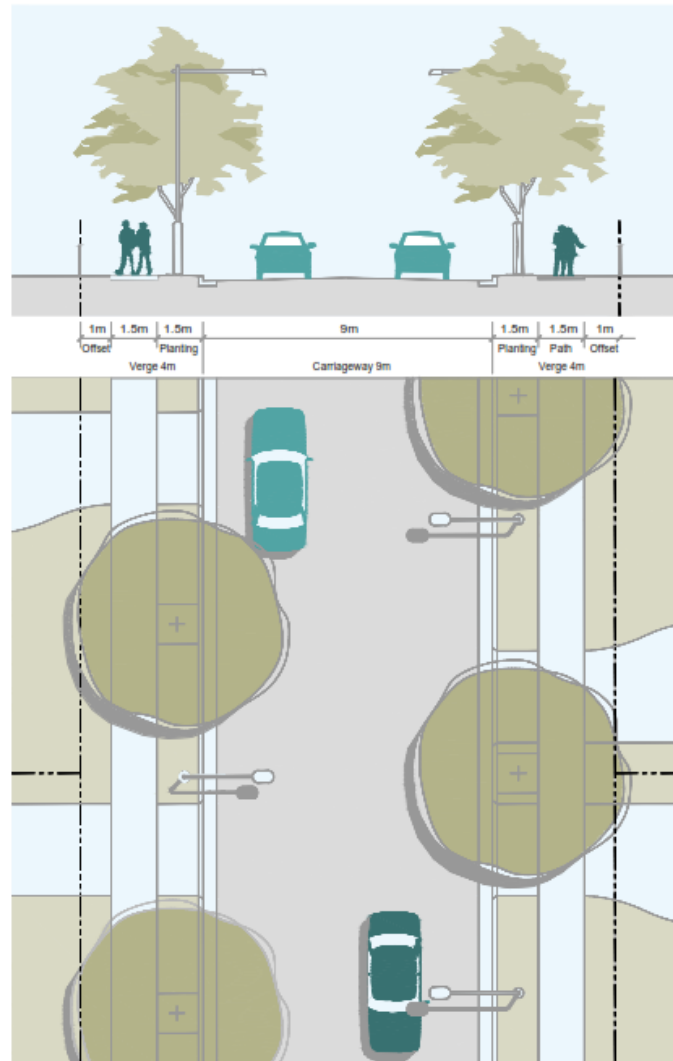


Figure 11: Typical Plan and Section – Access Street – Tier 1

8.9.4 Riparian Street

Table 5: Minimum Cross-section Widths – Riparian Street

Verge (m)		Carriageway (m)		Verge (m)			Total Reserve
Grass *	Path / Shared Path	Lane	Parking	Plant	Path	Offset	
0 - 15	2.5	7	3	2	1.5	1	17-32m
2.5 – 17.5		10		4.5			

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Note: Asset protection zones along Riparian Streets are to be located within the road reserve where possible (except where adjacent to the large lot areas). The entire road reserve should provide for the APZ. The verge (riparian side) is to be widened as required*. Where there is a transition between APZ widths, a smooth transition is preferable (i.e., not stepped). Refer to **Error! Reference source not found.**

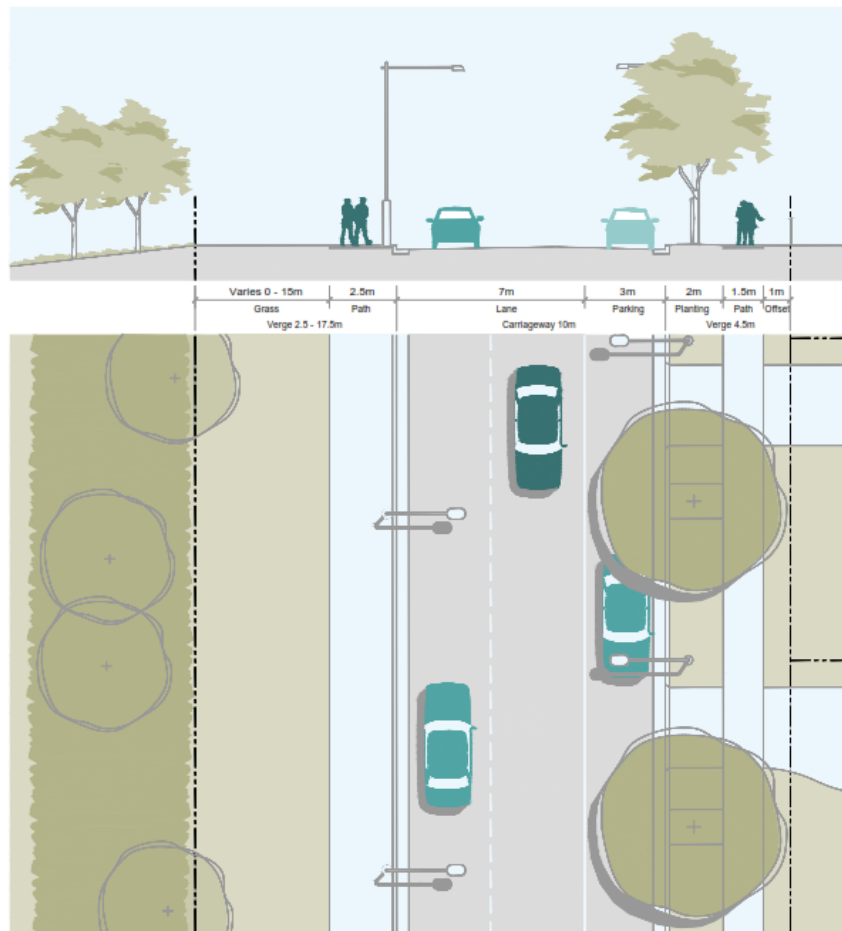


Figure 12: Typical Plan and Section – Riparian Street

8.9.5 Laneways

The specific objectives are to:

- i. Create attractive primary frontages by removing garages and driveway crossovers, improving the presentation of dwellings and maximising on street parking spaces and street trees to the primary frontage.

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- ii. Promote housing diversity without compromising amenity, particularly for smaller sized **allotments**.
- iii. Create a slow speed zone that are distinctly different in character and materials to residential streets to reflect the very low volume and frequency of vehicle movements.

Performance Criteria	Acceptable Solutions
<p>P15.1 Laneways are of a size, layout and orientation that encourage low volume and safe use, maximise favourable lot orientations, legibility, passive surveillance, solar access to lots and the laneway and accommodate waste collection.</p> <p>Note: Laneways are secondary frontages providing rear access. They do not:</p> <ul style="list-style-type: none"> • Act as a primary frontage; • Provide on-street car parking; or • Include footpaths. <p>P15.2 A rear lane network is established to support access and serving of development:</p> <ul style="list-style-type: none"> • On a restricted access street. • Within the Village Centre. • With a lot size of less than 400m². 	<p>A15.1 Where a site is located on a restricted access street, within the Village Centre or the lot size is less than 400m², waste collection and general vehicular access is to occur from a laneway. A rear lane network is to be established.</p> <p>Note: A restriction is to be included on a Section 88B Instrument to restrict driveways on the primary frontage.</p> <p>A15.2 No more than two sets of continuous laneways are provided, except where they are transected by a Collector Road.</p> <p>A15.3 The residential laneway verge (excluding driveway crossovers) is to be soft landscaped to improve overall amenity and stormwater infiltration.</p> <p>A15.4 The laneway should generally be straight across the block but may employ subtle bends. Any bends are to be sized for garbage truck movements.</p> <p>A15.5 A waste collection point for each lot is to be provided which:</p> <ul style="list-style-type: none"> • Is directly adjacent to the driveway crossover on the laneway. • Is provided as a constructed bay that is a minimum of 1m deep and 2.5m wide. • Is constructed from permeable materials. <p>A15.6 Laneways incorporate sufficient lighting to meet Crime Prevention Through Environmental Design (CPTED) principles.</p> <p>Note: Refer to Chapter 2: General and Environmental Considerations of this Development Control Plan for an overview of CPTED considerations.</p>

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8.9.6 Shared Driveways

The specific **objectives** are to:

- i. Minimise the impact of driveways on the function of main streets, quality of the public domain and pedestrian safety.
- ii. Enable shared driveway access to **lots** fronting restricted access **roads**.
- iii. Provide safe and easy access to garages and on-site parking arrangements.

Performance Criteria	Acceptable Solutions
P16.1 Shared driveways provide access to small allotments to discourage garage dominated streetscapes.	A16.1 Shared driveways are provided for small lots from local streets only.
P16.2 Waste collection points are appropriately sited to facilitate effective collection and avoid adverse impacts on dwelling amenity.	A16.2 Shared driveways provide vehicular access to no more than 4 dwellings .
Note: Shared driveways are privately owned and maintained driveways that serve two to four dwellings through a titling arrangement such as a reciprocal right of way or community title subdivision .	A16.3 Shared driveways are configured as per Error! Reference source not found. below.
	A16.4 Shared driveways have a different construction material to the general road surface.
	A16.5 Lots that are accessed via a shared driveway must have a primary street frontage.
	A16.6 Shared driveways are a maximum of 6m wide.
	A16.7 Shared driveways have a maximum crossover width of 5m.
	A16.8 The location of driveways must consider dwelling design and orientation, distance from intersection, street gully pits and street tree plantings.
	A16.9 Shared driveways must be located a minimum of 10m from splitter islands associated with roundabouts.
	A16.10 Shared driveways are a minimum 0.5m from any drainage facilities on the kerb and gutter.
	A16.11 Shared driveways incorporate soft landscaped areas on either side at a minimum width of 1m, suitable for infiltration.
	A16.12 Waste collection from shared driveways is not permitted. A waste collection point is to be provided which:

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- Is directly adjacent to the shared driveway crossover on the local street.
- Is provided as a constructed bay.
- Is a minimum 1m deep and 5.5m wide and must have sufficient unobstructed kerbside frontage to service all dwellings accessed via the shared driveway. The kerbside frontage required per bin is 1m wide.



Figure 13: Shared Driveway Configuration

8.10 Shared Use Pathway Network

The specific objective are to:

- Ensure shared use pathways are part of a comprehensive and connected system which provides connections to the open space network and a variety of routes to destinations within and outside of the URA.
- Encourage residents to walk and ride to access their daily needs and services in the Village Centre.

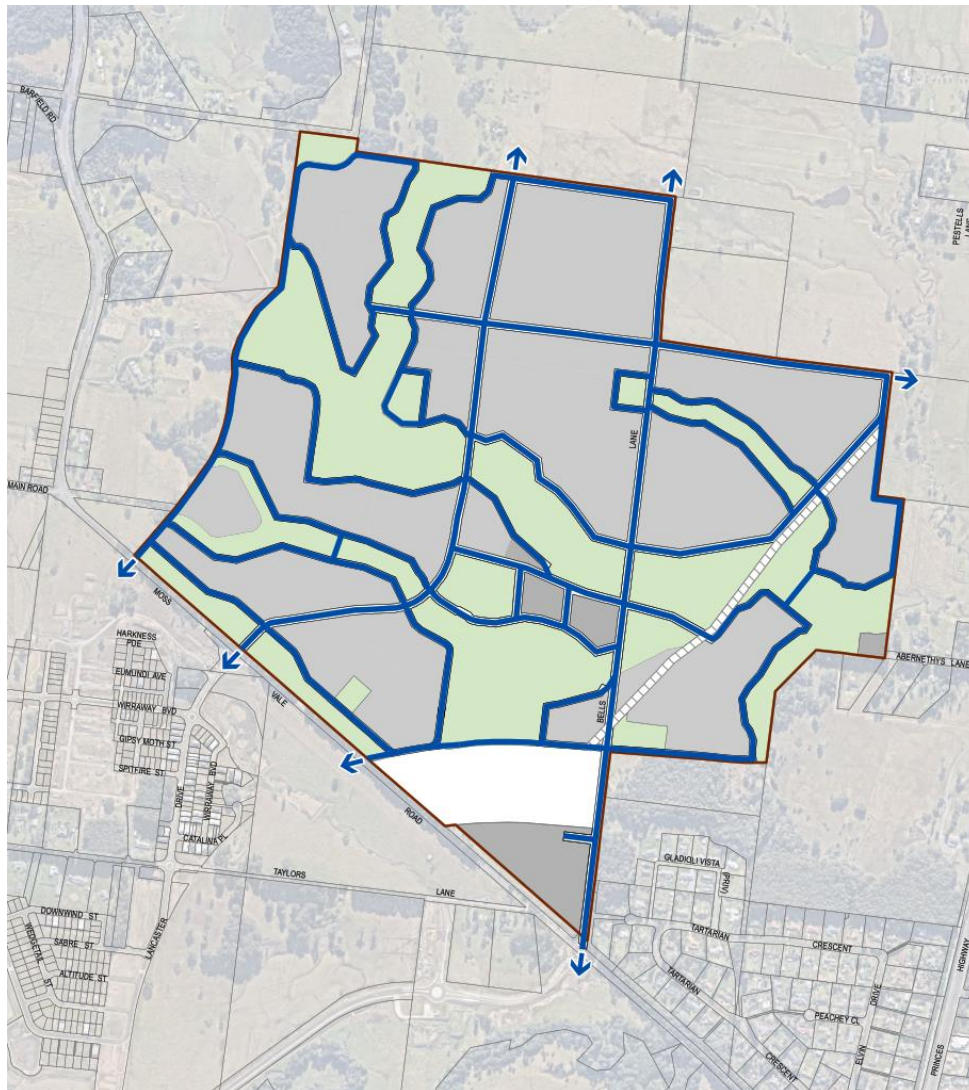
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Performance Criteria	Acceptable Solutions
P17.1 The shared use pathway network connects to and through the urban area and through to the Village Centre, as well as the riparian and open space networks in accordance with the ILP.	A17.1 Shared use pathways are predominantly located adjacent to the riparian corridor and the outskirts of the URA; adjoining the Collector Roads , Retail Streets and certain Local Streets; and have connections to Moss Vale Road and Local Streets in general accordance with Figure 14 .
P17.2 The shared use pathways are appropriately located to ensure the safety and comfort of users of all abilities.	A17.2 Shared use pathways are located within the verge, except where they traverse riparian corridors. Note: The location of shared use pathways in the verge is to avoid any water supply mains.
	A17.3 Shared use pathways are designed to achieve the following minimum width: <ul style="list-style-type: none"> • Within the verge (excl. Riparian Streets): 2m. • Within the verge (Riparian Streets): 2.5m. • Within the riparian corridors: 2.5-3m.
	A17.4 Shared use pathways, in relation to Riparian Streets, are to be located along the riparian edge and adjacent to the kerb (i.e., no vegetated strip between path and kerb).
	A17.5 Shared use pathways are to be constructed as per Chapter G11: Subdivision of Land.

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Legend

- Shared Use Pathway
- ➔ Potential Connections

Figure 14: Shared Use Pathway Network

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8.11 Subdivision Design

The specific **objectives** are to:

- i. Create an attractive urban environment to meet the changing needs of the community and offers a wide choice in good quality housing.
- ii. Create a mix of **lot** sizes to provide opportunity for a range of **dwelling** types and sizes to meet housing need.
- iii. Ensure all residential **lots** have a high level of amenity in terms of **solar access**, **views**, outlook and proximity to **public open space**.
- iv. Ensure subdivision layouts respond to the natural environment, topography, the escarpment, and rural **vistas**.
- v. Create a subdivision pattern that facilitates the efficient provision of infrastructure.
- vi. Enhance community interaction, outdoor activity, and positive health outcomes through the provision of attractive and functional streetscapes and public open spaces.

Mandatory Controls

Note: Refer to Clause 4.1H of **SLEP 2014** which sets out certain requirements for the subdivision of small **lots**.

- 1) Subdivision applications are to be accompanied by a Design Verification Statement in support of the application.

Note: Refer to the following guidelines by Heritage NSW as the relevant authority under the *National Parks and Wildlife Act 1974*:

- [Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW.](#)
- [Code of practice for archaeological investigation of Aboriginal objects in New South Wales.](#)
- [Aboriginal cultural heritage consultation requirements for proponents 2010.](#)

- 2) Lot widths are to be relative to the lot area as per **Table 6** below:

Table 6: Lot Width Requirements

Lot Type	Lot size (m ²)	Minimum Width (m)
Small	300 - 399	>8 and <12
	400 - 499	Equal to or >12 and <15
Standard	500-999	

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Large	1000+	In accordance with Chapter G11: Subdivision of Land
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- 3) Small **lots** must have varying **lot** widths. No more than three consecutive **lots** shall have the same **lot** width. A minimum variation of 10% of the adjacent **lot** width is required.
- 4) Street blocks are designed to enable permeability. The length and width of street blocks (excluding **road** verges) are as follows:
 - Small and standard **lot** areas are a maximum of 160m x 70m, particularly where rear lane access or shared driveways are located.
 - Large **lot** areas may have larger block sizes to accommodate specific topographic circumstances or rural transitions.
- 5) The subdivision layout is designed to optimise **solar access** to **dwellings**. In the case of certain forms of medium density housing and **zero lot line allotments**, preference will be given to an east-west **dwelling** orientation in order to maximise **solar access** along the longest **dwelling** elevation.
- 6) **Lots** less than 400m² must include a restriction as to user on a Section 88B instrument that restricts vehicular access from the primary **road** frontage.
- 7) **Battle-axe lots** are avoided unless the access handle provides rear access to small **lots**.
- 8) Subdivision applications are to be accompanied by a detailed Landscape Strategy.

Note: Refer to Section 8.7 of this Chapter for Landscape Strategy requirements.

Performance Criteria	Acceptable Solutions
<p>P18 Zero lot line developments are appropriately placed on small lots.</p> <p>Note: At the subdivision stage, a restriction is to be included on a Section 88B Instrument on lots with potential zero lot lines, and the adjacent burdened lot, to:</p> <ul style="list-style-type: none"> • Include a 900mm easement for ongoing maintenance and support of the zero lot line boundary wall. • Exclude Council from any dispute resolution process between the adjoining lots. • Restrict placement of overhanging eaves, gutters or services (rainwater tanks, air conditioning units, hot water units and the like) within the easement. 	<p>A18.1 The location of proposed zero lot lines in accordance with A25.1 and Figure 21 must be demonstrated on the subdivision plan.</p>

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P19	Corner allotments are designed to encourage safe vehicular and pedestrian movement.	A19.1	Corner lots shall allow for a minimum splay of 2m x 2m to allow for pedestrian and vehicular sight distance (except at the entrance to one-way rear lanes where splays are not required).
P20	Lot layout avoids rear boundaries fronting public spaces.	A20.1	Where residential development adjoins public spaces (excluding laneways) the subdivision design ensures the configuration of dwelling s or other residential accommodation uses to front the public space.
		A20.2	Where lots have a frontage to a riparian road rear lane access is encouraged to ensure a high degree of street activation.
		A20.3	Lots are orientated and aligned to encourage building design that has frontage to riparian corridors and open space.
P21	Subdivision layout enables significant views and vistas to be retained.	A21.1	The street layout enables view lines to be established to riparian corridors, open space and woodland areas within the URA, and to escarpment and pastoral landscapes beyond the URA as per Figure 15 .
		A21.2	The subdivision layout considers views into the URA from Moss Vale Road, Abernethys Lane, Bells Lane and other nominated viewpoints.

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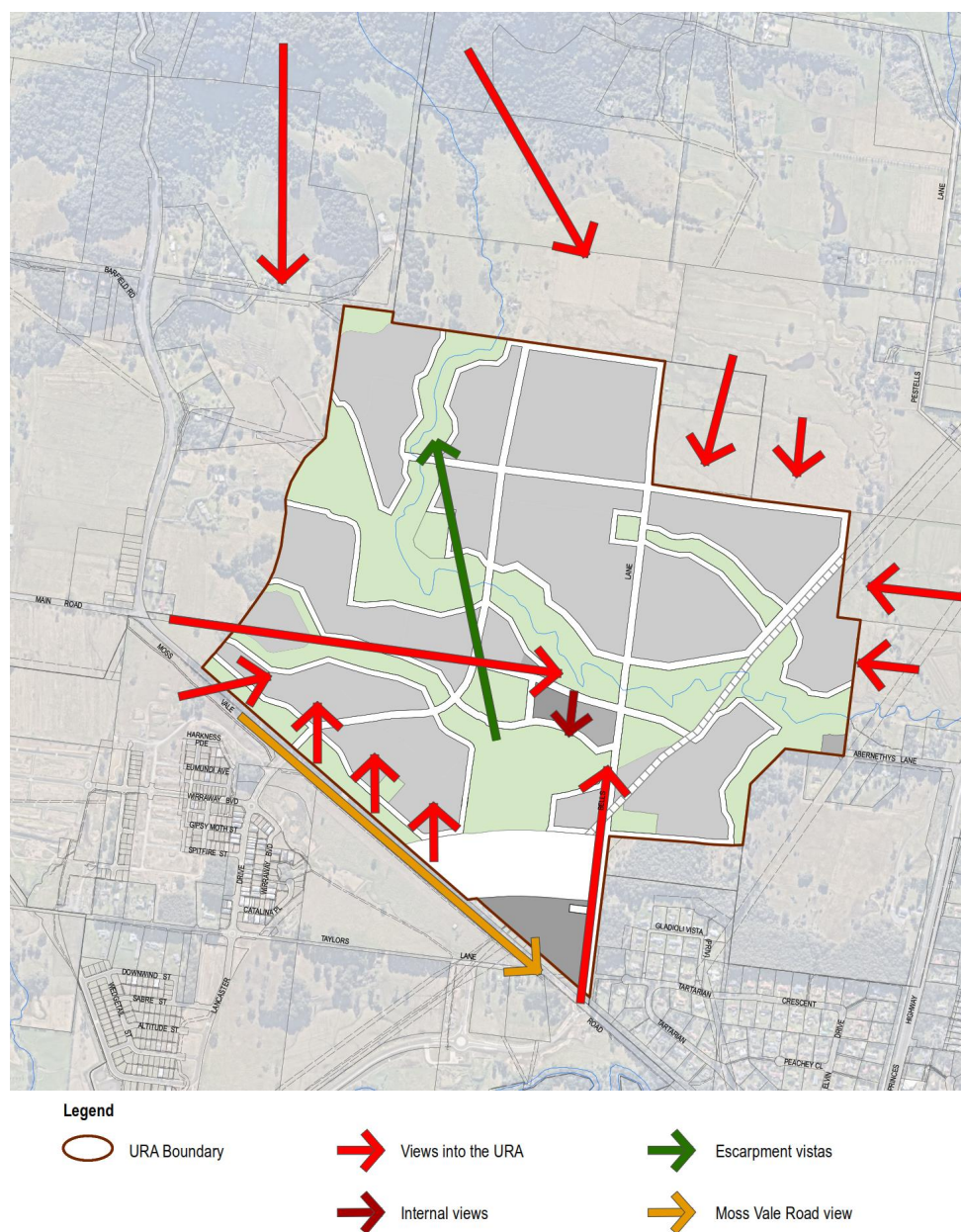


Figure 15: Significant Views and Vistas

CL24.220 - Attachment 1

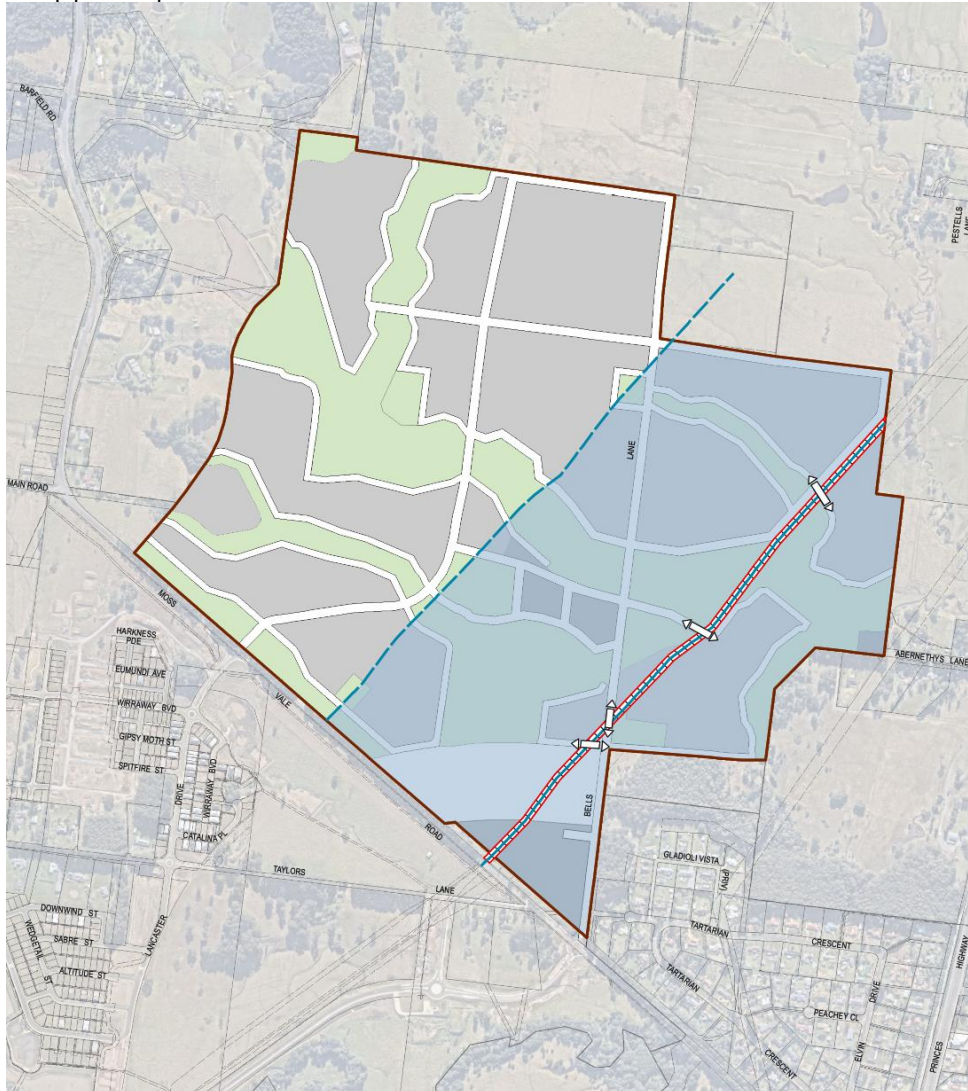
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9 Development in the Vicinity of the Eastern Gas Pipeline

The Eastern Gas Pipeline is a high-pressure natural gas pipeline supplying gas to a large portion of New South Wales (NSW), including the major demand centres of Sydney, Canberra and Wollongong, as well as regional centres including Nowra-Bomaderry. The pipeline has been constructed to a standard suitable for a residential area and is appropriately maintained by its operator, Jemena.

The pipeline spans from Victoria to NSW and crosses the MVRN URA as detailed in



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Legend






 Eastern Gas Pipeline Easement	 Pipe centreline	 Road Crossing
 Land in the URA within the 550m measurement length (the buffer area)	 550m measurement length (550m from the easement on either side)	

Figure 166. Construction activity and certain types of **development** in the vicinity of the pipeline must be considered in the assessment process to avoid impacts on the pipeline, such as potential damage or puncture, and to manage the potential risk of any failure of the pipeline.

A 550m buffer (measurement length) has been established from the pipeline to identify the area of the URA likely to be affected should the pipeline fail or be ruptured.

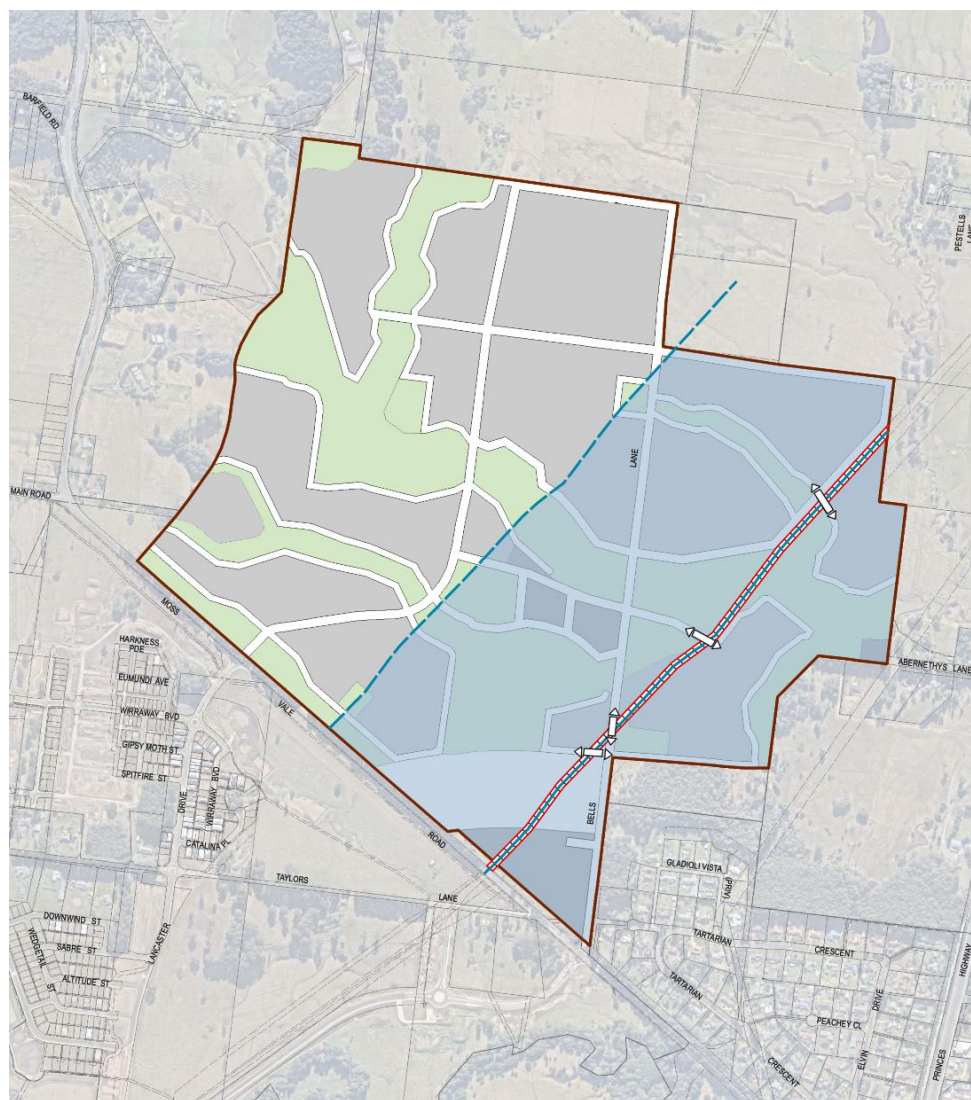
Note: As per the requirements of State Environmental Planning Policy (Infrastructure) 2007, **Council** will notify Jemena (the pipeline operator) of any development application adjacent to or within the pipeline corridor (i.e., the easement). Jemena's response will be taken into consideration as part of the assessment process.

The specific **objectives** of this Section are to:

- i. Ensure **development** does not impact on the Eastern Gas Pipeline.
- ii. Manage impacts to life, property and the environment.
- iii. Provide for the long-term safety and amenity of residents in the vicinity of the pipeline.

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Legend

- Eastern Gas Pipeline Easement
- Pipe centreline
- 550m measurement length (550m from the easement on either side)
- Land in the URA within the 550m measurement length (the buffer area)
- ◁ ▷ Road Crossing

Figure 16: Key Gas Pipeline Elements

CL24.220 - Attachment 1

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Mandatory Controls

- 1) Jemena must be consulted prior to lodging an application for:
- Any activity, **development** or works within the identified easement.
 - Subdivision stages adjacent to the pipeline and within the pipeline buffer area.
 - Early education and care facilities (e.g., childcare centres), medical centres and seniors housing developments within the pipeline buffer area.

Note: The Transport and Infrastructure SEPP 2021 mandates a referral to Jemena during the development application process, where a **development** is located in or adjacent to a pipeline corridor. Early consultation with Jemena is recommended.

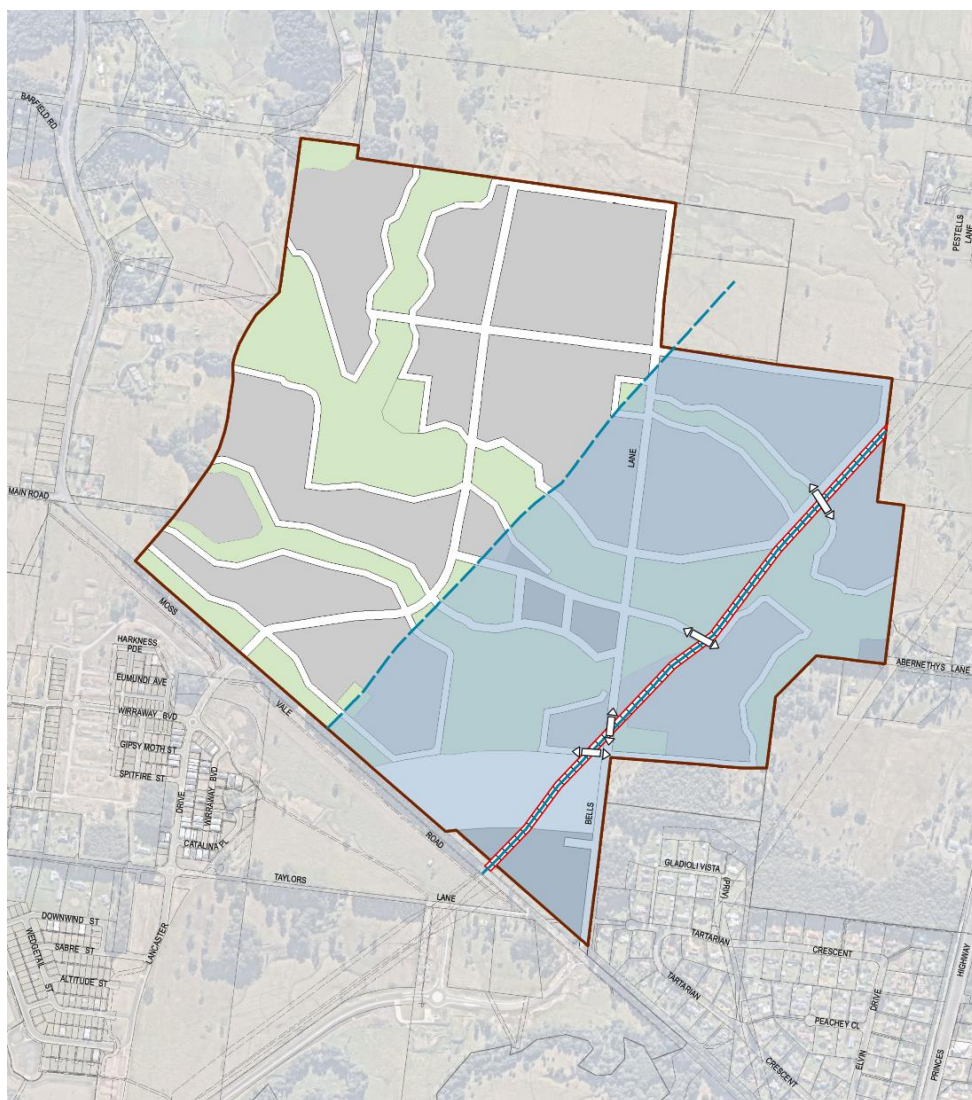
A development application must be supported by evidence (to **Council's** satisfaction) which demonstrates consultation with Jemena and provides the outcomes of that consultation.

Consultation with Jemena prior to lodging an application may also be required for other land uses deemed by **Council** or Jemena to be sensitive.

- 2) The minimum design and construction for utility crossings (trenched /trenchless installations), vertical drilling, road work maintenance, changes to surface levels and vehicle crossings in the vicinity of the Jemena Pipelines must comply with:
- AS2885: *Pipelines – Gas & Liquid Petroleum*.
 - Jemena's Guideline to Designing, Constructing and Operating Around Existing AS2885 Natural Gas Pipelines.
 - Locations of easement road crossings as per

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Legend

- Eastern Gas Pipeline Easement
- Pipe centreline
- 550m measurement length (550m from the easement on either side)
- Land in the URA within the 550m measurement length (the buffer area)
- 550m measurement length (550m from the easement on either side)
- ◁ ▷ Road Crossing

• Figure 16.

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- 3) A construction safety management study, developed in consultation with Jemena, must be prepared at the development application stage for:
 - Subdivision activities within the pipeline buffer.
 - Proposed road and utility crossings.
- 4) With the exception of specified crossings, **drainage** infrastructure (storage, conveyance and discharge) is not to be located in the pipeline easement.
- 5) Specified infrastructure (including road and utility crossings), **earthworks**, landscaping and other works within the pipeline easement will be subject to detailed review by Jemena and any subsequent conditions and requirements.
- 6) The subdivision of the pipeline easement is to be minimised.

Note: Dedication of land within the pipeline easement area will be required.

10 Desired Future Character Controls – Colours and Materials

With an aspiration to create an integrated character for the URA, this Section outlines desired colours and materials.

The specific **objectives** of this Section are to:

- i. Avoid the expansive use of any single material or blank walls through appropriate use of design, materials and **articulation**.
- ii. Utilise high quality and durable materials and finishes.
- iii. Ensure colours with native bushland tones are prioritised in public spaces.

Performance Criteria	Acceptable Solutions
P22 Building materials and colours allow for individual expression whilst: <ul style="list-style-type: none"> • Establishing a strong local character throughout the URA. • Being sympathetic to the surrounding rural landscape. • Ensuring integration within the streetscape, setting and functional elements of with Village Centre. • Avoiding the expansive use of any single material or blank walls. 	A22.1 The materials and colours respond to the existing native bushland context within and surrounding the URA. A22.2 Despite A22.1 , the colours of dwelling s with a rural interface are to be sympathetic, non-reflective and blend with the surrounding rural landscape. <div style="background-color: #f0f0f0; padding: 5px; margin: 5px 0;"> Note: White and bright colours are not acceptable at the rural interface. </div> A22.3 Detailing, signage , and material palette in the Village Centre is to reinforce the character of the Village Centre, whilst distinguishing and capitalising upon the natural and native bushland features in the vicinity.

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11 Village Centre Key Design Principles and Controls

Note: This Section should be read in conjunction with the following Chapters of this Development Control Plan:

- Chapter G13: Medium Density and Other Residential Development.
- Chapter G17: Business, Commercial and Retail Activities.

In the event of an inconsistency between a provision in this Section and a provision in a Generic Chapter of this [Development Control Plan](#), the provision in this Section will prevail to the extent of the inconsistency.

Section 12 of this Chapter applies to low density residential development.

Section 13 of this Chapter applies to medium density development.

Centrally located within the URA and with a line of sight from the initial approach from Moss Vale Road, the Village Centre will provide for local shopping, community facilities, services, [public open space](#), and medium density housing opportunities.

The Village Centre consists of the following key precincts (Error! Reference source not found.):

- **The Village Core**, the E1 Local Centre zoned land, with the greatest intensity of ground floor use and direct exposure to public space and Abernethys Lane, will provide day to day services, community opportunities, retail and [shop top housing](#). A supermarket, independent retail, parking, and a play space will benefit from north-south street access and vital exposure from the entry from Moss Vale Road across to the public [recreation area](#). Cafés/dining with outdoor dining opportunities will interface with (and provide passive surveillance to) public [recreation areas](#) and the public domain.
- **The Village Activation Precinct** – ‘frames’ the Village Core, spanning the north and south of Abernethys Lane and the retail streets fronting the Village Core. Development in this Precinct references medium density development providing an activated urban streetscape with a continuous, articulated built form to provide a focal entry into the Village. This could include live-work units, commercial offices, or health services as ground floor uses. [Development](#) then transitions to medium density or detached residential beyond the Abernethys Lane frontage and towards Bells Lane.
- **The Village Residential Precinct** preferences activated medium density residential [development](#) fronting the riparian corridor with a strong presence and interface at the corner of Bells Lane and Abernethys Lane.
- **The Village Park**, the RE1 Public Recreation zoned land directly to the west of the Village Centre Core provides active and passive recreational opportunities.

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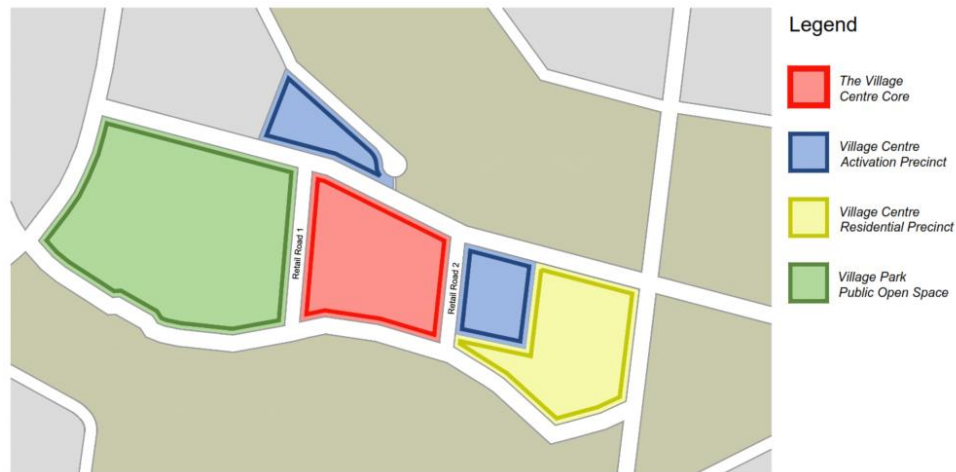


Figure 17: The Village Centre

The specific objectives are to:

- i. Ensure the development of the Village Centre facilitates and aligns with the efficient release of residential land and essential infrastructure.
- ii. Establish a highly desirable Village Centre, with high quality urban design, a subdivision pattern providing permeability, ground level activity associated with retail, café/outdoor seating, and commercial uses providing day to day local and independent/specialist retail, commercial and social experiences for residents and visitors.
- iii. Ensure the design of the Village Centre incorporates the NSW Government's Connecting with Country Framework as part of the design approach.
- iv. Deliver a high-quality and visually attractive public domain, which is legible, adaptable, generous, pedestrian scaled and oriented suitable for a variety of people, uses, events, weather, times of the day and weekly and seasonal cycles.
- v. Ensure a safe, accessible and convenient movement network with strong connectivity between residential areas, open space, riparian corridors and retail and service offerings prioritising pedestrians, cyclists, and public transport.
- vi. Create order, interest and sense of place in the public domain through a mix of unifying elements, punctuated by elements that are different at important public spaces and buildings.
- vii. Provide a street layout informed by natural features, terrain, and views, including a direct connection between the two riparian corridors through active transport links, marking the transition from the Village Centre into residential and open space areas.
- viii. Ensure that the type, distribution, and amount of retail floorspace will establish a specific and diverse mix of community-focused and interesting retail, fresh food, essential services, dining and cultural experiences which serve the needs of people who live and work in the surrounding area.

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- ix. Provide multi-functional spaces and places to enable the opportunity for temporary early activation and implementation, focusing on a sense of place with consideration of activation during day and night, weekday and weekends, season to season.
- x. Encourage co-location of uses such as community, recreation and health facilities to generate activity in and around the centre.
- xi. Provide a variety of medium- and higher-density residential opportunities, appropriate for a mixed-use village, to support and activate the Village Centre.
- xii. Ensure **buildings** are at a human **scale**, are responsive to and integrated with the street **scale** with **buildings** addressing the street frontage, and where the principle form defines and follows the boundary orientation.
- xiii. Create high quality, adaptable and an activated built form with active and defined frontages to key places and streets reinforcing a fine grain block pattern with limited setback boundaries and attractive street presentations to meet the diverse and changing needs of the community.
- xiv. Ensure development minimises impact on the amenity and character of the surrounding area whilst protecting and enhancing **views** towards the escarpment, riparian corridors and the public open spaces.
- xv. Embrace the native **bushland** character of the surrounds and integrate existing areas of **vegetation** into landscaped areas associated with the public domain, to connect residents, workers, and visitors with the natural environment and to soften the visual impact of the built form.
- xvi. Provide an exemplar of sustainable development through benchmark commitments, resilient design principles across the aesthetics and function of **buildings**, streetscapes, and public spaces and the integration of green infrastructure and smart technologies in the development of the public domain.

Mandatory Controls

- 1) A concept plan setting out proposals for the development of the Village Centre is required to be lodged with the first subdivision application relating to the Village Centre. The Concept Plan shall incorporate the Key Design Principles in this Section and shall outline:
 - a. Proposed urban structure and public domain elements, including proposed land uses.
 - b. Proposed dwelling yield and types.
 - c. Proposed road network and car parking arrangements.
 - d. Proposed pedestrian and cycle network.
 - e. Proposed staging of development.

	<p>Note: The Concept Plan for the Village Centre shall include all four key elements:</p> <ul style="list-style-type: none">• The Village Core• The Village Activation Precinct• The Village Residential Precinct
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	<ul style="list-style-type: none"> • The Village Park 1
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- 2) Subsequent detailed development applications in the Village Centre area are to be consistent with the approved concept plan and provide a detailed response to the **objectives** and key design principles in this Section.

11.1 Key Design Principle - Staging

Initial staging should consider the capacity and amenity of the Village Centre to be established in advance of the local residential population through destination retail, event and community spaces leveraging the distinguishing natural features of the site, particularly the open space network.

Whilst the character of the retail and services will expand over time from more leisure focused to day-to-day amenities, the critical sense of community and place benefits can be potentially realised much earlier through interim and temporary uses, less strictly reliant on precinct population growth.

The key Staging principles are to:

1. Ensure staging follows key access along Abernethys Lane and Bells Lane with medium density typologies along these routes in early staging to allow for stronger demand for product, services, and community **building**.
2. Identify areas suitable for early activation temporary uses, with a focus on future adaptability.
3. Demonstrate how pedestrian and cycle routes within the Village Centre connect to the active transport network.
4. Incorporate multipurpose elements in the Village Centre Core that avoid single purpose uses through generous ceiling heights (refer to **Section 11.3**), street access and minimum internal **scale**.

Note: Early stage community, hospitality and destination offerings fronting the **public open space** area and open space network would support the vitality of the setting and engage with the vision for place.

Possible interim uses could include (for example) outdoor cinema, **markets**, local exhibitions, maker spaces, men's shed and food vans.

Suitable road network provision/upgrades must be in place to support early activation temporary uses.

11.2 Key Design Principle - Land Use

A complementary mix of uses, built form and spaces are to provide flexibility for future adaptability, attract a diversity of activity, and promote an inclusive community. Activities should be mutually supportive to promote feasibility and enrich the Village Centre, for example, a **medical centre** and pharmacy or play space and café.

The key Land Use principles are to:

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1. Provide approximately 1,000–2,000m² of viable retail floor space in the Village Centre Core Area.
2. Ensure that the Village Centre Core is directly associated and provides a frontage to the public open space area.
3. Provide a diverse range of activities at street level to reinforce the vitality of the Village Centre Core and the public domain.
4. Maximise entries and display windows to shops and/or food and drink premises or other uses, customer service areas and activities which provide pedestrian interest and interaction.
5. Provide a supermarket with a minimum area of 800sqm, hidden from the street frontage by retail and commercial uses and accessible from the Abernathy's Lane or the Village Green frontages.
6. Locate at grade parking areas and service areas such as waste and loading, behind building lines and screened from streets and public open space.
7. Provide first floor (and above) residential land uses across the Village Centre area.
8. Promote outdoor dining on active commercial street frontages.

Note: Some land in the verge planting area could be utilised for this purpose, ensuring that planting remains a high priority. Opportunities for outdoor dining within front setback should also be considered.

11.3 Key Design Principle - Built Form

The built form should clearly define public and private spaces that are appropriate to the hierarchy, function, and character of the Village Centre. The form and fabric of buildings and public domain should create spaces with varied scales and proportions to support movement and place, and to capture the unique landscape setting.

The key Built Form principles are to:

1. Provide heights:
 - Up to 3 storeys in the Village Core, providing a transition to the public recreation area and public domain interface to minimise overshadowing.
 - That promote an intimate pedestrian and residential scale.
 - That promote a high level of articulated building frontage within the Village Core and the Village Activation Precinct.
 - Between two and three storeys in the Village Activation Precinct, with heights decreasing away from Abernethys Lane and the Village Residential Precinct towards Bells Lane.
2. Provide minimum ceiling heights of 3.3m for non-residential development.
3. Transition from a greater intensity of use in the west (the Village Core) to the east.

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4. Provide active frontages and setbacks consistent with **Figure 18** and **Figure 19**, ensuring that:
 - Shops/premises along an active frontage have an average width of 5m to 8m. Where wider frontages (>8m in width) are considered appropriate, they are to be limited to five wider frontages per 100m and are to be separated by at least one development with a frontage less than 8m.
 - Ground floor pedestrian entrances to shop top residential development are limited in width and/or accessed from alternate frontages, where possible.
 - Provide a minimum of 70% of the ground floor building frontage as transparent glazing with a predominantly unobstructed view from the adjacent footpath into the building.
5. Provide high level detail of the supermarket, including:
 - Anticipated size and development footprint of the supermarket.
 - Location of the entry.
 - Location of the separate at-grade parking area and servicing/loading area.
6. Provide a strong built form interface to the key intersection of Abernethys Lane and Bells Lane.
7. On corner sites, shop fronts are to wrap around the corner and highlight the corner location.
8. Provide an address to the public [recreation area](#) and open space network with [building](#) elements reinforcing the landform, dominant topography and 'gateway' into the Village Centre precinct.
9. Maximise opportunities for entries or display [windows](#) to non-residential land uses or other uses which provide pedestrian interest, social interaction, natural surveillance, and safety. Long and large areas of continuous walls are to be avoided.

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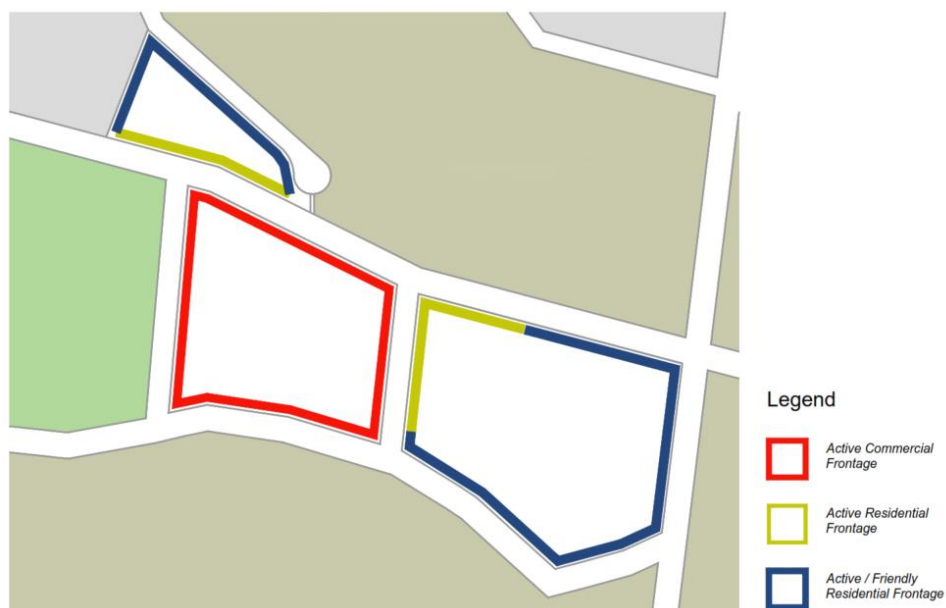


Figure 18: Active Frontages

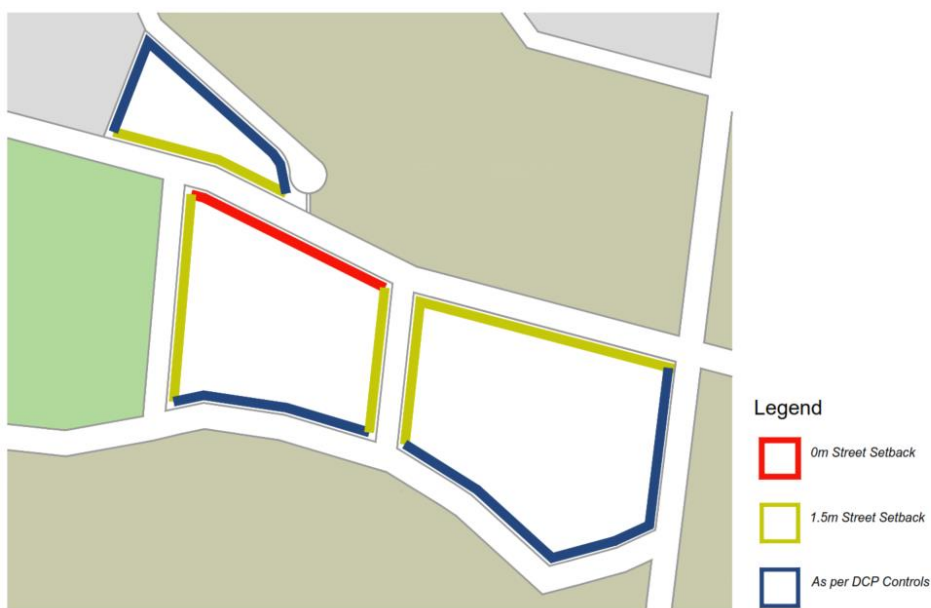


Figure 19: Ground Floor Setbacks

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11.4 Key Design Principle - Movement and Access

Movement and accessibility are critical to the centre's viability. Design of the Village Centre should create pedestrian dominated environments with strong connectivity between commercial uses, residential areas and open space. This connectivity and permeability supports community interaction and place activation, further enhanced with focus on multi-modal transport and accommodating evolving sustainable modes.

The key Movement and Access principles are to:

1. Comply with the street network/hierarchy and shared use pathway network requirements in this Chapter.
2. Provide rear lane access to residential development (including [basements](#)) and shared parking areas.
3. Establish safe and accessible [road](#) crossing locations to ensure connectivity and walkability (**Figure 20**).
4. Ensure onsite parking does not compromise envisaged setbacks, ability to activate key frontages, or the character of the Village Centre. A centralised [car park](#)/parking court accessed from Retail Street 2 is encouraged and could accommodate up to 50 [parking spaces](#) for private development. Dedicated parking areas will be required on the development site of specific uses such as the supermarket, as well as any childcare and [medical centres](#) (for example).

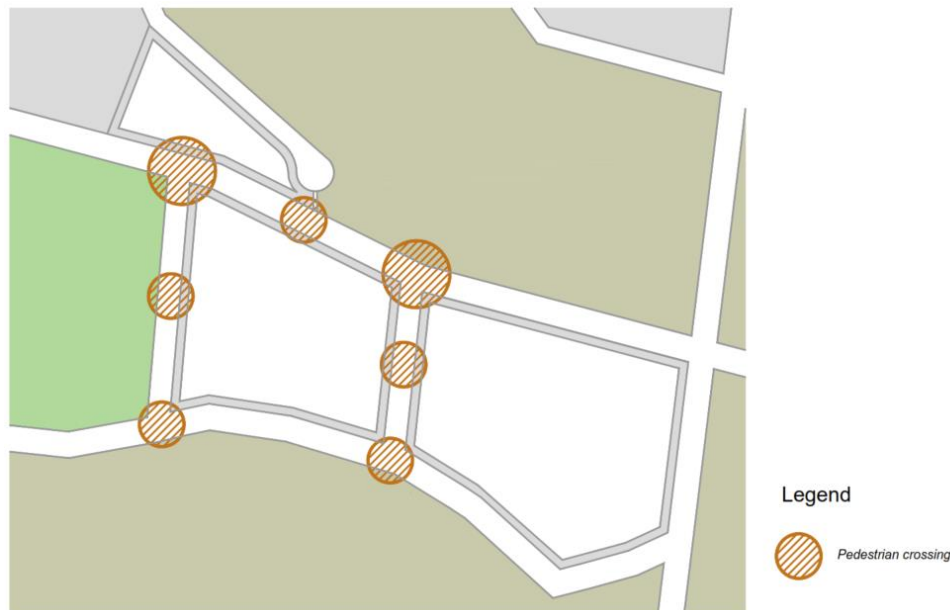


Figure 20: Village Centre Pedestrian Connections

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11.5 Key Design Principle - Public Domain

To reinforce the natural character of the Moss Vale Road North URA, the Village Centre will address the open space networks and riparian **bushland**, and retain **views** to the Escarpment, to provide a backdrop and sense of place and space.

The character of the public domain supports the unique identity for the community, drawing the sense of the wider **bushland** landscapes into the heart of the Village Centre. This ensures that development contributes to the character of Moss Vale Road North URA as a whole and supports and promotes a socially and ecologically resilient public domain.

The key Public Domain principles are to:

1. Retain existing **trees** wherever possible, particularly in open space areas.
2. Spaces between **buildings** are seen as positive open spaces and should receive the same amount of design care as the built form and street frontage public domain.
3. Preference deciduous **trees** on east-west streets.
4. Establish an indicative colour and material palette that responds to the existing native **bushland** context within and surrounding the URA.
5. Establish strong passive surveillance to the open space network, riparian corridor, and other public areas.
6. Ensure lighting is sensitive to the location especially at the interface between retail and residential uses.
7. Seamlessly incorporate public domain elements into front setback areas.
8. Respond to the **scale**, **views** and **vistas** from entry points to and within the Village Centre to the open space network and riparian areas.
9. Incorporate public art into the public domain. Concept locations are to be identified to ensure early consideration and integration into the public domain.
10. Incorporate smart technologies in the public domain.
11. Provide street electric charging facilities.
12. Ensure a consistent use of street furniture throughout the public domain

12 Low Density Residential Development Controls

This Section applies to all low-density residential development in the URA. Low density residential development includes **dwelling** houses, **secondary dwellings** and ancillary **structures**.

Note: This Section should be read in conjunction with Chapter G12: Dwelling Houses and Other Low Density Residential Development of this Development Control Plan. In the event of an inconsistency between a provision in this Section and a provision in a Chapter G12, the provision in this Section will prevail to the extent of the inconsistency.

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Section 11 of this Chapter also applies to development in the Village Centre area.

The specific **objectives** of this Section are to:

- i. Provide a mix of densities to cater for the various housing needs of a range of different demographic groups.
- ii. Encourage residential development that will contribute to the amenity and streetscape character of the area.
- iii. Encourage innovative design with a high level of water and energy efficiency.
- iv. Encourage the delivery of small housing products that contribute to **affordable housing**.

Performance Criteria	Acceptable Solutions
P23 The design of residential development contributes to the character and amenity of the URA and each dwelling.	<p>A23.1 Dwellings are designed in accordance with the relevant controls in Table 7.</p> <p>A23.2 Dwellings are designed and located to manage potential traffic noise from Moss Vale Road.</p>
P24 Dwellings appropriately address the primary street frontage.	<p>A24.1 The primary street façade of a dwelling must incorporate at least two of the following design features as part of the articulation zone:</p> <ul style="list-style-type: none"> • Open verandah or porch. • Awnings over windows. • Balcony treatment to first floor elements. • Recessing or projecting architectural elements. • Bay windows or similar features. • Pergolas or similar features above garage doors. <p>A24.2 Dwellings with dual road frontage (corner lots and rear loaded lots):</p> <ul style="list-style-type: none"> • Must address both the primary and secondary road frontage. • The secondary road frontage must incorporate at least two of the design features mentioned in A24.1. • Landscaping in the front setback should continue around the secondary setback to the depth of the transition zone.

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- On corner lots, carports and garages must be located and accessed from the secondary road frontage.
- On rear loaded lots, carports and garages must be located and accessed from the laneway or shared driveway.

P25 Zero lot line developments provide adequate solar access and amenity to neighbouring residences.

A25.1 The location of zero lot lines are based on orientation and topography. The zero lot line should be located on the:

- Most southern side of the lot (refer to Figure 21) to maximise solar access, and
- Low side of the lot to minimise water penetration and termite issues.

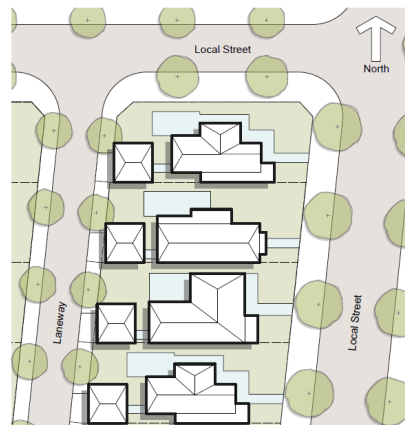


Figure 21: Location of Zero Lot Lines

A25.2 Dwellings built to the zero lot line are single storey.

Note: Zero lot lines are not permitted where an easement to drain sewage is within the side setback.

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		<p>A25.3 The external zero lot line wall shall be constructed no more than 250mm from the property boundary.</p> <p>A25.4 Gutter and drainage services must be wholly contained within the allotment.</p> <p>A25.5 A boundary fence shall not be constructed adjacent to the zero lot line wall.</p> <p>A25.6 Zero lot boundary wall finishes consider the character of the development on the neighbouring property which exists at the time of the DA.</p> <p>A25.7 Zero lot boundary walls built to the side or rear boundary must not exceed a maximum height of 3.5 metres above existing ground level unless the wall:</p> <ul style="list-style-type: none"> • Abuts another higher existing or simultaneously constructed wall, in which case the wall must not be higher than the boundary wall on the adjoining lot, or • Abuts a side or rear lane, in which case the maximum height is 5.5 metres.
P26	Parking and access is to be functional and contribute to streetscape and laneway amenity.	<p>A26.1 On-site car parking is provided in accordance with Chapter G21: Car Parking and Traffic.</p> <p>A26.2 Carports and garages are to complement the dwelling design.</p> <p>A26.3 Where garages are provided in rear laneways:</p> <ul style="list-style-type: none"> • Minimum garage doorway widths shall be 2.4m (single) and 4.8m (double). • Garage location is based on the orientation of the allotment (refer to Figure 22), so as to improve solar access to the rear yard. • General vehicular access is to occur from the laneway. • Vehicle crossings are not to exceed 4.8m in width. <p>A26.4 Triple fronted garages are not permitted</p>

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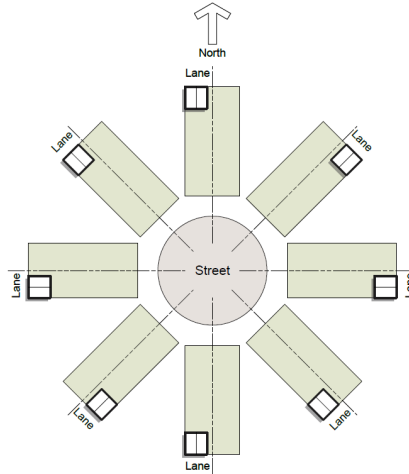


Figure 22: Garage Location Principles

P27 Development on corner lots contribute to streetscape character.	A27.1 Walls facing the secondary frontage (corner lots) shall have an active frontage for at least 4m back from the front building line of the dwelling (i.e., the transition zone) with a maximum continuous a wall length of 6m.
P28 Dwellings are designed to maximise energy efficiency.	A28.1 Dwellings and private open space are sited as per the orientation of the dwelling (refer to Figure 23). A28.2 Dwellings on lots less than 400m ² in area are single storey, unless proposed as Integrated Housing with two or more dwellings.

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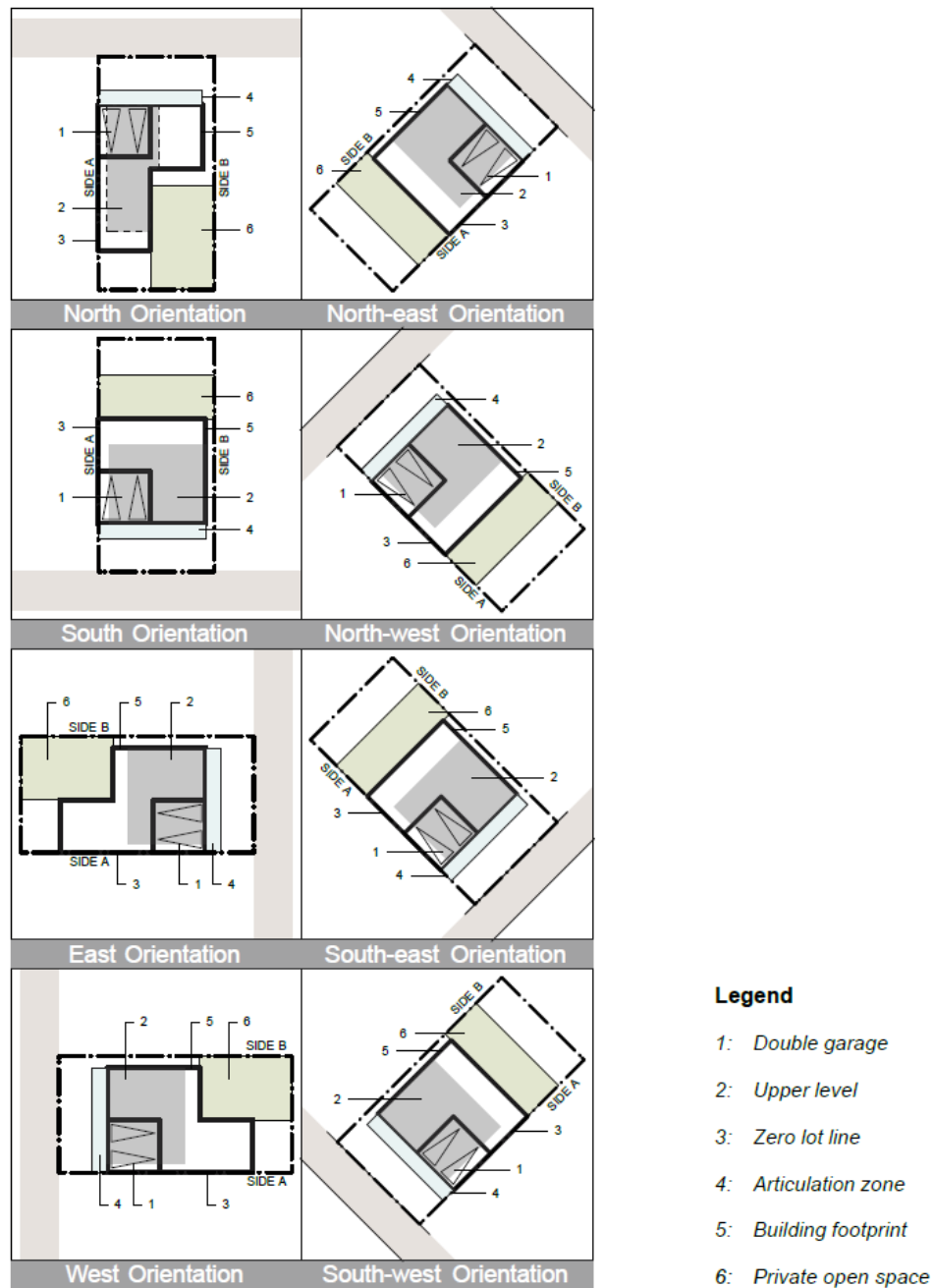


Figure 23: Dwelling Configuration Based on Orientation

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Table 7: Key Development Controls for Low Density Residential Development
Built Form Controls Continued

Built Form Controls - Lot width (measured at front setback line)				
Control	>8m to <12m	>12m to <15m	>15m to <18m	>18m (Large Lot)
Maximum Gross Floor Area (GFA) (excluding garage floor space)	50% of lot area attached boundary (Side A*): 0m Detached boundary (Side B*): 0.9m	Ground floor (single storey) – 50% of lot area attached boundary (Side A*): 0m Ground floor (double storey) – 40% of lot area detached boundary (Side B*): 0.9m	Ground floor (single storey) – 50% of lot area Side A: 0.9m Ground floor (double storey) – 40% of lot area Side A: 1.5m Side B: 0.9m	Ground floor (single storey) – 50% of lot area Side A: 1.5m Ground floor (double storey) – 40% of lot area Side A: 3m Side B: 1.5m
Minimum side setback (upper level)	N/A	Side A: 1.5m Side B: 0.9m	Side A: 1.5m Side B: 0.9m	Side A: 3m Side B: 1.5m
Minimum rear setback (single storey)	3m	50% of ground floor GFA	Upper level – 50% of ground floor GFA	6m Upper level – 50% of ground floor GFA
Minimum rear setback (double storey)	N/A	6m	6m	6m
Front setback – refer to Figure 24 Secondary street side Note: Minimum front setbacks must not encroach into an easement to drain sewage.	3.5m to building facade front setback; 2.5m to articulation zone.	3.5m to building facade front setback; 2.5m to articulation zone.	4m to building facade front setback; 3m to articulation zone.	5m to building facade front setback; 4m to articulation zone.
Minimum front garage setback – refer to Figure 24	N/A	6m	6m	6m
Minimum front setback – refer to Figure 24	3m	6m	6m	6m

Primary Frontage

Secondary Frontage

Primary Frontage

Secondary Frontage

Figure 24: Location of Setbacks (Standard and Corner Lots)

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Front and Side Garages				
Control	>8m to <12m	>12m to <15m	>15m to <18m	>18m (Large Lot)
Maximum garage door width	N/A	Double – 6m	Up to 50% of the façade width or a maximum of 7.2m, whichever is the lesser	Up to 50% of the façade width or a maximum of 7.2m, whichever is the lesser
Maximum driveway width (at front property boundary)	N/A	3m (single)	4.8m	4.8m
Maximum garage door width (access from secondary road only – corner lots)	N/A	7.2m	7.2m	7.2m
Rear Garages – small lots only				
Control	>8m to <12m	>12m to <15m	>15m to <18m	>18m (Large Lot)
Minimum side setback	0m on one side (as per Figure 22) for a maximum length of 6.5m. Other side 0.9m.	0m on one side (as per Figure 22) for a maximum length of 6.5m. Other side 0.9m.	N/A	N/A
Minimum rear garage setback (to lane)	0m	0m	N/A	N/A
Landscape controls				
Control	>8m to <12m	>12m to <15m	>15m to <18m	>18m (Large Lot)
Landscaped area (min. 1.5m wide)	50% of lot area minus 100m ²	50% of lot area minus 100m ²	50% of lot area minus 100m ²	50% of lot area minus 100m ²
Landscaped area within front setback (min. 1.5m wide)	75% of area of the front setback (excluding articulation elements)	50% of area of the front setback (excluding articulation elements)	50% of area of the front setback (excluding articulation elements)	50% of area of the front setback (excluding articulation elements)
Provision of tree planting	Tree to front garden (min.3-5m mature height) Tree to rear garden (min. 8-10m mature height)			

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Amenity controls				
Control	>8m to <12m	>12m to <15m	>15m to <18m	>18m (Large Lot)
Window, doors and other openings	No windows, doors or other openings in any wall that is less than 900mm from the boundary.		N/A	N/A
Minimum ceiling heights*	Habitable rooms – 2.7m. Habitable attics – 2.4m for at least two-thirds of the floor area of the room			
* When calculating the area of a room in an attic, any part where the ceiling height is less than 1.8m is not included for the purposes of calculating gross floor area. For alterations and additions, existing ceiling heights can be retained.				
Maximum depth of habitable room from a primary window	6m			

13 Medium Density Residential Development Controls

Note: This Section should be read in conjunction with Chapter G13: Medium Density and Other Residential Development of this Development Control Plan. In the event of an inconsistency between a provision in this Section and a provision in a Chapter G13, the provision in this Section will prevail to the extent of the inconsistency.

Section 11 of this Chapter also applies to development in the Village Centre area.

Whilst medium density development is permissible in varying forms across the Moss Vale Road North URA, this form of development is ideally suited to land in and within 400m of the Village Centre (including the Village Centre Activation Precinct), areas of high amenity adjacent to the riparian corridors/open space areas and areas adjacent to certain **collector roads**.

Medium density development may include (not exclusively) **dual occupancy**, **multi dwelling housing**, **multi dwelling housing (terraces)**, **attached dwellings**, **semi-detached dwellings**, **manor houses**, **integrated housing development**, **residential flat buildings** and **shop top housing**.

The specific **objectives** are to:

- Locate higher density housing in the URA within the Village Centre, the Village Centre Activation Precincts, and in close proximity to **public open space** areas, **collector roads** and public transport networks.
- Provide a mix of **dwelling** sizes and typologies to cater for the various housing needs of a range of different demographic groups.
- Ensure that the bulk and **scale** of new **development** is compatible with the envisaged character of the area.

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Performance Criteria	Acceptable Solutions
<p>P29.1 The design of residential development contributes to the character, safety and amenity of the URA, including the Village Centre.</p> <p>P29.2 Landscaping contributes to the public domain by providing opportunities for trees and substantial areas of decorative planting within the front setback.</p>	<p>A29.1 Medium density development is designed in accordance with the relevant controls in Table 8.</p> <p>A29.2 Table 8.</p> <p>A29.3 Dwellings are designed and located to manage potential traffic noise from Moss Vale Road.</p> <p>Note: A shadow diagram may be required to demonstrate compliance with solar access requirements, including the location of adjacent buildings affected by shadow as well as the location of its living areas, private open space areas and any solar collectors (existing or likely future). In determining the extent of overshadowing, the impact of fences, roof overhangs and changes in level should be taken into consideration.</p>
<p>P30 In areas outside of the Village Centre Core, the built form contributes to a low-medium scale character, with levels above two storeys appearing hidden when viewed from the public domain or neighbouring sites.</p>	<p>A30.1 Any third level beyond the Village Centre Core is designed to minimise the visibility of that level when viewed at a pedestrian scale from the public domain or neighbouring sites.</p> <p>Note: There are many ways to 'hide' the third level, including (not exclusively) parapets, utilisation of attic space, generous setbacks and structures that are angled back towards the rear of the dwelling/building.</p>
<p>P31 Dwellings with a primary street frontage appropriately address that frontage.</p>	<p>A31.1 Dwellings in the Village Centre are sited to face all street frontages, with visible front entries and habitable rooms fronting the street, particularly at ground level.</p> <p>A31.2 The façade of a dwelling adjacent to a street frontage referred to in A31.1 must incorporate at least two of the following design features as part of the articulation zone:</p> <ul style="list-style-type: none"> • Open verandah or porch. • Awnings over windows. • Balcony treatment to first floor elements. • Recessing or projecting architectural elements. • Bay windows or similar features.

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	<ul style="list-style-type: none"> Pergolas or similar features above garage doors.
P32 Parking and access is functional and contributes to streetscape and laneway amenity.	<p>A32.1 On-site car parking is provided in accordance with Chapter G21: Car Parking and Traffic.</p> <p>A32.2 Co-joining of double garages (i.e., a double garage for one dwelling joined with a double garage for another dwelling) is not supported unless:</p> <ul style="list-style-type: none"> One double garage is offset from the other by at least 1m. The garages adjoin a rear laneway. <p>A32.3 Triple fronted garages are not permitted.</p> <p>A32.4 Where garages are provided in rear laneways:</p> <ul style="list-style-type: none"> Minimum garage doorway widths are 2.4m (single) and 4.8m (double). Garage location is based on the orientation of the allotment so as to improve solar access to the rear yard. General vehicular access is to occur from the laneway. Vehicle crossings are not to exceed 4.8m wide.

Table 8: Key Development Controls for Medium Density Development

Control Type	Control		
Maximum Floor Space Ratio (FSR)	Outside of Village Centre	Within the Village Centre	Land Use
	0.6:1	0.8:1	<ul style="list-style-type: none"> Dual occupancy. Semi-detached dwellings. Integrated housing development.
	0.7:1	1:1	<ul style="list-style-type: none"> Multi dwelling housing. Multi dwelling housing (terraces). Manor houses.

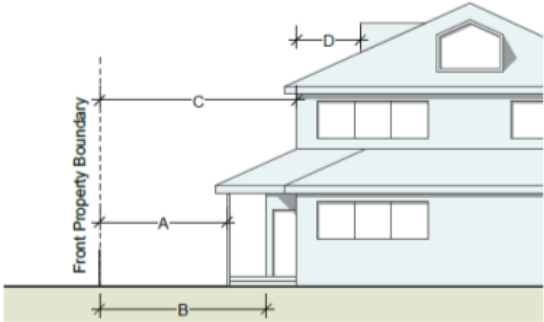
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	Not encouraged	1.25:1	<ul style="list-style-type: none">• Attached dwellings.• Shop top housing.• Residential apartment buildings.
Height	1 to 3 storeys. Dwellings beyond the Village Centre Core must present as up to two storeys, with any third level recessed (refer to A30.1 and the setback and building envelope provisions below).		
Setbacks (in the Village Centre Core)	Minimum Setbacks in Section 11 of this Chapter, at all levels. Articulation and varied setbacks are encouraged in the design to promote interest.		
Setbacks (beyond the Village Centre Core)	Setbacks in Section 11 of this Chapter prevail to the extent of any inconsistency.		
Note: Vehicular access to medium density residential development in the Village Centre Activation Precinct is to be via a rear lane. No garages are to be accessed via the primary or secondary frontage.			
	Setback	In the Village Centre Activation Precinct	All other areas
	Front Setback <i>Primary frontage</i>	Ground level: <ul style="list-style-type: none">• 1.5m to articulation zone.• 3m to dwelling.	Ground level: <ul style="list-style-type: none">• 3.5m to articulation zone.• 5m to dwelling.• 6m to the garage.
		Second level: A further 1m from the dwelling setback at the ground level. Third level: As required from the setback at the second level to minimise the visibility of that level as per A30.1 . Refer to Figure 25 .	
	Front Setback <i>Secondary frontage</i>	Ground level: <ul style="list-style-type: none">• 1.5m to articulation zone.• 3m to dwelling.	Ground level: <ul style="list-style-type: none">• 3m to dwellings (including any articulation features).• 5.5m to the garage.
		Second level: A further 1m from the setback at the ground level.	

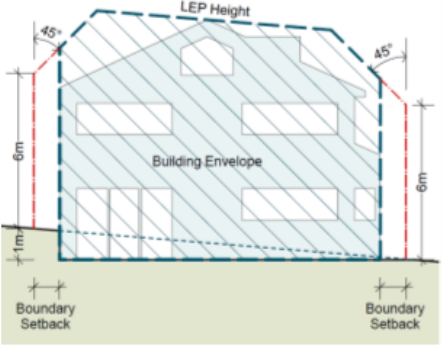
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	<table border="1"> <tr> <td data-bbox="675 360 882 472"></td><td data-bbox="882 360 1276 472">Third level: As required from the setback at the second level to minimise the visibility of that level as per A30.1. Refer to Figure 25.</td></tr> <tr> <td data-bbox="675 472 882 566">Rear setback <i>Including to public reserve</i></td><td data-bbox="882 472 1276 566">0m to garages opening to a laneway. 3m (average) to dwellings, with minimum setback of 900mm.</td></tr> </table> <div data-bbox="675 566 1276 1189">  <p data-bbox="683 943 981 1099"> A: Minimum of 3.5m B: Minimum of 5m C: Setback at $B + 1m$ D: As required from the setback at the second level to minimise the visibility of that level </p> <p data-bbox="715 1122 1238 1144">Figure 25: Front Setbacks for Medium Density Development</p> </div>		Third level: As required from the setback at the second level to minimise the visibility of that level as per A30.1 . Refer to Figure 25 .	Rear setback <i>Including to public reserve</i>	0m to garages opening to a laneway. 3m (average) to dwellings, with minimum setback of 900mm.
	Third level: As required from the setback at the second level to minimise the visibility of that level as per A30.1 . Refer to Figure 25 .				
Rear setback <i>Including to public reserve</i>	0m to garages opening to a laneway. 3m (average) to dwellings, with minimum setback of 900mm.				
Cumulative impacts	<p>The design of a medium density development is to be different to other medium density development in the vicinity to provide visual interest and avoid repetition in the streetscape.</p> <p>Despite Chapter G13 of this Development Control Plan, more than three (3) consecutive medium density developments may be considered within a street in the Village Centre and the small lot residential areas.</p>				
Building envelope Note: 1. Exemptions to building envelope encroachments include gutter, fascias, downpipes, eaves up to 0.6m, aerials and masonry chimneys.	<p>Buildings beyond the Village Centre are sited within a building envelope determined by the following method: planes are projected at 45 degrees from a height of 6m above ground level (existing) at the side and rear boundary. See Figure 26.</p>				

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<p>2. For site slopes greater than 10%, or involving cut, fill or site excavations, the ground level (existing) and proposed building levels must be clearly identified on the plans and verified by a registered surveyor.</p>	 <p style="text-align: center;">Figure 26: Building Envelope</p>
<p>Landscaping</p> <p>Note: Refer to the Moss Vale Road North Species List [link] for appropriate hedge species.</p>	<p>Each dwelling with a primary street frontage provides a tree to the front garden (min.3-5m mature height).</p> <p>A tree to the rear/side garden of all dwellings is provided (min.3-5m mature height).</p> <p>Hedge planting along front fences is encouraged.</p>
<p>Private open space for dwellings with a ground floor component</p> <p>Note: This provision does not apply to dual occupancy development or dwellings without a ground floor component. Refer to Chapter G13 for relevant provisions.</p> <p>Refer to the Apartment Design Guide for private open space requirements for apartments.</p>	<p>A minimum area of 24m² shall be provided for each dwelling in medium density development proposing two or more dwellings.</p> <p>Private open space is not to be located forward of the building line.</p>
<p>Minimum ceiling heights</p> <p>Note: When calculating the area of a room in an attic, any part where the ceiling height is less than 1.8m is not included for the purposes of calculating gross floor area. For alterations and additions, existing ceiling heights can be retained.</p>	<p>Non-habitable rooms – 2.4m.</p> <p>Habitable rooms – 2.7m.</p> <p>Habitable attics – 2.4m for at least two-thirds of the floor area of the room.</p>
<p>Maximum depth of a habitable room from a window</p>	<p>6m</p>

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14 Advisory Information

14.1 Information required with subdivision applications

14.1.1 Subdivision Plans

Must demonstrate the location of proposed or potential zero-allotments.

14.1.2 Staging Plans & Infrastructure Delivery

All subdivision applications must demonstrate consistency with the key development outcomes and generally in accordance with **Figure 4** in this Chapter. Staging plans must identify the indicative dwelling yield and provision of infrastructure to be delivered for that stage of the development.

14.1.3 Local Centre Concept Plan

A concept plan is to be submitted for the entire Village Centre area as part of the any development application for any part of the Village Centre precinct. The concept plan must respond to the objectives and key design principles in **Section 11** of this Chapter.

14.1.4 Design Verification Statement (DVS)

A DVS is a document that provides clear and sound reasoning on how the proposed development meets the relevant objectives, mandatory controls, performance criteria and acceptable solutions of this Chapter.

The DVS must include, but is not limited to:

- A description of the proposed development (except for where the DVS is contained within a Statement of Environmental Effects).
- A robust explanation of the design of the subdivision and how it meets the individual key development outcomes (refer to **Section 6** of this Chapter).
- Identify and justify any variations to the ILP.

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14.2 Other legislation you may need to check

Council Policies & Guidelines	<ul style="list-style-type: none"> • Moss Vale Road North Species List [link] • Shoalhaven Contributions Plan 2019 • Shoalhaven Weed Management • Planning Agreement Policy
External Policies & Guidelines	<ul style="list-style-type: none"> • Aboriginal cultural heritage consultation requirements for proponents 2010 • Apartment Design Guide • AS2885: Pipelines – Gas & Liquid Petroleum • Building Code of Australia • Code of practice for archaeological investigation of Aboriginal objects in New South Wales • Connecting with Country Framework • Guide to Codes and Practices for Streets Opening • Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW • Jemena's Guideline to Designing, Constructing and Operating Around Existing As2885 Natural Gas Pipelines • NSW Department of Primary Industries Council and Developer Toolkit • NSW Rural Fire Service Planning for Bushfire Protection 2019 • Planning Circular PS 18-010 Development adjacent to high pressure pipelines transporting dangerous goods • Relevant Australia Standards • Telecommunications in New Developments Policy • Transport for NSW's Guidelines for Bus Capable Infrastructure in Greenfield Sites
Legislation	<ul style="list-style-type: none"> • <i>Biodiversity Conservation Act 2016</i> • <i>Environmental Planning and Assessment Act 1979</i> • Shoalhaven Local Environmental Plan 2014 • State Environmental Planning Policy (Infrastructure) 2007 • <i>Water Management Act 2000</i>

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

Summary

Council is responsible for planning and coordinating the delivery of local infrastructure to support new development. Local infrastructure can include local roads, footpaths and cycleways, open space, parks and playgrounds, sporting facilities, community buildings such as libraries, arts and performance space, and meeting spaces, halls and other venues.

The Moss Vale Road North Urban Release Area is anticipated to deliver between 2,000 and 2,500 new homes housing a new community of between 4,600 and 5,750 people. The delivery of the release area relies on the early delivery of physical infrastructure such as roads and drainage. This not only enable development to occur by providing access to the release area, but it manages the impacts of development on water quality and flood risk downstream of the release area.

The future community needs to be supported with road and path connections to existing networks and have access to a range of community facilities and open space such as parks, playgrounds, and sporting facilities. A flood evacuation route is also required to ensure everyday business and activities aren't interrupted by flooding events.

To add to the natural amenity and biodiversity resources of the release area, the natural areas along existing creek lines need to be restored and maintained. The existing trees and other vegetation along Moss Vale Road also have an important role in maintaining scenic values. It too needs to be enhanced and maintained.

This document identifies the local infrastructure essential to enable the delivery of the release area and support the future community with necessary facilities. It also identifies the indicative cost of this infrastructure and the current challenges in securing sufficient funding. It concludes by examining a range of options to deliver the infrastructure before recommending a solution to ensure the full range of local infrastructure is provided.

Other funding initiatives, including Federal and State Government grants and loans may also become available as the release area is delivered. These may supplement the recommended solution helping to reduce the overall infrastructure cost and/or accelerate the delivery of enabling infrastructure.

The Release Area's Infrastructure Requirements

An evidence base of technical studies, concept designs and costings, and land valuations have been used to identify the proposed local infrastructure contributions framework. Flood modelling was also undertaken to identify the flood evacuation route and confirm the drainage infrastructure manages run-off to the required level.

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

The following infrastructure has been identified as essential to enable the delivery of the release area and support the future community.

- Roads, roundabouts, and bridges to connect the preliminary development stages of the release area to the existing road network and provide the initial lengths of the network of Collector Roads within the release area. The network also provides the main flood evacuation route to which all minor roads will connect.
- Drainage infrastructure such as wetlands, detention basins and pollutant traps to maintain water quality and the rate and volume of run-off to ensure there are no adverse impacts on flooding downstream of the release area.
- Open space in two district-sized and 3 local-sized parks and playgrounds to meet the recreation needs of new residents.
- Natural areas along watercourses and Moss Vale Road to protect and enhance biodiversity values and provide a buffer between new homes and Moss Vale Road.
- Community facilities through the upgrade of existing regional and district facilities such as libraries, swimming pools, and art galleries.

The road and drainage infrastructure, open space, and natural areas for the release area are identified in **Figure 1** and **Table 1**.

Design & Costing Details

The following documents and information provide indicative costings for the essential infrastructure and support the exhibition of this document.

- Collector Roads designed to standard specified in draft DCP Chapter and costed in the suite of documents prepared by Stantec (Civil Plan Set & Cost Estimate – July 2024).
- Roundabouts designed and costed in the suite of documents prepared by Stantec (Civil Plan Set & Cost Estimate – July 2024).
- Bridges designed and costed in the suite of documents prepared by Stantec (Bridge Design Report & Cost Estimate – July 2024).
- Drainage infrastructure identified in the Integrated Water Cycle Assessment prepared by SEEC – March 2022 and Stantec's Cost Estimate – July 2024.
- Open space embellishment costed (indexed) using the embellishment outcomes and rates identified in Council's adopted *Community Infrastructure Strategic Plan 2018*.
- Land values identified in Preston Rowe Paterson's Valuation Report – March 2022.

Moss Vale Road North Urban Release Area Local Infrastructure Contributions Framework

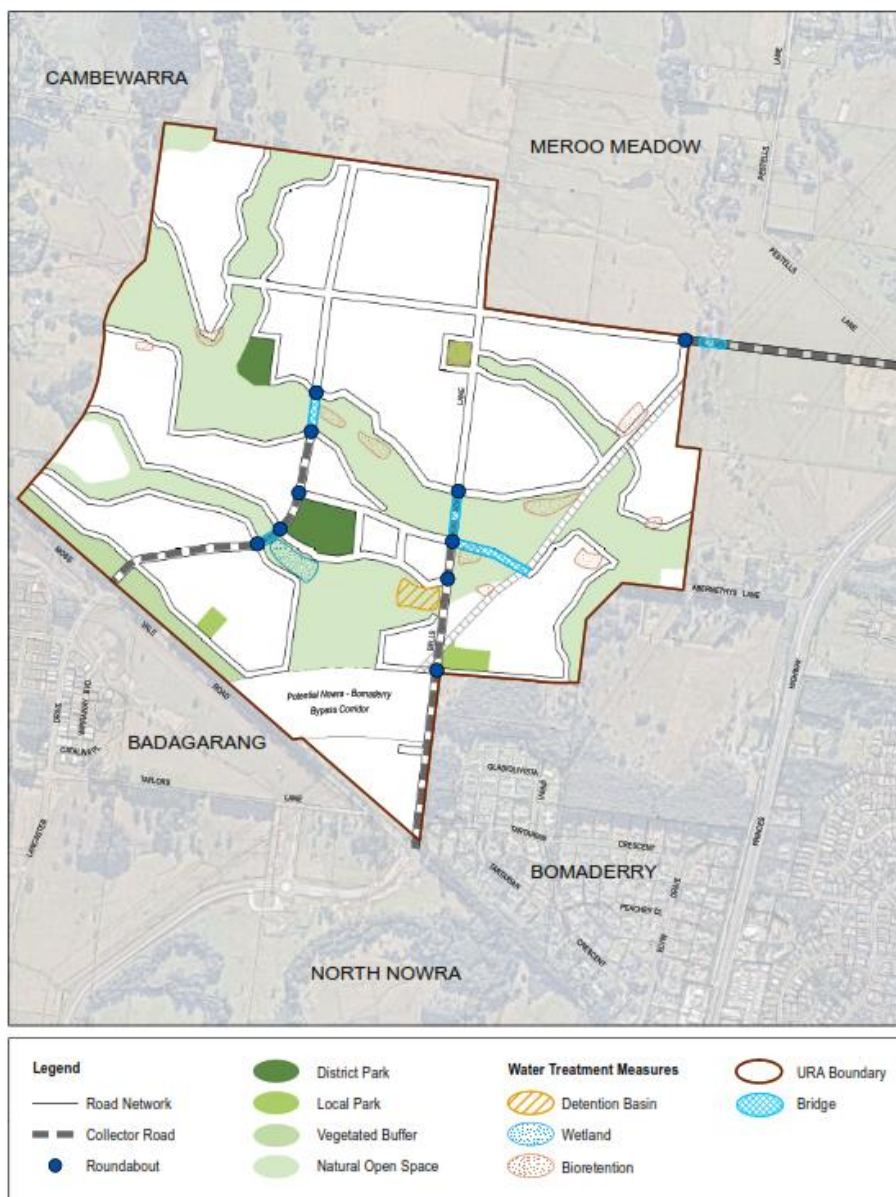


Figure 1 – Indicative essential infrastructure

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

No.	Item	Description	Cost \$)
1	Central Boulevard Collector Road	Construct 1,030 metres of new Collector Road connecting to the existing roundabout on Moss Vale Road and Lancaster Drive. Includes drainage and professional fees.	5,128,349
2	Central Boulevard Collector Roundabouts	5 roundabouts on key intersections within the release area	739,824 739,824 798,330 798,330 798,330
3	Central Boulevard Collector Bridges	2 bridges	2,866,500 6,598,800
<i>The Central Boulevard is a key component of the main flood evacuation route for the release area.</i>			
4	Bells Lane Collector Road	Upgrade 1,080 metres of existing road to Collector Road connecting to the existing roundabout on Moss Vale Road and Bannada Way (also known as the Far North Collector Road). Includes drainage, relocation of power lines, professional fees, and gas pipeline protection works.	7,282,605
5	Bells Lane Collector Road Roundabouts	4 roundabouts on key intersections within the release area	739,824 739,824 798,330 798,330
6	Bells Lane Collector Road Bridges	2 bridges	2,691,000 1,579,500
7	Abernethys Lane Collector Road	Upgrade existing road to 460 metres of Collector Road. Includes drainage and professional fees.	2,487,558
8	Abernethys Lane Collector Road Bridge	1 bridge	2,535,000
9	Pestells Lane Collector Road	Construct 1,370 metres of Collector Road connecting to a new intersection on Pestells Lane. Includes drainage and professional fees.	5,323,109
10	Pestells Lane Collector Road Roundabouts	3 roundabouts on key intersections within the release area.	798,330 798,330 739,824
11	Pestells Lane Collector Road Bridge	1 bridge	10,530,000
12	Acquisition of land for roads	\$50 per m ²	3,991,000
13	District Park 1	Embellishment of a 2.38-hectare park.	1,610,884
14	District Park 2	Embellishment of a 1.15-hectare park.	1,314,384

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

No.	Item	Description	Cost \$)
15	Local Park 1	Embellishment of a 8,800m ² park.	279,896
16	Local Park 2	Embellishment of a 4,900m ² park.	279,896
17	Local Park 3	Embellishment of a 4,500m ² park.	279,896
18	Acquisition of land for open space	\$50 per m ²	2,678,900
19	Drainage		8,230,656
20	Acquisition of land for drainage	\$50 per m ²	4,049,300
21	Natural Areas – Riparian Corridor	Restoration of approximately 60 hectares of riparian corridor and management for 5-years	-
22	Natural Areas – Scenic Buffer	Enhancement of approximately 4.36 hectares of vegetated buffer to Moss Vale Road and management for 5-years	-
Total			79,024,663

Table 1 – Indicative list and cost of essential infrastructure

Existing Local Infrastructure Contributions

The Shoalhaven Contributions Plan 2019 applies to the release area and charges new development to fund upgrades of the existing community facilities identified in **Table 2**.

No.	Item	Contribution per dwelling (\$)
1	Northern Shoalhaven Sports Stadium	821.55
2	Nowra Swimming Pool Expansion	637.12
3	Planning Area 1 Recreation Facilities Upgrades	860.00
4	Nowra Integrated Youth Services Centre	35.18
5	Shoalhaven Community & Recreation Precinct	2,266.62
6	Shoalhaven Entertainment Centre	1,713.07
7	Shoalhaven City Library Extensions	1,502.37
8	Shoalhaven Regional Gallery	82.48
9	Citywide Fire & Emergency Services	162.05
10	Shoalhaven Fire Control Centre	237.08
11	Contributions Management & Administration	673.90
Total		8,991.43

Table 2 – Existing local infrastructure contributions

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

NSW Government Cap on Contributions

The NSW Government's local infrastructure contributions policy is an important consideration for the release area. The *Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2021* ([link](#)) sets a \$30,000 threshold for contributions per dwelling.

Comparing scenarios of varying development yield against the infrastructure cost identifies the gaps in infrastructure funding for the release area. The scenarios in **Table 3** distribute the cost of identified infrastructure (which total \$79,024,663) and existing contributions (\$8,991.43 per dwelling) across various development outcomes.

Yield	2,000	2,250	2,500	2,750
Infrastructure Cost	\$39,512.33	\$35,122.07	\$31,609.86	\$28,736.24
Plus existing Contributions	\$48,503.76	\$44,113.50	\$40,601.29	\$37,727.67
Gap to threshold	-\$18,503.76	-\$14,113.50	-\$10,601.29	-\$7,727.67

Table 3 – Indicative contributions per dwelling versus \$30,000 threshold.

Infrastructure Funding Options

The Local Infrastructure Contributions Framework for the release area could include, but is not limited to, the *Shoalhaven Development Contributions Plan 2019*, a new development contribution plan specific to the release area, voluntary planning agreements, and Federal and State Government funding initiatives.

The essential infrastructure identified to support the release will cost significantly more than the NSW Government's \$30,000 per threshold. The following potential approaches to settle a local infrastructure contributions framework for the release area have been identified:

1. Reduce the infrastructure to lower the cost beneath the threshold. This requires an exercise to identify and prioritise the infrastructure items. It will ultimately lead to the undersupply of infrastructure, either to enable development or support the new community. The non-delivery of enabling infrastructure will likely delay the delivery of the release area and the supply of new homes while other funding initiatives are settled. Council's ability to meet the NSW Government's recently released 5-year housing targets for Shoalhaven would be impacted.

Depending on the infrastructure not selected, the impacts of the development on water quality and flood risk may not be appropriately managed. This scenario also creates a future financial liability for Council to fund new and upgraded infrastructure to meet the needs of the future community.

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

2. Apply to increase the threshold to deliver all the identified infrastructure. This requires an application to the Independent Pricing and Regulatory Tribunal (IPART) to vary the cap, a process which can take 12-18 months. While this may secure all the required infrastructure, it would likely delay the delivery of the release area. Council's ability to meet the NSW Government's recently released 5-year housing targets for Shoalhaven would be impacted.

In addition, an application does not guarantee the requested amount. The IPART will also examine all the proposed infrastructure charges and can remove items it considers non-essential.

3. Federal and State Government funding. Several funding initiatives have been foreshadowed, including potential access to funds through the NSW Government's Accelerated Infrastructure Fund. No initiatives are currently open for applications. These initiatives are accessed through relevant application processes and there is no guarantee the necessary funding can be secured. This would result in the undersupply of infrastructure, delays in the delivery of the release area, and a need for Council to ultimately fund (or help fund) infrastructure.
4. Development funds and delivers all identified local infrastructure. This relies on the owners/developers in the release area proposing a voluntary planning agreement or agreements to either deliver the necessary infrastructure and/or make the required contributions. Voluntary planning agreements are not subject to the \$30,000 threshold. This is considered the most "complete" option to secure the delivery of all local infrastructure but is a solution which needs to be proposed by the current owners/developers and agreed to by Council.
5. Council leads the delivery of infrastructure below the threshold with responsibility for delivering remaining infrastructure transferred to development. A collaborative approach where Council leads and coordinates the delivery of key infrastructure to enable development, such as road and bridges, and development delivers the infrastructure directly related to development, such as drainage and local parks. The infrastructure Council is responsible for is secured through addition to the existing City-wide Development Contributions Plan. The infrastructure required to be delivered by development is identified and required in the development controls for the release area.

This option could be prepared in a short timeframe (approximately 6-months) and secures and coordinates delivery of all the identified infrastructure.

Proposed Local Infrastructure Contributions Framework

Option 5 is recommended due to the ability to secure and coordinate the delivery of all required infrastructure and obtain necessary monetary contributions. It works with the NSW Government's threshold on development contributions and can be delivered quickly to "release" the release area and allow subdivision activity and the supply of new homes to commence.

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

Requiring developers to dedicate the land for roads, drainage and open space to Council at no cost provides further savings, reducing potential acquisition costs of \$10,719,200.

The proposed approach also retains previously proposed arrangements for development to fund the restoration of natural areas, maintain them for a period of 5-years and dedicate them to Council at no cost. This is secured in the proposed development controls.

The proposed approach is set out in in **Tables 4 & 5** which identify the proposed split between the infrastructure funded by development contributions and the infrastructure delivery responsibilities of development. The table categorises the infrastructure to be funded and delivered through an amendment to the existing Contributions Plan and the infrastructure required to be delivered as part of any development.

Table 4 identifies a potential contribution of \$28,972 per dwelling based on the assumed delivery of 2,500 dwellings. This is below the threshold (\$30,000) and provides an allowance for cost variations and indexation of contributions over the initial years of development activity.

Table 5 indicates approximately \$18,351,116 worth of infrastructure is proposed to be delivered with development.

As this point, the draft DCP Chapter includes proposed satisfactory arrangement controls to support the implementation of this approach. When assessing a development application, Council will consider whether satisfactory arrangements exist or are proposed by the developer for the provision of good quality infrastructure essential to support the proposed development and the orderly and economic development of the release.

This option also enables the potential use of Government funding initiatives to help fund or accelerate the delivery of infrastructure. Other opportunities to enable the early delivery of infrastructure include works-in-kind agreements (WIKAs) with developers securing the early delivery of enabling infrastructure.

Council's Contribution Plan			
No.	Item	Description	Cost \$)
1	Central Boulevard Collector Road	Construct 1,030 metres of new Collector Road connecting to the existing roundabout on Moss Vale Road and Lancaster Drive. Includes drainage and professional fees.	5,128,349
2	Central Boulevard Collector Roundabouts	5 roundabouts on key intersections within the release area	739,824 739,824 798,330 798,330 798,330
3	Central Boulevard Collector Bridges	2 bridges	2,866,500 6,598,800

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

Council's Contribution Plan			
No.	Item	Description	Cost (\$)
<i>The Central Boulevard is a key component of the main flood evacuation route for the release area.</i>			
4	Bells Lane Collector Road	Upgrade 1,080 metres of existing road to Collector Road connecting to the existing roundabout on Moss Vale Road and Bannada Way (also known as the Far North Collector Road). Includes drainage, relocation of power lines, professional fees, and gas pipeline protection works.	7,282,605
5	Bells Lane Collector Road Roundabouts	4 roundabouts on key intersections within the release area	739,824 739,824 798,330 798,330
6	Bells Lane Collector Road Bridges	2 bridges	2,691,000 1,579,500
7	Pestells Lane Collector Road	Construct 685 metres of Collector Road connecting to a new intersection on Pestells Lane. Includes drainage and professional fees.	2,661,554
8	Pestells Lane Collector Road Roundabouts	1 roundabout on a key intersection with the release area.	739,824
9	Pestells Lane Collector Road Bridge	1 bridge	10,530,000
<i>The Central Boulevard is a key component of the main flood evacuation route for the release area.</i>			
10	District Park 1	Embellishment of a 2.38-hectare park.	1,610,884
11	District Park 2	Embellishment of a 1.15-hectare park.	1,314,384
Total			49,954,346
Cost per dwelling (based on delivery of 2,500 dwellings)			19,981
Plus existing contributions			8,991
Cost per dwelling (based on delivery of 2,500 dwellings)			28,972

Table 4 – Proposed additions to existing Contributions Plan

Development Delivered			
No	Item	Description	Cost (\$)
1	Abernethys Lane Collector Road	Upgrade existing road to 460 metres of Collector Road. Includes drainage and professional fees.	2,487,558
2	Abernethys Lane Collector Road Bridge	1 bridge	2,535,000

Moss Vale Road North Urban Release Area

Local Infrastructure Contributions Framework

3	Pestells Collector Road	Lane	Construct 685 metres of Collector Road connecting to a new intersection on Pestells Lane. Includes drainage and professional fees.	2,661,554
4	Pestells Collector Roundabouts	Lane Road	2 roundabouts on key intersections within the release area.	798,330 798,330
5	Local Park 1		Embellishment of a 8,800m ² park.	279,896
6	Local Park 2		Embellishment of a 4,900m ² park.	279,896
7	Local Park 3		Embellishment of a 4,500m ² park.	279,896
8	Drainage		Delivery of drainage infrastructure such as wetlands, detention basins, and pollutant traps.	8,230,656
10	Natural Areas Riparian Corridor	–	Restoration of approximately 60 hectares of riparian corridor and management for 5-years	-
11	Natural Areas Scenic Buffer	–	Enhancement of approximately 4.36 hectares of vegetated buffer to Moss Vale Road and management for 5-years	-
12	Dedication of land		For roads and drainage infrastructure, open space, and natural areas.	-
Total				18,351,116

Table 5 – Infrastructure to be delivered by development

Attachment 3**Proposed Public Exhibition – Moss Vale Road North Urban Release Area Draft Development Controls and Local Infrastructure Contributions Framework****Previous Council Resolutions****September 2022**

That Council:

1. *Proceed to finalise the Planning Proposal and adopt the draft Development Control Plan Chapter guiding the delivery of the Moss Vale North Urban Release Area, as amended in accordance with Attachment 2 of this report.*
2. *Complete consultation with the following NSW Government Agencies:*
 - a. *Department of Planning and Environment – Water Licensing and Approvals*
 - b. *Transport for New South Wales*
3. *Delegate authority to the CEO, or his delegate, to update the Planning Proposal and Development Control Plan chapter and include any appropriate changes resulting from the:*
 - a. *Consultation with NSW Government Agencies.*
 - b. *Moss Vale Road North Urban Release Area Riparian Assessment prepared by Ecological Australia in April 2022.*
 - c. *Updated flood risk modelling.*
4. *Set an effective commencement date for the Development Control Plan Chapter of 27 March 2022.*
5. *Receive a further report on the proposed Development Contributions Framework delivering infrastructure for the Urban Release Area, including arrangements for the public exhibition of the framework.*
6. *Invite parties with a current or future interest(s) in the Urban Release Area who are seeking an alternative development outcome to that facilitated by the final Planning Proposal and draft Development Control Plan Chapter to submit requests for Planning Proposals and alternate development controls for Council's subsequent separate consideration.*

November 2022

That Council:

1. *Repeal the Moss Vale Road North Urban Release Area (URA) chapter of the Shoalhaven Development Control Plan (DCP) 2014 (Amendment No.40) that was adopted by Council in accordance with MIN22.662.*
2. *Prepare a new Moss Vale Road North URA chapter of the Shoalhaven DCP 2014 that will include the following:*
 - a. *What was exhibited in May-July 2022 with the changes that were previously adopted by Council (Part 1 of MIN22.662) as shown in Attachment 1.*

- b. The changes required following the resolution of the negotiations with the NSW Government.*
 - c. Detail regarding the proposed infrastructure contributions package (Part 5 of MIN22.662).*
- 3. Receive a further report seeking endorsement to publicly exhibit the:*
 - a. Proposed new Moss Vale Road North URA chapter of the Shoalhaven DCP 2014.*
 - b. Proposed amendment to the Shoalhaven Contributions Plan 2019 relating to the URA.*
 - c. Planning Proposal again, should the outcomes of the ongoing negotiations with the NSW Government require this to occur.*
- 4. Strongly request that the NSW Government intervene to enable a timely and reasonable resolution of the outstanding matters with the NSW Department of Planning and Environment - Water Licencing and Approvals and Transport for NSW.*
- 5. Advise landowners and those who made a submission during the public exhibition period of this decision.*

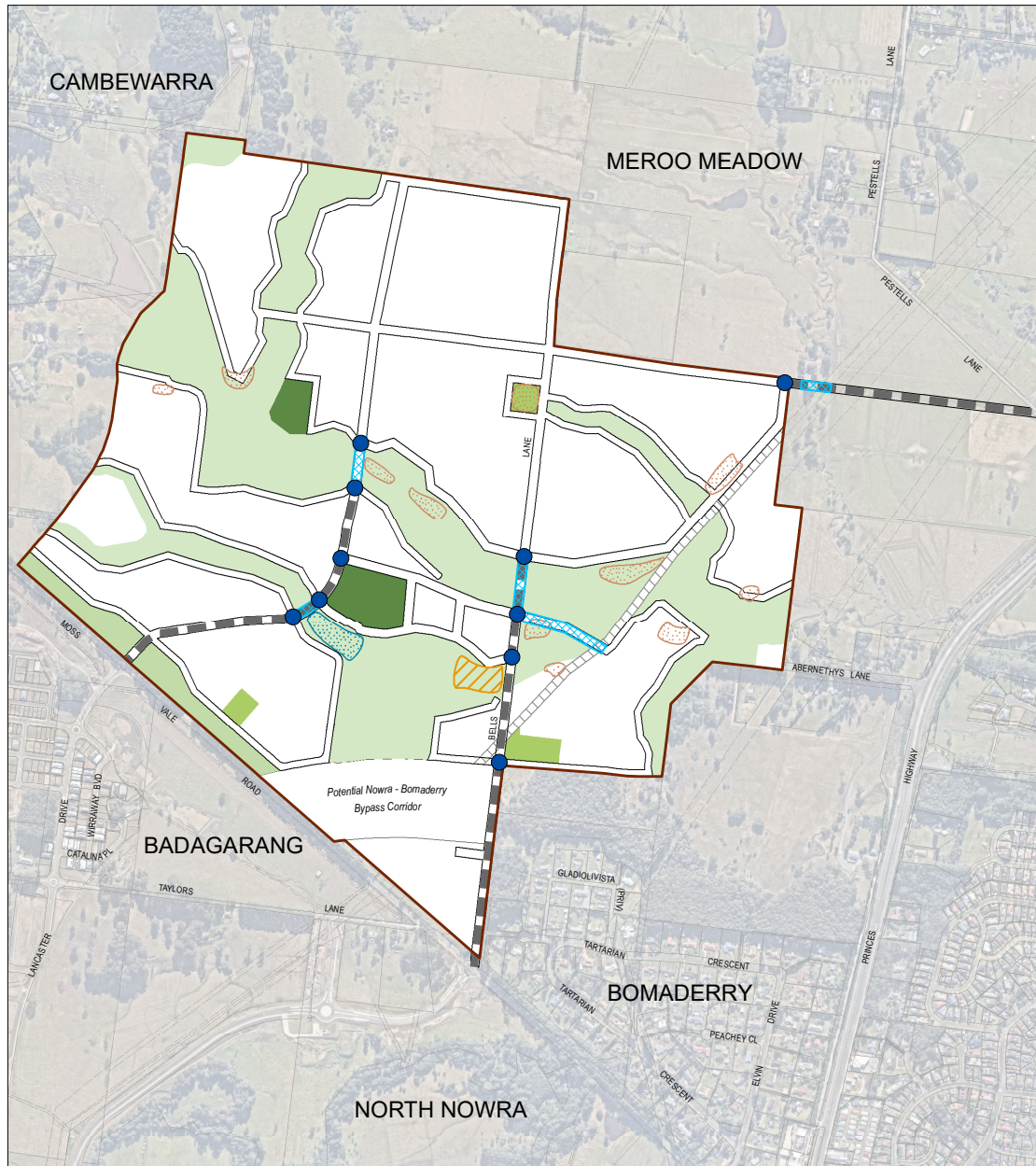
May 2023

That Council:

1. Receive the progress report for information.
2. Proceed to finalise the Planning Proposal using its delegation, based on the riparian corridor outcome resulting from the submission received from the NSW Department of Planning & Environment – Water and the subsequent dialogue.
3. Consider future opportunities to provide appropriate additional residential dwelling yield opportunities (possible additional area of smaller lots and a greater diversity of dwelling types/products) as part of a future separate process to make up for yield that may have been lost through the riparian corridor dialogue.
4. Continue to work with the NSW Department of Planning & Environment - Planning to clarify and resolve the flood risk advice that was received post exhibition.
5. Discourage the lodgement of premature applications in this Urban Release Area until the release planning (Zones, Development Control Plan provisions and infrastructure planning provisions) has progressed to at least being finally adopted by Council.
6. Maintain the existing adopted phasing for the 'release' planning work for the remaining Urban Release Areas in the Nowra-Bomaderry area.
7. Advocate to the NSW Government for the immediate funding and commencement of the work required to plan and upgrade the Moss Vale Road Corridor (essential infrastructure to support the Moss Vale Road North and South Release Areas).

Attachment 4**Proposed Public Exhibition – Moss Vale Road North Urban Release Area Draft Development Controls and Local Infrastructure Contributions Framework****Summary of adjustments to draft DCP Chapter responding to owner/developer feedback:**

1. An overhaul of the proposed road network which:
 - a. Sets the location and design of **only** the major components of the network such as Collector Roads and Riparian Streets located on the perimeter of the residential area. The Collector Roads need to be defined as they connect the release area to the existing road network and future release areas. The Riparian Streets play a significant role in providing asset protection zones for bushfire.
 - b. Provides the owners/developers flexibility to layout the minor network when designing subdivisions.
 - c. Removes proposed bus routes, noting the design of the Collector Roads will facilitate planning and provision of future bus services.
 - d. Reduces the number, length, and width of Collector Roads.
 - e. Adopts consistent road designs (widths and features) with the Moss Vale Road South Release Area (a contemporary residential subdivision currently being delivered).
 - f. Removes the need to provide perimeter roads for large lot residential subdivisions, noting these properties have the opportunity to provide their own bushfire asset protection zones.
2. Several opportunities to vary the development controls to provide flexibility when designing subdivisions. These allow the following outcomes:
 - a. Alteration of the proposed development staging if certain matters can be demonstrated (e.g. delivery of necessary infrastructure).
 - b. Adjustment to the width of perimeter roads if smaller bushfire asset protection zones are modelled and negotiated with the NSW Rural Fire Service.
 - c. Amended location of local parks if ease of access and distances to new homes are maintained.
3. The removal of detailed and prescriptive development controls for the village centre, instead requiring the submission of a concept plan which addresses design principles.



Legend		Water Treatment Measures	
Road Network	District Park	Detention Basin	URA Boundary
Collector Road	Local Park	Wetland	Bridge
Roundabout	Vegetated Buffer	Bioretention	
	Natural Open Space		

Required Satisfactory Arrangements for Infrastructure

Development Control Plan 2014
Amendment No 40
Chapter NB4 - Moss Vale Road North



July 2024 Scale 1:13,500 @ A4

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CL24.220 - Attachment 5

CL23.416 Narrawallee Beach Dog Access Areas: Interim Dog Access Measures and Update on Review of Environmental Factors

HPERM Ref: D23/419575

Department: Recreation Projects - Planning & Delivery
Approver: James Ruprai, Director - City Development

Attachments:

1. Sign Type 1 - Dogs Prohibited - Narrawallee Beach - Oct 2023
2. Sign Type 2 - Dogs Off-Leash Area - Timed - Narrawallee Beach - Oct 2023
3. Sign Type 3 - Dogs Prohibited - Narrawallee Beach - Oct 2023

Reason for Report

The purpose of this report is to:

1. Seek endorsement for proposed interim dog access arrangements at Narrawallee Beach following the decision of Justice Pain of the Land and Environment Court (Decision date: 21 July 2023) that the Council resolution of 2 November 2021 relating to dog access arrangements at Narrawallee Beach (ref. MIN21.804) is of no force and effect, and;
2. Seek endorsement for proposed measures to achieve clarity around long-term dog access solutions at Narrawallee Beach.

Recommendation

That Council:

1. Adopt the following in relation to dog access measures at Narrawallee Beach:
 - a. Accept the interpretation of the 9 March 2021 resolution (ref. MIN 21.120), and implications of previous resolutions related to dog access at Narrawallee Beach, as illustrated in *Figure 3 of Narrawallee Beach Dog Access Areas: interim dog access measures and update on Review of Environmental Factors* report.
 - b. Remove the 10 metre wide on-leash transit area / access way from Surfers Avenue steps to the Victor Avenue steps illustrated in Figure 3 of the *Narrawallee Beach Dog Access Areas: interim dog access measures and update on Review of Environmental Factors* report.
 - c. Leave the existing access to the Narrawallee Beach off-leash area in place via the Matron Porter Drive beach access track (as the sole point of access to the off-leash area), as illustrated in Figure 5 of the *Narrawallee Beach Dog Access Areas: interim dog access measures and update on Review of Environmental Factors* report.
2. As an interim measure, and until the outcome of Part 7 of this resolution is known, designate that dogs are prohibited in the southern area of Narrawallee Beach, between the Surfers Avenue steps and Victor Avenue steps, under s14(1)(d) of the *Companion Animals Act 1998* (NSW).
3. Direct the CEO (Director – City Lifestyles) to amend the site-specific designated dog access area information listed in *Access Areas for Dogs* policy to read that:
 - a. Dogs are prohibited on Narrawallee Beach and reserve from Narrawallee Creek to the unnamed island (in line with the intersection of Parkinson Street and Matron Porter Drive);

- b. Dogs are prohibited on Narrawallee Beach and reserve from the Matron Porter Drive beach access track to Surfers Avenue steps;
- c. Dogs are permitted to be off-leash on Narrawallee Beach between the unnamed island (in line with the intersection of Parkinson Street and Matron Porter Drive) and the Matron Porter Drive beach access track during the following times:
 - i. Australian Eastern Daylight Savings Time – off leash from 4pm – 8am;
 - ii. Australian Eastern Standard Time - off leash from 3pm – 10am.
4. Direct the CEO (Director - City Lifestyles) to coordinate the design, fabrication, and installation of temporary signage at Narrawallee Beach reflecting the interim dog access measures adopted for Narrawallee Beach in accordance with Part 1 & 2 of this resolution and as illustrated in Figure 4 of the *Narrawallee Beach Dog Access Areas: interim dog access measures and update on Review of Environmental Factors* report.
5. Direct the CEO (Director - City Lifestyles) to coordinate the design and implementation of a communications strategy to raise awareness around the interim dog access measures adopted for Narrawallee Beach in accordance with Part 1 & 2 of this resolution, including: flyers; advertising; and updates to Council's Get Involved page and Dog Off-Leash Guide.
6. Direct the CEO (Director - City Development) to update the Review of Environmental Factors (REF) for Narrawallee Beach off-leash area and exhibit the revised REF for information only.
7. Direct the CEO (Director, City Lifestyles) to submit a report on the REF findings for Narrawallee Beach off-leash area, results of consultation activities, and recommendations for the designation of dog off-leash and dog-prohibited areas at Narrawallee Beach to a future Council Ordinary Meeting for final determination.

Options

1. Adopt the recommendations as proposed.

Implications:

Council staff will produce a communications plan and install temporary signage to delineate dog-prohibited and on-leash areas at Narrawallee Beach, as an interim measure, in accordance with Figure 5 of this report.

Council staff will investigate long-term solutions for managing dog access areas at Narrawallee Beach. This will include updating the Review of Environmental Factors (REF) for Narrawallee Beach off-leash area (and surrounding areas).

A further report will be provided to a future Council Ordinary Meeting about the REF findings, outcomes of community consultation, and recommendations for the designation of dog off-leash and dog-prohibited areas for final determination.

2. Leave a transit zone / access way in place through the southern dog-prohibited area at Narrawallee Beach.

Implications:

Section 14 of the *Companion Animals Act 1998* (CA Act) allows a local authority to designate a dog-prohibited area in some public spaces. The CA Act does not provide for the designation of transition measures in relation to dog access to public spaces (such as 'transit zones' or 'access ways' through areas otherwise prohibited to dogs).

Implications therefore include increased exposure to reputational and legal risk. Further information on possible implications is provided at the end of this report under the heading *Risk Implications*.

3. Remove the dogs-prohibited designation currently in place at the southern end of Narrawallee Beach, south of the Matron Porter Drive beach track, and revert this area to on-leash access only.

Implications:

Environmental assessments are considered appropriate when removing protections from a site previously designated as dog prohibited. Failure to undertake said assessments prior to removing a dog-prohibited designation may expose Council to further legal action in relation to dog access arrangements at Narrawallee Beach.

Background

A Class 4 action brought by Narrawallee community group, Narrawallee Beach Environmental Group Inc., concerning dogs off-leash at Narrawallee Beach was heard before Justice Pain of the Land and Environment Court from 22 to 24 May 2023.

Her Honour declared and ordered that the Council resolution of 2 November 2021 (ref. MIN21.804) to be of no force and effect as there was no compliance with Section 5.5 of the *Environmental Planning & Assessment Act 1979* (EP&A Act), meaning no environmental assessment in the form of a Review of Environmental Factors (REF) had been prepared.

Council staff completed a REF for dog access to Narrawallee Beach, pursuant to Section 5.5 of the EP&A Act. However, this was undertaken after 2 November 2021 and was not endorsed by Council. It is on this basis that the Court found that the 2 November 2021 resolution was of no force and effect.

The 2 November resolution (ref MIN21.804), which was declared to be of no force and effect by the Court, states the following:

That Council, in relation to the dog off leash area boundaries and entry points at Narrawallee Beach:

1. *Reinstate the Southern boundary of the dog off-leash area to be in line with the Victor Avenue steps (as per the Trial). (BA2 map)*
2. *Retain the Northern boundary of the dog off-leash area to be in line with the beach entry point opposite Parkinson Street. (BA 7 map)*
3. *Allow dog access from all beach entry points in between and including Victor Avenue steps and Parkinson Street, Narrawallee Beach. (BA2 to BA7 map)*
4. *Continue to allow on leash access from Surfers Avenue to Victor Street Steps via a transit zone – (BA1 to BA2 map).*
5. *Provide new signage to the beach entry points at 17 locations from Surfers Avenue to Narrawallee Inlet, as per the attached signage.*
6. *Agree that this resolution will be an interim solution and will be considered for assessment as part of the dog policy review*

The effect of the Court's decision is that the position with respect to dog access at Narrawallee Beach is the position determined in the Council resolution of 9 March 2021 (ref. MIN 21.120), which reads:

That Council:

1. *Support the continuing access to the off-leash area at Narrawallee Beach from Surfers Ave as per the recent trial directions.*
2. *Develop appropriate signage directing people the right way to access the off-leash area in and around Narrawallee Beach especially at the Surfers Ave end. Cllrs Proudfoot and White and available Councillors to assist in the development of the signage with staff.*
3. *Leave the access from Surfers Ave in place until consideration of this area in the review of the Access Areas for Dogs policy.*
4. *Issue enforcement penalty notices for persons not following the signage or walking with dogs directly across south end Narrawallee Beach between the steps and Victor Ave steps.*
5. *Request local residents, Paws4Shoalhaven and Rangers to assist with advising residents and visitors of the strict entry process from Surfers Ave to the off-leash area.*
6. *Undertake vegetation maintenance if required on mid beach access points as noted in Staff Signage Report*
7. *Contact Holiday Home owners via Rates Notices advising them of the changes and the role they play in sharing the foreshore and informing their tenants of the access arrangements for dogs.*
8. *Include on the new signage, information on shore bird habitats which is protected by No Dogs (access) areas.*
9. *Include on the signage that to access the beach via the track from Surfers Avenue at the back of the beach, dogs must be on leash.*

The reversion to the Council decision made on 9 March 2021 means that the southern boundary of the off-leash area has shifted northward by approximately 100 metres, to be in line with the Matron Porter Drive beach access track (Figure 1 and Figure 2).

It must be noted that while the "on-leash transit" area in both maps is depicted as covering the entire beach depth, the transit area is understood to refer to a 10-metre-wide transit zone / access way along the back of the beach. Further information about the 10-metre-wide access way is provided in the following sub-sections of this chapter.

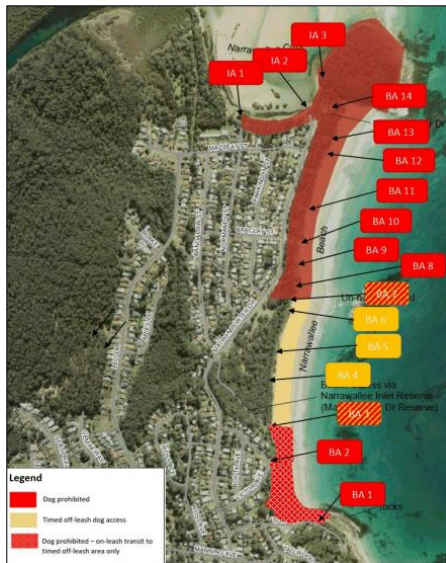


Figure 1 – Narrawallee Beach Dog Access Areas (as of 9 March 2021)

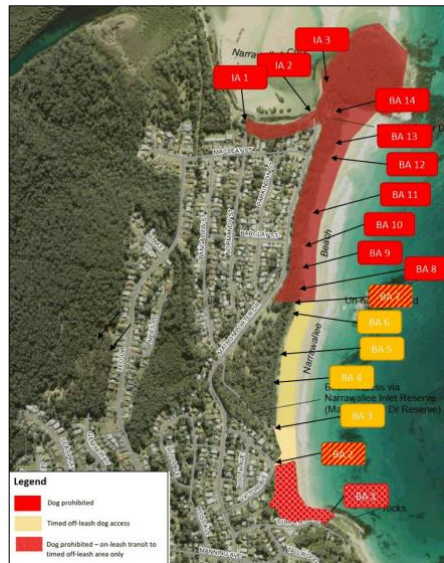


Figure 2 – Narrawallee Beach Dog Access Areas (adopted 2 November 2021)

Interpretation of the 9 March 2021 Resolution

Dentons Lawyers (acting on behalf of the Narrawallee Beach Environment Group Inc.) provided a map of the Group's interpretation of the effect of Justice Pain's decision (ref. Figure 3). The map has been produced by altering page 26 of the *Dog Off-Leash Guide* published by Shoalhaven City Council.

The graphic currently published on page 26 of the *Dog Off-Leash Guide* is illustrated in Figure 4. The content of this graphic was made obsolete by Justice Pain's decision (handed down on 21 July 2023) and is no longer in effect. It is therefore necessary to update information in Council's Dog Off-Leash Guide relating to Narrawallee Beach (see Figure 5).

Figure 3 illustrates the Narrawallee Beach Environmental Group's understanding of the 9 March 2021 resolution, with particular reference to the 10-metre-wide dog on-leash transit zone / access way across the southern dog-prohibited zone. The implication of this interpretation is that the 10-metre-wide transit zone / access way from Surfers Avenue across the southern dog-prohibited zone terminates at the Victor Avenue steps, creating an access 'gap' between the base of the Victor Avenue steps and the Matron Porter Drive beach track.

To access the timed off-leash zone from the south, and comply with the 9 March 2021 resolution, dog owners/competent persons (in accordance with the CA Act) must exit the beach at the Victor Ave steps and re-enter via the Matron Porter Drive beach access track. It is considered unlikely dog owners/competent persons would comply with these measures, as this requires making an 800-metre deviation from the natural desire line along the beach (an additional 660 metres walking distance). This is considered highly undesirable, from both a use and enforcement perspective.

Proposed Interim Measures

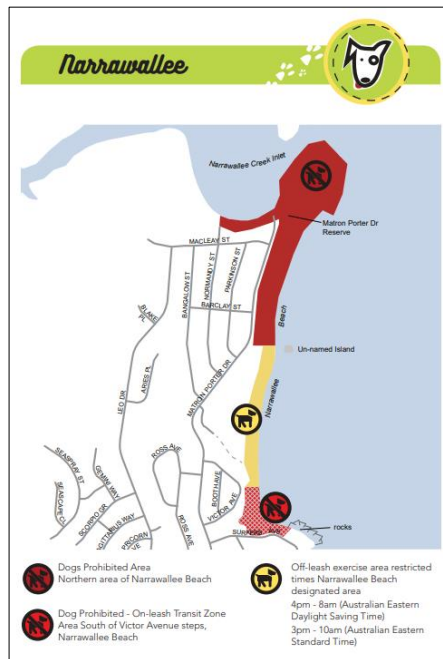
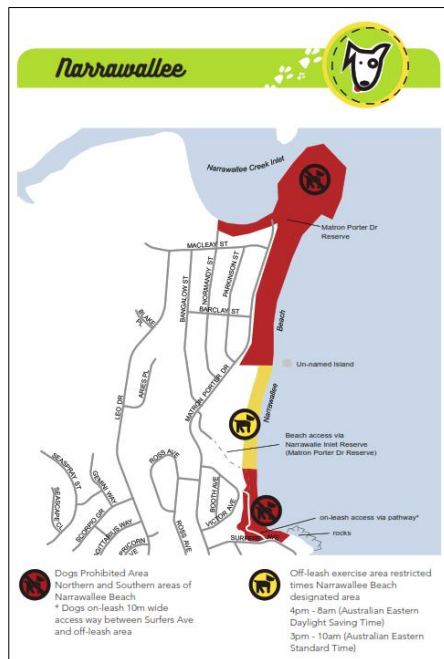
Given the ambiguity in the 9 March resolution (ref. MIN21.120), Council's internal Legal Counsel, senior staff, and project team consider that a precautionary approach is advisable.

It is therefore recommended that Council enact interim dog-access measures to provide clarity to all beach users.

It is recommended the 10-metre-wide transit zone / access way from Surfers Avenue to the Victor Avenue steps (as illustrated in Figure 3) be rescinded. It is further recommended that the southern section of Narrawallee Beach, between the Surfers Avenue steps and the Victor Avenue steps be designated as a dog-prohibited area under section 14(1)(d) of the CA Act as an interim measure pending implementation of the long-term solution described below.

Figure 3:
Map provided by Dentons Lawyers

Figure 4:
Page 26, Dog Off-Leash Guide
(made obsolete on 21 July 2023)



The effect of this change will be that the southern part of Narrawallee Beach from the Matron Porter Drive beach access to Surfers Avenue steps will be dog-prohibited, with no on-leash transit permitted.

Access to the timed off-leash area will be via the Matron Porter Drive Beach access track only.

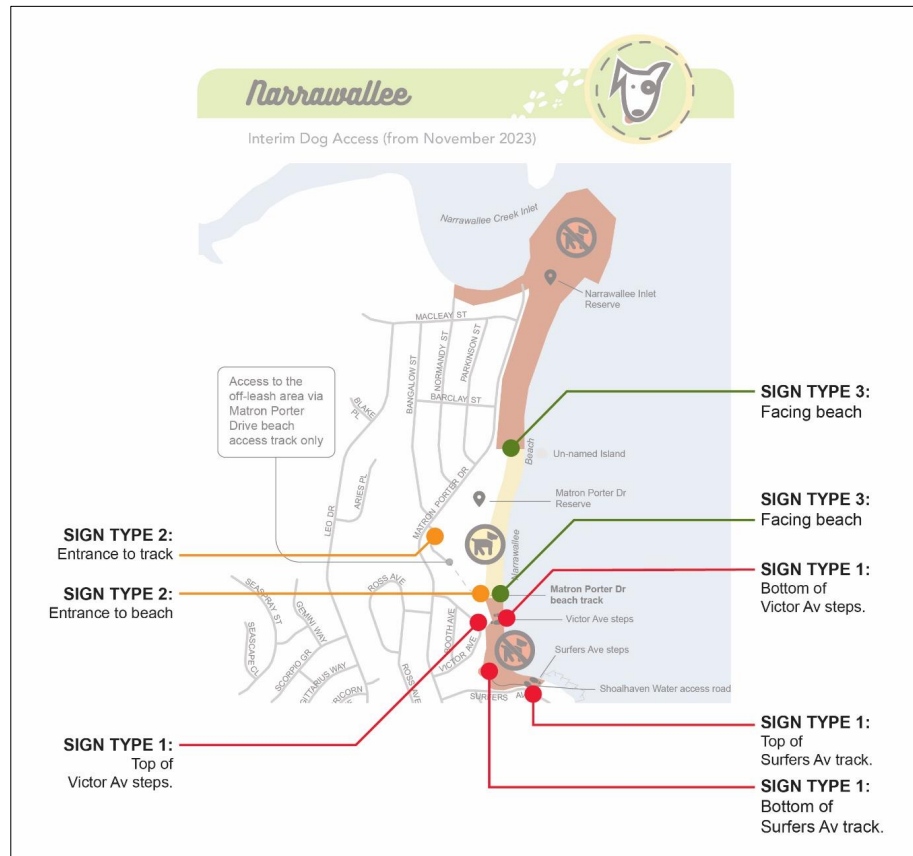
If the recommendation is adopted as described here, a communications strategy will be delivered including flyers, paid media pieces, and updates to Council's Get Involved page and Dog Off-Leash Guide.

A key message of the communications campaign will be that the measures are interim only, and that long-term solutions are being progressed through a REF, culminating in a final determination at a future Ordinary Council Meeting.



Figure 5 –Narrawallee Beach – Interim Dog Access (from November 2023)

If endorsed, communications materials will be updated to reflect the content illustrated in Figure 5.



**Figure 6 –Narrawallee Beach – Interim Dog Access Signage Plan
(from November 2023)**

If endorsed, signage will be installed in accordance with the content illustrated in Figure 6.

Key to plan (above):

- Sign Type 1: Bespoke ***Dogs Prohibited*** regulatory signage, badged with 'Interim measure until further notice. By order of the General Manager'.
- Sign Type 2: Bespoke access to ***Dog Off-Leash Area*** signage, clearly indicating sole access pathway to dog off-leash area, badged with 'Interim measure until further notice. By order of the General Manager'. Note: dogs must be on-leash while using Matron Porter Drive beach track.
- Sign Type 3: Bespoke ***Dogs Prohibited / Dogs Off-Leash*** regulatory signage, badged with 'Interim measure until further notice. By order of the General Manager'.

Proposed long-term solution.

Justice Pain found the REF prepared by Council staff (dated 28 January 2022) to be “comprehensive in relation to the impacts identified” and considered the REF to be “capable of enabling the Council to take into account all matters affecting or likely to affect the environment that the Council has the capacity to comply with Pt 5.” [paragraph 200].

An external, suitably qualified consultant has been engaged to prepare an updated REF in relation to dog access areas at Narrawallee Beach. This work will include a review of current legislation including the State Environmental Planning Policy (Resilience & Hazards) 2021 and the *Environmental Planning & Assessment Regulation 2021* (EP&A Regulation) which commenced on 1 March 2022.

The REF will be placed on public exhibition, for information only, in accordance with 171 (4) of the *EP&A Regulation*, as a matter of public interest. It is anticipated the REF will be completed by December 2023, and placed on public exhibition in January 2024.

Council staff will notify and consult with the community affected by any proposed changes to dog access arrangements at Narrawallee Beach that arise due to the REF findings and other investigations. The results of the consultation activities, REF findings, recommendations, and any other relevant matters, will be referred to the elected Council for final determination.

Anticipated timing for a report recommending final determination for Narrawallee Beach dog access areas is March 2023.

It is considered that this process will provide environmental and social due diligence in line with the EP&A Act and allow for an evidence-based final determination for dog access areas at Narrawallee Beach in line with community expectations.

Internal Consultations

This report has been prepared by the Open Space & Recreation Planning team in consultation with:

- City Development - Environmental Services; Certification & Compliance; and Ranger Services;
- Media & Communications - Marketing & Community Engagement, and;
- Business Assurance & Risk - Legal Services Counsel.

Community Consultations

Council staff met with members of the Narrawallee Beach Environmental Group Inc. on 5 October 2023 at Narrawallee Beach. At this meeting, the Narrawallee Beach Environmental Group Inc. advocated for a temporary measure in which the 10-metre-wide access way through the southern prohibited zone is rescinded, and that new temporary signage reflecting these temporary arrangements be installed.

Council staff will notify and consult with the community affected by any proposed changes to the Narrawallee Beach dog off-leash area that arise due to REF findings and other investigations. This process will allow the community, including the Narrawallee Beach Environmental Group Inc. and other stakeholders, to provide their input to Council's decision.

It is not considered feasible to undertake further engagement activities (such as community consultation) in relation to the interim measures proposed in this report, as this would further extend the unclear and impractical dog access arrangements currently in effect at Narrawallee Beach. It is therefore recommended Council adopt acceptable interim dog access arrangements without delay.

Policy Implications

The Shoalhaven City Council Access Areas for Dogs Policy is under review. A report was provided at the Ordinary Council Meeting held on 9 October 2023 to inform Council of the outcomes of the 2023 public exhibition of the draft Access Areas for Dogs Policy and to seek endorsement to proceed with final revisions to the draft policy and the preparation of an implementation plan which will be reported to a future Ordinary meeting of Council. It was resolved that Council:

1. *Note the Draft Access Areas for Dogs Policy (Community Engagement Summary and Proposed Revisions to Draft Policy) report as a summary of the outcomes of the draft Access Areas for Dogs Policy public exhibition, 30 April to 12 June 2023.*
2. *Acknowledge that the draft Access Areas for Dogs Policy enjoys broad community support.*
3. *Endorse the proposed revisions to the policy as outlined in Table 3: Recommendations – Access Areas for Dogs Policy and Implementation Plan and in line with community and key stakeholder feedback.*
4. *Endorse the proposed inclusions for the implementation plan as outlined in Table 3: Recommendations – Access Areas for Dogs Policy and Implementation Plan and in line with community and key stakeholder feedback.*
5. *Direct the CEO (Director City Lifestyles) to submit a revised draft in accordance with Part 3 (above) of the Access Areas for Dogs Policy to a future Ordinary Council Meeting for consideration.*
6. *Direct the CEO (Director City Lifestyles) to prepare and submit an implementation plan to accompany final Access Areas for Dogs Policy, including a signage strategy and other actions in accordance with Point 4 (above) to a future Ordinary Council Meeting for consideration.*
7. *Direct the CEO (Director City Lifestyles) to deliver a future report examining the adequacy of dog-prohibited areas in Shoalhaven (pending outcomes at Point 5 above).*

(ref. MIN23.603)

If the recommendations contained in this report are endorsed, the Access Areas for Dogs Policy currently in effect in the Shoalhaven Local Government Area will be amended to reflect parts 1 and 2 of the proposed resolution. These amendments are described in detail at part 3 of the proposed resolution.

Review of Environmental Factors

Council is preparing an environmental assessment, also known as a Review of Environmental Factors (REF), for each dog off-leash area within the Shoalhaven, including the Narrawallee Beach off-leash area. The aim of these assessments is to evaluate the impact each dog off-leash area has on the community and the environment.

- REFs are undertaken in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).
- REFs are informed by investigations that consider environmental factors outlined under Section 171 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).
- REFs are being published, for information only, in accordance with Section 171 (4) of the *EP&A Regulation*, as a matter of public interest.
- REFs are being undertaken to help inform decision-making processes, including identifying mitigation measures for further consideration by Council.

It is anticipated the REF for the Narrawallee Beach off-leash area will be completed and placed on public exhibition by January 2024.

The results of engagement activities, REF findings, recommendations, and any other relevant matters, will be referred to the elected Council for final determination.

Anticipated timing for a report recommending final determination for Narrawallee Beach off-leash area is March 2023.

Financial Implications

The Delivery Program Operational Plan & Budget (DPOP) for the 2023/24 financial year includes the following funding allocations for dog off-leash infrastructure and related policy matters:

- *Line 233: Dog Off-leash Areas – Various Areas - \$130,000*
- *Line 234: Dog Policy Review – Implementation - \$150,000*

However, these funds are currently quarantined, pending the outcomes of the AEC financial review.

Collateral associated with the proposed interim dog access measures at Narrawallee Beach, including communications materials and the design and installation of temporary signage, will therefore be funded under an alternative City Lifestyles operational budget:

- *103303 – Dog Signage*

Cost estimate:

- \$2,500

The update to the REF for Narrawallee Beach off-leash area is being funded under the following City Development budget, utilising funds carried forward from the 2022/23 financial year:

- *107149: Environmental Assessments for Dog Policy Review*

The following cost estimate range is provided for the production of REFs by external consultants, with variance influenced by project complexity, site conditions, and more:

- \$5,000 to \$10,000

Risk Implications

A decision not to adopt the recommendations as proposed in this report (Option 1); to leave the 10-metre-wide transit zone / access way in place (Option 2), or to remove the dog-prohibited designation and revert to on-leash (Option 3), constitutes reputational, environmental, and legal risks to Council. These are described in further detail below.

Reputational

- Enforcement-challenges resulting from the 10-metre-wide on-leash transit zone / access way at Narrawallee Beach may result in a lack of confidence in Council's ability to respond to the Land and Environment Court's judgement and enforce Council's 9 March 2021 resolution. The transit area is a blend of Section 13 of the CA Act (default on-leash) and Section 14 of the CA Act (prohibited area) further exacerbating the enforcement challenges.
- The 9 March 2021 arrangements, whereby dog owners/competent persons are required to exit the beach at the Victor Avenue steps and re-enter via the Matron Porter Drive beach track, may lead to a lack of confidence in Council's ability to provide workable dog access arrangements in accordance with the CA Act.

Legal

- Failure to rectify ambiguity associated with the 10-metre-wide transit area / access way imposes enforcement difficulties and may lead to further legal proceedings and potential unnecessary costs to Council.
- Removal of the dogs-prohibited designation from the southern end of Narrawallee Beach, and reversion to on-leash, exposes Council to possible future legal action(s).
Environmental assessments are considered appropriate when removing protections from a previously designated dog-prohibited site, in accordance with the *Environmental Planning & Assessment Act 1979*.

Environmental

- Removal of the dogs-prohibited designation from the southern end of Narrawallee Beach and reversion to on-leash may precipitate environmental impacts to shorebird habitat and biodiversity loss, until confirmed otherwise by the Review of Environmental Factors currently being completed.

Access Areas for Dogs

Adoption Date:	25/01/2005
Reaffirmed:	13/06/2017, 2/11/2021
Amendment Date:	27/06/2006, 26/09/2006, 30/1/2007, 27/2/2007, 22/04/2008, 27/05/2008, 10/02/2009, 21/12/2010, 21/06/2013, 9/12/2014, 17/02/2015, 19/07/2016, 9/02/2021, 6/11/2023, 11/12/2023
Minute Number:	MIN05.79, MIN06.870, MIN06.1286, MIN07.121, MIN07.242, MIN08.526, MIN08.711, MIN09.160, MIN10.1445, MIN13.631, D14/327993, MIN15.85, MIN16.541, MIN17.499, MIN20.916, MIN21.68, MIN21.804, MIN23.661, MIN23.740
Review Date:	1/12/2024
Directorate:	City Lifestyles
Record Number:	POL23/69

Access Areas for Dogs

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Access Areas for Dogs

1. Purpose

This policy provides the basis for designating dog OFF-LEASH and dog PROHIBITED areas in the Shoalhaven local government area, in accordance with the *Companion Animals Act 1998* (NSW, herein referred to as 'the Act') and the following priorities identified in the *Shoalhaven 2023 Community Strategic Plan*:

- 1.3 Support community wellbeing through fostering active and healthy communities
- 2.3 Protect the natural environment and enhance sustainability
- 4.3 Inform and engage with the community about the decisions that affect their lives

In accordance with the Act, responsible dog ownership practices shall be supported and enforced through the establishment of appropriate 'dog off-leash' and 'dog-prohibited' areas for land and assets within the ownership, management, care, and control of Shoalhaven City Council (herein 'Council').

In accordance with the Act, Council must provide at least one dog off-leash area within the Shoalhaven local government area.

All other matters relating to dog ownership (such as collars, microchipping, registration, etc.) are defined under the Act and are outside of the scope of this policy.

1.1. Definitions

The following definitions are provided to give clarity to meaning and terminology under this policy:

- a) **Companion animal** – for the purposes of this policy means 'dog'. Note: 'companion animals' are also commonly referred to as 'pets'.
- b) **Public place** – as defined in the *Companion Animals Act 1998 (NSW)* – any pathway, road, bridge, jetty, wharf, road-ferry, reserve, park, beach or garden, and any other place, that the public are entitled to use, within the Shoalhaven Local Government Area, and as described in Section 205 and Section 702 of the *Local Government Act 1993 (NSW)*.
- c) **Dangerous or Menacing Dogs** – any dog that is declared 'Dangerous' or 'Menacing' under the Act.
- d) **Restricted breed dogs** – any dog that is declared as 'Restricted' under the Act.
- e) **Owner** – as defined in Section 7 of the Act – the person by whom the animal is ordinarily kept; or the registered owner of the animal.
- f) **Competent person** – in accordance with Section 13 of the Act, any person who takes a dog(s) into a public space. This person must have no more than 4 dogs under their control at any time.

All dogs under the control of the competent person must be 'under effective control' at all times (see definition at 3.1g).

g) **Under effective control** –

- When on-leash (on-lead) – dog(s) must be under the effective control of a competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the competent person. This means the dog(s) behave appropriately and must not rush at, or provide unwanted attention to, other people or dogs.
- When off-leash (off-lead) – all dog(s) within designated off-leash areas must be under effective control at all times and be able to be recalled immediately and controlled by

Access Areas for Dogs

means other than a leash. Dogs must not rush at, or provide unwanted attention to, other people or dogs.

h) **Dog-controlled area** – any area within the Shoalhaven local government area designated as a:

- 'dog off-leash' exercise area (fenced or unfenced);
- 'dog-prohibited area, and
- all other areas where, for the purposes of this policy, dogs are required to be 'on-leash'.

i) **Habitat** – as defined by the *Biodiversity Conservation Act 2016 (NSW)* and including:

- an area periodically or occasionally occupied by a species or ecological community, and
- the biotic and abiotic components of an area.

2. Statement

This policy supersedes the previous *Access Areas for Dogs* policy and was adopted by Council at its meeting of 11 December 2023.

Dogs in public places across Shoalhaven will be managed by Council in accordance with the Act and this policy in the best interests of the community and the environment.

Council recognises companion dogs provide significant benefits for population health and wellbeing. This policy is therefore calibrated to ensure these benefits are realised and managed in a manner that protects the rights of all users to equitable access to a range of public places across Shoalhaven; recognising there are segments of the population that wish to avoid contact with dogs.

It is acknowledged dogs in public places can present a barrier to participation for some members of the community, including children, the elderly, and people living with physical and intellectual disabilities. Consideration shall therefore be given to equitable access to dog-free areas when designating dog-controlled areas.

The Shoalhaven community is custodian of nationally significant, environmentally sensitive areas across a wide array of landscapes. Thus, there is a vital need for dog exercise in public places to be conducted in a manner that minimises impacts on the environment and community.

Council will engage with other key agencies as partners in relation to managing dog access in public areas. Key agencies include but are not limited to: National Parks and Wildlife Service; NSW Department of Primary Industries (DPI) Fisheries; Department of Regional NSW Jervis Bay Marine Park; and Crown Lands.

2.1. Objectives

The principal objectives of this policy are to:

- a) Provide clear and accessible designations for 'dog off-leash' and 'dog-prohibited' areas within the Shoalhaven to ensure population health and wellbeing benefits associated with dog ownership are achieved in balance with the protection of biodiversity and maintenance of ecosystem health.
- b) Protect flora and fauna from the adverse impacts of dogs and, more generally, to limit the impact of dogs on biodiversity and the natural environment.

Access Areas for Dogs

- c) Support a risk-based approach to the designation and management of dog-controlled areas to balance social and environmental needs in accordance with legislation.
- d) Provide clarity to all users with respect to areas where dogs are restricted or prohibited and to ensure a range of public places remain dog-free, and therefore accessible, to a wide spectrum of users across the Shoalhaven.
- e) Outline expectations regarding the safe, shared use of public places in Shoalhaven for dog owners and other users.
- f) Direct efforts to develop educational resources that promote responsible dog ownership and positive interactions with companion dogs within public places.
- g) Provide a framework for ongoing review and adaptive management (of this policy and dog-related matters in the Shoalhaven).
- h) Promote compliance with all relevant legislation governing dog ownership and control in New South Wales.
- i) Enable effective enforcement of this policy and the Act.

2.2. Scope

- a) This policy applies to the delivery of infrastructure and services, in accordance with the *Shoalhaven 2023 Community Strategic Plan*, that support responsible dog ownership practices for dog owners and competent persons when taking dogs into public places.
- b) All members of the public (including dog owners and competent persons), whether they be residents or visitors, must comply with the provisions of this policy when taking a dog into a public place in the Shoalhaven local government area.
- c) This policy does not include a list of off-leash and dog-prohibited areas. A list of off-leash and dog-prohibited sites will be maintained and made publicly available via Council's website and guideline materials.

3. Provisions

This policy is primarily governed by the Act and the *Local Government Act 1993* (NSW). The Act outlines legislative requirements in New South Wales relating to the identification and registration of companion animals and for the duties and responsibilities of their owners, and for other purposes.

Further to the Act, Council is obliged to manage the impacts of dogs on the natural environment through the preparation of environmental assessments in accordance with relevant legislation, such as: the *Environmental Planning and Assessment (EP&A) Act 1979* (NSW), *Biodiversity Conservation Act 2016* (NSW), the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), and the enforcement of legislative functions to ensure this outcome.

This policy provides further detail about dog access arrangements in the Shoalhaven in line with the Act and other relevant legislation.

3.1. Code of Conduct

Dog owners have a responsibility to preserve and maintain the social and natural environments of the Shoalhaven local government area.

- a) Dogs must therefore be *under effective control* (ref. 3.1h for definition) at all times in public places.

Access Areas for Dogs

- b) Dog owners and competent persons who use designated off-leash areas (fenced or not fenced) must be within view of their dog/s and within close proximity of their dog/s at all times.
- c) It is the responsibility of the dog owner/competent person to be aware of dog control zonings as determined from on-line information, signage and other forms of communication provided by Council and described in section 3.9.

Dog faeces is considered an environmental risk and can contain pathogens harmful to human health and canine (dog) health.

- d) Dog faeces must be collected and disposed of responsibly (by the relevant owner or competent person). This means all dog waste must be collected in a receptacle (such as a plastic or compostable bag) and disposed in a waste container (bin).

3.2. “On-Leash at all times in Public Places”

Under the Act, dogs in public places must be under the effective control *of some competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the person*. This applies to all public places, EXCEPT designated ‘dog-off leash’ and ‘dog-prohibited’ areas (within the Act or within this policy).

- a) As a general rule, dogs in the Shoalhaven local government area are therefore required to be *on-leash* at all times EXCEPT when in a designated *off-leash* area (fenced or not fenced)
- b) Dogs are not permitted within ‘dog-prohibited’ areas.

3.3. Designated Dog-Controlled Areas

For the purposes of this policy, three categories of dog-controlled area shall apply to public places across Shoalhaven. These are:

- **GREEN** - Dog off-leash areas (timed and untimed)
- **ORANGE** - Dog on-leash areas
- **RED** - Dog prohibited areas

This traffic light classification system (green, orange, red) is utilised to differentiate between each of the three dog-controlled area categories. The traffic light classification system will be utilised in all new signage and educational material relating to dog management in the Shoalhaven local government area. Council will endeavour to update and replace all dog compliance signage and supporting information as soon as practicably possible.

Further information regarding conditions of use for each of the three dog-controlled area classifications is provided below (ref. 3.4, 3.5, 3.6).

3.4. Dog off-leash Areas – GREEN

- a) Dogs are permitted to be off-leash in designated off-leash areas (only), as indicated by Council approved on-site signage and online resources.
- b) Dog off-leash access areas can be either time-restricted or 24-hour off-leash. Mapping and signage for both types will be indicated by a green colour but with clear graphic differences for time-restricted and 24-hour off-leash areas.
- c) Owners and competent persons may be responsible for up to four dogs (only) at any time within a dog off-leash area.
- d) Dogs declared ‘dangerous’ and ‘restricted’ and ‘menacing’ dogs are prohibited in off-leash areas.

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- e) All dogs must remain *under effective control* at all times within a dog off-leash area (ref. 3.1h).

3.5. Dog On-Leash Areas – ORANGE

- a) In accordance with the Act, dogs are required to be restrained (by way of leash, cord, or chain) *and under effective control* at all times within public areas (except as designated in dog 'off-leash' areas and/or dog 'prohibited' areas).
- b) As a rule, dogs in the Shoalhaven local government area are therefore required to be *on-leash* at all times EXCEPT when in a designated *off-leash* area (fenced or not fenced).

3.6. Dog Prohibited Areas – RED

Under the Act, all dogs are prohibited in the following public places (whether or not they are leashed or otherwise controlled):

- a) *Children's play areas*
 - b) *Food preparation/consumption areas*
 - c) *Recreation areas where dogs are prohibited*
 - d) *Public bathing areas where dogs are prohibited*
 - e) *School grounds*
 - f) *Childcare centres*
 - g) *Shopping areas where dogs are prohibited*
 - h) *Wildlife protection areas*
 - i) *Any Dog Prohibited Areas designated by Council in accordance with this policy*
- (Ref. to Section 14 [Paragraph 1] of the Act for further information relating to Dog Prohibited Areas).

Restrictions on dog access required by other legislation must also be observed. Legislation includes, but is not limited to, the *National Parks and Wildlife Act 1974 (NSW)*, the *Marine Estate Management Act 2014 (NSW)* and *Marine Estate Management (Management Rules) Regulation 1999 (NSW)*. Further information regarding relevant legislation is provided below (ref. 4.1).

3.7. Designating Dog-Controlled Areas

In accordance with the Act, Council may designate 'dog-prohibited' or 'dog off-leash' areas to adequately manage social or environmental constraints at any given location under its care and control. All other areas (not designated as either 'dog-prohibited' or 'dog off-leash') shall be considered 'dog on-leash' areas.

In accordance with legislative requirements, the protection and enhancement of biodiversity, and management of heritage and recreational values, shall be given consideration when developing, implementing, and enforcing this policy – including when identifying, assessing, and designating 'dog off-leash' and 'dog-prohibited' areas.

- a) Council will delineate, foster, and regulate 'dog off-leash' areas and 'dog-prohibited' areas on the basis of the presence of environmental sensitivities, as determined by environmental due diligence undertaken by Council in accordance with this policy and relevant legislation.
- b) Council will engage with other key agencies as partners in relation to managing dog access in public areas. Key agencies include but are not limited to: National Parks and

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Wildlife Service; NSW Department of Primary Industries (DPI) Fisheries; Department of Regional NSW Jervis Bay Marine Park; and Crown Lands.

- c) Adaptive management approaches (such as temporary or partial closures of designated *off-leash* areas, or changes to the extents of *prohibited* areas) will be utilised as required to manage high-risk / high-use sites, including to protect threatened biodiversity or cultural heritage as determined by environmental due diligence undertaken by Council. Any adaptive management measures will be communicated to the general public via on-site signage and supporting information.
- d) Every effort will be made to minimise any impact/s arising from temporary or partial closures of dog-controlled areas, including through offsetting (making additional contiguous areas and/or alternative areas available as close as practicably possible), where appropriate.

Dog-Prohibited Areas

- a) Dog-prohibited areas will be determined on the basis of risk associated with:

- *Environmental sensitivities* – for example, areas where dogs will have an unacceptable impact to social and environmental values as determined by environmental assessments. This may include but is not limited to: Aboriginal cultural heritage sites, threatened species habitat such as known and probable shorebird nesting sites and migratory bird foraging and roosting sites, Endangered Ecological Communities and areas adjoining National Parks.

and/or

- *High-Use Recreation Areas* – for example: popular beach areas, parks, sports fields, or similar.
- b) Dog-prohibited areas may be subject to change, dependent on environmental fluctuations and/or changing use patterns over time, as required and in accordance with the stated objectives of this policy (refer to Section 2.1) and priorities 1.3, 2.3, and 4.3 of the *Shoalhaven 2023 Community Strategic Plan* (or any subsequent version of that plan).

3.8. Reporting

Proposals to designate dog-controlled areas

All recommendations relating to proposals to designate dog-controlled areas in the Shoalhaven arising from Notices of Motion, community requests, strategic initiatives, and capital works planning, and subsequent implementation works shall be subject to a decision of the elected Council to aid in facilitating public scrutiny and transparency.

- a) A report(s) shall be placed on the agenda of an Ordinary Council Meeting in relation to all proposed new dog off-leash and dog-prohibited area designations.
- b) A report(s) shall be placed on the agenda of an Ordinary Council Meeting in relation to all proposed permanent changes to any existing designated dog off-leash and dog-prohibited areas.
- c) In accordance with Section 232(1) of the *Local Government Act 1993* (NSW) and 3.7(a) of this policy, when deliberating proposed dog off-leash and dog-prohibited designations, consideration shall be given to the outcomes of all relevant environmental due diligence investigations, including (but not limited to) the recommendations of any relevant Review of Environmental Factors.
- d) Communities affected by proposed changes to any existing dog off-leash areas that arise due to REF findings and other investigations will be notified and consulted. The results of

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the consultation activities, REF findings, recommendations, and any other relevant matters, will be referred to Council for final determination.

Temporary changes to dog-controlled areas

- a) Report(s) will not be required to be submitted to the elected Council in relation to temporary changes to existing designated dog-controlled areas (such as temporary closures of dog off-leash areas, or changes to the extents of dog-prohibited areas) undertaken in accordance with section 3.7 of this policy. These occurrences will be managed by suitably qualified Council staff in accordance with this policy.
- b) A report(s) shall be placed on the agenda of an Ordinary Council Meeting in relation to any occurrence where temporary changes to existing designated dog off-leash or dog-prohibited areas are enacted in a consistent manner across a period of at least 36 months and where these changes can reasonably be expected to be continued for a further 24 months and/or indefinitely.

3.9. Mapping and Communication

To support the stated objectives of this policy, Council will develop and implement educational resources to ensure the effective and clear dissemination of information to enable dog owners, and the general public, to understand restrictions and to promote appropriate dog exercise in public places.

- a) Designated dog off-leash and dog-prohibited areas (categories GREEN & RED) will be defined using on-site signage and online resources (via Council's webpage). Council will endeavour to make this information universally accessible via other channels (such as printed information booklets, pamphlets, media advertising, and similar, as appropriate). On-site signage will be installed at all regularly used access points and, where possible, at the boundaries between zones of different levels of dog control.
- b) Council will collaborate with other public land managers towards providing 'cross-tenure' mapping of dog access areas for the Shoalhaven local government area.

3.10. Exemptions

- a) This policy does not apply to police dogs, emergency service dogs or dogs used to assist people with a disability (defined as 'assistance animals' under the Act).
- b) In the event a prohibited or restricted area enforceable under this policy be hired / leased out by Council to a group / individual / organisation, the terms and conditions of that hire / lease will determine the regulatory role of this policy.

3.11. Penalties for Non-Compliance

Breaches of this policy (including legislation administered by Council on behalf of other governments) will attract a penalty (or penalties).

- a) Penalties will be levied in accordance with relevant state or commonwealth legislation (including the NSW Companion Animals Act 1998), and/or Council's Compliance and Enforcement Policy.

4. Implementation

4.1. Legislation

This policy shall comply with relevant commonwealth and state legislation, including, but not limited to:

- *Biodiversity Conservation Act 2016*
- *Civil Liability Act 2002*

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- *Coastal Management Act 2016*
- *Companion Animals Act 1998 (the Act)*
- *Companion Animals Regulation 2018*
- *Crown Land Management Act 2016*
- *Environment Protection and Biodiversity Conservation Act 1999*
- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Fisheries Management Act 1994*
- *Local Government Act 1993*
- *Marine Estate Management Act 2014*
- *Marine Estate Management (Management Rules) Regulation 1999*
- *National Parks and Wildlife Act 1974*
- *Prevention of Cruelty to Animals Act 1979*
- *Public Spaces (Public Property) Act 2021*
- *Shoalhaven Local Environmental Plan 2014*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

No part of this policy shall override any act. Any part of this policy in contravention of any act shall be considered invalid.

4.2. Council Plans and Policies

This policy has been designed and developed to align with all relevant Shoalhaven City Council plans & policies, including:

- *Shoalhaven 2023 Community Strategic Plan*
- *Companion Animals (Impacts on Native Fauna) – conditions of development consent*
- *Compliance and Enforcement Policy*
- *Foreshore Reserves Policy*
- *Community Engagement Strategy (adopted at Council's Ordinary Meeting on 12 December 2022 [MIN22.978]. This policy can be viewed via Council's Policies page: <https://www.shoalhaven.nsw.gov.au/Access-to-Information/Organisation/Policies>)*

4.3. Administration

- a) This policy (including future policy reviews) will be administered by the City Lifestyles directorate (Community Planning & Projects).

4.4. Implementation

- a) Implementation plans (including actions arising, such as any strategies or guideline documents relating to enforcement, communications & engagement, education, etc.) will be a shared responsibility of directors with accountability for asset strategic planning, asset custodianship, and enforcement matters, including the: Director – City Lifestyles; Director – City Development; and Director – City Services.

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- The City Development directorate (Environmental Services) shall have responsibility for undertaking environmental due diligence investigations for designated dog off-leash and dog-prohibited areas.
 - City Lifestyles (Community Planning and Projects) shall oversee the preparation of an Implementation Plan and associated Implementation Funding Plan to ensure the policy detail is implemented across the organisation and municipality.
 - Actions (identified in the Implementation Plan) will be assigned to relevant departments for implementation in accordance with their roles and responsibilities (such as: asset strategic planning, asset custodianship, or enforcement).
- b) All Councillors are responsible for implementation of this policy, in accordance with policy detail (provisions) and related legislated obligations.

4.5. Enforcement

- a) This policy, and related matters under the *Companion Animals Act 1998* (NSW) and other related legislation will be enforced by the City Development directorate (Ranger Services).

5. Review

The policy, in its entirety, will be reviewed within 12 months of election of a new council, or when a change of legislation affects this policy.

ATTACHMENT 3

Narrawallee Beach – Dog Access Arrangements

Description of Study Area

This Attachment is to be read in conjunction with the *Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Access Arrangements - Outcome of Engagement Activity report* (29 July 2024).

NORTH	
Feature	Details
Narrawallee Creek Inlet	<ul style="list-style-type: none"> Intertidal zone. Curves southward, then eastward before entering the ocean north of Narrawallee Inlet Reserve Headland. Spans up to 25m wide from north to south. Is walkable at low tide between Narrawallee Creek Nature Reserve (National Park – northern bank) and Narrawallee Inlet Reserve (council-managed Crown land – southern bank).
Narrawallee Inlet Reserve	<ul style="list-style-type: none"> Approximately 365m in length (east to west) along the Narrawallee Creek bank. Width of about 35m with flat topography. Manicured grass with scattered shade-providing specimen trees and native groundcover planting. Natural vegetation along the creek edge, including mangroves (east) and casuarinas (west). Three separate timber staircases leading from the reserve to the sand (inlet). Southern boundary adjoins residential dwellings. Car park located within the northern cul-de-sac of Matron Porter Drive. Amenities, including a playground, barbeques, historical interpretive signs, bushwalks, and an amenities block.
Narrawallee Inlet Reserve Headland	<ul style="list-style-type: none"> Approximately 50sqm of natural bushland. Surrounded by rocky outcrops / cliffs. Features a rugged bushwalk track. Approx. 25m high cliffs.

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NORTH	
Feature	Details
South of Narrawallee Inlet Reserve Headland	<ul style="list-style-type: none"> Variable sandy beach conditions. Approximately 60m wide and 600m long. Facing East-Southeast. Terminates at northern end with a rising cliff-face at Narrawallee Inlet Reserve Headland. Rocky outcrops at sea level, extending east around the headland.
Usage and Surroundings	<ul style="list-style-type: none"> Popular among surfers, swimmers, families, and fishers. Not overlooked by dwellings. Flanked by a natural vegetation-covered dune.
Dune Details	<ul style="list-style-type: none"> Part of Narrawallee Inlet Reserve. Extends from north to south behind Narrawallee Beach. Meets Matron Porter Drive Reserve border near Barclay Street. Dimensions: 60-65m wide (east to west), 680m long (north to south).
Beach Access	<ul style="list-style-type: none"> Several sandy tracks over the undulating dune.
Track Characteristics	<ul style="list-style-type: none"> 40-65m long. 2-3m wide. Informal, undulating, sandy paths. Lead from various points along northern Matron Porter Drive.
Parking	<ul style="list-style-type: none"> Matron Porter Drive's eastern unsealed verge widens at track heads. Allows for 4-8 informal 90° parking spaces.
Matron Porter Drive (Road)	<ul style="list-style-type: none"> 6m wide, relatively flat, bitumen road. Runs south to north, ending at Narrawallee Inlet Reserve car park.
Western side of Matron Porter Drive	<ul style="list-style-type: none"> Residential dwellings. 7m wide flat grass verge with soft informal edge. Unrestricted kerbside parallel parking.
Eastern side of Matron Porter Drive	<ul style="list-style-type: none"> Informal edge along bitumen surface. Unrestricted parallel parking available.

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NORTH	
Feature	Details
	<ul style="list-style-type: none"> No dwellings from northern cul-de-sac to Victor Avenue. Variable width informal verge. 90° parking between cul-de-sac car park and Macleay Street. Periodic parallel parking from Macleay Street to south of Barclay Street. Interspersed with small bushland sections and short 90° parking areas.



Fig 1. Narrawallee Creek Reserve Playground



Fig 4. Northern Section Access Track



Fig 3. View of Northern Section of Narrawallee

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CENTRAL	
Feature	Details
Transition from Northern to Central Section	<ul style="list-style-type: none"> Widened sandy beach (approx. 85m in length and width).
Unnamed Island	<ul style="list-style-type: none"> Approximately 210m east of shoreline. 580sqm rock formation near sea level. Visibility varies with tides.
Beach Characteristics	<ul style="list-style-type: none"> Width: Approx. 60m. Length: About 380m. Orientation: East-Southeast. No overlooking dwellings. Backed by north-south coastal dune with dune vegetation. Recreational uses: dog walking, fishing, walking, sunbaking.
Southern Boundary Features	<ul style="list-style-type: none"> Rocky protrusion east-west from below waterline to coastal dune, up to 1m high, 6-35m wide. Coastal dune turns eastward, extending 30m beyond general vegetation line. Beach narrows to 6m wide sandy path.
Beach Access	<ul style="list-style-type: none"> Informal sandy tracks similar to northern section. Exception: southern path from Matron Porter Drive Reserve.
Matron Porter Drive Reserve	<ul style="list-style-type: none"> Triangular shape, up to 220m wide. Borders: coastal dune (E), Matron Porter Drive (NW), Rising cliff-line (SW). Coastal dune: 80-120m wide, approx. 480m long. Western area: manicured grass picnic area, canopy trees. Amenities: picnic shelters, benches, restrooms, garbage bins Clear lines of sight for natural surveillance.
Southern Matron Porter Drive Access Track	<ul style="list-style-type: none"> Width: 10-15m. Length: Approx. 150m. Features: Flat avenue, manicured grass, sandy dirt path, north-facing cliff, dense bushland, canopy trees, grassed viewing area at beach end.

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CENTRAL	
Feature	Details
Matron Porter Drive Car Park	<ul style="list-style-type: none"> Location: Southern end of Matron Porter Drive Reserve. Access: Unsealed driveway. Characteristics: Flat, unsealed, fenced by bollards, 30m x 80m, Informal shape, no marked spaces, surrounded by parkland. Approx. 20-25 spaces.
Southwestern Matron Porter Drive	<ul style="list-style-type: none"> North-facing rising cliff (approx. 10m height), with 15-20m wide natural vegetation border atop cliff. Dwellings on Victor Avenue south of (adjacent to) cliff.
Matron Porter Drive (Road)	<ul style="list-style-type: none"> Bends southwest around Matron Porter Drive Reserve, then southeast to Victor Avenue.
Western Side of Matron Porter Drive	<ul style="list-style-type: none"> Dwellings, 5-8m grass verge. South of Matron Porter Drive Reserve: informal edge.
Eastern Side of Matron Porter Drive	<ul style="list-style-type: none"> Informal edge with dune vegetation. 90° informal parking near Matron Porter Drive Reserve (210m stretch, approx. 70 spaces). South of Matron Porter Drive Reserve: sealed kerb, gutter, footpath, vegetation, dwellings.



Fig 5. View of dog off-leash area looking south from BA8

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Fig 6. Matron Porter Drove Access Track (BA3)



Fig 7. View of dog off-leash area looking north from BA3

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SOUTH	
Feature	Details
Top of Southern Section	<ul style="list-style-type: none"> Rocky protrusion: east-west, up to 1m high, 6-35m wide. Coastal dune: vegetation-covered, reaches eastward point parallel to rocky protrusion. 6m wide sandy path between dune vegetation and rocky protrusion.
Southern Terminus	<ul style="list-style-type: none"> Coastal dune meets Bannister Head. Sand changes to rocky outcrop bordering headland near water level.
Beach Shape and Atmosphere	<ul style="list-style-type: none"> Deeper "C" shape than north and central sections. Discrete and picturesque atmosphere due to bordering features and curved hillside.
Beach Characteristics	<ul style="list-style-type: none"> 210m long, approx. 50m wide sandy area (tide-dependent). Orientation: East North East (ENE). Protected (from the south) by Bannister Head (extends 1.4km east). Popular for sunbaking, picnics, water play, swimming, snorkelling. Used by young families, seniors, and swimmers. Protected surf conditions. Patrolled by Surf Lifesavers in summer and early autumn.
Western Topography	<ul style="list-style-type: none"> Elevated, linking rising cliff between Victor Ave properties and MPDR southern track. Connects with north-western elevation of Bannister Head. Amphitheatre-shaped area of native vegetation (Victor Ave Reserve and Surfers Ave North Reserve). Specimen trees provide beach shade. Steep terrain from beach to Victor Ave. Dwellings on Victor and Surfers Ave visible above reserves.
Beach Access Points	<ul style="list-style-type: none"> Victor Avenue Steps. Surfers Avenue Steps.
Victor Avenue Steps	<ul style="list-style-type: none"> 15m south of narrow sandy beach path.

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SOUTH	
Feature	Details
	<ul style="list-style-type: none"> 8m west and 15m south of rocky protrusion. 20m long, 51 risers. Concrete with railings. Recently widened to 2m. Elevation: 8m.
Surfers Avenue Steps	<ul style="list-style-type: none"> Three short flights of timber steps. Flat resting and viewing platforms. Shares access point with bitumen service track.
Victor Avenue (Road)	<ul style="list-style-type: none"> "C" shaped street, 9m wide bitumen carriageway. Formed kerb and gutters. Two intersections with Matron Porter Drive. Slopes downward from intersections. Dwellings on both sides at ends, western side only in central section. 110m eastern frontage open to Victor Avenue Reserve. Unrestricted parallel parking. Grass verges (2-3m wide) on both sides.
Victor Avenue Steps Area	<ul style="list-style-type: none"> Victor Avenue Reserve. 12m long concrete paved footpath at top. View of southern Narrawallee Beach visible. Facilities: Park bench, footpath, garbage bin, signage.
Reserves Connection	<ul style="list-style-type: none"> Victor Avenue Reserve connects with Surfers Avenue Reserve. No pedestrian access between reserves due to steep slope and dense planting.
Surfers Avenue (Road)	<ul style="list-style-type: none"> 9m wide bitumen carriageway. Intersects with Matron Porter Drive south of Victor Avenue. East-west oriented, then curves southeast and south. Dwellings on both sides for 150m, then south/western side only. 120m northeastern frontage to rocky outcrop.

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SOUTH	
Feature	Details
	<ul style="list-style-type: none"> Terminates in cul-de-sac at Surfers Avenue South Reserve. Dense vegetation (60-20m wide) on northeastern side for 130m. Travels downhill southeast. Cul-de-sac 2m above rocky outcrop, 40m long sea view.
Surfers Avenue Steps Area	<ul style="list-style-type: none"> Sealed driveway 34m to the top of the stairs. Bollards and gate at entry. Driveway is 4m in width. Access to unfinished bitumen road. Manicured grass and bushland on the southeastern side of the driveway. Mature trees and bush on the northwestern side of the driveway. Facilities: Bins, signage.

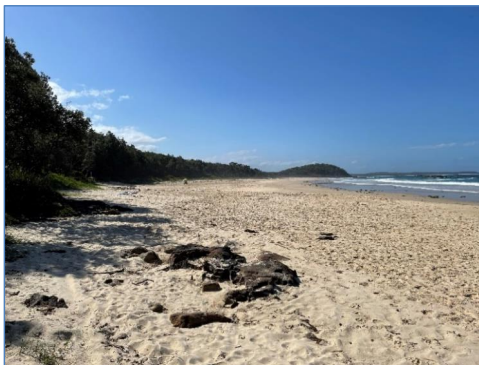


Fig 8. View from BA2 to BA3 (Yellow Arrow)



Fig 9. View from BA3 to rocky protrusion near BA2

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Fig 10. Victor Avenue Steps

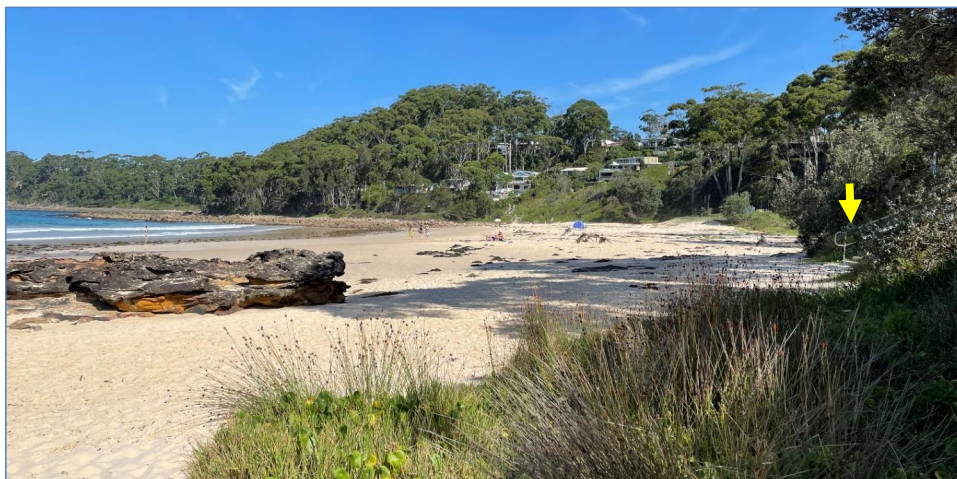


Fig 11. View south to BA2, Victor Avenue steps (Yellow Arrow)

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Fig 12. View from south of BA2 looking north past rocky protrusion



Fig 13. View looking north from BA1, Surfers Avenue Steps

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Footnotes:

1. References to buffer zone decisions in the REF:
 - Guidelines & endangered species – REF Section 8 Impact Assessment p42 – 43;
 - Endangered species information – REF Section 9 Impact Mitigation p49;
 - Decision about buffer zones - REF Section 10 Determination, p53;
 - Endangered species info –Appendix 3 – Tests of Significance p77 – 78;
 - Endangered species info – Appendix 4 – Significant Impact Criteria p83; 84; 85; 88.
2. Minimum buffer distance of 165 – 255m; p42, Section 8 Assessment Criteria, REF.

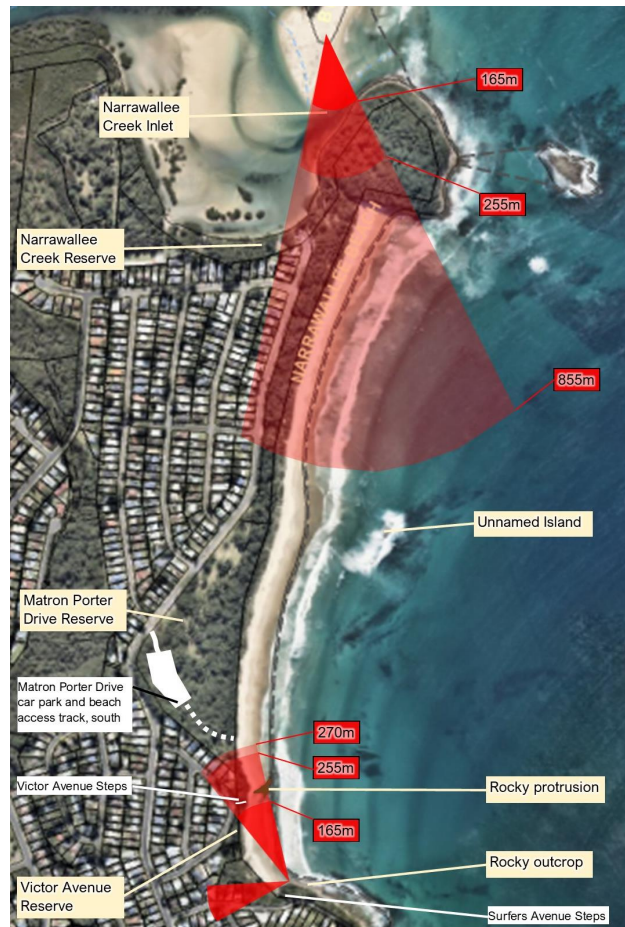


Fig 14. Aerial Image of Narrawallee Beach, showing key measurements

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Review of Environmental Factors (REF) - Dog off- leash access

Narrawallee Beach, Narrawallee



CL24.223 - Attachment 4

Assessment and approvals overview


Item		Details	
Assessment Type		Division 5.1 <i>Environmental Planning and Assessment Act 1979</i> (NSW) - REF	
Proponent		Shoalhaven City Council	
Prepared by		Ecoplanning Pty Ltd on behalf of Shoalhaven City Council	
Determining authority / authorities		Shoalhaven City Council	
Required approvals (consents, licenses and permits)		Nil	
Required publication		This REF will be published on Shoalhaven City Council's website (as the determining authority), in accordance with Section 171(4) <i>Environmental Planning and Assessment Regulation 2021</i> (as a matter of public interest).	
Document Review			
	Name	Signature	Date
Author	Ecoplanning Pty Ltd.		15/04/2024
Reviewer	Shoalhaven City Council	PS	29/04/2024
Approver	Shoalhaven City Council	MR	2/5/2024

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1 Introduction

1.1 Background

This document provides the environmental assessment for a dog off-leash area and associated ancillary works at Narrawallee Beach, in line with the requirements for such activities under Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act). The assessment relates to the impact of the proposed activity on the community and the environment in accordance with section 171 of the *Environmental Planning and Assessment Regulation 2021* (NSW) (EP&A Regulation).

The Shoalhaven City Council (SCC) revised Access Areas for Dogs Policy and Access Areas for Dogs Policy Implementation Plan were adopted in December 2023 (CL23.463). The Policy and Plan are consistent with section 13(6) of the *Companion Animals Act 1998* (CA Act), which states:

'A local authority can by order declare a public place to be an off-leash area. Such a declaration can be limited so as to apply during a particular period or periods of the day or to different periods of different days. However, there must at all times be at least one public place in the area of a local authority that is an off-leash area.'

The objectives of the Access Areas for Dogs Policy are to:

- Provide clear and accessible designations for 'dog off-leash' and 'dog-prohibited' areas within Shoalhaven local government area (LGA) to ensure population health and wellbeing benefits associated with dog ownership are achieved in balance with the protection of biodiversity and maintenance of ecosystem health.
- Protect flora and fauna from the adverse impacts of dogs and, more generally, to limit the impact of dogs on biodiversity and the natural environment.
- Support a risk-based approach to the designation and management of dog control areas to balance social and environmental needs in accordance with legislation.
- Provide clarity to all users with respect to areas where dogs are restricted or prohibited and to ensure a range of public places remain dog-free, and therefore accessible, to a wide spectrum of users across the Shoalhaven.
- Outline expectations regarding the safe shared-use of public places in the Shoalhaven for dog owners and other users.
- Direct efforts to develop educational resources that promote responsible dog ownership and positive interactions with companion dogs within public places.
- Provide a framework for ongoing review and adaptive management (of the policy and dog-related matters in Shoalhaven).
- Promote compliance with all relevant legislation governing dog ownership in New South Wales.
- Enable effective enforcement (of the policy).

The policy recognises in accordance with the CA Act that 'all dogs within designated off-leash areas must be under effective control at all times and be able to be recalled immediately and

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controlled by means other than a leash. Dogs must not rush at, or provide unwanted attention to, other people or dogs’.

1.2 Purpose of this Review of Environmental Factors

This Review of Environmental Factors (REF) is one of several REFs that assesses the suitability and permissibility of formal dog off-leash areas in the Shoalhaven LGA. This REF is a reviewed and updated version of the *Dog Off-leash Access Narrawallee Beach, Narrawallee* (SCC 2022), as well as the resulting culmination of the history and decision making as outlined in Section 2.3 and Appendix 5.

In November 2023, the following Council resolution (MIN23.661) was derived in relation to the REF:

- Update the REF for Narrawallee Beach off-leash area and exhibit the revised REF for information only.
- To submit a report on the REF findings for Narrawallee Beach off-leash area, results of consultation activities, and recommendations for the designation of dog off-leash and dog-prohibited areas at Narrawallee Beach to a future Council Ordinary Meeting for final determination.

Appendix 5 provides the chronological history of Council resolutions pertaining to dog off-leash access at Narrawallee Beach. Designating a dog off-leash area constitutes an ‘activity’ under Part 5 of the EP&A Act. Proposed activities must examine, to the fullest extent possible, all matters affecting or likely to affect the environment by reason of the activity. Consideration must be given to the environmental factors listed in section 171 of the EP&A Regulation.

This REF assesses potential environmental impacts of a proposed dog off-leash area and associated ancillary works along Narrawallee Beach. Boundaries to the dog off-leash area that minimise environmental and social impacts in response to the proposed activity are recommended.

The REF describes the proposed activity and legislative context, assesses potential environmental impacts and recommends mitigation measures based on existing measures to satisfy Council’s due diligence and statutory responsibilities. Information obtained through stakeholder consultation, including with the NSW National Parks and Wildlife Service (NPWS) and broader community, was considered in the preparation of this assessment.

1.3 Proposed activity

The proposed activity comprises a dog off-leash area along the entirety of Narrawallee Beach and is referred to as the subject site in this REF (Figure 1.). The sandy beach, immediately below the vegetated incipient dune, is considered the landward boundary of the subject site. This includes the area of potential direct impact on the community and the environment from the proposed activity. An area including a 50-metre buffer to the subject site, where direct and indirect impacts on the community and the environment may occur, has also been assessed, and is referred to as the study area.



Figure 1 Narrawallee Beach, and the subject site and study area.

The proposed activity includes the provision of a dog off-leash area within the subject site during the following times:

- Australian Eastern Daylight Savings Time – off leash from 4 pm to 8 am.
- Australian Eastern Standard Time - off leash from 3 pm to 10 am.

Ancillary works associated with this proposed activity will include the installation of signage. The installation of signage as part of the proposed activity will primarily include replacing signs on existing posts (e.g., Appendix 1, Plate 1).

Accordingly, the REF assesses the direct and indirect community and environmental impacts associated with the proposed activity (inclusive of ancillary works) within the subject site and study area.



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1.4 Sources of information

This REF has been informed by:

- Database searches:
 - NSW BioNet (accessed on 6 September 2022, 13 June 2023, 1 November 2023, 24 January 2024 and 24 April 2024).
 - Birddata (including Birdlife Australia's shorebird monitoring program survey data) (accessed on 6 September 2022, 1 November 2023 and 24 January 2024).
 - Council's GIS Enquiry (various data layers from September 2022 to May 2024). This contains GIS layers with data sourced under licence, including sensitive data locations and records of threatened species, as well as Birddata.
 - Aboriginal Heritage Information Management System (AHIMS) (accessed on 30 April 2024).
 - Council records and archives (February 2024).
- Consultation with NPWS, including consultation with the NPWS Shorebird Ranger and records sourced from the NSW Shorebird Recovery Program.
- Consultation with Council's Rangers to ascertain the appropriateness of existing controls and the enhancement of mitigation measures to ensure a nil to negligible impact on the community and the environment.
- Correspondence received from members of the public or from community organisations.
- An on-site survey conducted by SCC staff for the presence of Aboriginal objects on 1 May 2024.
- A site inspection was conducted by SCC and EcoPlanning on 14 November 2023 to assess the environmental factors required to be considered.
- A site inspection by SCC staff to assess social aspects of the assessment between December 2023 and January 2024 and on 9 March 2024.
- A site inspection by SCC staff to inspect beach accessway signage on 16 April 2024.

Likelihood of occurrence was assessed for threatened flora and fauna listed under the *Biodiversity Conservation Act 2016* (NSW) (BC Act) and *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) that have been recorded within 10 kilometres of the subject site (hereafter referred to as the 'locality').

Based on the nature of the subject site and proposed activity, it was considered that the above listed habitat assessment, literature review and database searches were appropriate means for assessing the potential impact on environmental factors in accordance with section 171 of the EP&A Regulation.

2 Location and historical context

2.1 Location

Narrawallee Beach is an open-coast beach in the township of Narrawallee, 3 kilometres north of Ulladulla. The beach is approximately 1.4 kilometres in length. Narrawallee Creek Nature Reserve and Narrawallee Creek Inlet are located to the north of the study area (Figure 2).

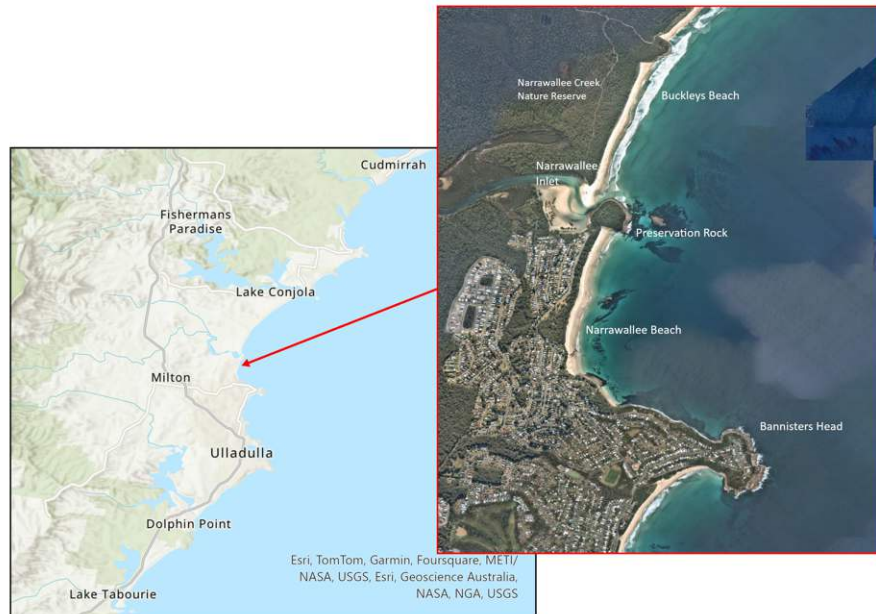


Figure 2 Location of Narrawallee Beach, on the south coast of NSW.

2.2 Land ownership and management.

The Narrawallee Beach foreshore (Lot 7009 DP 1116370) is Crown Land managed under the *Crown Land Management Act 2016* (NSW) (CLM Act), with SCC being the delegated land manager. The purpose of this Crown Land reserve was deemed to be for 'public recreation', published in the NSW Government Gazette on 8 September 1978. SCC was appointed Trust Manager, notified in the NSW Government Gazette No. 41 (dated 23 February 2001).

Under the CLM Act, dedicated or reserved Crown Land managed by Council is assigned categories in accordance with section 3.23 of the CLM Act, whereby the land is managed as if it were community land under the *Local Government Act 1993* (NSW) (LG Act). Narrawallee Beach foreshore within the subject site was categorised as Community Land – Natural Area in 2020. The foreshore within the subject site is zoned as RE1 – Public recreation under the Shoalhaven Local Environmental Plan 2014 (SLEP).



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2.3 Historical context

The dog off-leash access arrangements and the permissibility associated with these have changed several times for Narrawallee Beach (Appendix 5). Discussions around a dog off-leash area at Narrawallee Beach began in 2000, whereby the entirety of Narrawallee Foreshore Reserve and Beach was recommended for dog off-leash access before 8 am and after 6 pm (SCC 2022). Significant feedback was received that opposed the designation of Narrawallee Beach as a dog off-leash area, resulting in the proposed off-leash area being abandoned.

After community consultation, Council resolved in 2005 under the first Access Areas for Dogs Policy, to adopt a number of dog-prohibited areas, including Narrawallee Beach and the foreshore reserve from Narrawallee Inlet Creek to Surfers Avenue, excluding the area between Victor Avenue north to the unnamed island (colloquially known as Bernie's Rock). This area was not designated as a dog off-leash area and as such, was a dog on-leash area as per the CA Act.

From June 2015, a number of trials and changes occurred to the dog access areas at Narrawallee Beach. The most significant being the designation of an approximate 540 metre stretch of the beach as a dog off-leash area, from the unnamed island to the rocks at the Victor Avenue access point. Council resolved to 'Provide an appropriate on leash area for access to the trial area from the southern side of Victor Avenue steps during the trial period' (MIN15.368).

In August 2019, Council resolved a six-month trial for dog access to the off-leash area through the prohibited area from Surfers Avenue via the Shoalhaven Water sewage pumping station accessway, located at the time adjacent to the escarpment.

In December 2019, Council resolved to commence a twelve-month trial to designate a 10-metre-wide strip between the Surfers Avenue unformed beach access and the Victor Avenue stairs to the north for dog on-leash access to the off-leash area.

During the trial period (from December 2019 to December 2020), Council liaised with the local community and interest groups in relation to the trial. Council staff received correspondence from approximately 100 individuals and groups in relation to the trial (Section 7).

In February 2021, based on the trial and feedback received, Council resolved to reinstate the southern boundary of the off-leash area in line with Matron Porter Drive (BA3), retain the northern boundary opposite Parkinson Street (BA7), and provide new signage communicating these changes at 17 access points in the Narrawallee Beach and Inlet area. Council adopted the trial provisions with several time amendments regarding Australian Eastern Standard Times/ Daylight Saving Times.

In November 2021, Council resolved to reinstate the southern boundary of the dog off-leash area to be in line with the Victor Avenue steps, as well as retain the northern boundary (at BA7). Dog access from all beach access entry points in between and including Victor Avenue steps and Parkinson Street, Narrawallee Beach (BA2 to BA7) was also granted. It was also resolved to continue to allow on-leash access from Surfers Avenue to Victor Avenue steps via a transit zone (BA1 to BA2).

As of November 2023, as a result of legal proceedings, Council resolved to remove the 10-metre wide on-leash transit area from the Surfers Avenue steps to the Victor Avenue steps, and to make the area from Victor Avenue Steps (BA2) to the southern Matron Porter Drive

access (BA3) dog-prohibited (Figure 3). It was also resolved to update the REF and to submit a report on the REF findings for Narrawallee Beach off-leash area, results of consultation activities, and recommendations for the designation of dog off-leash and dog-prohibited areas at Narrawallee Beach to a future Ordinary Meeting of Council for final determination.

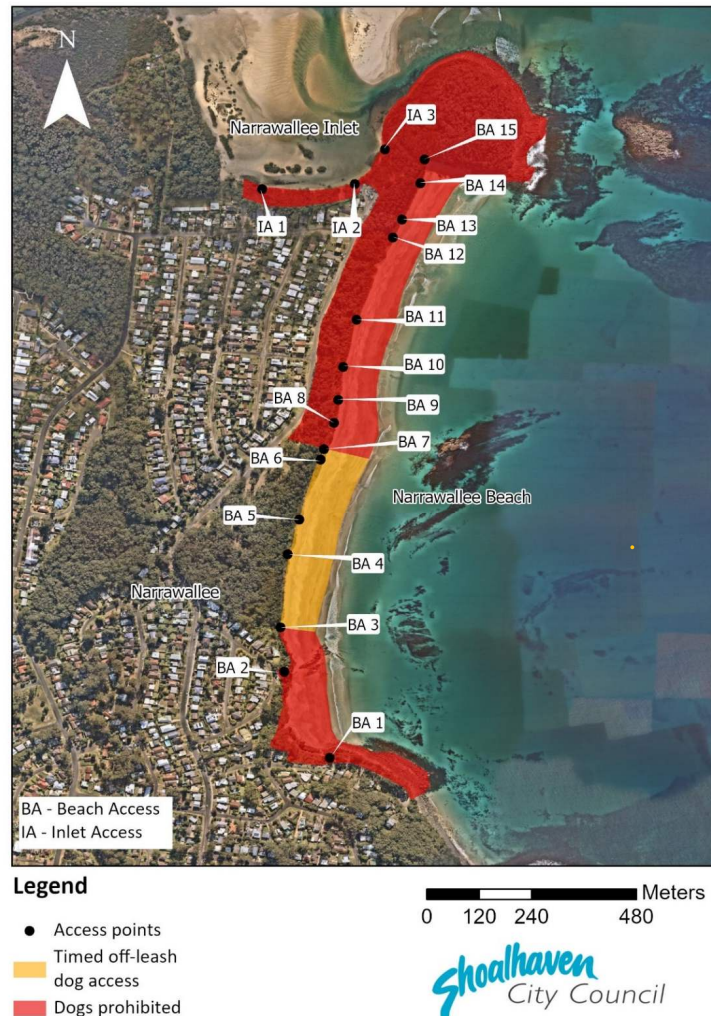


Figure 3 Current dog access area arrangements for Narrawallee Beach and immediate environs.



3 Existing environment

3.1 Community values

Many people have a strong affinity to the coast. Narrawallee Beach is valued for many reasons, including:

- Aesthetics – passive recreation undertaken to appreciate the aesthetic appeal.
- Cultural and spiritual values – water is particularly important for indigenous peoples.
- Aquatic ecosystems – respect for the health or integrity of the waterway's ecosystem(s).
- Exercise and active recreation - activities including walking, swimming, paddle boarding, kayaking, snorkelling, and fishing.

A shared user footpath and reserve area occurs to the west of the dune system extending along the length of the beach, with parkland at the northern end. Vehicle parking areas along the beach include a large carpark towards the southern end. There is another carpark at the northern end, with access to Narrawallee Beach and Narrawallee Creek Inlet, and a children's playground and amenities. These areas are heavily used by the public and visitors for social and recreational activities, as well as community events. Peak usage typically occurs during the holiday seasons. Narrawallee Beach Surf Life Saving Club (SLSC) members conduct patrols and set up flags in the southern portion of the beach – between the Surfers Avenue steps and the Victor Avenue steps, dependent upon beach and surf conditions. The lifeguards access the beach and during patrol, have a hut set up off the maintenance access road off Surfers Avenue and in close proximity to the Shoalhaven Water sewage pumping station (Appendix 6).

3.2 Landscape features.

Narrawallee Beach is an open-coast beach approximately 1.4 kilometres long. The beach is flanked by an intertidal rock platform at the southern end of the beach (Appendix 1 Plate 6). At the northern end of the beach there is a sandstone headland, a much smaller rocky formation separated from the headland called 'Preservation Rock', and Narrawallee Creek Inlet.

The study area is mapped as low risk for acid sulfate soils. High risk acid sulfate soils occur in the vicinity of Narrawallee Inlet and outside of the subject site and study area.

3.3 Biodiversity

In the context of this REF, the subject site and study area:

- is known to contain threatened and migratory species listed under the BC Act or the EPBC Act.
- Includes a small area to the north at Narrawallee Creek Inlet that is mapped under the Biodiversity Value Map (BV Map) as Protected Riparian Land. These are designated to be of high biodiversity value as defined by the *Biodiversity Conservation Regulation 2017* (NSW) (BC Regulation). The remaining parts of the study area and subject site is not mapped on the BV map.



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- A habitat and vegetation overview is provided in Section 6.1 and a detailed assessment of threatened biodiversity is provided in Section 0.

Sandy beaches such as those within the subject site provide foraging and roosting habitat for threatened and migratory shorebirds and seabirds. The study area has records of these including Pied Oystercatcher, Little Tern and White-Bellied Sea Eagle. There have been 13 migratory shorebird species recorded within the locality. Shorebird breeding and foraging habitat is approximately 600 metres to the north of the subject site within the Narrawallee Creek Inlet intertidal zone and Narrawallee Creek Nature Reserve. The intertidal rock platform at the southern end of the beach (immediately south of BA1) (Plate 6) provides foraging habitat for threatened shorebirds, such as the Pied Oystercatcher and Sooty Oystercatcher.

3.4 Cultural Heritage

An AHIMS search was conducted on 30 April 2024 and indicated that there were eight recorded Aboriginal heritage sites adjacent to the subject site. There was one site recorded from within the study area, approximately 40 metres from Narrawallee Beach around 50 metres south of the headland to the north of Narrawallee Beach. This was a single silcrete artefact flake below the surface.

Four records are for Matron Porter Reserve, outside of the study area, were of silcrete stone artefacts. These included a substantial artefact scatter along Matron Porter Drive from the residential area to the turnoff into the park that was recorded by SCC staff and subject to approved harm (AHIP) for the construction of the shared users path. One of the sites is a repatriation site of hundreds of silcrete stone artefacts repatriated from the above sites, under permit.

One of the recorded sites is a midden located on the southern side of Narrawallee Creek Inlet, within the dog-prohibited area outside of the scope of the REF.

The remaining two sites are located more than 400 metres from the subject site in urban locations.

Narrawallee Beach and Inlet are identified as the local heritage area Silica Wharf and Tramway (remnants) under Schedule 5 of the SLEP 2014.

Further assessment of indigenous and non-indigenous heritage is provided in Section 6.3.



4 Permissibility

The proposed activity is permissible under all relevant legislation (Table 1) subject to the implementation of spatial limitations and recommended mitigation measures (Section 9).

Table 1 Summary of legislation and permissibility

NSW State Legislation
Environmental Planning and Assessment Act 1979 (EP&A Act)
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
<p>Section 4.1 (Development that does not need consent) of the EP&A Act states that:</p> <p><i>'If an environmental planning instrument provides that specified development may be carried out without the need for development consent, a person may carry the development out, in accordance with the instrument, on land to which the provision applies.'</i></p> <p>Designating a dog off-leash area constitutes an 'activity' (given activity also applies to 'use of the land'). Section 2.73(3) of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (NSW) (Transport & Infrastructure SEPP) provides that:</p> <p><i>'Any of the following development may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council –</i></p> <p>(a) development for any of the following purposes –</p> <p style="padding-left: 40px;"><i>(ii) recreation areas and recreation facilities (outdoor), but not including grandstands</i></p> <p>Section 4.68(1) (Continuance of and limitations on other lawful uses) of the EP&A Act further states:</p> <p><i>'Nothing in an environmental planning instrument operates so as to require consent to be obtained under this Act for the continuance of a use of a building, work or land for a lawful purpose for which it was being used immediately before the coming into force of the instrument or so as to prevent the continuance of that use except with consent under this Act being obtained.'</i></p> <p>The use of the land at Narrawallee Beach for a dog off-leash area constitutes 'continuing use' under section 4.68(1) of the EP&A Act. The use of the land at Narrawallee Beach for a dog off-leash area does not involve the enlargement, expansion or intensification for the purpose of a recreation area.</p> <p>Dog access on Narrawallee Beach constitutes an 'activity' as defined under Part 5 of the EP&A Act. Section 5.5 of the Act <i>Duty to consider environmental impact</i> requires Council to <i>examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the activity</i>. This REF assesses all potential impacts of the proposed activity. All aspects of the proposed activity are documented in Section 1.3. Section 5 includes an assessment against factors a) – p) in Section 171 of the <i>Environmental Planning and Assessment Regulation</i> (2021). Potential impacts of the proposed activity are detailed in Section 8 and the spatial limitations of the proposed activity and other mitigation measures are provided in Section 9.</p> <p>Section 5.7 of the EP&A Act requires Council to examine and consider an Environmental Impact Statement (EIS) in respect of the activity. Specific assessments for threatened species listed under the <i>Biodiversity Conservation Act 2016</i> (NSW) (BC Act) and <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth) (EPBC Act) and migratory species listed under the EPBC Act are conducted in Appendix 3 and Appendix 4. These assessments conclude mitigation measures, listed in Section 9, are adequate to ensure the proposed activity does not constitute a significant impact to listed threatened or migratory species. As such, an EIS is not required for the proposed activity.</p>



NSW State Legislation
<i>Companion Animals Act 1998 (CA Act)</i>
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
<p>The principal object of this Act is to provide for the effective and responsible care and management of companion animals.</p> <p>Section 13(6) of the CA Act states that ‘a local authority can by order declare a public place to be an off-leash area. Such a declaration can be limited so as to apply during a particular period or periods of the day or to different periods of different days. However, there must at all times be at least one public place in the area of a local authority that is an off-leash area.’</p> <p>Section 15 of the CA Act states that ‘dogs are prohibited in the following places (whether or not they are leashed or otherwise controlled) -</p> <ul style="list-style-type: none"> (a) Children’s play areas (meaning any public place, or part of a public place, that is within 10 metres of any playing apparatus provided in that public place or part for the use of children). (b) Food preparation/consumption areas (meaning any public place, or part of a public place, that is within 10 metres of any apparatus provided in that public place or part for the preparation of food for human consumption or for the consumption of food by humans). (c) Recreation areas where dogs are prohibited (meaning any public place, or part of a public place, provided or set apart by a local authority for public recreation or the playing of organised games and in which the local authority has ordered that dogs are prohibited and in which, or near the boundaries of which, there are conspicuously exhibited by the local authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place or part). (d) Public bathing areas where dogs are prohibited (meaning any public place or any part of a public place that is used for or in conjunction with public bathing or public recreation (including a beach), in which the local authority has ordered that dogs are prohibited and in which, or near the boundaries of which, there are conspicuously exhibited by the local authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place). (e) School grounds (meaning any property occupied or used for a purpose connected with the conduct of a government school or non- government school under the Education Act 1990, other than any property used for a residence or the curtilage of a residence). (f) Child care centres (meaning any property occupied or used for a purpose connected with the conduct of an approved education and care service within the meaning of the Children (Education and Care Services) National Law (NSW) or the <i>Children (Education and Care Services) Supplementary Provisions Act 2011</i>, other than any property used for a residence or the curtilage of a residence). (g) Shopping areas where dogs are prohibited (meaning a shopping arcade or shopping complex, including any part of it that is used by the public for parking or access to shops, in which or part of which the local authority has ordered that dogs are prohibited and in which, or near the boundaries of which, there are conspicuously exhibited by the local authority at reasonable intervals notices to the effect that dogs are prohibited there). This paragraph does not apply to any shop or part of a shop. (h) Wildlife protection areas (meaning any public place or any part of a public place set apart by the local authority for the protection of wildlife and in which the local authority has ordered that dogs are prohibited for the purposes of the protection of wildlife and in which, or near the boundaries of which, there are conspicuously exhibited by the local authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place).’



NSW State Legislation
Crown Land Management Act 2016 (CLM Act)
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
<p>Council is the appointed Crown Land manager (CLM) of Narrawallee Beach (Crown Land reserve R91246 - Lot 7009 DP 1116370) under the CLM Act.</p> <p>Where a Plan of Management (PoM) exists for Crown Land, it may identify and authorise certain works that can be undertaken by a public authority and the pre-conditions (if any) for implementing those works.</p> <p>The PoM most pertaining to the subject site and study area is the <i>Generic Community Plan of Management – Natural Areas</i> https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D16/208141.</p> <p>The Core Objectives for management of community land categorised as foreshore that are set out in the Act and the PoM are:</p> <ul style="list-style-type: none"> · <i>To maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshores' role as a transition area, and</i> · <i>To facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.</i> <p>The proposed activity is in line with the first objective, as it (with the implementation of mitigation measures in Section 9) will not impact on the foreshores' role as a transition area between the aquatic and terrestrial environment. The proposed activity also meets the second objective, in that dogs will continue to be excluded from the sensitive environment area at Narrawallee Creek Inlet, where threatened shorebirds are known to breed. The PoM, as well as Council's Foreshore Reserves Policy (POL16/242) does not preclude the proposed activity.</p>
Coastal Management Act 2016 (CM Act)
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
<p>The CM Act establishes the framework and overarching objectives for coastal management in New South Wales. The purpose of the CM Act is to manage the use and development of the coastal environment in an ecologically sustainable way. The CM Act achieves this by designating 'coastal management areas' for the NSW coastal zone and assigning specific objectives for the management of these areas.</p> <p>Narrawallee Beach is designated as both Coastal Environment Area and Coastal Use Area. Under the CM Act, the management objectives for these areas includes the protection and enhancement of the coastal environment (including but not limited to ecosystem integrity, water quality, coastal and estuarine processes), as well as the protection and enhancement of the social and cultural values of the coast (including but not limited to access to public open space for recreational activities).</p> <p>The proposed activity (with the implementation of mitigation measures in Section 9) has been assessed to not contravene the management objectives of the CM Act.</p>
State Environmental Planning Policy (Resilience and Hazards SEPP) 2021
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
<p>Section 2.10 of Division 3 of the Resilience and Hazards SEPP Coastal environment area states that development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:</p>



NSW State Legislation
<ul style="list-style-type: none"> (i) The integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, (j) Coastal environmental values and natural coastal processes, (k) the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i>), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1, (l) Marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, (m) Existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (n) Aboriginal cultural heritage, practices and places, (o) The use of the surf zone. <p>(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> (a) The development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or (b) If that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (c) If that impact cannot be minimised—the development will be managed to mitigate that impact. <p>The proposed activity is considered not to have an adverse effect on the above and is therefore permissible under Resilience and Hazards SEPP.</p>
Shoalhaven Local Environmental Plan 2014 (SLEP)
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
In circumstances where development consent is not required, the SLEP does not apply. However, all relevant factors of consideration as outlined in Part 8 of the EP&A Regulation are required to be complied with. This REF, including section 171 Review of environmental factors, fulfils this requirement.
Protection of the Environment Operations Act 1997 (POEO Act)
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
The POEO Act regulates and controls pollution of land, air, water, and the emission of noise and provides for environment protection licenses, notices and offences.
The objectives of the POEO Act are as follows:
<ul style="list-style-type: none"> (a) to protect, restore and enhance the quality of the environment in NSW, having regard to the need to maintain ecologically sustainable development, (b) to provide increased opportunities for public involvement and participation in environment protection, (c) to ensure that the community has access to relevant and meaningful information about pollution, (d) to reduce risks to human health and prevent the degradation of the environment by the use of mechanisms that promote the following— <ul style="list-style-type: none"> (i) pollution prevention and cleaner production,



NSW State Legislation
<p>(ii) the reduction to harmless levels of the discharge of substances likely to cause harm to the environment,</p> <p>(iii) the elimination of harmful wastes,</p> <p>(iv) the reduction in the use of materials and the re-use, recovery or recycling of materials,</p> <p>(v) the making of progressive environmental improvements, including the reduction of pollution at source,</p> <p>(vi) the monitoring and reporting of environmental quality on a regular basis,</p> <p>(vii) the proper environmental management of chemicals throughout their whole lifecycle,</p> <p>(e) to rationalise, simplify and strengthen the regulatory framework for environment protection,</p> <p>(f) to improve the efficiency of administration of the environment protection legislation,</p> <p>(g) to assist in the achievement of the objectives of the Waste Avoidance and Resource Recovery Act 2001.</p> <p>The proposed activity (with the implementation of mitigation measures in Section 9) is considered to align with the objects of the POEO Act as impacts associated with pollution or waste management are considered unlikely to occur.</p> <p>Furthermore, the proposed activity does not constitute a scheduled activity as listed in Schedule 1 of the POEO Act and does not require an environmental protection licence.</p>
National Parks and Wildlife Act 1974 (NPW Act)
<p>Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/></p> <p>The NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) administers the NPW Act, which manages:</p> <ul style="list-style-type: none"> · Conservation of nature · Conservation of objects, places and features of cultural value · Public appreciation, understanding and enjoyment of nature and cultural heritage. · Land reserved under this Act. <p>The NPW Act binds all activities and responsibilities of the Crown. DCCEEW must consider the objectives listed above, the public interest and appropriate management of the subject site. The NPW Act controls activities carried out in designated Parks, Reserves and Aboriginal areas. The NPW Act also requires consideration of impacts to all native birds, reptiles, amphibians and mammals protected under this Act.</p> <p>The proposed activity does not take place on any designated Parks, Reserves and Aboriginal areas; however, Narrawallee Creek Inlet Reserve is located to the north of the study area. Additional consideration is required for potential impacts to Aboriginal cultural heritage. Such impacts are adequately addressed in Section 6.3 to ensure that the proposed activity aligns with the NPW Act.</p>
Biodiversity Conservation Act 2016 (BC Act)
<p>Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/></p> <p>The purpose of the BC Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development, and in particular—</p> <p>(a) to conserve biodiversity at bioregional and state scales, and</p>



NSW State Legislation

- (b) to maintain the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations, and
- (c) to improve, share and use knowledge, including local and traditional Aboriginal ecological knowledge, about biodiversity conservation, and
- (d) to support biodiversity conservation in the context of a changing climate, and
- (e) to support collating and sharing data, and monitoring and reporting on the status of biodiversity and the effectiveness of conservation actions, and
- (f) to assess the extinction risk of species and ecological communities, and identify key threatening processes, through an independent and rigorous scientific process, and
- (g) to regulate human interactions with wildlife by applying a risk-based approach, and
- (h) to support conservation and threat abatement action to slow the rate of biodiversity loss and conserve threatened species and ecological communities in nature, and
- (i) to support and guide prioritised and strategic investment in biodiversity conservation, and
- (j) to encourage and enable landholders to enter into voluntary agreements over land for the conservation of biodiversity, and
- (k) to establish a framework to avoid, minimise and offset the impacts of proposed development and land use change on biodiversity, and
- (l) to establish a scientific method for assessing the likely impacts on biodiversity values of proposed development and land use change, for calculating measures to offset those impacts and for assessing improvements in biodiversity values, and
- (m) to establish market-based conservation mechanisms through which the biodiversity impacts of development and land use change can be offset at landscape and site scales, and
- (n) to support public consultation and participation in biodiversity conservation and decision-making about biodiversity conservation, and
- (o) to make expert advice and knowledge available to assist the Minister in the administration of this Act

A species is considered threatened if:

- there is a reduction in its population size
- it has a restricted geographical distribution, or
- there are few mature individuals.

A species may be listed under the BC Act as:

- vulnerable
- endangered
- critically endangered, or
- presumed extinct.

How threatened a species is in NSW depends on:

- the extent of its population reduction across NSW and over time
- the size of its geographical distribution, or
- the number of mature individuals.

Populations of species and ecological communities can also be listed as threatened.

Processes that threaten species may be listed as key threatening processes.

Habitat essential to the survival of endangered or critically endangered species, as well as populations of species or ecological communities can be declared as critical habitat.

The proposed activity is;

- Unlikely to have a significant impact on species and communities listed in the schedules of this Act (refer to Appendix 3).



NSW State Legislation
<ul style="list-style-type: none"> Not within an area declared to be of 'outstanding biodiversity value' as defined in this Act. Not considered to have a <i>serious and irreversible impacts on biodiversity values</i>. Not likely to increase the role of any listed key threatening processes. <p>The proposed activity (with the implementation of mitigation measures in Section 9) is not deemed to be <i>likely to significantly affect threatened species</i> and a Biodiversity Development Assessment Report (BDAR) and entry into the Biodiversity Offset Scheme (BOS) is not required.</p>
Heritage Act 1977 (Heritage Act)
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
The Heritage Act is concerned with all aspects of the conservation of heritage places and items. Heritage items of state significance are listed on the State Heritage Register. The Heritage Act provides protection for non-Aboriginal historic artefacts and/or sites (older than 50 years). A review of potential impacts to non-Aboriginal heritage is given in Section 6.3.
Local Land Services Act 2013
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
No clearing of vegetation is proposed. No separate authorisation under this Act is required.
Water Management Act 2000
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
Local councils are exempt from section 91E(1) of this Act in relation to all controlled activities that they carry out in, on or under waterfront land (by virtue of section 41 of the <i>Water Management (General) Regulation 2018</i>).
The proposed activity would not interfere with the aquifer and therefore an interference licence is not required (section 91F).
Aboriginal Land Rights Act 1993
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
There are unresolved land claims on the subject site; however, the Act does not preclude the activity taking place on the subject site. The Crown reserve has lawfully been used as a recreational area prior to the lodgement of the land claim.
The proposed activity would not affect or complicate the assessment of the land claim as it is temporary in nature and would not diminish the size or nature of the land.
Therefore, despite the proposed activity, the land would remain as 'claimable land' as defined in this Act.
Commonwealth Legislation
Environment Protection and Biodiversity Conservation Act 1999 (EP&BC Act)
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>
The proposed activity would not be undertaken on Commonwealth land and no Matters of National Environmental Significance are likely to be significantly impacted on by the proposed activity (refer Appendix 4). As such, the proposed activity does not require Commonwealth referral.
Native Title Act 1993
Permissible <input checked="" type="checkbox"/> Not permissible <input type="checkbox"/>



Commonwealth Legislation

The *Native Title Act 1993* recognises traditional interests in land of Aboriginal and Torres Strait Islander people and provides an avenue for land title claims against Crown land.

The proposed activity can be undertaken as a valid act under Subdivision 24LA *Low Impact Future Acts* as the act does not consist of, authorise, or otherwise involve:

- a) The grant of a freehold estate
- b) The grant of a lease
- c) The conferral of a right of exclusive possession
- d) The excavation or clearing of any of the land or waters (see note below)
- e) mining
- f) The construction of placing on the land, or in the waters, of any building, structure, or other thing (other than fencing or a gate), that is a fixture, or
- g) The disposal or storing, on the land or in the waters, of any garbage or any poisonous, toxic or hazardous substance.

The non-extinguishment principle applies to this Act and no referral or request for comment to Native Title Service Provider for Aboriginal Traditional Owners (NTSCORP) is required.



5 Assessment of environmental factors

Section 171 of the EP&A Regulation lists the environmental factors to be investigated when consideration is being given to the likely impact of an activity on the environment under Part 5 of the EP&A Act. An assessment of the proposed activity against these environmental factors has been undertaken (Table 2).

Table 2 Assessment of section 171 (EP&A Regulation) environmental factors

In accordance with Section 171(2) of the EP&A Regulation, Council has considered the following environmental factors:	Assessment of impact	Reason
a) the environmental impact on the community	Negligible/Positive	The subject site is located within Community Land and is frequently used as a public reserve for social and recreational activities. The spatial extent of dog off-leash access is required to be limited to a portion of Narrawallee Beach to reduce conflict between other recreational uses of the subject site and to meet the various community needs. Section 8.3 provides a full assessment.
b) the transformation of the locality	Negligible	The subject site is an open-coast beach in the township of Narrawallee, currently zoned as RE1 'Public recreation' (SLEP 2014). The locality will remain a beach and coastal foreshore reserve, maintaining the range of current beneficial uses. Thus, there will be no transformation of the locality in response to the proposed activity.
c) the environmental impact on the ecosystems of the locality	Negligible	The ecosystems in the locality range from aquatic, intertidal and terrestrial. The proposed activity is relevant because the presence of dogs can impact on wildlife occupying these environs. However, analysis indicates the impact on these ecosystems is considered negligible given the assessments carried out and with the implementation of mitigative controls, including limiting the spatial extent of dog off-leash access. Refer to Sections 8.1 and 8.2 for further information on this analysis.
d) reduction of the aesthetic, recreational, scientific or other environmental quality or value of the locality	Negligible/Positive	There would be minimal impact on the aesthetic, recreational, scientific or other environmental qualities or value of the locality. The subject site will remain a public reserve and recreation opportunities would not be diminished. Limiting the spatial extent of the dog off-leash area within the subject site has been done to ensure this outcome. Refer to

In accordance with Section 171(2) of the EP&A Regulation, Council has considered the following environmental factors:	Assessment of impact	Reason
		<p>Section 8.</p> <p>The proposed activity would enhance the recreational values of the subject site by providing a controlled dog off-leash area that allows shared and balanced use by the public.</p> <p>Dog disturbance will be minimal during dog off-leash times as dogs are required, under the CA Act, to remain under control of their owner/walker. The person in control of the dog(s) is also responsible for waste disposal (including dog faeces). Compliance inspections will be carried out regularly to enforce these legal obligations and to help build a culture of appropriate public pet supervision. This will be reinforced with appropriate communications such as signage and SCC website information.</p> <p>The proposed activity would not involve any direct impact on the natural attributes of the subject site. The beach and coastal foreshore reserve is regularly monitored for erosion and appropriate land management will be implemented at the subject site, if required.</p> <p>The continuation of the existing dog off-leash area may potentially result in the generation of noise (i.e., dog barking) during the designated off-leash times. The subject site is adjacent to existing public and recreational facilities, such as a children's playground and barbeque picnic area, where noise is generated. In addition, the beach and foreshore reserve are used by the public for a diversity of activities. Therefore, noise levels from the dog off-leash area are within a normal range conducive to the existing public use of the beach. As a result, noise would not be considered to be at a disruptive level. Reports or complaints made to Council regarding noise will be monitored.</p>
<p>e) the effects on any locality, place or building that has –</p> <p>(i) aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance, or</p>	Negligible	<p>The subject site has no significant aesthetic, architectural, cultural, historical, scientific or social values likely to be impacted on by this activity.</p> <p>Narrawallee Beach and Inlet are identified as the local heritage area Silica Wharf and Tramway (remnants) under Schedule 5 of the</p>



In accordance with Section 171(2) of the EP&A Regulation, Council has considered the following environmental factors:	Assessment of impact	Reason
(ii) other special value for present or future generations?		<p>SLEP 2014. The proposed activity is unlikely to affect this heritage listing.</p> <p>The subject site is not within an Aboriginal Place declared under the NPW Act.</p> <p>In accordance with the NSW DCCEE's Due Diligence Code of Practice, the proposed activity does not require an Aboriginal Heritage Impact Permit as the activity is unlikely to harm an Aboriginal artefact or harm Aboriginal heritage sites. Refer to Section 6.3 for details.</p>
f) the impact on the habitat of protected animals, within the meaning of the <i>Biodiversity Conservation Act 2016</i>)	Negligible	<p>The impact on protected animals listed under the BC Act, that have been recorded within the locality, have been considered in association with the proposed activity.</p> <p>No habitat will be removed or otherwise impacted on by the proposed activity. The Test of Significance (BC Act) detailed in Appendix 3 concludes that the proposed activity would not have a significant impact on threatened fauna and flora. This is particularly important in relation to threatened shorebirds and the spatial limitation and mitigation measures recommended to ensure the longevity of breeding and foraging habitat of these species.</p> <p>Protected animals listed under the BC Act that occur in the Shoalhaven LGA, including all native birds, reptiles, amphibians and mammals will not be significantly impacted on by the proposed activity and no further assessment is required.</p> <p>Refer to Section 6, Section 8, Section 9 and Appendix 3 for details.</p>
g) the endangering of a species of animal, plant or other form of life, whether living on land, in water or in the air?	Negligible	<p>The subject site is a beach and coastal foreshore reserve that contains limited animal, plant, or other form of life habitat. There are no species likely to rely on the subject site to the extent that any potential modification would result in further endangering of the species. The study area contains such habitat that is utilised by these forms of life. Accordingly, the spatial limitation and mitigation measures recommended for the proposed activity will ensure a negligible</p>

In accordance with Section 171(2) of the EP&A Regulation, Council has considered the following environmental factors:	Assessment of impact	Reason
		<p>impact on these species.</p> <p>The Tests of Significance assessments provided in Appendix 3 concludes that the proposed activity would not have a significant impact on threatened fauna and flora.</p> <p>If a planned development or activity is likely to have any impact on a threatened species, populations or ecological communities, or their habitats listed under the <i>Fisheries Management Act 1994</i> (FM Act), a preliminary assessment of the potential impacts must be made (under Division 12, Part 7A), which is known as the 'Assessment of Significance' or '7 Part Test'.</p> <p>As the proposed activity is unlikely to have an impact on threatened species, populations or ecological communities, or their habitats listed under the FM Act, a 7 Part Test is not required.</p> <p>Refer to Section 6 and Section 8 for details.</p>
h) long term effects on the environment	Negligible	<p>The use of the subject site for the proposed activity will result in intermittent and ongoing use of the beach and foreshore reserve by the public. The implementation of the spatial limitations and mitigation measures will warrant that the proposed activity will not have long-term effects on the environment.</p> <p>The sign installation will improve understanding and awareness of dog access rules and inform the public of the threat from dog disturbance to threatened species. Furthermore, the continued analytical responses to monitoring information from complaints, observations and data will lead to the implementation of adaptive management to confirm that the proposed activity will not have a long-term effect on the environment into perpetuity.</p>
i) degradation of the quality of the environment	Negligible.	<p>The proposed activity involves ongoing and intermittent use of the beach and foreshore reserve by the public for the use of dog off-leash access.</p> <p>Dune stability will be managed in accordance with the NSW Coastal Dune Management Manual and the relevant Coastal</p>

In accordance with Section 171(2) of the EP&A Regulation, Council has considered the following environmental factors:	Assessment of impact	Reason
		<p>Management Program (CMP). Beach accessways are established to minimise impacts on surrounding dune vegetation including the BC Act listed Threatened Ecological Community (TEC) – Bangalay Sand Forest (refer Appendix 3). No additional beach accessways are proposed.</p> <p>The proposed activity is unlikely to introduce priority weeds, vermin, or feral animals into the area or contaminate the substrate within the subject site.</p> <p>Long-term or long-lasting impact on aquatic ecosystems through the input of sediments or nutrients into the ecosystem is unlikely. The proposed activity is unlikely to disturb the soil surface within the subject site beyond that which occurs in response to natural events and other recreational uses.</p> <p>The mitigation measures (refer Section 9) to be implemented will minimise impacts on, and risks to the quality of, the environment.</p>
j) risk to the safety of the environment	Negligible.	The proposed activity would not increase the levels of risks to the safety of the environment that may occur in response to hazardous wastes, bushfire, flood, landslip or coastal hazard.
k) reduction in the range of beneficial uses of the environment	Positive,	<p>The subject site has a variety of beach and ocean related recreational values. The recommended spatial limitation and prescribed mitigation measures (refer Section 9) provides for optimal shared and balanced use of the beach, and thus the proposed activity will not lead to a reduction in the range of beneficial uses of the local environment within the subject site.</p> <p>The dog off-leash area adds to the beneficial uses of the environment (corroborated by the results of community consultation).</p>
l) pollution of the environment	Negligible	The proposed activity is not expected to result in pollution of the environment. It is unlikely that the activity (with the implementation of mitigation) would result in water, noise, or air pollution, spillages, dust, odours, vibration or radiation.



In accordance with Section 171(2) of the EP&A Regulation, Council has considered the following environmental factors:	Assessment of impact	Reason
		<p>Dune stability will be constantly monitored through the implementation of the relevant CMP to ensure that recreational activities do not increase the erosion potential of these systems above natural levels.</p> <p>The proposed activity is not expected to result in the oxidation of acid sulfate soils and subsequent leaching back into the waterways. These are mapped to occur in and around Narrawallee Creek Inlet outside of the subject site and study area.</p> <p>With the requirement that dog owners clean up faeces, waste pollution from dogs is unlikely to have an impact on the natural environment. Garbage receptacles are located at main access points to the off-leash area to promote compliance. This will be monitored and enforced as a component of the implementation of mitigation measures (refer Section 9).</p>
m) environmental problems associated with the disposal of waste	Negligible	<p>The proposed activity would not result in the generation of trackable waste, hazardous waste, liquid waste, or restricted solid waste as described in the POEO Act.</p> <p>Under the requirement that dog owners clean up faeces, waste pollution from dogs is unlikely to have an impact on the natural environment. Garbage receptacles are located at main access points to the dog off-leash area to promote compliance and these are regularly serviced to prevent overburden. This will be monitored and enforced as a component of the implementation of mitigation measures (refer Section 9).</p>
n) increased demands on resources (natural or otherwise) which are, or are likely to become, in short supply	Negligible	No natural or other resources that are, or are likely to become, in short supply will have increasing demands in response to the proposed activity.
o) the cumulative environmental effect with other existing or likely future activities	Negligible	The subject site is used for social and recreational activities all year round. The proposed activity would not create a cumulative environmental effect with other existing or likely future activities within the subject site. Adaptive management will be utilised through the analysis of information



In accordance with Section 171(2) of the EP&A Regulation, Council has considered the following environmental factors:	Assessment of impact	Reason
		obtained from data, complaints and observations, as well as an assessment of any future activities, to ensure that the proposed activity does not have a cumulative effect.
p) Any impact on coastal processes and coastal hazards, including those under projected climate change conditions	Negligible	<p>The proposed activity is not likely to have any impact on coastal processes or coastal hazards, including those projected under climate change conditions.</p> <p>The beach and coastal foreshore reserve is regularly monitored for coastal erosion through the implementation of the relevant CMP and appropriate dune management will be implemented at the subject site. Beach accessways are established to minimise impact on the surrounding dunes and vegetation. No additional accessways are proposed.</p>
q) Applicable local strategic planning statements, regional strategic plans or district strategic plans made under the Act, Division 3.1	Negligible	The proposed activity is consistent with <i>Shoalhaven 2040 Our Strategic Land-use Planning Statement</i> (Shoalhaven City Council, 2020) or the <i>Illawarra Shoalhaven Regional Plan 2041</i> (NSW DPE, 2021)
r) other relevant environmental factors	Negligible	There are no other relevant environmental factors pertaining to the proposed activity.

Note – the ‘locality’ in this context is as per the EP&A Regulation and refers to the subject site and study area within this REF.



6 Detailed assessment of key environmental factors

The following sections present the detailed assessments of the key environmental factors relevant to the proposed activity. Threatened fauna and flora and heritage are included. Potential impacts of the proposed activity on these are assessed in Section 8.

6.1 Vegetation and habitat assessment

The subject site was assessed by the consultant ecologist from Ecoplaning on 14 November 2023. The assessment involved a vegetation and habitat assessment of the subject site and study area. Flora and fauna species within the subject site and study area were documented as well as an investigation of habitat availability for threatened fauna species. Photographs from the assessment are represented as Plates within Appendix 1.

Within the study area, vegetation mapped as occurring in proximity to the subject site includes the BC Act listed TEC, *Bangalay Sand Forest in the Sydney Basin and South East Corner bioregions*. The TEC was identified in the Matron Porter Drive Reserve and along the Narrawallee Beach foreshore, confirming DPE 2023 mapping (Figure 4).

Other Plant Community Types (PCTs) mapped to occur within the subject site include PCT 3803 *Southern Sandplain Heath* and PCT 3410 *Spinifex Strandline Grassland* (Figure 5).

Scattered vegetation along the incipient dune includes Spinifex (*Spinifex sericeus*), Dune Thistle (*Actites megalocarpus*), Pigface (*Carpobrotus glaucescens*) and Native Geranium (*Pelargonium australe*).

Foredune species include Coast Teatree (*Gaudium laevigatum*), Coastal Wattle Tree (*Acacia longifolia* ssp. *sophorae*) and Coastal Beard-heath (*Leucopogon parviflorus*) scattered throughout. Ground-layer species include Spinifex (*Spinifex sericeus*), Spiny-headed Mat-rush (*Lomandra longifolia*), Common Bracken (*Pteridium esculentum*) and Kidney Weed (*Dichondra repens*). Exotic planted trees include Norfolk Island Pine (*Araucaria heterophylla*) and Monterey Pine (*Pinus radiata*).

Moving westward into the hind dune area, Bangalay (*Eucalyptus botryoides*), and Coast Banksia (*Banksia integrifolia*) dominate. This vegetation is representative of the TEC, *Bangalay Sand Forest in the Sydney Basin and South East Corner bioregions*. Vegetation further to the west comprises grassed parkland areas, a paved footpath that extends the length of the beach, with scattered eucalypts including *E. botryoides* and *E. robusta*.

With regard to fauna habitat, the northern extent of the study area includes the protected beach on the north side of Narrawallee Creek Inlet which provides known breeding habitat for threatened shorebirds. The Inlet and intertidal zone provide ideal foraging habitat and potential breeding habitat for threatened and migratory shorebirds. Narrawallee Beach, including the subject site, is disturbed by recreational beach use and provides some limited shorebird foraging habitat. The intertidal rock shelf at the south end of Narrawallee Beach provides foraging habitat for threatened shorebirds including Sooty Oystercatcher (*Haematopus fuliginosus*) and Pied Oystercatcher (*Haematopus longirostris*). It must be noted that both of these species occupy rocky or shingle coasts, with the Pied Oystercatcher demonstrating more of a preference for mudflats and sandbanks (refer to Section 6.2).

The woodland, shrubs and ground layer vegetation on the foredune and hind dune provide foraging resources for a range of fauna species including birds, arboreal mammals, and reptiles, as well as nesting and perching opportunities for common birds. There are no significant hollows and so limited breeding habitat for hollow dependent fauna species.



Figure 4 Threatened Ecological Community mapping (Bangalay Sand Forest in the Sydney Basin and South East Corner Bioregions; 2023) and Narrawallee Beach and Inlet access points (Ecoplaning 2024).

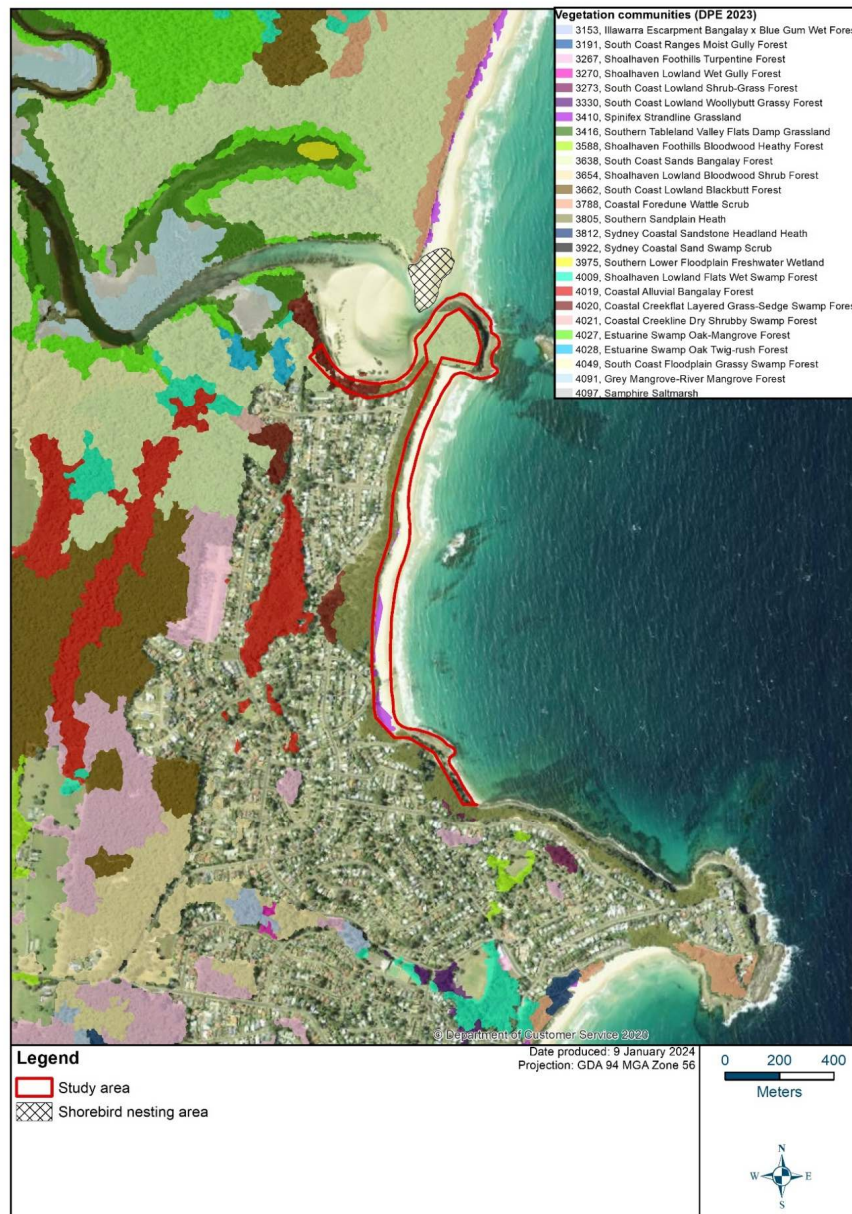


Figure 5 Plant Community Types (PCT) recorded within and adjacent to the dog off-leash area, as well as fenced off Narrawallee Creek Inlet shorebird nesting area (as observed on 14 November 2023 (Ecoplanning 2023; data sourced from DPE 2023).



6.2 Threatened species and ecological communities.

The likelihood of occurrence for threatened fauna and flora listed under the BC Act and/or EPBC Act recorded within the locality (10 kilometres of the subject site) were identified from a database search and site assessment. The likelihood of occurrence for each species was assessed as high, medium or low based on species records and habitat features. This assessment is presented in Appendix 2. All species determined as having a moderate or high likelihood of occurrence have potential to occur within the subject site and study area and the potential to be either directly or indirectly impacted on by the proposed activity.

All BC Act listed entities determined likely to occur within the subject site and study area have been assessed according to the Test of Significance as required by section 7.3 of the BC Act. This is presented in Appendix 3.

All EPBC Act listed matters determined likely to occur within the subject site and study area have been assessed according to Significant Impact Criteria as detailed in the *Significant Impact Guidelines 1.1 – Matters of National Environmental Significance*. This is presented in Appendix 4.

The BC Act listed TEC, *Bangalay Sand Forest in the Sydney Basin and South East Corner Bioregions* was recorded on the hind dune, within the study area and the impact of the proposed activity on this TEC has been assessed using the Test of Significance (Appendix 3).

6.2.1 Fauna

The likelihood of occurrence assessment determined eleven (11) BC Act listed threatened fauna species are likely to occur within the subject site and study area (Appendix 2). These are:

Critically Endangered

- Eastern Hooded Dotterel (*Thinornis cucullatus cucullatus*)
- Beach Stone-curlew (*Esacus magnirostris*)

Endangered

- Pied Oystercatcher
- Little Tern (*Sternula albifrons*)

Vulnerable

- Sooty Oystercatcher
- Lesser Sand-plover (*Charadrius mongolus*)
- Greater Sand-plover (*Charadrius leschenaultia*)
- Masked Owl (*Tyto novaehollandiae*)
- Powerful Owl (*Ninox strenua*)
- Sooty Owl (*Tyto tenebricosa*)
- White-bellied Sea-Eagle (*Haliaeetus leucogaster*)

Of these, species formally recorded within the study area include Eastern Hooded Dotterel, Little Tern, Pied Oystercatcher, Sooty Oystercatcher and White-bellied Sea-Eagle.

Shorebirds and potential impact on shorebird habitat within the subject site in response to the proposed activity provide a focus of this assessment regarding threatened fauna. Known shorebird



nesting sites are limited to Narrawallee Creek Inlet and Narrawallee Creek Nature Reserve to the north of the study area. Eastern Hooded Dotterel and Beach Stone-curlew have been recorded in this vicinity, in 2020 and 2022, respectively.

During the site inspection, four Pied Oystercatchers were observed foraging in the intertidal rock platform on the southern end of Narrawallee Beach, which provides optimal foraging habitat for threatened shorebirds. Birdlife Australia data from Surfers Avenue also includes Sooty Oystercatcher and Pied Oystercatcher records. A BioNet record for Little Tern (2022) also exists at Bannisters Head, a rocky headland approximately one kilometre to the south-east of this location.

North of this rock platform, the sandy beach environs of the subject site provide limited foraging resources for threatened shorebirds. The Little Tern has been previously recorded (2021) within the intertidal zone of the subject site.

It is important to note that records of threatened species listed under the BC Act occur within the subject site and study area, but the habitats contained within are not considered important for their long-term survival. An example of such a species is the Australian Fur Seal (*Arctocephalus pusillus doriferus*) whereby a record from 1995 was found within the subject site and in the proximity of the unnamed island. More records of this species occur in and around Narrawallee Creek Inlet to the north of the study area. Australian Fur Seals commonly occupy coastal waters and oceans and demonstrate a preference for rocky islands, which typically include boulder or pebble beaches and moderately sloping rocky ledges. Such habitat preferences are exhibited by this species for breeding and do not occur within the subject site and study area. Accordingly, no further assessments have been undertaken for this species, but the implementation of the mitigation measures (Section 9) will ensure that occasional visits by this species will not be compromised by the proposed activity.

EPBC Act listed species recorded or predicted to occur within the locality can be found in Appendix 2. Sixteen (16) EPBC listed matters were determined to be likely to occur within the subject site and study area. These are:

Critically Endangered

- Eastern Curlew (*Numenius madagascariensis*)
- Curlew Sandpiper (*Calidris ferruginea*)

Endangered

- Lesser Sand-plover (*Charadrius mongolus*)
- Red Knot (*Calidris canutus*)
- Common Greenshank (*Tringa nebularia*)

Vulnerable

- Eastern Hooded Dotterel
- Greater Sand-plover
- Great Knot (*Calidris tenuirostris*)

Migratory Birds

- Eastern Curlew



- Curlew Sandpiper
- Lesser Sand-plover
- Red Knot
- Common Greenshank
- Greater Sand-plover
- Great Knot
- Whimbrel (*Numenius phaeopus*)
- Bar-tailed Godwit (*Limosa lapponica*)
- Grey Plover (*Pluvialis squatarola*)
- Sanderling (*Calidris alba*)
- Red-necked Stint (*Calidris ruficollis*)
- Double-banded Plover (*Charadrius bicinctus*)
- Little Tern
- Crested Tern (*Thalasseus bergii*)

Of these species, Birdlife Australia data accessed for this assessment includes multiple records of Eastern Curlew at Narrawallee Creek Inlet, the most recent from 2015. Whimbrel and Crested Tern records occur immediately north-west of the study area and in the proximity Narrawallee Creek Inlet. Birdlife Australia data also contains records from Surfers Avenue for Grey Plover and Crested Tern.

Sooty Shearwater (*Ardenna grisea*) and Short-tailed Shearwater (*Ardenna tenuirostris*) records also occur within the subject site and study area. Some of these records have been sourced from 'Wildlife Rehabilitation Record' and they have often been reported deceased on beaches due to starvation occurring during migration. This was corroborated during site assessments undertaken that found deceased Shearwater species within the subject site. They are a predominantly pelagic species, and no important habitat occurs within the subject site and study area. Accordingly, no further assessments have been undertaken for these species.

The Eastern Hooded Dotterel, which is also BC Act listed, and Little Tern are required to be assessed with regard to breeding habitat. A majority of the remaining EPBC Act listed shorebirds are migratory, northern hemisphere breeding species. Foraging habitat within the intertidal areas of Narrawallee Creek Inlet is the primary habitat value within the study area for these migratory species.

Consideration has been given to threatened species likely to occur within the foredune and hind dune vegetation. There are habitat features including hollow-bearing trees occurring in close proximity to Narrawallee Beach within the study area. However, these will not be impacted on by the proposed activity as no habitat removal will be conducted and, as these are outside of the subject site, unlikely to be impacted on by the proposed activity.

No other threatened fauna or signs of threatened fauna were detected during surveys. Targeted nocturnal surveys were not undertaken since no potential threatened species roosting or nesting habitat (e.g., hollows) would be removed or otherwise impacted on as a result of the proposed activity. The effects of dog activity on hollow-residing fauna are considered negligible.



An assessment of potential impact on threatened fauna based on the above findings is provided in Section 8.1.

6.2.2 Threatened Flora and ecological communities.

This assessment has determined one (1) BC Act listed flora species and one (1) TEC likely to occur within the study area:

- Sand Spurge *Chamaesyce psammogeton* has not been recorded within the study area; however, the area is considered to provide potential habitat for this species.
- *Bangalay Sand Forest in the Sydney Basin and South East Corner bioregions* was recorded within the study area on the hind dune behind Narrawallee Beach. This is outside the subject site and unlikely to be impacted on either directly or indirectly by the proposed activity, given there are well established beach accessways (Figure 4).

An assessment of the potential impact on Sand Spurge and Bangalay Sand Forest in response to the proposed activity is provided in Section 8.1.

6.3 Heritage

6.3.1 Indigenous

Under section 86 of the NPW Act, it is an offence to disturb, damage, or destroy any Aboriginal heritage object without an Aboriginal Heritage Impact Permit (AHIP). The NPW Act, however, provides that if a person who exercises 'due diligence' in determining that their actions will not harm Aboriginal objects has a defence against prosecution if they later unknowingly harm an object without an AHIP (section 87(2) of the NPW Act). To effect this, *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (hereafter referred to as 'Due Diligence Code') (DECCW 2010) was published to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they should apply for an AHIP.

In accordance with Step 1 of the Due Diligence Code, an AHIMS database search indicated that there were eight recorded Aboriginal heritage sites adjacent to the subject site and within the study area (Figure 6). An extensive AHIMS database search revealed that there was one site recorded from within the study area, approximately 40 metres from Narrawallee Beach around 50 metres south of the headland to the north of Narrawallee Beach. This was a single silcrete artefact flake below the surface. Four records are for Matron Porter Reserve, outside of the study area, were of silcrete stone artefacts. These included a substantial artefact scatter along Matron Porter Drive from the residential area to the turnoff into the park that was recorded by SCC staff and subject to approved harm (AHIP) for the construction of the shared users path. One of the sites is a repatriation site of hundreds of silcrete stone artefacts repatriated from the above sites, under permit. One of the recorded sites is a midden located on the southern side of Narrawallee Creek Inlet, within the dog-prohibited area outside of the scope of the REF. The remaining two sites are located more than 400 metres from the subject site in urban locations.

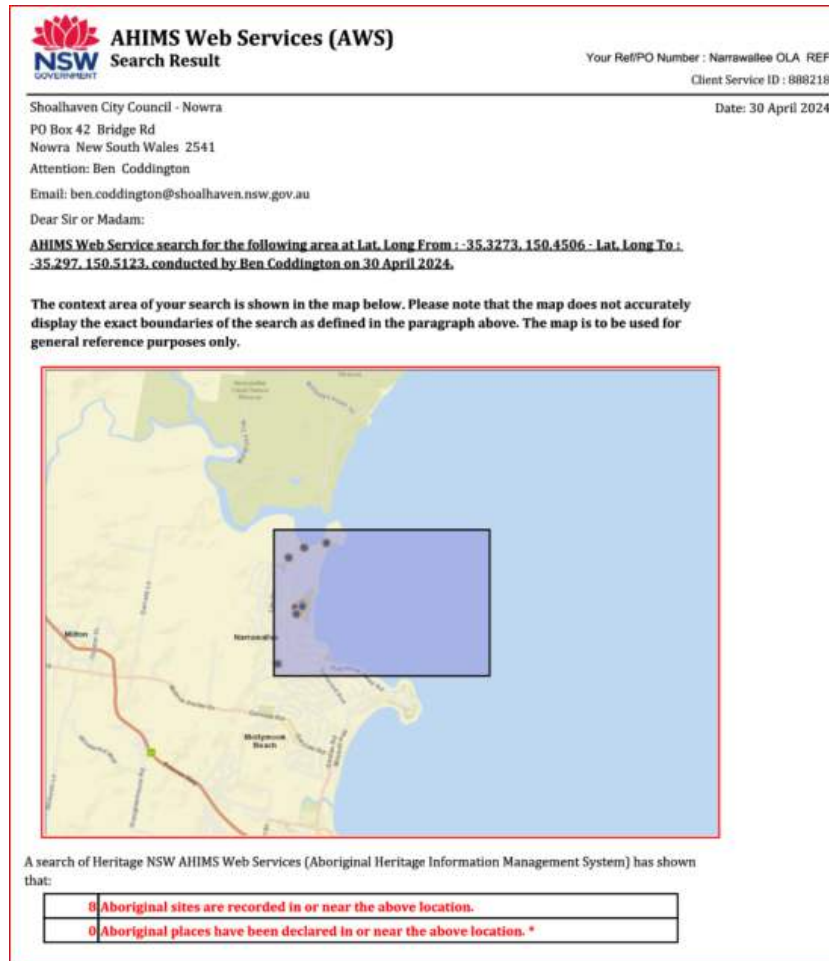


Figure 6 AHIMS search results.

Step 2 of the Due Diligence Code then requires a consideration of whether Aboriginal objects are likely to be in the subject site and study area with consideration to certain landscape features listed in the Code to have higher propensity for objects, i.e.:

- within 200 metres of waters; or
- located in a sand dune system; or
- located on a ridge top, ridge line or headland; or
- located within 200 metres below or above a cliff face; or
- within 20 metres of or in a cave, rock shelter, or cave mouth.



The subject site and study area does comprise such landforms (within 200 metres of waters and sand dune). Consequently, an on-site inspection of the area was conducted on 1 May 2024 to include a search for any surface artefacts or mounded areas that could comprise a shell midden, potential archaeological deposit, or a 'lens' of stratified cultural material within the exposed earth of the shoreline. This inspection did not identify any Aboriginal objects.

A literature search was conducted utilising Council's document archive and AHIMS. A report titled *Milton / Ulladulla Sewerage Scheme Augmentation EIS – Cultural Heritage Component* by Navin Officer Heritage Consultants in 2000 describes surveys undertaken in the vicinity of the nearby sewage pumping station and associated rising and gravity mains. No Aboriginal cultural heritage sites were recorded.

The beach environment could also be described as 'disturbed land' as defined by the Due Diligence Code), i.e.:

Land is disturbed if it has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable. Examples include ploughing, construction of rural infrastructure (such as dams and fences), construction of roads, trails and tracks (including fire trails and tracks and walking tracks), clearing vegetation, construction of buildings and the erection of other structures, construction or installation of utilities and other similar services (such as stormwater drainage and other similar infrastructure) and construction of earthworks."

Accordingly, the proposed activity is within disturbed land as the lands have been subjected to continued disturbance through active, natural coastal processes. The Due Diligence Code states that if the subject site does contain one of the above listed features and is on land that is not disturbed, then Step 3 must occur. As the proposed activity is within disturbed land, and there are no known Aboriginal objects within the subject site, it can proceed with caution and Step 3 is not required.

The subject site and study area:

- is part of an undetermined Aboriginal Land Claim.
- is not an Aboriginal Place in the context of the NPW Act.

In consideration of the above, it is reasonable to conclude that there is a low probability of objects occurring in the subject site. As a result, an AHIP is not required for the proposed activity.

6.3.2 Non-indigenous heritage

Heritage items listed under Schedule 5 of the SLEP 2014 include one site:

- Item 324 Silica Wharf and Tramway

This heritage listing pertains to the remaining vestiges of the tramway built across the Narrawallee Creek Inlet to transport silica mined at Conjola. This is located outside the study area. As such, the proposed activity is unlikely to have a negative impact on this heritage item.

The proposed activity would not involve, or be close to, items on the state heritage list. No further consideration is warranted.



7 Consultation

This REF was prepared in consultation with internal and external stakeholders. This section reports on the stakeholders involved and the submissions received in relation to the proposed activity.

7.1 Department of Primary Industries (NSW Fisheries)

No dredging or impact on fish habitat, consultation is not required.

7.2 Department of Climate Change, Energy, the Environment and Water (DCCEEW)

The NPWS Shorebird Ranger for the Shoalhaven region was consulted during the development of this REF. Recommendations made include Council Ranger presence to encourage compliance, and educational signage regarding threatened shorebirds in the area. These have been incorporated into the Environmental Safeguards and Measures to Minimise Impacts (Section 9).

7.3 Council Departments

This REF has been prepared in consultation with Council's Environmental Services Department, Ranger Services and Open Space and Recreation Planning Units. Ranger Services has confirmed a monitoring presence will continue at Narrawallee Beach, including a minimum of one inspection every two days, and can respond to any community concerns within one day. The mitigation measures in Section 9 have been developed in accordance with this consultation.

7.4 Community

Council has received correspondence from over 100 individuals and groups in relation to the Narrawallee Beach dog off-leash area. The Narrawallee Beach Environmental Group (NBEG) has conducted dog number surveys in December 2022 and January 2023, a dog defecation survey in June 2023 and shorebird surveys in various months/seasons dating back to 2020. Notably, these surveys have identified the presence of a pair of Eastern Hooded Dotterels foraging on Narrawallee Beach in January 2023, which have not been formally lodged on NSW BioNet or Birddata. However, these surveys have not been used in the formal assessment within this REF, being considered unvalidated data. The likelihood of occurrence process explained in Section 6 utilises previous threatened species records collected from database searches (under licence) and the presence of suitable habitats within the subject site and study area. This process enables further assessment for those species considered likely to occur to assess the impacts of the proposed activity.

On 6 November 2023, Council adopted temporary dog access arrangements at Narrawallee Beach (currently in place). This decision was made following a Land and Environment Court ruling, which deemed the prior dog access arrangements at Narrawallee Beach to be of no force and effect. The community was informed of this Council resolution. Council received unsolicited comments in relation to the Narrawallee Beach dog off-leash area, and from Paws4Shoalhaven and The Narrawallee Beach Environmental Group (NBEG) and comprised a mixture of support and opposition for the revised dog access arrangements. Comment themes included:

- Signage – confusion regarding the boundaries of off-leash, on-leash and prohibited dog areas, inconsistent and confusing messaging, a lack of signage at access points, non-visual signs making it difficult for other language groups, no indication of offences on signs.



- Compliance – requesting more Council Ranger presence, more bins, more responsible pet-ownership, including asking people to pick up after their dogs.
- User conflict and safety – conflict between beach-users with and without dogs, and conflict between dogs and native fauna.
- Access – Limited access points for both parking and walking, traffic congestion, concern about only one main access point.
- Safety – Congested pedestrian and dog access due to one main thorough fare for access, affecting the elderly and people with disabilities accessing the beach.
- Dog off-leash areas: size of, timing of, and access to this space.
- Concern for shorebirds welfare and understanding that dog off-leash areas reduce dog trespass into National Parks and vulnerable habitat areas.
- Both the environment and dog access being reasons why people visit and buy homes in Narrawallee. Both swimming and walking in the pristine and beautiful beach environment and enjoying the exercise with dogs are activities that residents value to support local people's physical health, social connections, and mental wellbeing.

The mitigation measures in Section 9 have also been developed in accordance with consultation previously undertaken. These include:

- Increased Council Ranger presence.
- Increased and improved signage that is clear and consistent within the subject site is to be installed immediately if changes are needed following exhibition of this REF. Consistency of signage across the Shoalhaven LGA is to be progressed.
- Maintenance of dog-prohibited buffers between the off-leash area and sensitive areas or areas of high biodiversity value or where there has been assessed to be recreational user conflict.
- The provision of garbage receptacles for dog faeces.
- Liaison with NPWS South Coast Shorebird Recovery Program Coordinator.

Council's Access Areas for Dogs Policy and associated Dog Off-leash Guide provides dog owners with public domain conduct guidelines, as well as defining dog off-leash and prohibited areas within the ownership, management, care, and control of Council.

Signage and supporting infrastructure will need to be erected to ensure community awareness, and compliance with the CA Act and Council's Access Areas for Dogs Policy.



8 Impact assessment

8.1 Threatened fauna.

The impact of the proposed activity on the species listed in Section 6 has been assessed in the Test of Significance (BC Act listed entities) presented in Appendix 3 and the Significant impact Criteria Assessment (EPBC listed matters) presented in Appendix 4. These assessments conclude the proposed activity will not have a significant impact on threatened fauna species, with the implementation of adequate geographic limitations and prescribed mitigation measures. Factors considered in this assessment are discussed further below. Impacts on threatened fauna species that have habitat preferences for those outside of the intertidal or beach habitat, and subject site, is expected to be negligible.

The presence of transient and mobile species is possible within the subject site and study area. Such species include the Eastern Osprey (*Pandion cristatus*) whereby records occur to the north and south of the study area. Although this species favours coastal areas, they demonstrate a preference for mouths of large rivers, lagoons and lakes and forage on fish over clear open water and will range further during non-breeding periods. This is verified by the location of previous records and the subject site is not considered useful or important core habitat for this species. Accordingly, any potential impact on such species is expected to be negligible.

This section focusses primarily on threatened shorebirds as these are the species assessed as likely to occur and have habitat that intersects with, or is potentially indirectly impacted on by, the proposed activity.

In a review of the impacts of dogs on nesting shorebirds, Maguire (2018) detailed the following impacts:

- Disturbance: 'chasing and the unpredictable movement, proximity and speed of unrestrained dogs' can lead to the prolonged absence of adult shorebirds from the nest.
- Egg predation.
- Egg crushing.
- Chick predation.

Maguire (2018) concluded that, while dog-free areas are the most effective at protecting shorebirds, this must be combined with alternative dog off-leash areas to promote greater compliance in more environmentally sensitive areas where dogs are prohibited, such as National Parks.

Long-term conservation programs for beach-nesting birds often focus on achieving coexistence between recreation and wildlife. In some management strategies, dog owners were requested to leash their dogs when approaching and passing vulnerable habitat areas. Maguire (2018) observed low compliance with leashing regulations and suggested that this is an ineffective approach. The alternative, which involves prohibiting dog access from these sensitive beaches, is typically met with conflict and division within the community as dog owners are faced with the risk of losing access (Johnston *et al.* 2013). A proposed solution to this issue is to provide a dog off-leash area in low-risk zones to divert users away from environmentally sensitive habitat areas, which remain dog-prohibited areas.

Section 6.2.1 documents the significance of breeding and foraging habitat for threatened and migratory shorebirds provided by the Narrawallee Creek Inlet to the north of the study area, as well as the optimal foraging habitat for threatened shorebirds provided by the intertidal rock shelf at the southern extent of the study area. The impact of the proposed activity on the habitat value of these



areas is mitigated by the buffers provided by the existing dog-prohibited areas (Figure 3). These buffers are 600 metres between BA7 and Narrawallee Creek Inlet to the north, and 270 metres from BA3 to the southern intertidal rock platform.

The Australian Government's former Department of Energy and Environment (DoEE 2017; Policy Statement 3.21) states '*Options for mitigating impacts from disturbance include the use of buffer zones around important areas for migratory shorebirds. Appropriate buffers will depend on local circumstances, including the species present, type of habitat (ephemeral or permanent), habitat use (roosting or foraging) and scale of disturbance. As a guide, studies have recommended buffer zones with widths ranging from 165 metres to 255 metres*'.

This guide has been applied in this assessment for shorebirds generally (not only migratory birds), as a precautionary guide, in the absence of more detailed local information. The buffer distances provided by the current dog-prohibited areas within the study area exceeds these recommendations. These distances are considered adequate to ensure these habitats are not impacted on by the proposed activity. Furthermore, it must be noted that SCC need to abide by these threatened shorebird buffer distances as a Crown Land licence holder for entrance interventions of Intermittently Closed and Open Lakes and Lagoons (ICOLLS) and river mouths. Such conditions are set and mandated by the NSW Government.

Noting that the records for threatened shorebird nesting sites are concentrated on the north side of Narrawallee Creek Inlet, the creek generally provides a further geographical barrier that prevents dog activity associated with the dog off-leash area impacting on this shorebird habitat.

A conservative approach is required given the conservation status of some of the species that occur and for the Hooded Dotterel that breed, at the Inlet.

At the time of writing the Scientific Determination for the species, the Hooded Dotterel has declined in abundance and distribution, becoming rare around Sydney by 1900, with the last records from there dating from the 1940s. The NSW population is extremely low and declining, being estimated at 62 birds in 1988, 19-25 pairs in 2003-04 (NSW FOC annual bird reports), and fewer than 20 pairs by 2007.

The determination states: 'large areas of the species' littoral and estuarine habitat in NSW have been and are continuing to be destroyed and degraded by coastal development and engineering works. Remaining habitat is at risk of disturbance by human activities (including recreational vehicles), **dogs**, and artificial opening of coastal lagoons. Other threats include egg or chick predation by foxes and artificially high Silver Gull populations, weed invasion, oil spills, harvesting of kelp wrack and trampling by livestock. 'Predation by the European Red Fox *Vulpes vulpes* (Linnaeus, 1758)' is listed as a Key Threatening Process.

The presence of Critically Endangered species, such as the Beach Stone-Curlew and Eastern Curlew, and known nesting sites for Eastern Hooded Dotterel emphasise the significance of habitat provided by the Inlet within the northern extent of the study area. This is further demonstrated by the concentration of recent records of threatened species including Pied Oystercatcher, Sooty Oystercatcher, and Little Tern and other migratory species, within and adjacent to the inlet. Any potential impact on this nesting habitat for critically endangered species would equate to a significant impact when assessed further through the Test of Significance (BC Act) and/or Significant Impact Criteria (EPBC Act).

Records within the southern portion of the beach and rock shelf to the southern extent of the study area demonstrate the significance of this area as foraging habitat for threatened shorebirds. Along with the sighting of Pied Oystercatchers during the site assessment, BioNet and Birdlife Australia records include threatened species, Sooty Oystercatcher, Pied Oystercatcher and Little Tern, as well



as migratory species Grey Plover and Crested Tern. The intertidal zone of the rock platform provides foraging habitat for a range of species assessed as likely to occur within the subject site and study area. The presence of dog off-leash access adjacent to this area would significantly compromise this foraging resource. Although not contiguous with breeding habitat to the north of the Narrawallee Inlet, complementary foraging habitat is crucial to the long-term survival of these species and decreases the risk of further endangerment.

With regard to buffer distances between the proposed dog off-leash area and these areas of high biodiversity value, a distance of 270 metres to the rock platform in the southern extent of the study area is considered adequate to mitigate impacts as this would allow the recommended buffer of 165 to 255 metres (DoEE 2017) to be maintained. The buffer of 600 metres between the proposed off-leash area to the Inlet to the northern extent of the study area achieves an adequate buffer to the nesting habitat for Critically Endangered Eastern Hooded Dotterel, while allowing for some indirect impacts associated with dogs inevitably encroaching beyond the northern extent of the off-leash area on occasion. While it is expected dog owners will respect the boundaries of the dog off-leash area wherever possible, the significance of the nesting habitat and sensitivity of nesting birds to impacts from dogs requires a buffer greater than that recommended by the DoEE Guideline.

The foraging habitat provided by intertidal areas along Narrawallee Beach are demonstrated by recent records of the Endangered Little Tern from 2021. While foraging habitat for threatened shorebirds in this area is somewhat compromised by the current dog off-leash access and other uses of the beach, a balance is required to limit impacts to be achieved that minimises impacts on this habitat wherever possible. The current dog off-leash area comprises 35% of the length of Narrawallee beach. In addition to the sandy beach areas to the north of the inlet this is considered to be acceptable, and allowing suitable areas for foraging for the range of shorebirds that utilise this habitat (Section 6.2.1; Appendix 2). This assessment is also made with consideration that Narrawallee Beach has been used as a dog off-leash area for several years (Section 2.2) and that while foraging habitat is critical in the life cycle of shorebirds, the area proposed for continued dog off-leash access is not used for nesting or does not provide primary foraging habitat for many shorebird species. While the dog-off leash access within the subject site will continue to reduce the foraging habitat value in this area, it is considered that this impact will be acceptable given recommended extents.

It is therefore recommended that the southern area continue to be dog-prohibited, given the recent sightings of Pied Oystercatcher on the southern rock platform and assessment of available data. It is also considered prudent that a proportion of the beach be available for foraging throughout the year for local threatened species, in particular Pied Oystercatcher, but also other threatened shorebirds that utilise the sandy beach intertidal zone (Appendix 2). The current buffer to the highest priority habitat for breeding and foraging – in and around Narrawallee Creek Inlet should also be maintained. The required mitigation measures are listed in Section 8 with assessment made in conjunction with other risks and their controls.

An independent review of the EPBC Act in October 2020 (Samuel 2020) has developed National Environmental Standards following consultation with science, indigenous, environmental and business stakeholders, and with input from technical experts. Specifically, Appendix B1 of this review identifies strategies for the protection, conservation and management of migratory species within Australia. These strategies are considered with regard to the migratory species that have a medium or high likelihood of occurring within the subject site and study area (Appendix 2) as follows:

- a. Maintaining and improving habitat and the conditions supporting ecologically significant proportions of the population of listed migratory species within Australia, including by ensuring that actions and decisions, at a minimum:



- i. avoid adverse impacts to important habitat for a listed migratory species,

The recommended dog-prohibited area and associated buffers will ensure that the proposed activity will not have a significant impact on migratory shorebird habitat provided by this area. Limiting the area of beach available to dogs to the current off-leash area also supports shorebird populations that forage within the intertidal areas of the beach.

- ii. avoid adverse impacts to the lifecycle (breeding, feeding, migratory pathways or resting behaviour) of an ecologically significant proportion of the population of a listed migratory species,

Migratory species present and predicted within the locality do not breed in the southern hemisphere, with the exception of the Little Tern. The proposed activity is unlikely to have an adverse effect on the breeding cycle of this species, given the proposed spatial limitation of prohibited areas and buffers and other mitigation measures. There are few records of migratory birds within the subject site, and the subject site is not part of a key migratory pathway or key resting area for these species. The majority of migratory species mostly occupy foraging habitats consisting of intertidal mudflats or sand flats, located near estuaries, lakes, lagoons, or harbours such as is present at Narrawallee Creek Inlet and further north at Lake Conjola.

- iii. ensure no net reduction in the population of a listed migratory species in Australia,

Although migratory species in Australia have occasionally been recorded on open-coast sandy beaches, no significant proportions of these migratory species populations are known to regularly occupy the subject site. As such, the proposed activity will not have an impact on breeding, feeding, migration or resting behaviour to the extent that it would seriously lead to a net reduction in the population of these migratory species.

- iv. ensure no net reduction in the habitat of a listed migratory species in Australia.

The proposed activity and mitigation measures including the continuation of existing dog-prohibited areas is in line with strategies identified in the EPBC review (Samuel 2020), to conserve migratory shorebird habitat in Australia.

8.2 Threatened flora and ecological communities.

The impact of the proposed dog off-leash access on the floral species and TEC listed in Section 6 have been assessed and are reported in this section.

A Test of Significance assessment the TEC *Bangalay Sand Forest in the Sydney Basin and South East Corner bioregions* and for Sand Spurge has determined that the proposed activity will not have a significant impact (Appendix 3).

Due to the character of the subject site, i.e., a sand beach, the impacts of the proposed activity on the TEC *Bangalay Sand Forest in the Sydney Basin and South East Corner* have been assessed as negligible. The main dog-access track to the beach through Matron Porter Drive (BA3) consists of a wide, well established sand track through the TEC. There are five other long-established access tracks (Figure 4). These are maintained as formal assets by Council, regardless of dog access. Given the nature of these tracks, it is unlikely that any additional impacts (direct or indirect) on the TEC in response to the proposed activity will occur.



The beach and frontal dune area of the subject site, where dogs are proposed to be permitted off-leash between BA3 and BA8, does not comprise this TEC. However, the proposed activity may include the installation of signage within the TEC. Such works will not have an adverse effect on the extent of the ecological community or substantially and adversely modify the composition of it such that its local occurrence is likely to be placed at risk of extinction. The signage will utilize existing posts where possible, and if new posts are required, these locations will be chosen where this TEC does not occur.

Sand Spurge is a herb that grows on dunes and sea strandline. Whilst no known populations of the species are located within the subject site or study area, habitat with the potential for this species to occur is present. However, it is also unlikely to be affected by the proposed activity as there is no vegetation removal or disturbance to the beach profile that will occur.

In summary, the proposed activity will not have a significant impact to communities and threatened floral species. As such a Species Impact Statement or entry into the Biodiversity Offset Scheme (BOS) is not required.

8.3 Social Impact

Community and social values of the subject site and study area are described in Section 3.1.

The subject site is located within Community Land and is frequently used as a public reserve for social and recreational activities.

SCC's Access Areas for Dogs Policy states as a goal: to 'support a risk-based approach to the designation and management of dog control areas to balance social and environmental needs in accordance with legislation.'

The proposed activity would not impact on views, community services and infrastructure such as water, waste management, educational, medical or social services.

The social risks that are associated with dog off-leash access include potential injury or death from dog attack, incompatibility between different groups of beach users, conflict between different groups of users, and broader social disharmony as the community is polarised by dog access preferences that have been dictated by environmental and social constraints.

It is recognised that there are two primary community groups that advocate on this issue for Narrawallee, being Paws4Shoalhaven and the Narrawallee Beach Environment Group. There are also other groups of beach users that may not be affiliated with these groups. These include individuals, family and friend groups that are beachgoers for a variety of reasons – walking, swimming, resting, and other recreational activities. Surfers are a significant group that use the beach on a daily basis.

Various surveys and unsolicited feedback received by SCC is described in Section 7.4 but consists of a range of views both for and against dog off-leash access.

To achieve a balanced shared use, and with consideration of other constraints (predominantly related to shorebirds – see Section 8.1), it is important to spatially limit the dog off-leash access area. It would not be appropriate to designate the entire subject site as a dog off-leash area.

Matron Porter Reserve provides extensive car-parking, open spaces for people to meet and numerous access points. These benefits are not as evident for both Surfers Avenue and Victor Avenue, which are located within urban streets.

The southern section of the beach (currently dog-prohibited area) hosts patrols by the Narrawallee



Beach Surf Life Saving Club (SLSC) over summer. Field observations by Council staff throughout summer months and early autumn indicated that there were many people on the beach and in the water. There is shade from mature trees overlooking the beach. The water is protected by a southern promontory and provides for a safe swimming location. Beach patrons of broad age range were present, and a 'great ambience' was noted. Both the Surfers Avenue and Victor Avenue steps are used to access the beach at this location.

The Victor Avenue steps currently serve the 'without dogs' beach users as a separate access point to the beach. The steps link geographically with a rocky protrusion within the beach area, creating a small separate swimming area.

Observations made within the current off-leash area noted that there were no dogs were on the beach prior to the 4 pm off-leash commencement. People were parking vehicles just prior to the beginning of the off-leash time, in preparedness to walk their dogs. Compliance with the dog access rules was high and people with dogs remained within the dog off-leash area. Social conflicts were negligible and there was no rubbish on the beach, including dog excrement.

At the northern end of Narrawallee Beach, it was observed that the current dog-prohibited zone was well-protected. This area was seen to attract surfers and swimmers. Some families were present. No dogs were observed.

To achieve a balanced outcome that aligns with the environmental needs, it is recommended that the southern boundary remain at the southern-most access from Matron Porter Reserve (BA3).

The northern boundary of the off-leash zone is recommended to be extended to the beach accessway BA8. This would provide a length of beach of 480 metres within the dog off-leash area. This equates to 35% of the entire beach length and aligns with the clear and obvious landmark, being the unnamed island. The dog-prohibited area to the north under this scenario is 605 metres (45%), and the dog-prohibited area to the south is 270 metres in length (20%).

There are no guidelines applicable with regard to the designation of proportions of a beach in such a way. This must be considered on a case-by-case basis. For Narrawallee Beach, one-third of the beach seems appropriate given the physical landscape of the beach and rocky features, and the various recreational activities that are undertaken to maintain the low social conflict.

The spatial limitation of the dog off-leash area (between BA3 to BA8 beach accessways) also makes use of the foreshore reserve as a vegetated buffer between the subject site and residential dwellings. This further reduces the likelihood of social conflict between dog walking activities and householders.

The current timed dog off-leash access was also assessed from a social impact perspective. These times are as follows:

- Australian Eastern Daylight Savings Time – off leash from 4 pm to 8 am.
- Australian Eastern Standard Time - off leash from 3 pm to 10 am.

These time arrangements have been monitored by SCC's Ranger Services. Such monitoring has revealed a low incidence of social conflict. As such, these arrangements will remain in place and monitoring will continue and adjustments can be made in future years if the social conflicts between recreational user groups increase. This will be a feature of the adaptive management framework (refer Section 9) to continually achieve the balanced outcomes that have been assessed in this REF.

This preferred arrangement for Narrawallee Beach allows for distinct spatial separation, hence clear separation of distinct user groups and enabling more effective compliance.

9 Impact mitigation

Section 8 provided a detailed impact assessment of the proposed activity. It assessed environmental and social impacts and determined spatial limitations for dog off-leash access to the subject site. Figure 7 provides the desired layout and delineation of prohibited areas and timed dog off-leash areas.

Under the CA Act, dogs are required to be on-leash when in a public place in Shoalhaven unless in a designated off-leash area. Dogs are not permitted within designated dog-prohibited areas (whether or not they are leashed or otherwise controlled).

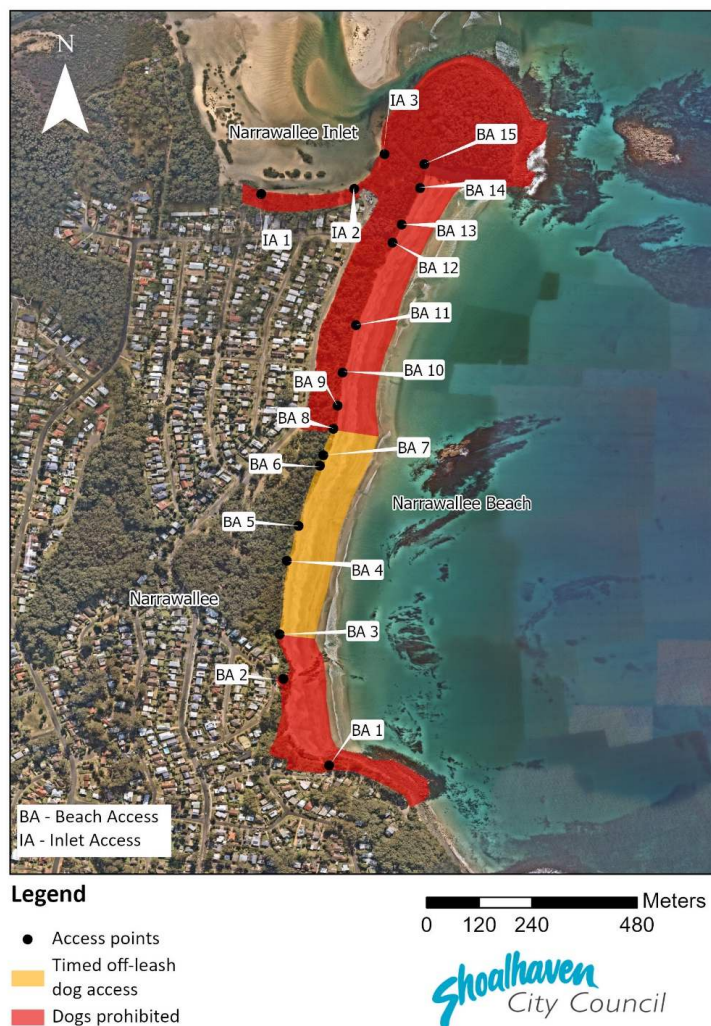


Figure 7 Optimal dog off-leash and dog-prohibited areas determined under this REF.



Mitigation hierarchy provides a multi-step approach to limit the amount of harm an action will have. Avoidance is the primary and preferential level of the hierarchy, resulting in no harm. This is followed by minimisation measures that aim to reduce the duration, intensity and/or extent of the impacts that are unable to be completely avoided. Offsetting is typically the final level of the hierarchy whereby unavoidable harm is compensated for elsewhere.

An adaptive management framework has been established for the subject site for the proposed activity. The implementation of management actions can be adjusted based on monitoring to ensure required outcomes are met.

Mitigation measures are as shown in Table 3 below:



Table 3 Environmental safeguard and mitigation measures for potential impacts on the community and the environment in response to the proposed activity

Category	Type of Impact	Safeguard/Mitigation Measure
Flora and Fauna	Loss of threatened species and associated habitats	<p>A buffer of 600 metres within the northern dog-prohibited zone between the off-leash area ending at BA8 and the Narrawallee Creek Inlet north of IA1 - IA3 is to be maintained. This buffer also includes Narrawallee Creek which acts as a geographical barrier providing additional protection, especially for nesting shorebirds.</p> <p>South of Matron Porter Drive will also remain dog-prohibited, providing a conservative buffer of approximately 270 metres between the dog off-leash area and the rock platform, in line with current recommendations. This spatial limitation also provides for foraging opportunity for threatened shorebirds along the beach, outside of the dog off-leash area.</p>
		<p>Educational signage regarding the presence of and threat of dogs on threatened shorebirds will be installed at priority access points to clearly delineated dog-prohibited areas including access points to the adjacent Narrawallee Creek Inlet and Narrawallee Creek Nature Reserve and Victor Avenue and Surfers Avenue access points.</p>
		<p>Council's Environmental Services Department will liaise with NPWS South Coast Shorebird Recovery Program Coordinator on a regular basis, including key breeding of threatened shorebird season times. This will enable the provision of further subject matter expertise and a regulatory and collaborative influence from NPWS, to inform adaptive management of controls. Additional measures to be considered may include, reducing the boundary of the off-leash area in response to seasonal shorebird nesting sites, increased presence of Council Rangers at key times, and fencing nest sites to clearly demarcate the presence of nesting shorebirds.</p>



Category	Type of Impact	Safeguard/Mitigation Measure
		If a nest or nesting birds are detected within or immediately adjacent to the subject site, mitigation measures will be adapted in consultation with the NPWS Shorebird Recovery Coordinator (or similar expert), to minimise risk of disturbance to the birds and ensure their protection.
		Adaptive management of the subject site will be implemented. Mitigation measures will be revised, as required, to ensure threatened and migratory shorebirds are adequately protected. Council will collaborate with the NPWS South Coast Shorebird Recovery Program Coordinator regarding any revised mitigation measures.
	Vegetation clearing for signage installation	Signage installation will utilise existing posts where possible. No vegetation clearing will be necessary for the instillation of additional signage / maintenance of access tracks. Where new posts may be required this will be positioned to avoid the need to remove native vegetation. Council's Land Management Unit will advise on timing of installation and locations of new posts to ensure threatened shorebird nesting and foraging habitat is not impacted on.
	Trail proliferation and trampling	Only existing access tracks will be utilised to ensure surrounding vegetation remains undisturbed.
		If the vegetation surrounding the access tracks become disturbed or degraded, fencing will be installed to confine beach users to the access tracks only.
	Invasive plant species	Equipment used for signage installation and ancillary works will be washed prior to entering and leaving the subject site to ensure invasive plant species are not introduced or transported.



Category	Type of Impact	Safeguard/Mitigation Measure
Water	Water pollution – dog waste	Dog owners/walkers are required to clean up dog faeces under the CA Act. The provision of bins as well as compliance activities will help to facilitate appropriate waste disposal and enforce this obligation as required.
Heritage items	Aboriginal heritage – unexpected finds of heritage items	If Aboriginal heritage items are uncovered during signage installation and ancillary works, all works will cease and the steps under the NSW Department of Climate Change, Energy, the Environment and Water's Due Diligence Code of Practice for the Protection of Aboriginal Objects will be followed.
	Non-indigenous heritage – unexpected finds of heritage items	If heritage items listed under the <i>Shoalhaven Local Environmental Plan 2014</i> or the State Heritage List are uncovered during signage installation and ancillary works, all works will cease, and a statement of heritage impact will be prepared.
Noise	Noise during dog off-leash hours and sign installation	Reports or complaints made to Council regarding noise will be monitored.
		The works involved in signage installation will be very short term and the noise generated will occur during normal working hours. There are no sensitive receivers in the vicinity of the proposed activity.
Social	Impact on other beach users	The timed dog off-leash area, where dogs can be off-leash during off-peak times (4pm-8am Australian Eastern Daylight-Saving Time, 3pm-10am Australian Eastern Standard Time) has been prescribed to limit impacts on other beach users.
		Dog owners/walkers are required to always have control of their dogs and are responsible for waste disposal from dog faeces under the CA Act. Compliance activities will help to enforce this obligation.



Category	Type of Impact	Safeguard/Mitigation Measure
		The area south of BA3 at the south end of Narrawallee Beach will be dog-prohibited to mitigate the impact of dog users on members of the public using this popular part of the beach. This part of the beach is commonly used by families with young children and also operates as a patrolled beach (Narrawallee SLSC) during the summer holiday period. The beach area to the north of BA8 also provides recreational opportunities for other beach users free of dogs.
		Signage clearly detailing the off-leash area and dog-prohibited areas will ensure dog owners are aware of these as per the CA Act (Section 14(1)(d)). Regular monitoring by Council Rangers to enforce compliance, and to provide additional assurance especially to monitor for the presence of dogs in the prohibited area at Narrawallee Creek Inlet and the southern intertidal rocky platform. The presence of Council Rangers will enable the provision of education to the community.
		A penalty infringement notice will be issued, following an initial caution, for any repeat offenders observed in relation to non-compliance with the CA Act.
		An adaptive management approach will be incorporated into the ongoing monitoring and maintenance of the subject site, which will respond to changes including threatened species distribution and resulting from ongoing and regular assurance activities with stakeholders.
Waste minimisation and management	Amenity and pollution	Garbage bins are located at main access points to the off-leash zone to promote compliance.



10 Determination

This Review of Environmental Factors has assessed the likely environmental impacts, in the context of Part 5 of the NSW *Environmental Planning and Assessment Act 1979*, of a proposed activity by Shoalhaven City Council to permit dogs off-leash on a portion of Narrawallee Beach, including the associated sign installation.

The review has also considered the most suitable boundaries to the off-leash area in terms of minimising social and environmental impacts (Section 8 and Section 9). This has determined:

1. The area north of BA8 will be maintained as dog-prohibited, providing a buffer to the Narrawallee Creek Inlet which has extremely high biodiversity conservation value in relation to threatened and migratory shorebird populations.
2. The area south of BA3 shall be retained as dog-prohibited to ensure an adequate buffer distance is maintained to the rock shelf providing threatened shorebird foraging habitat in the southern extent of the study area. This will also mitigate potential social impacts of dog off-leash access on this high-use part of the beach.
3. The current dog off-leash access area (currently between BA3 and BA7) has increased north to BA8.

The above-listed determinations are shown in Figure 7 have been included within the mitigation safeguards included in Section 9.

Shoalhaven City Council has considered the potential environmental effects of the proposed activity and the effectiveness and feasibility of measures for reducing or preventing detrimental effects. It is determined:

1. The proposed safeguards identified in the report (Section 9) shall be maintained/adopted and implemented.
2. It is unlikely that there will be any significant environmental impact from the proposed activity and an Environmental Impact Statement is not required for the proposed activity.
3. The proposed activity is not likely to significantly affect threatened species or ecological communities, or their habitats for the purposes of the NSW *Biodiversity Conservation Act 2016*, and entry into the Biodiversity Offset Scheme or preparation of a Species Impact Statement is not required.
4. The proposed activity is not a 'controlled action' for the purposes of the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* and referral to the Commonwealth Environment Minister is not required.

Michael Roberts

Dr Michael Roberts

Manager, Environmental Services

Shoalhaven City Council

Date: 2 May 2024



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Appendix 1 Photographs of the subject site




	
<p>Plate 1: Current signage located toward southern end of Narrawallee Beach indicating the beginning of the current off-leash area (BA3).</p>	<p>Plate 2: Matron Porter Drive – BA3 accessway along Narrawallee Beach.</p>
	
<p>Plate 3: Example of an accessway at the northern end of Narrawallee Beach.</p>	



Plate 4: Southern aspect of Narrawallee Beach from BA1 looking north.



Plate 5: Middle of Narrawallee Beach adjacent to the unnamed island (BA8).



Plate 6: Southern intertidal rocky platform of Narrawallee south of BA1, within the southern Dog-prohibited Area. This rocky platform contains habitat for Sooty Oystercatcher and Pied Oystercatcher.



Plate 7: Vegetation along the middle portion of Narrawallee Beach showing PCT 3140 *Spinifex Strandline Grassland*, grading into PCT 3788 *Coastal Foredune Wattle Scrub* which then grades into PCT 3838 *South Coast Sands Bangalay Forest*.



Plate 8: Foredune vegetation along the middle section of Narrawallee Beach dominated by PCT 3140 Spinifex Strandline Grassland.



Appendix 2 Likelihood of occurrence assessment

An assessment of likelihood of occurrence was made for threatened and migratory species identified from database searches (Council's GIS Enquiry, Birddata, PMST and BioNet) and site visits (Table 4). Likelihood of occurrence was assessed for the species listed under BC Act and EPBC Act that have been previously recorded within the locality or are predicted to occur within locality.

For threatened species determined to have a medium or high likelihood of occurrence listed under the BC Act, a Test of Significance (ToS) pursuant to section 7.3 of the BC Act has been conducted (Appendix 3).

For those listed under the EPBC Act, a Significant Impact Assessment (SIA), in accordance with the Significant Impact Guidelines 1.1 – Matters of National Environmental Significance, has been conducted (Appendix 4).

The following abbreviations are used to indicate the State and Commonwealth Status of species:

- CE = critically endangered
- E = endangered
- V = vulnerable
- M = migratory



Table 4 Threatened species listed under BC Act and EPBC Act, recorded in the subject site, study area or within the locality or predicted to occur within the locality (within ten kilometres)

Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
Birds						
Bar-tailed Godwit	<i>Limosa lapponica</i>		M	Inhabit estuarine mudflats, beaches and mangroves. Common in coastal areas around Australia.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Beach Stone-curlew	<i>Esacus magnirostris</i>	CE		Occurs on open, undisturbed beaches, islands, reefs, and estuarine intertidal sand and mudflats, preferring beaches with estuaries or mangroves nearby. Also frequents river mouths, offshore sandbars associated with coral atolls, reefs and rock platforms and coastal lagoons.	Medium	Yes – (ToS Appendix 3) Although species records indicate presence is uncommon in the locality, the species has been recorded within Narrawallee Creek Inlet Reserve north of IA1-3.
Common Sandpiper	<i>Actitis hypoleucos</i>		M	Utilises a wide range of coastal wetlands and some inland wetlands, with varying levels of salinity, and is mostly found around muddy margins or rocky shores and rarely on mudflats.	Low	No – very rare visitor to the Shoalhaven and important habitat characteristics including wetland environments are absent from the subject site.
Common Greenshank	<i>Tringa nebularia</i>		E, M	Common Greenshanks are found both on the coast and inland, in estuaries and mudflats, mangrove	Medium	Yes – (SIA, Appendix 4)



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
				swamps and lagoons, and in billabongs, swamps, sewage farms and flooded crops.		The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Crested Tern	<i>Thalasseus bergii</i>		M	Coastal areas including open shores, low-lying sandy, rocky or coral islands and sometimes shrubland. This species is known to shelter behind dunes, rocks and vegetation during storms.	Medium	Yes – (SIA, Appendix 4) This species has been recorded in the subject site and study area, and sub-optimal occurs along the beach within the subject site.
Curlew Sandpiper	<i>Calidris ferruginea</i>		CE, M	The Curlew Sandpiper is mostly found on intertidal mudflats of estuaries, lagoons and mangroves, as well as beaches and rocky shores. It's breeding habitat is the lowland tundra of Siberia.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Double-banded Plover	<i>Charadrius bicinctus</i>		M	The Double-banded Plover is found on coastal beaches, mudflats, sewage farms, river banks, fields, dunes, upland tussock grasses and shingle.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Dusky Woodswallow	<i>Artamus cyanopterus</i>	V		Primarily inhabit dry, open eucalypt forests and woodlands, including mallee associations, with an open or sparse understorey of eucalypt saplings, acacias and other shrubs, and groundcover of grasses or sedges and fallen woody debris. It has also been recorded in	Low	No – species does not inhabit the sandy beach habitats present within the subject site. This species may inhabit vegetation within the study area, however the impacts of the proposed activity on this area is considered negligible.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
				shrublands, heathlands and very occasionally in moist forest or rainforest. Also found in farmland, usually at the edges of forest or woodland.		
Eastern Curlew	<i>Numenius madagascariensis</i>		CE, M	Generally, occupies coastal lakes, inlets, bays, estuarine habitats including intertidal mudflats and saltmarsh of sheltered coasts. Has been recorded on open beaches often near estuaries, and coral reefs and rocky platforms.	Medium	Yes – (SIA, Appendix 4) Although species records indicate presence is uncommon in the locality, the species is known to use the habitats present at Narrawallee Creek Inlet north of IA1-3.
Eastern Hooded Dotterel	<i>Thinornis cucullatus cucullatus</i>	CE	V	Generally, prefers broad, flat, open sandy beaches with plenty of seaweed and backed by low sand dunes. Densities are lowest on narrow, steep beaches, where there are few or no dunes, and where human activities are most intensive. In the south-west, they also occur on inland salt lakes.	Medium	Yes – (ToS, Appendix 3) Although species records indicate presence is uncommon in the locality, the species has been recorded nesting 600 metres from the subject site and anecdotally, foraging within the subject site at Narrawallee beach.
Eastern Osprey	<i>Pandion cristatus</i>	V		Favour coastal areas, especially the mouths of large rivers, lagoons and lakes.	Low	No – species does not inhabit the sandy beach habitats present within the subject site.
Gang-gang Cockatoo	<i>Callocephalon fimbriatum</i>	V	E	In spring and summer, generally found in tall mountain forests and woodlands, particularly in heavily timbered and mature wet sclerophyll forests.	Low	No – species does not inhabit the sandy beach habitats present within the subject site. This species may inhabit vegetation within the study area, however the impacts of the proposed



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
				In autumn and winter, the species often moves to lower altitudes in drier more open eucalypt forests and woodlands, particularly box-gum and box-ironbark assemblages, or in dry forest in coastal areas and often found in urban areas.		activity on this area is considered negligible.
Gibson's Albatross	<i>Diomedea gibsoni</i>	V	V	On their breeding islands, Gibson's albatrosses' nest on moss terraces and in tussock grassland on or near ridges, slopes and plateaus where an exposed, windy position helps them take off. They often form loose colonies on the windward sides of the islands.	Low	No – species records indicate presence is uncommon in the locality, the species has never been recorded in the subject site.
Glossy Black-Cockatoo	<i>Calyptorhynchus lathami</i>	V	V	Inhabits open forest and woodlands of the coast and the Great Dividing Range where stands of she oak occur. Black She oak (<i>Allocasuarina littoralis</i>) and Forest She oak (<i>A. torulosa</i>) are important foods.	Low	No – species does not inhabit the sandy beach habitats present within the subject site. This species may inhabit vegetation within the study area, however the impacts of the proposed activity on this area is considered negligible.
Greater Sand-plover	<i>Charadrius leschenaultii</i>	V	V, M	Usually coastal, on the beaches of sheltered bays, in harbours and estuaries with large intertidal sand flats or mudflats. Occasionally sighted on sandy ocean beaches; coral reefs, wave-cut rock platforms and rocky outcrops and sometimes in short saltmarsh or mangroves.	Medium	Yes – (ToS, Appendix 3, SAI, Appendix 4) Species is predicted to occur within the locality



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
Grey Plover	<i>Pluvialis squatarola</i>		M	The Grey Plover is almost entirely coastal, being found mainly on marine shores, inlets, estuaries and lagoons with large tidal mudflats or sandflats for feeding, sandy beaches for roosting, and also on rocky coasts.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Great Knot	<i>Calidris tenuirostris</i>		V, M	Great Knots inhabit intertidal mudflats and sandflats in sheltered coasts, including bays, harbours and estuaries.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Latham's Snipe	<i>Gallinago hardwickii</i>		M	Occur in open, freshwater wetlands that have some form of shelter (usually low and dense vegetation) nearby, or saline or brackish water, such as saltmarsh, mangrove creeks, around bays and beaches, and at tidal rivers.	Low	No – no habitat in the form of wetland areas is located within the subject site.
Lesser Sand-plover	<i>Charadrius mongolus</i>	V	E, M	Usually coastal, on the beaches of sheltered bays, in harbours and estuaries with large intertidal sand flats or mudflats. Occasionally sighted on sandy ocean beaches; coral reefs, wave-cut rock platforms and rocky outcrops and sometimes in short saltmarsh or mangroves.	Medium	Yes – (ToS, Appendix 3, SAI, Appendix 4) Species is predicted to occur within the locality.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
Little Eagle	<i>Hieraetus morphnoides</i>	V		The Little Eagle occupies habitats rich in prey within open eucalypt forest, woodland or open woodland. She oak or acacia woodlands and riparian woodlands of interior NSW are also used. For nest sites, it requires a tall living tree within a remnant patch, where pairs build a large stick nest in winter and lay in early spring.	Low	Two individuals were observed within the locality in 2011 only. The species is not typically associated with beach environs.
Little Lorikeet	<i>Glossopsitta pusilla</i>	V		Forages primarily in the canopy of open Eucalypt Forest and woodland, yet also finds food in <i>Angophora</i> , <i>Melaleuca</i> and other tree species. Riparian habitats are particularly used, due to higher soil fertility and hence greater productivity.	Low	No – species does not inhabit the sandy beach habitats present within the subject site. This species may inhabit vegetation within the study area, however the impacts of the proposed activity on this area is considered negligible.
Little Tern	<i>Sternula albifrons</i>	E		The Little Tern is mainly coastal, being found on beaches, sheltered inlets, estuaries, lakes, sewage farms, lagoons, river mouths and deltas.	Medium	Yes – (ToS, Appendix 3) Species has been recorded near subject site and suitable habitat is located within the subject site.
Masked Owl	<i>Tyto novaehollandiae</i>	V		Dry eucalypt forests and woodlands from sea level to 1100 metres.	Medium	Yes – (ToS, Appendix 3) Species has been recorded near subject site and suitable habitat is located within the study area.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
Pied Oystercatcher	<i>Haematopus longirostris</i>	E		Favours intertidal flats of inlets and bays, open beaches and sandbanks. Coastal or estuarine beaches.	High	Yes – (ToS, Appendix 3) Species has been recorded near subject site and suitable habitat is located within the subject site.
Powerful Owl	<i>Ninox strenua</i>	V		Inhabits a range of vegetation types, from woodland and open sclerophyll forest to tall open wet forest and rainforest. Requires large tracts of forest or woodland habitat but can occur in fragmented landscapes as well.	Medium	Yes – (ToS, Appendix 3) Species has been recorded near subject site and suitable habitat is located within the study area.
Red Knot	<i>Calidris canutus</i>		E, M	Gathers in large flocks on the coast in sandy estuaries with tidal mudflats.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Red-necked Stint	<i>Calidris ruficollis</i>		M	Red-necked Stints are found on the coast, in sheltered inlets, bays, lagoons, estuaries, intertidal mudflats and protected sandy or coralline shores.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Regent honeyeater	<i>Anthochaera phrygia</i>	CE	CE	Regent Honeyeater are found in eucalypt forests and woodlands, particularly in blossoming trees and mistletoe. The species are also seen in orchards and urban gardens.	Low	One observation made within the locality in 1999, away from the subject site. The species is not typically associated with beach environs.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
Ruddy Turnstone	<i>Arenaria interpres</i>		M	Found along the coastline and occasionally inland on exposed rocks and reefs with shallow pools and on sandy beaches.	Low	No – species records indicate presence is uncommon in the locality, the species has never been recorded within the subject site.
Sanderling	<i>Calidris alba</i>		M	Sanderlings are found on open sandy beaches at the edge of the waves, on sandbars and spits. They roost on bare sand in the dunes or behind piles of kelp.	Medium	Yes – (SIA, Appendix 4) The species has been recorded within the locality, and habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
Short-tailed Shearwater	<i>Ardenna tenuirostris</i>		M	Pelagic species. Coastal areas including open shores, low lying sandy, rocky, or coral island, low-lying sandy, rocky, or coral islands and sometimes shrubland.	Low	No – can be seen as deceased individuals on the beach during migration, however it is a pelagic marine species with no important habitat present within the subject site.
Shy Albatross	<i>Thalassarche cauta</i>	E	E	The Shy albatross is unique to Tasmania, breeding exclusively on three offshore islands: Albatross Island in the north and Pedra Branca and the Mewstone in the south.	Low	No – species records indicate presence is uncommon in the locality, the species has never been recorded within the subject site.
Sooty Owl	<i>Tyto tenebricosa</i>	V		Occurs in rainforest, including dry rainforest, subtropical and warm temperate rainforest, as well as moist eucalypt forests.	Medium	Yes – (ToS, Appendix 3) Species has been recorded near subject site and suitable habitat is located within the study area.
Sooty Oystercatcher	<i>Haematopus fuliginosus</i>	V		Favours rocky headlands, rocky shelves, exposed reefs with rock pools, beaches and muddy estuaries.	Medium	Yes – (ToS, Appendix 3) Species has been recorded at subject site and suitable habitat is located within the subject site.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
Sooty Shearwater	<i>Ardena grisea</i>		M	The Sooty Shearwater mostly lives over deep ocean waters but is sometimes found in onshore areas in rough weather. It breeds mostly on subtropical and subantarctic islands around Australasia and also on the New Zealand mainland.	Low	No – can be seen as deceased individuals on the beach during migration, however it is a pelagic marine species foraging in open ocean, may forage inshore occasionally. No important habitat is present within the subject site.
Square-tailed Kite	<i>Lophoictinia isura</i>	V		Found in a variety of timbered habitats including dry woodlands and open forests. Shows a particular preference for timbered watercourses.	Low	No – species does not inhabit the sandy beach habitats present within the subject site. This species may inhabit vegetation within study area, however the impacts of the proposed activity in this area is considered negligible.
Swift Parrot	<i>Lathamus discolor</i>	E	CE	Occur in areas where eucalypts are flowering profusely or where there are abundant lerp (from sap-sucking bugs) infestations. Favoured feed trees include winter flowering species such as Swamp Mahogany <i>Eucalyptus robusta</i> , Spotted Gum <i>Corymbia maculata</i> , Red Bloodwood <i>C. gummifera</i> , Forest Red Gum <i>E. tereticornis</i> , Mugga Ironbark <i>E. sideroxylon</i> , and White Box <i>E. albens</i> . Commonly used lerp infested trees include Inland Grey Box <i>E. microcarpa</i> , Grey Box <i>E. moluccana</i> , Blackbutt <i>E. pilularis</i> , and Yellow Box <i>E. melliodora</i>	Low	No – species records and habitat assessment indicate the species is unlikely to occur in the subject site. No breeding habitat for the species occurs in the Shoalhaven.
Varied Sittella	<i>Daphoenositta chrysoptera</i>	V		Inhabits eucalypt forests and woodlands, especially those	Low	No – this species does not inhabit the sandy beach habitats present within the



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
				containing rough-barked species and mature smooth-barked gums with dead branches, mallee and Acacia woodland.		subject site. This species may inhabit vegetation within the study area, however the impacts of the proposed activity in this area is considered negligible.
Wedge-tailed Shearwater	<i>Ardena pacifica</i>		M	Mostly a pelagic, marine species. Found along inshore and offshore water masses.	Low	No – can be seen as deceased individuals on beach during migration, however it is a pelagic species with no important habitat present within the subject site.
Whimbrel	<i>Numenius phaeopus</i>		M	Intertidal mudflats, along muddy banks of estuaries and in coastal lagoons, either in open unvegetated areas or mangroves. Occasionally in harbours, lagoons, estuaries, rivers or sandy and rocky beaches, platforms, or reefs.	Medium	Yes – (SIA, Appendix 4) Although species records indicate presence is uncommon in the locality, habitat for this species occurs at Narrawallee Creek Inlet Reserve north of IA1-3.
White-bellied Sea Eagle	<i>Haliaeetus leucogaster</i>	V		Occurs at large areas of open water including larger rivers, swamps, lakes, and the sea. Occurs at sites near the sea or seashore, such as around bays and inlets, beaches, reefs, lagoons, estuaries, and mangroves; and at, or in the vicinity of freshwater swamps, lakes, reservoirs, billabongs and saltmarsh. Terrestrial habitats include coastal dunes, tidal flats, grassland, heathland, woodland, and forest (including rainforest). They can be observed to be perched high in trees	Low	Yes – (ToS, Appendix 3) Records of this species exist within the subject site, and although it is more likely to be observed soaring over these habitats this species may inhabit vegetation within the study area and rely upon foraging resources within the subject site.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
				or soaring over waterways in a transient way. Breeding habitat consists of mature tall open forest, tall woodland, and swamp sclerophyll forest close to foraging habitat. Nest trees are typically large emergent eucalypts and often have emergent dead branches or large dead trees nearby that are used as 'guard roosts'.		
White-throated Needletail	<i>Hirundapus caudacutus</i>		V, M	Mostly found in coastal areas, in most vegetation and habitat types including forested wetlands, freshwater wetlands, grasslands, saline wetlands, and coastal beaches and estuaries.	Low	No – typically aerial species that does not breed in Australia. May roost in trees, but unlikely to rely on the beach habitats within the subject site.
Frogs						
Green and Golden Bell Frog	<i>Litoria aurea</i>	E	V	Inhabits marshes, dams and stream-sides, particularly those containing bullrushes (<i>Typha</i> spp.) or spike rushes (<i>Eleocharis</i> spp.). Optimum habitat includes waterbodies that are unshaded, free of predatory fish such as Plague Minnow (<i>Gambusia holbrooki</i>), have a grassy area nearby and diurnal sheltering sites available	Low	No – this species is unlikely to be reliant on the vegetation communities or habitats located within the subject site and study area.
Reptiles						
Green Turtle	<i>Chelonia mydas</i>	V	V	Ocean-dwelling species spending most of its life at sea	Low	No – marine reptile that does not breed on Shoalhaven beaches. This species is unlikely to be reliant on the vegetation



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
						communities or habitats located within the subject site.
Loggerhead Turtle		E	E	Ocean-dwelling species spending most of its life at sea	Low	No – marine reptile that does not breed on Shoalhaven beaches. This species is unlikely to be reliant on the vegetation communities or habitats located within the subject site.
Hawksbill Turtle	<i>Eretmochelys imbricata</i>		V	Ocean-dwelling species spending most of its life at sea	Low	No – marine reptile that does not breed on Shoalhaven beaches. This species is unlikely to be reliant on the vegetation communities or habitats located within the subject site.
Mammals						
Australian Fur-seal	<i>Arctocephalus pusillus doriferus</i>	V		Occurs in inshore and offshore marine waters	Low	No – records of this species occur around Narrawallee Inlet and one record occurs in the northern section of the subject site, but no important habitats are present within the subject site.
Eastern Coastal Free-tailed Bat	<i>Micronomus norfolkensis</i>	V		Occur in dry sclerophyll forest, woodland, swamp forests and mangrove forests	Low	No – likely to forage in the adjoining Narrawallee Creek Reserve at night however species is unlikely to be reliant on the beach habitats located within the subject site.
Eastern False Pipistrelle	<i>Falsistrellus tasmaniensis</i>	V		Prefers moist habitats, with trees taller than 20 m. Generally, roosts in eucalypt hollows, but has also been	Low	No – likely to forage in the adjoining Narrawallee Creek Reserve at night however species is unlikely to be reliant



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
				found under loose bark on trees or in buildings		on the beach habitats located within the subject site.
Greater Broad-nosed Bat	<i>Scoteanax rueppellii</i>	V		Utilises a variety of habitats from woodland through to moist and dry eucalypt forest and rainforest, though it is most commonly found in tall wet forest.	Low	No – likely to forage in the adjoining Narrawallee Creek Reserve at night however species is unlikely to be reliant on the beach habitats located within the subject site.
Southern Greater Glider	<i>Petauroides volans</i>	E	E	Can be found in dry or wet sclerophyll forests, heathlands and temperate rainforests	Low	No – this species is unlikely to be reliant on the vegetation communities or habitats located within the subject site.
Golden-tipped Bat	<i>Phoniscus papuensis</i>			Roost in abandoned nests and tree hollows. Usually associated with rainforest, tall open forest, dry and wet sclerophyll forest and coastal Melaleuca Forest. Individuals have been recorded inside houses.	Low	No – this species is unlikely to be reliant on the vegetation communities or habitats located within the subject site.
Grey-headed Flying-fox	<i>Pteropus poliocephalus</i>	V	V	Occur in subtropical and temperate rainforests, tall sclerophyll forests and woodlands, heaths and swamps as well as urban gardens and cultivated fruit crops	Low	No – a camp occurs approximately 7 kilometres to the north of the subject site in Yatte Yattah Nature Reserve. This is well beyond the subject site. As such, this species is unlikely to be reliant on the vegetation communities or habitats located within the subject site.
Koala	<i>Phascolarctos cinereus</i>	E	E	Inhabit eucalypt woodlands and forests.	Low	No – species records indicate presence is unlikely within the subject site.
Large Bent-winged Bat	<i>Miniopterus orianae oceanensis</i>	V		Caves are the primary roosting habitat, but also use derelict mines,	Low	No – likely to forage in the adjoining Narrawallee Creek Reserve at night.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
				storm-water tunnels, buildings and other man-made structures		However, the species is unlikely to be reliant on the beach habitats located within the subject site.
Large-eared Pied Bat	<i>Chalinobus dwyeri</i>	V	E	Large-eared Pied Bats roost in caves, mines and unused bird nests.	Low	No – likely to forage in the adjoining Narrawallee Creek Reserve at night however species is unlikely to be reliant on the beach habitats located within the subject site.
New Zealand Fur-seal	<i>Arctocephalus forsteri</i>	V		Prefers rocky parts of islands with jumbled terrain and boulders	Low	No – species records and habitat observations indicate the species is unlikely to occur within the subject site.
Southern Brown Bandicoot (eastern)	<i>Isoodon obesulus</i>	E	E	Generally, only found in heath or open forest with a heathy understorey on sandy or friable soils.	Low	No – species records and habitat observations indicate the species is unlikely to occur within the subject site.
Southern Myotis	<i>Myotis macropus</i>	V		Typically roosts close to water in caves, mine shafts, hollow-bearing trees, storm water channels, buildings, under bridges and in dense foliage.	Low	No – likely to forage and potentially roost in the adjoining Narrawallee Creek Reserve, however species is unlikely to be reliant on the beach habitats located within the subject site.
Southern Right Whale	<i>Eubalaena australis</i>	E	E	Migrate between summer feeding grounds in Antarctica and winter breeding grounds around the coasts of southern Australia, New Zealand, South Africa and South America. They feed in the open ocean in summer.	Low	No – ocean-going species.



Common name	Scientific name	Legislation		Habitat associations	Likelihood of occurrence	Significance assessment completed (Appendix 3 and/or 4)
		BC Act	EPBC Act			
Yellow-bellied Glider	<i>Petaurus australis</i>	V	V	Occur in tall mature eucalypt forest generally in areas with high rainfall and nutrient rich soils. Forest type preferences vary with latitude and elevation, moist coastal gullies and creek flats to tall montane forests in the south.	Low	No – species has been recorded near subject site and suitable habitat is located nearby, however the species will not use the beach habitats within the subject site.
Plants						
Sand Spurge	<i>Chamaesyce psammogeton</i>	E		Grows on foredunes, pebbly strandlines and exposed headlands, often with Spinifex (<i>Spinifex sericeus</i>) and Prickly Couch (<i>Zoysia macrantha</i>)	Medium	Yes – (ToS, Appendix 3) Whilst no known populations of the species are located within the subject site or study area, habitat with the potential for this species to occur is present.
Scrub Turpentine	<i>Rhodamnia rubescens</i>	E	CE	Grows in warm and subtropical rainforest as well as wet sclerophyll forest and moist-dry sclerophyll woodlands, usually on enriched soils.	Low	No - no known populations of the species are located within the subject site or study area.

Appendix 3 Tests of Significance (BC Act)

Following the analysis of likelihood of occurrence (Appendix 2), the BC Act Test of Significance was applied to:

Fauna

- Sooty Oystercatcher
- Pied Oystercatcher
- Eastern Hooded Dotterel
- Beach Stone-curlew
- Little Tern
- Lesser Sand-plover
- Greater Sand-plover
- Masked Owl
- Powerful Owl
- Sooty Owl
- White-Bellied Sea-Eagle

Flora

- Sand Spurge

Ecological Communities

- Bangalay Sand Forest in the Sydney Basin and South East Corner bioregions

a) in the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction

Threatened shorebirds – Sooty Oystercatcher, Pied Oystercatcher, Eastern Hooded Dotterel, Beach Stone-curlew, Little Tern, Lesser Sand-plover, Greater Sand-plover.

Sooty Oystercatchers tend to breed on offshore islands, and occasionally on isolated promontories. This species breeds in spring and summer. The nest is a shallow scrape on the ground, or small mounds of pebbles, shells or seaweed when nesting among rocks. They tend to favour rocky headlands, rocky shelves, exposed reefs with rock pools, beaches and muddy estuaries. Such habitat occurs to the east of Narrawallee Inlet Reserve at Preservation Rock. Sections of the subject site and study area provide suitable habitat for foraging behaviour, which is necessary for the lifecycle of the species.

Pied Oystercatcher nesting mostly occurs on coastal or estuarine beaches although occasionally they may utilise saltmarsh or grassy areas. Nests are shallow scrapes in sand above the high tide mark, often amongst seaweed, shells and small stones. Two to three eggs are laid between August and January. Such habitat occurs within and surrounding Narrawallee Creek Inlet and southern end of Buckleys Beach. Pied Oystercatchers are known to utilise habitat associated with the intertidal rocky



platform at the southern end of the beach as it favours sandy beaches and intertidal flats, and forage on exposed sand, mud and rock at low tide.

Narrawallee Beach contains marginal foraging and breeding habitat for the Eastern Hooded Dotterel or Hooded Plover as they are known to be more partial to sandy ocean beaches, mainly those that are broad and flat, with a wide wave-wash zone for feeding, widespread beach cast seaweed, and supported by vegetated sand-dunes that is used for shelter and nesting. Eastern Hooded Dotterel are observed on tidal bays and estuaries, rock platforms and rocky or sand-covered reefs near sandy beaches, and small beaches in lines of cliffs. They frequently utilise coastal freshwater lakes and lagoons, containing saltmarsh. Eastern Hooded Dotterel breed from August to March in these habitats, in a narrow strip between the high-water mark and the base of the foredunes. They often nest within 6 metres of the foredune, mostly within 5 metres of the high-water mark, but occasionally among or behind dunes. The nest is a scrape in the sand near debris. A high degree of fidelity is demonstrated for previous nesting locations. Cudmirrah Beach has the largest group of inhabitant Eastern Hooded Dotterels in NSW. Eastern Hooded Dotterel forage in sand at all levels of the zone of wave-wash during low and mid-tide or among seaweed at high-tide, and occasionally in dune blowouts after rain. When on rocks they forage in crevices in the wave-wash or spray zone, avoiding elevated rocky areas and boulder fields.

Beach Stone-curlews breed above the littoral zone, above the tidal zone at the backs of beaches, or on sandbanks and islands, among low vegetation of grass, scattered shrubs or low trees, also among open mangroves. Clutches in NSW have been reported between October to March and nests consist of a shallow scrape in sand or gravel. Such habitat is more likely to occur in Narrawallee Creek Inlet and Narrawallee Inlet Reserve, as well as Protection Rock. This species forages in the intertidal zone of beaches and estuaries, on islands, flats, banks or spits of sand, mud gravel or rock or among mangroves heavily wading for crabs and other marine invertebrates. Such foraging habitat also occurs in the same location as preferred breeding habitat within the locality.

The Little Tern is a migratory or partly migratory seabird that are almost exclusively coastal. Migrating from eastern Asia, it breeds in spring and summer along the entire east coast from Tasmania to northern Queensland, and is observed until May, with only occasional birds seen in winter months. Nesting occurs in low dunes or on sandy beaches above the high-water mark near estuary entrances or adjacent to coastal lakes and islands. Foraging predominantly occurs for small fish, crustaceans, molluscs, worms and insects by plunging into shallow water of channels and estuaries, and in the surf of beaches. Both of the breeding and foraging habitats of this species are more represented in Narrawallee Creek Inlet, and more so, further to the north of the study area within the entrance of Lake Conjola.

Lesser Sand-plover and Greater Sand-plover are predicted to utilise Narrawallee Creek Inlet for foraging only. This species does not breed in the southern hemisphere and therefore the breeding cycle of this species will not be impacted by dog presence. Furthermore, these species have not been detected within the locality.

Narrawallee Beach has already been used as a dog off-leash area for several years. Threatened shorebirds are known to nest (Lesser Sand-plover and Greater Sand-plover) in the Narrawallee Creek Inlet area within the northern dog- prohibited zone, which includes a buffer of 600 metres from the northern end of the dog off-leash area. The maintained exclusion of dogs away from the Inlet will mean that the proposed activity will not have a significant impact on nesting threatened shorebirds. Maguire *et al.* (2018) note the positive impact of diverting dog walkers to specific areas, as dogs are then less likely to be present in more sensitive, prohibited areas. The disturbance to the species via dog presence is unlikely to have a significant impact on the survival of the species, given the 600-



metre buffer zone between the Inlet and dog off-leash area, as well as the Inlet itself acting as a hard barrier between dogs and threatened shorebirds.

Foraging habitat is also critical in the life cycle of shorebirds. Foraging habitat for shorebirds along Narrawallee Beach will be reduced by the presence of dogs within the recommended dog off-leash area. However, more optimal areas of foraging habitat to the north at the Inlet and nature reserve will be unaffected as will adjacent beach areas. It is also important that the dog-prohibited area continues with the buffer to the south (600 metres) to enable complementary foraging habitat in the subject site and study area. Dog access should continue to be prohibited south of Matron Porter Drive (BA3) to allow a buffer between dog users and foraging habitat (rocky outcrop on the southern end of the beach) to keep dog activity away from foraging habitat. Mitigation measures detailed in Section 9 are expected to avoid impacts on these optimal areas of foraging habitat.

The potential for impact on these threatened shorebird species during signage installation works is considered unlikely due to the following factors:

- Sign installation locations will be selected to avoid disturbance.
- a Council Officer or other suitably qualified person will survey the area prior to works commencing and if any of these species are detected in the vicinity, works will stop immediately and not resume until the bird species has vacated the site of its own accord.
- If a nest or nesting birds are detected, works will cease, and mitigation measures will be adapted in consultation with the NPWS Shorebird Recovery Coordinator (or similar expert), to minimise the risk of disturbance to the birds and ensure their protection. This may include, but not be limited to, delaying the works until the cessation of the breeding season.

As such, the proposed activity is unlikely to have an adverse effect on the life cycle of any threatened shorebirds such that a viable local population is placed at risk of extinction.

Threatened Owls – Masked Owl, Powerful Owl and Sooty Owl

Masked Owl, Powerful Owl and Sooty Owl have all been recorded in the locality and suitable habitat occurs for these species in the form of the threatened ecological community *Bangalay Sand Forest in the Sydney Basin and South East Corner bioregions* (within the study area). Disturbance to the species roosting behaviour via dog presence is unlikely to have a significant impact on the survival of the species given this vegetation (containing only marginal habitat for these species) is within transit areas only. Cleared and established beach accessways already exist in this vegetated area. These tracks are sign posted, clearly delineated and are to be utilised by dog owners to limit disturbance. Furthermore, these threatened Owls are hollow-dependant nocturnal species which means they are unlikely to be impacted on by the presence of dogs.

Accordingly, the proposed activity is unlikely to have an adverse effect on the life cycle of these threatened owl species such that a viable local population is placed at risk of extinction.

White-bellied Sea-Eagle

The White-bellied Sea-Eagle typically occurs at sites near the sea or seashore, such as around bays and inlets, beaches, reefs, lagoons, estuaries and mangroves; and at, or in the vicinity of freshwater swamps, lakes, reservoirs, billabongs and saltmarsh. Terrestrial habitats include coastal dunes, tidal flats, grassland, heathland, woodland, and forest (including rainforest). Breeding habitat consists of mature tall open forest, tall woodland, and swamp sclerophyll forest close to foraging habitat. Nest trees are typically large emergent eucalypts and often have emergent dead branches or large dead trees nearby that are used as 'guard roosts'. Eggs are laid between June and September. Predation



activities exhibited by this species occurs from a perch or whilst in flight (usually 10-20 metres above the shore) and prey is typically carried to a feeding platform. Preying occurs by circling slowly, or by sailing along 10–20 metres above the shore.

Several records of White-bellied Sea-Eagle (*Haliaeetus leucogaster*) occur within the subject site and study area. These records are more likely attributable to the utilisation of foraging habitat or foraging to such areas in the search of prey. Marginal breeding habitat occurs further to the west of the study area, within the foreshore reserve, and to the north within Narrawallee Inlet Reserve. As such, the proposed activity is unlikely to have an adverse effect on the life cycle of the White-bellied Sea-Eagle such that a viable local population is placed at risk of extinction.

Sand Spurge

The threatened flora species, Sand Spurge (*Chamaesyce psammogeton*), has not been recorded within the subject site or study area, however the subject site is considered to provide potential habitat for this species.

Sand Spurge is a herb that grows on dunes and sea strandline and is also unlikely to be affected by the proposed activity given that cleared beach accessways already exist. These tracks are sign posted and clearly delineated and are to be utilised by dog owners to limit disturbance to dune vegetation.

As such, the proposed activity is unlikely to have an adverse effect on the life cycle of Sand Spurge such that a viable local population of the species is to be placed at risk of extinction.

b) In the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.

The beach and frontal dune area, where dogs are proposed to be permitted off-leash within the subject site, does not comprise of threatened ecological community. However, part of the vegetated area at Matron Porter Drive and Surfers Avenue where signage is proposed to be installed is classified as the *Bangalay Sand Forest in the Sydney Basin and South East Corner bioregions* (Figure 4). Existing signposts are proposed to be utilised, but where the installation of signposts is required within this community (ancillary action of the proposed activity) it will be undertaken in disturbed areas that are devoid of native and locally endemic vegetation. As such, the proposed activity will not have an adverse effect on the extent of the ecological community or substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.

c) In relation to the habitat of a threatened species or ecological community:

(i) The extent to which habitat is likely to be removed or modified as a result of the proposed development or activity,



(ii) Whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity and

(iii) The importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality.

No habitat of a threatened species or ecological community is likely to be removed/modified or become fragmented or isolated from other areas of habitat as a result of this proposed activity.

d) Whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly).

No areas of outstanding biodiversity value have been declared in the Shoalhaven LGA (DPE 2021b).

e) Whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.

The proposed activity will not contribute to any key threatening process listed under the BC Act.

Conclusion

The Test of Significance concludes that the proposed activity, based on the implementation of mitigation measures listed in Section 9 and the proposed delineation of dog off-leash and dog-prohibited areas, will not have a significant impact on threatened species or ecological communities. As such, a Species Impact Statement or entry into the Biodiversity Offset Scheme is not required.



Appendix 4 Significant Impact Criteria for EPBC Act Listed Threatened Species

The Commonwealth *Significant Impact Guidelines 1.1 – Matters of National Environmental Significance* details criteria to assess whether the proposed activity is likely to have a significant impact on a matter protected under national environment law — the EPBC Act, and whether referral to the Commonwealth Department for further assessment and approval is required.

The Significant Impact Guidelines provide varying criteria depending on the conservation status. The relevant criteria for threatened species, as per their Commonwealth status, is outlined in this section.

The following terminology is used throughout the Significant Impact Criteria (SIC) assessment:

- **Population of a species:** an occurrence of the species in a particular area. In relation to critically endangered, endangered or vulnerable threatened species, occurrences include but are not limited to:
 - a geographically distinct regional population, or collection of local populations, or
 - a population, or collection of local populations, that occurs within a particular bioregion.
- **Important population of a species:** a population that is necessary for a species' long-term survival and recovery. This may include populations identified as such in recovery plans, and/or that are:
 - key source populations either for breeding or dispersal
 - populations that are necessary for maintaining genetic diversity, and/or
 - populations that are near the limit of the species range.
- **Invasive species:** an introduced species, including an introduced (translocated) native species, which out-competes native species for space and resources, or which is a predator of native species.
- **Habitat critical for the survival of a species** refers to areas that are necessary:
 - for activities such as foraging, breeding, roosting, or dispersal.
 - for the long-term maintenance of the species or ecological community (including the maintenance of species essential to the survival of the species or ecological community, such as pollinators)
 - to maintain genetic diversity and long-term evolutionary development, or
 - for the reintroduction of populations or recovery of the species or ecological community
- **Important habitat for migratory species:**
 - habitat utilised by a migratory species occasionally or periodically within a region that supports an ecologically significant proportion of the population of the species, and/or
 - habitat that is of critical importance to the species at particular life-cycle stages, and/or
 - habitat utilised by a migratory species which is at the limit of the species range, and/or
 - habitat within an area where the species is declining.



Following the analysis of Likelihood of Occurrence, the EPBC Act SIC were applied for the following taxa:

Critically Endangered

- Eastern Curlew
- Curlew Sandpiper

Endangered

- Lesser Sand-plover
- Red Knot
- Common Greenshank

Vulnerable

- Eastern Hooded Dotterel
- Greater Sand-plover
- Great Knot

Migratory Birds

- Eastern Curlew
- Curlew Sandpiper
- Lesser Sand-plover
- Red Knot
- Common Greenshank
- Greater Sand-plover
- Great Knot
- Whimbrel
- Bar-tailed Godwit
- Grey Plover
- Sanderling
- Red-necked Stint
- Double-banded Plover
- Little Tern
- Crested Tern



Critically Endangered

- Eastern Curlew (*Numenius madagascariensis*)
- Curlew Sandpiper (*Calidris ferruginea*)

Each significant impact criteria have been addressed below:

Lead to a long-term decrease in the size of a population.

The subject site does not support key source populations for breeding or dispersal, populations necessary for maintaining genetic diversity, or populations near the limit of these species range. Thus, the proposed activity will not lead to a long-term decrease in the size of an Eastern Curlew or Curlew Sandpiper population.

Reduce the area of occupancy of the species.

The species does not occupy the subject site. Thus, the proposed activity will not reduce the area of occupancy for the Eastern Curlew and Curlew Sandpiper. Habitat for these species at Narrawallee Creek Inlet will remain protected, and an appropriate buffer (600 metres) will be maintained between the dog off-leash area and the dog-prohibited area to continue adequate protection for the Eastern Curlew and Curlew Sandpiper.

Fragment an existing population into two or more populations.

The dog-prohibited area at Narrawallee Creek Inlet provides potential foraging habitat for the Eastern Curlew and Curlew Sandpiper. As such, this designated area will provide protection for the species and the population will therefore remain unaffected and unfragmented.

Adversely affect habitat critical to the survival of a species

The Eastern Curlew and Curlew Sandpiper generally occupy coastal lakes, inlets, bays and estuarine habitats, and in New South Wales are mainly found in intertidal mudflats and sometimes saltmarsh of sheltered coasts. Occasionally, these species occur on ocean beaches (often near estuaries), and coral reefs, rock platforms, or rocky islets. Since foraging habitat is located within the dog-prohibited area at Narrawallee Creek Inlet, the proposed activity will not adversely affect habitat critical to the survival of these species.

Disrupt the breeding cycle of a population.

The Eastern Curlew and Curlew Sandpiper breed in Russia, Siberia, and north-eastern China but distribution is poorly known. As such, the proposed activity will not disrupt the breeding cycle of a population of these species.

Modify, destroy, remove, isolate or decrease the availability or quality of habitat to the extent that the species is likely to decline.

The proposed activity will not destroy, remove, isolate, or decrease the availability or quality of habitat for these species, as the habitat for these species is more likely to occur within the designated dog-prohibited area (Narrawallee Creek Inlet).

Result in invasive species that are harmful to a critically endangered or endangered species becoming established in the endangered or critically endangered species' habitat.

The proposed activity will not result in the establishment of an invasive species.

Introduce disease that may cause the species to decline, or

The proposed activity will not result in the introduction of a disease that may cause the Eastern Curlew or Curlew Sandpiper species to decline.



Interfere with the recovery of the species.

Considering the above factors, the proposed activity will not interfere substantially with the recovery of these species.

Conclusion

The proposed activity is not considered to constitute a significant impact on the Eastern Curlew or Curlew Sandpiper and therefore a referral to the Commonwealth is not recommended.

Endangered Species

- Lesser Sand-plover
- Common Greenshank
- Red Knot

Each significant impact criteria have been assessed below:

Lead to a long-term decrease in the size of a population.

Lesser Sand-plover, Common Greenshank and Red Knot are northern hemisphere breeding shorebirds that distributes widely to forage outside of breeding seasons around Australia and visits most continents (Birdlife Australia). Optimal foraging habitat for these species is restricted to the Narrawallee Creek Inlet and Narrawallee Creek Nature Reserve north of the study area. Mitigation measures, including maintaining a dog-prohibited area which includes a 600-metre buffer from the northern end of the dog off-leash area (BA8) are expected to avoid impacts from the proposed activity on these species.

No populations of either species have been recorded within the subject site. The subject site does not support key source populations for breeding or dispersal, populations necessary for maintaining genetic diversity, or populations near the limit of these species' range. Accordingly, the proposed activity will not lead to a long-term decrease in the size of the Lesser Sand-plover, Common Greenshank or Red Knot population.

Reduce the area of occupancy of the species.

The species is not known to occupy the subject site. The species may use the subject site for foraging purposes. However, more optimal foraging habitat is located in Narrawallee Creek Inlet and Narrawallee Creek Nature Reserve, which is located above IA1 – IA3 well within the dog-prohibited Area.

Fragment an existing population into two or more populations.

There is no existing population of these species that occurs within the subject site. Individual species may occur periodically within the subject site. However, the proposed activity will not result in the fragmentation of the population of these species.

Adversely affect habitat critical to the survival of a species

Lesser Sand-plover, Common Greenshank and Red Knot are northern hemisphere breeding shorebirds that distributes widely to forage outside of breeding seasons around Australia and visits most continents (Birdlife Australia). Optimal foraging habitat for these species is restricted to the Narrawallee Creek Inlet and Narrawallee Creek Nature Reserve in the northern extent of the subject site. Mitigation measures, including maintaining a dog-prohibited area comprising a 600-metre buffer from the northern end of the dog off-leash area (BA8) is expected to avoid impacts from the proposed activity to these areas and to these species.

***Disrupt the breeding cycle of a population.***

Lesser Sand-plover, Common Greenshank and Red Knot are northern hemisphere breeding shorebirds that distributes widely to forage outside of breeding seasons around Australia and visits most continents (Birdlife Australia). Therefore, the breeding cycle of these populations will not be disrupted.

Modify, destroy, remove, isolate or decrease the availability or quality of habitat to the extent that the species is likely to decline.

The proposed activity will not destroy, remove, isolate, or decrease the availability or quality of habitat for the Lesser Sand-plover, Common Greenshank and Red Knot since breeding and complementary foraging habitat is present outside the subject site.

Result in invasive species that are harmful to a critically endangered or endangered species becoming established in the endangered or critically endangered species' habitat.

The proposed activity will not result in the establishment of an invasive species.

Introduce disease that may cause the species to decline, or

The proposed activity will not result in the introduction of a disease that may cause the Lesser Sand-plover, Common Greenshank and Red Knot species to decline.

Interfere with the recovery of the species.

Considering the above factors, the proposed activity will not interfere substantially with the recovery of the species.

Conclusion

The proposed activity is not considered to constitute a significant impact on the Lesser Sand-plover, Common Greenshank and Red Knot and therefore a referral to the Commonwealth is not recommended.

Vulnerable Species

- Eastern Hooded Dotterel
- Greater Sand-plover
- Great Knot

Each significant impact criteria have been addressed below:

Lead to a long-term decrease in the size of an important population of a species.

Eastern Hooded Dotterel is reported to be as rare as 64 individuals within New South Wales and 5,000 individuals as a total population across Australia (OEH Threatened Species Profile). The species' known northern limit is Jervis Bay, and an important population is known to occur at Cudmirrah Beach given the repeated records of this species to the north of the locality. However, any population of this species that occupies the subject site is significant in terms of proximity to the southern extent of the species distribution. Any impact leading to reduction in the population of this species would be significant. Notwithstanding, habitat for this species is more likely to occur at Narrawallee Creek Inlet and Narrawallee Inlet Reserve, to the north of the study area, and is not likely to be impacted on by the proposed activity.

Whilst Great Knot has never been recorded in the subject site or at Narrawallee Creek Nature Reserve, it has been recorded in the locality. Great Knot potential habitat is restricted to the



Narrawallee Creek Inlet and Narrawallee Creek Nature Reserve north of the study area and these areas are not expected to be impacted on by the proposed activity.

Greater Sand-plover has not been recorded within the subject site or locality and no important populations are known to the locale. This species is restricted to coastal areas, occurring mainly on sheltered sandy beaches or rocky shores. Such habitat is more likely to occur within Narrawallee Creek Inlet and Buckleys Beach, outside of the study area. These areas are unlikely to be impacted on by the proposed activity.

Reduce the area of occupancy of an important population.

No important Eastern Hooded Dotterel, Greater Sand-plover or Great Knot populations have been recorded within the subject site. Although the species may utilise the subject site and the study area for foraging purposes, more optimal foraging habitats is available outside the subject site at Narrawallee Creek Inlet. Potential complementary breeding habitat for the Hooded Dotterel occurs in this area as well. These are dog-prohibited areas. Accordingly, the proposed activity is not considered to reduce the area of occupancy for the Eastern Hooded Dotterel, Greater Sand-plover or Great Knot.

Fragment an existing important population into two or more populations.

No important Eastern Hooded Dotterel, Greater Sand-plover or Great Knot populations have been recorded within the subject site. Individuals of this species may only occur periodically within the subject site as transients. Therefore, the proposed activity will not result in the fragmentation of Eastern Hooded Dotterel, Greater Sand-plover or Great Knot populations.

Adversely affect habitat critical to the survival of a species

Although the species may utilise the subject site and the study area for foraging purposes, more optimal foraging habitats is available outside the subject site at Narrawallee Creek Inlet. Potential complementary breeding habitat for the Hooded Dotterel occurs in this area as well. These are dog-prohibited areas. Consequently, the proposed activity will not adversely affect habitat critical to the survival of these species.

Disrupt the breeding cycle of an important population.

No important Eastern Hooded Dotterel, Greater Sand-plover or Great Knot populations have been recorded within the subject site. Furthermore, the Greater Sand-plover and Great Knot breed in the northern hemisphere. Therefore, the proposed activity is not considered to disrupt the breeding cycle of these species.

Modify, destroy, remove or isolate or decrease the availability or quality of habitat to the extent that the species is likely to decline.

The proposed activity will not destroy, remove, isolate or decrease the availability or quality of habitat for the Eastern Hooded Dotterel, Greater Sand-plover or Great Knot.

Result in invasive species that are harmful to a vulnerable species becoming established in the vulnerable species' habitat.

The proposed activity will not result in the establishment of an invasive species that is harmful to the Eastern Hooded Dotterel, Greater Sand-plover or Great Knot species.

Introduce disease that may cause the species to decline.

The proposed activity will not result in the introduction of a disease that will cause the Eastern Hooded Dotterel, Greater Sand-plover or Great Knot species to decline.

***Interfere substantially with the recovery of the species.***

Considering the above factors, the proposed activity will not interfere substantially with the recovery of these species.

Conclusion

The proposed activity is not considered to constitute a significant impact on the Eastern Hooded Dotterel, Greater Sand-plover or Great Knot and therefore a referral to the Commonwealth is not recommended.

Migratory Species

The following species are considered together as they occupy similar habitats upon migration to south-eastern Australia:

- Bar-tailed Godwit
- Whimbrel
- Grey Plover
- Sanderling
- Red-necked Stint
- Double-banded Plover
- Eastern Curlew
- Curlew Sandpiper
- Lesser Sand-plover
- Red Knot
- Common Greenshank
- Greater Sand-plover
- Great Knot
- Little Tern
- Crested Tern

Each significant impact criteria have been assessed below:

Substantially modify (including by fragmenting, altering fire regimes, altering nutrient cycles or altering hydrological cycles), destroy or isolate an area of important habitat for a migratory species.

Thresholds for defining internationally and nationally important habitat for migratory shorebirds is detailed in the *EPBC Act Policy Statement 3.21 Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed migratory shorebird species*. Birdlife Australia has mapped international and nationally important habitats based on these thresholds. This mapping includes habitat within the Shoalhaven River as the most southern nationally important habitat. Narrawallee Creek, including the Inlet, and Narrawallee Beach are not mapped as being of international or nationally important habitat. As such, the proposed activity is not considered to modify, destroy or isolate important migratory shorebird habitat.



Result in an invasive species that is harmful to the migratory species becoming established in an area of important habitat for the migratory species.

Important habitat for these species does not occur within the subject site or study area. The proposed activity will not result in the establishment of an invasive species that is harmful to the migratory species that visit or forage within the subject site or important habitat in other areas of the coastal zone.

Seriously disrupt the lifecycle (breeding, feeding, migration or resting behaviour) of an ecologically significant proportion of the population of a migratory species.

Only two of these migratory species, Crested Tern and Little Tern, may breed to the north of the study area in Narrawallee Creek Inlet and immediately surrounding environs. The Crested Tern colony sizes are dictated by the abundance of pelagic fish prey. The nest is a shallow scrape in the sand on open, flat or occasionally sloping ground. It is often unlined, but sometimes includes stones or cuttlefish bones. Little Terns are almost exclusively coastal, preferring sheltered environments. They nest in small, scattered colonies in low dunes or on sandy beaches just above high tide near estuary mouths. Foraging occurs in shallow water of channels and estuaries. As such, the proposed activity will not impact on the breeding of these species.

A majority of the remaining migratory species breed in the northern hemisphere, with the exception of the Double-banded Plover that breeds in New Zealand. As such, the proposed activity will also not affect the breeding of these species.

Most of these species occupy similar foraging habitats consisting of intertidal mudflats or sand flats, located near estuaries, lakes, lagoons, or harbours. Such habitats will not be impacted on by the proposed activity.

On the basis of the location of previous records of the migratory species that have been recorded in the locality, resting habitat is not located near the dog-off leash area. Resting habitats will be maintained within the existing dog-prohibited areas.

Although these species have occasionally been recorded on open-coast sandy beaches, no significant proportions of these migratory species are known to occupy the subject site. As such, the proposed activity will not have an impact on breeding, feeding, migration or resting behaviour to the extent that it would seriously disrupt the lifecycle of these migratory species.

Conclusion

The proposed activity is not considered to constitute a significant impact on the listed migratory species, and therefore a referral to the Commonwealth is not recommended.

Appendix 5 Timeline for Permitted Dog Access on Narrawallee

Table 5 Timeline for Permitted Dog Access on Narrawallee Beach (Prepared by SCC staff)

Date	Council Minute / Key documents	Decision	Access Area Arrangement
24/9/1979	Report of the City Health Surveyor	On 24 September 1979, a report of the City Health Surveyor to the meeting of the Confidential Policy & Resources Committee of SCC, which was submitted to the Ordinary Meeting of Council on 8 October 1979, records at item 50(a), a recommendation: 'That under Section 367(j) of the Local Government Act, 1919, dogs be prohibited at all times on ocean beach and lake reserve as listed below... Narrawallee Beach Reserve'	Prohibited: Narrawallee Beach Reserve
25/01/2005	MIN05.79 Policy No.: POL05/39	First iteration of the Access Areas for Dogs Policy which superseded: <ul style="list-style-type: none"> Off-Leash Exercise Areas for Dogs (MIN03.954) Animal Control Dogs - Council Caravan Parks and Public Beaches (MIN80.276) Animal Control Dogs – Prohibited Specific Beaches and Areas (MIN96.613) Camping Areas – Council Dog Control Caravan Parks & Camping Areas (MIN78.730) 	Prohibited: 1. 'Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island'. 2. 'Narrawallee Beach and reserve from the northern end of Victor Avenue to Surfers Avenue'. Off-leash: No areas of Narrawallee Beach. On-Leash: Unnamed island to northern end of Victor Avenue



Date	Council Minute / Key documents	Decision	Access Area Arrangement
24/06/2015	MIN15.368 D15/175104	MIN15.368 resolved 'to implement a targeted 'one off' trial for off leash dogs at a designated and specially signed section of Narrawallee beach (the current on-leash area) for mid-July to mid-October months 2015, between the hours of 4 pm and 9 am'; and to 'Provide an appropriate on leash area for access to the trial area from the southern side of Victor Street Steps during the trial period'.	Prohibited: 1. Narrawallee Beach and reserve from Narrawallee Creek to the un-named island. 2. During the trial became: Narrawallee Beach and reserve from the southern side of the Victor Avenue steps to Surfers Avenue. Off-Leash: TRIAL: Unnamed island to the northern end of Victor Avenue (Victor Avenue steps) (4 pm to 9 am). On-Leash: TRIAL: On-leash area for access to the off-leash area from the southern side of Victor Avenue steps during the trial period.
27/10/2015	MIN15.652 MIN15.704 MIN15.706 MIN15.707 D15/325244 D15/325246	Council resolved to extend the trial period to the (then) upcoming consultation and policy review. Summer off-leash times altered to between 6 pm and 8 am. (Subject to a rescission motion, that was subsequently lost)	Prohibited: 1. Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island. 2. During the trial became as a result of: Narrawallee Beach and reserve from the southern side of the Victor Avenue steps to Surfers Avenue. Off-Leash: TRIAL: Unnamed island to northern end of Victor Avenue (Victor Avenue steps) (6 pm to 8 am). On-Leash: TRIAL: On-leash area for access to the trial off-leash area from the southern side of Victor Avenue steps during the trial period.



Date	Council Minute / Key documents	Decision	Access Area Arrangement
19/07/2016	MIN16.541 Report: D16/215930. Policy No.: POL16/80	Council resolved to defer the Policy review; and finalise the trial at Narrawallee Beach and adopted dog off-leash access within the trial off-leash area with restricted times (6 pm – 8 am from 1 October – 30 April; and between 3 pm and 10 am from 1 May to 30 September).	Prohibited: 1. Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island. 2. 'Narrawallee Beach and reserve from the northern end of Victor Avenue to Surfers Avenue'. Off-Leash (POL16/80): Beach access steps off Victor Avenue to the unnamed Island - 1 October – 30 April from 6 pm – 8 am. - 1 May to 30 September from 3 pm – 10 am. On-Leash: Surrounding areas.
27/08/2019	MIN19.578 Notice of Motion: D19/286036	'That Council conduct a six-month trial for dog walkers who desire to access Narrawallee Beach from Surfers Avenue. The trial period would mandate the following: 1. The trial access journey plan from Surfers Avenue is stipulated via the Shoalhaven Water thoroughfare to its end, then onto the rear of the beach keeping close to the escarpment, proceeding to the foot of the Victor Avenue stairs and then onto the designated "dog area" to the north. 2. In walking from Surfers Avenue to the Victor Avenue stairs all dogs must be kept on a lead. 3. The trial would not commence until all necessary signage was installed, access from the Shoal Water track to the beach was made good and around five bollards were put in place along the rear of the beach (base of escarpment) to the Victor Avenue stairs. Note that pictorial bollard signage directing dog walkers to keep to the escarpment side would be an essential element of the trial.'	Prohibited: • Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island. • Narrawallee Beach and reserve from the most southern Narrawallee Inlet Reserve entrance to Surfers Avenue, with the exception of the trial 'transit area'. Off-Leash: Beach access steps off Victor Avenue to the unnamed Island - 1 October – 30 April from 6 pm – 8 am. - 1 May to 30 September from 3 pm – 10 am. On-Leash: From Surfers Avenue via the Shoalhaven Water thoroughfare to its end, then onto the rear of the beach keeping close to the escarpment, proceeding to the foot of the Victor Avenue stairs and then onto the designated off-leash area.



Date	Council Minute / Key documents	Decision	Access Area Arrangement
10/12/2019	MIN19.924 Report: D19/400331	Council resolved to: 1. Rescind MIN19.578 and approve a twelve-month trial to create a 10 m wide Dog On-leash strip passing from the Surfers Avenue unformed beach access area (Shoalhaven Water access road) 'to the commencement of the Dogs On-Leash (<i>sic</i>) area of the main Narrawallee Beach'. 2. Amend the existing Dog Off-leash Guide diagram for Narrawallee Beach, to alter the Dog-prohibited area by redesignating a 10 m wide strip between the Surfers Avenue unformed beach access and the Victor Avenue stairs to the north, as Dog On-leash. 3. Commence investigation of the feasibility of establishing an upgrade of the trial track west of the Dog-prohibited Area of the beach, to allow dog owners to walk their dogs between the Surfers Avenue stairs and the Victor Avenue stairs to avoid walking across the Dog-prohibited area. 4. Conduct the Dog Off-leash trial using the same times as those used in the 2015-16 trial (4 pm-8 am between 1 October and 30 April; and 3 pm -10 am between 1 May and 30 September) consistent with other Dog Off-leash locations in the Shoalhaven.	Prohibited: Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island. Narrawallee Beach and reserve from the northern end of Victor Avenue to Surfers Avenue with the exception of the 'transit area'. Off-Leash: Beach access steps off Victor Avenue to the unnamed Island - 1 October – 30 April from 4 pm – 8 am. - 1 May to 30 September from 3 pm – 10 am. On-Leash: Between Surfers Ave unformed beach access and the Victor Ave stairs via a 10 m strip at the western edge of the beach.
09/02/2021	MIN21.68 D20/548246 POL21/22	Council: Adopted the trial provisions, with the following amendments: a. Amend the dates from: i. 1 October to 30 April to Australian Eastern Daylight Savings Time, being 4pm–8am, and ii. 1 May to 30 September to Australian Eastern Standard Time, being 3pm–10am. b. Move the southern boundary of the off-leash area to immediately south of the most southern Narrawallee Inlet Reserve [i.e. Matron Porter Drive Reserve) entrance and prohibit access to the dog off-leash area on the southern part of Narrawallee Beach, including Victor Avenue stairs. c. Remove the 10 m wide access way from Surfers Avenue.	Prohibited (POL21/22): 1. Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island. 2. 'Narrawallee Beach and reserve from the northern end of Victor Avenue to Surfers Avenue'. Off-Leash (POL21/22): 'Beach access via Narrawallee Inlet Reserve (Matron Porter Drive Reserve) to the un-named Island Australian Eastern Daylight Savings Time – off leash from 4pm – 8am Australian Eastern Standard Time – off leash from 3pm – 10am'.



Date	Council Minute / Key documents	Decision	Access Area Arrangement
09/03/2021	MIN21.120 D21/80012	<p>Council resolved to:</p> <ol style="list-style-type: none"> 1. Support the continuing access to the off-leash area at Narrawallee Beach from Surfers Ave as per the recent trial directions. 2. Develop appropriate signage directing people the right way to access the off-leash area in and around Narrawallee Beach especially at the Surfers Ave end. Cllrs Proudfoot and White and available Councillors to assist in the development of the signage with staff. 3. Leave the access from Surfers Ave in place until consideration of this area in the review of the Access Areas for Dogs policy. 4. Issue enforcement penalty notices for persons not following the signage or walking with dogs directly across south end Narrawallee Beach between the steps and Victor Ave steps. 5. Request local residents, Paws4Shoalhaven and Rangers to assist with advising residents and visitors of the strict entry process from Surfers Ave to the off-leash area. 6. Undertake vegetation maintenance if required on mid beach access points as noted in Staff Signage Report 7. Contact Holiday Home owners via Rates Notices advising them of the changes and the role they play in sharing the foreshore and informing their tenants of the access arrangements for dogs. 8. Include on the new signage, information on shore bird habitats which is protected by No Dogs (access) areas. 9. Include on the signage that to access the beach via the track from Surfers Avenue at the back of the beach, dogs must be on leash. 	<p>Prohibited: Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island. Narrawallee Beach and reserve from Matron Porter Reserve southern access to Surfers Avenue with the exception of the 'transit area'.</p> <p>Off-Leash: Beach access steps off Victor Avenue to the unnamed Island - 1 October – 30 April from 4 pm – 8 am. - 1 May to 30 September from 3 pm – 10 am.</p> <p>On-Leash: Between Surfers Ave unformed beach access and the Victor Ave stairs via a 10 m strip at the western edge of the beach.</p>



Date	Council Minute / Key documents	Decision	Access Area Arrangement
02/11/2021	MIN21.804 D21/423401 POL21/70	Council resolved to: 1. Reinstate the southern boundary of the dog off-leash area to be in line with the Victor Avenue steps (as per the Trial). (BA2 map) 2. Retain the northern boundary of the dog off-leash area to be in line with the beach entry point opposite Parkinson Street. (BA 7 map) 3. Allow dog access from all beach entry points in between and including Victor Avenue steps and Parkinson Street, Narrawallee Beach. (BA2 to BA7 map) 4. Continue to allow on leash access from Surfers Avenue to Victor Street Steps via a transit zone – (BA1 to BA2 map). 5. Provide new signage to the beach entry points at 17 locations from Surfers Avenue to Narrawallee Inlet, as per the attached signage. 6. Agree that this resolution will be an interim solution and will be considered for assessment as part of the dog policy review.	Prohibited: • Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island. Off-Leash: • Beach access steps off Victor Avenue to the un-named Island <i>AEDT 4 pm – 8 am</i> <i>AEST 3 pm – 10 am</i> On-Leash • On-leash access to the off-leash area between Surfers Ave and Victor Ave.
28/3/2022	MIN22.202 D22/132180	Legal advice received - a Councillor Briefing called due to legal advice being received and then the matters be reported back to Council.	No change
26/4/2022	MIN22.278 D22/176348	Council decision to temporarily hold in place the current on-leash / off-leash provisions pending further investigation and the review of the Access Areas for Dogs Policy.	No change



Date	Council Minute / Key documents	Decision	Access Area Arrangement
6/11/2023 (Current)	MIN23.661 D23/454954	<p>Resolved that Council:</p> <ol style="list-style-type: none"> Adopt the following in relation to dog access measures at Narrawallee Beach: <ol style="list-style-type: none"> Accept the interpretation of the 9 March 2021 resolution (ref. MIN 21.120), and implications of previous resolutions related to dog access at Narrawallee Beach, Remove the 10-metre wide on-leash transit area / access way from Surfers Avenue steps to the Victor Avenue steps. Leave the existing access to the Narrawallee Beach off-leash area in place via the Matron Porter Drive beach access track (as the sole point of access to the off-leash area). As an interim measure, and until the outcome of Part 7 of the resolutions is known, designate that dogs are prohibited in the southern area of Narrawallee Beach, between the Surfers Avenue steps and Victor Avenue steps, under s14(1)(d) of the <i>Companion Animals Act 1998</i> (NSW). Direct the CEO (Director – City Lifestyles) to amend the site-specific designated dog access area information listed in <i>Access Areas for Dogs</i> policy to read that: <ol style="list-style-type: none"> Dogs are prohibited on Narrawallee Beach and reserve from Narrawallee Creek to the unnamed island (in line with the intersection of Parkinson Street and Matron Porter Drive). Dogs are prohibited on Narrawallee Beach and reserve from the Matron Porter Drive beach access track to Surfers Avenue steps. Dogs are permitted to be off leash on Narrawallee Beach between the unnamed island (in line with the intersection of Parkinson Street and Matron Porter Drive) and the Matron Porter Drive beach access track during the following times: <ol style="list-style-type: none"> Australian Eastern Daylight Savings Time – off leash from 4 pm – 8 am. Australian Eastern Standard Time - off leash from 3 pm – 10 am. Coordinate the design, fabrication, and installation of temporary signage at Narrawallee Beach reflecting the interim dog access measures adopted. Coordinate the design and implementation of a communications strategy to raise awareness around the interim dog access measures adopted. Update the Review of Environmental Factors (REF) for Narrawallee Beach off-leash area and exhibit the revised REF for information only. To submit a report on the REF findings for Narrawallee Beach off-leash area, results of consultation activities, and recommendations for the designation of dog off-leash and dog-prohibited areas at Narrawallee Beach to a future Council Ordinary Meeting for final determination. To increase Ranger patrols and throughout the summer period at Narrawallee Beach dog on and off leash areas, and report back on enforcement statistics. 	<p>Prohibited:</p> <p>Narrawallee Beach and reserve from Narrawallee Creek to the unnamed Island.</p> <p>Dogs are prohibited on Narrawallee Beach and reserve from the Matron Porter Drive beach access track to Surfers Avenue steps.</p> <p>Off-Leash:</p> <p>Immediately south of the most southern Narrawallee Inlet Reserve entrance to the un-named island.</p> <p><i>AEDT 4 pm to 8 am</i> <i>AEST 3 pm to 10 am</i></p> <p>On-Leash:</p> <p>No areas.</p>

Appendix 6 Narrawallee Beach Surf Life Saving Club Patrolling Information (SCC 2024)



Narrawallee



Interim Dog Access (from November 2023)



Dogs Prohibited Area



Off-leash exercise area restricted times Narrawallee Beach designated area
4pm - 8am (Australian Eastern Daylight Saving Time)
3pm - 10am (Australian Eastern Standard Time)
Outside of these times, dogs must be on-leash in this area

Have your say

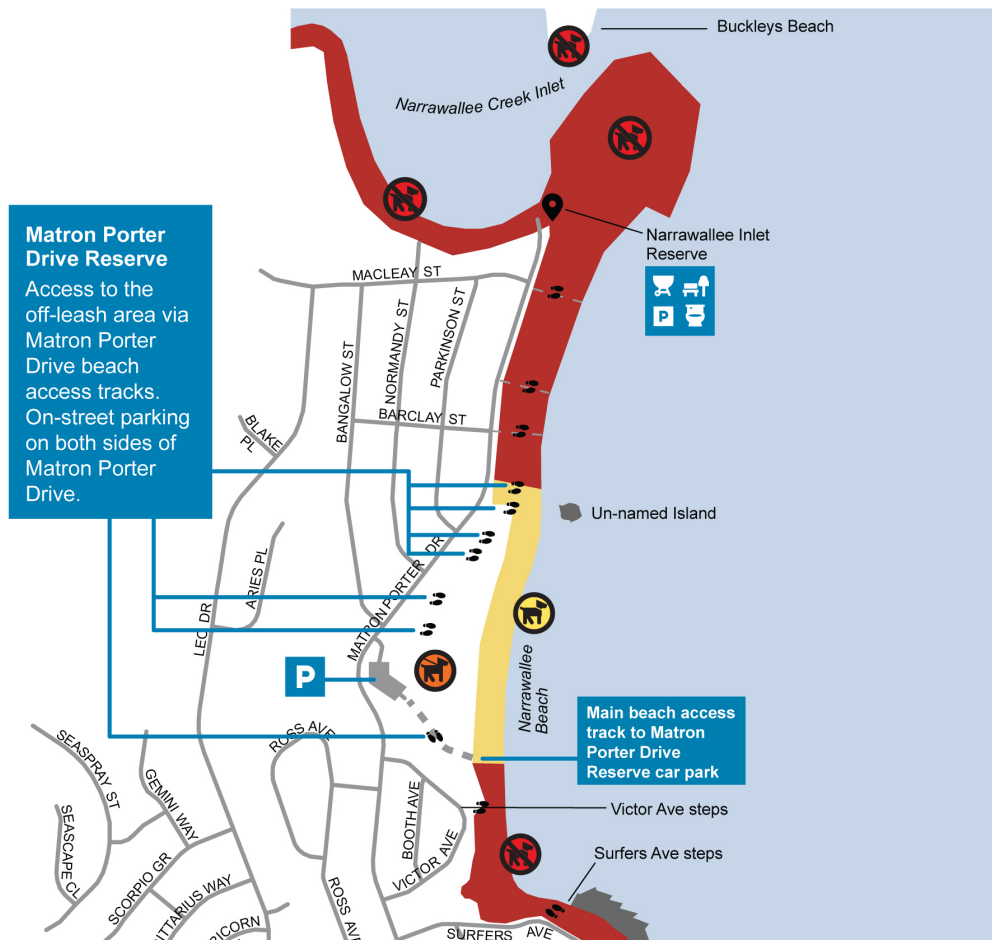
Share your thoughts on the proposed permanent dog access arrangements at Narrawallee Beach.

Consultation closes Sunday, 2 June 2024.



Current interim access arrangements remain in place.

Narrawallee



Dogs Prohibited Area



Off-leash exercise area restricted times Narrawallee Beach designated area

4pm - 8am (Australian Eastern Daylight Saving Time)

3pm - 10am (Australian Eastern Standard Time)

Outside of these times, dogs must be on-leash in this area

ATTACHMENT 8

Narrawallee Beach – Dog Access Arrangements

Overview of External Engagement

Table 1: Overview of Engagement with External Stakeholders

Meeting Date	Meeting Attendees	Overview of discussion.
05 October 2023	<ul style="list-style-type: none"> City Lifestyles officers City Development officers Narrawallee Beach Environment Group (NBEG) 	<ul style="list-style-type: none"> Onsite at Narrawallee. NBEG proposed removal of 10m accessway way through the southern portion and well as temporary signage.
27 March 2024	<ul style="list-style-type: none"> City Lifestyles officers Paws 4 Shoalhaven 	<ul style="list-style-type: none"> Meeting at Nowra Administration Building. Detailed information provided by Council staff regarding upcoming engagement campaign. Paws 4 Shoalhaven provided feedback regarding the interim and desired dog access arrangements.
28 March 2024	<ul style="list-style-type: none"> City Lifestyles officers Narrawallee Beach Environment Group (NBEG) 	<ul style="list-style-type: none"> Online meeting. Detailed information provided by Council staff regarding upcoming engagement campaign. NBEG provided feedback regarding the interim and desired dog access arrangements.
03 May 2024	<ul style="list-style-type: none"> City Lifestyles officers Paws 4 Shoalhaven 	<ul style="list-style-type: none"> Online meeting. Discussion of certified REF. Spoke through revised engagement campaign dates, including how Council will be taking feedback, as well as point of contact.
May 2024	<ul style="list-style-type: none"> City Lifestyles officers Narrawallee Beach Environmental Group 	A invitation (equivalent to above) was extended to Narrawallee Beach Environmental Group, however, this invitation was declined.

CL24.223 - Attachment 8

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ATTACHMENT 9 Narrawallee Beach – Dog Access Arrangements

Summary – Live Community Information Event

Information about the live, online community information session was published to the *Dogs in the Public Domain* Get Involved page on Council's website on the following dates:

- 12 June 2024: *Narrawallee Beach - Online Community Information Session;*
- 17 June 2024: *Online Community Information Session (Narrawallee Beach Proposed Dog Access) – How to attend and participate in a live event using Microsoft Teams;*
- 19 June 2024: *Narrawallee Beach - Online Information Session Published*
- 24 June 2024: *Community Engagement - Narrawallee Beach Dog Access Proposal*

This event was facilitated using an online meeting platform designed to accommodate large volumes of attendees (Microsoft Teams). The platform allowed attendees to submit questions in writing during the event, which were reviewed by a moderator and uploaded to the event Q&A thread as appropriate. Following presentations from key senior staff, a number of questions were answered live during the event. Responses to remaining unanswered questions were later uploaded to the *Dogs in the Public Domain* Get Involved page on Council's website for interested community members to review (ref. FAQs).

The live, online community information event was recorded. A copy of this recording was uploaded to the *Dogs in the Public Domain* Get Involved page on Council's website for interested community members to review.

Following this event, a further **43** pieces of correspondence were received (as at 19 July 2024) covering a range of matters related to the contents of this report. This body of correspondence has been noted and registered. Feedback provided as part of this body of correspondence is considered late feedback and, accordingly, is not reflected in the data described in this chapter or the Community Engagement Summary Report (see: **Attachment 10**).

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Attachment 10

Narrawallee Beach – Dog Access Arrangements

Community Engagement Summary Report

This Attachment is to be read in conjunction with the community consultation chapter of the *Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Access Arrangements - Outcome of Engagement Activity* report (29 July 2024) and Attachment 11 (to that report).

Survey: Quantitative Data

Survey results indicate respondents were predominantly local residents who frequently visit Narrawallee Beach. A strong majority were dog owners who regularly bring their dogs to the off-leash area. There is a clear majority who disagreed with the proposed permanent arrangements and supported increased opportunities for off-leash access.

The findings highlight deeply divided opinions within the community, with dog owners seeking greater access contrasted against a consistent minority who prefer reduced or no dog access.

An overview of engagement levels is provided in the Community Consultations chapter of the *Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Access Arrangements - Outcome of Engagement Activity* report (29 July 2024).

Total submissions received: **854**.

A breakdown of each of the survey questions, including a breakdown of emerging themes, are provided below.

Demographics

Q2. Please tell us your age.

- 13 to 17: 4 (0.6%)
- 18 to 24: 12 (1.7%)
- 25 to 34: 59 (8.3%)
- 35 to 49: 139 (19.5%)
- 50 to 59: 165 (23.1%)
- 60 to 69: 221 (31.0%)
- 70 to 79: 90 (12.6%)
- 80 or over: 24 (3.4%)

The majority of respondents were aged 50-69 (54.1%). According to the Australian Bureau of Statistics (ABS) QuickStats for Narrawallee, the median age in this area is 50 years old. It is therefore considered that the target age demographic for this engagement campaign was met.

A significant portion of respondents were aged 35-49 (19.5%) and 70-79 (12.6%). This is a great outcome for the engagement campaign, covering from a range of age demographics within the targeted audience.

Q3. Please tell us your gender.

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- Female: 415 (58.1%)
- Male: 284 (39.8%)
- Non-binary: 1 (0.1%)
- Prefer not to say: 14 (2.0%)

The majority of respondents were female (58.1%), while 39.8% were male. According to the ABS QuickStats for Narrawallee, the gender split in this area is 51% female. Therefore, the results are considered to be consistent with the gender dynamics of Narrawallee.

Visitation:

Q4. How far do you travel to visit Narrawallee Beach?

- Under 1km: 293 (41.0%)
- 1 – 5km: 276 (38.7%)
- Over 5km: 145 (20.3%)

The target demographic for this engagement campaign was met. For reference, Milton is located within 5km of Narrawallee Beach. A 5km walk is approximately 1 hour.

Q5. How regularly do you visit Narrawallee Beach?

- Daily: 326 (45.7%)
- Weekly: 238 (33.3%)
- Monthly: 117 (16.4%)
- Annually: 33 (4.6%)

The target demographic for this engagement campaign was met, with a focus on frequent use of Narrawallee Beach.

The weekly and monthly usage of Narrawallee Beach is consistent with the breakdown of 'holiday home' owners. The annual visitation of Narrawallee Beach encapsulates a portion of the tourist economy.

Dog Access.

Q6. Do you regularly bring a dog to visit Narrawallee Dog off-leash area?

- Yes: 488 (68.3%)
- No: 226 (31.7%)

The results indicated a high level of dog ownership, and visitation to the off-leash area.

With comparison to the other survey data, it can be noted that approximately 10% of respondents don't own / bring a dog to the off-leash area, however, are happy to be around them (ref. Q8).

Q7. Do you support the dog off-leash arrangements currently in place at Narrawallee Beach?

- Yes: 266 (37.3%)
- No: 448 (62.7%)

The majority of respondents do not support the current arrangements.

Q8. Do you wish to avoid contact with dogs when visiting Narrawallee Beach?

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Open Space & Recreation Planning
Recreation Projects – Planning & Delivery

- Yes: 155 (21.7%)
- No: 559 (78.3%)

These results confirm that 1 in 5 people have a preference to avoid contact with dogs when visiting Narrawallee Beach. This demonstrates that there is a strong minority that require some areas of Narrawallee Beach to be dog prohibited.

Future Dog Access

Q9. Would you like to see more opportunities for off-leash access for dogs at Narrawallee Beach?

- Yes: 535 (74.9%)
- No: 179 (25.1%)

It is noted that from the 80% of dog walkers at Narrawallee Beach, 5% of respondents support the current arrangements, with the further 75% requiring more off-leash access.

Q10. Do you agree that there should be some provision for dog off-leash access at Narrawallee Beach?

- Strongly Disagree: 97 (13.6%)
- Disagree: 38 (5.3%)
- Neutral: 34 (4.8%)
- Agree: 88 (12.3%)
- Strongly Agree: 457 (64.0%)

When asked directly, 76.3% agreed (64% strongly agreed) that there should be some provision for off-leash dog access at Narrawallee Beach.

Q11. Would you like to see less opportunities for off-leash access for dogs at Narrawallee Beach?

- Yes: 122 (17.1%)
- No: 592 (82.9%)

Q12. Do you agree that the proposed permanent dog access arrangements are an acceptable way to manage dogs on Narrawallee Beach?

- Strongly Disagree: 354 (49.6%)
- Disagree: 103 (14.4%)
- Neutral: 61 (8.5%)
- Agree: 109 (15.3%)
- Strongly Agree: 87 (12.2%)

A clear majority of 64% disagreed (49.6% strongly disagreed) that the proposed permanent dog access arrangements are acceptable. 27.5% agreed with the proposed arrangements, with 12.2% strongly agreeing.

Q13. Is there anything else you would like to tell us about dog access at Narrawallee Beach?

- Yes: 559 (78.3%)
- No: 155 (21.7%)

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A significant proportion of respondents provided an extended response.

Key themes arising from question 14 (being the qualitative data of this survey) are outlined in the chapter below.

Qualitative Data – Key Themes

Data is drawn from responses received to Q14 (*Please provide details*) of the survey and written submissions registered during and after the community engagement activity.

Based on the feedback, a majority of respondents were dog owners that frequented Narrawallee Beach. An overwhelming majority of survey respondents (78.3%) provided detailed written feedback.

Key emerging themes were:

- 1. Concerns About Loss of Access via Victor Avenue Stairs**
- 2. Desire for Increased Dog Access**
- 3. Accessibility for Disabled/Elderly**
4. General Health Implications from Current Arrangements
5. Decrease Dog Access
6. Negative Health & Wellbeing Impacts from Dogs
7. Limited Environmental Impact from Dogs
8. Community Engagement and Trust in Council
9. Environmental Concerns from Dogs
10. Enforcement and Compliance
11. Review of Environmental Factors (REF) Sentiment

1. Concerns About Loss of Access via Victor Avenue Stairs:

327 responses expressed concerns about the loss of access via the Victor Avenue stairs, indicating that this is a significant issue for many residents. The stairs are seen as a safer and more convenient option compared to the Matron Porter Reserve access points.

2. Desire for Increased Dog Access:

A significant portion of the feedback (288 responses) expressed a desire for increased dog access, highlighting the importance of this issue to the community. Respondents advocated for more off-leash time and access points, particularly the restoration of the Victor Avenue stairs.

3. Accessibility for Disabled / Elderly:

170 respondents highlighted the importance of maintaining easy access to the beach for elderly and disabled individuals, particularly through the use of the Victor Avenue stairs, as Matron Porter Reserve access point is dark at times during the designated timed dog off-leash arrangements (particularly during winter months). Further to this, there was concern relating to congestion with cars and pedestrians particularly in holiday and summer periods. The reliance on the bush tracks was identified as a risk in the responses.

4. General Health Implications from Current Arrangements:

121 respondents highlighted various health implications stemming from the current dog access arrangements at Narrawallee Beach. The key concerns include:

- Lack of access via Victor Ave stairs poses challenges for elderly, disabled, and those with mobility issues, impacting their ability to enjoy the beach.

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- Mental health benefits of being able to walk dogs on the beach are hindered by the current restrictions.
 - Reduced community connectivity and increased loneliness, especially for elderly or isolated individuals who rely on dog walking as a social activity.
5. *Decrease Dog Access:*
- 104 responses called for decreasing or completely prohibiting dog access at Narrawallee Beach, citing concerns about dogs using the beach unleashed around children and families. Irresponsible dog ownership, including waste and control, were noted as concerns.
6. *Negative Health & Wellbeing Impacts from Dogs:*
- 61 respondents expressed concerns about the negative impacts of dogs on their health and wellbeing at Narrawallee Beach, with health concerns arising from the following:
- Concerns about dog waste and its potential health hazards, particularly for children playing on the beach.
 - Anxiety and stress caused by encounters with unleashed dogs, especially for those with dog phobias or past negative experiences.
 - Disruptions to peaceful enjoyment of the beach due to barking and uncontrolled dog behaviour.
7. *Limited Environmental Impact from Dogs:*
- 43 respondents argued that the environmental impact of dogs at Narrawallee Beach is minimal or manageable. The following are examples of limited impact that dogs have on the natural environment:
- Responsible dog owners who clean up after their pets minimise the impact on the beach environment.
 - The impact of dogs is relatively small compared to other factors, such as human activity, litter, and introduced species like cats and foxes.
 - With proper management and designated areas, the presence of dogs can coexist with the natural environment.
8. *Community Engagement and Trust in Council:*
- 37 respondents felt the proposed arrangements cater to a small vocal minority over the broader community's interests. There were claims the changes are driven by personal agendas rather than the public good. Claims that the survey was poorly designed and will not allow an informed Council decision. This has led to a lack of trust in Council's ability to serve the community in a fair and unbiased manner.
9. *Environmental Concerns from Dogs:*
- 32 respondents expressed concerns about the environmental impact of dogs on the beach, particularly on shorebirds and their nesting areas. However, 34 others argued that the environmental impact of dogs is minimal compared to other factors such as human activity and introduced species like cats and foxes.
10. *Enforcement and Compliance:*
- 28 responses expressed concerns about enforcement and compliance, indicating that this is an area of concern for some members of the community. Respondents suggested that better

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enforcement of existing rules and regulations could help address some of the issues raised, as well as increasing the presence of Council rangers to monitor compliance and address any issues that arise.

11. Community feedback regarding the REF.

7 respondents viewed the REF positively, while 76 respondents expressed disagreement with its findings and conclusions restricting dog access.

a) Support for the REF (7):

There was limited explicit support expressed for the REF findings and recommendations. There were no strong endorsements or detailed explanations provided for why people supported the overall findings and recommendations of the REF.

b) Opposition to the REF (76):

Lack of Evidence/Justification

- Claims the REF lacks clear policy rationale, objectives and empirical evidence to justify banning off-leash access via Victor Avenue stairs.
- Assertions that the REF offers no environmental reasons for the proposed boundaries of the off-leash area or denying on-leash access via stairs.
- Perceptions that the REF methodology to determine the intertidal area was flawed and could open litigation opportunities.

Predetermined Outcome

- Beliefs that the REF was framed to continue the current interim ban indefinitely without evaluating previous arrangements.
- Suggestions the review was done with a mindset of reducing dog access rather than promoting it.
- Claims the process appears mismanaged with a predetermined anti-dog access outcome.

Ignoring Impacts

- Criticisms that the REF failed to adequately consider negative environmental impacts like increased traffic/parking congestion from people driving instead of walking to the beach due to access restrictions.
- Concerns about loss of community amenity and public safety created by the proposed arrangements.

Other Concerns

- Disagreement with the REF not addressing noise impacts on nearby residents from dogs at Matron Porter Reserve access.
- Perceptions the REF lacked transparency by excluding other viewpoints.

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ATTACHMENT 11

Narrawallee Beach – Dog Access Arrangements

Officer Response to Key Themes

This Attachment is to be read in conjunction with the community consultation chapter of the *Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Access Arrangements - Outcome of Engagement Activity* report (29 July 2024).

Table 1: Qualitative Data Themes (survey and written responses)

No.	Number of Responses	Key Theme	Staff Response
1	327 responses	<u>Concerns About Loss of Access via Victor Avenue Stairs</u> The stairs are seen as a safer and more convenient option compared to the Matron Porter Reserve access point.	Noted. Dog on-leash access via Victor Avenue stairway to the timed dog off-leash area is not considered viable, in accordance with the determinations of the certified REF. The Victor Avenue stairway provides access to Narrawallee Beach, terminating in at a dog prohibited area. Victor Avenue stairway remains available to beach users, as one of two beach access points to the southern portion of Narrawallee Beach. Matron Porter Drive Reserve tracks have been assessed and are considered fit-for-purpose. Beach access ways are assessed within the scope of the Council adopted <i>Open Coast and Jervis Bay Coastal Management Program</i> (CMP).
2	288 responses	<u>Desire for Increased Dog Access</u> Request for more off-leash time and access points, particularly the restoration of the Victor Avenue stairs.	REF allows for expansion of the northern extent of the timed dog off-leash area from BA7 to BA8. The <i>Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Access Arrangements - Outcome of Engagement Activity</i> report includes option for Council's consideration; to undertake a further environmental assessment on the basis of 24-hour off-leash access.
3	170 responses	<u>Accessibility for Disabled/Elderly</u> Include Victor Avenue Stairs to improve beach access, particularly for the elderly and disabled. The main Matron Porter Drive Reserve access track is dark at	Pedestrian access ways in Matron Porter Drive Reserve, providing access from the reserve to the sandy beach, have been assessed and are considered fit-for-purpose. Beach access ways are assessed within the scope of the Council adopted <i>Open Coast and</i>

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No.	Number of Responses	Key Theme	Staff Response
		<p>times (influencing perceptions of safety).</p> <p>During holiday periods, the road to Matron Porter Reserve is congested with cars and pedestrians, including many small children, making it difficult to navigate.</p> <p>The bush tracks from Matron Porter Reserve are overgrown and pose a risk of encountering brown snakes and ticks.</p> <p>The dune tracks are seen as a potential risk to users.</p>	<p><i>Jervis Bay Coastal Management Program (CMP).</i></p>
4	121 responses	<p><u>General Health Implications from Current Arrangements</u></p> <p>Negative health implications stemming from current dog access arrangements.</p> <p>Lack of access via Victor Ave stairs poses challenges for elderly, disabled, and those with mobility issues, impacting their ability to enjoy the beach.</p> <p>Mental health benefits of being able to walk dogs on the beach are hindered by the current restrictions.</p> <p>Reduced community connectivity and increased loneliness, especially for elderly or isolated individuals who rely on dog walking as a social activity.</p>	<p>Noted. Dog on-leash access via Victor Avenue stairway to the timed dog off-leash area is not considered viable, in accordance with the determinations of the certified REF.</p> <p>Victor Avenue stairway provides access to Narrawallee Beach, terminating in at a dog prohibited area.</p> <p>Victor Avenue stairway remains available to beach users, as one of two beach access points to the southern portion of Narrawallee Beach.</p>
5	104 responses	<p><u>Decrease Dog Access</u></p> <p>Request to decrease or completely prohibit dog access at Narrawallee Beach, citing concerns about dogs running unleashed around children and families, perceptions of irresponsible dog ownership regarding waste and control, and suggestions to restrict dogs to less populated areas instead.</p>	<p>Environmental assessments undertaken in 2022, and again in 2024, confirm it is appropriate to continue to provide off-leash access for dogs at Narrawallee Beach.</p> <p>Mitigation measures are identified in the REF to allow for mix social uses at the subject site. This ensures a balanced outcome.</p> <p>Findings of the REF are considered to be consistent with the <i>Access Area for Dogs Policy</i>.</p>

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No.	Number of Responses	Key Theme	Staff Response
6	61 responses	<p><u>Negative Health & Wellbeing Impacts from Dogs</u></p> <p>Concerns expressed about the negative impacts of dogs on health and wellbeing.</p> <p>Concerns about dog waste and its potential health hazards, particularly for children playing on the beach.</p> <p>Anxiety and stress caused by encounters with unleashed dogs, especially for those with dog phobias or past negative experiences with dogs.</p> <p>Disruptions to peaceful enjoyment of the beach due to barking and uncontrolled dog behaviour.</p>	<p>In accordance with the <i>Access Area for Dogs Policy</i>:</p> <p><i>It is acknowledged dogs in public places can present a barrier to participation for some members of the community, including children, the elderly, and people living with physical and intellectual disabilities. Consideration shall therefore be given to equitable access to dog-free areas when designating dog-controlled areas.</i></p> <p>These have also been assessed in the REF in accordance with Section 171 of the <i>Environmental Planning and Assessment Regulation 2021</i> (NSW) and the <i>Companion Animals Act 1998</i> (NSW).</p>
7	43 responses	<p><u>Limited Environmental Impact from Dogs</u></p> <p>Impact that dogs have on the environment at Narrawallee Beach is minimal or manageable.</p> <p>Responsible dog owners who clean up after their pets minimise the impact on the beach environment.</p> <p>The impact of dogs is relatively small compared to other factors, such as human activity, litter, and introduced species like cats and foxes.</p> <p>With proper management and designated areas, the presence of dogs can coexist with the natural environment.</p>	<p>Environmental impacts of the proposed activity are assessed and determined in the REF.</p>
8	37 responses	<p><u>Community Engagement and Trust in Council</u></p> <p>A general sentiment amongst some respondents that the proposed arrangements cater to a small vocal minority over the broader community's interests.</p>	<p>It is important to provide certainty to the community about what dog access at Narrawallee Beach looks like moving forward, and the recent community consultation campaign forms part of that work.</p> <p>The purpose of the recent community consultation campaign was to measure the level of support in the community about</p>

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No.	Number of Responses	Key Theme	Staff Response
		Claims the changes are driven by personal agendas rather than the public good. Claims that the survey was poorly designed and will not allow an informed Council decision, which has led to a lack of trust in Council's ability to make decisions in a fair and unbiased manner.	<p>proposed permanent dog access arrangements.</p> <p>Surveys enable us to <i>efficiently</i> and <i>effectively</i> analyse feedback across a consistent data set; enabling us to draw logical and easy to understand conclusions for the Council's consideration.</p> <p>This survey was designed to provide opportunities for those wishing to support OR oppose the proposed arrangements, and to qualify those positions by providing opportunities to submit additional feedback.</p> <p>In total, 854 UNIQUE submissions were received during the community consultation campaign held in May 2024, which is a relatively high engagement rate for a community consultation activity undertaken by this council.</p> <p>This means the integrity of the consultation campaign is assured. It is considered to be statistically representative AND statistically significant sample of community sentiment on this matter.</p>
9	32 responses	<p><u>Environmental Concerns from Dogs</u></p> <p>Concerns were expressed regarding the environmental impact of dogs on the beach, particularly on shorebirds and their nesting areas. However, 34 respondents argued that the environmental impact of dogs is minimal compared to other factors such as human activity and introduced species like cats and foxes.</p>	<p>The REF provides an extensive assessment of the impacts of the proposed activity on shorebirds, with particular reference to sections 6 and 8.</p> <p>The REF makes determinations in accordance with Council's obligations under Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act 1979) NSW.</p>
10	28 responses	<p><u>Enforcement and Compliance</u></p> <p>Concerns expressed about enforcement and compliance, indicating that this is an area of concern for some members of the community.</p>	<p>Generally, it is noted there is a high-level of dog compliance demonstrated by dog owners (handlers) at Narrawallee Beach. Further information related to enforcement matters is presented in the body of the Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Access Arrangements - Outcome of Engagement Activity report.</p>

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No.	Number of Responses	Key Theme	Staff Response
11	7 responses	<u>REF Sentiment: Positive</u> A small number of respondents expressed explicit support for the determinations made in the 2024 REF.	The REF is considered fit-for-purpose, in accordance with Council's obligations as set out in Part 5 of the EP&A Act 1979.
12	76 responses	<p><u>REF Sentiment: Negative</u></p> <p>Some respondents expressed disagreement with REF findings and conclusions, restricting dog access.</p> <p><i>Lack of Evidence/Justification</i></p> <p>Claims the REF lacks clear policy rationale, objectives and empirical evidence to justify banning off-leash access via Victor Avenue stairs.</p> <p>Assertions that the REF offers no environmental reasons for the proposed boundaries of the off-leash area or denying on-leash access via stairs.</p> <p>Perceptions that the REF methodology to determine the intertidal area was flawed and could open litigation opportunities.</p> <p><i>Predetermined Outcome</i></p> <p>Beliefs that the REF was framed to continue the current interim ban indefinitely without evaluating previous arrangements.</p> <p>Suggestions the review was done with a mindset of reducing dog access rather than promoting it.</p> <p>Claims the process appears mismanaged with a predetermined anti-dog access outcome.</p> <p><i>Ignoring Impacts</i></p> <p>Criticisms that the REF failed to adequately consider negative environmental impacts like</p>	<p>Shoalhaven City Council is a determining authority for this REF pursuant to Part 5 of the <i>EP&A Act 1979</i> (NSW). The duty of a determining authority considering the environmental impacts of a Part 5 activity requires a determining authority to scrutinise, and take into consideration to the fullest extent possible, all matters affecting or likely to affect the environment by cause of that activity.</p> <p>The REF (2024) for a dog off-leash area and associated ancillary works at Narrawallee Beach, has been prepared in line with the requirements for such activities under Part 5 of the <i>EP&A Act 1979</i> (NSW). The assessment relates to the impact of the proposed activity on the community and the environment in accordance with Section 171 of the <i>Environmental Planning and Assessment Regulation 2021</i> (NSW).</p> <p>The REF certified in 2024 is a new environmental assessment. This approach was considered necessary to enable Council to fulfill its obligations under Part 5 of the <i>EP&A Act 1979</i> (NSW), with particular reference to new pieces of legislation, including:</p> <ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Regulation 2000</i> (NSW) – repealed; • <i>Environmental Planning and Assessment Regulation 2021</i> (NSW); • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>; • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>. <p>This has been attained through the completion of the REF by an independent consultant, and further by Council's review of this environmental assessment to ensure the required level of environmental due diligence has been exercised.</p> <p>A new environmental assessment also ensures environmental due diligence is appropriately</p>

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No.	Number of Responses	Key Theme	Staff Response
		<p>increased traffic/parking congestion from people driving instead of walking to the beach due to access restrictions.</p> <p>Concerns about loss of community amenity and public safety dangers created by the ban.</p> <p><i>Other Concerns</i></p> <p>Disagreement with the REF not addressing noise impacts on nearby residents from dogs at Matron Porter Reserve.</p> <p>Perceptions the REF lacked transparency by excluding other viewpoints.</p>	<p>exercised through a contemporaneous assessment of relevant environmental aspects (e.g. threatened species, cultural heritage, community etc).</p> <p>Accordingly, further justifications have been provided when addressing each of the environmental factors to ensure a balanced outcome in relation to the social, environmental and economic factors associated with the proposed activity. This has been achieved through continuous improvement based on the learnings of the previous REF, amalgamating contemporaneous information, and through the utilisation of an independent consultant.</p> <p>This REF also takes into account feedback received from the community about the <i>Access Areas for Dogs Policy</i> that was adopted by Council in December 2023. The objectives of the <i>Access Areas for Dogs Policy</i> have been considered and incorporated into this REF.</p> <p>Furthermore, this REF has been prepared in accordance with Council resolution from November 2023 (MIN23.661), which reads:</p> <ul style="list-style-type: none"> • <i>Update the REF for Narrawallee Beach off-leash area and exhibit the revised REF for information only.</i> • <i>To submit a report on the REF findings for Narrawallee Beach off-leash area, results of consultation activities, and recommendations for the designation of dog off-leash and dog prohibited areas at Narrawallee Beach to a future Council Ordinary Meeting for final determination.</i> <p>Section 171 of the <i>Environmental Planning and Assessment Regulation 2021</i> (NSW) requires Council, as a determining authority under Part 5 of the EP&A Act 1979 to take into account all matters (environmental factors) affecting or likely to affect the environment by cause of that activity. In this case, the proposed activity (dog off-leash area) along the entirety of Narrawallee Beach was assessed against environmental factors to ensure a balanced outcome.</p> <p>Section 6.2.1 of the REF documents the significance of breeding and foraging habitat for threatened and migratory shorebirds</p>
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No.	Number of Responses	Key Theme	Staff Response
			<p>provided by the Narrawallee Creek Inlet to the north of the study area, as well as the optimal foraging habitat for threatened shorebirds provided by the intertidal rock shelf at the southern extent of the study area. The impact of the proposed activity on the habitat value of these areas is mitigated by the buffers provided by the existing dog-prohibited areas. These buffers are 600 metres between BA7 and Narrawallee Creek Inlet to the north, and 270 metres from BA3 to the southern intertidal rock platform.</p> <p>Figure 7 of the REF – Optimal dog off-leash and dog-prohibited areas has taken into consideration the locations of threatened species records from database searches outlined in Section 1.4 of the REF. It also takes into consideration the social impact of the proposed activity (as outlined in Section 8.3). In summary, this includes the use of the beach environs for other social recreational activities, and buffers from housing.</p> <p>There are no guidelines applicable with regard to the designation of proportions of a beach using buffers in such a way. This must be considered on a case-by-case basis. The designation of buffers has considered the physical landscape of the beach and rocky features, and the various recreational activities that are undertaken to maintain the low social conflict, as well as to ensure that the impact on threatened species is nil to negligible.</p> <p>While it is expected dog owners will respect the boundaries of the dog off-leash area wherever possible, the significance of the nesting habitat and sensitivity of nesting birds to impacts from dogs requires a buffer greater than that recommended by the Commonwealth Guideline (DoEE 2017).</p> <p>The date of submission by the independent consultant is captured, as well as the review by the determining authority under Part 5 of the EP&A Act 1979. This review by Council used Council resources (GIS Enquiry, and various data layers from September 2022 to May 2024 containing GIS layers with data sourced under licence, including sensitive data locations and records of threatened species, as well as</p>

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No.	Number of Responses	Key Theme	Staff Response
			<p>Birddata) to validate the findings, together with additional database searches to ensure that the environmental assessment was contemporary (e.g. Aboriginal Heritage Information Management System (AHIMS) (accessed on 30 April 2024)).</p> <p>Council as a determining authority under Part 5 of the EP&A Act 1979 has addressed all the requirements to fulfil this function.</p> <p>The Sources of Information (Refer Section 1.4 of the REF) has been utilised to make conclusions and recommendations, as well as references that are cited therein (e.g. The Australian Government's former Department of Energy and Environment (DoEE 2017; Policy Statement 3.21 – page 42 of the REF).</p> <p>The delineation of dog off-leash access (the proposed activity assessed in the REF) has been determined by considering all environmental factors as per Section 171 of the <i>Environmental Planning and Assessment Regulation 2021</i> (NSW). Accordingly, the layout of dog access areas has adequately achieved a balanced outcome to ensure the impacts on the community and the environment are minimised to as low as reasonably practicable.</p> <p>The REF was reviewed in its entirety by suitably qualified Council staff to fulfil the determining authority functions under Part 5 of the EP&A Act 1979.</p> <p>The REF does consider the impacts of companion dogs as per the <i>Companion Animals Act 1998</i> (NSW). For example:</p> <p>"While it is expected dog owners will respect the boundaries of the dog off-leash area wherever possible, the significance of the nesting habitat and sensitivity of nesting birds to impacts from dogs requires a buffer greater than that recommended by the DoEE Guideline." (page 43 of the REF).</p> <p>The locations of threatened shorebird species differ along the Shoalhaven coastline. For the purposes of this REF, threatened shorebirds were assessed using information from</p>

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No.	Number of Responses	Key Theme	Staff Response
			<p>database searches (as per Section 1.4 of the REF) as follows:</p> <ul style="list-style-type: none"> • NSW BioNet (accessed on 6 September 2022, 13 June 2023, 1 November 2023, 24 January 2024 and 24 April 2024). • Birddata (including Birdlife Australia's shorebird monitoring program survey data) (accessed on 6 September 2022, 1 November 2023 and 24 January 2024). • Council's GIS Enquiry (various data layers from September 2022 to May 2024). This contains GIS layers with data sourced under licence, including sensitive data locations and records of threatened species, as well as Birddata. • Consultation with NPWS, including consultation with the NPWS Shorebird Ranger and records sourced from the NSW Shorebird Recovery Program. • Consultation with Council's Rangers to ascertain the appropriateness of existing controls and the enhancement of mitigation measures to ensure a nil to negligible impact on the community and the environment. • Correspondence received from members of the public or from community organisations • A site inspection was conducted by SCC and Ecoplaning on 14 November 2023 to assess the environmental factors required to be considered. <p>Ecoplaning found additional shorebirds from their survey, and such information will be uploaded onto publicly available databases in due course.</p> <p>As per Section 8.3 of the REF, The Victor Avenue steps currently serve the 'without dogs' beach users as a separate access point to the beach. The steps link geographically with a rocky protrusion within the beach area, creating a small separate swimming area (and a patrolled beach in the warmer months).</p>

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Open Space and Recreation Planning
Recreation Projects – Planning & Delivery

No.	Number of Responses	Key Theme	Staff Response
			<p>Additional records of threatened shorebirds were found from the Ecoplanning survey within this area, providing further justification to designate this area as dog-prohibited and the steps leading to it.</p> <p>The condition-based assessment of beach access tracks at this location is captured as a priority action within the Open Coast and Jervis Bay Coastal Management Program (CMP). The <i>Coastal Management Act 2016</i> (NSW) and the CMP is referred to in the REF.</p> <p>Section 171 of the <i>Environmental Planning and Assessment Regulation 2021</i> (NSW) lists the environmental factors to be investigated when consideration is being given to the likely impact of an activity on the environment under Part 5 of the EP&A Act 1979. An assessment of the proposed activity against these environmental factors has been undertaken in the REF and this has appropriately considered noise.</p>

CL24.223 - Attachment 11

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ATTACHMENT 12

Narrawallee Beach – Dog Access Arrangements

Policy Implications & Strategic Alignment

Community Strategic Plan

The *Community Strategic Plan* (CSP) addresses access, environment and participation as some of the core guiding principles for decision-making. The recommendations in this report have considered these as core principles, ensuring that the decision made will provide fair access to improve the quality of life for residents and visitors, whilst protecting the natural environment. This recommendation provides a balanced approach in line with the findings of the REF, and the community consultation to cater for the needs dog owners whilst also considering the interests of non-dog owners and environmental protection.

Community Engagement Strategy 2022 – 2026

This *Community Engagement Strategy* provides the direction for all community engagement activities undertaken by Shoalhaven City Council between 2022 and 2026. These activities relate to the development of plans, policies, programs and key activities. This overarching strategy seeks to drive a coordinated, purposeful and effective community engagement approach that delivers positive outcomes for Shoalhaven.

The Community Engagement Strategy recognises that:

Everyone has a right to be informed and heard about matters that affect them and given opportunities to participate. We are committed to encouraging effective and ongoing partnerships with the community to provide meaningful opportunities for community participation.

Consultation activities and projects will be universally accessible and inclusive to all. We recognise that community engagement is part of an ongoing conversation and will seek and provide feedback on initiatives and activities.

Shoalhaven City Council Enterprise Risk Management Policy

The purpose of the Risk Management Policy is to effectively manage risk across the organisation, through an enterprise risk management framework consistent with the current Australian Standard for risk management (AS ISO 31000:2018), that supports Council to optimises growth opportunities and mitigate against potential loss and damage.

The Risk Management Policy notes that:

Shoalhaven City Council is committed to integrating risk management into all its operations, decision making processes and governance structures to enable the council to identify and manage its risks while maximising opportunities to benefit the community.

Council will ensure that have the necessary resources to implement an effective Enterprise Risk Management Framework (ERM Framework), including appropriate skilled staff, systems, processes, and procedures for managing risks.

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Community Wellbeing Strategy

The Shoalhaven City Council *Community Wellbeing Strategy* (CWS) highlights the significant value residents place on dog parks and off-leash areas as essential recreational facilities. This emphasis on pet-friendly spaces emerges as a key factor in fostering healthy and active communities in the CWS.

The CWS highlights the importance of sustainable access to well-managed natural environments for various recreational activities, including dog walking. It recognises that both time spent in nature and time spent with pets offer comparable wellbeing benefits, advocating for combination approach in an environmentally responsible manner. Notably, the aging population, particularly those over 65, expressed a desire for more dog off-leash areas integrated within natural setting. This sentiment was further noted in the May – June 2024 engagement campaign undertaken in accordance with MIN23.661.

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Attachment 13 Narrawallee Beach – Dog Access Arrangements

Risk Assessment

This Attachment is to be read in conjunction with the community consultation chapter of the *Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Access Arrangements - Outcome of Engagement Activity* report (29 July 2024).

A risk assessment of the proposed recommendation (Option 1), as well as an assessment of risk if the recommendation was to be changed / amended by the Council, is provided in the table below.

Theme	Description.	Consequence	Likelihood	Mitigation	Risk Rating.
Corporate Governance	Accept Recommendation: Nil governance consequences	NA	NA	NA	NA
	Change Recommendation: Potential litigation if the recommendation is changed outside of the REF process.	Major (4)	Possible (3)	Follow due process for reassessment before any changes can be made	High (H12) Orange.
Environment	Accept Recommendation: Environmental impacts as assessed and determined in the REF	Negligible (1)	Unlikely (2)	Reassess every 2 years.	Low (L2) Green.
	Changes Recommendation: Environmental impacts outside of scope and determination from REF, including access from Victor Ave Stairs	Negligible (1)	Likely (4)		Low (L4) Green.
Finance	Accepts Recommendation	Negligible (1)	Likely (4)		Low (L4) Green
	Changes Recommendation: If no permanent decision is	Negligible (1)	Almost Certain (5)		Moderate (5) Yellow.

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Theme	Description.	Consequence	Likelihood	Mitigation	Risk Rating.
	made / REF to be reviewed, additional engagement and associated costs.				
Reputation	Accept Recommendation.	Moderate (3)	Likely (4)		Likely (H12) Orange
	Changes Recommendation: Does not proceed with the permanent arrangement and requests changes to the REF.	Moderate (3)	Almost Certain (5)		Moderate (H15) Orange
People	Potential for trip/slip/fall incidents on Matron Porter Drive Reserve track(s) and additional beach access tracks with dogs on-leash.	Negligible (1)	Possible (3)	Access ways are fit for purpose. Inspected and maintained under asset management program	Low (L3) Green.
	Potential trip/slip/fall incidents on Victor Avenue Stairs with dogs on-leash.	Moderate (3)	Unlikely (2)	Access ways are fit for purpose. Inspected and maintained under asset management program	Moderate (M6) Yellow.
	Minor - Dog attack under proposed arrangement and / or amended arrangement within off-leash zone and / or beach access points.	Minor (2)	Rare (1)		Low (L2) Green
	Major - Dog attack under proposed arrangement and / or amended arrangement within off-leash zone and / or beach access points (major).	Major (4)	Rare (1)		Low (M4) Green.

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CL23.404 Bay and Basin Boxing Club: site investigations and proposed engagement activity

HPERM Ref: D23/395329

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

Reason for Report

The purpose of this report is:

1. To provide Council with information about the outcome of investigations for the Bay and Basin Boxing Club (BBBC) to occupy Council owned or managed land within the Sanctuary Point area, in accordance with MIN22.612.
2. To provide Council with information about a proposed community engagement activity, and to seek Council's endorsement to undertake engagement.

Recommendation

That Council:

1. Accepts the *Bay and Basin Boxing Club: 'site investigations and proposed engagement activity'* report in relation to the outcomes of investigations undertaken to date in response to MIN22.612;
2. Provide in-principle endorsement for Clifton Park as the preferred location for a facility for the Bay and Basin Boxing Club, based on investigations undertaken to date (subject to further investigations);
3. Direct the CEO (Director City Lifestyles) to undertake engagement activities outlined in the Community Consultation chapter of this report; and
4. Receive a future report outlining the results of engagement activities and further recommendations in relation to the establishment of facilities at Clifton Park to house the Bay & Basin Boxing Club.

Options

1. Accepts the recommendations as proposed.

Implications: Council staff will proceed to engage in community consultation, to gauge the community's support for the proposal to establish facilities to house the Bay and Basin Boxing Club at Clifton Park. A future report will be provided to an Ordinary Council Meeting with engagement activity results and further recommendations.

2. Adopt an alternative recommendation, removing Part 3 and 4 of the recommendation.

Implications: If the Council provides in-principle endorsement without follow-up community consultation, it is likely that support for establishing a facility to house the Bay and Basin Boxing Club at Clifton Park may be undermined. This may give rise to reputational damage and limit the Bay and Basin Boxing Club's ability to establish a facility at Clifton Park to service the Bay & Basin community.

Background

A Notice of Motion titled *Bay and Basin Boxing Club - Building location investigation* was considered at the Ordinary Council Meeting held on 12 September 2022. MIN22.612 reads:

That Council investigate suitable locations or suitable sites to establish a facility for the Bay and Basin Boxing Club, including but not limited to Council facilities / buildings.

The Proponent for the proposed use and development outlined in MIN22.612 is the Bay and Basin Boxing Club (BBBC). The BBBC is a registered club (with Boxing Australia and Boxing ACT).

City Lifestyles staff have liaised directly with the Proponent to understand the BBBC's requirements, such as: size and type of space required; target demographics; and how the proposed facility will be utilised.

It's understood that it is the Proponent's intention to register the BBBC as a business once a suitable permanent location has been determined. The proponent has indicated it is their intention to operate the business under a 'not-for-profit model'. At present the coach provides coaching voluntarily and funds the BBBC's activities.

The Proponent's proposed business / operating model is for a "percentage of profits to be returned into community programs in the area that also need help along with referrals to youth mentoring services, welfare agencies and other similar sporting clubs where possible. The remaining profits would be used to pay our way for the future sustainability of the club in its location through a leasing arrangement with Council for the use of land."

The Proponent has the following requirements:

- Minimum size requirement for a facility house BBBC is: 20m x 20m;
- Preferred facility type: structure (shell only) suitable for specialised fit out (by the BBBC), such as a 'shed';
- Land of sufficient size to carry a 20m x 20m shed and associated infrastructure, such as parking, access pathways, and landscaping, and;
- Location: in Sanctuary Point.

The Proponent has confirmed it is the BBBC's intention to fund and deliver all necessary internal fit out, with the assistance of grants. The focus therefore of this report and related investigations is the identification of a suitable site.

For the purposes of this report, the proposed use and development has been defined under the *Shoalhaven Local Environmental Plan 2014 (SLEP 2014)* as a 'Recreation Facility (Indoor)', which states:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

The Open Space and Recreation Planning (OSRP) team undertook a review of Community Land in and around Sanctuary Point. The Proponent's request was for land to develop the BBBC, not an existing facility which could be shared or re-purposed.

50 sites were identified within the nominated study area, all of which were categorised as either Sportsground, or General Community Use. Of these 50 sites, there were six sites which were large enough for the proposed use and development and that carry the

necessary land classification and categorisation. Each of these six sites were investigated further (refer to Figure One).

A site visit was undertaken to each of the six sites identified in Figure One, to complete a landscape and use analysis. The outcome of these investigations resulted in two sites being considered feasible for the proposed use and development, due to statutory planning considerations, environmental impacts, and neighbourhood amenity. These sites are identified in the YES column in Figure One.

Figure One: Feasible Sites

List of feasible sites:	Yes	No
Anson Street Reserve		X
Yellow Bellied Glider Reserve		X
Clifton Park	X	
Wool Lane Sporting Complex		X
Francis Ryan Reserve		X
Sanctuary Point Oval / Cricket Ground.	X	

Further information about Clifton Park and Sanctuary Point Oval is provided below.

Clifton Park, Sanctuary Point.

Figure Two: location of 20m x 20m Boxing Club at Clifton Park identified in red.



Legal Description	Lot 1 DP 1215751
Tenure	Shoalhaven City Council
Category	Community Land, Public Reserve – <u>General Community Use.</u>
Size	3.68ha
Access	Primary access is achieved from Clifton Street.
Constraints	<ul style="list-style-type: none"> Bushfire: Category 2 bushfire prone land. This will require a 30m vegetation buffer. Biodiversity: <i>Biometric Vegetation Type</i>. Additional research will be

	<p>required to identify what this means for future development at this portion of the site (to be addressed through a future DA).</p> <ul style="list-style-type: none"> Flood: Partially - AEP1 Existing, 2050 and 2100. Partially - FPA existing, 2050 and 2100. Partially - PMF Existing, 2050 and 2100.
Permissibility	<ul style="list-style-type: none"> The land classification is Community Land with the purpose of Public Reserve and Category being General Community Use under the Local Government Act 1993. Zone – RE1: Public Recreation. As such, a Recreation Facility (Indoor) is permitted with consent (requiring a development application).
Opportunities	<ul style="list-style-type: none"> Clifton Park is currently developed with a range of community facilities and infrastructure, such as the Mens Shed, community garden, as well as children's play equipment and learn to ride facilities. The underutilised space adjacent to the Mens Shed is the preferred location for the BBBC (refer to Figure Two). The location identified in Figure Two is not included as part of a licensed area (for other user groups), in accordance with existing licensing arrangements for Clifton Park. It is likely that the development will trigger the need for additional formal parking, which is considered viable at this location. The proposed location at Clifton Park provides adequate passive surveillance levels (to be further considered through Crime Prevention Through Environmental Design (CPTED) assessments).
Finding	<p>Clifton Park is the preferred location for the provision of a facility to house the BBBC.</p>

Sanctuary Point Oval, Sanctuary Point.

Figure Three: location of 20m x 20m Boxing Club at Sanctuary Point Oval identified in red.



Legal Description	Lot 1525 DP 236518
Tenure	Shoalhaven City Council
Category	Community Land, Public Reserve – <u>Sportsground.</u>
Size	7.8ha
Access	Pedestrian and vehicular access is available from Larmer Avenue.
Constraints	<ul style="list-style-type: none"> • Bushfire: Category 1 and 3 bushfire prone land. This will require a 100m vegetation buffer. • Biodiversity – the site is mapped as having threatened flora and Biometric Vegetation Type. However, neither of these mapped areas are in the proposed location as shown in Figure 3. Additional research would be required to identify what this means for future development at this portion of the site (to be addressed through a future DA). • Flood: AEP1 Existing, 2050 and 2100. FPA Existing, 2050 and 2100. PMF Existing, 2050 and 2100. • Passive surveillance at this location is considered inadequate, due to the setback from adjacent streetscapes and surrounding vegetation.
Permissibility	<ul style="list-style-type: none"> • The land classification is Community Land with the purpose of a Public Reserve and Category being General Community Use under the Local Government Act 1993. • Zone – RE1: Public Recreation. As such, a Recreation Facility (Indoor) is permitted with consent (requiring a development application).
Opportunities	<ul style="list-style-type: none"> • There is sufficient space to accommodate a 20m x 20m and associated infrastructure, including parking. It is likely tree removal would be required. • Considering flood, bushfire and biodiversity mapping, it is advisable to seek pre-lodgement advice from the duty planning team to obtain further information about the requirements for vegetation removal and the required finished floor levels prior to lodging a Development Application for a facility to house the BBBC at this
Finding	Sanctuary Point Oval is not the preferred location for the provision of a facility to house the BBBC, due to limited passive surveillance, flood risk, and bushfire risk.

Internal Consultation

Internal consultation conducted in relation to the proposed establishment of a boxing club in the Bay and Basin area have included contact with the nominated Asset Custodians for Clifton Park (District Engineer) and Sanctuary Point Oval (Shoalhaven Swim Sport Fitness) and the Property Services team.

It is foreshadowed that any further consultation undertaken in relation to this matter will include:

- City Services – Building Services;
- Media & Communication (Marketing & Community Engagement).

External Consultation

The following are considered key stakeholders in relation to any proposed use or development to support the provision of a facility for the BBBC in Sanctuary Point:

- Proponent (owner of the BBBC);
- Volunteer groups and users of Clifton Park (further information provided in the following chapter – Community Consultation);
- Residents directly impacted by the development (overlooking or adjoining the site).
- Residents within 400m of the site at Clifton Park;
- Ward 2 Councillors, and;
- Community Consultative Body (Basin Villages Forum).

Community Consultation (Engagement Activity)

In accordance with Council's Community Engagement Policy and draft Community Engagement Strategy, the proposed engagement model to facilitate provision of feedback by key stakeholders to Council is: *consult*. Accordingly, two community engagement activities have been designed to capture feedback from all external key stakeholders. These are referred to as Engagement Activity One and Engagement Activity Two. Further details about proposed engagement activities are provided below.

Engagement Activity One (EA1):

EA1 will focus on engagement with key stakeholders, prior to undertaking community engagement with residents within a 400m radius. This is considered necessary to provide opportunities to develop revised questions and/or provide additional information to the intended audience for EA2 based on the outcome of EA1.

It is expected that EA1 will take 3 weeks to complete. It will involve a letterbox drop to the below stakeholders with a QR Code asking 2 questions to measure support for the proposed use and development at the preferred location (Clifton Park). The questions will include one closed question and one open question:

1. Closed Question:

Do you support the provision of a facility to house the Bay and Basin Boxing Club at Clifton Park. Please select one of the below:

- YES
- NO

2. Open Question:

If no, please tell us why.

- Responses limited to 500 characters or less.

The audience for EA1 will include:

- User groups of Clifton Park, including:
 - the Mens Shed;
 - the Gardening Club, and;
- Residents who reside in dwellings that overlook this portion of Clifton Park (approx. 8 dwellings).

Engagement Activity Two (EA2):

It is expected that EA2 will take a further 3 weeks to complete. It will involve a letterbox drop to the below stakeholders with a QR Code asking 2 questions to understand the support for the development at this location. The questions will include one closed ended question and

one open ended question, which are to be finalised upon completion of, and in response to results of, EA1.

The audience for EA2 will include:

- Residents who reside in dwellings within a 400m radius of the subject site at Clifton Park (approx. 562 dwellings);

Overall, it is expected that community engagement activities will take approx. 6-8 weeks to complete. A report will be provided to Council at a future Ordinary Council Meeting outlining the results of engagement activities and further recommendations.

Policy & Legislative Implications

Policy: Nil.

Legislation: A Development Application will be required for the proposed development facilities at Clifton Park to house the BBBC, in accordance with the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*.

Financial Implications

This project is currently not identified in Council's Delivery Program Operation Plan (DPOP) and subsequently has no funding allocated for design or construction.

The work undertaken by City Lifestyles staff in relation to MIN22.612 and the preparation of this report has been undertaken utilising operational funding (staff salaries).

The proposed engagement activities (EA1 and EA2, as described in the chapter titled Community Consultation) will be undertaken utilising existing City Lifestyles operational budgets.

It is the Proponent's intention to fund the proposed development utilising external funding (grants – provided by external grant bodies).

The provision of any funding commitment by Council to progress the proposed use and development of facilities at Clifton Park to house the BBBC will be subject to a future report to Council at an Ordinary Council Meeting.

Risk Implications

- *Reputation*: Failure to complete community engagement activities in accordance with Council's community engagement policy, and as described in this report, may lead to a loss of confidence in Council's ability to deliver community infrastructure outcomes based on feedback provided by the community.
- *Finance and asset depreciation*: This project is currently not identified in Council's Delivery Program Operation Plan (DPOP) and subsequently has no funding allocated for design or construction. Sufficient funding will need to be identified, either through future capital works budgets and / or via external funding bodies, to fund design, delivery, asset maintenance, and depreciation.

The Proponent has indicated it is their intention to secure necessary funding for internal fit out via external grant bodies. It is therefore not anticipated that a request will be forthcoming to Council to fund the proposed works. However, it will remain Council's fund depreciation of the asset.

Preliminary, high-level cost estimates for the proposed works are yet to be determined. It is anticipated these figures will be in the order of \$250,000 - \$500,000 for a facility in line with the Proponent's requirements (outlined in the Background

chapter of this report) and associated infrastructure, with an additional figure of at least \$150,000 required to deliver necessary internal fit out.

The preliminary cost estimate provided above would need to be revised in response to any change of scope.

- *Use:* the request considered by Council staff, based on the contents of MIN22.612, and additional information provided by the Proponent, will result in a new, single-use, bespoke facility to house the BBBC. The facility would be added to Council's asset register and depreciated accordingly.

The BBBC's request would need to be re-scoped and re-investigated should the Council wish to pursue a multi-use community facility model to house the BBBC in Sanctuary Point.

Tables Referred to in Report to Ordinary Council Meeting (24 June 2024)
Bay and Basin Boxing Club – Summary of Engagement Activities

Table 1: Key themes (EA1)

No.	Number of Responses	Key Theme	Staff Response
1.	2	Environmental Impact Statements that the proposal will result in the reduction of green space, removal of trees and potential impact on wildlife habitats.	The impact of flora and fauna will be minimised as the relevant portion of the site is largely cleared. Further considerations of environmental impacts can be considered and assessed as part of a future development application (including through the completion and assessment of a Review of Environmental Factors).
2.	2	Compatibility with Existing Facilities Statements that a boxing club does not align with existing facilities at Clifton Park, which currently caters to older residents (Men's Shed), gardening groups (Community Garden) and families (with the learn to ride, play group and Fenced Off-Leash Area), as well as young cyclists.	Co-locating the Bay and Basin Boxing Club with the existing Men's Shed, Community Garden, playground and other facilities at Clifton Park, provides opportunities to leverage potentials for intergenerational exchanges, which are considered to be highly desirable in supporting population health and wellbeing outcomes.
3.	6	Infrastructure and Safety Concerns Statements related to increased traffic, insufficient parking, drainage issues in heavy rain, noise pollution / disturbances and safety concerns for pedestrians particularly older residents and children.	The Pedestrian Access and Mobility Plan (PAMP) identifies proposed footpaths and crossings at the subject site. Further consideration of traffic and other infrastructure related matters can be considered and determined as part of a future development application.
4.	5	Alternative Solutions Proposals to locate the Bay and Basin Boxing Club at an alternative location to assist with improving accessibility, amenities,	Clifton Park has available space which can be appropriately developed and further considered through a development application process. There are planning and site

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Open Space and Recreation Planning
Recreation Projects – Planning & Delivery

No.	Number of Responses	Key Theme	Staff Response
		<p>parking and pathways as well as a perceived incompatibility with existing activities at the subject site.</p> <p>Suggested locations:</p> <ul style="list-style-type: none"> Francis Ryan Reserve; St Georges Basin; Sanctuary Point Oval. 	<p>constraints at other locations within Sanctuary Point that indicate Clifton Park is the most appropriate locations for a facility to house a boxing club in Sanctuary Point (ref. Attachment 1).</p> <p>Parking will be required to be addressed in any future development application. Preliminary investigations have identified that the subject site could accommodate sufficient parking.</p>

Table 2: Key themes – Related to Question Six (EA2)

No.	Number of Responses	Key Theme	Staff Response
1.	68	<p>Community Empowerment and Youth Development</p> <p>A large number of respondents view a boxing club as a tool to empower youth through positive activities and guidance, acting as a constructive pursuit assisting in preventing negative behaviours, providing a sense of purpose and personal development and resilience.</p>	Supported.
2.	39	<p>Fitness and Well-being</p> <p>Many respondents noted that the boxing club will positively contribute to the physical and mental wellbeing of the community. They view boxing as a means to promote fitness, teach discipline and offer an outlet for stress relief.</p>	Supported.
3.	36	<p>Safety and Positive Influence</p> <p>Many respondents emphasised a Boxing Clubs role in positively influencing safety and wellbeing. Structured activities instil discipline and respect, naturally acting as a deterrent to negative behaviours, whilst fostering a sense of security and positive values.</p>	Supported.
4.	31	<p>Accessibility and Convenience</p>	Supported.

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No.	Number of Responses	Key Theme	Staff Response
		Clifton Park is seen as a central location in Sanctuary Point, making a boxing club at this location easily accessible to most residents, particularly those without access to transportation. Accessibility is seen as being vital to ensure club is inclusive and serves a diverse range of community members.	
5.	26	Need for Community Facilities Respondents noted that the Boxing Club fills an existing gap and addresses the need for activities that promote health, socialisation, and personal development.	Supported.
6.	13	Personal Testimonies and Positive Experiences Members of the Bay and Basin Boxing Club shared personal experiences or stories from their family members who have benefited from the Boxing Club. These testimonials reinforced the perceived value of the Club within the community.	Supported.
7.	5	Infrastructure and Safety Concerns Inadequate pedestrian footpaths, existing footpaths often are obstructed, insufficient parking onsite, pedestrian safety to cross the road and wait times for buses. Concern that crime, drug use and late-night activities will increase.	The Pedestrian Access and Mobility Plan (PAMP) identifies proposed footpaths and crossings at the subject site. Traffic calming devices can be considered as part of a future development application process.
8.	4	Environmental Impact Loss of natural green space and harm to established vegetation / trees. Overall impact to the character and amenity of Clifton Park as a green space within a residential area.	Loss of green space will be minimised as the proposed location is largely cleared. Related impacts can be managed through a future development application process. Co-locating the Bay and Basin Boxing Club with the existing Men's Shed, Community Garden and

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No.	Number of Responses	Key Theme	Staff Response
			playground is considered to be highly desirable.
9.	3	Proximity to Existing Facilities Over-development of Clifton Park, preference to locate the Boxing Club in a commercial area or an active recreation area such as an oval or sports field.	Co-locating the Bay and Basin Boxing Club with existing facilities at Clifton Park is considered to be highly desirable.
10.	2	Visibility and Security Concerns about the proposed location being secluded and hidden, leading to potential increase in antisocial behaviours at the subject site. Roadside car parking near bends and intersections.	Co-locating the Bay and Basin Boxing Club with existing facilities at Clifton Park is considered to be highly desirable, which may assist in minimising antisocial behaviours. Parking, and related matters, to be considered through a future development application process.
11.	2	General Opposition Disagreement with the need for a boxing club in Sanctuary Point, regardless of the location.	Noted.

Table 3: Key themes – Related to Question Eight (EA2)

No.	Number of Responses	Key Theme	Staff Response
1.	41	Community Need Many respondents expressed a strong desire for a boxing club in Sanctuary Point, with many benefits noted including providing a positive outlet for youth and promoting fitness, self-defence and discipline.	Supported.
2.	35	Positive Impact Many respondents expressed that having a boxing club at Clifton Park will have positive impacts on the community, such as reducing crime, improving mental health,	Supported.

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No.	Number of Responses	Key Theme	Staff Response
		and providing opportunities for personal growth.	
3.	33	Support for the Proposal Many respondents expressed complete support for the proposal, citing personal experiences with the Boxing Club, and the positive impact on the community as well as the need for such a facility in the community.	Supported.
4.	23	Youth Empowerment and Development Emphasis on the importance of providing opportunities for youth development, including learning discipline, respect, and valuable life skills.	Supported.
5.	8	Location Concern Some concerns regarding Clifton Park as the wrong location due to parking, proximity to residential areas and the impact on flora and fauna.	Parking will be required to be addressed in any future Development Application. Preliminary sketches identified the site could accommodate sufficient parking. The impact of flora and fauna will be minimised as the proposed portion of the site is largely cleared, and may be further considered as part of a future Development Application.
6.	4	Safety and Security Suggestion that the Boxing Club will contribute to reducing crime and anti-social behaviour in Sanctuary Point.	Supported.
7.	2	Financial and Administrative Concerns Some respondents noted concerns about funding, insurance costs and requests to prioritise existing projects in front of financing this project.	Noted. Funding solution outside of the scope of this process and this report.

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Attachment 1
Sanctuary Point Library – Project Update #1

Table 4: Detailed Project Timeline

Date	MIN / Event	Description
21 Feb 2017	MIN17.102	<p>Bay and Basin Community Hub - Draft Master Plan - Public Exhibition - Sub committee formation</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. Endorse public exhibition of the draft Bay & Basin Community Hub Master Plan for a period of 42 days. 2. Advise stakeholders involved in the preparation of the draft Bay & Basin Community Hub Master Plan of its public exhibition. 3. Receive a further report after public exhibition of the draft Bay & Basin Community Hub Master Plan. <p><i>Establish a Sub-Committee comprising of Clrs and members of the CCB's and user groups be convened to assist to finalise the Draft Bay & Basin Community Hub Master Plan.</i></p>
13 Jun 2017	MIN17.501	<p>Deferred - Bay and Basin Community Hub - Draft Master Plan Exhibition Complete - Detailed Design Phase - Clr Briefing / Workshop</p> <p><i>That this matter be deferred to a future meeting of the Strategy and Assets Committee in August 2017 and this matter be the subject of a Clr Workshop/Briefing.</i></p>
27 Mar 2018	MIN18.195	<p>Notice of Motion - Bay and Basin Community Hub - Redesign Draft Master Plan - District Library - Sanctuary Point</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. Construct a District Library at Sanctuary Point as a priority; 2. Redesign the Draft Bay and Basin Community Hub Master Plan without the library.
13 Nov 2018	MIN18.910	<p>Potential site for the Sanctuary Point Library</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. Receive this report for information 2. Confirm the Francis Ryan Reserve Site as the site for the Bay and Basin District Library and prepare a concept plan for the

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		<i>construction of a library to the maximum size suitable for the site.</i>
22 May 2018	MIN18.412C	<p>Potential site - Sanctuary Point Library - Francis Ryan Reserve - Part report made public</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. <i>Receive the report for information.</i> 2. <i>Ensure that information in the report that is not considered commercial in confidence be made public.</i>
21 Jan 2020	MIN20.33	<p>District Library Sanctuary Point - Kerry St / Paradise Beach Rd Site - Community Consultation - Detailed Design - Lodge DA - Report on Amenities Block at Francis Ryan Reserve</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. <i>Accept this report as an update on MIN18.910</i> 2. <i>Select Site A, located on the corner of Kerry Street and Paradise Beach Road, as the preferred site for building of a new district library at Sanctuary Point.</i> 3. <i>Proceed to community consultation, detailed design and lodgement of a Development Application.</i> 4. <i>Receive a report from staff on the construction of the new amenities block together with costings at Francis Ryan Reserve</i>
5 May 2020	MIN20.321	<p>District Library at Sanctuary Point - Progress Report - Funding consideration Library / Amenities block Frances Ryan reserve - 2020/21 & 2021/22 budget</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. <i>Receive the District Library at Sanctuary Point Progress Report for information.</i> 2. <i>Give consideration to strategies to fully fund the delivery of this library and a new amenities block on Frances Ryan Reserve in the 2020/21 and 2021/2022 financial year budgets.</i>
25 May 2020 26 Jun 2020	Community Engagement	An online survey to collect feedback on design elements and services, which received 143 responses.
9 Dec 2020	Community Engagement	Three facilitated workshops:

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		<ul style="list-style-type: none"> One external stakeholder workshop attended by 9 representatives from community organisations, adjacent landowners, local businesses, and schools. Two community workshops attended by 15 community members and 1 Councillor.
4 Nov 2020	Contract	Contract engaged with Brewster Hjorth Architects to complete design work for the Sanctuary Point Library.
09 Mar 2021	Concept Design	Concept Design Completion
09 Mar 2021	MIN21.126	<p>Sanctuary Point District Library Concept Plan - Public Exhibition - Development Application lodgement - Frances Ryan Reserve Amenities block</p> <p><i>That:</i></p> <ol style="list-style-type: none"> Council accept the report for information. Council support the public exhibition of the Sanctuary Point District Library Concept Plan. <ol style="list-style-type: none"> Where significant and adverse feedback is received, amend the design to address the issues raised as deemed necessary. Council receive a further report at the conclusion of the public exhibition period. Council endorse progressing to Development Application lodgement as per MIN20.33. The construction of a new amenities block at Frances Ryan Reserve continue to be in the forefront of Council's plan.
31 Mar 2021 30 Apr 2021	Community Engagement	<p>Second phase of engagement consisted of two key events:</p> <ul style="list-style-type: none"> A second external stakeholder workshop A community presentation day (Open Day) held on April 21, 2021 <p>During the Open Day, the project team showcased the developed design to the public. The presentation included:</p> <ul style="list-style-type: none"> CAD fly-through animations Concept sketches
25 May 2021	MIN21.338	<p>Sanctuary Point District Library - Concept Design Adoption - Lodge DA - Pursue Grant Funding</p> <p><i>That Council:</i></p>

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		<ol style="list-style-type: none"> 1. Note the submissions provided on the concept design of the Sanctuary Point District Library for information. 2. Adopt the concept design, as publicly exhibited, with the following minor changes (as displayed in Attachment 5): <ol style="list-style-type: none"> a. Research Room relocated b. Stairwell relocated and shape changed to assist with mechanical reticulation c. Breakup of sunshade on front of building d. Solid precast wall incorporated to reduce heat e. Technology Room relocated to north east corner f. Corridor and lift relocated g. A solid precast wall incorporated to manage heat gain / loss at front of building 3. Lodge a Development Application for the Sanctuary Point District Library on the corner of Paradise Beach Road and Kerry Street, Sanctuary Point as per MIN20.33 and MIN21.126. 4. Respond to the submissions and advise of Council's decision. 5. Actively pursue any grant funding opportunities to assist with the delivery of the Sanctuary Point Library.
29 Jul 2021	MIN21.402	<p>Notice of Motion - Councillor Bob Proudfoot - Recognition - Francis Ryan Reserve amenities - Sanctuary Point Library - Plaque / Sign</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. Name the amenities/change facilities at Francis Ryan reserve, when renovated and extended, 'The Bob Proudfoot Pavilion'. 2. Select a place within the soon to be constructed Sanctuary Point Library (foyer, reading room/meeting space) 'Bob's Place'. 3. Place an appropriate plaque or sign at both locations acknowledging Bob Proudfoot's contribution to the vision, location, design and delivery of the pavilion and library in Sanctuary Point.
17 Mar 2022	Contract	Contract engaged with Public Works Advisory to provide project management work related to the construction of the Sanctuary Point Library.
10 Oct 2022	MIN23.158	<p>2021/22 Council Borrowings - TCorp Loan Agreement - Endorsed</p> <p><i>That Council enter into a loan agreement, executed under the seal of Council, with New South Wales Treasury Corporation (TCorp) for the</i></p>

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		<p>following loans (to be repaid over 10 years) that have been previously endorsed by Council.</p> <ul style="list-style-type: none"> Sanctuary Point Library - \$6,000,000
29 Mar 2023	MIN23.158	<p>Grant Funding - Acceptance - NSW Public Library Infrastructure Grants 2022 / 2023 - Sanctuary Point Library Fit Out</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> Accept the offer of funding for the successful grant application under the NSW Public Library Infrastructure Grants 2022/23 for the new Sanctuary Point Library Fit Out for the amount of \$450,000. Make arrangements to forward a letter of thanks to the relevant NSW Minister once known after the State Election.
19 May 2022	Development Application	<p>Development consent provided. The DA will remain valid for 5 years from the date of consent: 19 May 2028.</p>
09 Oct 2023	MIN23.581	<p>Mayoral Minute - Sanctuary Point District Library / Bob Proudfoot Pavilion - Funds voted - 2024/25 & 2025/26 - Seek State Government funding</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> Notes that the Sanctuary Point District Library is a project for all the Bay and Basin community, is an economic stimulus project for Sanctuary Point and therefore Council reaffirms its commitment to the Sanctuary Point District Library Project at the current location as approved in the current Development Application. Confirms with the funding body the acceptance of Federal Grant funds by December 2023. Commits through its long-term financial plan the following financial strategy: <ol style="list-style-type: none"> \$7.5 million 24/25 financial year and \$7.5 million in the 25/26. Capping Council's commitment to the project at \$15 million. Ensure the Bob Proudfoot Pavilion is also included in the funding. Write to the Member for South Coast Liza Butler MP requesting \$7.5 million of financial assistance from the State Government for the project to be confirmed no later than 30 June 2024.

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		<p>6. <i>Inform the Federal Member for Gilmore Fiona Phillips MP of the financial strategy (as above) to achieve completion of the Sanctuary Point Library within the grant timeframe and request that the Federal Member continue to work closely with the Member for South Coast to achieve the additional funding.</i></p> <p>7. <i>Thank the Federal Member for Gilmore Fiona Phillips MP and Member for South Coast Liza Butler MP for their ongoing advocacy and assistance in securing funding for this landmark project.</i></p>
4 Jan 2024	Grant Secured	Council secures a federal grant of \$7,500,000 through the Priority Community Infrastructure Program (PCIP).
29 Jan 2024	MIN24.44	<p>No Special Rate Variation Submission - Workshops & Briefings - Financial efficiencies / savings - Cap budget - Budget Review Committee</p> <p><i>That:</i></p> <p>7. <i>Capital projects to be placed on hold and identified into-redundant for future years once the financial position of the Council improves. Projects to be identified into-redundant include but may not be limited to:</i></p> <p style="margin-left: 40px;"><i>a. Consideration of the new Sanctuary Point Library facilities.</i></p> <p style="margin-left: 80px;"><i>i. Following the workshops and briefings, an urgent meeting be held with Fiona Phillips MP, Liza Butler MP, available Councillors, staff to discuss the way forward including the scope and budget for the project.</i></p>
25 Mar 2024	MIN24.148	<p>Financial Sustainability Monthly Report - March 2024 - Projects on Hold - Community Donations - Outdoor Dining Footpath Annual Fee - Continuation Sanctuary Point Library</p> <p><i>That Council endorses the continuation of the Sanctuary Point District Library construction project subject to the following:</i></p> <ol style="list-style-type: none"> 1. <i>A meeting to be held with Fiona Phillips MP for Gilmore, Liza Butler MP for South Coast, Councillors and Staff and the outcomes as per MIN24.44 and recommendation 7a (i).</i> 2. <i>A review of Design works and costs, similar to the Shellharbour Warilla Library</i> 3. <i>Consultation with the community following an inspection of the Shellharbour Warilla Library by community</i> 4. <i>A review of site options</i>

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06 May 2024	MIN24.241	<p>Notice of Motion - Sanctuary Point Library - Brewster Hjorth Architects - Warilla design - Prepare Cost Estimate - Bi-Monthly Report request</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. <i>Acknowledge the commitment made to the community of Sanctuary Point for the delivery of a district library.</i> 2. <i>Subject to fulfilling Council's own procurement obligations, seeks to secure the rights to utilise the designs prepared by Brewster Hjorth Architects for the Warilla Library in Shellharbour City.</i> 3. <i>Seeks to have those plans adapted by Brewster Hjorth Architects for the Warilla Library, to suit the Sanctuary Point site, and for that adaptation to reflect potential design changes of the project to incorporate as many features of the original design as possible.</i> 4. <i>Have a cost estimate prepared of the revised and re-scoped project reported to Council as soon as practicable, and then subject to a resolution of Council, be delivered by the City Services Directorate, with the project owner being the City Lifestyles Directorate.</i> 5. <i>Receive a report from staff to Councillors on two-monthly basis to include timeframes and level of compatibility with grant schedules, and any variations which may need to be applied for.</i> 6. <i>Send a copy of this resolution to the Federal Member for Gilmore, Fiona Phillips MP and the Member for South Coast, Liza Butler MP.</i>
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Attachment 2 Sanctuary Point Library – Update Report #1

Outcomes of Engagement to Date

Overview of Engagement Activities Undertaken Prior to MIN24.241

In May/June 2020 Council's website was used to inform the community about project details and to seek comments and expressions of interest from the community. This initial step aimed to inform the public about the upcoming library project and gather initial feedback.

Between December 2020 and February 2021, the project entered its first phase of active engagement. Three facilitated workshop sessions were conducted during this period. One session was dedicated to external stakeholders, while two were open to the broader community. Participants for these workshops were selected from those who had responded to the initial expressions of interest. Council provided a venue for these sessions, ensuring a neutral and accessible space for discussions.

Following these initial workshops, a report summarising the sessions and website comments was prepared. This report was presented to both Council and the Design Team, providing insights into needs and expectations. The report was also made available on Council's website for public access.

The project then progressed to its second phase of engagement in April 2021. This phase included a second external stakeholder workshop and a community presentation day. The community presentation, also referred to as an open day, was held on 21 April 2021. During this event, the concept designs were displayed, featuring CAD fly-through animations and concept sketches.

A summary of these engagement activities is provided below in Table 5.

Table 5: Summary of Community Engagement Activities

Event Type	Date	Participation
Consultation Survey	25 May 2020 - 26 June 2020	142 responses
Workshops	9 December 2020	16 attendees
Concept Design Exhibition	31 March 2021 - 30 April 2021	34 responses

Throughout these engagement sessions, several key themes emerged:

- Addressing the loss of car parking due to building footprint;
- Ensuring safety, surveillance, and accessibility in and around the library;
- Considering children's and youth needs;
- Recognising the library's significance within the Sanctuary Point Town Centre;
- Design considerations reflecting the local district, including indigenous communities and the natural environment;
- Planning for meeting rooms, an on-site café, and outdoor areas while managing the budget;

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- Improving access and connections, especially from the rear car park;
- Aligning with the Development Control Plan and 'Revitalise Sanctuary Point' masterplan;
- Considering the broader Sanctuary Point Centre Precinct, including Frances Ryan Reserve and impact on the motel;
- Acknowledging the loss of trees on-site and assessing construction timing and impacts.

From July 25 to August 8, 2022, an Expression of Interest (EOI) process was conducted to engage Aboriginal artists to create public art for the Sanctuary Point Library project. The initiative aimed to incorporate Indigenous artwork into the library's design, enhancing its cultural significance. Six artists submitted their expressions of interest during the two-week period. Following a review of the submissions, three artists were selected to proceed with developing public art concepts for the project.

Results of community engagement activities undertaken to date remain relevant and will be utilised to inform rescoping work, ensuring that community needs and expectations continue to inform the project's development.

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Attachment 3 Sanctuary Point Library – Update Report #1

Library Act 1939 (NSW) & NSW State Library Guideline Implications

Library Act 1939 (NSW)

The *Library Act 1939* (NSW) (the Act) establishes the framework for public library services in the state and affects the proposed Sanctuary Point Library in several ways.

In accordance with s15(2)(a) Council is required to have adopted the *Library Act 1939* to receive state government subsidies. The library must adhere to s10 of the Act, which specifies operational requirements for public libraries. In accordance with s5(b) The Library Council of NSW is authorised to inspect and inquire about the library's administration and management.

The Act does not provide specific design requirements but requires comprehensive library services. As outlined in s10 this includes considerations for:

- Free access to certain collections;
- Free delivery to sick or disabled members;
- Free membership for residents and ratepayers;
- Inclusivity and accessibility.

The Act requires the library to be accessible to all community members, including those with disabilities. Assistance animals must be permitted. The library must also implement and enforce regulations outlined in the *Library Regulation 2018*, such as noise control, proper library use, and care of materials as outlined in Part 3.

While the Act provides the legislative framework, specific design guidelines and space requirements are found in separate planning documents authored by the NSW State Library. In accordance with s4A consultation with the State Library of NSW is advised for detailed planning guidance to ensure the Sanctuary Point library meets legal requirements and community expectations

NSW State Library Guidelines

The Act recommends consultation with the NSW State Library's guidelines with regard to detailed project planning. The *People Places: A guide for planning public library buildings* guideline (the Guideline) set out by the NSW State Library recommend the following minimum floor space requirements for libraries relative to population:

- For populations up to 20,000: 57.5m² per 1,000 people
- For populations of 20,000-35,000: 39m² per 1,000 people
- For populations of 35,000-65,000: 35m² per 1,000 people

Library design should account for projected population growth over a 10 to 20 year period to ensure it remains compliant with the guidelines in the long term.

Current provision of libraries in the Shoalhaven reveals a mixed performance with the minimum Gross Floor Area (GFA) standards identified through the Guideline (ref. Table 6). While Milton Library exceeds its

required GFA, Nowra and Ulladulla libraries fall slightly short. The most significant discrepancy is observed with the existing Sanctuary Point Library, which is substantially below the required GFA for its population catchment (noting that rectification of this discrepancy is foreshadowed through the delivery of a new library at Sanctuary Point).

Table 6: Shoalhaven Libraries – NSW State Library Compliance

Library	Current GFA	Population Catchment	Required GFA
Nowra	1,570m ²	47,051	1,646m ²
Ulladulla	597m ²	15,934	916m ²
Existing Sanctuary Point	141m ²	30,835	1,170m ²
Milton	130m ²	1,538	88m ²

The Sanctuary Point Library project aims to address this shortfall and reduce pressure on the Nowra and Ulladulla libraries.

Based on 2021 census data, the Bay and Basin area has a population of 30,835, which requires a library with a minimum GFA of 1,170m². To account for future population growth, the minimum GFA should be 1,435m² to service a projected population of 41,306 in the year 2041 (GFA existing capital works project: 1,846m²). Further information about populations in the Bay & Basin area is provided below in Table 7.

Table 7: Bay & Basin Population Estimates

Town / Village	Population (2021)	Projected Population (2041)
Sanctuary Point	7,874	8,736
Sussex Inlet	3,888	5,540
Vincentia	3,870	4,920
St Georges Basin	3,215	4,287
Callala Bay	2,234	3,672
Basin View	1,583	2,089
Tomerong	1,194	1,611
Old Errowal Bay	1,080	1,373
Falls Creek	939	1,267
Huskisson	840	1,134
Callala Beach	777	1,276

Town / Village	Population (2021)	Projected Population (2041)
Worwong Heights	713	853
Woollamia	653	881
Erowal Bay	652	829
Currarong	479	649
Wandandian	359	522
Wrights Beach	137	174
Hyams Beach	137	174
Myola	94	154
Bewong	80	116
Wollumbolla	28	38
Bream Beach	9	11
TOTAL	30,835	41,306
REQUIRED GFA	1,170m²	1,435m²

CL23.464 Men's Shed, Kangaroo Valley: in-principle endorsement of preferred site

HPERM Ref: D23/436604

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

Attachments: 1. Open Space and Rec Planning - Review of Potential Sites - Consultation with Kangaroo Valley Mens Shed - Version 2 (under separate cover)

Reason for Report

The purpose of this report is to provide Council with:

1. Notification that Kangaroo Valley Men's Shed Inc. (herein: Kangaroo Valley Men's Shed) has requested a location to build a purpose-specific premises on Council land in Kangaroo Valley, and;
2. Background information about the Kangaroo Valley Men's Shed's request and work undertaken to date by City Lifestyles staff;
3. An opportunity to provide in-principle endorsement for a preferred site for a purpose built Men's Shed facility in Kangaroo Valley.

Recommendation

That Council:

1. Accept the *Men's Shed, Kangaroo Valley: in-principle endorsement of preferred site* report for information in relation to options for a purpose built Men's Shed facility in Kangaroo Valley.
2. Provide in-principle endorsement for Lot 7 DP 264336 (West Moss Vale Road Reserve) as the preferred site for a purpose built Men's Shed facility in Kangaroo Valley subject to the outcome of community engagement.
3. Direct the CEO (Director - City Lifestyles) to:
 - a. Undertake community engagement to seek community views about the planned future use of this site;
 - b. Provide a future report to Council outlining the outcome of engagement activities and proposed next steps.
4. Note that the project is not identified in Council's Delivery Program Operation Plan & Budget 2023 / 24, nor in the draft Resourcing Strategy currently on public exhibition as part of Council's Financial Sustainability Review, and subsequently has no funding allocated for design or construction.

Options

1. Accept the recommendations as proposed.

Implications: Council staff will proceed to commence engagement planning and undertake community engagement about a purpose-built Men's Shed at Lot 7 DP 264336 (West Moss Vale Road Reserve).

2. Adopt an alternative recommendation, identifying an alternative site.

Implications: Additional time and staff resources will be required to assess the viability of any alternative site. Consultation will need to be postponed until after a subsequent report can be brought to Council for endorsement.

3. Reject the recommendations as proposed and adopt an alternative recommendation.

Implications: Further implications to be determined, depending on the contents of the amended motion. Please refer to reputational, environmental, and legal risks of not proceeding with Option 1 outlined at the end of this report under the heading *Risk Implications*.

Background

Kangaroo Valley Men's Shed (KVMS) was formed in June 2022 and currently has 35 members. KVMS is now a fully incorporated association with NSW Fair Trading and has registered with the Australian Men's Shed Association. KVMS meet in a range of residential homes and are seeking a purpose-built facility:

Our Men's Shed will provide a safe haven where our men can be productive, connect with friends, maintain an active body and mind. Our focus is on ensuring the well-being of the men of Kangaroo Valley, as many men are reluctant to discuss their emotions or ask for help. This results in men taking more lifestyle risks and suffering from isolation, loneliness, and feelings of depression. We aim to alleviate these issues by providing a space where men can be together and give back. With your continued support throughout this process, we believe we can achieve great things together for our community.

Director of Planning, KVMS

Representations have been received requesting the investigation of a suitable site for a Men's Shed facility in Kangaroo Valley, via Member for Kiama MP Gareth Ward in June 2022 and Ward 1 Councillors in September 2022. An initial investigation was conducted by City Lifestyles staff during 2022 into the viability of the Pony Club shed at Kangaroo Valley Showground (Osbourne Park) as a base for the KVMS. These investigations found that the site was not suitable.

KVMS wrote to Council's CEO on 31 July 2023 requesting:

- Council staff support to support preliminary planning and all processes to progress through a DA process, and to meet with KVMS representatives to provide updates;
- Council funding for planning requirement costs and for costs such as the development of water, sewer and utility works necessary for the site.

Men's Shed representatives contacted City Lifestyles staff in May 2023. They presented a list of 12 sites in Kangaroo Valley and requested that these sites be further investigated. The Open Space & Recreation Planning team actioned the KVMS's request, undertaking further investigations to:

- Identify the ownership of each suggested site.
- Assess the land classification and suitability for a Men's Shed facility at each site.
- Check for any planning stipulations, such as if the land is flood or bushfire-prone, or if the site may contain a habitat corridor.
- Identify if the site requirements needed for a Men's Shed are available, including:
 - Access to electricity (three-phase) in order to operate woodworking machinery, as well as for general operational needs like lights and kitchen uses.

- Running water for kitchenette and bathroom use, plus as part of workshop tasks.
- A sewage line so bathrooms can be installed.
- Space for a small building.
- Space to park cars.

Identify any relevant strategic alignments relating to the provision of a future Men's Shed facility, including:

- Ensuring that a Men's Shed meets the *Community Wellbeing Strategy* and *Disability Inclusion Action Plan* goals – see Policy section below under Strategic Alignment, and;
- Investigating the adaptability of the space for use by multiple users – could a generic meeting room be added to the building so the kitchenette, bathroom and car parking can assist other groups.

Shoalhaven Local Environment Plan 2014

The proposed Men's Shed facility has been defined under the Shoalhaven Local Environmental Plan 2014 (SLEP2014) as a 'Community Facility':

Community facility means a building or place -

(a) owned or controlled by a public authority or non-profit community organisation, and

(b) used for the physical, social, cultural, or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

Desktop Analysis

An initial desktop analysis of the 12 proposed sites was completed, plus an additional site identified by staff (ref. Attachment 1). Most of the 12 proposed sites were on Council or Crown land, however two were on private property. Findings were that:

- The sites on private property are outside Council's jurisdiction. Use of these properties could be negotiated directly between the Men's Shed representative and the title holder and hence, do not form part of the investigations undertaken. Therefore, these sites have not been considered in the desktop analysis and are not included in Attachment 1.
- Properties on Crown Land would require further investigation and negotiation with NSW Crown Lands.
- Of the sites located on Council-owned land, three were considered suitable for future consideration and investigation:
 - Lot 7 DP 264336, West Moss Vale Road Reserve, two properties south of 32 Moss Vale Road.
 - Lot 105 DP 264466, Jenanter Drive (between numbers 12 and 14).
 - Lot 1 DP 377859, 1 Quirk Street (opposite Murray Street).

Outcome: An Investigation Report was sent to Kangaroo Valley Men's Shed for their consideration (ref. **Attachment 1**). Men's Shed representatives have informed Council Staff that they prefer option 2b, Lot 7 DP 264336, West Moss Vale Reserve.

Subject site: Lot 7 DP 264336, West Moss Vale Road Reserve, Kangaroo Valley

West Moss Vale Road Reserve is close to Kangaroo Valley village and is in a convenient position for Men's Shed participants. It is a Council-owned site of approximately 14,820m².

The site is situated on the western side of Moss Vale Road, two properties south of the petrol station at 32 Moss Vale Road. The site is 1.3km north-west of Kangaroo Valley village centre, with an estimated time to walk to the village centre of 15 to 20 minutes. Initial investigations have shown that the land is classified as **Community Land / Park**. The proposed land use (a Men's Shed, 'community facility') may be permissible subject to development consent and is considered worthy of further investigation.

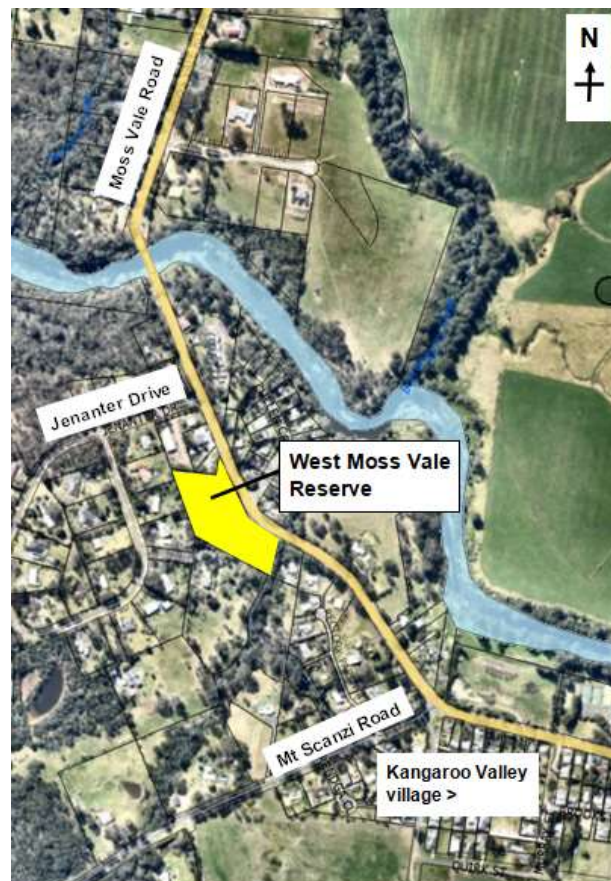


Figure 1: Location of Lot 7 DP 264336 (West Moss Vale Road Reserve) within Kangaroo Valley

Opportunities: Being on Moss Vale Road, the site can be conveniently accessed by regular users, incidental users, and passers-by can find the site easily. The site is of generous size, allowing for flexibility in relation to placement of building envelope, building design and configuration of car parking facilities.

The site is able to be connected to services. Some sections of the existing park do include cleared land with paths, so there is potential for a building footprint which has minimal impact on existing tree cover and bushland habitat.

Constraints: The site is flood and bushfire prone land and contains threatened flora and fauna. There are no current entitlements to sewer or water however services are available nearby. There are electricity poles and wires currently in place along Moss Vale Road, however, the site itself currently has no electricity provision.

The site is subject to a Parkcare agreement.

On-street parking amenity and safety is to be further investigated as the site is on a curve in the road. The road shoulder on Moss Vale Road is of variable width near the site, with some narrow sections and some areas with enough space for kerbside parking. Dense vegetation grows along the property edge, which would require clearing in order to create pedestrian access.

Permissibility: The site is zoned RE1 Public Recreation under SLEP14. As a result, a 'community facility' is permitted with consent (requiring a development application). The site is categorised as Community Land / Park under the Local Government Act. As a result, a 'community facility' is permitted subject to development consent.

Landscape characteristics: The reserve has a core of dense bushland and tree cover, sloping downhill from north to south (ref. **Images 1-4**). A mown grass path traverses the circumference of the space, and there is a wider mown clearing at the northern end of the park. A smaller clearing in the centre contains trees and shrubs. A variety of birds and frogs are noted to be present on-site.

The reserve is accessible from Moss Vale Road via one mown access path across from the intersection with Cullen Crescent. A strip of dense bushland protects the reserve from passing traffic on Moss Vale Road. The best potential site for a Men's Shed is at the northern end, which has the highest ground, and a cleared, flat area of approximately 2,100m². This end of the property also has a possible location for a driveway onto Moss Vale Road.

There is space for kerbside parking, however, as the reserve is adjacent to a bend and dip in the road, sight distances will need to be further considered.

The mown path passes within sight of neighbouring properties to the south, west and north. Some properties have a basic wire fence, three properties have no fence to the reserve, and one has an aluminium fence.

The property has a total of six neighbouring privately owned residential and/ or semi-rural properties to the north, west and south, with Moss Vale Road covering the eastern property border. Neighbouring buildings in most cases are well away from the common property boundary. Four private residential properties overlook the subject site from across Moss Vale Road.

Further information about the subject site is presented below, in **Figure 2** and **Image 1** through **4**.

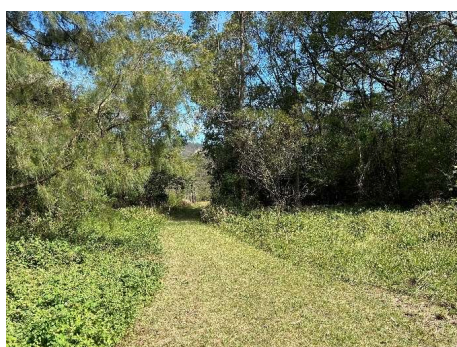


Image 1: Path towards the south



Image 2: Path towards the southwest



Image 3: Northwest site corner view



Image 4: View of cleared area

Precedent Research

There are currently 14 Men's Sheds in Shoalhaven. Further details about these facilities, including funding and operating arrangements, is listed below in **Table 1**.

Table 2 provides an overview of Men's Sheds in neighbouring municipalities, including a breakdown of facilities by population.

Table 1 – Overview of Men's Shed Facilities in the Shoalhaven.

	Men's Shed Title	Leased from Council	Funding of infrastructure	Source
1	Nowra Men's Shed	Yes	Nowra Men's Shed leases the Caretakers Cottage at Nowra Showground. Grants have been secured and fundraising undertaken to complete small building upgrades such as building a dust extractor shed and a retaining wall.	Council records
2	Veterans & Community Men's Shed (West Nowra)	No	Operates independently.	Men's Shed Australia
3	Berry Men's Shed	No	The Berry Men's Shed operates from a purpose-built facility hosted by Berry Uniting Church.	Council records
4	Shoalhaven Heads Men's Shed	Yes	Shoalhaven Heads Men's Shed leases an existing Council building. They secured grants for building upgrades: Insulation, air-conditioning, lights, concrete floor, installing a shipping container for storage. Council paid for sewage connection.	Council records
5	Culburra Beach & Districts Men's Shed	Yes	The Culburra Beach & District Men's Shed is in Culburra Community Centre precinct. Culburra Beach Progress Association raised \$160,000 to build a Shed on Council land.	Council records
6	Culburra Beach Orient Point Men's Shed	Yes	Culburra Beach Orient Point Men's Shed leases an existing building, a former Scout Hall, from Council. They have used grants and fundraising towards upgrades such as solar panels, lighting and two shipping containers for storage.	Council records

7	Sussex Inlet Men's Shed	Yes	Sussex Inlet Men's Shed leases an existing building on Crown Land, managed by Council. Modifications were funded by private sponsors, including an extension, a new concrete floor, new roof, hothouse, shade house, fence and retaining walls.	Council records
8	Sanctuary Point Men's Shed	Yes	Council granted use of Community Land to build and operate a Men's Shed. It is a specifically constructed building, community funded, which took 6 years to complete.	Council records
9	Greenwell Point Men's Shed	Yes	Council granted use of Community Land to build and operate a Men's Shed. It is a specifically constructed building, community funded, and has recently requested approval for solar panels to be installed.	Council records
10	Murramarang Men's Shed	Yes	Council granted use of Community Land to build and operate a Men's Shed. It is a specifically constructed building.	Council records
11	Jervis Bay Men's Shed	No	Operates independently.	Men's Shed Australia
12	Ulladulla Men's Shed	No	Operates independently.	Men's Shed Australia
13	Milton Ulladulla Men's Shed	Yes	Council granted use of Community Land to build and operate a Men's Shed. It is a specifically constructed building. It has been constructed by the Men's Shed on former Ulladulla Sewage Treatment Works site.	Council records
14	Bay & Basin Men's Shed	No	Operates independently.	Men's Shed Australia

Table 2 – Overview of Men's Shed Facilities in Neighbouring Municipalities

Local Government Area	Population	Number of Men's Sheds	1x Men's Shed / people
Shoalhaven LGA	109,611	14	7,800
Eurobodalla LGA	40,755	6	6,800
Bega Valley LGA	35,988	10	3,600
Kiama LGA	21,464	2	10,700
Shellharbour LGA	78,332	2	39,200
Average (all LGAs)	57,230	7	8,200

Internal Consultation

The Men's Shed site assessment is being led by City Lifestyles directorate, with staff from the Open Space and Recreation Planning team. Stakeholders include:

- The Asset Custodian, Northern District Engineer.
- Environmental Services.

Internal consultation conducted in relation to the proposed use of West Moss Vale Reserve as a site for a Men's Shed should give consideration to the following:

- Community-driven initiatives should be considered a primary factor in decision-making.
- A Men's Shed meets community wellbeing criteria.

Any further work undertaken by Council staff in relation to the Men's Shed proposal will be undertaken in consultation with the stakeholders listed above.

External Consultation

It is proposed that Council direct the CEO (Director – City Lifestyles) to undertake consultation regarding the development of a purpose-built Men's Shed facility within West Moss Vale Road Reserve. Stakeholders to be consulted include:

- Directly affected residents.
- Men's Shed representatives.
- Kangaroo Valley Forum, Council's CCB in Kangaroo Valley.
- Other local community organisations.

A survey will be opened to seek local opinion in relation to:

1. Use of Lot 7 DP 264336 (West Moss Vale Road Reserve) for a purpose-built Men's Shed facility.
2. Support for adding an additional room(s) to improve functionality of any proposed building as a multi-use facility, and to find out how a Men's Shed will help residents of Kangaroo Valley, and users of the Men's Shed facilities, feel more connected.

A Get Involved page will be created to launch the survey, to be published during February 2024.

Next Steps

Subject to the adoption of the proposed recommendations, Council staff will engage directly with the Men's Shed representatives to further investigate the proposed site and conduct a community engagement activity in Kangaroo Valley. A further report will come to Council to present the results of this engagement activity and to seek endorsement for any further work proposed in relation to the KVMS's request.

Council staff or KVMS would then be best placed to apply for grant opportunities to fund the proposed project. The KVMS would then be able to initiate a DA process.

Strategic Alignment

Community Strategic Plan

The *Shoalhaven 2023 Community Strategic Plan* identifies 11 key priorities, categorised into four themes:

1. *Resilient, Safe, Accessible & Inclusive Communities.*

2. *Sustainable, Liveable Environments.*
3. *Thriving local economies that meet community needs.*
4. *Effective, Responsible & Authentic Leadership.*

The KVMS proposal aligns with the following Key Priorities:

- 1.1: *Support inclusive, safe and connected communities.*
- 1.2: *Preserve, support and develop cultural and creative vitality across our communities.*
- 1.3: *Support community wellbeing through fostering active and healthy communities.*
- 4.3: *Inform and engage with the community about the decisions that affect their lives.*

Community Wellbeing Strategy

Shoalhaven City Council's *Community Wellbeing Strategy* cites foundational values which are relevant to this project:

- *Foundation 1: Vibrant communities where everyone can participate and connect.*
- *Foundation 2: Lifelong learning and helping each other.*
- *Foundation 3: Safe and prepared communities.*

The *Community Wellbeing Strategy* further recognises:

Participation in local activities is vital for forming social connections that develop a sense of belonging and connection to the community... This contributes to a vibrant community life that supports individual wellbeing and resilience... For the community to come together, they need inclusive community gathering spaces... Contemporary practice for community facilities is moving towards providing spaces that can support a range of community uses.

(p. 22, *Community Wellbeing Strategy*)

People are more likely to use public spaces they feel safe in, and more likely to linger and spend time there.

(p. 50, *Community Wellbeing Strategy*)

Disability Inclusion Action Plan

Shoalhaven City Council's *Disability Inclusion Action Plan 2022-2026* cites two goals which are relevant to this project:

1. *Create positive attitudes and behaviours within community.*
2. *Create accessible and liveable communities.*

The KVMS's proposal to establish a purpose-built Men's Shed facility in Kangaroo Valley aligns with Council's *Community Strategic Plan*, *Community Wellbeing Strategy* and *Disability Inclusion Action Plan*.

Financial Implications

Finance and Asset Depreciation

The KVMS's request (project) currently not identified in Council's *Delivery Program Operation Plan & Budget 2023 / 24* and subsequently has no funding allocated for design or construction.

Sufficient funding will need to be identified, either through future capital works budgets and / or via external funding bodies, to fund:

- Design and delivery (construction).
- Asset maintenance.

- Depreciation.

This project would need to be subject to future grant funding applications (submitted by the Men's Shed representatives and / or by Council staff) to progress the project in the 2023 / 24 financial year and any subsequent year where there is no commitment made by Council in the *Delivery Program Operation Plan & Budget*.

The desk top investigation works, time for site visits and liaison with KVMS to date has been funded through the Recreation Projects, Planning and Delivery staffing budget. Should Council have an appetite to progress this, the scope of work to be undertaken would need to be defined and funding identified and allocated to enable further works to progress.

Risk Implications

Financial Risk: This proposal is currently unfunded for any aspect of the work that is required. There is a risk that expectations in the community may be raised beyond Council's reasonable ability to support the initiative. As the Men's Shed has specific requirements, such as the permanent installation of power tools and the need to secure access to these tools to suitably trained persons, it may be challenging to offer multi-purpose community access to a Men's Shed property.

Reputational Risk: Failure to act on community support for the proposal may result in a lack of confidence in Council processes within the Kangaroo Valley community and a loss of community trust in Council's capacity to deliver.

Reputational Risk: In the case that the proposed site is endorsed without undertaking community engagement, the views of Kangaroo Valley residents regarding the proposal will remain unknown, resulting in a possible disconnect between Council actions and community sentiment.

Viability Risk: It is possible that directly affected residents may not be prepared to support the proposal and may raise concerns.



9 May 2024

To [REDACTED]

Letter of support: Use of Lot 7 DP 264336 (West Moss Vale Road Reserve) for a purpose-built Men's Shed facility.

The [Resilient Building Council \(RBC\)](#) is an independent, national not-for-profit collaboration of bushfire, flood, storm, cyclone, heatwave and energy experts. RBC has partnered with Shoalhaven City Council and over 400 households in the Shoalhaven to develop the [Resilience Ratings program](#) and the Shoalhaven community-led resilient building design project, [FORTIS House](#). Our team have worked closely with [REDACTED]

[REDACTED].

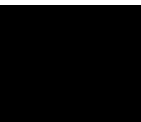
The Resilient Building Council [Expert Panel](#), including bushfire, flood and storm researchers, engineers, BPAD assessors, construction industry experts and risk specialists, have reviewed document **CL23.464 Men's Shed, Kangaroo Valley: in-principle endorsement of preferred site** from SCC Ordinary Meeting on Monday 11 December 2023, and several team members have visited the site. We agree with Council's endorsement for Lot 7 DP 264336 (West Moss Vale Road Reserve) as the preferred site for a Men's Shed facility in Kangaroo Valley.

We commit to working with the Kangaroo Valley Men's Shed Inc and local community members to design a site-appropriate and highly resilient Men's Shed facility, using the FORTIS design principles, on the endorsed Lot 7 DP 264336 (West Moss Vale Road Reserve). The generous sized site allows for flexibility in relation to the placement of the building envelope and design, with minimal impact on neighbouring properties and wildlife.

RBC will provide the KVMS with fundraising support as well as technical design guidance, providing a certified Resilience Ratings report for the co-designed building plans.

We look forward to hearing a positive outcome in the coming weeks.

Kind regards,



CEO, Resilient Building Council



Tables Referred to in Report to Ordinary Council Meeting (29 July 2024)
Kangaroo Valley Men's Shed - Confirmation of Endorsed Site Following Completion of Resident Engagement

Table 1: Overview of Responses

Directly affected residents		Other KV residents	
9		24	
Positive	Negative	Positive	Negative
1	8	3	21

Table 2: Summary of In-Scope Feedback

No.	Key themes in relation to the subject site - Lot 7 DP 264336	Directly affected residents' responses		Other residents' responses	
		Positive	Negative	Positive	Negative
Overall Theme: Support for the subject site, Lot 7 DP 264336		1	8	3	21
1.	Noise of power tools, unknown hours of use – disturb rural tranquillity		4		9
2.	Noise from increased vehicular traffic		2		7
3.	Traffic volume, speed and congestion increasing; parking congestion; a new driveway adding complexity on a bend in Moss Vale Road; elderly people turning right at a difficult spot; wildlife crossing the road.		7		8
4.	Impact on native or threatened local flora, fauna and 'wildlife corridor'.		4		7
5.	KVMS activities could cause air pollution, water pollution into Myrtle Creek. Erosion from run-off due to installation of hard car park surface.		5		1
6.	Questions about proposed building footprint & design: size, function, location. No existing facilities such as public toilets.		3		7
7.	Financial viability of the project for Council		6		5

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No.	Key themes in relation to the subject site - Lot 7 DP 264336	Directly affected residents' responses		Other residents' responses	
		Positive	Negative	Positive	Negative
8.	Privacy / visual impact on, or proximity to, neighbouring residences (especially if foliage is removed.) 'Family friendly' environment.		5		12
9.	Impact on health and peace of elderly residents living nearby.		1		4
10.	Concern about hazardous materials and processes used by the Men's Shed facility and the proximity of the Petrol Station.		2		1
11.	Casuarina (she-oak) trees provide a visual buffer from Moss Vale Road. A Men's Shed facility would be an 'eyesore' this close to the tourist value of Hampden Bridge and nearby heritage buildings along Moss Vale Road.		3		
12.	Land value could be affected.		3		
13.	A Men's Shed facility would enhance nearby amenities (petrol station, IGA, kayak shop). Improved maintenance means less weeds and deadwood, assisting bushfire management. The cleared land in the subject site will fit a men's shed facility.	1		4	
14.	The site is near an ugly petrol station so is not a pleasant environment; smelly, noisy, busy, and stressful with overgrown plants – therefore not conducive to mental health recovery.				2

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Table 3: Summary of Out-of-Scope Feedback

No.	Key themes in relation to regarding other matters	Directly affected residents' comments		Other residents' comments	
		Positive	Negative	Positive	Negative
15.	KVMS is a good community initiative, worth supporting. Mental health initiatives, especially for rural men, are important.	6	0	21	0
16.	Better sites for the Men's Shed facility are available; somewhere quieter on a larger, more 'public' block of Council land such as the recycling dump.		7		9
17.	Better suggested site for the Men's Shed facility: Kangaroo Valley Showground/ Osbourne Park, including the previous Pony Club building.		3	1	19
18.	Better suggested site for the Men's Shed facility: Pioneer Village [Ownership: Kangaroo Valley Pioneer Settlement Trust]		1		
19.	A regular Showground patron noted that there's not room for a Men's Shed facility at the KV Oval; each space is designated and used regularly.			1	
20.	Size of the proposed shed.				2
21.	Women should have access to the organisation too, or access to the 'makers' workshop space when KVMS isn't using it.				2

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Table 4: Staff Response to Feedback from Residents

No.	Key Themes in relation to the preferred site - Lot 7 DP 264336	Staff Response
1	Noise of power tools, unknown hours of use – disturb rural tranquillity	Noise factors can be assessed under a future development application process. These matters are outside the scope of this report.
2	Noise from increased vehicular traffic	
3	Traffic volume, speed and congestion increasing; parking congestion; a new driveway adding complexity on a bend in Moss Vale Road.	Traffic factors can be assessed under a future development application process. These matters are outside the scope of this report.
4	Impact on native or threatened local flora, fauna and wildlife corridor.	Environmental factors can be assessed under a future development application process. These matters are outside the scope of this report.
5	Air pollution, run-off water pollution into Myrtle Creek. Erosion from run-off due to installation of hard car park surface.	
6	Questions about proposed building footprint & design: size, function, location. No existing facilities such as public toilets.	Design, zoning and other controls can be assessed under a future development application process. These matters are outside the scope of this report.
7	Financial viability of the project for Council	Refer to the Financial Implications chapter of this report.
8	Privacy/ visual impact on or proximity to neighbouring residences (especially if foliage is removed.)	Environmental factors can be assessed under a future development application process. These matters are outside the scope of this report.
9	Impact on health and peace of elderly residents living nearby.	
10	Concern about hazardous materials and processes used by the Men's Shed and the proximity to a petrol station.	
11	Casuarina (she-oak) trees provide a visual buffer from Moss Vale Road. A 'shed' would be an eyesore this close to the tourist value of Hampden Bridge and nearby heritage buildings along Moss Vale Road.	Visual amenity and heritage factors can be assessed under a future development application process. These matters are outside the scope of this report.
12	Land value could be affected. (Residents bought land with reserve next door in current condition).	West Moss Vale Road Reserve is classified as Community Land; categorised as 'Park'. Development of the subject site is therefore guided by section 36G of the Local Government Act 1993: <i>The core objectives for management of community land categorised as a park are -</i>

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No.	Key Themes in relation to the preferred site - Lot 7 DP 264336	Staff Response
		<p><i>(a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities</i></p> <p>AND</p> <p>... section 104 of the <i>Local Government (General) Regulation 2021</i>:</p> <p><i>Land should be categorised as a park under section 36(4) of the Act [Local Government Act 1993] if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.</i></p>
13	Improved maintenance means less weeds and deadwood, assisting bushfire management. The cleared land in the subject site will fit a shed.	Maintenance responsibilities to be determined and governed through a future lease agreement with KVMS.
14	The site is near a petrol station - therefore not conducive to supporting mental health outcomes.	Aesthetics can be assessed under a future development application process. These matters are outside the scope of this report.
15	A Men's Shed is a good community initiative, worth supporting. Mental health initiatives, especially for rural men, are important.	Supported in-principle.
16 - 18	Better sites for the Men's Shed are available elsewhere in Kangaroo Valley.	The outcomes of investigations undertaken by Council officer in relation to a range of possible sites are presented in Attachment 1.
17	Size of the proposed shed.	Design solutions can be assessed under a future development application process. These matters are outside the scope of this report.
18	Women should have access to the organisation too, or access to the 'makers' workshop space when the KVMS organisation isn't using it.	Supported in-principle.

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Table 5: Summary of Additional Feedback Provided to Council

No.	Key Theme	Additional feedback provided to Council	Response by Council officers
1.	Building size	<p>According to directly affected residents who attended a community meeting held on 3 April 2024, draft building plans were displayed by KVMS representatives. Since this meeting, varying claims by both residents and by KVMS representatives have been made about the size of the proposed building.</p> <p>The KVMS CEO and Secretary have each contacted Council officers to note that they had been unable to attend this informal meeting, that no agreement was made at the meeting, and that the size of any proposed building needs to be clarified as part of future processes.</p>	<p>NB in response to themes 1, 2 and 3 -</p> <p>Design solutions are outside of the scope of this report and can be assessed and determined as part of a future development application process.</p>
2.	Building materials and appearance	<p>Residents expressed concern about the construction of a large, high, 'unsightly' aluminium shed.</p> <p>KVMS have informed Council officers they wish to build a weatherboard 'house' style building similar to Berry Men's Shed (North Street, Berry) which is located within the residential area of Berry.</p> <p>KVMS are in initial discussions regarding a potential partnership with the Resilient Building Council. The structure may be arranged with separate wing(s) to house workshops, enabling greater shared community use of the facility kitchen, bathrooms, meeting room, and car park, without risks associated with contact of the public with machinery.</p>	
3.	Consequences of a 'large' construction on undeveloped land.	<p>Correspondence received since the meeting held on 3 April 2024 had a focus on heightened concerns about the impact on surrounding natural bush vegetation and ecosystems.</p> <p>Concern was expressed about the potential for a proposed building to be visually unsightly both for directly affected residents and for drivers/ tourists on Moss Vale Road, particularly in proximity to Hampden Bridge.</p>	

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Shoalhaven Arts Foundation Ltd – Constitution**ATTACHMENT 1****SHOALHAVEN ARTS FOUNDATION LIMITED****CONSTITUTION**ACN **xx**

A public company limited by guarantee without share capital

The Shoalhaven's art and culture has been thriving for millennia. The Shoalhaven is replete with rich First Nation's art and culture. Local and internationally recognised artists of all disciplines, performers and craft workers have made their home in the Shoalhaven. There is a strong tradition of musical, literary, visual, heritage and performing arts. The Shoalhaven Arts Foundation supports the development and growth of the arts across the whole of the Shoalhaven.

CL24.230 - Attachment 1

Shoalhaven Arts Foundation Ltd – Constitution

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Shoalhaven Arts Foundation Ltd – Constitution

Background and Charitable Purposes and Objects of the Foundation

1 Background

- 1.1 This is the Constitution of Shoalhaven Arts Foundation Ltd (**Foundation**).
- 1.2 The Foundation is a public company limited by guarantee without share capital.
- 1.3 The Foundation is formed for the charitable purposes and Objects set out in clause 2.
- 1.4 The provisions of the Corporations Act that apply to a company as replaceable rules do not apply to the Foundation, except so far as they are repeated in this Constitution.
- 1.5 Subject to clause 1.4, any mandatory provisions of the Corporations Act prevail over the provisions of this Constitution to the extent of any inconsistency.
- 1.6 While the Foundation is registered under the ACNC Act, notwithstanding any other provision of this Constitution:
 - (a) the Foundation must comply with its obligations under the ACNC Act;
 - (b) if the ACNC Act prohibits an act being done, that act must not be done;
 - (c) if the ACNC Act requires an act to be done or not to be done, authority is given for that act to be done or not to be done (as applicable); and
 - (d) if any provision of this Constitution is or becomes inconsistent with the ACNC Act, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

2 Charitable Purpose and Objects

- 2.1 The Foundation is a charitable institution established to promote cultural activities and arts within Shoalhaven.
- 2.2 The principal **Objects** for which the Foundation is established are to promote, encourage, create, further and facilitate literature, music, performing arts, visual arts, craft, design, film, video, television, radio, community arts, moveable cultural heritage, arts and languages of Indigenous persons and other cultural and artistic activities within Shoalhaven by:
 - (a) assisting groups in the community to establish and become involved in arts based cultural activities;
 - (b) supporting arts activities relevant to community groups;
 - (c) providing opportunities for artists to interact with community groups;
 - (d) promoting access and participation by groups in the community to arts based cultural activities;
 - (e) providing opportunities for community groups to develop arts based cultural pursuits;
 - (f) recognising outstanding contributions to the arts and cultural life of the community;
 - (g) encouraging and supporting the development of artists;
 - (h) presenting or exhibiting art, culture and moveable cultural heritage created or produced by others;
 - (i) educating the public about cultural forms;

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- (j) establishing programs to support the development, sustainability and preservation of the arts and cultural life in the community;
- (k) doing anything necessary or incidental to the promotion, or in connection with the promotion of, the Foundation and the carrying out of the Objects of the Foundation;
- (l) conducting fund-raising activities, and seeking government, community and private contributions, financial and other supports or benefits to further the Objects of the Foundation;
- (m) attracting and receiving contributions (financial and other property) from government, community and private contributors to further the Objects of the Foundation, including for specific and targeted programs established by the Foundation to support the development, sustainability and preservation of the arts and cultural life in the community;
- (n) entering into partnerships and affiliations with persons and organisations to further the Objects of the Foundation;
- (o) employing or retaining such employees, advisers or consultants, on a paid and unpaid basis, as appropriate, to assist the Foundation in carrying out the Objects of the Foundation; and
- (p) doing all other things necessary for, incidental to, desirable to, conducive to or connected with the pursuit of the Objects of the Foundation.

Foundation's Powers

3 Powers

- 3.1 Subject to the provisions of this Constitution, the Foundation has the legal capacity and powers of both an individual and a body corporate.
- 3.2 The Foundation must only use its powers for the purposes and Objects set out in clause 2.
- 3.3 The Foundation does not have the power to issue shares.
- 3.4 The Foundation must not exercise any power, or do or fail to do anything, that might result in the Foundation losing its status as a registered charity or DGR.
- 3.5 The Foundation must not:
 - (a) form or participate in the formation of any other body corporate;
 - (b) acquire a controlling interest in any other body corporate; or
 - (c) become a member or shareholder of any other body corporate.
- 3.6 The Foundation has been formed pursuant to s358 of the LG Act and, together with the Founding Member and the officers of the Foundation, is subject to the following oversight mechanisms applying to councils under the LG Act governing:
 - (a) The acquisition of assets (including land).
 - (b) The principles of sound financial management in s8B of the LG Act.
 - (c) Procurement processes in s55 of the LG Act.
 - (d) The amendment of this Constitution.

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- (e) The membership of the Foundation in another body corporate.
 - (f) The Objects of the Foundation.
 - (g) The application of the powers of the Foundation.
 - (h) Transparency of accounting and other records.
 - (i) Insurance.
 - (j) The appointment of an auditor and the publication to the Founding Member of audited reports.
 - (k) The keeping of accounts.
 - (l) The maintenance of gifts and benefits registers.
- 3.7 The Foundation may seek gifts, contributions or donations of money or property from the public.
- 3.8 If the Foundation accepts a gift, contribution or donation of money or property, the Foundation must give the donor a receipt, and otherwise comply with all applicable laws in relation to any such gift, contribution or donation, including without limitation the provisions of the ITA Act, the *Income Tax Assessment Act 1936* (Cth) and the *Charitable Fundraising Act 1991* (NSW).

Members' Liability and Application of Income and Property

4 Limited liability and guarantee

- 4.1 Each Member's liability is limited to the amount that the Member undertakes to contribute under clause 4.2.
- 4.2 Each Member undertakes to contribute a maximum of \$100.00 to the property of the Foundation if the Foundation is wound up:
- (a) while that person is a Member; or
 - (b) within 12 months after that person stops being a Member.
- 4.3 Each Member's contribution under clause 4.2 is for payment towards:
- (a) the debts and liabilities of the Foundation incurred before that Member stopped being a Member; and
 - (b) the costs and expenses of winding up the Foundation.

5 No Distribution

- 5.1 Subject to clauses 5.2 and 56:
- (a) the Foundation's income and assets must be applied solely in furtherance of the purposes and Objects of the Foundation set out in clause 2; and
 - (b) the Foundation must not pay any dividends or otherwise pay, distribute or transfer, any income or assets directly or indirectly to its Members.
- 5.2 Despite clause 5.1, the Foundation may, with the Board's approval, do any of the following in good faith:

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- (a) Pay reasonable fees, remuneration or other compensation to a Member for goods or services which the Member has provided to the Foundation.
 - (b) Reimburse a Member for expenses which the Member has properly incurred in connection with the Foundation's activities/charitable purpose.
 - (c) Pay interest on any loan which a Member has advanced to the Foundation at reasonable rates.
 - (d) Pay reasonable rent or licence fees to a Member to lease or license premises from the Member.
- 5.3 Despite clause 5.1, Members may receive services from the Foundation and benefit from the Foundation's activities, in common with non-members.

Gift Fund

6 Establishment of Gift Fund

- 6.1 At all times while the Foundation is:
- (a) a cultural promotion charity in terms of s30-100 of the ITA Act; or
 - (b) endorsed as a DGR pursuant to the ITA Act,
- the Foundation must establish and maintain a gift fund solely for the promotion of the Objects of the Foundation and in accordance with the requirements of the ITA Act.
- 6.2 The name of the gift fund will be "Shoalhaven Arts Foundation Gift Fund" or such other name as determined by the Board from time to time.
- 6.3 The gift fund will be subject to the following requirements:
- (a) It will be established and utilised for the sole purpose of promoting the Objects of the Foundation.
 - (b) It will receive all gifts and deductible contributions of money or property credited to the Foundation for the sole purpose of promoting the Objects of the Foundation and must not receive any other money or property.
- 6.4 The Board may establish rules for the operation of the gift fund and at any time vary, modify, revoke or replace those rules in whole or in part at the Board's absolute discretion.

7 Winding Up of Gift Fund

- 7.1 Upon whichever is the earlier of:
- (a) the winding up or dissolution of the Foundation;
 - (b) the winding up or dissolution of the gift fund; or
 - (c) the endorsement of the Foundation as a DGR is revoked,
- the surplus assets of the gift fund (if any) remaining after the payment of liabilities attributable to it must be applied in accordance with clause 56 as if the Foundation has been wound up or dissolved.

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Membership

8 Identity of Members

8.1 The Members of the Foundation are:

- (a) the Founding Member, as named with its consent as a proposed Member in the Foundation's application for registration; and
- (b) each other person that becomes a Member of the Foundation in accordance with clause 10.

9 Eligibility for membership

9.1 A person is only eligible to become a Member if that person:

- (a) is committed to, and supports, the purposes and Objects of the Foundation set out in clause 2;
- (b) agrees to be bound by this Constitution;
- (c) properly completes and submits a membership application in a form the Board approves for consideration by the Founding Member;
- (d) pays any membership fee as the Board determines; and
- (e) satisfies any other membership criteria the Board determines.

10 Admission as a Member

- 10.1 If a person is eligible to become a Member under clause 9, the Founding Member may, in its sole discretion and without giving reasons agree to that person becoming a Member or decline to admit that person as a Member, and the Board will be bound by the decision of the Founding Member.
- 10.2 If the Founding Member agrees to a person becoming a Member, the Secretary must inform that person in writing and enter that person as a Member in the Foundation's register of Members, and that person becomes a Member when they are entered in the register.
- 10.3 If the Founding Member declines to admit a person as a Member, the Secretary must inform the person in writing that they have not be accepted for admission and the Secretary is not required to give reasons.

11 No transfer of membership

- 11.1 A Member cannot transfer their membership, or any rights, privileges or obligations of membership, to any other person.
- 11.2 All such rights, privileges and obligations (subject to clause 4) automatically cease upon cessation of membership.

12 No interest in Foundation property

- 12.1 No Member has, by virtue of membership, any right, title or interest in or to, or claim upon, any property or assets of the Foundation.

13 Member rights

- 13.1 Each Member has the right to receive notice of, and attend, each meeting of Member and to vote on each resolution of Members.

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14 Members register

- 14.1 The Foundation must maintain a register of current and former Members in accordance with the Corporations Act and any other applicable laws.
- 14.2 Without limiting clause 14.1, the register of Members must include, for each current and former Member, that Members' name, address, email address (if any), date of admission as a Member and date of cessation as a Member (if applicable).
- 14.3 Each Member must provide to the Foundation the information about that Member referred to in clause 14.2 and any other information about that Member reasonably requested by the Foundation for inclusion in the register.
- 14.4 If any such information changes or becomes inaccurate or incorrect, the Member must notify the Foundation and provide the Foundation with the updated or corrected information within 28 days after that information changes or becomes inaccurate or incorrect.

15 Ceasing to be a Member

- 15.1 A person automatically ceases to be a Member if that person:
 - (a) dies;
 - (b) resigns as a Member by giving written notice to the Foundation;
 - (c) becomes bankrupt or insolvent;
 - (d) is wound up, dissolved or deregistered;
 - (e) fails to pay any membership fees the Board determines within two (2) months after that fee becomes due; or
 - (f) is expelled under clause 16.

16 Warning, suspension and expulsion of Members

- 16.1 Subject to this clause 16, if the Board or the Founding Member considers that a Member has:
 - (a) breached this Constitution; or
 - (b) done something that is harming, has harmed, or is reasonably likely to harm, the Foundation, its interests, or the furtherance of any of the purposes and Objects of the Foundation at clause 2,then the Founding Member may, by resolution direct the Board to:
 - (c) give that Member a written warning that the Member's rights may be suspended, or the Member may be expelled, if that Member continues to engage in the conduct;
 - (d) suspend the Member's rights as a Member for a maximum period of 6 months; or
 - (e) expel the Member.
- 16.2 At least 14 days before the Founding Member passes a resolution in relation to a Member, the Board must notify that Member in writing of:
 - (a) the fact that the Founding Member is considering passing that resolution and the Founding Member's reasons for doing so;

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- (b) the date of the General Meeting at which that resolution will be considered and, if thought fit, passed; and
 - (c) the Member's right under clause 16.3 to provide a response or an explanation to the Founding Member.
- 16.3 A Member that is the subject of a proposed resolution has a right to provide a response or an explanation to the Founding Member as to why the Founding Member should not pass that resolution:
- (a) in writing given to the Foundation before the General Meeting considering that resolution; or
 - (b) in person at that General Meeting.
- 16.4 Before passing a resolution in relation to a Member, the Founding Member must consider in good faith any response or explanation which the Member has provided.
- 16.5 There will be no liability for any loss or injury suffered by a Member as a result of any decision made in good faith under this clause 16.

17 Categories of membership

- 17.1 As at the formation of the Foundation, there is only one class of membership, being ordinary Members. The Board must not change or determine the rights and obligations of ordinary Members without the consent of the Founding Member.
- 17.2 The Board may, with the consent of the Founding Member, create different categories of membership and determine the rights and obligations of those different categories.
- 17.3 If the Board creates a different category of membership and determines rights or obligations of that category with the consent of the Founding Member, those rights or obligations prevail over any right or obligation set out in this Constitution to the extent of any inconsistency.

General Meetings of Members

18 Calling a General Meeting

- 18.1 A meeting of Members (being a General Meeting) may be called:
 - (a) by Board resolution; or
 - (b) as otherwise provided in the Corporations Act.
- 18.2 Subject to this Constitution and the Corporations Act, the Board may change the venue for, postpone or cancel a General Meeting, but a General Meeting which is:
 - (a) not called by Board resolution; or
 - (b) called in accordance with a Members' requisition under section 249D of the Corporations Act,

may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.
- 18.3 If the Board changes the venue for, postpones or cancels a General Meeting, then a notice stating the reason for the change, postponement or cancellation must, subject to the Corporations Act, be given in any manner determined by the Board.

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19 Holding a General Meeting

- 19.1 The Foundation may hold a General Meeting:
- (a) at one or more physical venues;
 - (b) at one or more physical venues and using virtual meeting technology; or
 - (c) using virtual meeting technology only.
- 19.2 A General Meeting, called the Annual General Meeting, must be held at least once in every calendar year and may include (regardless of whether such items are included in a notice of General Meeting):
- (a) a review of the Foundation's activities;
 - (b) a review of the Foundation's finances;
 - (c) consideration of any auditor's report;
 - (d) the appointment of Directors; and
 - (e) the appointment and payment of the auditor.
- 19.3 Any documents required or permitted to be tabled at the General Meeting will be taken to have been tabled at the meeting if the document is given, or made available, to the persons entitled to attend the meeting (whether physically or using virtual meeting technology) before or during the meeting.
- 19.4 If:
- (a) before or during a General Meeting, there is a technical difficulty with any virtual meeting technology, or any other technology, used to hold the meeting; and
 - (b) the technical difficulty results in one or more Members or other persons not being able to participate in the meeting,
- then, subject to the Corporations Act and this Constitution, and without limiting the powers of the Chairperson of the meeting, the Chairperson may postpone or adjourn the meeting for such reasonable period as may be required to fix the technical difficulty or to such other time and location as the Chairperson decides.

20 Notice of a General Meeting

- 20.1 Written notice of a General Meeting must be given to:
- (a) each Member;
 - (b) each Director; and
 - (c) the auditor.
- 20.2 A notice of a General Meeting must comply with the content requirements for a notice of meeting of the Foundation's Members set out in the Corporations Act.
- 20.3 At least 21 days' notice must be given of a General Meeting unless the Corporations Act permits a shorter notice period for the meeting. In calculating the notice period for a General Meeting, the day on which the notice is given (or deemed or taken to be given) and the day scheduled for the meeting are both to be disregarded.

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20.4 Notice of a General Meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

- (a) remove an auditor;
- (b) remove a Director; or
- (c) appoint a Director in order to replace a Director who was removed.

21 Quorum at a General Meeting

21.1 A quorum for a General Meeting is:

- (1) one-half of the Members entitled to vote on a resolution at the meeting; and
- (2) the Founding Member.

21.2 No business may be transacted at a General Meeting, except the election of a Chairperson and the adjournment of the meeting, unless a quorum of Members is present when the meeting proceeds to business.

21.3 For the purposes of calculating a quorum, if:

- (a) a Member has appointed more than one proxy or Representative; and
 - (b) two or more of those proxies or Representatives attend the General Meeting,
- only one of those proxies or Representatives is counted.

21.4 If a quorum is not present within 30 minutes after the time appointed for the General Meeting:

- (a) where the meeting was called at the request of Members, the meeting must be dissolved; or
- (b) in any other case, the meeting stands adjourned:
 - (i) if the Chairperson is present at the meeting, to the day, time and place as the Chairperson decides;
 - (ii) if the Chairperson is not present at the meeting or does not decide, to the day, time and place as the Directors present decide; or
 - (iii) if the Directors present do not decide, to the same day in the next week at the same time and place,

and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

22 Chairperson of a General Meeting

22.1 The Chairperson of Directors or, in the absence of the Chairperson of Directors, the Deputy Chairperson of Directors is entitled, if present within 15 minutes after the time appointed for a General Meeting and willing to act, to preside as Chairperson at the meeting.

22.2 The Directors present may choose one of their number to preside as Chairperson at a General Meeting if, at the meeting:

- (a) there is no Chairperson or Deputy Chairperson of Directors present;
- (b) neither the Chairperson or Deputy Chairperson of Directors is present within 15 minutes after the time appointed for the meeting; or

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- (c) neither the Chairperson or Deputy Chairperson of Directors is willing to act as Chairperson of the meeting.

22.3 If the Directors do not choose a Chairperson under clause 22.2, the Members present must elect as Chairperson of the meeting another Director who is present and willing to act, or if no other Director willing to act is present at the meeting, a Member who is present and willing to act.

23 Conduct at a General Meeting

23.1 Subject to the Corporations Act:

- (a) the Chairperson of a General Meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting; and
- (b) the Chairperson may, at any time the Chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting:
- (i) impose a limit on the time that a person may speak on each motion or other item of business;
- (ii) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present; and
- (iii) adopt any procedures for casting or recording votes at the meeting, whether on a show of hands or on a poll,
- and any such decision binds all Member and is final.

23.2 The Chairperson may at any time during the General Meeting:

- (a) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting; and
- (b) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period or periods as the Chairperson decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the Chairperson otherwise allows,

and such rights of the Chairperson are exclusive and, unless the Chairperson requires otherwise, no vote may be taken or demanded by the Members present concerning any postponement, adjournment or suspension of proceedings.

23.3 Only unfinished business may be transacted at a meeting resumed after an adjournment.

24 Decisions at a General Meeting

- 24.1 Except where a resolution requires a special resolution as a matter of law or as required under this Constitution, questions arising at a General Meeting must be decided by a majority of votes cast by the Members present at the meeting. A decision made in this way is, for all purposes, a decision of the Members.
- 24.2 The Chairperson has no casting vote if the votes cast for and against a proposed resolution at the General Meeting are equal.
- 24.3 A resolution put to the vote of a General Meeting must be decided on a show of hands unless the resolution must be decided on a poll as a matter of law or a poll is demanded before the show of hands is taken, before the result of the show of hands is declared or immediately after the result of the show of hands is declared.

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- 24.4 A poll may be demanded by the Chairperson of the meeting or Members with at least 5% of the votes that may be cast on the resolution on a poll.
- 24.5 A demand for a poll does not prevent a General Meeting continuing to transact any business except the question on which the poll is demanded.
- 24.6 Unless a poll is duly demanded or required as a matter of law, a declaration by the Chairperson of a General Meeting that a resolution has on a show of hands been carried, carried unanimously, carried by a particular majority, or lost, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.
- 24.7 If a poll is duly demanded at a General Meeting, it must be taken in the way, and when, the Chairperson of the meeting directs. The result of the poll as declared by the Chairperson is the resolution of the meeting at which the poll was demanded.
- 24.8 The demand for a poll may be withdrawn with the Chairperson's consent.

25 Voting rights at a General Meeting

- 25.1 Each Member has one vote, whether on a show of hands or on a poll.
- 25.2 If a person present at a General Meeting represents personally or by proxy, attorney or Representative more than one Member, on a show of hands the person is entitled to one vote only even though that person represents more than one Member.
- 25.3 An objection to the validity of a vote tendered at a General Meeting must be:
- (a) raised before or immediately after the result of the vote is declared; and
 - (b) referred to the Chairperson of the meeting, whose decision is final.

26 Representatives

- 26.1 A Member may by written notice to the Secretary:
- (a) appoint natural persons to act as its Representatives in all matters connected with the Foundation as permitted by the Corporations Act; and
 - (b) remove a Representative.
- 26.2 A Representative is entitled to:
- (a) exercise at a General Meeting all the powers which the Member could exercise if it were a natural person;
 - (b) be appointed as a Director; and
 - (c) be counted towards a quorum on the basis that the Member is to be considered personally present at a General Meeting by its Representative.
- 26.3 The appointment of the Representative may set out restrictions on the Representative's powers.
- 26.4 Subject to this Constitution, each Member may attend and vote at a General Meeting:
- (a) in person or, where a Member is a body corporate, by its Representative;
 - (b) by proxy; or
 - (c) by attorney.

- 26.5 A proxy, attorney or Representative may, but need not, be a Member of the Foundation.

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- 26.6 An instrument appointing a proxy is valid if it is in accordance with the Corporations Act or in any form approved by the Board.
- 26.7 Unless the instrument or resolution appointing a proxy, attorney or Representative provides differently, the proxy, attorney or Representative has the same rights to speak, demand a poll, join in demanding a poll or act generally at the meeting as the Member would have had if the Member was present.
- 26.8 A proxy or attorney may not vote at a General Meeting or adjourned or postponed meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are received by the Foundation at least 48 hours, or such lesser time as specified by the Board and notified in the notice of meeting, (or in the case of an adjournment or postponement of a meeting, including an adjourned meeting, any lesser time that the Directors or the Chairperson of the meeting decides) before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable. A document is received by the Foundation under this clause when it is received in accordance with the Corporations Act, and to the extent permitted by the Corporations Act, if the document is produced or the transmission of the document is otherwise verified to the Foundation in the way specified in the notice of meeting.
- 26.9 The appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the General Meeting, but if the appointor votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointor's proxy or attorney on the resolution.
- 26.10 Unless written notice of the matter has been received at the Foundation's registered office (or at another place specified for lodging an appointment of a proxy or attorney for the meeting) at least 48 hours (or, in the case of an adjournment or postponement of a meeting, any lesser time that the Directors or the Chairperson of the meeting decide) before the time for holding a meeting, adjourned meeting or poll, a vote cast by a proxy or attorney is valid even if, before the vote is cast, the Member revokes the appointment of the proxy or attorney or revokes the authority under which a third party appointed the proxy or attorney.
- 26.11 The Chairperson of a meeting may require a person acting as a proxy, attorney or Representative to establish to the Chairperson's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy the requirement, the Chairperson may exclude the person from attending or voting at the meeting.

27 Written resolution of Members

- 27.1 A resolution of Members (**Written Resolution**) may be passed without a meeting of Members being called or held, only in accordance with this clause 27.
- 27.2 To pass a Written Resolution:
- (a) the Board must provide written notice to each Member and the auditor that the Written Resolution is proposed to be put to Members; and
 - (b) each Member must agree to the Written Resolution by:
 - (i) signing a document which sets out the Written Resolution and states that the Member is in favour of that Written Resolution (for which purposes Members may sign one or more separate documents, provided that the wording is identical in each document); or
 - (ii) indicating the Member's agreement to the Written Resolution in writing (including by email) in another way acceptable to the Board.
- 27.3 A Written Resolution is passed when the last Member agrees to that Written Resolution.
- 27.4 A Written Resolution cannot be passed:

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- (a) to remove an auditor;
- (b) to appoint or remove a Director; or
- (c) in any case where the Corporations Act prohibits the passing of a resolution without holding a meeting of Members.

Board of Directors and Board Meetings

28 Board composition

- (a) The Board must have not less than 3 Directors and not more than 7 Directors.
- 28.2 The Board will comprise:
- (a) not more than 3 Member Directors; and
 - (b) Non-Member Directors.
- 28.3 Directors are not entitled to appoint alternate Directors.

29 Initial Board composition and terms of office

- 29.1 At the General Meeting at which this Constitution is adopted by the Foundation, the Founding Member must pass a resolution to appoint 3 Member Directors to the Board.
- 29.2 As soon as possible after the General Meeting at which this Constitution is adopted by the Foundation and prior to the Foundation carrying out any of its Objects, the Founding Member will appoint at least 2 Non-Member Directors to the Board.
- 29.3 After serving their initial term, the Directors will be eligible for reappointment for further terms.

30 Eligibility to be appointed as a Director

- 30.1 In addition to the other requirements set out in this clause 30, the Member Directors must be either an employee of the Founding Member or members of the Governing Body of the Founding Member.
- 30.2 An individual may only be appointed as a Director if that individual:
- (a) is at least 18 years old;
 - (b) gives the Foundation their signed consent to act as a Director of the Foundation;
 - (c) is not ineligible to be a Director under the Corporations Act or the ACNC Act (including the standards specified in regulations made under the ACNC Act);
 - (d) possesses the skills, knowledge and experience required from time to time and as determined by the Board to fulfil the purposes and Objects of the Foundation set out in clause 2 and to carry out all other necessary tasks that are crucial to the management of the Foundation; and
 - (e) is not an employee of the Foundation.
- 30.3 The criteria for clause 30.2(d) will be determined by the Board and approved by the Founding Member from time to time by way of a skills, knowledge and experience matrix, which will include:

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- (a) governance skills (that is, skills directly relevant to performing the Board's key functions) including the ability to think strategically;
 - (b) relevant industry and professional skills; and
 - (c) personal attributes or qualities that are generally considered desirable to be an effective Director.
- 30.4 In addition, the Board as a whole should also strive to encompass diversity in aspects such as gender, age, social background and different perspectives, including of Indigenous peoples, relative to the skills and attributes needed by the Foundation.

31 Appointment of Directors

- 31.1 Subject to clauses 28 to 30, the Founding Member may appoint an individual to be a Member Director or Non-Member Director by resolution passed at a General Meeting, either as an addition to the existing Directors or to fill a casual vacancy.:

32 Duration

- 32.1 Subject to clauses 33 and 35, each Member Director will hold office for the following terms:
- (a) In the case of a Member Director who is an employee of the Founding Member, for a term of 3 years from the date of appointment with such Member Director being eligible for reappointment for subsequent terms.
 - (b) In the case of a Member Director who is a member of the Governing Body of the Founding Member, for a term up to the commencement of the Caretaker Period prior to the next local government election, at which time the Member Director will automatically be removed from office.
- 32.2 A Member Director who was automatically removed from office pursuant to clause 32.1(b), will be eligible for reappointment if re-elected as a member of the Governing Body of the Founding Member, in which case the reappointed Member Director will hold office up to the commencement of the next Caretaker Period.
- 32.3 Each Non-Member Director will hold office for 3 years from the date of appointment and will be eligible for reappointment for subsequent terms.
- 32.4 The maximum continuous period for which a person may hold office as a Director is 9 years, which does not include any period of a person's appointment to fill a casual vacancy.
- 32.5 A person who has held office as a Director for the maximum continuous period is eligible for reappointment after a period 2 years from the date that the person last held office as a Director.

33 Removal of Director

- 33.1 The Founding Member may remove any Director before the end of the Director's period of office and the resulting vacancy will be treated as a casual vacancy.

34 Casual vacancies

- 34.1 If a Non-Member Director vacates office, the Founding Member may appoint any eligible person as a Non-Member Director to fill a casual vacancy on the Board.
- 34.2 If a Member Director vacates office, the Founding Member may appoint as a Member Director any employee of the Founding Member or member of the Governing Body of the Founding Member to fill a casual vacancy on the Board.

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34.3 A Director appointed to fill a casual vacancy will hold office for the balance of the period for which the Director, whose membership of the Board became vacant, was appointed.

34.4 The Board may act even if there are vacancies on the Board.

35 Vacating office

35.1 In addition to the circumstances prescribed by the Corporations Act, this Constitution or the terms of a Director's appointment, the office of a Director becomes vacant (unless the Board resolves otherwise) if the Director:

- (a) dies;
- (b) is ineligible to be a Director of the Foundation under the Corporations Act or the ACNC Act;
- (c) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (d) becomes bankrupt or insolvent or makes any arrangement or composition with their creditors generally;
- (e) is convicted on indictment of an offence;
- (f) is absent from 3 consecutive Board Meetings without leave of absence from the Board;
- (g) resigns by written notice to the Foundation; or
- (h) is removed pursuant to this Constitution.

36 Remuneration

36.1 Subject to clause 36.2, the Foundation must not pay any fees or remuneration to a Director for acting as a Director.

36.2 Notwithstanding clause 36.1:

- (a) a Director is entitled to be paid out of pocket expenses properly and reasonably incurred by the Director in the performance of any duty as Director of the Foundation where the payments do not exceed an amount previously approved by the Board;
- (b) a Director may be paid reasonable remuneration for:
 - (i) acting as an officer (other than a Director) or employee of the Foundation; or
 - (ii) rendering professional or other services to the Foundation in a capacity other than officer or employee,

provided that (in each case) the Board has approved the payment.

36.3 Clause 36.1 does not limit the Foundation's obligations or rights under clause 52.

37 Directors' interests

37.1 A Director must disclose the nature and extent of any perceived or actual material conflict of interest (whether pecuniary or non-pecuniary) in a matter that is being considered at a Board Meeting or that otherwise relates to the affairs of the Foundation:

- (a) to the other Directors; or

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(b) if all Directors have the same conflict of interest, to the Members:

- (i) at the next General Meeting; or
- (ii) at an earlier time if reasonable to do so,

and that disclosure must be recorded in the minutes of the meeting.

- 37.2 A Director is not disqualified from contracting or entering into an arrangement with the Foundation as vendor, purchaser or in another capacity, merely because the Director holds office as a Director or because of the fiduciary obligations arising from that office.
- 37.3 A contract or arrangement entered into by or on behalf of the Foundation in which a Director is in any way interested is not invalid or voidable merely because the Director holds office as a Director or because of the fiduciary obligations arising from that office.
- 37.4 A Director who is interested in any arrangement involving the Foundation is not liable to account to the Foundation for any profit realised under the arrangement merely because the Director holds office as a Director or because of the fiduciary obligations arising from that office, provided that the Director complies with any disclosure requirements applicable to the Director under the Corporations Act and governance standard 5 specified in the regulations made under the ACNC Act regarding that interest.
- 37.5 A Director who has an interest in a matter that is being considered at a Board Meeting may, despite that interest, vote, be present and be counted in a quorum at the meeting, unless that is prohibited by the Corporations Act or the ACNC Act. No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a Director fails to comply with that prohibition.
- 37.6 Directors should avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from the Director or from the Foundation, through the provision of gifts, benefits or hospitality of any kind to the Director or someone personally associated with them. The receipt of a benefit must be reported as if it gave rise to a conflict of interest.

38 Powers and duties of Directors

- 38.1 The Directors are responsible for managing the business, activities and affairs of the Foundation and, in addition to the powers and authorities conferred on the Directors and the Foundation under this Constitution, the Directors may exercise all powers and do all things that are within the Foundation's power and are not expressly required by the Corporations Act or this Constitution to be exercised by the Foundation in a General Meeting.
- 38.2 The Board may:
- (a) appoint or employ any person as an officer, agent or attorney of the Foundation for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for any period and on any other conditions the Board decides;
 - (b) authorise an officer, agent or attorney to delegate any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (c) remove or dismiss any officer, agent or attorney of the Foundation at any time, with or without cause.
- 38.3 A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the Directors decide.
- 38.4 Nothing in clauses 38.2 and 38.3 limits the general nature of rule 38.1.

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- 38.5 The Directors must comply with their duties as Directors under applicable law, including the duties described in governance standard 5 of the regulations made under the ACNC Act, which are:
- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Foundation;
 - (b) to act in good faith in the best interests of the company, and to further the purposes and Objects of the Foundation set out in clause 2;
 - (c) not to misuse their position as a Director;
 - (d) not to misuse information obtained in the performance of their duties as a Director;
 - (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 37.1;
 - (f) to ensure that the financial affairs of the Foundation are managed in a responsible manner; and
 - (g) not to allow the Foundation to operate while insolvent.

39 Board Meetings

- 39.1 Subject to clause 39.2, the Directors may meet together to attend to business, and adjourn and otherwise regulate their meetings, as they decide.
- 39.2 The Directors must:
- (a) meet at least 4 times per calendar year; and
 - (b) not meet during the period from the commencement of the Caretaker Period prior to a local government election until the Founding Member has exercised its powers under this Constitution with respect to any vacated Member Director office.
- 39.3 The contemporaneous linking together by telephone or other electronic means of a sufficient number of Directors to constitute a quorum, constitutes a meeting of the Board. All the provisions in this Constitution relating to meetings of the Board apply, as far as they can and with any necessary changes, to meetings of the Board by telephone or other electronic means.
- 39.4 A meeting by telephone or other electronic means is to be taken to be held at the place where the Chairperson of the meeting is or at such other place the Chairperson of the meeting decides on, as long as at least one of the Directors involved was at that place for the duration of the meeting.
- 39.5 A Director taking part in a meeting by telephone or other electronic means is to be taken to:
- (a) be present in person at the meeting; and
 - (b) unless the Director has expressly stated otherwise, have consented to the holding of the meeting by telephone or other electronic means (as applicable).
- 39.6 If, before or during the meeting, any technical difficulty occurs where one or more Directors cease to participate, the Chairperson may:
- (a) adjourn the meeting until the difficulty is remedied; or
 - (b) where a quorum of Directors remains present, continue with the meeting.

40 Calling Board Meetings

- 40.1 A Director may, whenever the Director thinks fit, call a Board Meeting.

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40.2 A Secretary must, if requested by a Director, call a Board Meeting.

41 Notice of Board Meetings

41.1 Notice of a Board Meeting must be given to each Director, except a Director on leave of absence approved by the Board.

41.2 A notice of a Board Meeting:

- (a) must specify the time, date and place of the meeting;
- (b) must state the nature of the business to be transacted at the meeting;
- (c) must be given a reasonable time before the meeting (unless the matters to be considered at the meeting are urgent, in which case notice may, if necessary, be given immediately before the meeting); and
- (d) may be given in person or by post, telephone, email or other electronic means.

41.3 A Director may waive notice of a Board Meeting by giving notice to that effect in person or by post, telephone, email or other electronic means.

41.4 Failure to give a Director notice of a Board Meeting, or non-receipt by a Director of such a notice, does not invalidate anything done or any resolution passed at the meeting if:

- (a) the failure or non-receipt occurred by accident or inadvertent error; or
- (b) the Director attended the meeting, or waived notice of the meeting (whether before or after the meeting) under clause 41.3.

42 Quorum at Board Meetings

42.1 No business may be transacted at a Board Meeting unless a quorum of Directors is present at the time the business is dealt with.

42.2 A quorum of Directors will consist of:

- (a) at least 50% of the appointed Directors;
- (b) a minimum of 1 Member Director; and
- (c) a number of Non-Member Directors present and with Voting Entitlements that exceed the Voting Entitlements of the present Member Directors under paragraph (b).

42.3 If there is a vacancy in the office of a Director, the remaining Directors may act. However, if the number of remaining Directors is not sufficient to constitute a quorum, the remaining Directors may act only:

- (a) in an emergency;
- (b) if it is necessary to ensure the continued operation of the Foundation until a quorum can be constituted; or
- (c) to call a General Meeting of the Foundation to deal with the matter, including to increase the number of Directors to a number sufficient to constitute a quorum.

43 Chairperson and Deputy Chairperson of Directors

43.1 The Board must elect a Director to the office of Chairperson of Directors and may elect one or more Directors to the office of Deputy Chairperson of Directors. The Board may decide the period

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for which those offices will be held, but which must not exceed a continuous period of 6 years. If a Director holds such office for the maximum continuous period, that Director may only be re-elected after a period of one year from when they ceased office.

- 43.2 The Chairperson of Directors is entitled (if present within 10 minutes after the time appointed for the meeting and willing to act) to preside as Chairperson at a Board Meeting.

- 43.3 If at a Board Meeting:

- (a) there is no Chairperson of Directors;
- (b) the Chairperson of Directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
- (c) the Chairperson of Directors is present within that time but is not willing or declines to act as Chairperson of the meeting,

the Deputy Chairperson (if any), if then present and willing to act, is entitled to be Chairperson of the meeting or if the Deputy Chairperson is not present or is unwilling or declines to act as Chairperson of the meeting, the Directors present must elect one of themselves to chair the meeting.

- 43.4 The Chairperson or Deputy Chairperson, if any, may be removed from that office by a resolution of the Board.

44 Decisions of Directors

- 44.1 The Directors, at a Board Meeting at which a quorum is present, may exercise any authorities, powers and discretions vested in or exercisable by the Directors or the Board under this Constitution or the Corporations Act.
- 44.2 Questions arising at a Board Meeting must be decided by a majority of votes cast by the Directors present and entitled to vote on the matter in accordance with their Voting Entitlements.
- 44.3 The Chairperson has no casting vote if the votes cast for and against a proposed resolution at a Board Meeting are equal.

45 Written Resolutions of Directors

- 45.1 If:

- (a) all of the Directors (other than any Director on leave of absence approved by the Board, any Director who disqualifies themselves from considering the resolution in question, and any Director who would be prohibited by the Corporations Act or the ACNC Act from voting on the resolution in question) sign or consent to a written resolution; and
- (b) the Directors who sign or consent to the resolution would have constituted a quorum at a Board Meeting held to consider that resolution,

then the resolution is taken to have been passed by a Board Meeting when the last Director signs or consents to the resolution.

- 45.2 A Director may consent to a resolution by:

- (a) signing the document containing the resolution (or a copy of that document);
- (b) giving to the Foundation at its registered office a written notice (including by email or other electronic means) addressed to the Secretary or to the Chairperson of Directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or

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- (c) telephoning the Secretary or the Chairperson of Directors and signifying assent to the resolution and clearly identifying its terms.

46 Committees of Directors

- 46.1 The Directors may, by Board resolution and to the extent permitted by law, delegate any of their powers to a committee of Directors.
- 46.2 A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board.
- 46.3 The provisions of this Constitution applying to meetings and resolutions of the Board apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of Directors, except to the extent they are contrary to any direction given under clause 46.2.
- 46.4 The Directors may at any time revoke any delegation of power to a committee of Directors.

47 Delegations

- 47.1 The Directors may, by Board resolution and to the extent permitted by law, delegate any of their powers to a Director or any other person or persons.
- 47.2 A Director or other person to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board.
- 47.3 The Directors may at any time revoke any delegation of power to a Director or any other person or persons.

48 Validity of acts

- 48.1 An act done by a Board Meeting, a committee of Directors or an individual acting as a Director is not invalidated by:
- (a) a defect in the appointment of an individual as a Director or a member of a committee; or
- (b) an individual so appointed being disqualified or not being entitled to vote,
- if that circumstance was not known by the Board, committee or individual when the act was done.

General and Administrative Matters

49 Secretary

- 49.1 The Board must appoint at least one Secretary who ordinarily resides in Australia, and may appoint additional secretaries.
- 49.2 The Board may determine the period for which, and conditions on which (including as to remuneration, if any), an individual is appointed as Secretary.
- 49.3 Subject to any contract between the Foundation and the relevant Secretary, the Board may remove any Secretary at any time, with or without cause.

50 Minutes and records

- 50.1 The Foundation must record, approve and keep minutes of meetings and resolutions of Members, the Board and any committees as required by law.

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- 50.2 The Foundation must maintain all financial and other records as required by law.

51 Accounts and audit

- 51.1 The Foundation's financial year is from 1 July to 30 June, unless the Directors pass a resolution to change the financial year.
- 51.2 The Foundation must keep separate accounts to meet the requirements of both the LG Act and the Corporations Act.
- 51.3 Each financial year, the Foundation must appoint an auditor to prepare audited financial reports on the business operations and accounts of the Foundation and must also publish and submit the audited financial reports to the Founding Member as part of its annual report to Council.
- 51.4 The Foundation, when compiling each annual report, must disaggregate all income derived from grants, donations, and philanthropic support and provide a copy to the New South Wales Office of Local Government.
- 51.5 The Foundation must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 51.6 The Foundation must also keep written records that correctly record its operations.
- 51.7 The Foundation must retain its records in accordance with requirements of *State Records Act 1998* (NSW) and associated general authorities.
- 51.8 The Directors must take reasonable steps to ensure that the Foundation's records are kept safe.

52 Inspection of records

- 52.1 The Foundation must give Members access to the Foundation's registers, minutes of General Meetings and Members resolutions to the extent required by law.
- 52.2 The Board may, in its sole discretion, authorise a Member or Members to inspect other Foundation records on such terms and conditions the Board determines.
- 52.3 The Founding Member is entitled to obtain immediate right of access to information contained in any record of the Foundation. For the purpose of this clause, 'record' has the same meaning as in the *Government Information (Public Access) Act 2009* (NSW).
- 52.4 The Foundation must at all reasonable times make its financial records available in writing for the inspection by any Director and any other person authorised or permitted by the Corporations Act to inspect such records.
- 52.5 If the Board agrees, the Foundation must give a Director or former Director access to:
- (1) certain documents, including documents provided for or available to the Directors; and
 - (2) any other documents referred to in those documents.

53 By-Laws

- 53.1 The Board may approve by-laws to:
- (a) give effect to this Constitution; or
 - (b) regulate the Foundation's activities, operations, affairs, officers or Members,

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and may repeal or amend such by-laws, provided that those by-laws and any amendments are not inconsistent with this Constitution and are approved by the Founding Member.

- 53.2 Members and Directors must comply with any by-laws approved or amended under this clause 53.1 as if those by-laws were part of this Constitution.

54 Indemnity and insurance

- 54.1 Clauses 54.2 to 54.4 apply:

- (a) to each person who is, or has been, a Director or Secretary of the Foundation; and
- (b) to such other officers or former officers of the Foundation as the Board in each case determines,

(each an **Officer** for the purposes of this clause 54).

- 54.2 The Foundation must indemnify each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses (**Liabilities**) incurred by the Officer as an officer of the Foundation.

- 54.3 The indemnity in clause 54.2:

- (a) is enforceable without the Officer having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the Foundation; and
- (c) applies to Liabilities incurred both before and after the adoption of this Constitution.

- 54.4 The Foundation may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Officer against any Liability incurred by the Officer as an officer of the Foundation.

- 54.5 The Foundation must, at all times, take out and maintain adequate insurance policies to minimise the risks in the areas of property, public liability, workers compensation, professional indemnity and directors' and officers' insurance.

55 Changes to the Constitution

- 55.1 This Constitution cannot be amended or repealed unless:

- (a) approved by a special resolution of the Members; and
- (b) consent is given by the Founding Member; and
- (c) consent is sought and received in writing from the Minister for Local Government in New South Wales.

- 55.2 This Constitution must not be amended if the amendment would cause the Foundation to no longer be:

- (a) a registered charity or otherwise ceasing to be entitled to registration under the ACNC Act;
- (b) eligible for endorsement as a DGR under the ITA Act; or

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- (c) capable of carrying out the purposes and Objects of the Foundation set out in clause 2.

56 Winding Up

- 56.1 If the Foundation is wound up or dissolved and the assets of the Foundation are more than sufficient to pay:
- (a) all the debts and liabilities of the Foundation; and
 - (b) the costs, charges and expenses of the winding up,
- those surplus assets must be dealt with in accordance with this clause 56.
- 56.2 The Foundation:
- (a) must not distribute any surplus assets to a Member or former Member of the Foundation, unless that Member or former Member is an Eligible Entity; and
 - (b) must, subject to the Corporations Act, any other applicable law, or any court order, distribute any surplus assets only to one or more Eligible Entity.
- 56.3 If the Foundation's endorsement as a DGR is revoked for any reason (whether or not the Foundation is to be wound up), the following surplus assets of the Foundation must be transferred to one or more Eligible Entity:
- (a) Gifts of money or property for the Objects of the Foundation.
 - (b) Contributions made in relation to a fund-raising event held for the Objects of the Foundation.
 - (c) Money received by the Foundation because of such gifts and contributions.
- 56.4 In clause 56.3, "contributions" and "fund-raising event" have the same meaning as in Division 30 of the ITA Act.
- 56.5 The decision as to which one or more Eligible Entity is to receive surplus assets pursuant to this clause 56 must be made:
- (a) by a special resolution of the Members upon or before the Foundation's winding up or dissolution; and
 - (b) with the consent of the Founding Member; or
 - (c) if required, by a court of competent jurisdiction.

57 Execution of documents

- 57.1 Without limiting the ways in which the Foundation can execute documents under the Corporations Act, the Foundation may, subject to this Constitution, execute a document if the document is signed by:
- (a) 2 Directors; or
 - (b) a Director and a Secretary; or
 - (c) any other person or persons authorised by the Directors for that purpose.

58 Notices

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- 58.1 Without limiting any other way in which notice may be given to a Member under the Corporations Act, the Foundation may give a notice to a Member by:
- (a) delivering it personally to the Member;
 - (b) sending it by prepaid post to the Member's address in the register of Members (or any other address the Member supplies to the Foundation for giving notices); or
 - (c) sending it by email or other electronic means (including providing an internet link to any document or attachment) to the electronic address in the register of Members (or any other electronic address the Member supplies to the Foundation for giving notices).
- 58.2 Without limiting any other way in which notice may be given to a Director under the Corporations Act, the Foundation may give a notice to a Director by:
- (a) delivering it personally;
 - (b) sending it by prepaid post to their usual residential or business address (or any other address they have supplied to the Foundation for giving notices); or
 - (c) sending it email or other electronic means to the electronic address they have supplied to the Foundation for giving notices.
- 58.3 A notice:
- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered;
 - (b) sent by post, is taken to be given on the third day after it is posted; and
 - (c) sent by email or other electronic method, is taken to be given on the day of transmission if a business day, otherwise on the next business day unless the sender receives an automated message that the email has not been delivered.
- 58.4 Where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

59 Jurisdiction

- 59.1 Each Member submits to the non-exclusive jurisdiction of:
- (a) the Supreme Court of New South Wales;
 - (b) the Federal Court of Australia; and
 - (c) the courts which may hear appeals from those courts.

60 Prohibition and enforceability

- 60.1 Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- 60.2 Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

61 Definitions

- 61.1 In this Constitution, capitalised terms have the following meanings:

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- (a) **ACNC** means the Australian Charities and Not-for-profits Commission.
- (b) **ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and any regulations made under that Act.
- (c) **Board** means all or some of the Directors acting as a board.
- (d) **Caretaker Period** has the same meaning as in s393B(3) of the LG Act.
- (e) **Chairperson** means the Director holding the office of chairperson in accordance with clause 43.1.
- (f) **Constitution** means the constitution of the Foundation as amended from time to time.
- (g) **Corporations Act** means the *Corporations Act 2001* (Cth).
- (h) **Council** means Shoalhaven City Council (ABN 59 855 182 344).
- (i) **Deputy Chairperson** means the Director(s) holding the office of deputy chairperson in accordance with clause 43.1.
- (j) **DGR** means a deductible gift recipient under the ITA Act.
- (k) **Director** means an individual appointed to the Board in accordance with this Constitution.
- (l) **Eligible Entity** means a fund, authority or institution in Australia that:
 - (i) has objects or purposes which are the same as or similar to, or which include, the Objects of the Foundation and that agrees to use any distribution or transfer of funds provided by the Foundation to further such objects or purposes;
 - (ii) is registered as a charity with the ACNC;
 - (iii) has a Constitution which prohibits distributions, and does not distribute, its income, property and assets to its members (either while it is operating or upon winding up) to at least the same extent as is imposed on the Foundation; and
 - (iv) is endorsed as a DGR to which income tax-deductible gifts can be made.
- (m) **Foundation** means Shoalhaven Arts Foundation Ltd.
- (n) **Founding Member** means the Council.
- (o) **General Meeting** means a duly constituted meeting of the Members and includes the Annual General Meeting.
- (p) **Governing Body** means the councillors of the Council from time to time.
- (q) **ITA Act** means the *Income Tax Assessment Act 1997* (Cth).
- (r) **LG Act** means the *Local Government Act 1993* (NSW).
- (s) **Member** means a member of the Foundation in accordance with clause 8.
- (t) **Member Director** means a Director who is an employee of the Founding Member or members of the Governing Body of the Founding Member and who is appointed by the Founding Member in accordance with this Constitution.
- (u) **Non-Member Director** means a Director who is not a Member Director and who is appointed by the Founding Member in accordance with this Constitution..

Shoalhaven Arts Foundation Ltd – Constitution

- (v) **Objects** has the meaning ascribed to it in clause 2.2.
- (w) **Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Foundation.
- (x) **Shoalhaven** means the local government area of the City of Shoalhaven in New South Wales, Australia.
- (y) **Voting Entitlements** means:
 - (i) for Member Directors, 1 vote per Member Director; and
 - (ii) for Non-Member Directors, 2 votes per Non-Member Director.

62 Interpretation

- 62.1 The following rules of interpretation apply unless any contrary intention appears in this Constitution, or the context requires otherwise:
- (a) a word (other than a word defined in clause 61.1) that is defined by the Corporations Act or the ACNC Act has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Corporations Act or the ACNC Act;
 - (b) reference to a “business day” is a day other than a Saturday, Sunday or public holiday and on which banks are open for banking business generally in Sydney, New South Wales, Australia;
 - (c) reference to legislation (including subordinate legislation) is to that legislation as amended, modified, re-enacted or replaced, and includes any subordinate legislation (including regulations) issued under it;
 - (d) a reference to a clause or sub-clause is to a clause or sub-clause of this Constitution;
 - (e) a reference to a rule is to a rule of or to this Constitution;
 - (f) a reference in this Constitution to a Member present at a General Meeting is a reference to a Member present in person or by proxy, attorney or Representative;
 - (g) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning;
 - (h) a word that suggests one gender includes the other genders;
 - (i) reference to a person includes an individual and any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (j) reference to something being written or in writing includes that thing being represented or reproduced in any mode in a visible form;
 - (k) if an example is given of any thing (including a right, obligation or concept), the example does not limit the scope of that thing. Similarly, “including”, “includes”, “for example” and similar words or expressions are not words of limitation;
 - (l) the word “agreement” includes an undertaking or other binding arrangement or understanding whether or not in writing;
 - (m) use of “they”, “them” and “their” and similar terms apply equally to individuals if the context permits;
 - (n) singular includes plural and vice versa;

Shoalhaven Arts Foundation Ltd – Constitution

- (o) reference to anything (including a right, obligation or concept) includes each part of it;
 - (p) where a document is required to be signed by a person under this Constitution, the signature may be in electronic form; and
 - (q) headings are for convenience only and do not affect the interpretation of this Constitution.
-

CL24.230 - Attachment 1

ATTACHMENT 2 – SHOALHAVEN ARTS FOUNDATION LIMITED - KEY CHANGES TO CONSTITUTION

Marsdens Law Group has provided the following information in relation to the key changes proposed to the Constitution for the Shoalhaven Arts Foundation Limited:

1. PURPOSE AND OBJECTS (Clause 2 of Constitution)

Marsdens have taken the draft purpose and objects in the previous draft constitution and condensed them where possible and re-draft them so that they are acceptable to the relevant authorities that will consider them, namely the OLG, ACNC and ATO. The intent was also to broaden the objects so that the Foundation will have flexibility in pursuit of the objects. The charitable purpose and objects of the Foundation are outlined in clause 2 of the Constitution as follows:

Clause 2 (Charitable Purpose and Objects) of Shoalhaven Arts Foundation Limited Constitution	
Clause 2.1: The Foundation is a charitable institution established to promote cultural activities and arts within Shoalhaven.	
Clause 2.2: The principal Objects for which the Foundation is established are to promote, encourage, create, further and facilitate literature, music, performing arts, visual arts, craft, design, film, video, television, radio, community arts, moveable cultural heritage, arts and languages of Indigenous persons and other cultural and artistic activities within Shoalhaven by:	
(a)	assisting groups in the community to establish and become involved in arts based cultural activities;
(b)	supporting arts activities relevant to community groups;
(c)	providing opportunities for artists to interact with community groups;
(d)	promoting access and participation by groups in the community to arts based cultural activities;
(e)	providing opportunities for community groups to develop arts based cultural pursuits;
(f)	recognising outstanding contributions to the arts and cultural life of the community;
(g)	encouraging and supporting the development of artists;
(h)	presenting or exhibiting art, culture and moveable cultural heritage created or produced by others;
(i)	educating the public about cultural forms;
(j)	establishing programs to support the development, sustainability and preservation of the arts and cultural life in the community;
(k)	doing anything necessary or incidental to the promotion, or in connection with the promotion of, the Foundation and the carrying out of the Objects of the Foundation;
(l)	conducting fund-raising activities, and seeking government, community and private contributions, financial and other supports or benefits to further the Objects of the Foundation;

- (m) attracting and receiving contributions (financial and other property) from government, community and private contributories to further the Objects of the Foundation, including for specific and targeted programs established by the Foundation to support the development, sustainability and preservation of the arts and cultural life in the community;
- (n) entering into partnerships and affiliations with persons and organisations to further the Objects of the Foundation;
- (o) employing or retaining such employees, advisers or consultants, on a paid and unpaid basis, as appropriate, to assist the Foundation in carrying out the Objects of the Foundation; and
- (p) doing all other things necessary for, incidental to, desirable to, conducive to or connected with the pursuit of the Objects of the Foundation.

2. GIFT FUND AND REGISTER OF CULTURAL ORGANISATIONS (ROCO)

Marsdens have drawn to Council's attention that cultural organisations and their public fund previously had to be registered on the ROCO, which was administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. However, as of 1 January 2024, the ATO administers the DGR category for cultural organisations and assess eligibility for Deductible Gift Recipient (DGR) endorsement.

One of the major changes that came from this is that the requirement to operate a public fund was removed, instead requiring charities to establish and operate a gift fund to hold tax deductible contributions of money or property. Accordingly, Marsdens have ensured that the relevant clauses in the Constitution (including around winding up) are reflective of gift funds and not public funds.

3. SHOALHAVEN ARTS FOUNDATION MEMBERS

Under the Foundation's Constitution, Council will be the initial member, and will most likely remain the only member. However, provision has been made in the Constitution to allow for additional members at the discretion of Council.

Marsdens have advised that there are no issues with Council being the sole member of the Foundation, and this is considered important for the purposes of the section 358 application to the OLG. This will ultimately retain reserve powers of Council in the Foundation, notwithstanding that the management of the Foundation will rest with the Board, on which Council will not have a controlling interest.

It is important for Council to either be the sole member of the Foundation, control the admission of additional members and to otherwise consent to important matters as a member (if there is more than one member) as the member(s) of the Foundation essentially have the ultimate control of the Foundation as to important matters and matters which are specifically reserved for Council as Member.

While the operational decision making of the Foundation will be made by the Board that will be controlled by individuals independent of Council, members need to ultimately decide on important matters such as amendments to the Constitution, the appointment and removal of directors from the Board and the winding up of the Foundation. Therefore, to ensure that the Foundation continues to carry out activities that support Council's functions and operates

within the s358 framework, Council will need to either be the sole member of the Foundation, or alternatively must consent to or control certain decisions being made at the member level and these matters have been factored into the drafting of the Constitution.

4. SHOALHAVEN ARTS FOUNDATION BOARD OF DIRECTORS

Under the previous draft constitution presented to Council on 23 May 2023, the Foundation's Board would have a maximum of 9 Directors, one of whom will be a representative of the Founding Member, i.e., Council. It was expected that the Council's representative would be a Councillor. This could be a Councillor sitting on the standing committee, Arts Advisory Committee, which includes both Councillors (3), community representatives (7) and a designated Aboriginal local member.

Having regard to the OLG guideline requirements for the establishment of a corporation under section 358 of the Act, Marsdens have proposed the following revised inclusions in the Constitution (*refer to clauses 28 to 30, 31 of Constitution*):

- The Board must have a minimum of 3 Directors and a maximum of 7 Directors. A company limited by guarantee must have at least 3 Directors at law.
- Of the maximum 7 Directors, a maximum of 3 Directors must be Council employees or Councillors and the balance of the Directors may be persons appointed by Council (i.e. independent Directors) in a number to ensure that the independent Directors have majority control of the Board. Council will have complete control over who it decides to appoint as its Council representative(s) on the Board (whether it be employees of Council or Councillors).
- The terms of office of the Directors will be three (3) years.

Practically speaking, Council will need to have at least 3 Directors on the Board at the commencement of the Foundation so that Council can incorporate and commence operation of the Foundation. Once established, the Council will then need to appoint at least 2 independent Directors. Therefore, it is envisaged that the initial Board will be comprised of a minimum of 5 Directors.

However, this will be able to change over time and once the Foundation is established, the Council appointed Directors could be reduced to only 1 person (either by Council Directors resigning or not nominating themselves for reappointment), with the balance of the Directors being independent directors.

Independent Directors will be entitled to 2 votes each, with Council appointed directors being entitled to 1 vote each. Therefore, the initial Board (if comprised of 5 Directors) will have a total of 7 votes, 4 of which will be exercised by the independent Directors (therefore having a majority of votes of 4 compared to Council appointed Director's 3 votes).

It is considered that Council having Council appointed Directors on the Board will ensure that the Foundation has Council input as to direction and governance within the local government framework, a key requirement under the OLG's guideline *Formation of Corporations and Entities (Section 358) January 2022*.



ATTACHMENT 3

Section 358 Application

Formation of Shoalhaven Arts Foundation Limited

CL24.230 - Attachment 3

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Response 13 Risk Assessment and Risk Management Plan as per relevant AS/NZs (Guideline 10.3.4)	
Response 14 Statement of impacts on existing council staff (Guideline 10.3.5)	
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Attachments:

- Annexure A: Constitution (Under separate cover)
- Annexure B: Business Implementation Plan (Under separate cover)
- Annexure C: Risk Assessment and Risk Management Plan
- Annexure D: Required Documents Checklist

1. Executive Summary

In seeking the Minister for Local Government's consent to establish a new company, the Shoalhaven Arts Foundation Limited, Council sees an important and necessary mechanism to add value to, and greatly enhance, funding for arts and cultural activities within the Shoalhaven. The formation of the company will provide an opportunity to attract several community benefactors to donate significant funds towards the arts in the Shoalhaven, to the extent of which is not readily achievable by Council itself under its existing programs and activities.

With a population of around 110,000, the Shoalhaven is one of the most strategically placed regions in NSW. Under Council's Economic Development Strategy, key objectives include:

- Working with business, government and other partners to build a diverse local economy which provides employment opportunities for all.
- Advocate and promote the Shoalhaven to attract increased investment and new business.
- Promote and services the Shoalhaven as a diverse year-round tourist destination.

These objectives are reflected in Council's vision for the Shoalhaven and the key priorities and outcomes under the *Shoalhaven 2032 Community Strategic Plan* (CSP), through active participation in an inclusive arts community and the provision of cultural facilities, such as the Shoalhaven Regional Gallery and Shoalhaven Entertainment Centre.

- Provision of cultural facilities.
- Greater awareness, understanding and respect of local Aboriginal and Torres Strait Islander culture, heritage and histories.

The Council strives to meet community needs. In recent times we have received the NSW Top Tourism Towns awards for Berry, Huskisson, Ulladulla, and Kangaroo Valley. Council has a strong commitment towards arts and culture with key objectives to:

- Develop partnerships and services to support active participation in a vibrant and inclusive arts community
- Engage with local Aboriginal and Torres Strait Islander culture, heritage and histories with the inclusion of our Aboriginal community on projects and programs.

The proposed Arts Foundation will promote short and long-term investment in the arts through collaborative partnerships drawing on individuals, business and the government sector. The Foundation as a charitable organisation will have the capacity to raise significant funds through general fundraising and significant philanthropic donations, the latter being the cornerstone of its proposed operations.

Under the Foundation's objectives, it will be able to identify and cultivate prospective philanthropic donors and establish specific philanthropic donor programs in which financial assistance is provided to support the development and sustainability of arts and culture in the Shoalhaven. This will be the key to its success. The Foundation will play a key role in supporting the growth and development of all art forms across the Shoalhaven and will work collaboratively with the Government's South Coast Regional Arts Development Organisation, the Council's Shoalhaven Arts Advisory Committee, professional and community arts groups and individual artists.

The Council will meet the Foundation's establishment costs. Once fully operational, the model proposed will require the Foundation to operate independent of the Council for management and financial purposes including most decision-making processes. As the Founding Member, however, the Council will control of essential matters of the Foundation to ensure that it operates within the local government framework and have a non-controlling representation on the Foundation's Board so as to provide an oversight role to ensure that the Foundation operates in the best interests of the Shoalhaven community and within the local government framework.

The Council commends this proposal to form Shoalhaven Arts Foundation Limited for charitable purposes to the Minister for approval.

2. Introduction and Background

2.1 Introduction

Shoalhaven City Council welcomes the opportunity to make this application to seek the consent of the Minister for Local Government under section 358 of the *Local Government Act 1993* (the Act) to form the Shoalhaven Arts Foundation Ltd. The Foundation is to be a company *Limited by Guarantee* with not-for-profit charitable status to comply with the requirements of the Australian Charities and Not-for-profits Commission (ACNC) for registration as a charity and able to be registered with the Australian Tax Office for tax concessions (such as DGR) as reflected in its proposed Constitution attached as **Annexure A**.

The Foundation will support the growth and development of all art forms across the Shoalhaven region. It will work collaboratively with the NSW Government's South Coast Regional Arts Development Organisation, the Council's Shoalhaven Arts Board, professional and community arts groups and individual artists as well as donors, philanthropists, businesses and community members.

Under the Foundation's proposed constitution, the company will have the public charitable purpose of promoting, encouraging, creating, furthering and facilitating cultural and artistic activities in the Shoalhaven. The company will operate independent of Council for financial and most decision-making processes. As the *Founding Member* under the proposed constitution, the Council will have control of essential matters of the Foundation to ensure that it operates within the local government framework and will be represented on the Foundation's Board of Directors.

The Council has been mindful that appropriate governance policy and procedural documents must be put in place which replicate local government oversight mechanisms, such as through ethical conduct and the procurement of assets, goods and services. The Shoalhaven Arts Foundation, once established, will be self-financing and self-supporting in terms of its ongoing operations. This will be achieved through raising its own revenue and employing its own staff.

The Council's financial commitment towards the Arts Foundation project formally commenced in the 2022/23 and 2023/24 financial periods with funds being made available towards the appropriate research into an appropriate model, drafting the supporting constitution, undertaking community consultation and preparing Council's section 358 application to the Minister, through legal advice and specialist consultancy services.

Subject to receiving Ministerial consent, a further amount of \$100,00 has been earmarked by the Council in the 2024/25 budget to meet Shoalhaven Arts Foundation Limited's statutory formation and operational set-up. The Council will provide a reasonable level of in-kind support in establishing the Foundation's operations, including ensuring the appropriate governance framework is developed and put in place.

The Council expends in the order of \$10 million annually on community and cultural activities as reported in its annual financial statements. (Refer to Notes to the Financial Statements 30 June 2023 – B1 Functions and Activities)

Council has prepared a Business Implementation Plan 2024 – 2025 as **Annexure B** setting out the key steps to be taken for the formation of the Shoalhaven Arts Foundation Limited as a charitable company and outlining key actions in the provision and development of the Foundations strategic planning and governance arrangements.

2.2 Background

The proposal to form the Shoalhaven Arts Foundation (SAF) has been part of the Terms of Reference of the then Council's Shoalhaven Arts Board (now Arts Advisory Committee) since 2015. The Committee is a Section 355/377 Committee, being a strategic advisory body to advocate for and inform the Council's decision-making process. A key purpose of the Board is to contribute to, and develop, strategy and policy both for the Council and the Shoalhaven community. Membership of the Board comprises nine (9) community representatives and three (3) Councillors. The Board includes a representative of the Council's Aboriginal Advisory Committee and a representative from the Shoalhaven Economic and Growth Advocacy Group.

Coordinated through the Arts Advisory Committee, a working party was established in 2018 to consider the reasons for, and value of, a Shoalhaven Arts Foundation and what might be an appropriate working constitution. The working party reviewed similar foundations in New South Wales and Queensland and outlined a series of statements and reasons for an Arts Foundation.

In March 2020, March 2021 and August 2021 the Council passed resolutions effectively endorsing its support for the establishment of a SAF and considered budgetary and initial funding requirements. The new Council elected in December 2021 was provided with a briefing on the subject in March 2022, followed by a detailed report of 26 April 2022 seeking to progress SAF's establishment.

Following a Briefing to update the newly elected Councillors on the status of a Shoalhaven Arts Foundation, a report was presented to Council on 26 April 2022 to consider its establishment and to making 'seed' funding available to progress the project. The Council resolved (MIN22.302) as part of the 2022/23 budget preparations, to allocate funding for the establishment of the Shoalhaven Arts Foundation for three years. Funding amounts to be:

- \$150,000 in the 2022/23 Financial year
- \$150,000 in the 2023/24 Financial year
- \$100,000 in the 2024/25 Financial year

In late 2022, Council appointed J9 Consulting to facilitate the necessary work to establish the Shoalhaven Arts Foundation as an independent not-for-profit foundation, with suitable charitable status, including developing a legally binding constitution. A Project Control Group was also set up which includes a representative from the Shoalhaven Arts Board - the current Chair.

Briefings on the work of J9 Consulting were arranged with Councillors for 2 February 2023 and the Arts Board Members on 8 February 2023, specifically about the proposed Foundation's constitution and the need to appoint an interim board. As a consequence, several questions have been raised about the proposed model and operational arrangements.

J9 Consulting provided Council with a proposed model for the Shoalhaven Arts Foundation together with initial information on an appropriate constitution, based on an arts foundation already established (Sunshine Coast Arts Foundation). Based on this information, a report was provided to the Council on 22 May 2023, at which Council resolved to agree in-principle to the establishment of the Shoalhaven Arts Foundation as a legal entity being a not-for-profit company limited by guarantee with charitable status with the ability to operate and manage its affairs independent of Council.

At the meeting of 22 May 2023, the Council agreed to the draft constitution for the Foundation as presented with the report as the basis to establish the Foundation. To assist with the preparation of the Foundation's final constitution to form part of Council's section 358 application, Council sought and received legal advice from the specialist Local Government legal firm, Marsdens Law Group.













At its meeting of 22 July 2024, the Council approved this application being made to the Office of Local Government seeking Ministerial consent in accordance with section 358 of the Local Government Act 1993. In the sections of this application that follow, the Council has provided

information in addressing the key matters contained in the Office of Local Government's *Formation of Corporations and Entities (Section 358) Guideline January 2022 (Guideline)*.

3. SECTION 358 APPLICATION RESPONSES

Section 10.1 of the OLG Guideline Response: Council Self-Assessment Questionnaire

Form 1: Section 358 Application – Shoalhaven City Council Self-Assessment Questionnaire

QUESTION	YES	NO
Is there a viable option to provide the proposed functions or services without the need for a separate entity or corporation?		
Is Council intending to provide land or another asset to the new corporation or entity?		
Is there likely to be a risk of council losing money or asset/ land value if the corporation/entity fails to deliver the proposed services?		
Is there likely to be a transfer of risk from the newly formed entity to council?		
Is the proposed service/function of the new entity consistent with council's community responsibilities?		
Has the delivery of the service/function/project via a new corporation or entity been planned for as per council's IPR documentation?		
Is the application to form a new entity related to a Public Private Partnership (PPP) proposal?		
Does the formation of the new entity involve other agencies or councils?		
Is the success of the new entity reliant on external grant funding?		
Does the delivery of services or functions via the new entity require borrowings (please specify whether TCorp or bank borrowings will be used)?		
Will council ensure that the new entity conforms to the same reporting and governance mechanisms that councils are subject to under the Local Government Act?		
Will existing council staff be negatively impacted by the proposal?		

NOTE: Council's responses to the Self-Assessment are supported by the information provided in this Section 358 Application to the Minister for Local Government.

COUNCIL RESPONSE:

- **Section 10.1 of the OLG Guideline – Council resolution** (subject to adoption by Council)

Council **RESOLVED** on 29 July 2024 as follows:

1. Approves the formation of the Shoalhaven Arts Foundation Limited (**Foundation**) as a not-for-profit organisation, constituted as a public company limited by guarantee under the *Corporations Act 2001* (Cth), (and intended to be registered as a charitable institution with deductible gift recipient status) established to promote cultural activities and arts within Shoalhaven.

2. Confirm that the Foundation will operate independently from Council under the model proposed in that:
 - a. While Council will have representative directors on the Board of the Foundation, the Foundation's governance, management, strategic planning, oversight and decision-making will be at all times within the control of the Board of the Foundation which is intended to be controlled by individuals independent of Council;
 - b. the Directors will be indemnified by the Foundation from liability to the extent permitted by law and the Foundation will maintain insurance for Directors for any liability incurred by Directors; and
 - c. Council's liability as a member of the Foundation is limited to \$100.00 should the Foundation become insolvent or wound up.
3. Pursuant to section 358(1) of the *Local Government Act 1993*, Council makes an application to the Office of Local Government seeking the consent of the Minister for Local Government for the formation of such a Foundation as a company limited by guarantee under the proposed name of Shoalhaven Arts Foundation Limited in accordance with the application attached as Attachment A.
4. Subject to Ministerial consent, the Foundation will make an application to be a registered charity with the Australian Charities and Not-for-profits Commission (ACNC) and to apply for Deductible Gift Recipient (DGR) status with the Australian Taxation Office (ATO).
5. Council delegates to the Chief Executive Officer the authority to:
 - a. Finalise and submit to the Office of Local Government the application seeking the consent of the Minister for Local Government for the formation of the Foundation as a company limited by guarantee pursuant to *section 358 of the Local Government Act 1993*.
 - b. With Ministerial consent granted:
 - i) proceed to incorporate the Foundation as a company limited by guarantee and to undertake all necessary acts as part of the incorporation and formation of the Foundation; and
 - ii) proceed to make an application with the Australian Charities and Not-for-profits Commission (ACNC), to seek Deductible Gift Recipient (DGR) status and any other applicable tax concessions with the Australian Taxation Office (ATO) and to advise other relevant government bodies.
6. Advise the Arts Advisory Committee of the actions being taken by Council.
7. A further report be provided to Council on the outcome of the Minister's consideration of the application made in accordance with section 358 of the *Local Government Act 1993* and actions proposed to proceed with the formation of the Shoalhaven Arts Foundation Limited.

The above resolution signals Council's intent to deliver the project/service via a separate entity. As set out in this application, Council has determined what it expects delivery of the project/service via this mechanism will deliver to the community in terms of the public interest. Council had before it the material it submits to the Minister for assessment under Guideline and the above resolution of Council was passed on the basis of that material.

➤ **Section 10.1 of the OLG Guideline Response – Self-Assessment Questionnaire and Council Minutes and Report**

Section 358 Application – Shoalhaven City Shoalhaven City Council's Self-Assessment Questionnaire is attached as Form 1 above. The General Manager of Council has certified that this self-assessment questionnaire and other documents forming part of this application have been prepared in accordance with the Guideline.

Attached is a copy of the minutes showing that Council resolved to make an application to the Minister for approval pursuant to s358 and a copy of the relevant Council report for that meeting.

Section 10.2 of the OLG Guideline – Justification Documents

Response 1: Alternatives to section 358 entity or corporation such as direct management by Council, Council business unit, operating through a Council committee or a joint organisation. (Section 6 of Guideline)

COUNCIL RESPONSE:

Several alternative models have been considered including the Foundation being operated and managed through Council's existing functions or being established as a section 355 Committee. Such arrangements allow Council to delegate functions and maintain critical oversight but would not be expected to attract significant philanthropic donations, as community consultation has shown the desire for the Foundation to be independent and at arm's length from Council.

Therefore, while direct management of the project/services by Council has the benefit of complete oversight and control by Council and a s355 Committee has the benefit of not restricting membership to Councillors, the project/services would ultimately be unable to be delivered directly by Council or under s355 (due to it still being inextricably linked to Council) to attract the public donations to the extent that is expected to be attracted by the Foundation due to its structure and its perceived benefits to the public based on community consultation. The structure of the Foundation provides the greatest degree of independence from Council to meet the public interest, while at the same time ensuring that Council has control over the Foundation to the extent required to ensure that is subject to and complies with local government oversight mechanisms and framework.

Establishing the Arts Foundation as a private initiative within the Shoalhaven region has also been considered. This option has not been pursued as the start-up costs are significant. Advice received from Creative Partnerships Australia is that finding a donor or donors who are willing to invest in the start-up costs without immediate community benefit is not achievable. On this basis, such an approach was not considered appropriate for the Shoalhaven.

Through Council and the Shoalhaven Arts Board (now the Arts Advisory Committee), a working party was established in 2018 to consider a draft constitution and the reasons for, and value of, an arts foundation. To realise the ambition to establish an arts foundation for the Shoalhaven, it was considered there would be significant benefits to the region of having a strong and supported arts scene. As reported to Council on 26 April 2022, the working party reviewed similar foundations in New South Wales and Queensland and outlined a series of statements and reasons for the proposed independent arts foundation. The models that had been reviewed ranged from:

There have been arts bodies established at other councils based on the model of a public art trust aimed to raise funds for visual arts, and to contribute to an expanding presence and awareness of public art to the benefit of their residents. Under such a model, the council appoints the trustees, and the Council's ABN is used to endorse the trust as a deductible gift recipient and to be listed on the Register of Cultural Gifts Organisations (which Council notes is no longer in force).

Such a model was not considered suitable for the Shoalhaven Arts Foundation as, in effect, there is no legal separation of the trust from council, with the activities of the trust being seen as the activities of the council. Woollahra Council is one such example.

Council notes the Minister's approval in November 2022 of the Albury City Council's application to form as a public company to manage and operate the Murray Art Museum Albury (MAMA) subject to conditions subject to certain conditions. In this case, it is noted that MAMA will continue to be part of the Council's operations for financial and operating purposes. It is not intended that the Shoalhaven City Council will continue to provide ongoing funding and employ Council staff to manage the operations of the Shoalhaven Arts Foundation.

Under the model proposed, Council sees an important and necessary opening to add value to, and greatly enhance, funding for arts and cultural activities within the Shoalhaven. The formation of the company will provide an opportunity to attract several community benefactors to donate significant funds towards the arts in the Shoalhaven, to the extent of which is not readily achievable by to Council itself under its existing programs and activities.

Response 2: Relationship with Public Private Partnership Requirements (Section 7 of Guideline)

COUNCIL RESPONSE:

This is not applicable to the formation of the Shoalhaven Arts Foundation Limited.

Response 3: Integrated Planning and Reporting (IP&R) (Section 8 of Guideline)

COUNCIL RESPONSE:

The Council has engaged and consulted with its community on many different projects over the years, one of which has been the establishment of a separate Shoalhaven Arts Foundation for the Shoalhaven region. This is in line with key priorities and outcomes under the *Shoalhaven 2032 Community Strategic Plan (CSP)*, which include:

- Active participation in an inclusive arts community.
- Provision of cultural facilities.
- Greater awareness, understanding and respect of local Aboriginal and Torres Strait Islander culture, heritage and histories.

In developing the 2032 CSP strategies and plans relating to arts and culture were considered which included the *Create NSW Arts and Culture Policy Framework* and the *Australian Council for the Arts Strategic Plan 2014 – 2019*, and more recently the *Australian Government National Cultural Policy – Revive: a place for every story, a story for every place*, and the NSW State Government *Arts, Culture and Creative Industries Policy Creative Communities Policy*.

This work is reflected in the Council's Delivery Program Operational Plan (DPOP) action of undertaking planning and investigation for strategic plans and projects that will support the development and arts across the Shoalhaven region. (Refer to DPOP 2024/25 1.2.01 – *Develop partnerships and services to support active participation in a vibrant and inclusive arts community*)

The establishment of the Shoalhaven Arts Foundation would meet Council's strategic and policy objectives in enhancing the delivery of arts and cultural programs to the Shoalhaven. The Arts Foundation formation is linked to the goals of the Council's Delivery Program and will be formed on the basis of meeting required standards of governance.

It is expected that the Shoalhaven Arts Foundation Limited, once fully operational, will provide a partnership and conduit to the Shoalhaven Regional Gallery and Shoalhaven Entertainment Centre. The Shoalhaven Regional Gallery and Shoalhaven Entertainment Centre has been successful in engaging with, and supporting, those involved with visual and performing arts in the local community. The Shoalhaven Regional Gallery is a member of Museums and Galleries NSW. An ongoing focus of the Shoalhaven Regional Gallery and the Shoalhaven Entertainment Centre through its strategic plans are to expand beyond the visual arts to include performance, digital works, music and other artistic activities. There will also be opportunities for the Shoalhaven Arts Foundation Limited to work with the South Coast Arts (NSW) Inc. their mission is to contribute to the vibrancy and diversity of South Coast culture and inspire community through shared and inclusive creative experiences, connection and belonging.

Through the Delivery Program and Operation Plan (DPOP) process within IP&R, the Council has indicated its intention to progress the formation of a SAF. The 2021/2022 and 2022/2023 DPOP advised that Council will continue to progress development of the Shoalhaven Arts Foundation.

Funding for the full establishment of the Shoalhaven Arts Foundation was allocated in the 2022/23 budget.

Council has accordingly consulted with its community and identified strategic goals to meet those expressed needs and aspirations in a way that enables Council to deliver them within Council resources and having undergone a clear planning process that links to Council's strategic planning documents.

Response 4: Council Responsibilities (Section 9 of Guideline)

COUNCIL RESPONSE:

Council's responsibility is to ensure the Shoalhaven Arts Foundation Limited is established consistent with legislative requirements and to ensure consistency with the governance oversight mechanisms applicable to a local council.

Council has had regard to the provisions of the Local Government Act and in particular the Guiding Principles set out in Chapter 3 of the Local Government Act and its assessment of all available options in accordance with the Guiding Principles has been undertaken before this application has been submitted to the Minister.

In addition to meeting its obligations under the Corporations Act 2001 (Cth) such as financial reporting and audit, as a registered charity entity under the ACNC Act, the Shoalhaven Arts Foundation Limited will have responsibility to meet a range of governance standards which it must comply with. (Refer to clause 1 ('Background') of the Constitution.)

As the Founding Member, the Council will oversee the strengthening of governance principles to apply to the Foundation's operations in line with the community interest which would apply to local councils.

Under the Constitution, the Council as the Founding Member will be required to approve the Foundation's by-laws.

The Council has prepared a Business Implementation Plan 2024 – 2025 (See **Annexure B** to the application) for the purpose of identifying the key aspects of forming the Foundation in line with the expectations of the Council and the community.

Section 10.2 of the OLG Guideline – Justification Documents

Response 5: Statement of proposed function or service deliverables for the Shoalhaven Arts Foundation Ltd (Clause 10.2.1 of Guidelines)

COUNCIL RESPONSE:

The Shoalhaven is experiencing significant population growth and needs to ensure that the Arts and Cultural sector grows in line with the expectations of new residents and increased services. A Shoalhaven Arts Foundation will serve as a single organisation working to receive and apply charitable donations in support of its Objects.

The Foundation would not prevent individual arts organisations, artists or community groups from undertaking their own fundraising, but recognises that finding and growing donors is a significant undertaking and requires skill sets not often found in volunteer organisations.

In acting as a central portal, the Foundation would be able to receive significant gifts and donations from public donors and will then distribute and apply those funds in accordance with the Foundation's Objects aimed towards cultural and artistic activities and developments within the Shoalhaven.

A review of similar foundations nationally and internationally, shows that having a single body with the sole purpose of fundraising significantly increases donations to arts and culture in the region and supports increased revenue for all the arts in the area through the dispersal of funds gifted to the Foundation.

Accessing funding opportunities through philanthropy will play an important part in the development of arts and culture in the Shoalhaven region. The creation of the independent Shoalhaven Arts Foundation, operating with community members with specialist skills in the arts, will play a significant role.

The proposed service deliverables of the Foundation are set out in the Objects of the Foundation in the Foundation's proposed Constitution. The Foundation will be a charitable institution established to promote cultural activities and arts within Shoalhaven. Under the objects of the Foundation outlined in clause 2 of the Constitution, the Foundation is established to promote, encourage, create, further and facilitate literature, music, performing arts, visual arts, craft, design, film, video, television, radio, community arts, moveable cultural heritage, arts and languages of Indigenous persons and other cultural and artistic activities within Shoalhaven by:

- (a) assisting groups in the community to establish and become involved in arts based cultural activities;
- (b) supporting arts activities relevant to community groups;
- (c) providing opportunities for artists to interact with community groups;
- (d) promoting access and participation by groups in the community to arts based cultural activities;
- (e) providing opportunities for community groups to develop arts based cultural pursuits;
- (f) recognising outstanding contributions to the arts and cultural life of the community;
- (g) encouraging and supporting the development of artists;
- (h) presenting or exhibiting art, culture and moveable cultural heritage created or produced by others;
- (i) educating the public about cultural forms;
- (j) establishing programs to support the development, sustainability and preservation of the arts and cultural life in the community;
- (k) doing anything necessary or incidental to the promotion, or in connection with the promotion of, the Foundation and the carrying out of the Objects of the Foundation;
- (l) conducting fund-raising activities, and seeking government, community and private contributions, financial and other supports or benefits to further the Objects of the Foundation;
- (m) attracting and receiving contributions (financial and other property) from government, community and private contributors to further the Objects of the Foundation, including for specific and targeted programs established by the Foundation to support the development, sustainability and preservation of the arts and cultural life in the community;
- (n) entering into partnerships and affiliations with persons and organisations to further the Objects of the Foundation;
- (o) employing or retaining such employees, advisers or consultants, on a paid and unpaid basis, as appropriate, to assist the Foundation in carrying out the Objects of the Foundation; and
- (p) doing all other things necessary for, incidental to, desirable to, conducive to or connected with the pursuit of the Objects of the Foundation.

Council has identified a current and future need for greater cultural development with the Shoalhaven.

The Foundation addresses a current and future need within the Shoalhaven and embodies an essential service provided in pursuance of Council's approved functions under s24 of the Local Government Act and will be established to encourage, promote and support the services under the Foundation as consistent with the approved functions of Council.

A Business Implementation Plan 2024-2025 has been developed (**Annexure B**) which includes the strategy objectives for the Foundation to be developed and implemented by the initial Board of the Foundation, including determination of key performance indicators for the Foundation.

Response 6: Statement of how the proposed function or service deliverables fit with Council's Strategic Planning Documents (Section 10.2.2 of the OLG Guideline)

COUNCIL RESPONSE:

The establishment of the Shoalhaven Arts Foundations would meet Council's strategic and policy objectives in bringing the arts to the Shoalhaven Region. Its establishment is linked to the goals of the Council's Delivery Program, while meeting required standards of governance.

Council has established the Shoalhaven Regional Gallery and the Shoalhaven Entertainment Centre within its operations to deliver a diverse program of arts and cultural activities that cater for audiences across the Shoalhaven region.

The Council has engaged and consulted with its community on many different projects over the years, one of which has been the establishment of a separate Shoalhaven Arts Foundation for the Shoalhaven region. This is in line with key priorities and outcomes under the *Shoalhaven 2032 Community Strategic Plan (CSP)*, which include:

- Active participation in an inclusive arts community.
- Provision of cultural facilities.
- Greater awareness, understanding and respect of local Aboriginal and Torres Strait Islander culture, heritage and histories

It is expected that the Shoalhaven Arts Foundation, once fully operational, will provide a partnership and conduit to the Shoalhaven Regional Gallery and the Shoalhaven Entertainment Centre. Both have been successful in engaging with, and supporting, those involved with visual and performing arts in the local community. The regional gallery is a member of Museums and Galleries NSW. An ongoing focus of the Shoalhaven Regional Gallery and the Shoalhaven Entertainment Centre through its strategic plans are to expand beyond the visual arts to include performance, digital works, music and other artistic activities.

Accessing funding opportunities through philanthropy will play an important part in the development of arts and culture in the Shoalhaven region. The creation of the independent Shoalhaven Arts Foundation, operating with community members with specialist skills in the arts, will play a significant role.

A series of community engagements have been undertaken in 2016 and again in 2023 to understand the potential value, perceptions and benefits of the proposed Foundation.

In 2016 representatives from a range of arts organisations and community members engaged in the arts were invited to a workshop to explore the options, models and potential of an Arts Foundation. The workshop was led by Frank Howarth (prior to his acceptance onto the Shoalhaven Arts Board) and noted that the fully independent model was most attractive to potential donors and any perception of undue influence from Council would limit donations and the potential success of the Foundation.

Once the Shoalhaven Arts Foundation is established, key activities will include developing its strategic business plan, policies and procedures, by-laws, communications plan and budget. Part of this work will include putting in place a strategy to fundraise and develop a sustainable principal investment to generate ongoing grant funds and meet the costs to operate the Foundation and staff therein.

In December 2022 and early 2023, Janine Collins from J9 Consulting undertook detailed discussions with a range of identified stakeholders from arts groups, councillors, independent experts and staff to consider the need and potential for the Foundation and consider the opportunities for the Foundation to make a difference to the region. This consultation noted a

significant desire for an Arts Foundation to progress and the understanding of the potential benefits to the region through support long-term, strategic investment in the arts which will create growth and unlock philanthropy in the region.

Response 7: Statement of how the proposal is consistent with the functions of the Council or an existing service that the council provides. (Section 10.2.3 of Guideline)

COUNCIL RESPONSE:

Council has a clear role and responsibility in promoting arts and cultural activities in the Shoalhaven region. This is evidenced through the *Shoalhaven 2032 Community Strategic Plan* (CSP) and supporting strategic plans such as the ongoing focus of the Shoalhaven Regional Gallery and the Shoalhaven Entertainment Centre through its strategic plans are to expand beyond the visual arts to include performance, digital works, music and other artistic activities.

The proposal to form the Shoalhaven Arts Foundation (SAF) has been part of the Terms of Reference of the Council's Shoalhaven Arts Board since 2015. The Board is a Section 355/377 Committee, being a strategic advisory body to advocate for and inform Council's decision-making process. A key purpose of the Board is to contribute to, and develop, strategy and policy both for the Council and the Shoalhaven community. Membership of the Board comprises nine (9) community representatives and three (3) Councillors. The Board includes a representative of the Council's Aboriginal Advisory Committee and a representative from the Shoalhaven Economic and Growth Advocacy Group.

The Shoalhaven Arts Foundation will complement existing promotion and support for the development and ongoing contribution to the arts in the region.

The formation of the Foundation is reflected in the Council's Delivery Program Operational Plan (DPOP). A key action is undertaking planning and investigation for strategic plans and projects that will support the development and arts across the Shoalhaven region by developing partnerships and services to support active participation in a vibrant and inclusive arts community. (Refer to DPOP 2024/25 - 1.2.01)

Another key action under the DPOP is to advocate and promote the Shoalhaven to attract increased investment and new businesses by working with business, government and other partners to build a diverse local economy which provides employment opportunities for all. (Refer to DPOP 2024/25 – 3.1.01). This includes actively participating in networking opportunities that enhance the Shoalhaven economy.

Council has already designated both the Shoalhaven Regional Gallery and the Shoalhaven Entertainment Centre to deliver a diverse program of arts and cultural activities that will cater for audiences across the Shoalhaven.

The principal purpose behind the formation of the Foundation is to improve public funding opportunities with respect to the promotion and support of cultural activities in the Shoalhaven and the Foundation will be endorsed as a DGR and this will allow tax deductible public donations to be made and to be granted in pursuance of the Foundation's Objects. It is therefore proposed that, under this approach, Council will be able to facilitate the diversification of available funding streams and this will in turn encourage public support for cultural development and activities throughout the Shoalhaven and in turn will assist in alleviating the financial burden on Council for those services.

Council's other responses in this application demonstrate that the provision of the project/service by the Foundation is in the public interest by providing evidence and explanations as to:

- The need for the creation of the Foundation and the delivery of community or public needs;

- The general appropriateness of Council's involvement in the Foundation; and
- The measures that will be employed to ensure that the activities of the Foundation will be fully accountable to the community in a manner similar to the requirements imposed on Council under the Local Government Act.

Response 8: Clear analysis of all available options to deliver the proposed functions or services. (Section 10.2.4 of Guideline)

COUNCIL RESPONSE:

As advised under Response 1, several alternative models have been considered including the Foundation being operated and managed through Council's existing functions or being established as a section 355 Committee. Such arrangements allow Council to delegate functions and maintain critical oversight but would not be expected to attract significant philanthropic donations, as community consultation has shown the desire for the Foundation to be independent and at arm's length from Council.

Establishing the Arts Foundation as a private initiative within the Shoalhaven region has also been considered. This option has not been pursued as the start-up costs are significant. Advice received from Creative Partnerships Australia is that finding a donor or donors who are willing to invest in the start-up costs without immediate community benefit is not achievable. On this basis, such an approach was not considered appropriate for the Shoalhaven.

Through a working party established by Council's Arts Advisory Committee in 2018, similar foundations in New South Wales and Queensland and outlined a series of reasons for the proposed independent arts foundation. These include:

- To support the development and enrichment of broad arts across the Shoalhaven including visual, heritage, literature & performing arts.
- To ensure that the Foundation in its governance, membership and charter are independent/ and at arms-length from Council yet which needs to work in concert with the Shoalhaven Arts Board and the Council and the community needs.
- To fundraise and develop a sustainable principal investment to generate ongoing grant funds.

There have been arts bodies established at other councils based on the model of a public art trust aimed to raise funds for visual arts, and to contribute to an expanding presence and awareness of public art to the benefit of their residents. Under such a model, the council appoints the trustees, and the Council's ABN is used to endorse the trust as a deductible gift recipient and to be listed on the Register of Cultural Gifts Organisations.

Such a model was not considered suitable for the Shoalhaven Arts Foundation as, in effect, there is no legal separation of the trust from council, with the activities of the trust being seen as the activities of the council. Woollahra Council is one such example.

Under the model proposed, Council sees an important opening to add value to, and greatly enhance, funding for arts and cultural activities within the Shoalhaven. The formation of the company will provide a unique opportunity to attract several community benefactors to donate significant funds towards the arts in the Shoalhaven, which is not readily available to Council itself under its existing programs and activities.

The Foundation model has been noted as a unique proposal that could set the standards for Place Based Philanthropy in regional Australia. Discussion with stakeholders noted the limited potential for the many small arts organisations to access significant philanthropic gifts due to the perceived risk to donors. The Foundation would be a mechanism to facilitate this support, providing clear governance and assurance for donors and delivering a direct economic benefit to the Shoalhaven region.

It is intended that the Foundation will operate in the absence of a corporate office with appointed staff working primarily from a home office. The role for the Foundation and its Board will include holding meetings through internet connection (e.g., Teams meetings). Where face-to-face meetings are required the Shoalhaven Regional Gallery located in Nowra has rooms available for this purpose. Similar to arrangements with Shoalhaven local art groups, a meeting room will be provided to the Foundation. Council has other meeting rooms available for use by the Foundation in other key centres such as Ulladulla.

Response 9: Justification of why the intent/purpose of the proposed new entity cannot be achieved within the existing Local Government Structure (Section 10.2.5 of Guideline)

COUNCIL RESPONSE:

We refer to the comments made by Council in this application, specifically under Response 1.

Under the model proposed, Council sees an important opening to add value to, and greatly enhance, funding for arts and cultural activities within the Shoalhaven. The formation of the company will provide a unique opportunity to attract several community benefactors to donate significant funds towards the arts in the Shoalhaven, which is not readily available to Council itself under its existing programs and activities.

The proposed Arts Foundation will be by promote short and long-term investment in the arts through collaborative partnerships drawing on individuals, business and the government sector. The Foundation as a charitable organisation will have the capacity to raise significant funds through general fundraising and significant philanthropic donations, the latter being the cornerstone of its proposed operations.

Under the Foundation's objectives, it will be able to identify and cultivate prospective philanthropic donors and establish specific philanthropic donor programs in which financial assistance is provided to support the development and sustainability of arts and culture in the Shoalhaven. This will be the key to its success. The Foundation will play a key role in supporting the growth and development of all art forms across the Shoalhaven and will work collaboratively with the Government's South Coast Arts (NSW) Inc., the Council's Shoalhaven Arts Advisory Committee, professional and community arts groups and individual artists.

The intent and purpose of the Foundation cannot be attained within the existing local government structure as Council will not be able to facilitate the extent of the donations through the existing local government structure due to the public's interest in funding cultural activities and the arts in the Shoalhaven through an independent arm's length arrangement from Council. As such, the structure of the Foundation gives effect to the community's desire and this will in turn encourage public support for cultural development throughout the Shoalhaven.

Response 10: Outline of the proposed governance arrangement for the new entity and how it will be separated from Council (Section 10.3.1 of Guideline)

COUNCIL RESPONSE:

It is usual practice that an organisation such as that proposed will develop and implement its own strategies, policies and procedures in relation to ethical conduct consistent with what governs its establishment, that being the Foundation's Constitution. Notwithstanding that councils in NSW are subject to a Model Code of Conduct, it is expected that the Arts Foundation will consider the need to assess and implement an appropriate ethical Code and governance framework, especially around procurement, in view of the types of funding and assets expected to be donated to the Foundation.

Once the Shoalhaven Arts Foundation is established, key activities will include developing its strategic business plan, policies and procedures, by-laws, communications plan and budget. Part of this work will include putting in place a strategy to fundraise and develop a sustainable principal investment to generate ongoing grant funds and meet the costs to operate the Foundation and appoint staff.

It will be imperative for the Foundation to establish a strategic policy framework that reflects good governance principles including an ethical sponsorship approach. The consent of the Minister for Local Government requires the governance framework to promote ethical behaviour that includes an overall positive effect regarding public and community interest. Key aspects of this will include:

- Lay sound foundations for management and oversight.
- Promote ethical and responsible decision-making.
- Recognise and manage risks.

Clause 3.6 of the Constitution incorporates the following oversight mechanisms applying to councils:

- The acquisition of assets (including land).
- The principles of sound financial management in s8B of the LG Act.
- Procurement processes in s55 of the LG Act.
- The amendment of this Constitution.
- The membership of the Foundation in another body corporate.
- The Objects of the Foundation.
- The application of the powers of the Foundation.
- Transparency of accounting and other records.
- Insurance.
- The appointment of an auditor and the publication to the Founding Member of audited reports.
- The keeping of accounts.
- The maintenance of gifts and benefits registers.

The following Implementation Action Plan has been included in the Business Implementation Plan for the Foundation:

IMPLEMENTATION ACTION 9: In conjunction with J9 Consulting, consideration to be given by the Initial Board to the provision and development of the following governance principles and oversight mechanisms contained in clause 3.6 of the Constitution as part of the Foundation's governance framework for presentation to the appointed Board of Directors:

1. Lay solid foundations for management and oversight in accordance with the Foundation's Constitution. The Board would produce an annual report in accordance with the Constitution and conduct an annual self-assessment.
2. Structure the Board of Directors to add value having regard to being a charitable institution established to promote cultural activities and arts within the Shoalhaven region through fundraising and philanthropic investment.
3. Promote ethical and responsible decision-making which will include:
 - Establish a code of conduct to include the need to disclose and take reasonable steps to avoid any conflict of interest (real or perceived); to promote; support equity, diversity and inclusion; and to identifying being proactive in the prevention of bullying and harassment in the workplace.
 - Adopting an appropriate procurement and purchasing policy having regard to the purpose and objects of the Foundation consistent with the principles applicable to the local government sector.
 - A policy to ensure the health and safety of those engaged in the Foundation's business and undertakings.

4. Make timely and balanced disclosures in line with expectations of the community the Foundation will serve. An appropriate communications framework would be considered for this purpose.
5. The Foundation to establish a sound system of risk oversight and management and internal control to safeguard its operations and reputation. This to include mitigation of risks associated with significant philanthropic donations including the delivery of art assets through risk management protocols.

The Foundation will be established as a public company limited by guarantee, which is a separate legal entity that is distinct from its members.

The Board will comprise no more than 3 Council appointed Directors, with the balance of Directors being independent persons from Council. A decision of the Board will only be able to be made if the independent Directors voting entitlements exceed those of Council representatives on the Board, which is essential to ensure that the Foundation is perceived to be at arm's length from Council and ensures management separation from Council.

However, Council, as member, has the ultimate discretion to remove any Director should it wish to do so, which is important to ensure that Council can remove and appoint Directors to ensure that its management is being conducted in accordance with Council's approved functions and consistently in pursuit of the Objects.

Council's liabilities will be limited to \$100.00 in the event the Foundation is wound up and has insufficient assets to pay its creditors. Furthermore, Council employees and Councillors who serve as Directors of the Foundation are indemnified by the Foundation against any liabilities incurred as an officer of the Foundation and the Foundation must take out and maintain insurance policies for Directors.

The accounting for the Foundation will be separate to Council's accounts and those separate accounts must meet the requirements of both the Local Government Act and the Corporations Act. The financial and non-financial reporting framework for the Foundation is set out in clauses 51 and 52 of the proposed Constitution.

Response 11: Mandated provisions for governance documents of new entity (Section 10.3.2 of Guideline)

COUNCIL RESPONSE:

We refer to Council's comments under Response 10 above.

Through the Business Implementation Plan actions outlined with this application, Council is committed to ensure that all appropriate governance documentation is prepared and implemented.

Council is seeking to establish the Shoalhaven Arts Foundation Limited with good governance principles being the cornerstone to its management and operations including the provision of an ethical sponsorship framework.

Attached is a copy of the proposed governance document for the Foundation (the Foundation's Constitution), which includes the following local government oversight mechanisms which would otherwise apply to a council operating under the Local Government Act:

- The Constitution may not be amended without first obtaining the consent of the Minister (clause 55.1).
- The Foundation cannot become a member of another corporation (clause 3.5).
- Objects of the Foundation which are consistent with the functions of Council and any existing service that Council provides (clause 2).
- The Foundation has the powers set out in the Corporations Act 2001 only to the extent conducive or incidental to carrying out the Foundations objects (clauses 3.1 and 3.2).

- Council and the OLG will have access to the accounting records and all other documents of the Foundation at all reasonable times (clause 52).
- The Foundation will take adequate insurance policies to minimise the risks in the areas of property, public liability, workers compensation, professional indemnity and directors and officers insurance (clause 54.5).
- The Foundation will be required to appoint an auditors and to public and submit to Council an annual report incorporating audited annual financial reports on the business operations of the Foundation (clause 51.3)
- Separate accounts will be kept meeting the requirements of both the Local Government Act and the Corporations Act (clause 51.2).
- The Foundation and its officers will be subject to the local government oversight mechanisms including procurement processes and the gifts and benefits register (clause 3.6). Furthermore, the purpose of having Council's staff and Councillors on the Board of the Foundation is to further ensure that the Foundation is ensuring compliance with internal Council procedures and typical local government oversight mechanisms.

Response 12: Clear outline of any provision of public assets and council funds to the new corporation or entity (Section 10.3.3 of Guideline)

COUNCIL RESPONSE:

As previously indicated, the initial budgetary position for the establishment of the Shoalhaven Arts Foundation was reflected in the report to Council of 26 April 2022 where funding amounts for the Foundation's establishment would be as follows:

- a) \$150,000 in the 2022/23 Financial year
- b) \$150,000 in the 2023/24 Financial year
- c) \$100,000 in the 2024/25 Financial year

Funds provided in the 2022/23 and 2023/24 financial periods related to engaging specialist consultancy services J9 Consulting to develop a model for the foundation and associated draft constitution, undertake specific community consultation and establish a framework for relevant management systems and processes for the Foundation's operations, such as brand development and communications and fundraising strategies. Funds were also used during this period for legal advice and project management services. (Refer also to Response 15)

Under the proposed model for the Foundation, Council will not be funding the ongoing operations of the organisation. A key aim in developing key strategic business and financial plans is for the Foundation to be self-funding.

No public assets are to be provided for the Foundation's operations.

Response 13: Risk Assessment and Risk Management Plan as per the relevant AS/NZ (Section 10.3.4 of Guideline)

COUNCIL RESPONSE:

A number of risk events associated with the Shoalhaven Arts Foundation Limited formation and operation have been assessed according to their relative significance and their impact to the process in accordance with the Risk Management Framework Ratings Schedule provided in Appendix A to the Risk Assessment and Risk Management Plan provided with this application as **Annexure C**.

The way the Foundation is structured limits the potential transfer of risk transferring from the Foundation onto the Council. For example, Council will not be exposed to the risks of the

Foundation as Council's involvement in the Foundation is as a limited liability member of the Foundation and insofar as Council's staff and Councillors are Directors of the Foundation, their liability will be limited by way of an indemnification from the Foundation and insurances for officers' liability being taken out and maintained by the Foundation.

Response 14: Statement of impacts on existing Council staff (Section 10.3.5 of Guideline)

COUNCIL RESPONSE:

The Shoalhaven Arts Foundation is being established as a separate operational entity from Council, one which will employ its own staff. No existing Council staff are being transferred to the employment of the Foundation.

Council staff will assist in the formation of the Foundation and provide ongoing assistance as required consistent with that provided to community organisations in the Shoalhaven. For example, as previously mentioned, it is recognised that the Foundation will operate in the absence of a corporate office with appointed staff working primarily from a home office. The role for the Foundation and its Board will include holding meetings through internet connection (e.g., Teams meetings). Where face-to-face meetings are required the Shoalhaven Regional Gallery located in Nowra has rooms available for this purpose.

Similar to arrangements with Shoalhaven local art groups, a meeting room will be provided to the Foundation. Council has other meeting rooms available for use by the Foundation in other key centres such as Ulladulla.

Response 15: Statement of impacts on council's financial position (Section 10.3.6 of Guideline)

COUNCIL RESPONSE:

As resolved by Council on 26 April 2022, as part of the 2022/23 budget preparations, funding to be allocated the establishment of the Shoalhaven Arts Foundation for three years, being \$150,000 in 2022/23, \$150,000 in 2023/24 and \$100,000 in 2024/25. A total funding \$400,000.

Table - Summary of expenditure and commitments to date:

	Actual Spend \$	Budget \$	Remaining Budget \$	Commitments \$	Remaining Budget \$ less Commitments
FY22/23	101,011	150,000	48,989 [^]		48,989
FY23/24	22,416	148,989	126,573 [^]		126,573
FY24/25	0	100,000	100,000	56,025*	43,975
	123,427	398,989	275,562	56,025	219,537

*Commitments include J9 Consulting, Marsdens and Project Officer

[^] \$48,989 returned to general fund 22/23, \$100,000 returned to general fund in QBR3 2023/24 and balance of \$26,573 to be returned at 2023/24-year end.

\$100K has been included in the proposed FY24-25 budget to establish the Shoalhaven Arts Foundation, subject to Ministerial consent under section 358 of the Act less commitments.

Dependent on the outcome of the application, the funds previously returned to general fund will need to be reinstated in future budget years to enable the formal establishment and setting up of the SAF as an independent operating entity to be completed, after which the seed funding from Council will cease and the entity will need to be self-funding.

Under the proposed model for the Foundation, Council will not be funding the ongoing operations of the organisation. A key aim in developing key strategic business and financial plans is for the Foundation to be self-funding.

There will be no profit or loss sharing between the Foundation and Council. The Foundation will be a not-for-profit entity and Council's liability as a member of the Foundation is its guarantee of \$100.00 in the event that the Foundation has to be wound up. Therefore, no profit can pass to Council as a member of the Foundation, as the Foundation is not for profit and Council as a member has limited liability.

Response 16: Other - Consultant and Legal Advising (Section 10.3.7 of OLG Guideline)

COUNCIL RESPONSE:

Following an EOI process, In December 2022, Council entered a contract with specialist consultancy firm, J9 Consulting, to undertake a range of key elements of the Arts Foundation project, including assisting with:

1. Specific Community consultation by J9 Consulting with key Councillors and community members through Shoalhaven Arts Board (now Arts Advisory Committee). (Completed January / February 2023)
2. Establishments of approved management systems and processes for the Foundation's operations (some initial systems, brand development and communications and fundraising strategies were completed by April 2023 however may need review).
3. The appointment of the Board of Directors and support staff.
4. Work with Board / staff as appropriate to establish systems and processes, including marketing, for the Foundation's operations, i.e., website, logo, print and web collateral, bank accounts, IT systems, customer relations (CRM), etc.
5. Media and communications strategy.
6. Support development of target donor list and initial campaign.

Briefings on the work of J9 Consulting were arranged with Councillors and the Arts Board Members in early 2023, specifically about the proposed Foundation's constitution and the need to appoint an interim board. J9 Consulting provided the Council with a proposed model for the Shoalhaven Arts Foundation together with initial information on an appropriate constitution, based on an arts foundation already established (Sunshine Coast Arts Foundation). This formed the basis of an initial report to the Council in May 2023.

Following initial work in establishing an appropriate legal structure and draft constitution to achieve, agreement was reached in April 2023 with J9 Consulting to pause further work pending the consent of the Minister under section 358 of the Local Government Act. The Council proposes to re-engage J9 Consulting to assist in further progress with the formation of Shoalhaven Arts Foundation Limited in accordance with the scope of the Company's contract. Aspects of this work are outlined in the Business Implementation Plan attached to this application.

Subsequently, the Council engaged legal panel member Marsdens Law Group to review Council's work on the formation of the Shoalhaven Arts Foundation Limited including the appropriateness of the draft constitution, including discussion on the points raised by Councillors and amendments to the draft constitution were appropriate. Marsdens were engaged due to their specialist expertise in local government law and understanding of the formation of corporate not-for-profit companies for charitable purposes, including good governance arrangement.

Council engaged Marsdens Law Group to provide specialist legal services and advice in establishing the Shoalhaven Arts Foundation Limited including drafting the Foundation's Constitution and making application to the Minister for Local Government in accordance with section 358 of the Local Government Act 1993.

Council will use the services of legal panel firm Marsdens Law Group for the purpose seeking relevant registration of Shoalhaven Arts Foundation Limited for charitable purposes

CL24.230 - Attachment 3

ANNEXURE C

RISK ASSESSMENT AND RISK MANAGEMENT PLAN – FORMATION AND OPERATION OF SHOALHAVEN ARTS FOUNDATION

BACKGROUND:

Council has embarked on a project to establish the Shoalhaven Arts Foundation Limited (SAF) as a legal entity, with an appropriate constitution, in the form of a not-for-profit company limited by guarantee with charitable status. A key aspect of the process is to make an application seeking the Minister for Local Government's consent to form the Foundation in accordance with section 358 of the *Local Government Act 1993*. The following risk events associated with the Shoalhaven Arts Foundation Project have been assessed according to their relative significance and their impact to the process in accordance with the Risk Management Framework Ratings Schedule provided in Appendix A.

Risk Event Description	Likelihood	Consequence	Rating	Risk Mitigation	Mitigation Date due	Risk Tolerance
1. Proposal to establishment of the SAF as a charitable body for the region will not meet community expectations.	Unlikely 2	Major 4	Medium (8)	A series of community engagements have been undertaken in 2016 and again in 2023 to understand the potential value, perceptions, and benefits to the community.	Ongoing	Community engagement important to ongoing SAF operations to be monitored, once operational, by Council via its representative.
2. Council endorsement of Formation of SAF not forthcoming.	Unlikely 2	Moderate 3	Medium (6)	Reported to new Council 26 April 2022 to progress. In principle agreement to proceed by Council at its meeting of 22 May 2023.	Council report to approve S358 application meeting in 2024- 2025.	Council to approve formation of SAF to proceed and seek Minister's consent
3. Specialist consultants required to advise on formation of SAF through EOI process not available.	Unlikely 2	Moderate 3	Medium (6)	EOI process followed in accordance with Council Procurement Procedures. Appropriate scope of services included and signed contract of agreement allowing pausing and termination of contract.	Appointment of J9 Consulting made commencing December 2022. Contract paused in April 2023 pending Ministerial consent.	JP engaged for initial consultation and developing draft constitution. Contract paused pending consent of Minister for Local Government

Risk Event Description	Likelihood	Consequence	Rating	Risk Mitigation	Mitigation due Date	Risk Tolerance
4. Governance Oversight Mechanisms not in place consistent with those applicable to Local Government.	Unlikely 2	Moderate 3	Medium (6)	Key Governance legislative oversight mechanisms to be included in Constitution such as audit, record keeping and annual reporting.	Council report 2024 - 2025	Specific governance obligations provided in Constitution. Others to form part of actions required during formation phase and listed with Board of Directors.
5. The project will have financial implications to the Council.	Unlikely 2	Negligible (1)	Low (2)	Contributions have been set at \$400,000 over three (3) years with in-kind facility support provided for meetings.	2024 – 2025 period pending Ministerial consent	Managed and monitored through Council Board membership, reporting to Shoalhaven Arts Advisory Committee process and reporting to Council.
6. Operational implications of the SAF will impact on Council resources.	Unlikely 2	Minor (2)	Low (4)	Council staff will not be involved in SAF's operations once full operational. Some support during initial establishment phase.	Once fully operational.	Managed and monitored through Council Board membership, reporting to Shoalhaven Arts Advisory Committee process and reporting to Council.
7. Constitution not meeting legislative and governance obligations.	Possible 3	Minor 2	Medium (6)	Approved Constitution meets all of the necessary legislative and governance obligations. Peered reviewed by Marsdens Law Group.	2024 – 2025 period pending Ministerial consent	Managed and monitored through Council Board membership, reporting to Shoalhaven Arts Advisory Committee process and reporting to Council.
8. Council's approval required to lodge application under S358 of LGA 1993 for Minister's consent not given.	Unlikely 2	Moderate 3	Medium (6)	Council staff progressing S358 application to be approved by Council in accordance with OLG's	Application to be submitted to Council for approval 2024 – 2025 period.	Managed through Council staff to meet obligations listed in Guideline.

Risk Event Description	Likelihood	Consequence	Rating	Risk Mitigation	Mitigation due Date	Risk Tolerance
				<i>Formation of Corporations and Entities (Section 358) Guideline.</i>		
9. Application for Minister's consent required under S358 of LGA 1993 not approved.	Possible 3	Moderate 3	Medium (9)	Council staff progressing S358 application to be approved by Council in accordance with OLG's <i>Formation of Corporations and Entities (Section 358) Guideline.</i>	Application to be submitted to Council for approval 2024 – 2025 period.	Managed through Council staff and legal advisors in order to meet obligations listed in Guideline.
10. Failure to establishment Initial Board to process SAF registration.	Rare 1	Major 4	Low (4)	Marsdens Legal Group has been engaged to progress statutory registration as a charitable company.	Marsdens Legal Group to progress in conjunction with Council staff.	Not expected in normal circumstances. Managed through Council staff.
11. Process for Appointment of Skilled-Based Board Independent Members not supported.	Unlikely 2	Major 4	Medium (8)	The appointment of an initial Board by Council and with the assistance of J9 Consulting will provide implementation and report to Council for approval.	2024 – 2025 period pending Ministerial consent	Not expected in normal circumstances. Managed through initial Board appointment and Council staff.
12. Failure to recruit staff to manage SAF's functions and operations.	Possible 3	Moderate 3	Medium (9)	The appointment of an initial staff member will be undertaken by the Initial Board appointed by Council with the assistance of J9 Consulting.	Initial Board appointed by Council to progress staff recruitment.	Not expected in normal circumstances. Managed through Council staff.
13. Operational of SAF not meeting community expectations.	Unlikely 2	Major 4	Medium (8)	SAF to have in place appropriate strategy / financial / business plans.	To be addressed by Foundation Board with advice from J9 Consulting.	Not expected in normal circumstances. SAF Board and its staff in place to engage with community.
14. SAF is not meeting its statutory, constitutional,	Unlikely 2	Major 4	Medium (8)	SAF to develop appropriate governance framework involving	Work to progress during appointment	Not expected in normal circumstances. Board

Risk Event Description	Likelihood	Consequence	Rating	Risk Mitigation	Mitigation due Date	Risk Tolerance
and good governance obligations.				policy and procedural process documents. Governance requirements to be listed and presented to Initial Board appointed by Council.	of Initial Board and progressed through to full Board period	and its staff in place to meet obligations.
15. Funding opportunities through philanthropy to play a significant role in SAF's development of arts and culture in the Shoalhaven region.	Unlikely 2	Sever 5	Medium (10)	SAF to progress within approved Strategies and business Plan, to be presented to the Initial Board appointed by Council with the assistance of J9 Consulting.	Work to progress during appointment of Initial Board appointment and full Board period	Not expected in normal circumstances. Board and its staff in place to ensure strategies and business plans in place to implement.
16. SAF would need to be wound up due to SAF not being successful.	Unlikely 2	Sever 5	Medium (10)	SAF to progress its functions under the Constitution.	The first three (3) years of operation should disclose this aspect is most unlikely.	Not expected in normal circumstances. Board and its staff in place to meet strategies and business plans.

APPENDIX A - RISK MANAGEMENT FRAMEWORK RATINGS SCEDULE:

The following framework for assessment according to their relative significance depending on their impact to the process:

	Consequence				
Likelihood	Negligible (1)	Minor (2)	Moderate (3)	Major (4)	Severe (5)
Almost Certain					
5	M (5)	M (10)	H (15)	E (20)	E (25)
Likely					
4	L (4)	M (8)	H (12)	H (16)	E (20)
Possible					
3	L (3)	M (6)	M (9)	H (12)	H (15)
Unlikely					
2	L (2)	L (4)	M (6)	M (8)	M (10)
Rare					
1	L (1)	L (2)	L (3)	L (4)	M (5)

Risk Rating	Explanation	Action	Review & Reporting
Low (1-4)	Risk treatment not likely to be required.	Managed in day-to-day operations at section/ local level	Biannual reassessment of risk.
Medium (5-10)	Residual risk tolerable only if no further risk treatment feasible or practical	Risk Owner appointed to monitor and manage. May require specific processes or procedures.	Annual reassessment of risk.
High (11-16)	Risk has significant impact on one or more departments.	Managed and monitored by Group Director(s). Implementation of treatments within 6 months. Oversight by Business Assurance and Risk Department. Controls reviewed annually and tested every three years	Half yearly reassessment of risk and when changes occur.
Extreme (17-25)	Risk has serious implications to Council and cannot be justified except in extraordinary circumstances.	Risk must be approved by the CEO Immediate implementation of treatments. Oversight by Business Assurance and Risk Department.	As stipulated by CEO

Likelihood Rating Table		
Descriptor	Description	Frequency
Almost Certain (5)	The event is expected to occur in normal circumstances	Several times a year
Likely (4)	This event may occur at some time during the year	Once or twice a year
Possible (3)	The event may occur sometime. Some previous event history.	Once every 2 to 5 years
Unlikely (2)	The event could occur in some circumstances, but would not be expected	Once every 6 to 9 years
Rare (1)	The event may occur but only in exceptional circumstances	Once every 10 or more years

ANNEXURE D

Form 2: Required Document Checklist 358 Application – Shoalhaven City Council

	Text Section	Required Documentation	Provided?	OLG check
1.	Form 1 and section 9.1	S.358 Application Council Self-Assessment Questionnaire	Yes	
2.	9.1	GM Certification that the information provided to OLG is correct	To be provided with application	
3.	9.1	Council Resolution to make a Section 358 Application to Minister and submit material to OLG for assessment	Yes	
4.	9.2.1	Clear statement of proposed function or service deliverables for the proposed new entity	Yes	
5.	9.2.2	Statement of how the proposed function or service deliverables fit with Council's Strategic Planning Documents	Yes	
6.	9.2.3	Statement of how the proposal is consistent with the functions of the council or an existing service the council provides	Yes	
7.	9.2.4	Clear analysis of all available options to deliver the proposed functions or services. This must include options to keep the functions within existing council arrangements under the Local Government Act	Yes	
8.	9.2.5	Justification of why the intent/purpose of the proposed new entity cannot be achieved within the existing Local Government Structure	Yes	
9.	9.3.1	Outline of the proposed Governance Arrangements for the new entity and how it will be separated from council	Yes	
10.	9.3.2	Proposed governance documents including mandated provisions for directors of the new entity to remain subject to internal council procedures and typical local government oversight mechanisms	Yes	
11.	9.3.2	Proposed financial and non-financial reporting framework for the new entity	Yes	

12.	9.3.3	Clear outline of any provision of public assets and council funds to the new corporation or entity	Yes	
13.	9.3.3	Proposed structure of profit/loss sharing between council and the new entity	Yes	
Yes14.	9.3.4	Risk Assessment and Risk Management Plan as per the relevant AS/NZS	Yes	
15.	9.3.5	Statement of impacts on existing council staff	Yes	
16.	9.3.6	Statement of impacts on council's financial position	Yes	
17.	9.3.7	In some cases, OLG may request independent specialist consultant reports on certain issues, which will need to be funded and commissioned by council.	OLG will notify council of any need of special reports if and when required	
18.		Notification to OLG of any major variation in the proposed arrangements.	OLG and/or the Minister may request updated versions of any of the above documents	



Shoalhaven Arts Foundation Limited

Business Implementation Plan 2024-2025

(Subject to Ministerial consent in accordance with section 358 of the Local Government Act 1993)

Barnett Newman, *Broken obelisk*, 1963/1967/2005

Long-term loan from the National Gallery of Australia, Canberra under the Sharing the National Collection initiative

CL24.230 - Attachment 4

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1. Introduction and Overview

1.1 Purpose

Subject to the consent of the Minister for Local Government, Council is establishing a new company, the Shoalhaven Arts Foundation Limited, for the purpose of supporting the growth and development of all art forms across the Shoalhaven region. This is in line with key priorities and outcomes under the *Shoalhaven 2032 Community Strategic Plan* (CSP), which include:

- Active participation in an inclusive arts community.
- Provision of cultural facilities.
- Greater awareness, understanding and respect of local Aboriginal and Torres Strait Islander culture, heritage and histories.

The Arts Foundation is formed for charitable purposes. The Foundation's Constitution has been approved by Council and outlines, under clause 2.2, the key charitable purpose and key objects under which the Foundation will conduct its affairs. The Arts Foundation will operate independently from Council under the Constitution proposed in that:

- The Foundation is independent of Council for management and financial purposes including most decision-making processes.
- The Directors liability will be limited should the company become insolvent.

Under the Foundation's objects, it will be able to identify and cultivate prospective philanthropic donors and establish specific philanthropic donor programs in which financial assistance is provided to support the development and sustainability of arts and culture in the Shoalhaven.

As the Founding Member of the Shoalhaven Arts Foundation Limited, Council will be represented on the Board of Directors.

1.2 Overview

The Council's community-based Shoalhaven Arts Board (now Shoalhaven Arts Advisory Committee) has been the driving force to establish the Arts Foundation. The Arts Foundation project had formed part of the Committee's terms of reference since 2015 with an emphasis on determining the best approach in setting up such a body in line with Council's Delivery Program Operational Plan (DPOP).

A key action under the DPOP is undertaking planning and investigation for strategic plans and projects that will support the development and arts across the Shoalhaven region through developing partnerships and services to support active participation in a vibrant and inclusive arts community. (Refer to DPOP 2024/25 - 1.2.01)

The Shoalhaven Arts Foundation Limited will operate in accordance with its approved Constitution. With the Minister's consent, Council will proceed to make an application with the Australian Charities and Not-for-profits Commission (ACNC) under the ACNC Act 2012 (Cth), to seek Deductible Gift Recipient (DGR) status with the Australian Taxation Office (ATO) and to advise other relevant government bodies.

Subject to clause **Error! Reference source not found.** of the Constitution, any mandatory provisions of the Corporations Act prevail over the provisions of the Constitution to the extent of any inconsistency. While the Foundation is to be registered under the ACNC Act, notwithstanding any other provision of this Constitution:

- The Foundation must comply with its obligations under the ACNC Act.
- If the ACNC Act prohibits an act being done, that act must not be done.
- If the ACNC Act requires an act to be done or not to be done, authority is given for that act to be done or not to be done (as applicable).
- If any provision of this Constitution is or becomes inconsistent with the ACNC Act, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

The Foundation must, always take out and maintain adequate insurance policies to minimise the risks in the areas of property, public liability, workers compensation, professional indemnity and directors' and officers' insurance.

1.3 Relationship to Council

The Foundation's Constitution provides for Council to be represented on the Board, up to three members. While establishing the Shoalhaven Arts Foundation Limited to operate independent of the Council, the Foundation's Constitution provides a range of administrative and governance provisions in order for the Foundation to meet its legislative obligations and maintain a effective relationship with the Founding Member (Council). Under clause 51 (*Accounts and audit*), requirements include:

- The Foundation to keep separate accounts to meet the requirements of the Local Government Act 1993 and the Corporations Act 2001 (Cth).
- Each financial year, the Foundation must appoint an auditor to prepare audited financial reports on the business operations and accounts of the Foundation and must also publish and submit the audited financial reports to the Founding Member as part of its annual report to Council.
- The Foundation, when compiling each annual report, must disaggregate all income derived from grants, donations, and philanthropic support and provide a copy to the New South Wales Office of Local Government.

Any proposed changes to the Foundation's Constitution under Clause 55 of the Constitution will require:

- The consent of the Shoalhaven City Council as the Founding Member.
- The consent of the Minister for Local Government, which would be sought by the Council.

In the event of winding up the Arts Foundation under clause 56 of the Constitution, the decision as to which one or more Eligible Entity is to receive surplus assets pursuant to clause **Error! Reference source not found.** must be made with the consent of the Founding Member (Council).

The Foundation must retain its records in accordance with requirements of *State Records Act 1998* (NSW) and associated general authorities.

1.4 Summary Implementation Actions

1. **IMPLEMENTATION ACTION 1:** Council to use the services of legal panel firm Marsdens Law Group for the purpose seeking relevant registration of Shoalhaven Arts Foundation Limited for charitable purposes.
2. **IMPLEMENTATION ACTION 2:** Council to resolve and appoint an Initial Board for the Shoalhaven Arts Foundation Limited, its primary role will be:
 - To proceed with an EOI process to appoint the Foundation's skills-based independent Directors (other than the Founding Member's representatives) in accordance with the adopted constitution.
 - Prepare an initial agenda of key matters to be dealt with by the Board including identifying the key governance framework and policy to apply to the Foundation's management and operations in line with expectations outlined in the Office of Local Government's guideline Formation of Corporations and Entities (Section 358) January 2022.
 - In conjunction with the specialist assistance of J9 Consulting, prepare an initial report for the Board's consideration on a draft Shoalhaven Arts Foundation strategic plan which will have regard to the principles of place-based philanthropy in attracting contributions towards arts and culture in the Shoalhaven region. The provision of a financial strategy will need to be developed as part of the initial strategic planning for the Foundation.
3. **IMPLEMENTATION ACTION 3:** Council to re-engage J9 Consulting to assist in further progress with the formation of Shoalhaven Arts Foundation Limited in accordance with the scope of the Company's contract.
4. **IMPLEMENTATION ACTION 4:** An EOI process is to be carried out by the Initial Board to seek nominations for the appointment of the Foundation's skills-based Board of Directors in accordance with requirements under the Foundation's Constitution.
5. **IMPLEMENTATION ACTION 5:** An EOI process is to be carried out by the Initial Board to seek the appointment of the secretary to perform any of the duties of a secretary under the Foundation's Constitution and such other matters to progress the vision, objects and governance framework of the Foundation.
6. **IMPLEMENTATION ACTION 6:** The Initial Board to be advised of the level of funding and in-kind support towards the formation of the Foundation and in becoming fully operational.
7. **IMPLEMENTATION ACTION 7:** In conjunction with J9 Consulting, initial consideration to be given by the Initial Board on the provision of a financial strategy for the funding of the Foundation's ongoing operations.
8. **IMPLEMENTATION ACTION 8:** In conjunction with J9 Consulting, initial consideration to be given by the Initial Board on the provision of a strategic plan to meet the short and long-term objectives of the Foundation for presentation to the appointed Board of Directors in line with:
 - Building the profile of the Foundation as the Regional organisation supporting creative expression through fundraising and philanthropic investment.

- Develop, diversify and consolidate income streams including the provision of a financial strategy for the funding of the Foundation's ongoing operations.
- Consideration be given to the concept of place-based giving which focuses on supporting the development of local communities such as the Shoalhaven region as a key approach in achieving significant philanthropic donations.
- Establish collaborative partnerships with key stakeholders including the Shoalhaven City Council.
- Outline a framework for the support and management of the Foundation's proposed operations including establishing effective governance policies and procedures and recruit and develop a succession plan.

9. IMPLEMENTATION ACTION 9: In conjunction with J9 Consulting, consideration to be given by the Initial Board to the provision and development of the following governance principles and oversight mechanisms contained in clause 3.6 of the Constitution as part of the Foundation's governance framework for presentation to the appointed Board of Directors:

- Lay solid foundations for management and oversight in accordance with the Foundation's Constitution. The Board would produce an annual report in accordance with the Constitution and conduct an annual self-assessment.
- Structure the Board of Directors to add value having regard to being a charitable institution established to promote cultural activities and arts within the Shoalhaven region through fundraising and philanthropic investment.
- Promote ethical and responsible decision-making which will include:
 - Establish a code of conduct to include the need to disclose and take reasonable steps to avoid any conflict of interest (real or perceived); to promote; support equity, diversity and inclusion; and to identifying being proactive in the prevention of bullying and harassment in the workplace.
 - Adopting an appropriate procurement and purchasing policy having regard to the purpose and objects of the Foundation consistent with the principles applicable to the local government sector.
 - A policy to ensure the health and safety of those engaged in the Foundation's business and undertakings.
- Make timely and balanced disclosures in line with expectations of the community the Foundation will serve. An appropriate communications framework would be considered for this purpose.
- The Foundation to establish a sound system of risk oversight and management and internal control to safeguard its operations and reputation. This to include mitigation of risks associated with significant philanthropic donations including the delivery of art assets through risk management protocols.

10. IMPLEMENTATION ACTION 10: With the assistance of J9 Consulting, initial consideration to be given by the Initial Board to the provision and development of a strategy for marketing, promotion and communication planning, in line with work being progressed with the development of a strategic plan and the implementation of governance principles for the Foundation.

2. Arts Foundation Formation and Funding

2.1 Company Formation

Council will make an application to register Shoalhaven Arts Foundation Limited as a charity with the Australian Charities and Not-for-profits Commission (ACNC) and to apply for Deductible Gift Recipient (DGR) status with the Australian Taxation Office (ATO).

Council engaged Marsdens Law Group to provide specialist legal services and advice in establishing the Shoalhaven Arts Foundation Limited including drafting the Foundation's Constitution and making application to the Minister for Local Government in accordance with section 358 of the Local Government Act 1993.

IMPLEMENTATION ACTION 1: Council to use the services of legal panel firm Marsdens Law Group for the purpose seeking relevant registration of Shoalhaven Arts Foundation Limited for charitable purposes.

2.2 Initial Board of Directors

Clause 29 of the Constitution deals with the initial Board composition. Council will need to have at least 3 Directors on the Board at the commencement of the Foundation so that Council can incorporate and commence operation of the Foundation. Once established, the Council will then need to appoint at least 2 independent Directors. Therefore, it is envisaged that the initial Board will be comprised of a minimum of 5 Directors.

However, this will be able to change over time and once the Foundation is established, the Council appointed Directors could be reduced to only 1 person (either by Council Directors resigning or not nominating themselves for reappointment), with the balance of the Directors being independent directors.

It is envisaged that an EOI process will be followed in appointing independent Directors in accordance with the skilled-based approach outlined in the Constitution.

IMPLEMENTATION ACTION 2: Council to resolve and appoint an Initial Board for the Shoalhaven Arts Foundation Limited, its primary role to be:

- To proceed with an EOI process to appoint the Foundation's skills-based independent Directors (other than the Founding Member's representatives) in accordance with the adopted constitution.
- Prepare an initial agenda of key matters to be dealt with by the Board including identifying the key governance framework and policy to apply to the Foundation's management and operations in line with expectations outlined in the Office of Local Government's guideline Formation of Corporations and Entities (Section 358) January 2022.
- In conjunction with the specialist assistance of J9 Consulting, prepare an initial report for the Board's consideration on a draft Shoalhaven Arts Foundation strategic plan which will have regard to the principles of place-based philanthropy in attracting contributions towards arts and culture in the Shoalhaven region. The provision of a financial strategy will need to be developed as part of the initial strategic planning for the Foundation.

2.3 Specialist Consultancy Services

Following an EOI process, in December 2022, Council entered a contract with specialist consultancy firm, J9 Consulting, to undertake a range of key elements of the Arts Foundation project, including assisting with:

- Specific Community consultation by J9 Consulting with key Councillors and community members through Shoalhaven Arts Board (now Arts Advisory Committee). (Completed January / February 2023)
- Establishments of approved management systems and processes for the Foundation's operations. (some initial systems, brand development and communications and fundraising strategies completed by April 2023)
- The appointment of the Board of Directors and support staff.
- Work with Board /staff as appropriate to establish systems and processes, including marketing, for the Foundation's operations, i.e., website, logo, print and web collateral, bank accounts, IT systems, customer relations (CRM), etc.
- Media and communications strategy.
- Support development of target donor list and initial campaign.

Following initial work in establishing an appropriate legal structure and draft constitution to achieve, agreement was reached in April 2023 with J9 Consulting to pause further work pending the consent of the Minister under section 358 of the Local Government Act.

IMPLEMENTATION ACTION 3: Council to re-engage J9 Consulting to assist in further progress with the formation of Shoalhaven Arts Foundation Limited in accordance with the scope of the Company's contract.

2.4 Appointment of Initial Board of Directors

Clauses 28 through to clause 48 of the Foundation's Constitution outlines provisions associated with the appointment of the Board of Directors and the conduct of board meetings. Under clause 28, the Board will comprise not less than 7 directors but no more than 9. As the Founding Member, Council is allowed to appoint up to three representatives.

Clauses 30.2, 30.3 and 30.4 deal with aspects and relevant criteria of the appointment of an individual as a Director on the Foundation's Board.

IMPLEMENTATION ACTION 4: An EOI process is to be carried out by the Initial Board to seek nominations for the appointment of the Foundation's skills-based Board of Directors in accordance with requirements under the Foundation's Constitution.

2.5 Transition to Initial Board of Directors

Following on from the outcome of the process for the appointment of the independent Directors, the Initial Board to advise and recommend its proposed appointments to the Founding Member (Council), which must pass a resolution for the appointment of the Directors to the Board in accordance with clause 29.1(a) of the Constitution.

2.6 Appointment of support staff

Clause 49 of the Constitution allows for the appointment of the Foundation's secretary, a position that has specific duties under the Constitution. Consideration would also be given to appoint an appropriate person with the necessary skills to fulfil the role as the Foundation's secretary as well as undertake such other duties to enable the Board to

progress the vision, objects and implement the governance framework of the Foundation. Under clause 49, an employment contract may be entered into with an appropriate person which may include the removal of the person at any time, with or without cause.

In considering the timing to undertake an EOI process for this appointment, the Initial Board will consider progress with the appointment of the Board of Directors.

IMPLEMENTATION ACTION 5: An EOI process is to be commenced by the Initial Board to seek the appointment of the Foundation's secretary to perform any of the duties of a secretary under the Foundation's Constitution and to perform such other duties to progress the vision, objects and implement the governance framework of the Foundation. The timing for his action to be considered in conjunction with progress for the appointment of the Foundation's Board of Directors.

2.7 Establishment Funding and In-kind support by Council

As resolved by Council on 26 April 2022, as part of the 2022/23 budget preparations, funding was included in 2022-2023 and 2023-2024 to assist in the initial phases in developing an appropriate model for the proposed Shoalhaven Arts Foundation. The 26 April resolution also proposed that \$100,000 be allocated towards the establishment of the Foundation for the 2024-2025 period.

\$100,000 has been included in the FY24-25 budget to establish the Shoalhaven Arts Foundation, to be progressed subject to Ministerial consent under section 358 of the Local Government Act 1993. Under the proposed approved model for the Foundation, Council will not be funding the ongoing operations of the organisation.

Council will provide a reasonable level of in-kind support as required within its existing resources for the Shoalhaven Arts Foundation to be fully formed and operational, such as staff support for developing key strategies, plans, policies and procedures, establishing records, keeping of assets and conducting Foundation meetings.

IMPLEMENTATION ACTION 6: The Initial Board to be advised of the level of funding and in-kind support towards the formation of the Foundation and in becoming fully operational. The provision of a financial strategy will need to be developed as part of the initial strategic planning for the Foundation.

IMPLEMENTATION ACTION 7: In conjunction with J9 Consulting, initial consideration to be given by the Initial Board on the provision of a financial strategy for the funding of the Foundation's ongoing operations.

3. Strategy and Governance

It is usual practice that an organisation such as that proposed will develop and implement its own strategies, policies and procedures in relation to ethical conduct consistent with what governs its establishment, that being the Foundation's Constitution. Notwithstanding that councils in NSW are subject to a Model Code of Conduct, it is expected that the Arts Foundation will consider the need to assess and implement an appropriate ethical Code and governance framework, especially around procurement, in view of the types of funding and assets expected to be donated to the Foundation.

Once the Shoalhaven Arts Foundation is established, key activities will include developing its strategic business plan, policies and procedures, by-laws, communications plan and budget. Part of this work will include putting in place a strategy to fundraise and develop a sustainable principal investment to generate ongoing grant funds and meet the costs to operate the Foundation and appoint staff.

It will be imperative for the Foundation to establish a strategic policy framework that reflects good governance principles including an ethical sponsorship approach. The consent of the Minister for Local Government requires the governance framework to promote ethical behaviour that includes an overall positive effect regarding public and community interest. Key aspects of this will include:

- Lay sound foundations for management and oversight.
- Promote ethical and responsible decision-making.
- Recognise and manage risks.

3.1 Overarching Strategy

The development of a strategic plan is essential to provide an overarching framework for implementing the vision and objects of the Shoalhaven Arts Foundation Limited both in the short and long term. Primarily the Foundation's vision will be to promote the development and prosperity of the arts in the Shoalhaven region through fundraising and philanthropic investment.

Through the involvement of J9 Consulting, consideration will be given to the concept of *place-based giving* (Refer to Annexure A), which focuses on supporting the development of local communities, such as the Shoalhaven region, which provides a key approach in achieving significant philanthropic donations. Place-based giving can play an important role in supporting a philanthropic approach for developing the arts.

The Foundation's key mission will be to achieve an enlightened and enriched local community transformed by philanthropic investment in the arts. The strategy for achieving the Foundation's objects will encompass:

- Building the profile of the Foundation as the Regional organisation supporting creative expression through fundraising and philanthropic investment.
- Develop, diversify and consolidate income streams including the provision of a financial strategy for the funding of the Foundation's ongoing operations.
- Consideration be given to the concept of place-based giving (Refer to Annexure A) as a key approach in achieving significant philanthropic donations.
- Establish collaborative partnerships with key stakeholders including the Shoalhaven City Council.

- Outline a framework for the support and management of the Foundation's proposed operations including establishing effective governance policies and procedures and recruit and develop a succession plan.

IMPLEMENTATION ACTION 8: In conjunction with J9 Consulting, initial consideration to be given by the Initial Board on the provision and development of a strategic plan to meet the short and long-term objectives of the Foundation for presentation to the appointed Board of Directors in line with:

- Building the profile of the Foundation as the Regional organisation supporting creative expression through fundraising and philanthropic investment.
- Develop, diversify and consolidate income streams including the provision of a financial strategy for the funding of the Foundation's ongoing operations.
- Consideration be given to the concept of place-based giving which focuses on supporting the development of local communities such as the Shoalhaven region as a key approach in achieving significant philanthropic donations.
- Establish collaborative partnerships with key stakeholders including the Shoalhaven City Council.
- Outline a framework for the support and management of the Foundation's proposed operations including establishing effective governance policies and procedures and recruit and develop a succession plan.

3.2 Governance Framework

In addition to meeting its obligations under the Corporations Act 2001 (Cth) such as financial reporting and audit, as a registered charity entity under the ACNC Act, the Shoalhaven Arts Foundation Limited will have responsibility to meet a range of governance standards which it must comply with. (Refer to clause 1 ('Background') of the Constitution)

As the Founding Member, Council will oversight the strengthening of governance principles to apply to the Foundation's operations in line with the community interest like which would apply to local councils.

It is the usual practice that an organisation will develop and implement its own policies in relation to ethical conduct consistent with what governs its establishment, i.e., the Foundation's Constitution. It is expected that the Arts Foundation will consider the need to assess and implement the oversight mechanisms listed in clause 3.6 of the Constitution and have regard to the following governance principles:

- Lay solid foundations for management and oversight in accordance with the Foundation's Constitution. The Board would produce an annual report in accordance with the Constitution and conduct an annual self-assessment.
- Structure the Board of Directors to add value having regard to being a charitable institution established to promote cultural activities and arts within the Shoalhaven region through fundraising and philanthropic investment.
- Promote ethical and responsible decision-making which will include:
 - Establish a code of conduct to include the need to disclose and take reasonable steps to avoid any conflict of interest (real or perceived); to promote; support equity, diversity and inclusion; and to identifying being proactive in the prevention of bullying and harassment in the workplace.
 - Adopting an appropriate procurement and purchasing policy having regard to the purpose and objects of the Foundation consistent with the principles applicable to the local government sector.

- A policy to ensure the health and safety of those engaged in the Foundation's business and undertakings.
- Make timely and balanced disclosures in line with expectations of the community the Foundation will serve. An appropriate communications framework would be considered for this purpose.
- The Foundation to establish a sound system of risk oversight and management and internal control to safeguard its operations and reputation. This to include mitigation of risks associated with significant philanthropic donations including the delivery of art assets through risk management protocols.

IMPLEMENTATION ACTION 9: In conjunction with J9 Consulting, consideration to be given by the Initial Board to the provision and development of the following governance principles and oversight mechanisms contained in clause 3.6 of the Constitution as part of the Foundation's governance framework for presentation to the appointed Board of Directors:

- Lay solid foundations for management and oversight in accordance with the Foundation's Constitution. The Board would produce an annual report in accordance with the Constitution and conduct an annual self-assessment.
- Structure the Board of Directors to add value having regard to being a charitable institution established to promote cultural activities and arts within the Shoalhaven region through fundraising and philanthropic investment.
- Promote ethical and responsible decision-making which will include:
 - Establish a code of conduct to include the need to disclose and take reasonable steps to avoid any conflict of interest (real or perceived); to promote; support equity, diversity and inclusion; and to identifying being proactive in the prevention of bullying and harassment in the workplace.
 - Adopting an appropriate procurement and purchasing policy having regard to the purpose and objects of the Foundation consistent with the principles applicable to the local government sector.
 - A policy to ensure the health and safety of those engaged in the Foundation's business and undertakings.
- Make timely and balanced disclosures in line with expectations of the community the Foundation will serve. An appropriate communications framework would be considered for this purpose.
- The Foundation to establish a sound system of risk oversight and management and internal control to safeguard its operations and reputation. This to include mitigation of risks associated with significant philanthropic donations including the delivery of art assets through risk management protocols.

3.3 Marketing, Promotion and Communication Planning

The marketing, promotion and communication approach of the Shoalhaven Arts Foundation Limited will be critical to the success of the organisation in terms of meeting its charitable purpose and undertaking the Foundation's objectives.

A short and long-term strategic marketing, promotion and communication plan needs to be developed that encompass the key objectives of the Foundation with particular

reference to attracting fundraising and philanthropic donations, developing arts programs and collaborating with potential stakeholders.

The specialist firm J9 Consulting has been engaged by Council to assist in this process.

IMPLEMENTATION ACTION 10: With the assistance of J9 Consulting, initial consideration to be given by the Initial Board to the provision and development of a strategy for marketing, promotion and communication planning, in line with work being progressed with the development of a strategic plan and the implementation of governance principles for the Foundation.

CL24.230 - Attachment 4

ANNEXURE A

PHILANTHROPY

The rise of place-based giving

The intergenerational transfer of wealth, migration to regional Australia and unprecedented investment in arts infrastructure presents a significant opportunity for arts and culture fundraisers



Every Saturday in 1945, my mother and her sister would travel from the farm to the small town of Tocumwal on the Murray River for a dance held at the local hall. The return trip was full of

gossip about the night and anticipation around the following week.

Years later, in Bendigo, at another gathering in another hall, my parents met. Dad asked Mum to dance. She took the

offer, returned to her teacher's college after curfew and was grounded for two weeks. He waited each week. She didn't show. Six years later with a lot of dances and halls in between, they were hitched.

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CL24.230 - Attachment 4

PHILANTHROPY

"We know people in regional areas have always participated in the arts, yet there is a common mindset that people will not give. I don't buy it."

And that's a recent story. For 60,000 years, our First Nations communities have been dancing, drawing, designing, singing, weaving and storytelling at meeting places.

We see evidence of our cultural heritage all around us, regional and urban. Heritage halls, 'talkie' cinemas, museums, woolsheds, churches, pubs, rock art. Walls holding thousands of stories of first invaders, first world wars and first loves.

So we know people in regional areas have always participated in the arts, yet there is a common mindset that people will not give. I don't buy it. I suggest we have been asking the wrong way, if at all – and that place-based philanthropy is the way to encourage new gifts.

The arts connect communities, contribute to individual wellbeing and have an economic impact. However, when it comes to solving social issues, the arts is usually part of the implementation but not the plan. Why? Arts fundraisers are passionate arts advocates. They know the case for support and expertly articulate the arts contribution to social change. It's time they set the table rather than wait to join.

PLACE-BASED GIVING – WHAT IS IT?

Place-based giving targets a specific location with the intention of improving the quality of life of those that live there. It recognises that every community has different needs and challenges which will require targeted solutions and tailored approaches. It promotes long-term investments through collaborative partnerships and leverages resources to create systemic change.

There's a long history of place-based giving in the UK, US and Canada but less in Australia (which shouts 'opportunity').

For example, there are 190 Community Foundations in Canada, but Australia has 40. Community Foundations often fund several unrelated projects or causes in a particular area. Place-based giving looks at a social issue and draws on a range of resources – individuals, foundations, business and government across sectors – to make a transformative impact.

The Cleveland Foundation in the US set up the Black Futures Fund in 2020 during the global pandemic when America witnessed, arguably, its largest civil rights moment. Its intention is to work with grassroots organisations to break down structural racism with a long-term community-wide effort. It recognised that donors had contributed millions over the years to assist organisations but there was little systemic change. A new approach was needed so a place-based model is currently being trialled. It was seeded with US\$2.5 million and now has US\$6.2 million to strengthen Black-led organisations serving social change.

The fund was started by drawing on a broad base of support in the Cleveland community. Donations ranged from small individual contributions to larger gifts from major donors who wished to fund local organisations promoting racial equity and justice. Several Cleveland-based businesses contributed. The Cleveland Foundation committed \$10 million of its own funds over the next three years and partnered with other philanthropic organisations to raise additional donations for the Black Futures Fund.

The Foundation also has an arts fund. It didn't have enough money to fill the financial holes caused by COVID-19, so has changed its focus to use the

disruption to encourage innovative approaches through the arts to further racial equity, such as promoting diverse leadership in arts organisations.

THE FUTURE IS NOW

The current environment is ripe for a rise in place-based giving. Philanthropy Australia anticipates that there will be a \$1.1 trillion transfer of intergenerational wealth by 2030 and 33% of that shift will occur in regional areas. This means many people are considering their legacy right now. Any area with a mechanism to accept and manage significant funds is well placed.

The pandemic led to a spike in the rate of movement from capital cities to regional Australia. According to the Regional Australia Institute, the migration rate has plateaued at the same level as the height of the pandemic and around 16% higher than pre-COVID levels of 2018 and 2019. This means people with new disposable income are seeking new interests and a wish to contribute to their new communities.

State governments have invested an unprecedented amount into restoring or building cultural infrastructure. This suggests a commitment and intention to increase participation in arts. Ahead of the 2023 budget, the Treasurer Dr Jim Chalmers said that government will be partnering with social impact investors. "What that means is partnering with philanthropic organisations, that means investing in local communities."

Many regional areas do not have the advantage of an established foundation backing them to launch a transformative fundraising effort and each community will approach place-based giving in its own way. Even so, a few principles will remain consistent. The ask needs to be for a larger vision than an arts project or organisation. Social and economic impact at scale needs to be evident. Funds are leveraged from a range of sources. Your fundraising approach will align with what the community needs.

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PHILANTHROPY



'Inside Out' by Roger Bennie (above) and 'Bird in Hand' by Mike van Dam (opposite page) featured in Sculpture Down the Lachlan. Images by Monique Lovick Photography.

CASE STUDY: FORBES, NSW

Forbes is about a five-hour drive west from Sydney. In 2009, a small group of artists got together and set up the Forbes Arts Society. In 2011, the Society became an incorporated association and today it has 100 members.

Over 10 years, it set up a sculpture walk, a small gallery and an annual event called Grazing on the Lachlan, a long table lunch serving 'paddock to plate' cuisine to raise funds for the Arts Society.

In 2019, the Arts Society raised \$250,000 from individuals to purchase the former Forbes Ambulance Station, which had been sitting neglected in the middle of the town for many years. After that purchase, a submission was made for a government grant titled 'Boosting the Lachlan Valley Economy Art Project'. Its aim was to foster visual arts, grow the visitor economy and promote the Lachlan Valley as a tourism destination.

It was successful. The \$7.2 million grant provided funds to transform the Ambulance Station into a new cultural

centre, an extension of the Sculpture Down the Lachlan trail to 100km stretching from Forbes to Condobolin, and the redevelopment of the Gum Swamp. It also supports Grazing on the Lachlan which raises about \$200,000 to fund the Arts Society's projects and attracts business sponsorship.

This example of place-based giving, led by the arts, is funded through individual donations, state government support, two local councils and business.

CASE STUDY: GOLD COAST, QLD

Gold Coast City Council commenced its bold vision for a new cultural precinct 10 years ago. From 2010, JG's role on this ambitious project was to provide strategic advice around securing major philanthropic gifts. We agreed to focus our philanthropy efforts on the new HOTA gallery, which was under construction, as a first step.

The Gold Coast has traditionally been the home of entertainment rather than arts and culture, so the first question was

where to start when there is little evidence of giving to the arts? Traditional philanthropists based interstate had committed multi-year pledges to their own galleries, so we needed to look closer to home.

The existing Gold Coast Art Gallery, which would be transformed into the HOTA gallery, was an obvious place to start. There were some long-term supporters, but we needed more. We decided to pitch to Gold Coast lovers — both based in the region or with an interest there. We needed an inspirational story for those who had never given. That turned out to be easy.

In the early '90s, the gallery wanted to purchase a painting by local artist William Robinson. Individuals and business raised the \$80,000 needed. The painting is now valued at \$1 million and was the architectural inspiration for the new HOTA gallery. The perfect story of a transformational gift and how to leave a legacy.

We had the story — next was the case for support. We needed to show people with little or no interest in the arts the impact their gift would have on the place they love, where they had built their businesses and now had an opportunity to give back. A gift to the gallery was an opportunity to take the Gold Coast to the next level, to provide the glam city with a soul, to mature and to leave a lasting personal legacy.

We launched the Founding Donors program and secured six-figure pledges within 12 weeks. A three-year strategic plan to develop a structured philanthropy program was developed and implemented. In late 2022, HOTA received its first \$1 million donation. The donation came off the back of an existing partnership between a property group and HOTA.

The donor was quoted as saying, "I am honoured to be able to make a small but meaningful contribution to support a public institution that will enrich the fabric of this city for generations." HOTA commented that it was "a validation of HOTA and our role in the growing cultural landscape on the Gold Coast."

PHILANTHROPY

CASE STUDY: LIGHTNING RIDGE, NSW

Lightning Ridge is about a nine-hour drive northwest from Sydney with a population of 2000 (give or take). Like most cultural initiatives in regional Australia, the Opal Centre was founded and managed by a small volunteer group. Fifteen years ago, they convened in a committee member's house and with the use of a small, portable movie screen, design presentations were made by leading architects Glenn Murcutt AO and Wendy Lewin for an ambitious project that would be a game changer for Australia, the opal industry and Lightning Ridge. The anticipated cost for the first stage would be \$20 million.

The usual rule for a capital campaign is to quietly raise 50% of your funds, which often includes an injection of government funds before going public. However, the government wasn't initially as convinced as the community about the project, so an alternative approach was required. The Opal Centre team raised \$1 million

from private donations. This was the evidence needed to leverage an additional \$19 million from the government. The build has now commenced.

The case for support for the capital campaign covered education, history, multi-culturalism, palaeontology and the role of the Australian opal industry, among other angles. But it was the evidence of the social and economic impact on regional Australia and the opportunity to leave a legacy that convinced many donors and the government to support it.

SOME TIPS ON PLACE-BASED GIVING

Investors are concerned about the long-term sustainability of small organisations. It's important you have a well governed mechanism to accept funds, be transparent, build trust and manage bequests.

Find advocates. They are most likely to be close to home. If they don't live in the area, they may have an interest in the area. **Community buy-in is essential.** This is

an inclusive, not exclusive process. It's for the region.

Build networks. In philanthropy, business, community, government and across sectors such as health, education and tourism.

Funds can come from a range of sources. Once you secure initial donations, you are positioned to leverage support from other areas.

Apply a creative approach. There is no foolproof diagram that fits every region and town in Australia. Your approach needs to be tailored to reflect the interests of the community.

Think about the big picture of community and economic impact, not simply your organisation or project. Collaborate rather than compete for funds. info@j9ccc.com

Janine Collins is the founder and director of J9 Consulting. If you'd like to discuss how J9 can assist you with a place-based solution, please email info@j9ccc.com.



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