

## Ordinary Meeting

**Meeting Date:** Monday, 12 August, 2024  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 5.30pm

**Membership** (Quorum - 7)  
All Councillors

**Please note:** The proceedings of this meeting (including presentations, deputations and debate) will be webcast, recorded and made available on Council's website, under the provisions of the Code of Meeting Practice. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

Shoalhaven City Council live streams its Ordinary Council Meetings and Extra Ordinary Meetings. These can be viewed at the following link

<https://www.shoalhaven.nsw.gov.au/Council/Meetings/Stream-a-Council-Meeting>.

### Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Shoalhaven City and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

## Agenda

1. **Acknowledgement of Country**
2. **Moment of Silence and Reflection**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
  - Ordinary Meeting - 29 July 2024
6. **Declaration of Interests**
7. **Presentation of Petitions**

**8. Mayoral Minute**

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**10. Call Over of the Business Paper**

**11. A Committee of the Whole (if necessary)**

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Notices of Motion / Questions on Notice

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

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

- CCL24.24 Tenders - Shoalhaven MRF - Supply, Install and Commission Integrated Fire Detection and Suppression System

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- CCL24.25 Tenders - Partner Consultant - Shoalhaven Roads Project

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

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- CCL24.26 Exemption to Tenders - Materials Recovery Facility - West Nowra Recycling and Waste Facility

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- CCL24.27 Tenders - Various Water Mains Replacement Package 1 FY24-25

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CCL24.28 Tenders - Various Water Mains Replacement Package 2 FY24-25

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## MM24.28 Mayoral Minute - Outgoing Mayor Farewell and Thank You

HPERM Ref: D24/294441

### Recommendation

That Council notes the below expression of appreciation from outgoing Mayor, Amanda Findley.

### Details

As my 16 years on council draws to a close, I feel it is important to acknowledge the workforce at Shoalhaven City Council. Every single person who works for this organisation is a vital part of the functioning of the city. EVERY SINGLE ONE! During the years I have met many staff, equally there are people who I have never crossed paths with once! I have always found you people to be enthusiastic, genuinely proud of the work you have done or are doing and appreciative of the place you work in and often call home.

Since 2019 it has been a particularly trying time with so many natural disasters, and what many don't understand is that Shoalhaven staff are often personally impacted by disasters while simultaneously having to respond to them. Its tiring and emotionally draining and the fact that so many people have worked tirelessly is a testament to their inner strength.

Our city is a changing and challenging place, and the people are one of our greatest assets. Without you and your intimate knowledge of how things function, and who is best placed to respond we would be much diminished. There is nothing basic about what you do, and when I get the opportunity I say that Shoalhaven provides services for people from the cradle to the grave, its often met with a quizzical look, but when I explain that babies are bathed in water provided by the council, toddlers read to by our librarians, young kids enjoying the parks and gardens, teenagers playing sports at sporting fields, parents using roads and footpaths, elders enjoying the entertainment centre, people learning to swim, migrants becoming citizens, tourist making memories in holiday parks and when our life expires we may even use our funeral services. I know I have missed out something in that none to comprehensive list, but you get my drift and its expansive. Behind every outward facing function there are support people making it easier or more comfortable to do the work. Work that will never be finished.

My pet dislike is people raging on 'council workers' and like you I also dislike people thinking its ok when you are out and about enjoying life to launch a good old bellyache on you. You all have every right to say, 'not today here's the work number' and to stand tall and know the value of your contribution.

Thank you for years of working together, through the thick and thin, I will look back on these years with much fondness for the people I have had the pleasure of working with on many constructive things. I am proud of you, proud of our work together and proud to call Shoalhaven home.

Slàinte

MM24.28

## **MM24.29 Mayoral Minute - Caps on Short Term Rental Accommodation in New Residential Subdivisions**

**HPERM Ref:** D24/305268

### **Recommendation**

That Council:

1. Strongly request the NSW Government to release the detail of their proposed new Short-Term Rental Accommodation (STRA) regulatory framework for NSW as soon as possible to enable Council to better manage STRA in Shoalhaven within a known and agreed framework; and
2. Consider applying a cap of zero days for whole homes and a hosted cap of 180 days in all new significant residential subdivisions and rezoning areas within the City as part of any response to the new STRA regulatory framework, to ensure their use primarily as homes and still provide opportunities for residents who also wish to rent a room on the short-term market.

### **Details**

Shoalhaven City has been grappling with the issue of affordable housing for some time. As the number one short term rental LGA in the state, this category of accommodation has become a football for policy considerations.

In early 2024 the NSW Government released a Discussion Paper on potential policy options related to both short- and long-term rental accommodation. Council made a detailed submission to the NSW Government in response during April 2024. It is hoped that the NSW Government will shortly release a new framework to enable STRA to be better managed in NSW.

This mayoral minute seeks to keep our new housing areas as places to live rather than places of short-term rental as one measure Council can take to meet the targets of the state and federal governments around housing.

Byron Bay have recently taken a strong stance on this issue and placed 60-day caps on parts of their housing estates.

Taking a step that effectively bans new residential estates from supporting short term rentals as part of the housing mix recognises the value of the existing short term rental market and its significance to the viability of the tourism industry in the Shoalhaven while sending the clear message: houses as homes is the direction we desire and need for the future viability and success of our area.

Parts of the Shoalhaven are often completely unoccupied during the winter months, this has an ongoing impact on local business and of course, on our people needing housing.

I seek councillors' support for this motion, to help set a new future pathway for our city in respect to houses as homes.

**MM24.29**

## **MM24.30 Mayoral Minute - Condolence Motion Charlie Quinn, Brooke Sorlie and Aaron French**

**HPERM Ref:** D24/320697

### **Recommendation**

That Council notes the tragic passing of Ms Charlie Quinn, Ms Brooke Sorlie and Mr Aaron French who lost their lives in a horror car crash on Sunday 28 July 2024 at Tarago.

### **Details**

Tonight, I would like to acknowledge all four families whose young adult children were tragically involved in a single vehicle crash at Tarago on their way home from Canberra on Sunday afternoon, 28 July 2024.

To the families of 18-year-old Ms Charlie Quinn, 20-year-old Ms Brooke Sorlie, and 20-year-old Mr Aaron French who lost their lives in the incident, we extend our deepest sympathies and condolences to their families, friends and all who knew them.

The loss of any life is terribly sad, but the loss of young lives is tragic, incidents like this hit our community especially hard and remind us of just how precious life can be, and how quickly it can be taken away.

On behalf of Shoalhaven City Council, Councillors and staff I extend my deepest sympathies to the families of all those involved in this tragedy.

**MM24.30**



## **MM24.31 Mayoral Minute - Condolence Motion - Terry Snow AM**

**HPERM Ref:** D24/325184

### **Recommendation**

That Council notes the passing of Mr Terry Snow AM, acknowledges his significant contribution to the Shoalhaven with the Willinga Park development and expresses condolences to his wife Ginette, their children Scarlett, Tom, Georgina and Stephen and their extended family.

### **Details**

It is with great sadness that we acknowledge the passing of well-known and successful Canberra businessman, property developer and philanthropist, Mr Terry Snow AM.

Mr Snow made a remarkable impact on the world. The billionaire businessman and former chairman of Capital Airport Group (which operates Canberra Airport) will be missed greatly by many people with tributes flowing from across the globe to recognise his life, his achievements and his incredible generosity.

Renowned for his passion for high end, bold corporate property development, some of his greatest achievements include the development of the world class Canberra Airport and Business Park, Constitution Palace, Denman Prospect and Willinga Park Equestrian Centre, which is located at Bawley Point, right here in the Shoalhaven.

Mr Snow was a very well known and loved man who will be remembered for his humility, kindness and generosity, revered for his extensive charitable pursuits. In 1991, he founded the Snow Foundation which saw over \$80 million donated to many causes, and last year established the Snow Centre, a state-of-the-art medical research facility which will see over \$100 million over the next 10 years committed to medical research.

For the Shoalhaven, we acknowledge his significant contribution and lasting legacy to the Shoalhaven community with the development of the world class equestrian facility, Willinga Park at Bawley Point.

Mr Snow developed a passion for horses and horse riding later in life, a highlight of his final days being the selection of Australian dressage rider, Jayden Brown to represent Australia at the 2024 Paris Olympics, riding Willinga Park horses Quincy B and Sky Diamond.

On behalf of Shoalhaven City councillors, I extend my sincere condolences to Mr Snow's wife Ginette, children Scarlett, Tom, Georgina, Stephen, their 14 grandchildren and all their extended family, friends and all who knew him.

MM24.31

## **CL24.234 Report of the Aboriginal Advisory Committee - 30 July 2024**

HPERM Ref: D24/320392

**AA24.6 Adoption of a Standard Acknowledgement of  
Country for Council**

**HPERM Ref:  
D24/272592**

### **Recommendation**

That Council as supported and endorsed by the Aboriginal Advisory Committee:

1. Support and endorse the Acknowledgement of Country developed by Aboriginal staff as the standard written Acknowledgment that Council utilises:

*Walawaani (welcome),*

*Shoalhaven City Council recognises the First Peoples of the Shoalhaven and their ongoing connection to culture and country. We acknowledge Aboriginal people as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.*

*Walawaani njindiwan (safe journey to you all)*

2. Include a disclaimer to advise that we acknowledge and understand there are many diverse languages spoken within the Shoalhaven and many different opinions.
3. Support and endorse the Acknowledgement of Country to be used for the below purposes:
  - Digital and print document templates.
  - Shoalhaven City Council websites, including Shoalhaven Swim Sport and Fitness, Shoalhaven Entertainment Centre, Shoalhaven Libraries, Shoalhaven Regional Gallery, Shoalwater, Holiday Haven, Tourism, Bereavement Services (new), Councillor Portal and Get Involved pages.
  - Regular Council and Committee meeting agendas.
  - On staff email blocks
4. Support and endorse the use of the Dhurga language within the Acknowledgement of Country.

CL24.234

## CL24.235 LGNSW Annual Conference 2024 - Motions

HPERM Ref: D24/307539

Department: Business Assurance & Risk  
Approver: Kerrie Hamilton, Director City Performance

### Reason for Report

This report outlines motions proposed to be submitted for the LGNSW Annual Conference 2024 for endorsement by Council.

### Recommendation

That Council endorse the motions outlined within the report for submission as the Council's contribution to the Business Paper of the LGNSW Annual Conference 2024.

### Options

1. As recommended.

Implications: The Council's submitted motions will be submitted for inclusion in the Business Paper of the 2024 LGNSW Annual Conference.

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

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

### Background

At the Ordinary Meeting held on 22 July 2024 Council considered a report with respect to the LGNSW Annual Conference to be held between 17-19 November 2024 (CL24.366) and resolved:

*That:*

1. *Council confirms two of the voting delegates at the 2024 LGNSW Annual Conference to be held from 17 to 19 November 2024 will be the then Mayor and the Deputy Mayor (determined after the upcoming September Election).*
2. *Council notes that the remaining three (3) Councillors to be voting delegates will be determined by the newly elected Council at its first meeting of Council in October 2024.*
3. *That a Councillor Briefing be held in early August 2024 for the Council to formulate motions for submission to the conference.*

### Motions

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

Councils are also encouraged to submit motions online as early as possible to allow assessment of the motions and distribution of the Business Paper before the Conference.

Under LGNSW Rules, the latest date motions can be accepted for inclusion in the Business Paper is 12 midnight (AEDT) on **Sunday 20 October 2024** (28 days prior to Conference).

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The following motions were proposed at the Councillor Briefing held on 1 August 2024 and are provided for the endorsement of the Council:

MOTION 1: Environmental Policy

**Title: Plan Of Management Model Templates**

**That the Office of Local Government, in collaboration with Crown Lands, develop and adopt a model 'Plan Of Management' for each categorisation of Community Land listed at Sections 36E through 36N of the *Local Government Act 1993*, and make these model plans (templates) available to all local governments and crown land managers to inform the development and adoption of plans of management in accordance with Division 2 of the *Local Government Act 1993*.**

Background

In accordance with the Local Government Act 1993, the local government sector is responsible for the preparation of plans of management for community land. Processes of preparing, maintaining, and renewing these documents create significant resourcing demands, which can, at times, be challenging for the sector to adequately resource.

Councils are responsible for preparation of these management instruments for community land held under freehold title by councils, and for crown land properties for which councils are nominated crown land manager.

Provision of a model plan of management (template) would provide certainty to all stakeholders, including property management teams in the local government sector, of acceptable minimum requirements (a benchmark) for plans of management.

MOTION 2: Planning, Housing And Building Regulation Policy

**Title: Commit To Ensuring That The NSW Housing Targets Will Continue To Evolve**

**Request the NSW Government to validate and adjust their recently released housing targets as NSW Planning completes the detailed supply audits that are underway.**

Background

The NSW Government recently released aspirational housing targets for NSW for the next 5 years and beyond. These targets are based on a top down approach and need to be informed by the bottom up work that NSW Planning is also doing. As such it would be beneficial for the targets to evolve and be adjusted as more detailed supply audit work is completed.

MOTION 3: Infrastructure Policy

**Title: REOPEN the NSW Government's Regional Road Transfer & Reclassification Review**

**Advocate to reopen the review into NSW Roads - with objective of identifying Regional Roads to hand back to the NSW Government (as part of a suite of measures towards a more sustainable future)**

Background

In 2019, the NSW Government announced the transfer of up to 15,000km of regional roads across NSW from Local to State Government. The transfer proposed to form part of a broader package of support to assist councils to better manage the regional and rural road network, and work towards a more sustainable future. An Independent Panel was established to advise the NSW Government on the transfer and an associated review of its road classification policy to better align with contemporary strategic transport planning documents. On the 31 August 2021, Shoalhaven City Council resolved to transfer all of its Regional Roads (approximately 171km) to the NSW State Government given, pursuant to

CL24.235

the State's objective to better manage and maintain the rural road network. The Independent Panel's work was not completed – and the current NSW Government has not progressed the matter.

#### MOTION 4: Infrastructure Policy

##### **Title: Significant Increase in Grant Funding Required for Active Transport**

**Advocate for a significant increase in investment from the NSW State Government towards active transport infrastructure, and in parallel, advocate for a new annual grant program to be introduced from the Federal Government for Active Transport infrastructure.**

##### **Background**

The funding model for Active Transport Infrastructure has to change if we are going to achieve any tangible mode shift towards more sustainable active transport. Worldwide there is a push for State and Federal Governments to allocate a percentage of their annual budgets towards Active Transport Infrastructure – and we are lagging behind in Australia. The NSW Government's Active Transport Strategy was released in September 2022, drawing on the updated Future Transport Strategy 2056. In releasing the strategy, the NSW Government claimed that more than 1.5 billion walking and bike riding trips were taken per year across New South Wales, with the strategy aiming "to double this number in 20 years". The NSW Government's Future Transport Strategy sets the vision for safe, healthy, sustainable, accessible and integrated journeys in NSW, through its vision for more walking, bike riding and personal mobility. The Strategy "provides a plan to guide planning, investment and priority actions for active transport across NSW" - however, since the Strategy was released, there has been a "decrease" in investment. This year, for the first time in more than 25 years Shoalhaven City Council received no funding through the Get Active NSW program (for the 2024/25 financial year) and only 8 Councils in NSW were grant recipients under the program. We know that the NSW Government won't be able to provide all of the funding needed to achieve its strategy objectives. Federal funds will also be required. The Federal Department of Infrastructure, Transport, Regional Development, Communications and the Arts currently provides no annual grant programs for "Active Transport", and this has to change. In Shoalhaven City alone, the backlog of community requested paths and crossings has been estimated to be at least \$235M.

#### MOTION 5: Planning, Housing And Building Regulation Policy

##### **Title: Provide Further Support And Reforms To Enable Councils To Assist With The Delivery Of New Housing And Meet The NSW Government's Housing Targets.**

**Further and increased NSW Government support is needed for regional Councils to meet their housing targets. This includes : Development Assessment resourcing (e.g. more rounds of the Faster Local Assessment Grant Program); support for strategic planning (e.g. Further rounds of the Regional Housing Strategic Planning Fund and overarching planning coordinator to assist with coordinated NSW Government input and responses) and increased funding for enabling and supporting infrastructure (e.g. Supporting the Federal Governments Housing Support Program, including promised access to funding from the NSW Housing and Productivity Contribution).**

##### **Background**

There is considerable pressure on all Councils to plan for and help provide the infrastructure to support more housing and there are existing Government programs to assist with this - these need to continue.

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MOTION 6: Planning, Housing And Building Regulation Policy

**Title: Improved Collaboration with NSW Councils as Reforms Continue to the NSW Planning System**

**Collaborative planning and engagement with councils are essential for effective planning reform. The NSW Government should commit to involving councils from the outset, ensuring their input is valued throughout the process. By fostering transparency and collaboration, we can create a more robust and responsive planning system that benefits communities and stakeholders alike As such the NSW Government is requested to commit to continuing to collaborate and engage with Councils throughout their planning reform journey.**

**Background**

We continue to see planning reforms progress without any input or dialogue with Councils and when this does occur it is after the fact or when the matter is being formally exhibited.

MOTION 7: Planning, Housing And Building Regulation Policy

**Title: Provision of Additional Affordable Housing**

**Request that the NSW Government complete the implementation of the Low and Mid Rise dwellings planning reform taking on board the feedback provided to date by Local Government.**

**Background:**

This reform has the potential to provide additional housing, but it needs to take on board the feedback and concerns raised by Local Government.

MOTION 8: Planning, Housing And Building Regulation Policy

**Title: Provision of Key Worker Housing**

**The NSW Government is requested to deliver both permanent and temporary residential accommodation to support and alongside its significant infrastructure projects where appropriate (e.g. Shoalhaven Hospital Upgrade), both during construction and operation.**

**Background:**

This reform has the potential to provide additional housing, but it needs to take on board the feedback and concerns raised by Local Government.

MOTION 9: Planning, Housing And Building Regulation Policy

**Title: Provision Of Additional Land For Affordable Housing**

**Request the NSW Government to release the results of its surplus land audit and start collaborating with Councils on the potential development of these sites for affordable housing and as part of this the government also progress its review of the planning and regulatory framework for meanwhile use and 'tiny homes'.**

**Background:**

This presents a significant opportunity to assist with much needed additional affordable housing using NSW Government land and different, more cost effective forms of development. However little progress has been made, particularly in regional areas.

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MOTION 10: Planning, Housing And Building Regulation Policy

**Title: Short Term Rental Accommodation (STRA)**

**That the government complete its review of the options in regard to STRA and provide a range of 'model' options for Councils to consider ensuring flexible and improved opportunities to improve the management and regulation of this land use in its local area.**

**Background:**

STRA use can be both negative and positive and Councils are increasingly wanting the ability to set more local controls to better manage this land use in their LGA. Ideally the NSW Government will develop a suite of options they are ok with and that Councils can consider.

MOTION 11: Planning, Housing And Building Regulation Policy

**Title: Providing Suitable Infrastructure In New Developing Urban Release Areas**

**The infrastructure cap in the contributions plan is out of date and not sustainable for urban release areas. With the increased attention on housing supply, Councils need less restrictions in place to support delivery partnerships for enabling infrastructure. We call on the NSW Government to either remove the cap or allow its indexation on contributions for urban release areas.**

**Background:**

Detailed planning demonstrates many more dollars than the restrictive cap are required to deliver both the enabling and supporting infrastructure for new greenfield release areas.

MOTION 12: Workplace Relations And Employment Policy

**Title: Support For Additional Early Childhood Education Facilities**

**That Local Government NSW recognise the need of additional early childhood education facilities throughout the NSW and calls on the State and Federal Government to:**

- 1. Support additional staffing for early childhood education facilities by creating incentives and increasing wages above inflation.**
- 2. Develop and implement a strategy to simplify and encourage the establishment of additional early childhood education facilities.**
- 3. Provide support to families to make childcare an affordable option**

**Background:**

The current shortage of available affordable intakes in early childhood education facilities has arisen from a shortage of skills in the industry and a shortage of facilities nearby to residential areas and workplaces. The current shortage results in parents/guardians having to stay home to care for their children due to no available local intakes or no nearby affordable options. In some instances, it results in families travelling a lengthy distance each way between their residence, childcare, and work. Action is required to address the current childcare crisis, and allow for parents/guardians to return to work when desired whilst their children are being cared for in a professional and safe manner.

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MOTION 13: Workplace Relations And Employment Policy

**Title: Skills and Labour Shortages**

**That Local Government NSW calls on the State and Federal Government to:**

- 1. Continue to develop and implement a strategy to attract and retain skilled professionals to regional areas.**
- 2. Support and enhance the appropriate educational pathways in regional areas to allow young people to study and gain employment in their region.**

**Background:**

Regional NSW has significantly less educational pathways in comparison to metropolitan areas, as well as less opportunity for young people to gather and socialise. As a result, many young people leave regional areas after high school to receive tertiary education. Many of these young people then find a job near their location of study and never return to Regional NSW.

The recent escalation of the cost of living and real estate in regional areas has resulted in Regional NSW no longer being marketed as a more affordable area to reside and work, although wages remain lower on average than metropolitan areas. A strategy to address these issues and gaps is required in order to attract and retain skilled professionals to regional areas.

MOTION 14: Infrastructure Policy

**Title: Public Transport Improvements In Regional NSW**

**That Local Government NSW calls on the State and Federal Government to improve public transport services in regional areas, allowing residents and visitors better access to regional centres and essential services.**

**In the South Coast, projects include reinstating the duplication of the South Coast line between Gerringong and Berry, to enable doubling of the services, and the continuation of the heavy line replacement so Manildra's trains can run beyond 800 metres with greater carrying capacity, and the early introduction for new rolling stock for passenger fleet. These are considered critical projects into the future for growth and connectivity.**

**Background:**

Regional NSW contains many smaller towns and villages, that are isolated from regional centres and essential services. Public transport to these areas is usually extremely limited or non-existent, which results in reliance on personal vehicles or lengthy wait times for available services. More frequent and reliable public transport options would result in an increase in uptake of these services, which would reduce individual vehicle movements and provide a positive environmental outcome.

MOTION 15: Infrastructure Policy

**Title: Funding For Renewal And Maintenance Of Tourism Infrastructure In High Visitation Areas**

**That Local Government NSW calls on the State and Federal Government to provide state or federal approach to funding opportunities for Local Government and the private sector to renew and maintain tourism infrastructure in areas that receive high visitation and usage rates**

**Background:**

In the current economic climate, Local Governments are also feeling the financial pressures with costs of materials and services rising. Although tourists provide a significant economic

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boost to regional areas, they are usually not rate payers of the Local Government Area. As a result, Councils may not receive the required amount of rate funds to proportionate to the level of use of some infrastructure and assets. Additional funding opportunities would assist in addressing this shortfall

MOTION 16: Economic / Council Governance And Accountability Policy

**Title: Improved financial sustainability in local government**

**That Local Government NSW requests the NSW Government to:**

- **Advocate for the restoration of Financial Assistance Grant funding to a level equivalent to at least 1 per cent of Commonwealth Taxation Revenue**
- **Advocate for the reallocation of federal tax collected from tourism operators to Council in order to support the provision of services and maintenance of infrastructure required during peak tourist periods**
- **Consider road width, condition, and the accelerated deterioration due to natural disaster declarations, when allocating State road funding to Councils**
- **Apply a one-off increase to the developer contribution caps, to increase it to the amount it would have been had it been indexed annually, bring the cap in line with today adjust for the annual CPI increases since (2012), followed by recurring annual indexation**
- **Increase the pensioner subsidy to an amount that reflects current level of rates, noting its initial intention was to provide pensioners with up to a 50% rebate**
- **Increase statutory development fees to full cost recovery**
- **Align the EPA Waste Levy Metropolitan and Regional classifications with the classifications used by the Office of Local Government**

**Background**

The financial stability of local governments continues to be a challenge with increasing community demand for services, population growth and rising cost associated with maintenance and renewal of ageing infrastructure. Councils are constrained as to how they can increase revenue with a number of statutory fees and charges being capped, and not indexed, for a number of years. The impacts of natural disasters continue to impact on the sectors ageing infrastructure and Councils now face a significant infrastructure backlog that there is no way of addressing. Methods for redirecting funding into, and within, the local governments sector must be implemented to ensure the long-term financial sustainability of Councils.

MOTION 17: Economic Policy / Infrastructure Policy

**Title: Enhancing Regional Transport Infrastructure for Economic Development**

**That Local Government NSW calls on the State Government to prioritise and invest in the investigation and development of regional transport corridors, particularly the Maldon-Dombarton railway line. This infrastructure project is crucial for the economic benefit and uplift of the Illawarra/Shoalhaven Region and the Western Sydney Growth Region, including connectivity to the Nancy Bird Walton Airport. Additionally, the duplication and electrification of the line to accommodate passenger rail will significantly improve regional connectivity, reduce travel times, and support economic development.**

**Background:**

The Maldon-Dombarton railway line has long been identified as a key infrastructure project with the potential to greatly enhance the connectivity between the Illawarra/Shoalhaven

Region and the Western Sydney Growth Region. Originally proposed in the 1980s, this rail link aims to provide a more direct and efficient route for freight transport, thereby alleviating congestion on existing rail lines and improving overall transport efficiency.

The completion of the Maldon-Dombarton railway line will provide significant economic benefits by facilitating easier access to the Nancy Bird Walton Airport in Western Sydney, which is set to become a major hub for both passenger and freight transport. This enhanced connectivity will not only support local businesses and industries by providing more efficient transport options but also attract new investments to the region.

Duplicating and electrifying the line to accommodate passenger rail will further enhance the benefits of this project. It will improve regional public transport connectivity, offering residents greater mobility and reducing travel times. This investment in passenger rail infrastructure will also support sustainable development by encouraging the use of public transport, thereby reducing traffic congestion and environmental impact.

Given these potential benefits, it is imperative that the State Government prioritizes the investigation and development of the Maldon-Dombarton railway line and other regional transport corridors. Such investments are essential for the long-term economic growth and sustainability of the Illawarra/Shoalhaven and Western Sydney Growth Regions.

MOTION 18: Economic Policy

**Title: Upgrading Main Road 92 for Improved Connectivity and Economic Development**

**That Local Government NSW calls on the State Government to prioritize the upgrade of Main Road 92 to improve access between the Shoalhaven region and Canberra. These upgrades are essential for enhancing regional connectivity, supporting economic development, and facilitating better transportation of goods and people.**

**Background:**

Main Road 92 is a vital transport link between the Shoalhaven region and Canberra, the capital of the ACT. Upgrading this road is crucial for improving accessibility, reducing travel times, and enhancing the overall safety and efficiency of this important corridor. The current state of Main Road 92 poses challenges, notably inadequate road conditions, safety concerns, and accessibility issues during adverse weather events.

Investing in the upgrade of Main Road 92 will significantly improve connectivity between the Shoalhaven region and Canberra, facilitating smoother transportation of goods and enabling better access to economic opportunities in the capital. This improved access will support local businesses by providing a more efficient route for their operations and attract new investment to the Shoalhaven region.

Additionally, enhanced road conditions will benefit residents by offering a safer and more reliable route, improving their quality of life and access to essential services. The upgrade will also support regional tourism by making travel between the Shoalhaven and Canberra more convenient.

Given these benefits, it is crucial that the State Government prioritizes the upgrade of Main Road 92. This strategic infrastructure investment is essential for the long-term economic growth and connectivity of the Shoalhaven region with Canberra.

MOTION 19: Infrastructure Policy

**Title: Supporting the Development of High-Speed Rail to Benefit All of NSW**

**That Local Government NSW advocates for the development of a high-speed rail network across New South Wales. This network should not only enhance connectivity for metropolitan Sydney but also provide significant benefits to regional areas throughout the state. The high-speed rail system must be developed as an independent network, completely separate from the existing NSW rail infrastructure, to**

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**guarantee its optimal performance and reliability as a premier transport solution for the state.**

Background:

The development of a high-speed rail network in New South Wales represents a transformative opportunity for the state's transport infrastructure. High-speed rail has the potential to revolutionize travel by significantly reducing travel times between major cities and regional centres, fostering economic growth, and enhancing connectivity across NSW.

Currently, the existing rail network faces limitations in terms of capacity and speed, which can constrain the efficiency of long-distance travel. By investing in a dedicated high-speed rail system, New South Wales can overcome these constraints and provide a more reliable and faster alternative for passengers.

A high-speed rail network would offer numerous benefits, including:

- **Improved Connectivity:** Faster travel between metropolitan areas and regional centres would facilitate greater economic interaction and reduce travel times, making it easier for people to access business, educational, and recreational opportunities.
- **Economic Growth:** Enhanced transport links can drive economic development by supporting local businesses, attracting investment, and creating jobs across the state.
- **Environmental Benefits:** High-speed rail offers a more sustainable transportation option compared to road travel and short-haul flights, contributing to reduced greenhouse gas emissions and a lower environmental impact.

To maximize the benefits of high-speed rail, it is crucial that the system is developed as an independent network. Integrating it with the existing rail infrastructure could undermine its efficiency and speed. A dedicated high-speed rail network will ensure that the system operates at its full potential, providing a stable and effective transport solution for New South Wales.

Local Government NSW's support for this initiative will be instrumental in advancing the planning and development of high-speed rail, ensuring that the entire state, including both metropolitan and regional areas, can reap the benefits of this transformative infrastructure project.

MOTION 20: Infrastructure Policy

**Title: Upgrading the South Coast Railway to Support Regional Development and Connectivity**

**That Local Government NSW calls on the State Government to prioritize the duplication and electrification of the South Coast Railway from Kiama to Bomaderry. This investment is essential for improving regional connectivity, supporting economic growth, and ensuring a reliable and efficient transport system for the South Coast region. This includes:**

1. **The duplication of the South Coast line between Kiama to Bomaderry.**
2. **Doubling services to meet the increasing demand and improve frequency.**
3. **Continuing the heavy line replacement to enable Manildra's trains to run beyond 800 meters with greater carrying capacity.**
4. **Early introduction of new rolling stock for the passenger fleet to enhance service quality and capacity.**

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Background:

For many residents, commuters, and visitors in the Shoalhaven region, traveling to Kiama, Wollongong, and Sydney often presents a difficult choice: endure the congested highway or deal with the infrequent railway service. The South Coast railway line, particularly from Kiama to Bomaderry, suffers from limited service frequency, offering only one train per hour and slightly more during peak times. This scarcity of reliable rail options forces many to rely on the highway, despite its notorious traffic issues and bottlenecks. With new urban developments, such as those along Moss Vale Rd South and North, this problem is expected to escalate.

The reliance on the highway highlights the urgent need for a major overhaul of the railway infrastructure. A modernized railway system, featuring double-deck electric trains with advanced amenities like CCTV and passenger information displays, is essential. Increasing service frequency is necessary to accommodate the growing transportation needs of our communities in Kiama, South Coast, and Shoalhaven. Safety is also a significant concern, as the current rail services are used by school children, young adults, and other passengers traveling late at night.

As our region experiences population growth, seasonal tourism influxes, and new urban developments, the need for a comprehensive rail upgrade becomes even more pressing. We must align our transportation infrastructure with contemporary demands to ensure reliable connectivity and economic opportunities for all residents.

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## CL24.236 Ongoing Register of Pecuniary Interest Returns - July 2024

**HPERM Ref:** D24/311836

**Department:** Business Assurance & Risk

**Approver:** Kerrie Hamilton, Director City Performance

### Reason for Report

The reason for this report is to provide the Council with the Register of Pecuniary Interest Returns from newly designated persons lodged with the Chief Executive Officer for the period of 1 July to 31 July 2024 as required under Section 440AAB of the Local Government Act 1993 and Part 4.26 of the Code of Conduct.

### Recommendation

That the report of the Chief Executive Officer regarding the Ongoing Register of Pecuniary Interest Returns lodged for the period of 1 July to 31 July 2024 be received for information.

### Background

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

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

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

Part 4.26 of the Model Code of Conduct states:

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

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

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

Directorate	Name	Designated Position Start Date	Returned
City Development	Stephen Pitt	01/07/2024	02/07/2024
City Development	Bruce Gibbs	01/07/2024	12/07/2024

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

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**Risk Implications**

A failure of meeting the obligations with respect to the Pecuniary Interest Returns by a designated officer leaves Council at risk of non-compliance with legislative requirements, conflicts of interest and limited transparency.

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## **CL24.237 Amend Southern Water Services Pty Ltd bank signatories**

**HPERM Ref:** D24/318198

**Department:** Finance

**Approver:** Kerrie Hamilton, Director City Performance

### **Reason for Report**

New authorised signatories are required on Council's Southern Water Services Pty Ltd bank account.

### **Recommendation**

That Council amend the authorised signatories on the Southern Water Services Pty Ltd National Australia Bank Ltd bank account as follows:

1. Add the following staff as authorised signatories:-
  - a. Katie Buckman – Chief Financial Officer
  - b. Robyn Stevens – Chief Executive Officer
  - c. Damien Jenkins – Manager - Reporting & Controls
  - d. Mathew Badcock – Manager – Budgeting & Analysis
2. Remove all other existing signatories from the bank account.

### **Options**

1. Approve all new signatories.

Implications: Council will be able to add new signatories and delete outgoing signatories.

2. Reject all new signatories.

Implications: Council will be unable to add new signatories and delete outgoing signatories.

### **Background**

Council needs to update its authorised signatories on the Southern Water Services Pty Ltd bank account (held with National Australia Bank Ltd) to reflect recent changes in staff. Council resolution is required to enable staff to delete former and outgoing authorised signatories and to add new signatories to the account.

### **Financial Implications**

Loss may result as departed staff are still able to process transactions on Council's bank account if they are not deleted.

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## **CL24.238 Active Transport Strategy (PAMP - Bike Plan Update)**

**HPERM Ref:** D24/219565

**Approver:** Coralie McCarthy, Acting Director - City Futures

**Attachments:** 1. Active Transport Strategy 2024 (including PAMP and Bike Plan Update) (under separate cover) [⇒](#)  
2. Active Transport Strategy 2024 (Appendices) (under separate cover) [⇒](#)

### **Reason for Report**

To consider the proposed new Active Transport Strategy and updates to the Pedestrian Access and Mobility Plan (PAMP) and Bike Plan and seek resolution to place them on public exhibition.

### **Recommendation**

That Council:

1. Exhibit the draft documents (Active Transport Strategy 2024 – including PAMP and Bike Plan Updates) and associated Appendices, for a minimum of 30 days and delegate staff to make minor changes to prepare for exhibition as required.
  - a. If feedback results in no significant changes, finalise the documents and deem adopted; or
  - b. If significant adverse feedback is received, update the documents and report the outcomes to Council for final adoption - before December 2024.
2. Thank Transport for NSW for collaboration and grant funding.
3. Consider funding opportunities for adopted pathway networks, where appropriate, through the preparation of the new Contributions Plan project that is currently underway, or as part of a future plan update.

### **Options**

1. Accept the recommendation.

Implications: This ensures that grant timeframes will be met, and the benefits of the new adopted strategies will be delivered to the community sooner.

2. Seek changes to the documents prior to them going on exhibition.

Implications: This will enable amendments to be made to the current draft strategies prior to exhibition, however at the risk of current grant timeframes not being met (depending on the extent of any changes this could add time and cost). Under this option some more 'Council' funding may be required to finalise the strategy updates.

3. That Council

- a. Adopt the Active Transport Strategy 2024 (including PAMP and Bike Plan Update) and associated Appendices as final and consider further public consultation unnecessary.

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- b. Thank Transport for NSW for collaboration and grant funding.
- c. Consider funding opportunities for adopted pathway networks, where appropriate, through the preparation of the new Contributions Plan project that is currently underway, or as part of a future plan update.

Implications: Council might consider there has already been more than enough community input, and not place the documents on exhibition. (Whilst there has been extensive community input to the PAMP and Bike Plan projects and maps, and feedback on the previous criteria - the subsequent amendments to the criteria, new ranking of projects city wide, new Active Transport Strategy- including updated PAMP and Bike Plan, are all new). Accordingly, this option is not recommended, and a period of community consultation is considered necessary before the strategies are finalised.

## Background

Since the original suite of Active Transport Strategies were developed, the PAMP and Bike Plan maps, score criteria, and associated project ranking spreadsheets, have continued to evolve over time as operational documents, and kept as current as possible by staff. However, it's been a long time since any of the background strategies (or project selection criteria) have been formally reported back to Council for consideration.

The following timeframes indicate when these strategies were last adopted:

- Shoalhaven Cycleway Strategy 1997
- Integrated Transport Strategy 2000
- PAMP Stage 1 – 2002 (Nowra-Bomaderry, Milton-Ulladulla, Bay& Basin)
- PAMP Stage 2 – 2005 (every other town/village area not included in PAMP Stage 1)
- Round the Bay - 2012
- Bike Plan - 2013

With limited funding and resources available for a major review of the PAMP and Bike Plan, staff commenced an internal review in 2018 reviewing the mapping network, fixing errors, integrating with other masterplans and strategies, and incorporating community feedback.

The PAMP “Interactive Mapping Tool” was launched in June 2021, and since that time the mapping of existing, and proposed, paths have effectively been live on exhibition allowing further refinements of the mapping as community feedback was received.

Other forms of community engagement (documented in the strategy) were also undertaken as preparatory work, pending approval of the grant funding needed to facilitate a more thorough review of the strategies.

In April 2023, staff conducted a pre-public consultation by mailing all 24 Community Consultative Bodies (CCBs), 8 Chambers of Commerce, local Active Transport Groups, and interested community members. They were invited to review updated plans, project selection criteria, and provide preliminary feedback as part of the broader PAMP and Bike Plan review.

Internal preparatory work and pre-consultations allowed tight grant funding deadlines after receiving approval from the NSW Government in December 2023.

Following a competitive quotation process, council engaged consultant ‘arc’ (Anton Reisch Consulting) in February 2024. Their work confirmed new project selection criteria, ranked city-wide projects, and developed a draft ‘Active Transport strategy’ (including updates for both the PAMP and Bike Plan), by the end of June 2024.

Minor edits are still underway to prepare the documents for public exhibition and this report recommends Council consider placing the strategies on public exhibition.

**Attachments 1 and 2** include the new draft Active Transport Strategy (including updated PAMP and Bike Plan) and associated appendices. The content has been updated to conform to current standards, guidelines, industry best practice, and prepared in accordance with the recently adopted NSW Active Transport Strategy.

### Internal Consultations

Consultation has been undertaken with numerous Council staff across several Directorates between 2018 – 2024 and further feedback will be invited during the exhibition period.

Transport for NSW advice was also considered during the background preparation and development of the plans.

### Community Consultations

Community consultations informed the review, focusing on projects, mapping, and selection criteria. The new Active Transport Strategy (including updated PAMP and Bike Plan) are now recommended for public exhibition.

### Policy Implications

There are no known policy implications from Council proceeding to place the new Active Transport Strategy on exhibition.

### Financial Implications

Proceeding with the new Active Transport Strategy has no known financial implications. The strategy development work is primarily grant funded, which will cover remaining work in finalising the documents.

However, delivering outcomes and managing community expectations in the current financial climate remain significant challenges for Council.

- The Shoalhaven faces challenges due to its size and the existing backlog of community-requested paths and crossings.
- The current ratio of built paths to Council-maintained roads is only 15%.
- Over 900 proposed projects are under consideration (excluding those likely to be funded by Transport for NSW or through developments).
- Constructing all current Council-proposed projects (approximately 282km) would double the ratio of paths to roads (to 30%).
- A rough estimate suggests the minimum cost of the backlog is \$235M, but detailed design factors may increase this.
- Funding constraints persist, with the NSW Government's "Get Active NSW" program historically awarding less than \$1M annually through a competitive process with stringent criteria. Federal funding for active transport also remains limited, emphasizing the need for continued advocacy efforts to secure more grants from both state and federal sources.
- Apart from State and Federal funding, Council could also consider additional revenue for active transport through the preparation of the new Contributions Plan project that is currently underway, or as part of a future plan update (noting co-contributions towards projects typically improves the success of grant funding nominations, enabling Council's to stretch limited local funding sources further).

## CL24.239 New Land Use Planning Scheme (Stage 1): Shoalhaven Affordable Housing Strategy - Proposed Finalisation

**HPERM Ref:** D24/215667

**Department:** Strategic Planning

**Approver:** Coralie McCarthy, Acting Director - City Futures

**Attachments:**

1. Summary and Consideration of Submissions on the Draft Affordable Housing Strategy (under separate cover) ➡
2. Recommended Adjustments to the Draft Affordable Housing Strategy (under separate cover) ➡

### Reason for Report

This report outlines the results of the recent public exhibition of the draft Shoalhaven Affordable Housing Strategy and recommends its adoption by Council.

The Shoalhaven Affordable Housing Strategy aims to address the region's affordable housing challenge. It outlines strategies for Council to enhance housing supply and improve affordability through planning controls, development contributions, use of public land and advocacy efforts.

### Recommendation

That Council:

1. Adopt the draft Shoalhaven Affordable Housing Strategy with the changes recommended in **Attachment 2**.
2. Delegate authority to the CEO (or delegate), to make other minor adjustments to the draft Shoalhaven Affordable Housing Strategy as required prior to final publication which do not alter the intent of the document (e.g. minor formatting, labelling of figures etc).

### Options

1. As recommended.

Implications: The finalisation of this Strategy completes a component of Stage 1 of the new Land Use Planning Scheme that Council has committed to preparing.

It confirms the action Council will take to contribute to the supply of affordable housing in Shoalhaven and implements several priorities from the Community Strategic Plan and Local Strategic Planning Statement. Specifically, Delivery Program Objective 1.1.05: Develop plans which will enable a variety of affordable and appropriately serviced housing options and LSPS Planning Priority 1: Providing homes to meet all needs and lifestyles.

2. Resolve to adjust the draft Strategy or delaying its finalisation.

Implications: Subject to the nature of the alternative resolution, it could defer the finalisation of the document and delay finalisation of this component of the new Land Use Planning Scheme. If the finalisation of the Strategy is delayed Council will also need to seek an extension to the current funding agreement with the NSW Government.

3. Resolve to not finalise the draft Strategy.

Implications: Work on the document is paused until Council determines how to progress. Pausing work on the update to the current Affordable Housing Strategy will potentially limit Council's ongoing efforts to increase the supply of affordable housing and improving the cost of housing more generally. The preparation of the Strategy is funded via a government grant with timeframes. Missing these timeframes or stopping the project risks loss of funding and reputational damage.

### **Background**

Council has committed to preparing a new Land Use Planning Scheme for the City to respond to significant change experienced over recent years, current and emerging land use planning challenges, legacy matters, and ongoing planning reforms.

The resolved Stage 1 of the Scheme includes:

1. Additional development controls and heritage conservation measures for Berry.
2. New planning controls to manage local or neighbourhood character.
3. A contemporary local infrastructure contributions framework.
4. Investigation of options to manage Short-Term Rental Accommodation.
5. An updated Affordable Housing Strategy.
6. Strategic Growth Principles to guide the preparation of a City-wide Housing Strategy.

The new Scheme has many components, with future stages potentially including a City-wide Housing Strategy, other land use Strategies, and updated development controls for locations sensitive to change.

The scope and timing of future work will be settled with the newly elected Council from September 2024. The Scheme is generally consistent with *Shoalhaven 2040*, Council's adopted Local Strategic Planning Statement (LSPS) and will be implemented through new local planning documents. These include the City-wide Local Environmental Plan, Development Control Plan, and Development Contributions Plan.

The existing Shoalhaven Affordable Housing Strategy was adopted and released by Council in early 2018. This report provides an update on item 5 of the new Scheme and presents the feedback received in response to the exhibition of the new draft Strategy and the recommended adjustments to finalise it.

### **Community Consultation**

In May 2024, Council endorsed the public exhibition of the draft Strategy (MIN24.274). As a result, it was publicly exhibited from 12 June to 12 July 2024. The exhibited draft Strategy can be viewed via this [link](#).

Community Consultative Bodies, Local Aboriginal Land Councils, and other stakeholders were directly notified of the opportunity to provide feedback on the draft Strategy. Other notification activities included a media release and a social media campaign. The exhibition material was available online and at Council's Nowra and Ulladulla offices.

Council received 37 submissions on the draft Strategy, most in support. **Attachment 1** provides a summary of submissions, including a response to the feedback and a range of proposed adjustments to the draft Strategy.

### **Proposed Adjustments Post Exhibition**

**Attachment 2** summarises the recommended amendments to the draft Strategy. These changes do not significantly alter the exhibited document but address submissions and facilitate the finalisation of the draft Strategy.

Delegation has also been sought to make minor formatting and consequential amendments as the document is finalised and prepared for publication.

### **Policy Implications**

Finalisation of the draft Strategy will provide Council with a contemporary Strategy setting out the contribution Council can potentially make to the response to the ongoing affordable housing challenge.

### **Financial Implications**

The preparation of the draft Strategy is funded through the NSW Government's Regional Housing Strategic Planning Fund and needs to be adopted in this term of Council to meet the grant milestones as the current project acquittal date is 30 August 2024. An updated funding agreement and acquittal date will need to be renegotiated with the NSW Government should more time be needed to finalise the draft Strategy.

Should the draft Strategy be adopted, actions will be investigated/progressed in the short, medium, and long term. Whilst the initial investigation can be considered as part of operational work plans, as these actions progress, they will need to be considered through a lens of financial sustainability for Council. If adopted, these actions will be supported 'in principle' and Council staff will investigate and report specific outcomes to Council, including consideration of any potential financial as relevant.

## CL24.240 Proposed Finalisation of Works in Kind Agreement Negotiations - Associated with Subdivision at 70 Hillcrest Avenue, South Nowra (SF10525)

**HPERM Ref:** D24/283134

**Department:** Strategic Planning  
**Approver:** Coralie McCarthy, Acting Director - City Futures

**Attachments:** 1. Council Final Statement - 70 Hillcrest Avenue South Nowra WIKA (Confidential - under separate cover)

### Reason for Report

The purpose of this report is to seek a formal direction from Council regarding the ongoing Works in Kind Agreement (WIKA) negotiations, which have effectively stalled, relating to a subdivision at 70 Hillcrest Avenue, South Nowra (SF10525).

### Recommendation

That Council:

1. Endorse the discontinuation of negotiations relating to the proposed Works in Kind Agreement (WIKA) at 70 Hillcrest Avenue, South Nowra, if the developer does not agree to the terms of the final statement of what Council is willing to accept (**Attachment 1**) within the timeframe prescribed, and provide delegation to the Chief Executive Officer or her delegate to discontinue negotiations without entering into the WIKA
2. If the developer is agreeable to the terms of the final statement of what Council is willing to accept (**Attachment 1**), endorse the finalisation of the agreement as soon as practicable and provide delegation to the Chief Executive Officer or her delegate to do so.
3. Advise the relevant party of this decision.

### Options

1. As recommended.

Implications: This is the preferred option as it represents the best public interest outcome and will enable the:

- Progression of the agreement if the developer is agreeable to the terms of the final statement outlining what Council is willing to accept. This final statement is based on a rigorous assessment of the cost of works and land value against the scope in the Contributions Plan 2019 and consideration of the broader public interest; or
- Discontinuation of the agreement if the developer is not agreeable to the terms of the final statement of what Council is willing to accept. The developer would be required to pay monetary contributions in the absence of an agreement in place. There is no liability for Council in discontinuing negotiations as staff have given due consideration to the offers made by the Developer. Delegation has been sought for staff to make this determination

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2. Adopt an alternative recommendation.

Implications: This would depend on the nature of the alternative; however, it is recommended that Council seek legal advice on any further options before a resolution is ultimately agreed. To that end, it is recommended that any alternative proposed by the Council should include the following: “seek advice or report back on”.

Should Council make an alternate resolution, this could result in a number of variations to the recommendation, including (not exclusively):

- Delegation is not provided to Council staff to make a final decision regarding the discontinuation of the negotiations.
- Commit to covering the Council staff recommended ‘Surplus Value’ (\$875,959.40) and land value (\$551,200) upfront, rather than being paid overtime from the 01ROAD3144 and 01DRAI0005 Contributions Plan projects as funds become available.
- Accept works and land area not envisaged in the Contributions Plan.
- Offset all s7.11 contributions, s64 contributions and linen plan release fees, as suggested by the Developer, with the remaining balance being paid by the ‘Deleted Fund Reserve’ or General Fund after the review of the Contributions Plan, within a 2 year period from now.
- Pool funds within the Contributions Plan.

Depending on the alternative, there may be an adverse impact on the general fund that cannot be contemplated at this point in time. This option, or variations of, is not in the public interest as Council’s General Fund no longer has the capacity to assist and the ‘Deleted Funds Reserve’ has been exhausted.

If delegation is not provided to Council staff to make a final decision regarding the discontinuation of the negotiations, Council would need to make a final decision on the proposed WIKA following the local government elections, which would further delay the resolution of this matter.

Further, it is important that Council gains an understanding of the direction that the current Contributions Plan review will take, and the related financial implications to Council, prior to making final commitments in relation to this proposed infrastructure agreement. This includes the careful consideration of the use of pooled funds moving forward.

**Background**

On 14 February 2020, development consent (SF10525) was granted for a 63-lot residential subdivision at Lot 2 DP 610984; 70 Hillcrest Avenue, South Nowra (coloured in blue in **Figure 1**). **Figure 2** indicatively shows the approved subdivision layout.

The subdivision relies on a connecting road link to the partially constructed Somerset Avenue that runs to the east of the site (**Figure 1**, coloured in yellow).

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Figure 1: The subject land - 70 Hillcrest Avenue (in blue)

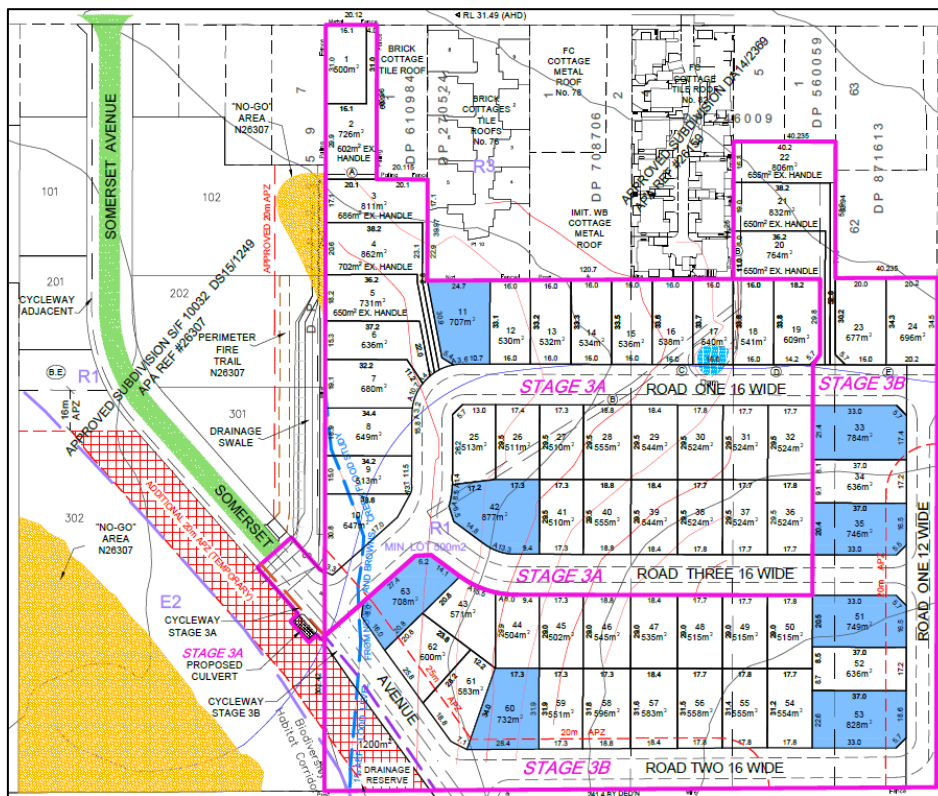


Figure 2: Approved subdivision layout (source: Allen Price & Scarratts, July 2019)

A letter of offer for the proposed WIKA was received by Council in June 2020. The offer proposed a range of drainage works, construction of part of the internal access road within the development site and dedication of land for the associated road reserve (and payment of land value).

There are two Shoalhaven Contributions Plan 2019 projects that directly relate to the proposed in-kind works:

- [Contributions Project 01ROAD3144](#) - requires the provision of a new internal access road which will connect Somerset Avenue to Hillcrest Avenue (see **Figure 3**).

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- [Contributions Project 01DRA0005](#) - facilitates the provision of an integrated drainage network connected to Council's existing system to minimise overflow and environmental impacts in the broader drainage catchment (see **Figure 4**).

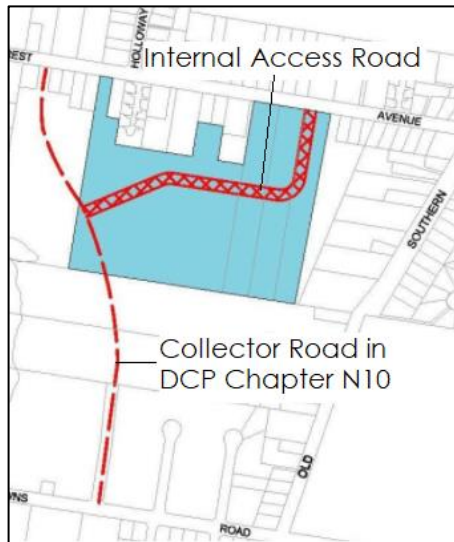


Figure 3: 01ROAD3144 Project

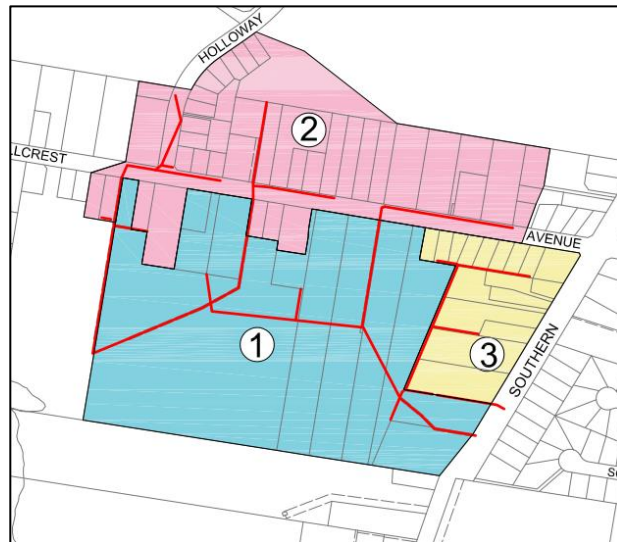


Figure 4: 01DRA0005 Project

Whilst not all the works proposed by the developer were supported, Council did provide 'in-principal' support for a WIKA as follows (MIN22.97, 7 February 2022):

1. Provide 'in-principle' support to finalise negotiations and enter into a Works in Kind Agreement (WIKa) with the owner/developers of Lot 2 DP 610984; 70 Hillcrest Avenue, South Nowra for the construction of road and drainage infrastructure and land value, as outlined in this report, except where further negotiations result in substantial changes to the proposal, in which case Council will receive a further report prior to proceeding.
2. Delegate authority to Council's Chief Executive Officer, or his delegate, to prepare and enter into the WIKa following final negotiations.
3. Endorse the approach that any variations to the design in the Contributions Plan that is not considered reasonable by Council's Chief Executive Officer, or his delegate, will need to be paid for by the developer and will not be offset in the WIKa.
4. Endorse the allocation of deleted funds from Planning Area 1 to cover any shortfall in available funds that may occur relating to the construction of the road and drainage infrastructure and land value, following the procurement independent costings. If there is not enough in the Planning Area 1 deleted funds budget to cover any shortfall, the remaining shortfall is to be covered by the developer upfront and reimbursed back to the developer as contributions are received overtime for 01ROAD3144 and 01DRA0005, to the value of the difference.
5. Notify the owner/developer of this resolution.

Matters relating to the road and drainage works and land components for the WIKa are discussed further below. It is noted that the Developer has already constructed the road and drainage infrastructure elements at their own risk, without an infrastructure agreement in place.

Since Council made the above decision, it has since resolved to not pay any surplus value (MIN23.459(5)) for any new agreements.

Road and Drainage Works

After significant negotiations, the value and scope of the works remains a contention.

Position of Council Staff

Based on a review of the developer’s bill of quantities/ tender documents and independent costings, the actual delivery cost of the minimum design option of the 01ROAD3144 and 01DRAI0005 projects, consistent with the scope and intended design in the Contributions Plan, is considered to be approximately \$1,422,264.40. After a s7.11 contributions offset, a ‘Surplus Value’ of \$875,959.40 would be payable by Council from Contributions Plan project 01DRAI0005 (**Table 1**).

Position of the Developer

The developer has advised that the cost of the infrastructure that has been delivered is around \$3.2 million. Applying the same s7.11 offset as above, a ‘Surplus Value’ of \$2,653,695.00 would be payable by Council (**Table 1**). It is noted that the developer has constructed a road and drainage outcome that is not wholly consistent with the intent of the Contributions Plan, due to the Developer’s design of the subdivision. The approved design results in a significantly higher cost of works, this was not a result of a Council request, rather a result of the Developer’s own design. At the full requested value of \$3.2 million, Council would be investing around \$50,000 for each of the 63 lots for the drainage and road infrastructure. Payment for this extra amount is not supported, however this matter continues to be disputed by the Developer.

A comparison of the Council staff and developer’s positions are outlined in **Table 1** below.

**Table 1: Comparison of Drainage and Road Construction ‘Surplus Value’**

	<b>Staff Preferred Option (excl. GST)</b>	<b>Developer Preferred Option (excl. GST)</b>
Construction costs (road and drainage)	\$1,422,264.40	\$3,200,000.00
S7.11 Offset <i>Construction component of 01ROAD3144 and 01DRAI0005 contributions payable, indexed to 24/25FY</i>	\$546,305.00	\$546,305.00
<b>Difference ‘Surplus Value’ payable by Council</b>	<b>\$875,959.40</b>	<b>\$2,653,695.00</b>

Land – Dedication and Payment of Land Value

The value of the land area remains a contention.

The calculated area for the road, consistent with the Contributions Plan, is 4240m<sup>2</sup>. The developer revised design results in an increased land area proposed to be dedicated (total 6,329m<sup>2</sup>), which is not supported. Additional land area for easements has also been excluded as there a number of existing easements over the land currently benefiting Council (purchased by Council) that have not been utilised by the developer, which will need to be extinguished to the developer’s advantage.

The independent land valuation came in at \$551,200 (\$130/m<sup>2</sup>) for the Contributions Plan part of the road (4,240m<sup>2</sup>) and was provided to the developer for their information. The developer has previously contended that they should be reimbursed for the larger area they have constructed for the road, and not just for the area envisaged in the Contribution Plan. This equates to \$1,898,700 for the total area, being 6,329m<sup>2</sup> at a rate of \$300/m<sup>2</sup>. The developer has most recently advised however that they believe the land value is now worth \$2.1 million (no valuation or methodology provided to support this).

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A claim for acquisition of the road area cannot be made under the *Land Acquisition (Just Terms Compensation) Act 1991* as the land has not been reserved in an environmental planning instrument.

The financial consequences are discussed in the implications section below.

### **Final Statement of what Council (Staff) is Willing to Accept**

In an attempt to draw the protracted negotiations to a close, following a recent meeting with the developer and their response, a final statement of what Council staff are willing to accept has now been presented to the developer. A copy of the final statement is at **Attachment 1**.

At the time of writing, the Developer has responded, rejecting the offer, noting that it is inadequate and disingenuous, and that proceedings will commence.

### **Recommendation**

To date, the developer has been unwilling to compromise on construction or land value, and as such, there appears to be limited utility in continuing negotiations if this continues.

If the developer is not agreeable to the terms in the final statement of what Council is willing to accept under s7.11(5) of the *Environmental Planning and Assessment Act 1979* (the Act) (**Attachment 1**), it is recommended that the negotiations be discontinued. If the developer is agreeable to the final statement, the WKA could progress to finalisation as soon as possible.

### **Internal and External Engagement**

Strategic Planning staff have had significant and ongoing engagement with the developer and his agents regarding the proposed agreement, its proposed scope and value of works/land.

Most recently, a meeting was held with the developer on 21 June 2024. This proposed agreement has been under negotiation since 2020, with substantial periods of pause by the developer. Negotiations have been protracted and difficult.

The particulars of the WKA and proposed offset arrangements have been negotiated with the input and ongoing collaboration from City Services, City Development, Finance and Shoalhaven Water staff. City Development, Shoalhaven Water and Finance are not supportive of the offset arrangements proposed by the Developer.

### **Community Consultations**

The developer has requested that the amount it considers it is owed by Council be facilitated via a planning agreement or similar agreement. If a planning agreement is considered, the agreement would need to be publicly notified for a period of at least 28 days.

### **Financial Implications**

The current balance in contributions project 01ROAD3144 and 01DRAI0005, will not cover the 'Surplus Value' or land value payment. It is noted that no contributions have been received for the 01ROAD3144 project to date and only \$159,000 is currently available for 01DRAI0005.

Council has no funds available in the 'Deleted Funds Reserve' (Planning Area 1 or otherwise) to assist with a 'Surplus Value' payment, or payment of land value.

As such, in accordance with the previous resolution, the ‘Surplus Value’ and land value payments are to be reimbursed back to the developer as contributions are received over time for Contributions Projects 01ROAD3144 (land value) and 01DRAI0005 (construction value).

It is noted that the Developer is required to pay some monetary contributions towards the 01ROAD3144 project as the cost of works for the road element is less than the levied monetary contributions. The remaining contributions payable for 01ROAD3144 is approximately \$355,619.80. It is noted that this amount may be available at the time of the Developer claim for the land value payment and may assist in covering part of the land value cost (approx. 65%). Council cannot offset s7.11 contributions for land under a WIKA.

Despite this, it is important to note that the Contributions Plan Review project is currently investigating the infrastructure list in the 2019 Contributions Plan. The 01ROAD3144 and 01DRAI0005 projects are under review. It is important to note there is the potential that these projects will be reviewed for future inclusion or potential discontinuation, which will be a matter for a future Council meeting. This could mean that if removed, Council may not receive any additional funds to be contributed to the ‘Surplus Value’ and land value payments. The Developer has been informed of this.

In the recent meeting and subsequent correspondence, the developer has requested that the revised amount it considers it is owed by Council (\$5.3 million, land and construction) be covered as follows:

- Offset all s7.11 development contributions relating to SF10525. The developer estimates this to be \$1,770,589.10 (\$1,240,000 if rounded to the \$20,000 cap per eligible lot). The offsetting of all s7.11 contributions is not supported as:
  - Council may need to use general funds to cover the development portion (or part) of a project cost. This has the potential to significantly impact Council’s cash flows.
  - Failure to deliver projects on time, due to loss of income, will lead to escalation in construction prices overtime. Most s7.11 contributions projects are currently running at a loss with difficulties collecting the full developer part of the cost of works at the best of times. This delays the delivery of projects and can even affect the long-term viability of projects.
  - The State Development Committee Inquiry into the ‘Ability of Local Government to Fund Infrastructure and Services’ is underway. The inadequacy of the current developer contributions framework is a regular theme that has been raised by all witnesses. The current system does not provide sufficient funding to councils to meet the infrastructure needs of their communities, placing extra pressure on councils to fund developer contribution infrastructure through rates revenue. The offsetting of all contributions and the reduction in interest Council can earn on these funds, will further exacerbate infrastructure delivery for the broader community at a time when the sector is already struggling.
  - This approach is inconsistent with Council’s current position where it only considers offsets that relate to the same category of infrastructure, not the total development contributions levied.
  - The ‘Deleted Fund Reserve’ was established in 2019 to provide seed funding for this purpose for s7.11 infrastructure (MIN19.212), however this fund is now completely depleted and can no longer assist or be relied upon in this regard.
- Offset all Shoalhaven Water s64 headworks contributions and connection fees relating to SF10525. The Developer estimates this to be \$1,269,526.46. Shoalhaven Water does not support this offset due to the following:
  - The s64 charges fund headworks and trunk infrastructure and are completely unrelated to the proposed road and drainage infrastructure.

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- Over the past decade, the s64 contribution concession has cost the reserve in the vicinity of \$56 million which has impacted on the water and sewer reserves. The provision of new water and wastewater infrastructure is costly, and s64 contributions need to be collected as soon as possible to repay this infrastructure that has been funded in advance. Offsetting the s64 contributions will further impact Shoalhaven Water's reserves and may further stretch Council's funds resulting in reliance on grant funding or loan funding to deliver the required infrastructure when needed, otherwise, large-scale housing delivery will be delayed due to lack of essential infrastructure.
- The water connection and low pressure fees are fees for service, not a contribution and therefore cannot be offset.
- Offset the linen plan release fee of \$4,929.00. City Development does not support this offset as this service is full cost recovery and unrelated to the delivery of the subject infrastructure.
- The balance (\$2.3-\$2.8 million) to be paid from the 'Deleted Funds Reserve' or General Fund, following the completion of Council's current Contributions Plan review, within the next 2 years. This is not supported for the following reasons:
  - There will be an adverse impact on the General Fund that cannot be sustained over the short/medium-term. This is not in the broader public interest.
  - It is considered unwise to enter into such an agreement without fully understanding the direction the current Contributions Plan review will take, and the related cost implications to Council in that regard.

It is noted that the \$5.3 million value is disputed.

Should the negotiations be discontinued, the developer would be required to pay monetary contributions as per the consent conditions. The developer has undertaken all works at its own risk. Council's [WIKA Policy](#) is clear that:

*The Council may consider credit or reimbursement arrangements for the amount that the contribution value exceeds the monetary development contributions but is not obliged to do so.*

*Any difference between the agreed and actual costs of constructing the infrastructure will be to the advantage or disadvantage of the developer. The developer is not entitled to claim any credits or reimbursement for the difference.*

### **Risk Implications**

Legal advice has confirmed that there is no liability for Council in discontinuing negotiations relating to this WIKA, despite the resolution of Council. Council has a broad discretion to accept or reject an offer as long as the discretion has been exercised reasonably. Council staff have given due consideration to the offers made by the developer and the decision to reject these offers is not considered legally unreasonable.

As such, Council may discontinue negotiations without being inconsistent with s7.11(5) of the EPA Act, or the previous Council resolution. The developer has at all times known that the proposed agreement was subject to final negotiations, and therefore the developer carried out at the works at its own risk.

The developer has foreshadowed legal action on a number of occasions; however, there appears to be no grounds for a contractual or restitutionary claim against Council. The work was not undertaken on behalf of Council as there is no enforceable agreement between Council and the developer in place for the delivery of the works.

The decision to ultimately discontinue the negotiations must be made by the Council as staff have not been given delegated authority to undertake that particular function. As such, delegation of this function to the Chief Executive Officer or her delegate has been recommended to allow the matter to be finalised during the caretaker period if appropriate.

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## CL24.241 Proposed Finalisation - Works in Kind Agreement Negotiations - Associated with Subdivision at St Georges Basin (SF9847)

**HPERM Ref:** D24/286087

**Department:** Strategic Planning

**Approver:** Coralie McCarthy, Acting Director - City Futures

**Attachments:** 1. Council Final Statement - St Georges Basin WIKA (Confidential - under separate cover)

### Reason for Report

The purpose of this report is to seek a formal direction from Council regarding the ongoing Works in Kind Agreement (WIKA) negotiations, which have effectively stalled, relating to a subdivision at St Georges Basin (SF9847).

### Recommendation

That Council:

1. Endorse the discontinuation of negotiations relating to the proposed Works in Kind Agreement (WIKA) at St Georges Basin (Lot 68 & 69 DP 25550 and Lot 4 DP 785956, Anson Street and Old Wool Road), if the developer does not agree to the terms of the final statement of what Council is willing to accept (**Attachment 1**) within the timeframe prescribed, and provide delegation to the Chief Executive Officer or her delegate to discontinue negotiations without entering into the WIKA.
2. If the developer is agreeable to the terms of the final statement of what Council is willing to accept (**Attachment 1**), endorse the finalisation of the agreement as soon as practicable and provide delegation to the Chief Executive Officer or her delegate to do so.
3. Advise the relevant party of this decision.

### Options

1. As recommended.

Implications: This is the preferred option as it represents the best public interest outcome and will enable the:

- Progression of the agreement if the developer is agreeable to the terms of the final statement outlining what Council is willing to accept. This final statement is based on a rigorous assessment of the cost of works and land value against the scope in the Contributions Plan 2019 and consideration of the broader public interest; or
- Discontinuation of the agreement if the developer is not agreeable to the terms of the final statement outlining what Council is willing to accept. The developer would be required to pay monetary contributions in the absence of an agreement in place. There is no liability for Council in discontinuing negotiations as staff have given due consideration to the offers made by the developer. Delegation has been sought for staff to make this determination

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2. Adopt an alternative recommendation.

Implications: This would depend on the nature of the alternative; however, it is recommended that Council seek legal advice on any further options before a resolution is ultimately agreed. To that end, it is recommended that any alternative proposed by the Council should include the following “seek advice or report back on”.

Should Council make an alternate resolution, this could result in a number of variations to the recommendation, including (not exclusively):

- Delegation is not provided to Council staff to make a final decision regarding the discontinuation of the negotiations.
- Commit to covering the Council staff recommended ‘Surplus Value’ (\$296,086.49) and land value (\$437,000) upfront from General Fund, rather than being paid overtime from the 03ROAD2023 Contributions Plan project as funds become available.
- Pool funds within the Contributions Plan.

Depending on the alternative, there may be an adverse impact on the general fund that cannot be contemplated at this point in time. This option, or variations of, is not in the public interest as Council’s General Fund no longer has the capacity to assist and the ‘Deleted Funds Reserve’ has been exhausted.

If delegation is not provided to Council staff to make a final decision regarding the discontinuation of the negotiations, Council would need to make a final decision on the proposed WIKA following the local government elections, which would further delay the resolution of this matter.

Further, it is important that Council gains an understanding of the direction that the current Contributions Plan review will take, and the related financial implications to Council, prior to making final commitments in relation to this proposed infrastructure agreement. This includes the careful consideration of the use of pooled funds moving forward.

### Background

On 14 August 2007, development consent (SF9847) was granted for the subdivision of three existing lots (Lot 68 & 69 DP 25550 and Lot 4 DP 785956 - coloured blue in **Figure 1**) into eleven (11) lots including a reserve, at the Old Wool Road, St Georges Basin. The original consent has since been modified a number of times. **Figure 2** shows the approved subdivision layout as per the Construction Certificate (CC21/1284).





Figure 1: The subject land - Lot 68 & 69 DP 25550 and Lot 4 DP 785956 in blue

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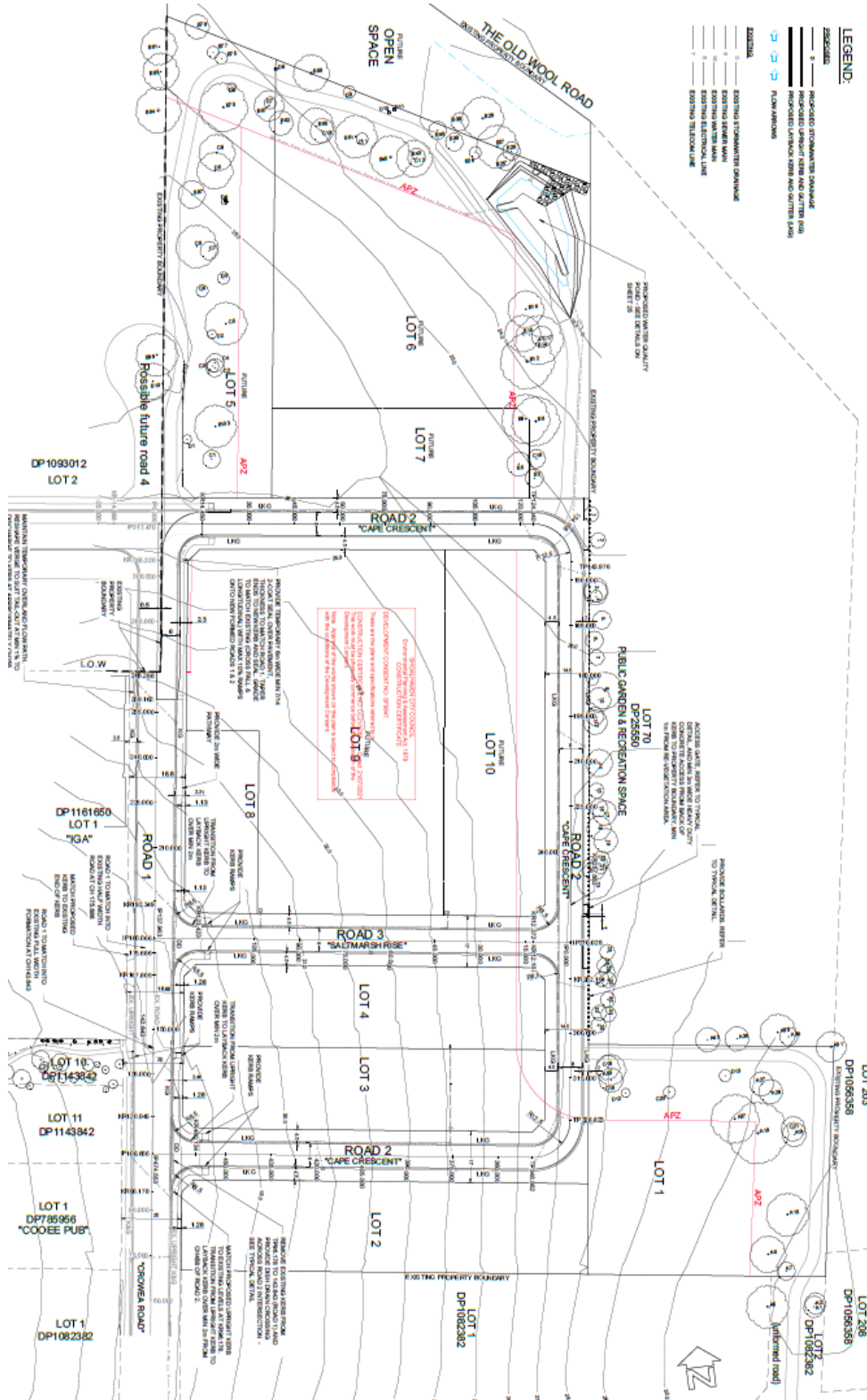


Figure 2: Approved subdivision layout (source: Allen Price & Scarratts, June 2020)

A letter of offer for a proposed WKA associated with the subdivision was received by Council in August 2021. The offer proposed a range of drainage works, construction of part of Crowea Road and dedication of land for the associated road reserve (and payment of land value).

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There are two Shoalhaven Contributions Plan 2019 projects that directly relate to the proposed in-kind works:

- [Contributions Project 03ROAD2023](#) - requires the provision of a new access road (referenced as Crowea Road) and traffic facilities which will connect Anson Street to the south of the benefiting area to Island Point Road to the west of the benefiting area (see **Figure 3**). The project will ultimately help facilitate the planned/envisaged development of the St Georges Basin Village Centre.
- [Contributions Project 03DRAI3001](#) - facilitates the provision of an integrated drainage network connected to Council's existing system to minimise overflow and environmental impacts in the broader drainage catchment (see **Figure 4**).



Figure 3: 03ROAD2023 Project

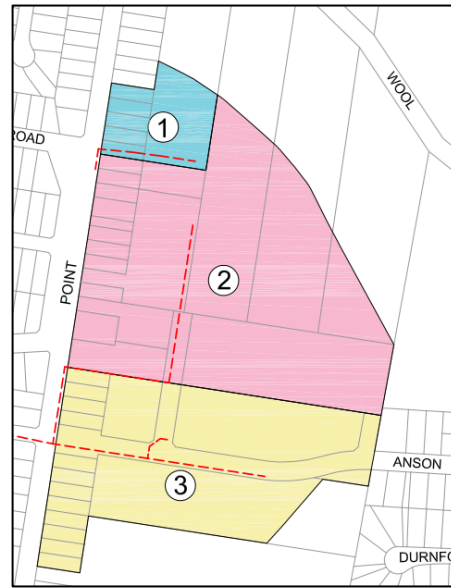


Figure 4: 03DRAI3001 Project

Whilst not all the works originally proposed by the developer were supported, Council did provide 'in-principle' support for a WIKA to assist in this circumstance, as follows (MIN22.128, 21 February 2022):

1. Provide 'in-principle' support to finalise negotiations and enter into a Works in Kind Agreement (WIKA) with the owner/developers of Lot 69 DP 25550, The Old Wool Rd, St Georges Basin; Lot 68 DP 25550 Island Point Rd, St Georges Basin; Lot 4 DP 785956, Island Point Road, St Georges Basin for the construction of road and drainage infrastructure and land value, as outlined in this report, except where further negotiations result in substantial changes to the proposal, in which case Council will receive a further report prior to proceeding.
2. Delegate authority to Council's Chief Executive Officer, or his delegate, to prepare and enter into the WIKA following final negotiations.
3. Endorse the allocation of deleted funds from Planning Area 3 to cover any shortfall in available funds that may occur relating to the construction of the road and drainage infrastructure and land value, following the procurement of independent costings. If there is not enough in the Planning Area 3 deleted funds budget to cover any shortfall, the remaining shortfall is to be covered by the developer upfront and reimbursed back to the developer as contributions are received over time for 03ROAD2023 and 03DRAI3001, to the value of the difference.

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4. *Notify the owner/developer of this resolution.*

Matters relating to the road and drainage works and land components for the WIKA are discussed further below. It is noted that the developer has already constructed the road and drainage infrastructure elements at their own risk, without an infrastructure agreement in place.

Since Council made the above decision, it has since resolved to not pay any surplus value (MIN23.459(5)) for any new agreements.

Road and Drainage Works

Independent costings have been obtained for the drainage works (\$30,815.82) and road works (\$308,446.81). The developer agreed to these costs in February 2023. Subsequently in October 2023 some additional items were requested to be included by the developer, however, have not been supported by City Development staff.

The independent costings have determined that there is a potential ‘Surplus Value’ payable to the developer by Council. The February 2021 resolution endorsed the use of deleted funds from Planning Area 3 to cover the ‘Surplus Value’ payment, then contributions collected from the relevant Contributions Projects received over time.

	<b>Agreed Position (excl. GST)</b>
Independent construction costs (road and drainage)	\$339,262.63
S7.11 Offset - 03DRAI3001 *	\$30,815.82
S7.11 Offset - 03ROAD2023 *	\$12,360.32
<b>Difference ‘Surplus Value’ payable by Council</b>	<b>\$296,086.49</b>

\* Indexed to 24/25FY

The ‘Surplus Value’ amount relates to the road elements; however, it is noted that there is not enough in the 03ROAD2023 Project balance to cover this value at this point in time.

Land – Dedication and Payment of Land Value

The outstanding matter in this regard relates to the value of the land area and valuation methodology. The land in question is 1,456m<sup>2</sup> required under the Contributions Plan and Development Control Plan for road widening of Crowea Road. Valuations obtained over time for the road reserve land are outlined below:

<b>Valuation</b>	<b>Valuer</b>	<b>Value</b>
Developer’s initial valuation (May 2022)	Poulton Property Valuers	\$1,150,000
Council’s independent valuation (2 August 2022)	Walsh & Monaghan	\$175,000
Developer’s further valuation and peer review (retrospectively dated 2 August 2022, provided to Council in October 2023)	Romeo Property Valuers	\$1,150,000*
Developer’s addendum valuation (9 February 2024)	Romeo Property Valuers	<b>\$1,470,000*</b>
Council’s revised independent valuation (2 April 2024)	Walsh & Monaghan	<b>\$437,000</b>

*\*note: the Romeo Property Valuers amounts are for ‘total compensation claim’. The 9 February 2024 value includes not only land value (\$875,000 (approx. \$600/m<sup>2</sup>)), but also the ‘decrease in value of residual parent site’ (\$585,000), and valuation fees (\$8,000).*

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A recent email from the developer has stated that:

*“council staff have unilaterally selected the lowest valuation for the land that Council seeks to acquire, and are not willing to negotiate further. This is not conduct that reflects a negotiation in good faith”.*

In response to multiple requests from the developer, there have been meetings and other correspondence between Romeo Property Valuers and Walsh and Monaghan. The above valuation timeline demonstrates that Council’s independent valuer has been responsive to additional information and has adjusted their valuation accordingly.

Part of this significant difference relates to the additional associated costs, described as ‘injurious affectation’ by the developer, but generally known as ‘loss attributable to severance’ and ‘any increase or decrease in the value of...(the parent lot)’ under the *Land Acquisition (Just Terms Compensation) Act 1991*. The Romeo valuation claims ‘injurious affectation’ through the assertion that:

*“the proposed partial acquisition ... will detract from the amenity, market appeal and buyer sentiment associated with that of the residual parent site”.*

This assertion is considered erroneous as the acquisition enables construction of the road and therefore access to the remainder of the land, enabling its development at its highest and best use.

The land has benefited from the public purpose (the road), and ordinarily the amount of compensation would be reduced by the amount of the increase in value.

In summary, the valuers just do not agree on a value for the land or valuation methodology, and the difference is over \$1 million (difference of \$438,000 for the land only, excluding additional associated costs) – see the table below. The Developer’s \$1,468,000 land value would see Council investing \$146,800 into each of the ten residential lots, just in the land component.

As such there appears to be limited utility in continuing negotiations.

	<b>Staff Preferred Option (excl. GST)</b>	<b>Developer Preferred Option (excl. GST) (presumably)</b>
Land Area	1,456m <sup>2</sup>	1,456m <sup>2</sup>
<b>Land value payable by Council</b>	\$437,000 (\$300/m <sup>2</sup> )	\$875,000 (~\$600/m <sup>2</sup> )
<b>Additional associated costs</b>	Nil	\$593,000
<b>Total</b>	\$437,000	\$1,468,000

A claim for acquisition of the road area cannot be made under the *Land Acquisition (Just Terms Compensation) Act 1991* as the land has not been reserved in an environmental planning instrument.

The financial consequences are discussed further below.

**Final Statement of what Council (Staff) is Willing to Accept**

In an attempt to draw the protracted negotiations to a close, following a recent meeting with the developer and their response, a final statement of what Council staff are willing to accept has now been presented to the developer. A copy of the final statement is at **Attachment 1**.

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At the time of writing, the Developer has not accepted or rejected the terms of Council's final statement. However, the Developer is relying upon the position of its legal representative, being that Council should use General Fund as the original source of payment. This is discussed further below. This position does not make comment on the disputed land values.

**Recommendation**

To date, the developer has been generally unwilling to compromise through the negotiation process, especially regarding land value, and as such, there appears to be limited utility in continuing negotiations if this is the case.

If the developer is not agreeable to the terms in the final statement of what Council is willing to accept under s7.11(5) of the *Environmental Planning and Assessment Act 1979* (the Act) (**Attachment 1**), it is recommended that the negotiations be formally discontinued. If the developer is agreeable to the final statement, the WIKA could progress to finalisation as soon as possible.

**Internal and External Engagement**

Strategic Planning staff have had significant and ongoing dialogue and engagement with the developer and their agents regarding the WIKA, its proposed scope and value of works/land.

Most recently, a meeting was held with the developer on 24 June 2024. This proposed agreement has been under negotiation since 2021, with substantial periods of pause by the developer. Negotiations have been protracted and difficult.

The particulars of the WIKA have been negotiated with the input and ongoing collaboration from City Services, Finance and City Development staff.

**Financial Implications**

Following the 24 June 2024 meeting, the developer has presented the position that in accordance with the resolution, the:

1. First course of payment for the 'Surplus Value' should be from General Fund.
2. Second course of payment is from the 'Deleted Fund Reserve'.
3. Third course of payment is from the funds collected from the Contributions Plan.

This suggestion is discussed in the following table:

Developer's Position	Staff Comments
<p>The first course of payment for the 'Surplus Value' should be from General Fund.</p>	<p>The 21 February 2022 report outlines that the first course of payment of the 'Surplus Value' is from the relevant contributions projects, not the General Fund. At no time was the General Fund referred to as a funding source (excluding references to the 'Deleted Fund Reserve' – see row below). The use of General Funds beyond the 'Deleted Fund Reserve' has the potential to significantly impact Council's cash flows, which is not in the public interest and not appropriate. This is not Council's resolved position.</p> <p>At the time of writing the original report in 2022, the 03ROAD2023 project was in deficit and this remains the case as the project is a recoupment project.</p>

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<p>The second course of payment is from the 'Deleted Fund Reserve'</p>	<p>This is correct. Council's resolution endorses the use of deleted funds from Planning Area 3 to cover the surplus value payment. Council however has no funds available in the 'Deleted Funds Reserve' (Planning Area 3 or otherwise) to assist with a 'Surplus Value' payment, or payment of land value.</p>
<p>The third course of payment is from the funds collected from the contributions plan.</p>	<p>This is correct. The remaining 'Surplus Value' is to be reimbursed back to the developer as contributions are received over time for Contributions Project 03ROAD2023. The 'Surplus Value' does not relate to drainage infrastructure and cannot be paid from 03DRAI3001 funds.</p> <p>Despite this, it is important to note that the Contributions Plan Review project is currently investigating the existing infrastructure list in the 2019 Contributions Plan. The 03ROAD2023 project is under review, and there is the potential that it may ultimately be recommended for discontinuation. This could mean that Council may not receive any additional funds to be contributed to the 'Surplus Value' and land value payments. The developer has been advised of this.</p>

Should the negotiations be discontinued, the developer would be required to pay monetary contributions as per the consent conditions. The developer has undertaken all works at its own risk. Council's [WIKA Policy](#) is clear that:

*The Council may consider credit or reimbursement arrangements for the amount that the contribution value exceeds the monetary development contributions but is not obliged to do so.*

*Any difference between the agreed and actual costs of constructing the infrastructure will be to the advantage or disadvantage of the developer. The developer is not entitled to claim any credits or reimbursement for the difference.*

### **Risk Implications**

Legal advice has confirmed that there is no liability for Council in discontinuing negotiations relating to this WIKA, despite the resolution of Council. Council has a broad discretion to accept or reject an offer as long as the discretion has been exercised reasonably. Council staff have given due consideration to the offers made by the developer and the decision to reject these offers is not considered legally unreasonable.

As such, Council may discontinue negotiations without being inconsistent with s7.11(5) of the EPA Act, or the previous Council resolution. The developer has at all times known that the proposed agreement was subject to final negotiations, and therefore the developer carried out at the works at its own risk.

The developer has foreshadowed legal action on a number of occasions; however, there appears to be no grounds for a contractual or restitutionary claim against Council. The work was not undertaken on behalf of Council as there is no enforceable agreement between Council and the developer in place for the delivery of the works.

The decision to ultimately discontinue the negotiations must be made by the Council as staff have not been given delegated authority to undertake that particular function. As such, delegation of this function to the Chief Executive Officer or her delegate has been recommended to allow the matter to be finalised during the caretaker period if appropriate.

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## CL24.242 Report Back - Result of Investigations - Old Nowra Bridge Lighting Display Proposal

**HPERM Ref:** D24/289790

**Department:** Tourism & Economic Development

**Approver:** Coralie McCarthy, Acting Director - City Futures

### Reason for Report

The purpose of this report is to update Council on the result of enquiries made to Transport for NSW and Maitland City Council regarding the proposed installation of a lighting display on the Old Nowra Bridge.

### Recommendation

That Council:

1. Receive this report for information.
2. Continue to advocate for a lighting display to be a key consideration of the State Government when finalising options for the repurposing of the Old Nowra Bridge.

### Options

1. Adopt the recommendation as above.

Implications: This will allow Council to advocate for the proposed lighting display and other repurposing opportunities for the Old Nowra Bridge.

2. That Council does not adopt the recommendation.

Implications: This may result in Council being absent from discussions and decisions around the repurposing of the Old Nowra Bridge.

3. That Council adopt an alternate recommendation.

Implications: Pending the nature of the amended recommendation.

### Background

The Old Nowra Bridge was opened in 1881 and is a rare example of a pin-jointed Whipple truss bridge. The bridge crosses the Shoalhaven River and is referred to as the unofficial gateway to the South Coast.

Transport for NSW (TfNSW) recently delivered the Nowra Bridge Project, to provide a new four lane bridge over the Shoalhaven River and upgrades to over 1.7 kilometres of the Princes Highway. Now that the New Nowra Bridge is open, the Old Nowra Bridge has been retired from road traffic and will be repurposed for future use by the community.

The future of the Old Nowra Bridge has been the subject of extensive investigations. In 2014, community feedback was sought to inform a decision to retain, relocate or remove the bridge. Most submissions received indicated the bridge should be retained and a number of key themes emerged from suggestions on how the bridge could be used. The submissions report from this consultation can be viewed [here](#).

In 2018, a decision was made to retain the Old Nowra Bridge and repurpose it as a dedicated pedestrian and cyclist path. This decision was based on the historical significance



and heritage value of the bridge, while also taking into consideration the expected benefits and community feedback.

In 2022, the community was invited to make suggestions on what opportunities the repurposing creates. A report summarising the submissions can be viewed [here](#).

TfNSW have not yet identified the future use of the Old Nowra Bridge, and the next steps have been identified to undertake essential maintenance of the bridge and release a Review of Environmental Factors (REF) for the repurposing of the bridge.

At Council's Ordinary Meeting on 6 May 2024, a Notice of Motion was reported to Council regarding future uses of the Old Nowra Bridge. As a result, it was resolved (MIN24.258):

*That Council*

- 1. Notes that the NSW State Government has yet to make any announcement regarding the future use of the Old Nowra Bridge.*
- 2. Directs the CEO to contact Transport for NSW to investigate the potential for a lighting display to be installed on the bridge which can be utilised to recognise important occasions such as ANZAC Day.*
- 3. Requests the CEO to contact Maitland City Council to find out more information about the lighting of Morpeth Bridge including the protocols in place with Transport for NSW.*
- 4. Directs the CEO to provide a report to Councillors on the results of the above investigations.*

### **Maitland City Council – Morpeth Bridge**

Similar to the Old Nowra Bridge, the historic Morpeth Bridge was opened in 1898 and is viewed as an important link between Morpeth and surrounding areas. To commemorate Morpeth's Bicentenary celebrations in 2022, architectural lighting was installed on Morpeth Bridge, which is themed around significant events, causes and occasions.

In accordance with MIN24.258, In June 2024 staff made contact with the Place Activation Team at Maitland City Council. The following information was provided regarding the Morpeth Bridge lighting project and arrangements with TfNSW:

- Morpeth Bridge is located on a Council owned and maintained road, however, the bridge itself is an asset of the State Government.
- In conjunction with the Morpeth Bicentenary, a Notice of Motion and resolution was made by Maitland City Council to investigate a lighting instalment.
- The proposal was put forward to the State Government, which requested their support and provided examples and strategic alignment.
- The proposal was supported and TfNSW formed a partnership with Maitland City Council.
- TfNSW provided support by completing investigations such as feasibility studies, heritage assessments, traffic assessments and lighting impact reports. TfNSW also arranged the mounting points for the physical lighting installation.
- Community engagement occurred, and once support was confirmed the project went to tender for delivery.
- Maitland City Council funded the majority of the installation phase of the lighting project and are responsible for ongoing operating costs such as; annual lighting checks and repairs, computer software for the display, and staff training.
- Maitland City Council developed the [Morpeth Bridge Lighting Policy](#) to outline the scope and programming of the project.

### **Transport for NSW (TfNSW)**

In accordance with MIN24.258, In June 2024 staff wrote to the Nowra Bridge Project team under TfNSW to investigate the potential for a lighting display to be installed on the Old Nowra Bridge.

In July 2024, TfNSW provided a response to Council, which outlined the consultation that was conducted in 2022, where future lighting displays on the bridge were supported by the community and stakeholders. The scope for repurposing the Old Nowra Bridge is still being developed, which will be informed by the upcoming release of a REF.

TfNSW indicated their openness to further discussion on the proposed lighting display and other future uses of the Old Nowra Bridge, noting any proposal would need to balance preserving the heritage significance of the bridge with enhancing its functionality and use, as well as ongoing maintenance considerations.

TfNSW will arrange a meeting with the appropriate Council staff upon the release of the REF to discuss the repurposing project further.

### **Financial Implications**

Council does not have an identified budget for investigations, installation and ongoing maintenance of the proposed lighting display on the Old Nowra Bridge. Based off other comparable examples such as Morpeth Bridge, the project could be of a value of at least \$200,000.

If the project were to proceed as a Council owned and maintained asset, a funding source would need to be identified for the lifecycle costs of the asset.

### **Next Steps**

Upon the completion and release of the REF for the Old Nowra Bridge, Council staff will meet with staff from TfNSW to further discuss the repurposing of the Old Nowra Bridge. This will include Council's advocacy for the proposed lighting display, as well as any arrangements and funding that would be required for the proposal to progress.

CL24.242

## **CL24.243 Proposed Road Closure & Sale - Unformed Council Road Adjoining Lot 114 DP 1228280 Clifford Close, Mollymook Beach**

**HPERM Ref:** D24/277927

**Department:** Technical Services

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

**Attachments:** 1. Aerial Image of Proposed Road Closure [↓](#)

### **Reason for Report**

The reason for this report is to provide Council with an opportunity to resolve to approve the closure of a portion of unformed road reserve known as Clifford Close, Mollymook and dispose of it to the adjoining landowner of Lot 114 DP 1228280 (2 Clifford Close, Mollymook Beach).

### **Recommendation**

That Council

1. Subject to final survey, resolves to close approximately 3999m<sup>2</sup> of unformed road reserve known as Clifford Close, Mollymook Beach, shown in yellow on **Attachment 1** (D24/282454) by notice published in the Government Gazette;
2. Impose the conditions on the proposed road closure requested by Council's Environmental Services Department as shown below:
  - a. The 88B Instrument must contain a provision that it cannot be varied, modified, or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council.
  - b. The covenant must stipulate that:
    - i. All native vegetation must be retained unless subject to a formal development application approval under the NSW Environmental Planning & Assessment Act 1995.
    - ii. All retained native vegetation must be declared off limits to course users.
  - c. Upon endorsement by Council the covenant must be registered with Land Registry Services or the appropriate land registration body at the time of registration.
3. Impose on the registered proprietor of Lot 114 DP 1228280 the creation of the below easements:
  - a. Easement for underground cables and pillar 3m wide and variable width in favour of Endeavour Energy.
  - b. The relocation or removal of the streetlight from the road easement.
  - c. Easement for Drainage of Sewerage 2.4m wide.
4. Authorise the sale of the closed road to the registered proprietor of the adjoining property being Lot 114 DP 1228280 for \$5,000 plus GST (if applicable);
5. Requires the proceeds from the sale to be allocated to the Property Reserve;
6. Requires that the portion comprised in the road closure to be consolidated with Lot 114 DP 1228280;

CL24.243

7. Requires that all costs associated with the road closure, sale and consolidation to be borne by the registered proprietor of Lots 114 DP 1228280;
8. Delegates authority to the Chief Executive Officer (or delegate) to make minor adjustments to the purchase price, if necessary, relative to the area determined by final survey;
9. Authorises the Chief Executive Officer (Director City Services) to sign any documentation required to give effect to this Resolution and to affix the Common Seal of the Council of the City of Shoalhaven to all documentation required to be sealed.

### Options

1. As recommended

Implications: The road closure will reduce road reserve maintenance burden on Council and generate an income of \$5,000 plus GST (if applicable). Mollymook Golf Club have constructed footpaths within the road casement therefore the road closure will legalise these encroachments.

2. Not resolve as recommended

Implications: The footpaths constructed by Mollymook Golf Club will remain as encroachments within the road casement. There will be a continued road reserve maintenance burden on Council.

### Background

In March 2023, Council received two applications from Rygate & West on behalf of Hazcorp Pty Ltd and Mollymook Golf Club Limited, to close and purchase part of an unformed road known as Clifford Close that adjoins their properties at Lot 311 DP 1234415, Kooyonga Close, Mollymook Beach and Lot 114 DP 1228280, 2 Clifford Close, Mollymook Beach.

As identified in the two applications received from Rygate & West, the total area of unformed road reserve requested to be closed is highlighted below in **Figure 1**.

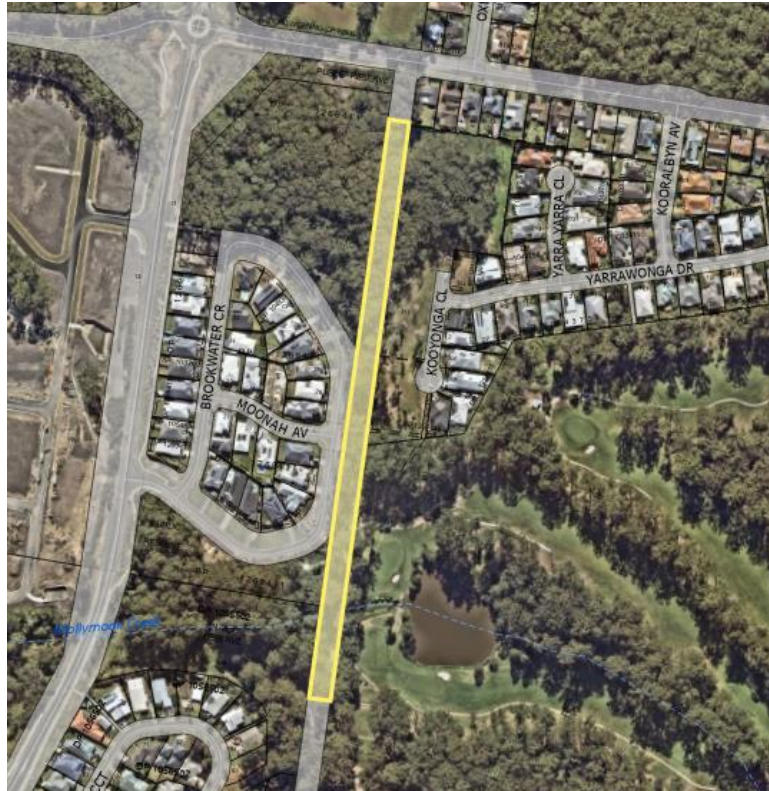


Figure 1: Showing total area of unformed road reserve proposed to be closed as identified in the two original road closure applications received from Rygate & West

Hazcorp Pty Ltd had a future intention of developing Lot 311 DP 1234415 Kooyonga Close, Mollmook Beach. Mollmook Golf Club Limited had constructed footpaths associated with the golf course within the unformed road and purchasing the land would rectify these encroachments.

A road status investigation was undertaken on the unformed road reserve. It was identified that the road was a Crown Road, however it was transferred to Council as a public road via Government Gazette on 23 June 2006.

A request for comments from Council's internal stakeholders was made and it was noted that there are significant habitat trees located within the road casement and a record of the threatened Powerful Owl being present immediately adjacent to the road casement.

Additionally, the 20m wide road casement is highly likely to be a significant corridor for wildlife between retained reserve in the area and the golf course which has retained areas of native vegetation. On this basis, Council declined both road closure applications.

Mollmook Golf Club Limited made a second application to Council with a reduced road closure area to cover the golf club's encroachments only. It was determined that the road closure and sale could be considered if a restriction to the use of the land was created prior to the road being closed. This restriction would inhibit vegetation clearing unless subject to a formal development application approval.

Following the feedback from Council, the area of road reserve proposed to be closed was significantly reduced to 3999m<sup>2</sup>, highlighted in yellow in **Attachment 1**.

A valuation was undertaken by Walsh & Monaghan which determined that the amount of compensation payable is \$5,000 excluding GST. Mollmook Golf Club Limited have agreed to pay Council \$5,000 plus GST (if applicable) for the portion of road to be closed. This amount may be adjusted in accordance with the final survey.

CL24.243

### **Internal Consultations**

A request for internal comments was made on 4 April 2023.

Shoalhaven Water identified existing assets located within the road reserve. These assets will need to be provided with easements for drainage of sewerage 2.4m wide.

Environmental Services identified that there are significant habitat trees located within the road casement and a record of the threatened Powerful Owl being present immediately adjacent to the road casement. Additionally, the 20m wide road casement is highly likely to be a significant corridor for wildlife between retained reserve in the area and the golf course which has retained areas of native vegetation.

The area of road reserve to be closed was reduced so that significant habitat trees would not be impacted, and the majority of the wildlife corridor retained. This resulted in a subsequent site inspection by Environmental Services, and it was determined that the road closure and sale could be considered given the following requirement:

- A restriction to the use of the land – all native vegetation must be retained unless subject to a formal development application approval under the NSW Environmental Planning & Assessment Act 1995. Additionally, all retained vegetation must be declared off limits to course users

The applicant has agreed to create the Restriction on the Use of the Land and easements for sewer infrastructure prior to the road being closed.

### **External Consultations**

Under Section 38B of the Roads Act 1993 –

- 1) A Council that is proposing to close a council public road must cause notice of the proposal –
  - a) To be published in the local newspaper, and
  - b) To be given to –
    - ii. All owners of land adjoining the road, and
    - iii. All notifiable authorities, and
    - iv. Any other person (or class of person) prescribed by the regulations.

The above has been undertaken with all parties notified in January 2024.

A formal objection was made by Endeavour Energy to the proposal. It was identified that underground cables, pillar and possible streetlight/pole is located within part of the proposed road cluster for closure. An easement for underground cables and pillar 3 wide and variable width would need to be created and the streetlight/pole relocated or removed from area comprising of closed road before Endeavour Energy would remove the objection. The applicant is aware of Endeavour Energy's objection and has agreed to complete.

### **Community Consultations**

Adjoining landowners were notified of the proposal on 3 January 2024 and an advertisement was published in the South Coast Register and Milton Ulladulla Times on 3 January 2024.

No submissions were received.

CL24.243

**Policy Implications**

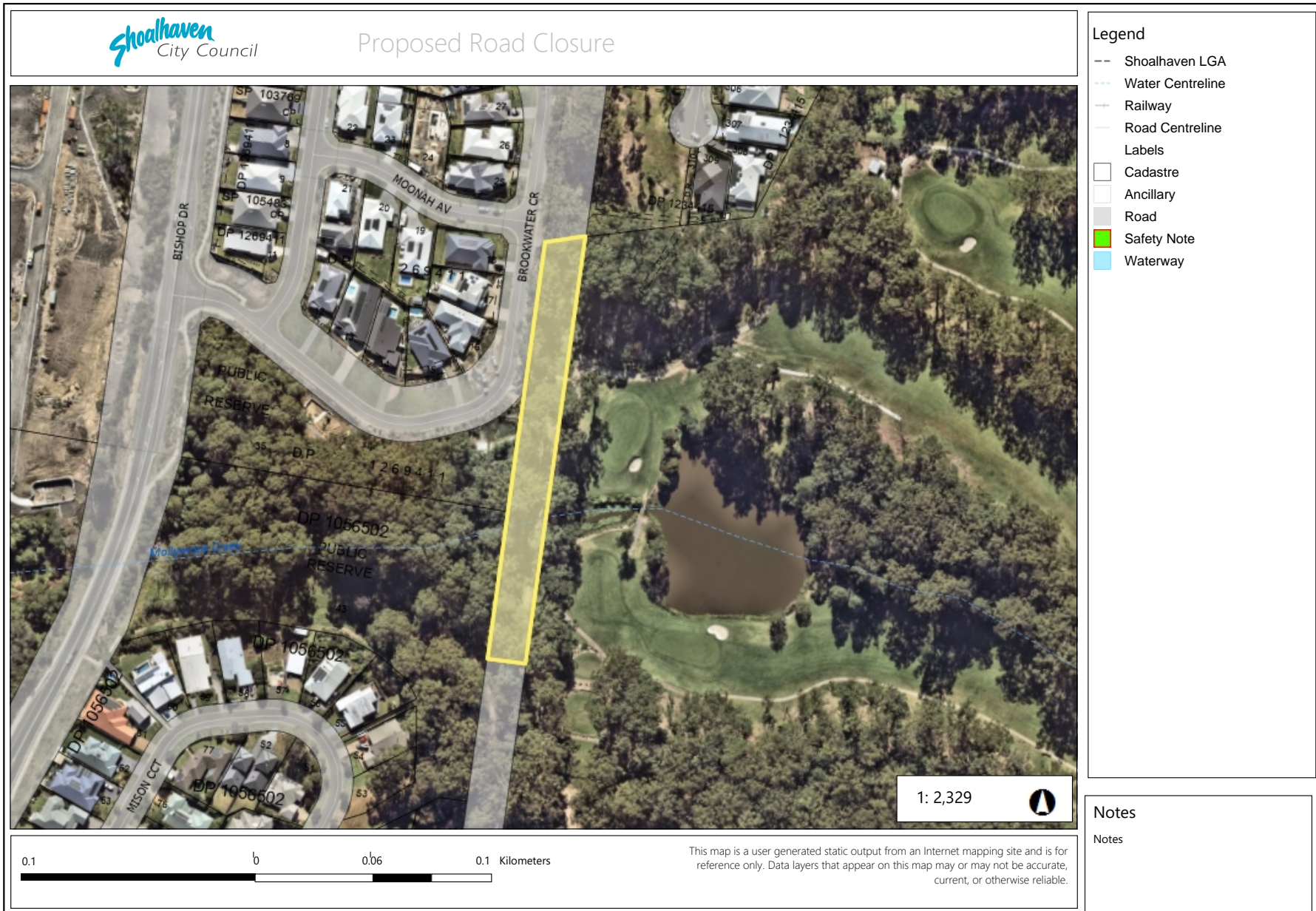
This proposal is in accordance with Council Policy “Development and/or Disposal of Council Lands” POL 22/47.

**Financial Implications**

The registered proprietor of Lot 114 DP 1228280 is responsible for all costs associated with the road closure, sale and consolidation. This transaction will occur at nil cost to Council.

Independent valuers Walsh & Monaghan assessed the compensation payable of the land to be sold at \$5,000 plus GST (if applicable). This will be an income received by Council.

CL24.243





## CL24.244 Local Government Road Safety Program 2024/2025 - Approved Projects - TfNSW Funding Assistance

**HPERM Ref:** D24/292809

**Department:** Technical Services

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

### Reason for Report

The reason for this report is to seek a resolution of the Council to accept the Local Government Road Safety Program (LGRSP) approved funding for 2024/2025.

### Recommendation

That Council:

1. Accepts the grant funding offer of \$83,235.56 (excluding GST) from Transport for NSW (TfNSW) comprising the following:

Road Safety Officer Employment Costs (50% of estimated costs)	\$63,635.56
Pedestrian Safety	\$2,000.00
On the Road 65+ workshops	\$300.00
Safety around schools	\$300.00
Road safety community awareness	\$800.00
Plan B – Win a swag/Liquor Accord	\$800.00
Slow down Kids Around – Little Blue Dinosaur	\$2,500.00
Speed monitoring on local roads	\$9,000.00
Child restraint checking days	\$3,900.00

2. Writes to TfNSW and the Local State Members, thanking them for the funding towards the 2024/25 Road Safety Program.

### Options

1. Adopt the recommendation.

Implications: This will allow these important road safety projects and community engagement to be completed with the funding from TfNSW.

2. Council does not accept the grant funding offer.

Implications: Not accepting the grant funds would mean these programs would not be completed and the planned road safety outcomes would not be achieved (Not recommended)

CL24.244

## Background

Transport for NSW (TfNSW) offers funding each year to Councils as part of the Local Government Road Safety Program (LGRSP). This funding is offered to cover programs based on the Safe Systems approach to road safety, highlighting Safe Roads and Roadsides, Safe Vehicles, Safe Speeds and Safe People.

Shoalhaven City Council is concentrating on programs based on positive evaluations and positive community engagement of past programs supported by crash statistics.

A brief outline of the objectives of the programs are as follows:

a. Road Safety Officer Employment Costs

Funding provided by TfNSW to co-fund the Road Safety Officer position within Council (50% of the estimated costs)

b. Road Safety Community Awareness

The Road Safety Community Awareness program aims to highlight and promote: *National Road Safety Week*, *Rural Road Safety Month* and the *Top Ten Misunderstood Road Rules* through education and community engagement.

c. Safety Around Schools

The *Safety Around Schools* project aims to identify road safety issues around schools and provides schools with information on school road safety and possible solutions.

It also includes the provision of road safety education banners in which schools can opt into and display the banners. Road safety issues in school zones can be raised by Schools, Rangers, Police, bus operators and the community.

d. Child Restraint Checking Days

The Child Restraint Checking Day program aims to increase the effective and correct use of child restraints and seatbelt use within the Shoalhaven LGA. Free child seat checks and installations for the community are provided through a certified and qualified restraint fitter. Advice is provided to the community on the following:

- safest choice when choosing a child restraint.
- finding and comparing child seats.
- legal requirements.
- restraint testing and ratings.

e. Speed Monitoring on Local Roads

The *Speed Monitoring on Local Roads / Slow Down for Pedestrian's* project aims to reduce the number and severity of casualty crashes involving pedestrians and increase speed zone compliance. Variable Message Signs (VMS) are used to collect and analyse speed data over the course of a four-week period at each site. The results may also lead to other treatments including engineering and behavioural projects.

f. On the Road 65+ Workshops

The 65+ Workshops are a requirement by the Centre for Road Safety to address road safety for older road users. The workshops target active older drivers in the over (or near to) 65 age group, focusing on issues relevant to their demographic.

g. Helping Learner Drivers Become Safer Drivers

These workshops are for parents and supervisors of learner drivers, offering practical advice, information, and tips on how to help learner drivers become safer drivers in the Shoalhaven LGA.

h. Plan B – Win Swag and Liquor Accord

The aim of the *Plan B Win a Swag* project is to open the lines of communication between community members, licenced venues, and Council about the different options available for getting home after a night out and providing resources to help with these conversations.

i. Pedestrian Safety

The *Look Out Before You Step Out* and *Be Aware, Cross With Care* project aims to reduce the number and severity of casualty crashes involving pedestrians. This will involve the installation of “Look Out Before You Step Out” and “Be aware, cross with care” pavement markings at targeted high pedestrian locations. These will be a reminder to pedestrians to look for oncoming traffic before crossing the road.

j. Slow Down Kids Around – Little Blue Dinosaur

The Little Blue Dinosaur '*Holiday Time; Slow Down, Kids Around*' road safety campaign commenced in the Shoalhaven in 2015. Holiday times create a surge in the population in the Shoalhaven with thousands of children using footpaths and roadways during these peak holiday periods. Holiday time signs will be erected in prominent locations to remind drivers to slow down and be alert to children on or near roads and for parents/caregivers to hold children's hands when crossing the road.

k. South Coast Survive the Ride Workshop

The *Survive the Ride Workshop* is a joint project completed with Shellharbour City Council, Kiama Council, Eurobodalla Council and Bega Valley Council. The project aims to deliver 1 workshop per area which addresses motorcycle safety with a free 2-hour workshop for motorcycle riders both new and experienced.

CL24.244

### **Internal Consultations**

Internal consultation has commenced with the Works & Services department and Rangers regarding proposed activities within road reserves and will continue for the duration of the delivery of the projects. The Finance department has also been informed to ensure that all finances for these projects are aligned.

### **External Consultations**

External consultation has commenced with stakeholders within the community and government agencies, this will continue to be undertaken as part of the delivery of these projects.

### **Community Consultations**

Community consultation has commenced and will continue to be undertaken as part of the delivery of these projects.

### **Financial Implications**

These projects are 100% funded by TfNSW.

The Road Safety Officer position (Item a. above) is 50% funded by TfNSW and 50% funded by Council. Council's contribution has been budgeted for in the 2024/25 Operational Plan and budget.

## **CL24.245 Tenders - Construction of Industrial Estate - Flinders Stage 11 - South Nowra**

**HPERM Ref:** D24/315260

**Department:** Technical Services

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

### **Reason for Report**

The reason for this report is to inform Council of the tender process for Construction of Flinders Industrial Estate – Stage 11 – South Nowra.

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

### **Recommendation**

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

### **Options**

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution

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

### **Details**

#### ***Project Description***

The project involves the construction of a four-lot industrial subdivision on Lot 117 DP 1122371 which is located on Albatross Road within the Flinders Industrial Estate. The scope of works includes, but is not limited to:

- Roadworks (extension of the existing service road),
- Stormwater drainage,
- Fire trail construction,
- Installation of water and sewerage services,
- Electrical works,
- Telecommunications / NBN,
- Sediment and erosion control measures.

The existing service road, currently ending adjacent to Lot 74 DP1032397, will be extended to a cul-de-sac head at the southern end of Lot 117 DP 1122371. This extension will provide access to the four proposed industrial lots. Some water and sewer services were previously installed to facilitate this subdivision.

The proposed works encompass all necessary activities to service the subdivision and ensure its completion and registration.

**Tendering**

Council called tenders for the Construction of Flinders Industrial Estate – Stage 11 – South Nowra on 2 July 2024 which closed at 10:00 am on 25 July 2024. 11 tenders were received at the time of closing. Tenders were received from the tenderers shown in **Table 1** and in no particular order:

*Table 1. Tenders received*

<b>Tenderer</b>	<b>Location</b>
AMP Engineering	Bella Vista – NSW
Civil and Civic Group	Canberra Airport – ACT
Coastwide Civil	Albion Park – NSW
Hisway	South Nowra – NSW
Ironbuilt Infrastructure	Unanderra – NSW
J Group Corporation	Jamisontown – NSW
JBG Contractors	Albion Park Rail – NSW
Menai Civil Contractors	Smeaton Grange – NSW
Pascall Group	Tomerong -NSW
Utilstra	Fyshwick – ACT
Yatcon Civil	Albion Park Rail - NSW

CL24.245

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

**Policy Implications**

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

**Financial Implications**

Sufficient funds will be allocated in the Construction of Flinders Industrial Estate – Stage 11 – South Nowra budget for FY24/25. Funding will be available to cover the tender amount including other project costs.

## **CL24.246 Tenders - Shoalhaven MRF - Supply, Install and Commission Integrated Fire Detection and Suppression System**

**HPERM Ref:** D24/173654

**Department:** Technical Services

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

### **Reason for Report**

The reason for this report is to inform Council of the tender process for Shoalhaven Materials Recovery Facility (MRF) - Supply, Install and Commission Integrated Fire Detection and Suppression System.

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

### **Recommendation**

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

### **Options**

1. Adopt the recommendation.

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution.

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

### **Details**

#### Project Description:

Council is in the process of establishing a Materials Recovery Facility (MRF) at its existing West Nowra Waste Management Precinct. The MRF is designed to receive mixed recyclables from the Illawarra and Shoalhaven regions, initially capable of processing up to 24,000 tonnes per year. The facility aims to divert an additional 9,000 tonnes annually of recyclable materials away from landfills. Council's ownership and operation of this state-of-the-art MRF will offer increased adaptability in response to the ever-evolving industry.

The MRF will incorporate advanced technology, including optical sorters and artificial intelligence (AI), to ensure that recovered commodities meet or exceed market standards with less than 1% contamination. Moreover, it will generate job opportunities, reduce reliance on third-party services, lower recycling costs, enhance landfill diversion rates, and contribute to the transition toward a circular economy.

CL24.246

Services Being Procured

Council is seeking to engage a suitably qualified and reputable company to Supply, Install and Commission the Integrated Fire Detection & Suppression System for the Shoalhaven MRF project.

**Tendering**

Council called tenders for Shoalhaven MRF - Supply, Install and Commission Integrated Fire Detection and Suppression System on 12 January 2024 which closed at 10:00 am on 7 February 2024. 3 tenders were received at the time of closing.

*Table 1 – Tenders Received*

<b>Tenderer</b>	<b>Location</b>
Fire Safe Australia & New Zealand Pty Ltd	Unanderra NSW 2526
Complete Plumbing & Fire Pty Ltd	Wollongong NSW 2500
Chubb Fire & Security Pty Ltd	Unanderra NSW 2526

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

**Policy Implications**

The tenders were assessed in accordance with Council's *Procurement Procedure* and *Local Preference Policy*.

**Financial Implications**

Sufficient funds have been allocated in the budget for 2024/25. Funding is available to cover the tender amount including other project costs.

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

**Risk Implications**

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

CL24.246

## **CL24.247 Tenders - Partner Consultant - Shoalhaven Roads Project**

**HPERM Ref:** D24/312635

**Department:** Technical Services

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

### **Reason for Report**

To inform Council of the tender process for the Partner Consultant – Shoalhaven Roads Project.

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

### **Recommendation**

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

### **Options**

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution

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

### **Details**

#### ***Project Description***

Shoalhaven City Council has received a \$40 million funding allocation from the Federal Government through the Department of Infrastructure, Transport, Regional Development, Communication and the Arts to complete upgrade works on the following roads and intersections within the Shoalhaven:

- Forest Road
- Callala Beach Road
- Callala Bay Road
- Culburra Road
- Coonemia / Currarong / Callala Bay Road Intersection
- Greenwell Point / Worrigea Road Intersection



The \$40 million commitment will require significant effort above ‘business as usual’ and existing commitments, including establishing the required scope of works, investigation of the areas, designing the works, and then delivery of the construction stages.

Given this, it has been decided that a Partner Consultant be engaged to oversee the full scoping, design and delivery of the project.

The delivery of the works is over a nominal timeframe of 3 years and poses a significant challenge to Council due to the amount of effort required to establish and deliver these projects.

**Tendering**

Council has undertaken this procurement via a two-step process that included an Expression of Interest (EOI) as Stage 1 followed by targeted requests for tender from shortlisted tenderers as Stage 2.

The EOI process received a strong response with 17 EOI’s submitted and assessed, resulting in a shortlist of 3 tenderers progressing to Stage 2.

Council called targeted tenders for the *Partner Consultant – Shoalhaven Roads Project* on 5 July 2024, closing tenders at 10:00 am on 26 July 2024. The tenders received are summarised in no particular order, in **Table 1** below.

**Table 1: Tenders**

Tenderer	Location
GHD Pty Ltd (GHD)	Nowra
SMEC Australia (SMEC)	Wollongong
Maker ENG Pty Limited	Wollongong

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

**Policy Implications**

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

**Financial Implications:**

Sufficient funds have been allocated in the Shoalhaven Road Project budget for FY25. Funding is available to cover the tender amount including other project costs.

Further details relating to the Financial Implications are contained in the confidential report.

**Risk Implications**

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

CL24.247

## CL24.248 Exemption to Tenders - Materials Recovery Facility - West Nowra Recycling and Waste Facility

**HPERM Ref:** D24/173820

**Department:** Technical Services

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

### Reason for Report

The reason for this report is to allow Council to consider an exemption to tendering in accordance with Section 55 of the Local Government Act for the engagement of suitably qualified and experienced trades sub-contractors and construction engineering consultants. If approved, the procurement would proceed with targeted quotations from contractors that have previously been involved in the project.

### Recommendation

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

### Options

1. Adopt the recommendation.

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution.

Implications: This is not recommended as an extensive process has been undertaken by the project team to ensure Council achieves value for money.

### Background

Council resolved on 11 August 2020 (MIN20.559) to proceed with the development of a Materials Recovery Facility (MRF) to be located at West Nowra.

The construction of the MRF building is part of a larger project for which total capital expenditure is forecasted to be circa \$38M.

The work is being completed in three stages:

- Earthworks and construction of access road.
- Construction of the MRF building.
- Supply and installation of the resource recovery machinery and equipment.

The base building works are 85% complete under the Project Coordination (PCAPL) contract prior to them entering voluntary administration and works subsequently ceasing. Further contractors have been or are currently being engaged for the building fit-out including electrical system installation, fire detection and suppression system, and the supply, installation and commissioning of the sorting plant required within the building.

**Policy Implications**

Nil implications. This report and proposed recommendation are in accordance with Council's adopted Procurement Procedures and applicable Legislation.

**Financial Implications**

Funding is available in the 2024/25 DPOP to cover the engagement of businesses for their respective work packages.

Further details relating to the Financial Implications are contained in the confidential report.

**Risk Implications**

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

## **CL24.249 DA2024/1564 - 52 Horizon Crescent VINCENTIA - Lot 1414 DP 1231370**

**DA. No:** DA24/1564/4

**HPERM Ref:** D24/308439

**Department:** Development Services

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

**Attachments:**

1. Draft Determination - Approval - Subdivision- DA2024/1564 - 52 Horizon Crescent VINCENTIA NSW 2540 - Lot 1414 DP 1231370 (under separate cover) [⇒](#)
2. Assessment Report DA2024 1564 133400 - 52 Horizon Crescent VINCENTIA NSW 2540 (under separate cover) [⇒](#)
3. Plans - Subdivision - 52 Horizon Crescent VINCENTIA NSW 2540 - Lot 1414 DP 1231370 (under separate cover) [⇒](#)

**Description of Development:** Two (2) Lot Torrens Title Subdivision of approved Dual Occupancy (attached)

**Owner:** N. Boumelhem, J. Boumelhem, D. Melhem & M, Melhem

**Applicant:** Allen Price & Scarratts Pty Ltd

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

**No. of Submissions:** Nil

### **Purpose / Reason for consideration by Council**

DA24/1526 proposes a variation of 44.18% and 35.84% to the development standard set by clause 4.1 (minimum subdivision lot size) of *Shoalhaven Local Environmental Plan 2014* (SLEP 14).

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

### **Recommendation**

That Council confirm that it supports the Clause 4.6 variation of 44.18% for Lot 1 and 35.85% for Lot 2, with respect to the lot size of the proposed subdivision and approve the Development Application DA24/1526 for Torrens Title subdivision of an approved dual occupancy (attached) development at 52 Horizon Crescent VINCENTIA - Lot 1414 DP 1231370, as detailed in the draft conditions of consent (Attachment 1) to this report.

### **Options**

1. That Council approve the recommendation as printed.

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

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2. Refuse the Development Application (DA).

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

3. Adopt an alternative recommendation.

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

**Location Map**



Figure 1 – Location Map

**Background**

The proposed development is for a two (2) lot Torrens title subdivision of an approved dual occupancy (attached) (DA24/1564).

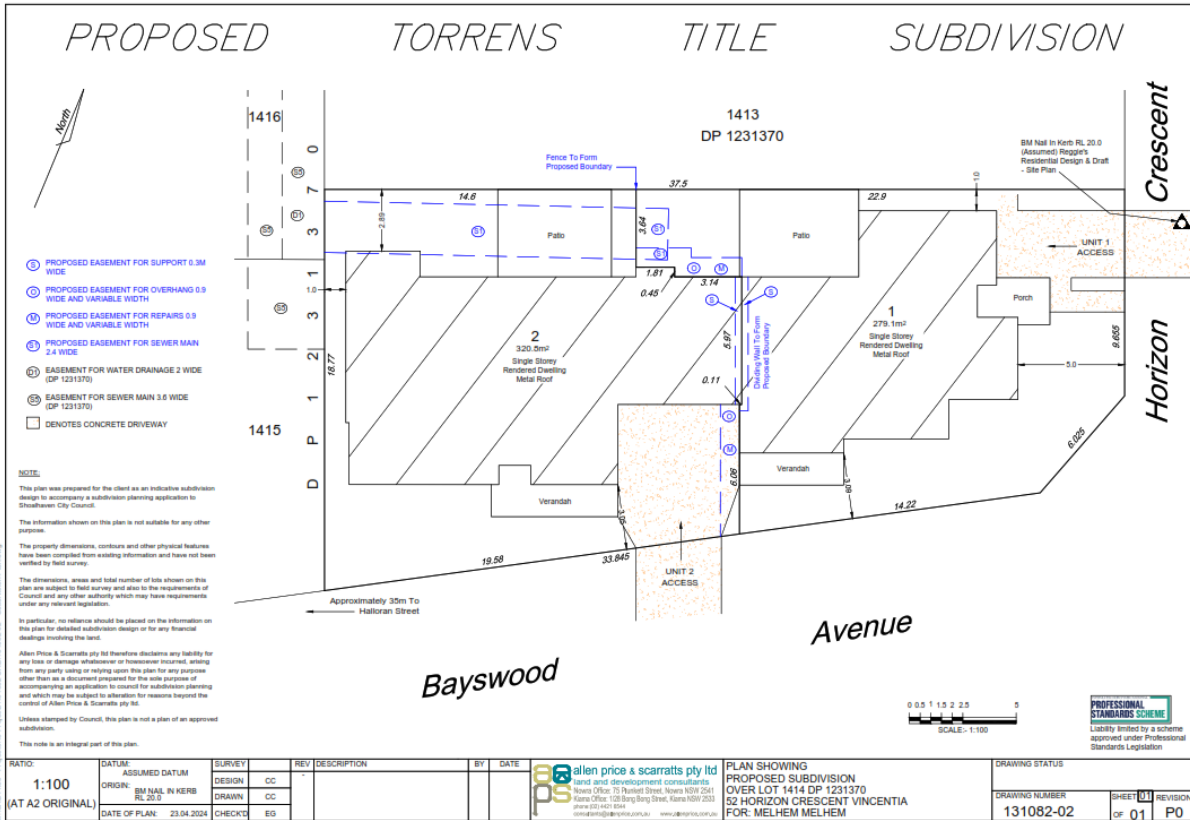
DA19/2149 was lodged on 21 November 2019 and pre-dates the operation of the current wording of clause 4.1A in SLEP 2014.

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

- Proposed Lot 1 – 279.1m<sup>2</sup> total site area.
- Proposed Lot 2 – 320.8m<sup>2</sup> total site area.

The proposal is for subdivision only and therefore, the physical environment does not change from that approved by DA19/2149. Figure 2 shows the proposed subdivision layout.

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Figure 2: Proposed Subdivision Layout

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

Given the lodgement of DA19/2149 pre-dates amendment No. 35 to SLEP 14 (i.e. the date of operation of the current version of cl. 4.1A), the Savings provisions under 1.8A [subclause (2)] requires the application to be determined as if that Plan had not commenced and therefore the application does not benefit from clause 4.1A [subclause (4)].

As such, the proposed subdivision is required to be undertaken pursuant to clause 4.1 of SLEP 2014 where a minimum lot size of 500m<sup>2</sup> applies to the site.

Proposed Lot 1 and 2 have areas less than 500m<sup>2</sup> and therefore a variation to the minimum lot size development standard is required. Any determination of the Development Application must consider the requirements of clause 4.6 – Exceptions to Development Standards of SLEP 2014.

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

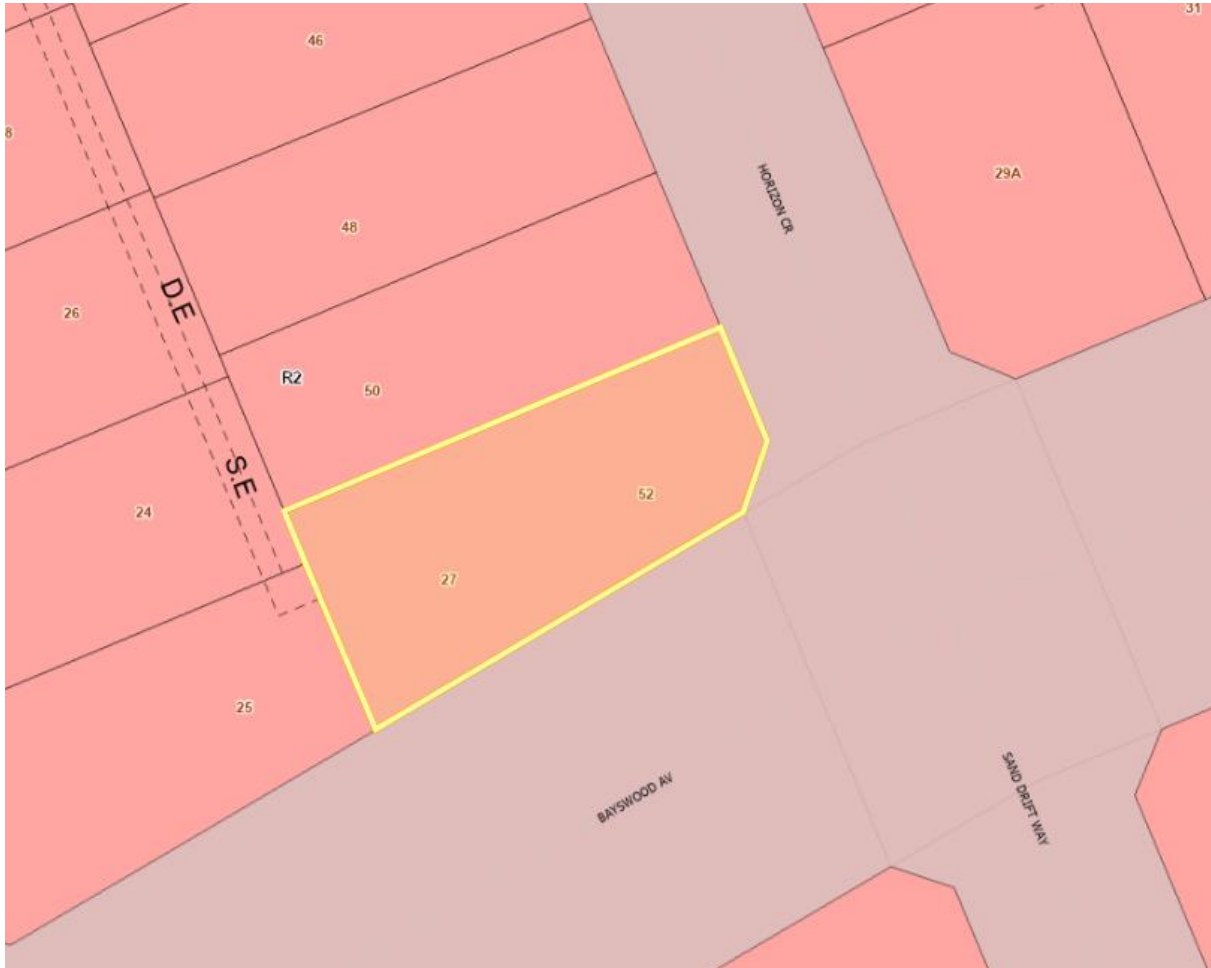
The proposed subdivision has no impacts upon the surrounding locality above and beyond that already considered at dual occupancy stage. The subdivision essentially enables individual land titles to be created for the existing development.

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

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

Subject Land

The site is currently vacant however benefits from an approval to construct a dual occupancy (attached). The site adjoins residential development to the north, south, east, and west. The locality is within the zone R2 Low Density Residential (see Figure 3).



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Figure 3: Zone Mapping – SLEP 2014

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

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

- Proposed Lot 1 – 279.1m<sup>2</sup>
- Proposed Lot 2 – 320.8m<sup>2</sup>

Proposed Lot 1 is 220.9m<sup>2</sup> under the minimum lot size requirement. This is representative of a departure to development standard of 44.18%.

Proposed Lot 2 is 179.2m<sup>2</sup> under the minimum lot size requirement. This is representative of a departure to development standard of 35.84%.

Written Request Provided by the Applicant

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

- the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3) in that the application has demonstrated that compliance with the development standard is unreasonable or unnecessary and that

there are sufficient environmental planning grounds to justify contravening the development standard, and

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

*The assessment above demonstrates that compliance with the prescribed minimum lot size development standard for the Shoalhaven LEP 2014 is unreasonable and unnecessary in the circumstances of the case and flexibility in this instance would achieve better outcomes for and from the development.*

*To enable the highest and best use of the land in line with the residential densities planned in the R2 Low Density Residential zone - as intended by Amendment 35 of the Shoalhaven LEP 2014 - this proposed 4.6 Variation is seeking exemption to the 500m<sup>2</sup> development standard:*

- *Proposed Lot 1 is below the 500m<sup>2</sup> minimum lot size being 279.1 m<sup>2</sup> which equates to 44% [correct to 44.18%] or 219m<sup>2</sup> [correct to 220.9m<sup>2</sup>]*
- *Proposed Lot 2 is below the 500m<sup>2</sup> minimum lot size being 320.8m<sup>2</sup> which equates to 36% [correct 35.84%] or 179m<sup>2</sup> [correct to 179.2m<sup>2</sup>]*

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

- *The proposed subdivision will not undermine the integrity of the subdivision and character of the area;*
- *The proposed subdivision will not have a negative impact on the existing amenity of the area or impact neighbouring properties;*
- *There are no works proposed as a result of the subdivision including parking, servicing and vehicle manoeuvring areas;*
- *The proposed subdivision is consistent with the residential densities planned in the zone following Council's Subdivision Review;*
- *There are no environmental planning grounds that warrant maintaining and/or enforcing the numerical lot size standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the lot size control allowed by Clause 4.6 of the Shoalhaven LEP 2014.*

*The variation sought represents an appropriate degree of flexibility within the scope of Clause 4.6. The non-compliance achieves better outcomes for and from development.*

*The variation to the development standards will not result in any adverse impacts to surrounding residents, is consistent with the envisaged low-density character of the local area, and is consistent with residential densities planned in the R2 Low Density Residential zone.*

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

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

#### Compliance with Development Standard is Unnecessary or Unreasonable

Council staff concur with the rationale and clause 4.6 variation statement set out by the applicant, and strict compliance with the clause 4.1 minimum lot size development standard is considered unreasonable in this instance as it would be inconsistent with the form of



development permitted under clause 4.1A if the dual occupancy was approved after 21 August 2020 under amendment no. 35 of SLEP 2014.

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

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

#### Sufficient Environmental Planning Grounds

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

#### **Planning Assessment**

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

#### **Internal Consultations**

The application was referred to Shoalhaven Water. No issues were identified as a result of the referrals.

#### **External Consultations**

No external consultations have occurred or are required under statute for this assessment.

#### **Community Consultations**

Pursuant to Section 3.3.1, Table 1 of Council's Community Consultation Policy, development which involves a two (2) lot Torrens subdivision of an approved dual occupancy development is not required to be notified within the surrounding locality. This is because the subject application does not involve any physical works and notification was already carried out as part of the assessment of the dual occupancy development within Council's approved Development Application No. DA19/2149.

#### **Financial Implications**

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending an appeal in the Land and Environment Court of NSW.

#### **Legal Implications**

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

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

### **Summary and Conclusion**

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

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

CL24.249

## CL24.224 Bay and Basin Boxing Club - Summary of Engagement Activities

**HPERM Ref:** D24/141566

**Department:** Recreation Projects - Planning & Delivery

**Approver:** Jane Lewis, Director - City Lifestyles

**Attachments:**

1. Report - Ordinary Council Meeting - 30 October 2023 (under separate cover) [⇒](#)
2. Tables Referenced in this Report (under separate cover) [⇒](#)
3. Site Diagram (Clifton Park) (under separate cover) [⇒](#)

This item was deferred from the Ordinary Meeting 29 July 2024. Council requested additional information regarding the proposed facility's location within Clifton Park and clarification related to recent extensions made to the Sanctuary Point Men's Shed (directly adjacent to the proposed location for the Bay and Basin Boxing Club). Accordingly, a new diagram has been produced, clearly illustrating the proposed general location for a facility to house the Bay and Basin Boxing Club at Clifton Park in Sanctuary Point (see: Attachment 3).

### Reason for Report

The purpose of this report is to provide Council with information regarding the outcome of two engagement activities undertaken as part of work to identify a location for the Bay and Basin Boxing Club in the Sanctuary Point area, in accordance with a related Notice of Motion (ref. MIN22.612) and a subsequent report (ref. MIN23.623).

### Recommendation

That Council:

1. Accept the *Bay and Basin Boxing Club: Summary of Engagement Activities* report as a summary of the outcomes of engagement activities and investigations undertaken in accordance with Parts 3 and 4 of MIN23.623.
2. Endorse Clifton Park, Sanctuary Point, as the preferred location (site) for a facility to house the Bay and Basin Boxing Club, subject to the outcome of any future Development Application and / or conditions of development consent related to a facility at Clifton Park.
3. Direct the CEO (Director – City Lifestyles) to prepare a Project Candidate submission (including preparation of a Project Initiative and Project Mandate) for further design and investigation works related to the Bay and Basin Boxing Club's request for a site to house a future clubhouse facility, in accordance with the requirements of Council's enterprise Project Management Office (ePMO).
4. Subject to the completion of processes described in Part 3 of this resolution, pause any further work related to the Bay and Basin Boxing Club's request for a site to house a future clubhouse facility until Council's financial position improves, in accordance with MIN23.667 and other related work being undertaken to improve Council's financial position.

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## Options

1. Accept the recommendation as proposed.

Implications: Council's Project Officers will continue to engage with the Bay and Basin Boxing Club to create and finalise a Project Mandate submission to Shoalhaven City Council's enterprise Project Management Office (ePMO), to enable the project to proceed once Council's financial position has improved (and subject to the Project Mandate submission being accepted by the ePMO as a 'Project Candidate').

2. Adopt an alternative recommendation, removing Part 2 of the proposed recommendation.

Implications: If Council does not endorse Clifton Park as the preferred location, additional community consultation will need to be undertaken to identify an alternative location. This will incur additional facilitation costs (for communications materials), as well as additional staff time (resourcing).

3. Adopt an alternative recommendation, to be confirmed by Council.

Implications: To be confirmed, pending the outcome of Council's deliberations on the matter. Council would need to provide direction to the CEO via a revised recommendation.

## Background

A Notice of Motion titled *Bay and Basin Boxing Club - Building location investigation* was considered by Council at its Ordinary Meeting, held on 12 September 2022 (ref. MIN22.612).

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.*

In accordance with MIN22.612, a report was prepared by City Lifestyles' staff, which was considered by Council at its Ordinary Meeting, held on 30 October 2023 – see **Attachment**

1. The purpose of this report was:

1. *To provide Council with information about the outcome of investigations for the Bay and Basin Boxing Club 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.*

Council's decision in relation to this report is recorded in MIN23.623.

MIN23.623 reads:

*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'*

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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 and Basin Boxing Club.

### Internal Consultation

Internal consultation was conducted in relation to the proposed establishment of a boxing club in the Bay and Basin area and has included contact with the nominated Asset Custodians for Clifton Park (District Engineer) and Sanctuary Point Oval (Shoalhaven Swim Sport Fitness), and Council's Property Services team.

### 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 Bay and Basin Boxing Club in the Sanctuary Point area:

- Proponent (owner of the Bay and Basin Boxing Club).
- Volunteer groups and users of Clifton Park.
- Residents directly impacted by the proposed development (overlooking or adjoining the site).
- Residents within 400m of the site at Clifton Park.
- Community Consultative Body (Basin Villages Forum).

In accordance with MIN23.623, engagement planning commenced in October 2023 for two engagement activities, referred to as Engagement Activity 1 and Engagement Activity 2. Council's Project Officers liaised with the proponent to provide advice regarding next steps and agree on the communications materials for Engagement Activity 1 and Engagement Activity 2.

Further details of Engagement Activity 1 and Engagement Activity 2 are provided below.

### Community Consultations

#### Engagement Activities

In accordance with Shoalhaven City Council's *Community Engagement Strategy: 2022 - 2026*, the engagement model utilised to facilitate provision of feedback by key stakeholders to Council was *consult*.

Accordingly, two community engagement activities were planned and completed. These engagement activities were designed to capture feedback from all relevant external key stakeholders, including directly affected residents and the local community surrounding the subject site.

Further information regarding both Engagement Activity 1 and Engagement Activity 2, is available on the *Bay and Basin Boxing Club Get Involved* page – <https://getinvolved.shoalhaven.nsw.gov.au/bay-and-basin-boxing-club>

#### Engagement Activity One

Engagement Activity One (EA1) was a targeted survey to consult with directly affected residents and regular users of Clifton Park. EA1 was conducted over four weeks, between 5 December and 31 December 2023.

The objective of EA1 was to garner feedback from the directly affected users and residents to measure support for the Bay and Basin Boxing Club to be located at Clifton Park, Sanctuary Point.

A total of 13 letters were sent to directly affected residents, user groups of Clifton Park, and the Basin Village Forum (Community Consultation Body – CCB) requesting feedback on the proposal to establish a facility to house the Bay and Basin Boxing Club at Clifton Park. Recipients were encouraged to complete a short online survey or submit written submission via email or mail.

Seven written responses were received. No survey responses were received during EA1. An overview of responses and key themes is provided in Table 1 of **Attachment 2**.

#### Summary of Data

The following conclusions can be drawn from community consultation undertaken as part of EA1:

- There is a prevailing sentiment of apprehension about the provision of facilities to house the Bay and Basin Boxing Club at the subject site.
- There is concern about potential impacts to the environment, existing facilities, safety and overall quality of life for the residents in Sanctuary Point.

#### Engagement Activity Two

Engagement Activity Two (EA2) was conducted over six weeks, from 27 February to 5 April 2024, and was promoted via the following communications channels:

- **26 February 2024:** Get Involved page News Feed item ('Have Your Say – The Sanctuary Point Community').
- **27 February 2024:** Letters were delivered to 586 residents within a 400m radius of Clifton Park.
- **01 March 2024:** Email to Councillors.
- **27 February 2024:** Email sent to the proponent with a copy of the letter sent to the residents.

EA2 was designed to allow the target audience (defined as interested residents within the walkable catchment - 400m - of the subject site) to provide feedback to Council regarding the proposal to establish a facility to house the Bay and Basin Boxing Club at Clifton Park.

Respondents were encouraged to provide feedback via an online survey, and were also given the opportunity to provide detailed written feedback via email or mail.

The survey consisted of quantitative and qualitative questions.

202 respondents provided feedback through the online survey.

One detailed written response was received.

#### Quantitative Results

##### *Question Four: Age Group:*

- Under 12 (1%).
- 12 - 17 (2.5%).
- 18 - 24 (11.4%).
- 25 - 34 (23.8%).
- 35 - 44 (24.8%).

- 45 - 54 (19.3%).
- 55 - 64 (8.9%).
- Over 65 (8.3%).

48.6% of survey respondents are aged between 25 and 44. According to 2021 Census data, the median age in Sanctuary Point is 47. The age distribution data also indicates a relatively high participation rate from youth and young adults, which is not typically the case for engagement activities undertaken by Shoalhaven City Council. This confirms the target audience responded to communications materials published as part of this engagement activity.

*Question Five: Which statement best describes you? (multiple responses accepted).*

- Resident of Sanctuary Point (66.8%).
- Visitor to Sanctuary Point (17.8%).
- Community Organisation in Sanctuary Point (4.4%).
- Member of Bay and Basin Boxing Club (13.8%).
- Interested in using the Bay and Basin Boxing Club (25.74%).
- Other (7.9%).

The survey data indicates a high level of anticipated future usage for the Bay and Basin Boxing Club, with 25.74% of respondents noting that they would be interested in using the Bay and Basin Boxing Club at Clifton Park.

*Question Six: In general, do you support the proposed location for the Bay and Basin Boxing Club at Clifton Park?*

- No (6.4%).
- Yes (93.6%).

Most respondents support Clifton Park as the proposed location for a facility to house the Bay and Basin Boxing Club (93.6%).

The key themes of the extended response relating to question six is provided in Table 2 of **Attachment 2**.

*Question Seven: Is there anything else you would like to share with us about this proposal?*

- No (70.8%).
- Yes (29.2%).

Most respondents chose not to share additional information. 29.2% of respondents did provide additional feedback on this proposal (ref. Question Eight)

The key themes of the extended response relating to question eight is provided in Table 3 of **Attachment 2**.

### Summary of Data

In general, feedback received as part of EA2 indicates that there is strong support for the Bay and Basin Boxing Club to be located at Clifton Park, which is juxtaposed with the feedback received during EA1.

Results of EA1 and EA2 indicate that:

- Directly affected residents do not support the proposal.
- The proposal enjoys broad support amongst the general public (in Sanctuary Point).

## Policy Implications

Policy: Nil.

Legislation: A Development Application will be required for the proposed development of facilities at Clifton Park to house the Bay and Basin Boxing Club, in accordance with the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*.

## Financial Implications

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, or associated lease / licence agreement, to progress the proposed use and development of facilities at Clifton Park to house the Bay and Basin Boxing Club is outside of the scope of this report.

This project is currently not identified in Council's Delivery Program Operation Plan (DPOP) 2023 / 24 or the draft DPOP 2024 / 25, and consequently there is no funding allocated for further design investigations or implementation works (construction).

Work undertaken by City Lifestyles staff in relation to MIN22.612, MIN23.623 including engagement activities (EA1 and EA2) has been undertaken utilising operational funding.

It is recommended that a Project Mandate submission be prepared for further design and investigation works related to the Bay and Basin Boxing Club's request for a site to house a future clubhouse facility, in accordance with the requirements of Council's enterprise Project Management Office (ePMO).

Should the Council adopt this resolution (as proposed), City Lifestyles Project Officers will continue to engage with the Bay and Basin Boxing Club to create and finalise a Project Mandate submission to Shoalhaven City Council's enterprise Project Management Office (ePMO), to enable the project to proceed once Council's financial position has improved (and subject to the Project Mandate submission being accepted by the ePMO as a 'Project Candidate').

## Risk Implications

### Reputation

Failure to endorse Clifton Park as the preferred location for the Bay and Basin Boxing Club may result in a loss of confidence in Council's ability to make decisions related to the provision of community infrastructure based on feedback provided by the community, with reference to the commitments and engagement principles outlined in Shoalhaven City Council's *Community Engagement Strategy 2022 - 2026*.

### Finance and Asset Depreciation

This project is currently not identified in Council's Delivery Program Operation Plan (DPOP) 2023 / 24 or the draft DPOP 2024 / 25, and consequently there is no funding allocated for design or construction phases.

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 that 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 obligation to fund depreciation of a new 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 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

It is foreshadowed that work undertaken in response to MIN22.612 will result in a new, single-use, bespoke facility to house the Bay and Basin Boxing Club (either at Clifton Park or elsewhere). Such a facility would be added to Council's asset register and depreciated accordingly.

Should Council wish to pursue a multi-use community facility model to house the Bay and Basin Boxing Club in Sanctuary Point, the Bay and Basin Boxing Club's request would need to be re-scoped and re-investigated.

## CL24.250 Interim Report: Phase 1 of the Community Infrastructure Strategic Plan - Community Infrastructure Audit

**HPERM Ref:** D24/43298

**Department:** Recreation Projects - Planning & Delivery

**Approver:** Jane Lewis, Director - City Lifestyles

**Attachments:**

1. Community Infrastructure Audit - Summary and Samples (under separate cover) [⇒](#)
2. Proposed Methodology - Community Infrastructure Needs Analysis (under separate cover) [⇒](#)

### Reason for Report

The purpose of this report is to provide Council with a status update on the progress of the Community Infrastructure Strategic Plan (CISP) Review project, in accordance with Part 2 of MIN24.279. The report provides updates in relation to the following key deliverables:

- *Community Infrastructure Audit 2024* (Audit)
- *Community Infrastructure Needs Analysis* (Needs Analysis)

The Audit is the first major output of the CISP Review project.

The Needs Analysis will form a significant part of a preliminary draft of the revised CISP and is the second major output of the CISP Review project.

The CISP Review is an action in the *Delivery Program & Operational Plan 2024/25* (DPOP 24/25).

### Recommendation

That Council:

1. Receive the Interim Report: Phase 1 of the Community Infrastructure Strategic Plan - Community Infrastructure Audit report for information as an update on the progression of the following key deliverables:
  - a. Draft Shoalhaven City Council Community Infrastructure Audit: 90% complete (summarised at Attachment 1);
  - b. Proposed Methodology – Community Infrastructure Needs Analysis (summarised at Attachment 2): 80% complete.
2. Direct the CEO (Director – City Lifestyles) to submit a report to a future Ordinary Council Meeting on completion of the final Community Infrastructure Needs Analysis (Preliminary Draft Community Infrastructure Strategic Plan 2026-2056).

### Options

1. Adopt the recommendation as proposed.

Implications: The CISP Review project team will continue with work as outlined in this report and submit the *Community Infrastructure Needs Analysis (Preliminary Draft Community Infrastructure Strategic Plan 2026-2056)* to a future Ordinary Council Meeting (anticipated: March 2025).

2. Defer decision on the recommendation.

Implications: Deferral of a decision to receive the *Interim Report: Phase 1 of the Community Infrastructure Strategic Plan - Community Infrastructure Audit* will create uncertainty for the project team and is likely to result in delays to the overall project program.

3. Adopt an alternate recommendation.

Implications: Adoption of an alternate recommendation may create uncertainty for the project team, resulting in delays to the overall project program. Other implications to be advised, depending on the detail of the alternate resolution.

**Background**

At the Ordinary Council Meeting on 20 May 2024, Council received a report on the Community Infrastructure Strategic Plan (CISP) Review project, including information on a proposed methodology and timeline (ref. MIN24.279).

MIN24.279 reads:

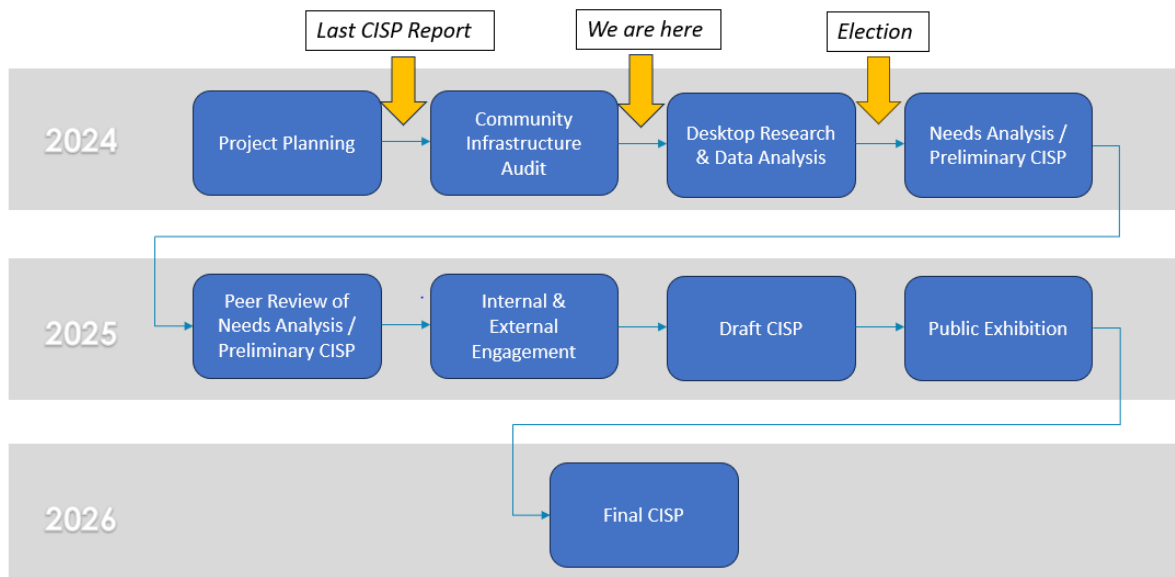
*That Council:*

1. Receive the Interim Report – Community Infrastructure Strategic Plan – Methodology report for information on the proposed methodology and anticipated timeline for the Community Infrastructure Strategic Plan Review project.
2. Direct the CEO (Director – City Lifestyles) to prepare subsequent reports to be provided to future Ordinary Council meetings on the:
  - a. Findings of the Shoalhaven City Council Community Infrastructure Audit.
  - b. Proposed methodology and guiding principles for the Needs Analysis - Open Space & Community Facilities.

Community Infrastructure Strategic Plan Review

This report provides an update in relation to Parts 2a and 2b of MIN24.279. The methodology presented to Council in May 2024 is provided below in **Figure A** with updated annotations.

**Figure A: CISP Review - Proposed Methodology & Anticipated Timeline**



The CISP Review is progressing on-schedule, as outlined in Figure A above.

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The review of the CISP is an action in the *Delivery Program & Operational Plan 2024/25* (DPOP 2024/25) as follows:

- 1.3.02.02 - *Continue to progress delivery of a new Community Infrastructure Strategic Plan by December 2025, in accordance with agreed methodology.*

#### Community Infrastructure Audit (Audit)

The purpose of the Audit is to provide a key base of evidence for the Community Infrastructure Needs Analysis (Needs Analysis). The Needs Analysis will form a significant part of the preliminary draft CISP 2026-56.

The Audit collates and synthesises data on the existing provision, distribution, condition and use of open space and community facilities across the Shoalhaven Local Government Area (LGA). Similarly, data and mapping of 3<sup>rd</sup> party open space and community facilities provided by the private sector and other levels of government is recorded in the Audit.

The Audit was prepared by Xypher Sport + Leisure (Xypher) with funding allocated under the DPOP 2023/24 and DPOP 2024/25.

The Audit report (90% complete) was submitted to the project team on 22 July 2024. A summary and page samples of the Audit report is provided at **Attachment 1**. Following internal review, the Audit report will be published to the CISP Review Get Involved page on Council's website. Anticipated publication date: September 2024.

The Audit included targeted key stakeholder and community engagement activities. Further detail on these engagement activities is provided under the sub-headings 'External Consultations' and 'Community Consultations' below.

#### Community Infrastructure Needs Analysis (Needs Analysis)

The Needs Analysis will form a significant part of the preliminary draft CISP 2026-56 and will analyse current and future need for open space & community facilities by considering the evidence collated in the Audit and other key inputs.

##### *Proposed Methodology*

A proposed methodology for the Needs Analysis is outlined in **Attachment 2 Figure A - Proposed Methodology – Community Infrastructure Needs Analysis**.

##### *Peer Review*

It is proposed that a well-established academic / consultant in the social infrastructure planning field is engaged to peer review the Needs Analysis.

The peer review will ensure transparency and provide confidence to Council and the community on the neutrality and reliability of the Needs Analysis findings and associated recommendations in the revised CISP and Implementation Plan.

##### *Community Engagement*

It is proposed that further community engagement activities be undertaken on the findings of the Needs Analysis (once available). It is anticipated this engagement activity will occur in early 2025 (by the Communications & Community Engagement team in collaboration with the Open Space & Recreation Planning team).

## Internal Consultations

### Community Infrastructure Audit

The Community Infrastructure Audit has been subject to extensive internal coordination and consultation, including with the CISP Review Project Control Group and the following business areas:

- Arts, Culture & Entertainment
- Commercial Services
- Building Services
- Customer Experience
- Environmental Services
- Information Services
- Library Services
- Shoalhaven Swim Sport Fitness
- Technical Services
- Tourism & Economic Development

## External Consultations

### CISP Review Project

A Get Involved page for the CISP Review was published on 19 April 2024 and can be viewed at: <https://getinvolved.shoalhaven.nsw.gov.au/cisp-review>.

Component outputs of the CISP Review project will continue to be published to the Document Library on the CISP Review Get Involved page.

### Community Infrastructure Audit (Audit)

Targeted key stakeholder engagement was undertaken as part of the Audit to gauge utilisation and customer satisfaction data for a range of sites across Shoalhaven.

Tenants and management committees for all in-scope (open space and community) facilities were invited to participate in a survey (100 tenants and 28 management committees in total).

Key stakeholders (including sporting and community groups) were invited to participate in a survey for a sample of 25 selected sites (321 stakeholders in total).

Surveys were open for three weeks from May to June 2024. Participation in this engagement activity was as follows:

- Management Committees, Lessees and Licensees (all open space and community facilities).
  - Targeted survey, issued via direct email.
  - 62 responses / 128 email invitations.
- Stakeholders (sample of 25 selected sites)
  - Targeted survey, issued via direct email.
  - 105 responses / 321 email invitations.

A detailed stakeholder engagement summary report will be published to the project Get Involved page and will provide an overview of data received during this engagement activity, including: age of respondents; usage of site (current and future); satisfaction (and reason for satisfaction rating); current and desired activities (at each site); open feedback themes. Anticipated publication date: September 2024.

## Community Consultations

### Community Infrastructure Audit (Audit)

A broad community engagement activity was undertaken as part of the Audit to gauge utilisation and customer satisfaction data for a sample of 25 selected sites.

Interested community members were invited to participate in a survey, promoted through social media, flyers, posters, signs and Council's website.

Surveys were open for three weeks from May - June 2024. Participation in this engagement activity was as follows:

- Community survey (25 selected sites)
  - 989 responses

A detailed community engagement summary report will be published to the project Get Involved page and will provide an overview of data received during this engagement activity, including: age of respondents; usage of site (current and future); satisfaction (and reason for satisfaction rating); current and desired activities (at each site); open feedback themes. Anticipated publication date: September 2024.

### Community Infrastructure Needs Analysis (Needs Analysis)

Extensive key stakeholder engagement on the findings of the Needs Analysis (once available) is planned for early 2025 and will be followed by public exhibition of the draft CISP (anticipated in late 2025).

## Policy Implications

The CISP Review is aligned with key strategic drivers including the:

- Council's *Delivery Program & Operational Plan 2024/25* (DPOP 2024/25).
- *AEC Draft Report: Shoalhaven City Council Financial Sustainability Review 2023* (Recommendations 10 and 11 / Council's resolution of 29 January 2024 (ref. MIN24.44).
- The functions of the recently established Enterprise Project Management Office (ePMO) (Recommendation 23 - AEC Report / ref. MIN24.44).
- Development Contributions Plan Review (Recommendation 13– AEC Report / ref. MIN24.44).
- Land Sales Strategy (Recommendation 6–AEC Report / Council's resolution of 21 February 2024 (ref. MIN24.21).

## Financial Implications

The review of the CISP is an action in Council's *Delivery Program & Operational Plan 2024/25* (DPOP 2024/25).

- The funding allocation for the CISP Review for FY2023/24 was: **\$101,177.00**.
- Total expenditure for FY2023/24 was: **\$80,551.34**.
- The funding allocation for FY2024/25 is: **\$100,000.00**.
- Committed funds to date amount to: **\$16,566.00**.
- The remaining funds for FY2024/25 total: **\$83,434.00**.

The bulk of the CISP Review project is being undertaken in-house, representing a cost-saving of approximately: \$330,000.

### **Risk Implications**

A risk analysis has been undertaken in accordance with Shoalhaven City Council's Enterprise Risk Management Policy and Procedures. Risks associated with the contents of this report can be summarised as follows:

#### Reputation

- Risk: Decisions made without strategic input may lead to poor outcomes for Council's reputation.

#### Property Infrastructure

- Risk: Delays to the CISP Review program due to key person risk may lead to decisions being made without strategic input.

#### Financial

- Risk: Implementation / operation of community infrastructure without strategic input may lead to poor outcomes for Council's financial position.

## CL24.251 Request for Plaques and Memorials

HPERM Ref: D24/267785

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

Attachments: 1. Detailed Information - Request for Plaques and Memorials - August 2024 (councillors information folder) [⇒](#)

### Reason for Report

The purpose of this report is to seek Council's approval for the installation of one memorial plaque in Greenwell Point on an existing seat, and one memorial seat with memorial plaque in Huskisson, in accordance with Shoalhaven City Council's *Plaques and Memorials Policy*.

### Recommendation

That Council, in accordance with the *Plaques and Memorials Policy*.

1. Approve the request for a memorial plaque to be installed on an existing seat in Titania Park, Greenwell Point (as at **Attachment 1**).
2. Approve the request for a memorial seat and installation of memorial plaque in White Sands Park, Huskisson (as at **Attachment 1**).
3. Direct the CEO (Director – City Lifestyles) to advise the applicants of Council's determination.

### Options

1. Adopt the recommendations as written.

Implications: This is consistent with the adopted *Plaques and Memorials Policy* and will allow staff to advise applicants of the outcome of their request.

2. Adopt an alternate recommendation.

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

### Background

Requests are regularly received to install memorial seats in memory of deceased persons on Council owned and/or managed land.

In accordance with Shoalhaven City Council's [Plaques and Memorials Policy](#), a Council resolution is required to approve the installation of a plaque or memorial.

This report summarises requests received, identifies whether they are for new or existing infrastructure, and whether the requests are consistent with the adopted Policy.

One request has been received for installation of a plaque on an existing seat.

One request has been received to install a new memorial seat with a plaque.

Further information about these requests is summarised in **Table 1** below. Additional details are provided in **Attachment 1 (Councillor's Information Folder)**.



**Table 1 – Summary of Requests**

	<b>Infrastructure Request</b>	<b>Preferred Location</b>	<b>Consistent With Policy</b>
<b>1</b>	Memorial plaque	Titania Park, Greenwell Point	Yes
<b>2</b>	Memorial seat and plaque	White Sands Park, Huskisson	Yes

**Internal Consultations**

The two requests described in this report were referred to the relevant Asset Custodian for comment, with no objections received.

**Policy Implications**

Requests for memorials are considered in line with the criteria contained within the adopted [Policy](#). In accordance with the Policy, a Council resolution is required to approve the installation of the plaque or memorial.

Each application described in this report is consistent with the Policy and are therefore recommended to the Council for approval (further information is provided in **Attachment 1**).

**Financial Implications**

In accordance with the Policy, fabrication and installation of infrastructure associated with requests for memorials is to be funded (in-full) by the applicant. Council assumes responsibility for maintenance and operational costs.

For memorial seats with plaques, applicants will be charged for the memorial seat, plaque, concrete slab and all labour for installation. The amount applicants are charged, is based on average costs for installations across the Shoalhaven (including Council staff time) and are based on a full cost recovery model.

For memorial plaque installations only, applicants will be charged for the memorial plaque and all labour for installation. The amount applicants are charged, is based on average costs for installations across the Shoalhaven (including Council staff time) and are based on a full cost recovery model.

The relevant Asset Custodians have considered each request and noted that maintenance and operation of any new infrastructure will be managed within existing operational budgets.

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## CL24.252 Shoalhaven Sports Board - Member Resignations

**HPERM Ref:** D24/171315

**Department:** Recreation Projects - Planning & Delivery  
**Approver:** Jane Lewis, Director - City Lifestyles

### Reason for Report

The purpose of this report is to advise Council about resignations received from the following members of the Shoalhaven Sports Board:

- Ms Tameka Gogerly
- Ms Lucy Burgmann
- Mr David Goodman
- Mr Phill Newlyn
- Mr Roger Walker

### Recommendation

That Council:

1. Receive the following resignations and write to thank them for their contributions to the Shoalhaven Sports Board:
  - a. Ms Tameka Gogerly
  - b. Ms Lucy Burgmann
  - c. Mr David Goodman
  - d. Mr Phill Newlyn
  - e. Mr Roger Walker
2. Note the resignations outlined in the *Shoalhaven Sports Board - Member Resignations* report will create six vacancies on the Shoalhaven Sports Board.

### Options

1. As recommended.

Implications: Council is informed of the resignations of Ms Tameka Gogerly, Ms Lucy Burgmann, Mr David Goodman, Mr Phill Newlyn and Mr Roger Walker and able to formally acknowledge their contributions.

2. Adopt an alternate recommendation.

Implications: Unknown.

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## Background

The following notifications have been received from members of the Shoalhaven Sports Board (Board):

1. On 25 January 2024, Council received a resignation from Ms Tameka Gogerly, whose membership was due to expire in June 2025.
2. On 24 April 2024, Council was notified of the death of Anna Gardner, whose membership was due to expire in June 2027. A Mayoral Minute was submitted to the Council's Ordinary Meeting on 6 May 2024 (ref. MIN24.232).

MIN24.232 reads:

*That Council notes the passing of Anna Gardner, acknowledges her significant contribution to the Shoalhaven community and the Callala Bay Community Association in particular, and extends condolences to her family.*

3. On 29 April 2024, Council received a resignation from Ms Lucy Burgmann, whose membership term was due to expire in June 2025.
4. On 1 May 2024, Council received a resignation from Mr David Goodman, whose honorary position was due to expire in June 2025.
5. On 6 May 2024, Council received (via the Chairperson) a resignation from Mr Phill Newlyn, whose membership was due to expire in June 2025.
6. Mr Roger Walker relinquished his honorary position in May 2024, which was set to expire in June 2025.

The current Terms of Reference for the Board allows for 13 community member positions. This includes two 'honorary memberships' for David Goodman and Roger Walker. These positions expire on 30 June 2025.

The Board currently has six vacant positions.

In accordance with the current [Terms of Reference](#) quorum for the Board is set to seven voting members.

There are currently seven voting members on the Board. This means that all voting members must attend all meetings to meet the requirements for quorum.

An e-meeting was convened on 1 May 2024. Quorum was not achieved. This Advisory Committee is on pause and its future activities will be considered by the incoming Council at the Call Meeting in October 2024.

## External Consultations

Shoalhaven Swim Sport Fitness' Facility Officers are the main point-of-contact for users of sports facilities in Shoalhaven, and are contactable via established communication channels.

## Policy Implications

A copy of the current *Shoalhaven Sports Board Terms of Reference* is available to view [here](#).

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## **CL24.253 Tenders - Various Water Mains Replacement Package 1 FY24-25**

**HPERM Ref:** D24/305331

**Department:** Water Asset Planning & Development

**Approver:** Robert Horner, Executive Manager Shoalhaven Water

### **Reason for Report**

To inform Council of the tender process for the Various Water Mains Replacement Package 1 FY24-25 project.

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

### **Recommendation**

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

### **Options**

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution

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

### **Details**

#### Project Description

Shoalhaven Water has previously identified large packages of existing uPVC (Class 9 & 12) and AC water mains throughout the Shoalhaven Local Government Area, which are susceptible to breakage and require asset renewal, upgrade and/or replacement. In May 2021, Shoalhaven Water engaged a Design Consultant to provide detailed design services, which entailed the detailed design of numerous mains identified as requiring replacement. Due to the quantum of works, it was decided that an annual mains replacement project(s) be established to deliver the various packages.

Following the delivery and commencement of mains replacement works in the 2023-24 financial year, the 2024-25 financial year packages of works are now ready to be planned and executed.

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The objective of this engagement is to deliver the construction of the next package of mains renewal, upgrade and/or replacement, being **FY2024-2025 Package 1 Works**, which entails:

Separable Portion 1 – Kangaroo Valley Reservoir Duplication

- Install circa 300m of OD250 PE100 PN16 HDPE Water Mains
- Install circa 400m of OD315 PE100 PN16 HDPE Water Mains

Separable Portion 2 – ID 1F Callala Bay Fire Trail

- Install circa 765m of OD355 PE100 PN16 HDPE Water Mains

Separable Portion 3 – ID 1N Croziers Road

- Install circa 1734m of OD125 PE100 PN16 HDPE Water Mains

Separable Portion 4 – Sanctuary Point

- Install circa 1050m of OD280 PE100 PN16 HDPE Water Mains
- Install circa 890m of OD280 PE PN PN16 HDPE Water Mains

**Tendering**

Council called tenders for the Various Water Mains Replacement Package 1 FY24-25 project on 4 June 2024 which closed at 10:00 am on 4 July 2024. Eleven (11) tenders were received at the time of closing. Tenderers were invited to bid on individual or all Separable Portions, with Council likewise reserving the right to award Separable Portions either individually to numerous Tenderers or collectively to an individual Tenderer. Tenders were received from the following:

<b>Tenderer</b>	<b>Location</b>
CBK Constructions Pty Ltd	Gerringong, NSW, 2515
Civil & Civic Pty Ltd	Canberra Airport, ACT, 2609
CPD Services Pty Ltd	Earlwood, NSW, 2206
Ferrycarrig Construction Pty Ltd	Chullora, NSW, 2190
Hisway Pty Ltd (Complying Submission)	Nowra, NSW, 2541
Hisway Pty Ltd (Alternate Submission)	Nowra, NSW, 2541
J Group Corporation Pty Ltd	Penrith, NSW, 2750
Killard Infrastructure Pty Ltd	Auburn, NSW, 2144
Trazilbat Pty Ltd	Yagoona, NSW, 2199
Utilstra Pty Ltd	Fyshwick, ACT, 2604
Waterboys Projects Pty Ltd	Wollongong, NSW, 2500

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

**Policy Implications**

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

**Financial Implications:**

Sufficient funds have been allocated in the Water Fund budget for 2024-25 and 2025-26 financial years. Funding is available to cover the tender amount including other project costs.

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**Risk Implications**

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

**Community Engagement**

Community and stakeholder engagement prior to, and during construction is proposed with a dedicated project webpage now established under Council's Major Projects & Works portal.

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## **CL24.254 Tenders - Various Water Mains Replacement Package 2 FY24-25**

**HPERM Ref:** D24/309133

**Department:** Water Asset Planning & Development

**Approver:** Robert Horner, Executive Manager Shoalhaven Water

### **Reason for Report**

To inform Council of the tender process for the Various Water Mains Replacement Package 2 FY24-25 project.

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

### **Recommendation**

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

### **Options**

1. Accept the recommendation

Implications: Consider a separate Confidential Report on the matter.

2. Council make a different resolution

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

### **Details**

#### Project Description

Shoalhaven Water has previously identified large packages of existing uPVC (Class 9 & 12) and AC water mains throughout the Shoalhaven Local Government Area, which are susceptible to breakage and require asset renewal, upgrade and/or replacement.

In May 2021, Shoalhaven Water engaged a Design Consultant to provide detailed design services, which entailed the detailed design of numerous mains identified as requiring replacement. Due to the quantum of works, it was decided that an annual mains replacement project (s) be established to deliver the various packages.

Following the delivery and commencement of mains replacement works in the 2023-24 financial year, the 2024-25 financial year packages of works and now ready to be planned and executed.

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The objective of this engagement is to deliver the construction of the next package of mains renewal, upgrade and/or replacement, being **FY2024-2025 Package 2 Works**, which entails:

Separable Portion 1 – 1I Culburra Road Mayfield Water Main Replacement

- Install circa 2,500m of OD125 PE100 PN16 HDPE Water Mains

Separable Portion 2 – 1J Ryans Lane Water Main Replacement

- Install circa 800m of OD125 PE100 PN16 HDPE Water Mains

Separable Portion 3 – 1K Apperleys Lane Water Main Replacement

- Install circa 372m of OD125 PE100 PN16 HDPE Water Mains

Separable Portion 4 – Illaroo Road Water Main Replacement

- Stage 1 - Install circa 352m of OD125 PE100 PN16 HDPE Water Mains
- Stage 2 - Install circa 127m of OD125 PE100 PN16 HDPE Water Mains
- Stage 3 - Install circa 112m of OD125 PE100 PN16 HDPE Water Mains

Separable Portion 5 – Albert Street Water Main Replacement

- Install circa 460m of OD125 PE100 PN16 HDPE Water Mains

**Tendering**

Council called tenders for Various Water Mains Replacement Package 2 FY24-25 project on 25 June 2024 which closed at 10:00 am on 18 July 2024. Ten (10) tenders were received at the time of closing. Tenderers were invited to bid on individual or all Separable Portions, with Council likewise reserving the right to award Separable Portions either individually to numerous Tenderers or collectively to an individual Tenderer. Tenders were received from the following:

<b>Tenderer</b>	<b>Location</b>
Hisway Pty Ltd	Nowra, NSW, 2541
CPD Services Pty Ltd	Earlwood, NSW, 2206
Killard Infrastructure Pty Ltd	Auburn, NSW, 2144
Trazlbat Pty Ltd	Yagoona, NSW, 2199
CBK Constructions Pty Ltd	Gerringong, NSW, 2515
Civil & Civic Pty Ltd	Canberra Airport, ACT, 2609
Utilstra Pty Ltd	Fyshwick, ACT, 2604
Select Civil Pty Ltd	Kembla Grange NSW 2526
J Group Corporation Pty Ltd	Penrith, NSW, 2750
Southern Infrastructure & Hire Pty Ltd	Termeil NSW 2539

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

**Policy Implications**

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

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**Financial Implications:**

Sufficient funds have been allocated in the Water Fund budget for 2024-25 and 2025-26 financial years. Funding is available to cover the tender amount including other project costs.

**Risk Implications**

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

**Community Engagement**

Community and stakeholder engagement prior to, and during construction is proposed with a dedicated project webpage now established under Council's Major Projects & Works portal.

## CL24.209 Notice of Motion - Tourist Cabins

HPERM Ref: D24/279836

Submitted by: Cllr Tonia Gray

This item was deferred from the Ordinary Meeting 22 July 2024.

### Purpose / Summary

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

### Recommendation

That Council receive a report back that covers:

1. The interplay between the current 'Tourist and Visitor Accommodation' provisions contained in the Shoalhaven Local Environmental Plan 2014 and Shoalhaven Development Control Plan 2014 and the Agri-tourism related planning reforms that have been implemented at the NSW Government level through State Environmental Planning Policies including use by proponents of the innominate term 'tourist cabins' in rural areas as opposed to 'farm stay accommodation';
2. Community issues/concerns or compliance matters that have emerged in rural areas including in the Berry and Kangaroo Valley areas such as regarding:
  - a. lack of control over development of tourist accommodation and function centres;
  - b. protection of rural amenity and landscapes from inappropriate development;
3. Noting that the decision at lodgement of a development application requires characterisation by the applicant, Council makes every effort to consider the definition of Farm Stay Accommodation as part of characterisation for assessment purposes where an application for Tourist Cabins is lodged in RU1 or RU2 land.

### Background

For several years, Shoalhaven rural residents have been under threat of potential loss of amenity due to the absence of any controls over tourist cabin development in the Shoalhaven Local Environmental Plan 2014 (SLEP).

Residents in Berry and Kangaroo Valley have been particularly exposed, and many communities have been forced to rapidly mount very costly, time-consuming campaigns to protect rural amenity and landscapes from inappropriate development proposals for tourist accommodation and function centres.

When the SLEP was constructed, Council chose to retain use of the accommodation description 'tourist cabin', to facilitate the growth of tourism in the Shoalhaven.

Tourist cabins are categorised as an 'innominate use' under the Local Environmental Plan (LEP) group term 'tourist and visitor accommodation' (TVA), so there is no definition for tourist cabins in the SLEP Dictionary. Additionally, Clause 5.4 in the SLEP includes limits on the number of bedrooms for farm stay accommodation (7) and B&Bs (5), but there are none for tourist cabins.

Consequently, residents have no grounds under the SLEP for objections, whatever the scale and size of the development or the number of cabins. Council also has no capability to

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defend an appeal at the Land and Environment Court (LEC) against refusal of any tourist cabin development.

The Shoalhaven Development Control Plan 2014 (SDCP) also provides no protection. It includes a guideline of 1 cabin per 2Ha, but this is ignored by the LEC. The SDCP maximum floor area of a tourist cabin is 120sqm, but an LEC Commissioner approved 195sqm without hesitation.

### **Farm Stay Accommodation**

The SLEP definition is “a building on a commercial farm used to provide temporary accommodation to paying guests”.

The SLEP definition for a *commercial farm* is “a farm on which agriculture is undertaken that is –

- (a) on land categorised as farmland under the Local Government Act 1993, or
- (b) a primary production business within the meaning of the Income Tax Assessment Act”

If a landowner is claiming tax deductions as a primary producer or a rates reduction for land categorised as 'farmland', a Development Application (DA) for tourist accommodation must be characterised as 'farm stay accommodation', a named sub-term under the TVA group term.

It is therefore incumbent on Council to categorise any proposed accommodation on a commercial farm as farm stay accommodation and not allow an applicant to use the 'tourist cabin' description to evade the applicable controls.

### **Farm Stay Accommodation Controls**

The SEPP development standards for farm stay accommodation, including restrictions on the number and size of buildings, are shown below. There is also a limit of 7 bedrooms in SLEP Clause 5.4 for farm stay cabins.

#### **SEPP 2008 - Farm stay accommodation**

##### 2.32N General development standards

- (b) landholding must have an area of at least 15ha
- (g) number of guests accommodated at any one time must not be more than 20
- (h) a guest must not stay on the landholding for more than 21 consecutive days

##### 9.10 Complying development standards for buildings

- (c) the development must not cause there to be more than—
  - (i) 1 building used for the purposes of farm stay accommodation per 5ha, and
  - (ii) 6 buildings used for farm stay accommodation on the landholding,

##### 9.13 Additional development standards

- (h) a new building must have a gross floor area of no more than 60m<sup>2</sup>
- (k) a building must not be within 50m of a property boundary and 250m of residential property on neighbouring land

**Note by the CEO**

Previously, the Council initiated a review of tourist and visitor accommodation provisions in the Shoalhaven Local Environmental Plan (SLEP) and Shoalhaven Development Control Plan (SDCP). However, this review was placed on hold following a Council resolution in 2020 and no further work has progressed.

Now, with Stage 1 predominantly complete (including the currently exhibited draft growth principles and affordable housing strategy), Stage 2 work is scheduled to commence in the second half of 2024, which involves a comprehensive review of the planning scheme for Shoalhaven, including a new city-wide LEP, DCP, and associated work. The goal is to holistically address many planning opportunities and challenges for the city, including future growth opportunities and better suited provisions for tourist and visitor accommodation across our City.

It's important to note that if the recommendation is accepted, the resources for the subsequent report and any future resolved next steps will be reallocated to this matter for Berry and Kangaroo Valley, impacting the progression of the important city wide priority planning projects.

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## CL24.255 Rescission Motion - CL24.223 Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Dog Access Arrangements - Outcome of Engagement Activity

HPERM Ref: D24/320723

Submitted by: Clr Patricia White  
Clr John Wells  
Clr Greg Watson

### Purpose / Summary

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

### Recommendation

That Council rescind the Motion relating to Item CL24.223 Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Dog Access Arrangements - Outcome of Engagement Activity of the Council Meeting held on Monday 29 July 2024.

### Background

The following resolution was adopted at the Ordinary Meeting held Monday 29 July 2024 (MIN24.402).

*That Council:*

1. *In accordance with the Companion Animals Act 1998 (NSW), the Shoalhaven City Council Access Areas for Dogs Policy (ref. POL23/69, amended: 11/12/2023), and the Review of Environmental Factors (titled: Review of Environmental Factors (REF) – Dog Off-Leash Access – Narrawallee Beach, Narrawallee [certified under delegation on: 02/05/2024]), make the following dog access designations for public recreation and wildlife protection areas at Narrawallee Beach and surrounding areas as illustrated in **Attachment 7: Map - Proposed Dog Access Arrangements:***
  - a. *Dogs be prohibited in the area north of 'BA8'.*
  - b. *A timed dog off-leash area be implemented south of 'BA8' and north of 'BA3' (also known as Matron Porter Drive Beach Access Track), during the following times:*
    - i. *Australian Eastern Daylight Savings Time: **4pm to 8am;***
    - ii. *Australian Eastern Standard Time: **3pm to 10am.***
  - c. *Permit dogs to be on-leash south of 'BA8' and north of 'BA3' (also known as Matron Porter Drive Beach Access Track), during the following times:*
    - i. *Australian Eastern Daylight Savings Time: **8am to 4pm;***
    - ii. *Australian Eastern Standard Time: **10am to 3pm.***
  - d. *Dogs be prohibited in the area south of BA3 (also known as Matron Porter Drive Beach Access Track).*

2. *Direct the CEO (Director – City Development) to implement a public awareness and education campaign for 5 weeks from the date of this resolution, concluding on 31 August 2024, during which:*
  - a. *Interim dog access arrangements (for public recreation areas and wildlife protection areas) at Narrawallee Beach and surrounding areas will remain in effect, in accordance with MIN23.661;*
  - b. *Verbal warnings (only) shall be issued for eligible access related infringements for designated dog access areas listed in part 1 of this resolution (for public recreation areas and wildlife protection areas) at Narrawallee Beach and surrounding areas, noting that Council maintains a zero tolerance approach to enforcing other matters (including dog registration and dog attacks) in accordance with MIN20.264.*
3. *In accordance with the Companion Animals Act 1998 (NSW) and any other related act, direct the CEO (Director – City Development) to enforce designated dog access areas (for public recreation areas and wildlife protection areas) at Narrawallee Beach and surrounding areas, in accordance with part 1 of this resolution, including the issue of penalty notices for any infringements, from (not before): **1 September 2024.***
4. *In accordance with Section 14 of the Companion Animals Act 1998 (NSW), the Shoalhaven City Council Access Areas for Dogs Policy (amended: 11/12/2023), and the designated dog access areas listed in part 1 of this resolution, direct the CEO (Director – City Lifestyles) to:*
  - a. *Amend the site-specific designated dog access area information for public recreation areas and wildlife protection areas at Narrawallee Beach and surrounding areas listed in on Council's website.*
  - b. *Coordinate the design, fabrication, and installation of notices for public recreation areas and wildlife protection areas (signage) at Narrawallee Beach and surrounding areas for dog prohibited and dog off-leash areas.*
5. *Acknowledge the high-level of community interest in dog access arrangements at Narrawallee Beach, and in doing so, direct the Direct the CEO (Manager – Media & Communications) to issue notices (communication materials) as necessary to thank the Narrawallee Beach community (dog walkers and those seeking to avoid contact with dogs alike) for:*
  - a. *Their engagement with Shoalhaven City Council officers and elected officials since November 2023;*
  - b. *Providing feedback during community consultation undertaken in May 2024;*
  - c. *Participating in a live community information session held on 18 June 2024;*
  - d. *Providing additional (late) feedback following the conclusion of community consultation and in the lead-up to the Council's consideration of this matter.*

## **CL24.256 Notice of Motion - CL24.223 Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Dog Access Arrangements - Outcome of Engagement Activity**

**HPERM Ref:** D24/320796

**Submitted by:** Clr Patricia White  
Clr John Wells  
Clr Greg Watson

### **Purpose / Summary**

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

### **Recommendation**

That Council:

1. Defer a decision on new designations for dog prohibited and dog off-leash areas for public recreation and wildlife protection areas at Narrawallee Beach and surrounding areas until a new Council is appointed following local government elections scheduled for September 2024.
2. Hold a further meeting with staff, Paws for Shoalhaven Executive, Narrawallee Beach Environment Group and Councillors after the elections in September 2024.
3. Direct the CEO (Director – City Lifestyles) to re-table the Narrawallee Beach Dog Access - Review of Environmental Factors and Proposed Permanent Dog Access Arrangements - Outcome of Engagement Activity report in the business papers for a future Ordinary Council Meeting, once a new Council is appointed following Local Government Elections scheduled for September 2024.

### **Note by the CEO**

This Notice of Motion will be dealt with if the preceding Rescission Motion is carried.

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## **CL24.257 Notice of Motion - Clr Greg Watson - 50 Years' Service Acknowledgement**

**HPERM Ref:** D24/325665

**Submitted by:** Clr Patricia White  
Clr John Wells

### **Purpose / Summary**

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

### **Recommendation**

That Council:

1. Formally resolve to acknowledge the dedicated and significant service the Emeritus Councillor and Mayor Greg Watson has contributed to the Shire and City of Shoalhaven over the 50-year period 1974 to 2024.
2. Extends its thanks to Clr Watson and wishes him a long and happy retirement, with his wife Robyn.

### **Background**

Greg Watson is understood to be the longest serving Councillor in NSW Local Government, with 2024 being his 50<sup>th</sup> year of service to his community.

During this period, Greg has been elected Mayor a number of times, serving 14 years and 7 weeks in that capacity.

Over this period, Greg has initiated and/or contributed towards the development of a number of significant initiatives including but not limited to: -

- The intentional development of employment and industrial lands to stimulate local employment and commercial opportunities. These lands included Flinders and Woollamia Industrial Estates and Aviation Technology Park. He was Chair of Council's Employment and Economic Development Committee for many years.
- The consolidation of the Council organisation into a new City Administration Centre and surrounding Parklands.
- The introduction of a Tourism Promotions special rate and formation of a community-based Tourism Board.
- The extension of Water Reticulation schemes, particularity in the Bay & Basin.
- The Regional Effluent Management Scheme (REMS) a ground-breaking engineering project replacing proposed ocean fallout with a technology which reprocesses effluent to the point where it became re-usable for agricultural purposes.
- A significant contribution to the cultural life of the City by initiating and delivering in his last term of Mayor (2000 – 2008) the Shoalhaven Regional Gallery and Shoalhaven Entertainment Centre.
- During the same Mayoral term, the Bay & Basin Leisure Centre and the Sussex Inlet Pool were delivered.

The above are just a few highlights in his career as a Councillor.

We ask all Councillors to join us to formally thank him for his service to the City.

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## **CL24.258 Notice of Motion - Milton Ulladulla Bulldogs Rugby League Football Club**

**HPERM Ref:** D24/322454

**Submitted by:** Cllr Paul Ell

### **Purpose / Summary**

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

### **Recommendation**

That Council:

1. Notes that the Milton Ulladulla Bulldogs Rugby League Football Club has been successful in obtaining a \$510,000 grant under Round 4 of the Stronger Country Communities Fund (SCCF) in 2022;
2. Notes Shoalhaven City Council provided support to the proposed project as part of the application;
3. Notes that delays to the project could result in the Milton Ulladulla Bulldogs Rugby League Football Club having to return funding to the NSW Government;
4. Notes the unacceptable condition of the current amenities at Bill Andriske Oval and the current and potential work, health and safety risks posed to players and members of the community;
5. Exempt the Milton Ulladulla Bulldogs Rugby League Football Club from the provisions of Council resolutions MIN23.667 [part 3 (b) and (c)] and MIN24.44 [part 5] to allow the construction of the New Amenities Block at Bill Andriske Oval, Mollymook to proceed;
6. Instruct Council Staff to immediately engage with Milton Ulladulla Bulldogs Rugby League Football Club to assist the Club progress a Development Application for the project.

### **Background**

Milton Ulladulla Bulldogs Rugby League Football Club were successful in applying for a grant from the NSW Government under the Stronger Country Communities Fund (SCCF). The \$510,000 grant will be utilised to construct new change room and bathroom facilities to benefit all players, particularly female players.

The current amenities on site are suited to male members and in their current state pose a real and immediate Work, Health and Safety risk to players and members of the community. Council have been forced to close three bathroom stalls due to leaking sewage, rendering a significant number of facilities unusable. Currently, female players are utilising a storage shed to change.

The Women's Senior League at the Club has doubled in numbers since 2019 and as at 2022, the Club had 65 female players. This number is only growing.

Support for the project was received from Shoalhaven City Council as part of the SCCF grant application with support letters received from Ward 3 Councillors at the time.

The project will be fully funded by the Milton Ulladulla Bulldogs Rugby League Football Club with funds already received from the NSW Government, with the project appropriately

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staged. The Milton Ulladulla Bulldogs Rugby League Football Club has also offered to Council to assist with maintenance and upkeep from its own funds for a limited period, alleviating any financial pressures on Council.

**Note by the CEO**

Council officers are working to confirm a meeting with representatives from the Milton Ulladulla Bulldogs Executives, available Councillors and relevant staff week commencing 12 August 2024. Council officers will continue to engage with the Club to identify avenues for this project to progress to shovel ready status.

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## **CL24.259 Notice of Motion - Request for an EOI Process Regarding the Lease of the Building on Lot 21 Sec 27 DP2886, Bomaderry, Known as Thurgate Oval**

**HPERM Ref:** D24/325721

**Submitted by:** Cllr Serena Copley  
Cllr Paul Ell

### **Purpose / Summary**

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

### **Recommendation**

That Council:

1. Direct the CEO (or her delegate) to undertake an EOI process to seek to lease the building located on Lot 21 Sec 27 DP2886, Bomaderry, known as Thurgate Oval.
2. Consider any Development Application to be lodged by the successful lease for work within the building to bring it to a standard commensurate with its needs.
3. Notify that the Development Application in accordance with Council's obligations under legislation and policy.
4. Receive a report on the outcome of the EOI process.

### **Background**

The Bomaderry Nowra Lions Club (BNLC) need a home. The general support of the community, while acknowledged to not be universal is at a high level. The current usage of the Dog Park at this location is a great asset to the community and is supported. However, the use of the Dog Park and the use of this building by the BNLC are at this time mutually exclusive and so leasing of the building to the BNLC may proceed without impacting on the use of the Dog Park. Separately, the BNLC has commenced a petition in support of its proposal and this will be tabled at the Ordinary Council Meeting at which the Notice of Motion (NOM) is considered.

At the Ordinary Council Meeting of 26 February 2024 (MIN24.95) it was resolved that:

*That Council receive a full report on the Bomaderry Lions proposal for storage access at Thurgate Oval.*

At the Ordinary Council Meeting of 6 May 2024 (MIN24.247), it was further resolved

*That Council receive the report regarding the Bomaderry Nowra Lions proposal for storage access at Thurgate Oval.*

Further to that resolution, I have now received further representations from the BNLC seeking to proceed with this proposal. The latest approach was made by the BNLC on June 23 this year. The report, of 6 May 2024 sets out in detail the history of the BNLC requests of Council and its needs for any accommodation. Further, it details that these needs are met by utilising the building at Thurgate Oval.

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That report further details the financial implications of using the building for this purpose and leasing needs of BNLC.

The use of the building in this way by the BNLC will see the building providing a highly utilised community asset meeting the needs of many in the Bomaderry area. The NOM is recommended to all Councillors.

Council must however provide any potential leasee with an opportunity to seek to utilise the building and so, needs to undertake an open EOI to determine a suitable organisation or person to lease this community asset.

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## **CL24.260 Notice of Motion - Nowra Croquet Club**

**HPERM Ref:** D24/325920

**Submitted by:** Clr Paul Ell  
Clr Serena Copley

**Attachments:** 1. Nowra Croquet Club Submission [↓](#)

### **Purpose / Summary**

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

### **Recommendation**

That Council resolves to:

1. Receive and note the submission from the Nowra Croquet Club highlighting their concerns about lease negotiations.
2. Request the CEO to provide a report on options for lease arrangements for the Nowra Croquet Club with consideration of matters including but not limited to:
  - a. Like for like lease conditions.
  - b. Contributions to the Restricted Asset Account for Artie Smith Oval.
  - c. Financial implications of any proposals.

### **Background**

Refer to the detailed submission from the Nowra Croquet Club (Attachment 1).

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## NOWRA CROQUET CLUB Inc.

PO Box 1359 Nowra. NSW. 2541.

ABN 72 138 453 713

President: Doug Cornish

Secretary: Norma Windley

Patron-Mr. Gareth Ward MP. Member for Kiama

### Submission to Shoalhaven City Council

### RE: COMMUNITY LEASE – NOWRA Croquet Club Inc. Bomaderry

**Presenter: President Doug Cornish.**

Nowra Croquet Club is a not-for-profit community sporting organization that was founded in 1922. In 2008 the Club applied to Shoalhaven City Council (SCC) to lease land that would enable the club to expand to accommodate two internationally sized courts.

The land identified contained two unoccupied tennis courts, that were subsequently leased for this purpose in Cambewarra Road, Bomaderry adjacent to the Swimming Pool. The site included a tennis shed but no toilet facilities. For more than a year, members used the toilet facilities at the football grounds and later at the swimming pool until a new clubhouse was built. This was financed by fund raising by the Croquet Club members, a grant on a \$ for \$ basis from the State Government and an interest free loan by council that was subsequently repaid.

In 2016, the club applied to extend its playing facilities to accommodate two additional courts on the remaining unused tennis courts to the north. Following intense fund raising, the club had sufficient funds along with the promise of grants to lease and redevelop this area. An additional lease was granted in March 2018. This was then revoked when the Council announced the redevelopment of the Artie Smith Oval and Bomaderry Sporting Complex. The club would have preferred to remain in our present location.

The President and Committee subsequently conceded to relocate to the proposed new location with two important provisions and commitments following consultation and agreement with Council.

These included to:

1. Replace the existing courts on a “like for like” basis with the addition of two new courts (making a total of four fully sized courts).
2. Ensure that Nowra Croquet Club would not be disadvantaged financially.

Nowra Croquet Club, as a community organization caters for all ages. Many of its members are retirees and pensioners with membership fees and green fees being the prime source of income. Green fees are dependent on members’ participation and subject to weather constraints.

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The club accommodates playing programs for Community Groups, NDIS Groups, Schools and an open invitation to the community to participate in our free Come & Try programs. The club has been approved by Croquet NSW as a Regional Hub to support the Southern Region including South Coast clubs.

Our commitment is to encourage the community to participate in a sport that can be played equally by all ages, challenges and stimulates the mind, provides gentle exercise, whilst providing social interaction.

The Club has always maintained the lawns and surroundings without Council input and had expected to continue maintaining the lawns at the new location. The club continues to outsource mowing, chemical spraying and fertilising. Much of the additional maintenance and labour is provided by volunteer members when required to reduce costs. This has also allowed autonomy and flexibility to prepare the courts immediately prior to a tournament and especially at weekends. However, the Council has employed greenkeepers to maintain the new courts and surrounds.

The Council Lease Proposal initially sought a rental of \$20,000 per annum inclusive of GST. Without question such a rental is financially unsustainable in comparison to the club's current rent of \$934.56 for 2024-2025. As Council requested a full audit report of the club's accounts, professional financial advice was sought and their response: -

*"I'm of the strong opinion that the club is not in a financial position to agree to the lease terms. In summary, the club's management committee is obligated to ensure that the club is financially viable.*

*The club's cash reserves, and annual income would not be adequate to meet rental payments listed in item 8 of the lease reference schedule. Currently recurrent costs are met from monthly club income, the lease required annual advance payment, the club is not in a financial position to pay additional costs, and this is compounded significantly with the requirement to pay in advance. I advise the committee not to agree to the outgoings detailed in the proposed lease due to the uncertainty of the outgoing amounts that may fall due.*

*Hopefully Shoalhaven City Council will realize the adverse effect the proposed lease will have on the financial ability of your club and reduce the lease rental to a more manageable amount, which in my opinion would be in the range of \$10,000 to \$11,000 (inclusive of GST)"*

It is unrealistic for a Lessee to contribute to a Restricted Asset Account for court capital upgrades of a council owned facility.

The club feels it is essential that Council honours its provisions and commitments given to the Nowra Croquet Club, especially its promises made to the club in 2018. These include relocation on a like-for-like basis and no financial disadvantage.

Nowra Croquet Club Inc.

## **CL24.261 Notice of Motion - Aboriginal Cultural Heritage**

**HPERM Ref:** D24/326085

**Submitted by:** Cllr John Kotlash

### **Purpose / Summary**

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

### **Recommendation**

That Council:

1. Supports in principle the Jerrinja Local Aboriginal Land Council's Ministerial dated Friday 26 July 2024, requesting a moratorium on Sealark's proposed development at West Culburra.
2. Write to NSW Department of Environment and Heritage and recommend that the Aboriginal Heritage Impact Permit (AHIP) granted to Sealark for Lot 1 East Crescent Culburra Beach be revoked as requested by JLALC on 7 May 2021.
3. Request that Sealark cease their development proposal on Lot 1 East Crescent and return the Significant Cultural Material excavated and removed through the AHIP process, from Lot 1 East Crescent to the site as requested by JLALC. Under Jerrinja lore, these 19,000 plus artefacts which have been dated by expert archaeologists to between 5,000 and 10,000 years - older than the pyramids - should never have been removed and must be returned and retained in situ.

### **Background**

As part of the Aboriginal Heritage Impact Permit AHIP granted to Sealark Developments it is understood that Sealark have retrieved approximately 19,000 artefacts from the site which have been dated by expert archaeologists to between 5 and 10 thousand years old.

These artifacts have been removed from the site and are in storage. This is reminiscent of the situation in Julian Gorge in Western Australia or artefacts sent to Britain 200 years ago that are only now being returned. It is not something that should be happening in 2024.

This Notice of Motion requests that Sealark return all material excavated and removed through this AHIP process to the Jerrinja community to allow them to return these to the site as requested by the JALC. It also requests that Shoalhaven City Council write to the NSW Dept of Environment and Heritage and recommend the AHIP granted to the Sealark for lot 1 East street Culburra be revoked as requested by the Jerrinja Land Council on 7 May 2021.

It is also imperative that the Jerrinja LALC be allowed to undertake their own cultural, environmental and expert archaeological assessment of all sites as is culturally appropriate.

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## **CL24.262 Notice of Motion - Moratorium on Development That Not Supported by Contemporary Studies**

**HPERM Ref:** D24/326171

**Submitted by:** Cllr Evan Christen

### **Purpose / Summary**

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

### **Recommendation**

That Council requests the NSW Government to place a moratorium on the development of land that is not supported by contemporary studies on biodiversity (post 2019/20 bushfires) and indigenous cultural heritage, as an application of the Precautionary principle, pending the completion of the NSW Parliamentary Inquiry into historical development consents in NSW (Zombie DA's) and the NSW Government's response to it.

### **Background**

This request is in response to First Nations community concerns regarding the protection of their cultural heritage which includes all aspects of the natural environment at a number of sites across the Shoalhaven that are being destroyed now or are in imminent danger.

The Shoalhaven has unfortunately a great number of old DAs without contemporary studies that the indigenous and wider community are very unhappy with. At this time of rapid decline in numbers of many threatened species, the most important conservation step of protecting the areas where the live must be a top priority and the precautionary principle applied. This precautionary approach is already in much NSW legislation, it needs to be applied.

CL24.262

## **CL24.263 Notice of Motion - Planned Restructure and Redundancies**

**HPERM Ref:** D24/327489

**Submitted by:** Cllr Serena Copley

### **Purpose / Summary**

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

### **Recommendation**

That the CEO be requested to withdraw any proposed changes and potential redundancies and halt the planned restructure of all Directorates until after the new Council has been installed and consulted.

### **Note by the CEO**

The proposal includes a timeline that allows for consultation with the incoming Council before any final decision is made. Delays may have a detrimental effect on the financial benefits of the proposed reforms.

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## LOCAL GOVERNMENT ACT 1993

### Chapter 3, Section 8A Guiding principles for councils

#### (1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

#### (2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

#### (3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

### Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
  - (i) performance management and reporting,
  - (ii) asset maintenance and enhancement,
  - (iii) funding decisions,
  - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
  - (i) policy decisions are made after considering their financial effects on future generations,
  - (ii) the current generation funds the cost of its services

### **Chapter 3, 8C Integrated planning and reporting principles that apply to councils**

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.