

Ordinary Meeting

Meeting Date: Monday, 28 October, 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

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)

Disclaimer: Shoalhaven City Council acknowledges and understands there are many diverse languages spoken within the Shoalhaven and many different opinions.

2. Moment of Silence and Reflection

3. Australian National Anthem	
4. Apologies / Leave of Absence	
5. Confirmation of Minutes	
• Ordinary Meeting - 14 October 2024	
6. Declaration of Interests	
7. Presentation of Petitions	
8. Mayoral Minute	
9. Deputations and Presentations	
10. Notices of Motion / Questions on Notice	
<u>Notices of Motion / Questions on Notice</u>	
CL24.281 Rescission Motion - CL24.278 Notice of Motion - Community Groups & Organisations	1
CL24.282 Notice of Motion - CL24.278 Community Groups & Organisations	2
CL24.283 Notice of Motion - Councillor Briefing - Go FOGO (Food Organics and Garden Organics) Grants	3
CL24.284 Notice of Motion - Affordable Housing Action Taskforce.....	4
CL24.285 Notice of Motion - Berry Off-Leash Dog Park	5
11. Call Over of the Business Paper	
12. A Committee of the Whole (if necessary)	
13. Committee Reports	
Nil	
14. Reports	
<u>CEO</u>	
CL24.286 Resignation - Councillor Pakes	6
CL24.287 Financial Sustainability Productivity and Efficiency Report	9
<u>City Performance</u>	
CL24.288 Proposed Finance Review Panel (Previously known as Budget Review Panel)	16
CL24.289 Community Consultation and Committee System	27
CL24.290 Council Representatives on Other Committees or Organisations Outside of Council.....	32
CL24.291 Investment Report - August and September 2024.....	41
<u>City Futures</u>	
CL24.292 State of our City Report.....	47
CL24.293 Proposed Planning Agreement - Hitchcocks Lane, Berry	50
<u>City Services</u>	
CL24.294 Proposed Lease to Productivity Bootcamp - 21 Norfolk Ave, South Nowra - Lot 77 DP 1032397	52

CL24.295	Grant of Electricity Easement to Endeavour Energy – Community Battery – Lot 35 DP 242182 33 Tannery Road Cambewarra.....	55
CL24.296	Report Back - Result of Investigations - Seagrass Avenue Vincentia - Parking and Vegetation.....	59
CL24.297	Funding Model - Materials Recovery Facility.....	70
CL24.298	Tenders - Construction of Manyana RFS Station	83
<u>City Development</u>		
CL24.299	Quarterly Review for Compliance Matters	85
CL24.300	SF10987 – 33 Forest Rd Kioloa – Lot 5 DP 1280813.....	87
CL24.301	Petition - Shoalhaven River (Heads) - Entrance Management Plan - Mechanical opening	100
CL24.302	Development Application - 102 & 106 Hillcrest Avenue SOUTH NOWRA - Lot 72 DP31078 & Lot 4 DP561605.....	114
<u>City Lifestyles</u>		
CL24.303	Sanctuary Point Library - Project Update 2	121
CL24.304	Reconciliation Action Plan - Public Exhibition.....	125
CL24.305	Lease of Nowra Showground Tennis Clubhouse and Courts - 27 West Street, Nowra.....	129
<u>Shoalhaven Water</u>		
CL24.306	Connection to Town Sewerage System - 9A Bindaree Street Greenwell Point.....	133
CL24.307	Easement Acquisition for Water Supply - Lot 203 DP 883494, 14 Reservoir Lane Cambewarra	138
CL24.308	Exemption to Tender - Sewage Pumping Station Design and Construction - Twin Nowra Estate - Old Southern Road South Nowra - SF10743.....	142
CL24.309	Land and Easement Acquisition - Part Lot 2 DP 1261811, 49 Taylors Lane Badagarang	146

15. Confidential Reports

Reports

- CCL24.29 Proposed Planning Agreement - Hitchcocks Lane, Berry
- Local Government Act - Section 10A(2)(e) - Information that would, if disclosed, prejudice the maintenance of law.*
- There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings or prejudice the fair trial of any person, the impartial adjudication of any case or a person's right to procedural fairness.*
- CCL24.30 Tenders - Construction of Manyana RFS Station
- Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

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

CL24.281 Rescission Motion - CL24.278 Notice of Motion - Community Groups & Organisations

HPERM Ref: D24/444471

Submitted by: Clr Bob Proudfoot
Clr Patricia White
Clr Luciano Casmiri

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 CL24.278 Notice of Motion - Community Groups & Organisations of the Council Meeting held on Monday 14 October 2024.

Background

The following resolution was adopted at the Ordinary Meeting held Monday 14 October 2024 (MIN24.501).

That Council develop a policy and associated procedures that facilitates collaboration and co-operation between Council and community and sporting groups to deliver community funded infrastructure on Council land.

The policy and procedures must:

- a. be developed by staff in collaboration with Councillors in a dedicated workshop*
- b. be consistent with financial sustainability principles as resolved on 29 January 2024 (MIN24.44)*
- c. be subject to community consultation as required under the Local Government Act 1993 and Council's community engagement strategy*
- d. facilitate positive collaboration between Council staff and community organisations and recognise that the resources available to volunteers in community organisations are limited.*
- e. Provide for development of a Memorandum of Understanding or similar, to clearly state the parameters of the project and the assigned responsibilities of each party including costs, ongoing maintenance and insurance both during the implementation of the project and its utilisation into the future.*

CL24.281

CL24.282 Notice of Motion - CL24.278 Community Groups & Organisations

HPERM Ref: D24/444472

Submitted by: Cllr Bob Proudfoot
Cllr Patricia White
Cllr Luciano Casmiri

Purpose / Summary

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

Recommendation

That Council:

1. Community groups and community organisations, including sporting bodies, be given the full proactive support of Council staff in order to progress their expressed desires to make major contributions to the physical up-grade of their various precincts.
2. The proactive support of staff be measured in terms of the effectiveness and efficiencies in delivering community projects in a cost effective manner and without unnecessary delay.
3. Community human resources such as tradespeople, project managers and supervisors be given the appropriate status and weight in progressing the desires of local groups and the full commitment of staff to make things happen.
4. Staff be given fourteen days to prepare a co-operative community policy and application portal to be readily accessed on-line, so that our wonderful volunteers can get to work.
5. The general acknowledgement from Council is that more often than not, Council's contribution will be in terms of the provision of materials, with the community providing the expertise and the labour.

Note by the CEO

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

The Community Infrastructure Guidelines were previously adopted by council in 2017 and are currently being reviewed by staff. This document provides information for community, recreation, and sporting groups seeking Council assistance with community driven infrastructure projects.

It is anticipated a report will be provided to Council, including a draft copy of the revised Guidelines for Community-Led Projects, for Council's consideration in December 2024 that will outline all key considerations for Councillors. The revised guidelines will ensure that Council meets legislative requirements, provides adequate protections for community members and the organisation and meets our obligations as managers of community land and assets.

CL24.282

CL24.283 Notice of Motion - Councillor Briefing - Go FOGO (Food Organics and Garden Organics) Grants

HPERM Ref: D24/453355

Submitted by: Cllr Jemma Tribe

Purpose / Summary

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

Recommendation

That the Go FOGO (Food Organics & Garden Organics) Grant's (and their deadlines) be considered as part of Shoalhaven City Council's briefing to Councillors when presenting options for the management of Council's red-bin collection stream, including the mandated separation of food/garden organics for households by 2030.

Background

While a briefing on the future of green waste is being prepared for councillors, it is important to note there are deadlines on funding opportunities that could assist in this area.

Go FOGO grants support NSW councils to deliver new weekly food only (FO) or food organics and garden organics (FOGO) services to their communities. These may be households that currently have no kerbside organics bin service or households with only a garden waste collection.

The objectives of the Go FOGO grants are to:

- support the effective rollout of weekly FOGO (or FO) services to 500,000 households that have no organics service
- support the effective rollout of weekly FOGO (or FO) services to 1,500,000 households that have a garden only waste service
- provide additional support to councils with a significant number of multi-unit dwellings (MUDs) to deliver additional tailored communication to these properties.

The NSW Government's Waste and Sustainable Materials Strategy 2041 (WaSM) introduced new requirements for councils to provide food and garden organics collections to all NSW households by 2030. It also requires large food waste generating businesses to source separate food waste by 2025. The initiatives are designed to reduce organics waste in landfill, where it generates methane, a potent greenhouse gas, and instead create a clean stream of a valuable resource that can be beneficially reused.

Round 3 applications are now open until 4pm, 19 November 2024.

<https://www.epa.nsw.gov.au/working-together/grants/organics-infrastructure-fund/go-fogo-grants>

CL24.283

CL24.284 Notice of Motion - Affordable Housing Action Taskforce

HPERM Ref: D24/453402

Submitted by: Cllr Jemma Tribe

Purpose / Summary

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

Recommendation

That:

1. Shoalhaven City Council form a cross government 'Affordable Housing Action Taskforce' to collaborate and drive forward opportunities outlined in the [Affordable Housing Strategy](#) 2024.
2. The taskforce membership be comprised of the Mayor, Councillors, relevant staff, local State/Federal Members and external representatives.
3. External representatives will be invited through an Expression of Interest (EOI) process, to be completed by Easter 2025. This will include key stakeholders essential for advancing the strategy from various backgrounds, such as Federal, State and Local political representatives, relevant cross government departments, and key industry leaders for example, housing sector representatives.

Background

The 2024 Shoalhaven Affordable Housing Strategy replaces the 2017 report. To achieve the recommendations in the current strategy, we must establish a robust structure for moving forward, recognizing that Council cannot complete this work alone. There is community support for Council to establish a cross-government Taskforce to drive action. Given the importance of affordable housing to our community and its priority for Council, the Taskforce should be chaired by the Mayor and include appropriate staff, Councillor representatives from each ward, and external stakeholders such as State and Federal Members. Considering the wide range of issues and interests in affordable housing, it would also be beneficial to include other key representatives, for example community housing sector representatives. For the first 12 months, the task force should meet quarterly, with regular updates provided to Council.

CL24.284

CL24.285 Notice of Motion - Berry Off-Leash Dog Park

HPERM Ref: D24/453493

Submitted by: Cllr Peter Wilkins

Purpose / Summary

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

Recommendation

That:

1. Council investigate the possibility of erecting a fenced area for dogs off-leash in Berry near the Boongaree Nature Play Park.
2. Council work with Berry Rotary for delivery of this amenity which was slated for construction as part of the Boongaree Nature park plan but suspended due to a lack of funding.
3. The thriving Berry community, consisting of residents and a regular influx of tourists, needs this dog-off-leash area as the nearest existing parks are at Bomaderry and Shoalhaven Heads.

Background

Berry is the northern gateway to the Shoalhaven and requires a dog-off-leash park to meet the needs of a thriving community and thousands of visitors who make the trek to Berry all year round. A park of this nature was part of the larger plan for the Boongaree Nature Park, yet plans for the completion of the park due to financial constraints have been suspended. These plans included this area to the north of the Boongaree nature reserve. A submission has been sent to council from Berry Rotary detailing the size and suggested placement for the park. And the division of fencing to provide for small dogs separate to larger breeds.

Berry Rotary has a model which would alleviate a major expense for council so it would seem logical to quickly explore this and get the project moving. Like their owners, dogs need social contact for health and well-being. This off-leash dog park would provide a much-needed arena for social contact on several fronts. Currently it is a missing link in the Shoalhaven's Berry Community.

CL24.285

CL24.286 Resignation - Councillor Pakes

HPERM Ref: D24/449935

Department: Business Assurance & Risk

Approver: Robyn Stevens, Chief Executive Officer

Purpose:

To formally notify the Council and community of the resignation of a Councillor and the process that is to follow.

Summary and Key Points for Consideration:

To note the resignation of Clr Mitch Pakes as Councillor for Shoalhaven City Council received by the CEO, effective Friday 11 October 2024, and the countback electoral process to be followed for the filling of the casual vacancy resulting from Clr Pakes resignation

Recommendation

That Council note the resignation of Clr Mitch Pakes effective 11 October 2024 and that a casual vacancy of a Shoalhaven City Councillor in Ward 3 now exists.

Options

1. As recommended

Implications: Nil

2. An alternative recommendation

Implications: unknown

Background and Supplementary information

The CEO received a letter of resignation dated Friday 11 October 2024 from Councillor Mitch Pakes with respect to his role as Elected Councillor for Ward 3, Shoalhaven City Council.

Mr Pakes was officially declared as elected as a Shoalhaven City Councillor on 2 October 2024.

Mr Pakes previously held office of a Shoalhaven City Council Councillor in Ward 2 in the Council between September 2016 to December 2021.

Mr Pakes emailed a notice of resignation to the CEO on Friday 11 October. A signed version of the resignation was requested by Council and as such, Mr Pakes withdrew his resignation and provided the official signed notice on Tuesday 15 October. Council is advised that the 11 October 2024 date is the effective date for the resignation in this circumstance.

At the first meeting of this Council term, it was resolved (MIN24.504 below) that if Council declared a casual vacancy of a Councillor within 18 months after the 14 September 2024 Council elections, then this will be filled by a countback of votes. Further, that the CEO notify the NSW Electoral Commissioner (NSWEC) of the Council's decision.

CL24.286

That;

1. Pursuant to section 291A(1)(b) of the Local Government Act 1993 (the Act) Shoalhaven City Council declare that casual vacancies occurring in the office of a Councillor within 18 months after the last Ordinary election of Councillors for the Council on 14 September 2024 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act; and
2. The Council directs the CEO to notify the NSW Electoral Commissioner of the Council's decision within 7 days of the decision.

The countback is conducted using the same ballot papers from and the same proportional representation voting count system as the ballot papers from the local government elections held on 14 September 2024.

The timeline for a countback election is:

1. The NSWEC was notified of the casual vacancy, within seven days of it occurring this.
2. A Returning Officer (RO) is appointed within 14 days of the notification of the vacancy.
3. Casual vacancy notices are issued within 14 days of the appointment of the RO.
4. Where a candidate is interested, they must submit a formal application to the returning officer. The application period closes after 10 days of the notices being issued.
5. The countback is conducted at least 14 days from when the vacancy notices are issued and no more than 49 days from when the casual vacancy occurred.

The Returning Officer will contact all potential candidates from the election who may still qualify to be elected to the office of Councillor. Where the candidate is interested, they must submit a formal application. All candidates who submit and do not withdraw their application become eligible candidates.

Information on the countback and procedure may be found at the NSWEC website <https://elections.nsw.gov.au/elections/how-counting-works/countback-elections>

Councillors will be kept informed of the process.

External Consultations

The required notification of the Council resolution of 14 October 2024 to the NSW Electoral Commissioner has occurred. In addition, and in accordance with the regulations, the NSW Electoral Commissioner, Office of Local Government and LGNSW have been advised of the resignation effective 11 October 2024, which will trigger a filling of the casual vacancy in Waed 3 using a countback election, as is in the first 18 months from the date of the last election.

The process of the countback election and declaration of which candidate is elected is managed by the NSWEC.

All potential candidates will now be contacted by the NSWEC and asked if they wish to be considered for election in the countback. There will be no costs incurred for these candidates.

The CEO will be available to respond to any questions from the potential candidates.

NSWEC will provide communications and website links for Shoalhaven City Council website and manage the whole countback process.

It is anticipated that a new Councillor will be elected, and declaration made by mid-December 2024.

CL24.286

Community Consultations

No community consultation has occurred. Council's website and relevant documents have been updated to reflect the casual vacancy in Ward 3 and will reflect the election process once underway. Council will publicly announce the details of the newly elected councillor once the process is complete.

Policy Implications

Countback elections are described in Schedule 9A of the Local Government (General) Regulation (2021) and the NSW Electoral Act (2017).

At a countback election, a sitting Councillor cannot be unelected, and non-eligible candidates cannot be elected

Financial Implications

Council is responsible for covering the costs of filling any vacancy of Councillor that arises between election periods. The estimated costs for the filling of the current casual vacancy in Ward 3 is between \$5,000 and \$10,000. This will be confirmed in the following weeks. Council will also incur costs for the separate induction and onboarding of the newly appointed Councillor.

The decision of Shoalhaven City Council to use the countback method after the last election, meant that in July 2023 a Councillor vacancy was filled at a cost \$5,300 to the Council.

Risk Implications

Should there be insufficient previous candidates who submit a formal application to be included in the countback election, a by- election may be required. This would result in an extended period that the Council has a casual vacancy in Ward 3 and costs in the vicinity of \$200,000 may occur. Council's budget and operational plan would need to be reconsidered to address unplanned costs to that amount.

CL24.286

CL24.287 Financial Sustainability Productivity and Efficiency Report

HPERM Ref: D24/409639

Department: Financial Sustainability

Approver: Robyn Stevens, Chief Executive Officer

Purpose:

The purpose of this report is to inform Councillors and the community of the productivity and efficiency actions that have been taken from June to September 2024 to improve Council's financial sustainability.

Summary and Key Points for Consideration:

- The financial sustainability project commenced in February 2024, following the commencement of the current CEO, in response to the independent financial sustainability review (CL23.420) and the subsequent decision not to apply for a special rate variation in January 2024 (MIN24.44).
- The project coordinates the organisations efforts to address its financial sustainability challenges, through the delivery of agreed actions and initiatives.
- In adopting the recommendations of the AEC Financial Sustainability Review (MIN23.667), Council resolved to report the organisation's progress in achieving efficiencies against the productivity and efficiency target on a quarterly basis.
- This report summarises the actions taken to improve Council's financial sustainability from June to September 2024.
- During June to September 2024, Council has captured recurrent general fund savings/income of \$2.497 million and one-off savings/income of \$698,975. This brings the total recurrent general fund savings to \$2.497 million and one-off general fund savings/income to \$92.398 million.
- During June to September 2024, Shoalhaven Water has captured recurrent savings/income of \$13.249 million, largely driven by 2024/25 budget parameters for water and sewer fees and charges. In 2024/25 to date, Shoalhaven Water have also achieved one-off savings/income of \$182,100, predominantly driven by plant and fleet sales.
- Many financial sustainability initiatives are underway that will provide future savings to the organisation and outcomes will be reported in future productivity and efficiency reports. Further to Councils consideration of this report an action plan will be made available to Councillors and the community to improve visibility of the actions being taken to address financial sustainability across the organisation.

CL24.287

Recommendation

That Council:

1. Receive the productivity and efficiency report for the period from June to September 2024.
2. Note the actions taken during the period that have supported progress toward Council's financial sustainability.

- Note that the organisation’s top priority is to address the current financial sustainability challenges, and that there is significant work in progress to realise recurrent savings throughout this financial year.

Options

- The productivity and efficiency report for the period from June to September 2024 be received for information.

Implications: Nil

- Further information regarding action taken during the period to improve Council’s financial sustainability be requested.

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

Background and Supplementary information

The financial sustainability productivity and efficiency report provides a summary of actions taken to address Council’s financial sustainability challenge in the last quarter.

In January 2024, Council resolved under MIN24.44 to apply financial efficiencies and savings in the organisation commencing immediately and ongoing over the next four years. A report was to be provided to the Council every quarter to outline efficiencies and savings, with a savings target of \$5 million per year.

This report also addresses the AEC report recommendation (CL23.420) to report to Council on a quarterly basis the progress in achieving efficiency and implement process to track the achievement of the productivity and efficiencies target.

To review detailed project activity, refer to the monthly financial sustainability reports that have been presented to Council during the quarter:

- June 2024 (CL24.160)
- July 2024 (CL24.215)

No monthly financial sustainability report was provided in August and September due to the caretaker period and local government election.

Financial Implications

June 2024 – September 2024 general fund report

Recurrent saving realised:

Category	Initiative	Saving/Income	Realised	Amount
Other efficiency ideas	Reduction in events support programme and marketing budget	Saving	24/25 original budget	-\$500,000
Revenue generation	Increase in revenue – fees and charges review – general fund	Income	24/25 original budget	+\$1,303,000
Revenue generation	Increase in revenue – DA fee recovery	Income	FY25 QBR1	+\$50,000

CL24.287

Category	Initiative	Saving/Income	Realised	Amount
Changes to operating hours	Reduced operating hours	Saving	FY25 QBR1	-\$320,758
Other efficiency ideas	Reduction in general fund operating budgets	Saving	FY25 QBR1	-\$322,934
Recurrent productivity and efficiency general fund TOTAL				\$2,496,692

One-off savings (grey-shaded columns were included in a previous productivity and efficiency report but are included to show the total achievement realised):

Category	Initiative	Saving/Income	Realised	Amount
Pausing capital projects	Pause capital projects	Saving (deferred spend)	FY24 QBR3	-\$90,000,000 (total project cost excluding grant funding)
Increased cost controls	23/24 reduced department spending (no discretionary spending, holding vacancies)	Saving	FY24 QBR3	-\$1,700,000
Increased cost controls	24/25 reduced department spending year to date across general fund	Saving	FY25 QBR1	-\$368,975
Plant and fleet	24/25 plant and fleet general fund asset sales	Revenue	FY25 QBR1	+\$330,000
One-off productivity and efficiency general fund TOTAL				\$92,398,975

As part of the September quarterly budget review, an internal reserve will be created to track the financial sustainability outcomes realised to date. This will enable a clear identification of these outcomes in the finance reporting system going forward.

June 2024 – September 2024 Shoalhaven Water report

Although the major financial sustainability challenges are being experienced by Council's general fund, the Shoalhaven Water business has also been on a journey to find efficiencies in the water and sewer operation. The following tables report on the recurrent and one-off efficiencies for Shoalhaven Water from June to September 2024:

CL24.287

Category	Initiative	Saving/Income	Realised	Amount
Other efficiency ideas	Reduction in Shoalhaven Water fund operating budgets	Saving	FY25 QBR1	-\$975,000
Revenue generation	Increase in Shoalhaven Water revenue – new business	Income	FY25 QBR1	+\$28,000
Revenue generation	Increase in water revenue – fees and charges review	Income	24/25 original budget	+\$9,783,000
Revenue generation	Increase in sewer revenue – fees and charges review	Income	24/25 original budget	+\$2,463,000
Recurrent productivity and efficiency Shoalhaven Water TOTAL				\$13,249,000
Increased cost controls	24/25 reduced Shoalhaven Water department spending year to date	Saving	FY25 QBR1	-\$12,100
Plant and fleet	24/25 Shoalhaven Water plant and fleet asset sales	Revenue	FY25 QBR1	+\$170,000
One-off productivity and efficiency Shoalhaven Water TOTAL				\$182,100

CL24.287

Summary of initiatives resulting in recurrent savings/income:

Reducing costs – plant and fleet

One of the recommendations from the plant and fleet service review conducted in May 2024 was to consider the sale of under-utilised assets to reduce annual operating costs and replacement costs. It should be noted that under-utilised plant identified in the review does not necessarily equate to plant that can be sold.

Since the service review was received, a review of the under-utilised plant and fleet list has been carried out, and of the under-utilised plant confirmed as able to be sold, an additional \$500,000 (of this \$330,000 is general fund and \$170,000 is Shoalhaven Water) has been received from plant and fleet auction sales (this is over and above the normal volume of plant and fleet auction sales received in a quarter).

The sale of these under-utilised plant and fleet assets is expected to also reduce the annual operating costs by \$200,000, and the actual saving will be reported in the next productivity and efficiency report.

Reducing costs – changes to operating hours

As per CL24.215, the operating hours of more than 20 facilities and services in the Shoalhaven are reducing as part of the ongoing work to address Council's financial position in the immediate and long term. The review of operating hours initially considered changes that would have resulted in operational savings of \$1 million per annum, however some changes were not approved due to the adverse local community impact.

The approved changes will result in operational savings of \$479,900 per annum. This figure has reduced from the originally reported savings of \$503,650 as it now excludes \$23,750 for the Kangaroo Valley Village Pool, which was resolved as per MIN24.500 not to be impacted by operating hours changes.

The savings reported this quarter are \$320,758, which represents the partial year saving realised to date as the operating hour changes are implemented. The remaining savings that will occur due to the changes to operating hours will be realised in 25/26 Budget and reported in a future productivity and efficiency report.

Reducing costs – other efficiency ideas

The organisation has continued to work on the 3% challenge, in which staff are encouraged to identify ways to reduce costs or increase revenue. Department managers are tasked to work on those ideas to find a 3% saving on their budget in the 2024-25 financial year. Across the organisation, a total of 442 ideas have been submitted to date.

For the 2024/25 financial year to date, the implementation of these efficiency ideas has resulted in operational savings of \$1,797,934 per annum (\$822,934 is general fund and \$975,000 is Shoalhaven Water). This includes a permanent reduction to the events support program and marketing budget, which was introduced in the 24/25 budget.

The financial sustainability project will continue to work with the organisation to implement efficiency ideas and realise savings in each quarterly budget review process.

Revenue generation

In the 2024/25 budget, the fees and charges were increased by 7.5% to support the organisation's financial sustainability objective. This was set as a 2024/25 budget parameter. Over the last 5 years on average, Shoalhaven City Council has increased fees and charges between 4-5%. The net gain for general fund as a result of the additional 2.5% increase is \$1.303 million. The 2024/25 additional fees and charges increase for Shoalhaven Water across water and sewer funds in 2024/25 is \$12.246 million.

The 3% challenge is also identifying revenue generation opportunities. For the 2024/25 financial year to date, the implementation of these revenue generation ideas has resulted in an increase in revenue expectation of \$78,000 (\$50,000 in general fund and \$28,000 in Shoalhaven Water).

Other measures supporting financial sustainability journey:

Reducing debt – land sales

The 2024/25 operational land sales program is underway, with the first property sales due for settlement in October 2024. The one-off income generated from these sales will be reported in the next productivity and efficiency report.

In 2024/25 operational land sales program is expected to generate between \$7 million and \$14 million, dependent on market conditions. This income will be used to fund critical capital works and repay existing debt, as endorsed CL24.118 Draft Delivery Program Operational Plan and Budget.

Reducing costs – staffing

Council resolved under MIN24.44 to consider placing a staffing freeze on all recruitment positions except where the Executive Management Team (EMT) determines whether the position is required or to be filled by internal recruitment to provide a career path for existing staff.

A process was established under the financial sustainability project, whereby the EMT review each vacancy and any new positions to determine if and when they are required to fulfill operational, regulatory or required service levels.

As a result of this process, there is a notable decrease in the number of roles being advertised (1 June to 31 August 2023: 80 vacancies advertised, 1 June to 31 August 2024: 37 vacancies advertised). This represents a 46% reduction in recruitment this quarter compared with the same period last year, with a 2024 year-to-date reduction of 43%.

Reducing costs – increased cost controls

The increased cost controls established at the start of the financial sustainability project have continued into financial year 2024-25:

- No discretionary spending
- No consultants or contractors unless approved by Director
- No overtime or leave in lieu unless necessary (such as emergency response)
- Work with teams to reduce leave balances
- Manage budgets closely with no over-spends

In addition, for financial year 2024-25, there is a pause on:

- Conferences and external training
- Professional memberships and subscriptions

In 2024/25 year to date, the increased cost controls have resulted in one-off savings of \$381,075 across Council, which will be adjusted in QBR1. \$368,975 of the 2024/25 one-off savings is from general fund, and \$12,100 is from Shoalhaven Water.

Reducing costs – restructure savings

A proposed organisational restructure is underway, which, if approved, will result in operational savings of \$1.6 million per annum and a reduction of 19 FTE across Council. The restructure is currently in progress, and the savings will be confirmed in the next quarterly productivity and efficiency report.

Internal Consultations

The financial sustainability project consults internal stakeholders formally through weekly Executive Management Team meetings and monthly in Shoalhaven Leadership Team meetings.

During this quarter, Councillors were engaged through two monthly workshops, held 25 June and 23 July 2024.

External Consultations

During this quarter, the Office of Local Government (OLG) made enquiries of the Chief Financial Officer with regard to the implementation status of the financial sustainability project and requested updates were provided to the OLG on 27 August 2024.

Community Consultations

Beyond the public business papers, further community consultation is not required as this is a report to summarise the actions taken to address financial sustainability.

Policy Implications

As the financial sustainability initiatives progress, updates will be made to impacted Council policies.

During the quarter, work has progressed on updating Council's existing Motor Vehicle Policy, with the updated policy on track to be adopted by the end of 2024. Updating the Motor Vehicle Policy was a recommendation of the plant and fleet service review.

Risk Implications

There are financial, other resource and reputational risks associated with not addressing the financial sustainability of the organisation. These risks are being addressed through risk assessment of activities undertaken and implementation of risk mitigation measures, including but not limited to communications, engagement, financial and workload planning.

As the financial sustainability initiatives progress updates will continue to be made on progress toward achieving financial sustainability.

CL24.287

CL24.288 Proposed Finance Review Panel (Previously known as Budget Review Panel)

HPERM Ref: D24/453950

Department: Finance

Approver: Kerrie Hamilton, Director City Performance

Attachments: 1. Proposed Terms of Reference - Finance Review Panel [↓](#)

Purpose:

To propose the establishment of the Finance Review Panel (previously known as Budget Review Panel) and disband the Budget Review Panel.

Summary and Key Points for Consideration:

Council resolved at the Ordinary meeting held 14 October 2024 (MIN24.493) to:

1. Undertake immediate steps to appoint a Council Committee called the “Shoalhaven City Council Financial Review Panel” with membership consisting of:
 - a. Councillor from each Ward be elected, and that all Councillors have a right to attend meetings
 - b. Mayor
 - c. Chief Executive Officer
 - d. Chief Finance Officer
 - e. Director City Performance
 - f. Five (5) community members with demonstrated financial experience and acumen.
2. Endorse the following role of the Committee:
 - a. Provide informed advice and recommendations on financial matters to facilitate sound decision making.
 - b. Provide assurance on sound financial practice and reporting.
 - c. Provide expert advice on the long-term financial sustainability of Council.
 - d. Review the efficacy of Council’s long-term financial plans and strategies.
 - e. Review action plans aimed at delivering financial performance.
 - f. Identify specific financial concerns and matters.
 - g. Act as an advisory conduit between the community and Council on financial concerns.
3. Establish a meeting schedule as a priority.
4. Rescind previous recommendations for Council Budget Review Panel.
5. Form a panel consisting of the CEO, CFO and the Mayor to develop the Terms of Reference in consultation with Councillors, and report back to the 28 October 2024 meeting for endorsement by Council.
6. Report back to Council in November for the finalisation of membership of the Committee.
7. Review the efficiency and effectiveness of the Committee after one year of operation

CL24.288

Recommendation

That Council:

1. Adopt the attached Terms of Reference for the Finance Review Panel;
2. Appoint one (1) Councillor for each Ward, being:
 - a. Ward 1 – Clr (insert name)
 - b. Ward 2 – Clr (insert name)
 - c. Ward 3 – Clr (insert name)
3. Commence an Expression of Interest process to seek external membership as per the attached Terms of Reference;
4. Receive a report following the expression of interest process to determine the external membership.
5. Disband the Committee known as Budget Review Panel.

Options

1. As recommended

Implications: The Finance Review Panel will be established through an expression of interest process.

2. Adopt an alternate recommendation

Implications: The Budget Review Panel is being reported on the agenda as a Committee being reviewed. This report supersedes that recommendation.

Background and Supplementary information

The Budget Review Panel was established in 2023 however the Panel did not commence any meetings and a series of Finance workshops took place.

It has been proposed that the Budget review Panel be disbanded and a Finance Review Panel made up of Councillors and Community members be established in accordance with MIN24.493.

The attached Terms of Reference articulates the scope of the Finance Review Panel and how the Panel members will work together to support Council in being financial sustainable.

The Panel meetings will be held confidentially and the agenda's will be kept confidential. Minutes of the Panel meetings will be reported to Council.

Internal Consultations

The Terms of reference were discussed with Finance.

External Consultations

Advice was also sought from the Office of Local Government NSW.

CL24.288

Community Consultations

The establishment of the Finance Review Panel is currently being advertised on Council's Get Involved page. Links are provided for community members to register their interest. A formal expressions of interest will be carried out once the Terms of Reference are adopted.

Policy Implications

Nil

Financial Implications

The Finance Review Panel will provide advice on financial sustainability initiatives, assisting Council to improve its long term financial sustainability.

Risk Implications

The Finance Review Panel will assist in mitigating the financial risks Council will face should the financial sustainability of Council not improve.

CL24.288

FINANCIAL REVIEW PANEL – Terms of Reference

Adoption Date:	
Amendment Date:	
Minute Number:	
Review Date:	
Directorate:	
Record Number:	

Committee – Terms of Reference

1. Purpose & Role of the Committee

The purpose of the Shoalhaven City Council Financial Review Panel (the Committee) is to:

- Provide informed advice and recommendations on financial matters to facilitate sound decision making
- Provide assurance on sound financial practice and reporting
- Provide expert advice on the long-term financial sustainability of Council
- Review the efficacy of Council's long-term financial plans and strategies
- Review action plans aimed at delivering financial performance
- Identify specific financial concerns and matters
- Act as an advisory conduit between the community and Council on financial concerns.

The role of the Committee is to regularly monitor and advise Council on budget implementation, adjustment or amendments, long term financial planning strategies, financial sustainability actions and capital projects.

Consideration of reports with respect to:

- Quarterly Budget Review;
- Budget preparation;
- Amendments to finance related policies;
- Updates on finance sustainability actions and progress.

2. Interpretation

For the purpose of this document:

Member means a member of the Committee

Council means Shoalhaven City Council

Chairperson / Chair means the chairpersons of the Committee

Elected members mean the elected Councillors of Shoalhaven City Council

CSP means the Shoalhaven City Council Community Strategic Plan

DPOP means the Shoalhaven City Council Delivery Program Operational Plan

LTFP means the Shoalhaven City Council Long Term Financial Plan

3. Status of the Committee

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

4. Objectives

- Objectives of the Committee are to: provide expert advice which informs the future financial sustainability of Council

Financial Review Panel – Terms of Reference

- support and provide advice to Council’s Chief Executive Officer and Chief Financial Officer
- act as a conduit between the community and Council on financial concerns
- make recommendations to Council on specific financial concerns and matters

5. Key strategy, plan and other linkages

The purpose of this Committee is linked to the achievement of the following objectives and actions within the Council’s Strategies, Plans and other documentation.

Document	Objective / Action
Delivery Program	4.2.05 - Promote informed decision making through clear and timely communication of the financial implications of decisions with a focus on long-term financial sustainability
Delivery Program	4.2.05.01 - Council’s principles of Financial Sustainability are considered in financial decision making
Delivery Program	4.2.05.01 - Coordinate delivery of the Financial Sustainability Project to address the recommendations outlined in the 2023 financial review across key pillars of Asset and Project Management, Financial Management and Service Planning

6. Delegations

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

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

7. Membership

The Committee will be chaired by the Mayor, elected by Council. The Committee is expected to act in accordance with the Role of the Committee as defined above in Section 1. The Committee will comprise the following:

- One Councillor from each Ward be elected (voting rights), and that all Councillors have a right to attend meetings
- Mayor (voting rights)
- Chief Executive Officer (no voting rights)
- Chief Finance Officer (no voting rights)
- Director City Performance (no voting rights)
- Five (5) community members with demonstrated financial experience and acumen (voting rights)

Financial Review Panel – Terms of Reference

Note - Any non-voting Councillor in attendance at any of the above Committees may act as an alternate voting member in circumstances where achievement of a quorum is required.

Councillor Representatives

Council appoints the Mayor and an additional three (3) Councillors to be the voting members on the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

Note: Any non-voting Councillor in attendance at a meeting may act as an alternate voting member in circumstances where achievement of a quorum is required.

Community Representatives

Following an expression of interest process, a maximum of five (5) local community representatives, the following factors will be taken into consideration when determining members:

1. The persons demonstrated financial experience and acumen
2. Whether the person is a resident of the Shoalhaven Local Government area
3. there is a gender balance
4. there is representation from across the full Shoalhaven geographical area
5. cultural and age diversity is represented
6. committee members are able to demonstrate that they are connected and representative of the community

Community representatives must complete an induction and will have voting rights upon completing an induction.

Community members that fail to attend three (3) consecutive meetings and/or submit three (3) apologies will be removed from the Committee membership.

Community representative appointments:

- Nominations should be advertised throughout the community via an Expression of Interest (EOI) process.
- Appointments to the Committee will be for a two (2) year term with a set commencement and finish date; with an option to re stand for appointment for one (1) additional term.
- Vacancies will be advertised locally via media and Council communication networks via an Expression of Interest process with the exclusion of casual vacancies, should they arise.
- Council will manage the application process.
- A panel consisting of the Mayor, Chief Executive Officer and Chief Financial Officer will assess the applications and make recommendations for appointments to Council based on set criteria.
- All applications will be reported to council for consideration and for final approval of successful applicants.
- When positions become vacant the EOI process above will be followed.

Financial Review Panel – Terms of Reference

Council Officers

Council officers may attend meetings to provide specialist professional advice in financial matters Council officers do not have voting rights.

Chair and Deputy Chair

Council appoints the Mayor to be the Chair of the Committee. In the absence of the nominated Chair at a particular meeting, the members shall elect from among Councillors present the Chair for that meeting.

Terms of Office

In accordance with MIN24-493 of 14 October 2024 the efficiency and effectiveness of the panel will be reviewed within 12 months of operation.

Community member appointments to the Committee will be for the length of the Council term.

If a representative is terminated or resigns an early substitute will be appointed only until the fixed finish date as a casual vacancy

Elected members (or their representative) continue as members of the Committee until the next ordinary election of the Mayor, or the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

8. Committee Meetings

Agenda

The agenda and attachment are confidential and will be distributed to committee members 7 days prior to the date of the meeting.

Reports or queries about the meeting arrangements should be forwarded to the meeting secretariat (Governance).

Councillors and members can contribute to the agenda by submitting a report on a particular issue within the scope of the terms of reference and delegation of the committee four (4) weeks prior to the meeting. The inclusion of the item on the agenda will be subject to the approval of the Chair and the relevant Director.

Quorum

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

Note: Any non-voting Councillor in attendance at a meeting may act as an alternate voting member in circumstances where achievement of a quorum is required.

Voting

Financial Review Panel – Terms of Reference

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

Any votes against will be recorded in the minutes.

Meeting Schedule

In general, meetings are held every two months, with additional meetings as required and conducted either in person (Nowra Administrative Centre) or electronically. Please note as required the Committee can request to meet informally via teams or in person without formal agenda or minutes for the purpose of receiving information only i.e. not making recommendation / resolution.

Minutes

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

Confidentiality And Privacy

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

Confidentiality disclosures will be required to be completed by members with respect to any confidential information provided to the Committee for consideration.

Communication, Media and Public Comment

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

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

9. Council Staff Responsibility

The Committee's contact within Council is the Chief Financial Officer, within the City Performance Directorate. This Directorate is considered to be responsible for the internal operations of the Panel. This involves overseeing human resources, finance, risk, legal and compliance functions.

Financial Review Panel – Terms of Reference

Governance is responsible for administrative support functions of the committee such as collating and distributing the agenda, minutes and notation of apologies.

10. Code of Conduct

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

A meeting where conduct not in accordance with these requirements may be adjourned or closed without notice and a breach of the Code of Conduct may lead to a member being expelled from the Committee.

Additional provision under sections 5.18-5.21 of the Code of Meeting Practice apply with respect to conduct when joining the meeting via audio visual link.

Guiding Principles

It is expected that members will carry out their functions as members of the Community responsibly

Members will endeavour to:

- Treat each other and those who interact with the Committee with respect and dignity.
- Recognise and respect diverse opinions.
- Give each other the space to speak.
- Listen with open minds.
- Work constructively within the group, including identifying issues and potential recommendations.
- Represent the interests of the community they support.
- Attend scheduled meetings and inform the Governance Unit in advance should they be unable to attend

Where a (non-Councillor or staff) committee member's behaviour is considered unsatisfactory and contrary to their responsibilities (identified within the Terms of Reference), the Chairperson will draw this to the attention of the relevant committee member and reinforce the required level of conduct.

The Chairperson will make written record of this and provide to a relevant council officer for recording. The committee member will be able to sight and sign the written record.

If the committee member's behaviour does not improve after the formal warning and counselling, the committee member's membership appointment may, be terminated in accordance with the procedures for the administration of the Code of Conduct.

11. Document Control

These Terms of Reference are reviewed at the commencement of each term of Council or as required.

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

Financial Review Panel – Terms of Reference

12. Other Relevant Documents List

Code Of Conduct

Code of Meeting Practice

CSP

DPOP

LTFP

CL24.288 - Attachment 1

CL24.289 Community Consultation and Committee System

HPERM Ref: D24/397269

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

Attachments: 1. Details of Committees for reappointment (under separate cover) [⇒](#)

Purpose:

To determine the Councillor membership, confirm or disband the purpose/objective, delegated authority and quorum of Council's Committees.

Summary and Key Points for Consideration:

Shortly after election and at the beginning of each term in September each year to reaffirm and/or disband Council Advisory Committees and determine the Councillor membership on those Committees.

Recommendation

That Council:

1. Continue the operation of the following Committees, Boards & Reference Groups pursuant to Section 355 – Local Government Act and pursuant to Section 377 with purpose, delegation and sitting fee (if applicable), membership and quorum as outlined in Attachment 1 to the report:
 - a. Senior Staff Contractual Matters Committee (5001E)
 - b. Aboriginal Advisory Committee (1209E)
 - c. Inclusion and Access Advisory Committee (1228E)
 - d. Natural Area Volunteers Group (42643E)
 - e. Rural Fire Service Strategic Planning Committee (1227E)
 - f. Shoalhaven City Mayor's Relief Fund (3926E)
 - g. Shoalhaven Heads Estuary Taskforce (45866E)
 - h. Strategic Planning Working Party (65374E)
 - i. Youth Advisory Committee (1506E)
 - j. Northern Coastal Management Program Advisory Committee (64354E)
 - k. Northern Floodplain Risk management Committee (59952E)
 - l. Central Coastal Management Program Advisory Committee (64355E)
 - m. Central Floodplain Risk management Committee (59951E)
 - n. Southern Coastal Management Program Advisory Committee (64356E)
 - o. Southern Floodplain Risk management Committee (59950E)
2. Appoint Councillor and staff membership of each Committee or Board (in part 1 above) as highlighted in the report and outlined in Attachment 1.

3. Notes the following Committee will be subject of a future report for considerations of arrangements as it has been previously adopted, however Terms of Reference and Membership are yet to be determined:
 - a. The Conjola Memorial Working Group (see MIN24.280)
4. Notes the re- establishment of the following Committees will be subject to separate report/s to the Council for consideration of arrangements for the future:
 - a. Arts Advisory Committee (Previously Shoalhaven Arts Board) (2123E)
 - b. Homelessness Advisory Committee (55584E)
 - c. Nowra CBD Revitalisation Strategy Committee (50242E)
 - d. Shoalhaven Economic Growth Advocacy Group (SEGA) (70630E)
 - e. Shoalhaven Motor Sports Working Group (69319E)
 - f. Shoalhaven Sports Board (1223E)
5. Reaffirm that any non-voting Councillor in attendance at any of the above Committees may act as an alternate voting member in circumstances where achievement of a quorum is required, noting that this doesn't apply when quorum specifies the quorum to require community member attendance.

Options

1. That Council adopt the Committees with their purpose, terms of reference, delegations, membership and meeting frequency, as outlined in the attachment.

Implications: This will continue current resourcing allocations and community membership.
2. That the proposed list of Committees be altered, and/or those purpose, terms of reference, delegations, membership and meeting frequency, be amended.

Implications: Dependent upon the extent of the amendments, resources for the administration and support of Committees and other resource allocations may be impacted.

Background and Supplementary information

At the commencement of each term, the Council establishes its process of community consultation, in terms of advisory and other Committees, to inform the Council. These Committees are reviewed each year, usually in September, and other amendments are proposed to the Council throughout the term, when identified or required.

At the conclusion of the term of the last Council, a briefing was held with Councillors to discuss the operations of the current Committees and following these discussions it was determined that a review of Committees should be undertaken to identify improvements to our approach in some key areas where Committees are operating in the new Council term.

The attachment and this report outline the current Councillor and staff representation for the Committee's listed in the Recommendation 1 (above) which are recommended to be reappointed now retaining the arrangements in place in the last Council Term

Recommendation 4 above outlines those Committees which it is recommended are not reappointed at this time, pending detailed reports being provided to later meetings by the CEO outlining suggested amendments or changes.

The Council may wish to remove, amend the purpose and objectives or reappoint the Committee or Board by determining Councillor and staff representative members for the ensuing 12-month period.

The Terms of Reference of Committees and Boards are considered to be policies of the Council and may be viewed on the [Policies](#) section of the Council website which is listed in alphabetical order.

Senior Staff Contractual Matters Committee

The purpose and delegated authority of the Senior Staff Contractual Matters Committee as outlined in Attachment 1 to this report has been amended to reflect changes the Local Government Act, 1993 brought about by the by the Local Government Amendment (Employment Arrangements) Act 2024.

Further information on the changes to the Act can be found in the Office of Local Government [Circular 24-09 Amendments to the Local Government Act 1993 removing the options for councils to employ senior council executives under statutory contracts.](#)

The structure of the Committee is retained as a committee of all Councillors to consider information and consultation with the CEO, with a Sub- Committee to undertake the appointment and oversight of the CEO.

Appointment of Councillors:

For ease The table below summarises the details in the attachment of Committees recommended for reappointment now under Recommendation 1 with respect to the frequency of meetings per year and if a resolution is required to appoint Councillors and/or staff.

Committee Name	Meetings per year	Councillor Member Resolution Required
Senior Staff Contractual Matters Committee	As required (historically 3 to 4 meetings per year)	<u>Committee</u> All Councillors <u>Sub- Committee</u> Mayor – Clr White Deputy Mayor – Clr Wilkins One (1) Councillor
Aboriginal Advisory Committee	4 & others as required	All Councillors
Inclusion & Access Advisory Committee	Four (4) and others as required	One (1) Councillor One (1) Alternate Clr
Natural Area Volunteers Group	1 per year (Others as required)	One (1) Councillor
Rural Fire Service Strategic Planning Committee	2 & others as required (historically 4 meetings per year)	One (1) Clr Chairperson One (1) Councillor One (1) Alternate Clr
Shoalhaven City Mayor's Relief Fund	1 & others as required (3 meeting have been held in 2023)	All Councillors
Shoalhaven Heads Estuary Taskforce	Four (4) and others as required	All Councillors One (1) Councillor as Chairperson
Strategic Planning Working Party	As required (historically 3 to 4 meetings per year)	All Councillors

CL24.289

Youth Advisory Committee	Four (4) and others as required	All Councillors Non-Voting
Northern Coastal Management Program Advisory Committee	As required- – (historically 2 meetings per year)	Clr Chairperson All other Clrs Non-Voting.
Northern Floodplain Risk management Committee	As required -- (historically 2 meetings per year)	Clr Chairperson All other Clrs Non-Voting.
Central Coastal Management Program Advisory Committee	As required – (historically 1 meeting per year)	Clr Chairperson All other Clrs Non-Voting.
Central Floodplain Risk management Committee	As required - (historically 1 meeting per year)	Clr Chairperson All other Clrs Non-Voting.
Southern Coastal Management Program Advisory Committee	As required – (historically 2 meetings per year)	Clr Chairperson All other Clrs Non-Voting.
Southern Floodplain Risk Management Committee	As required - – (historically 1 meeting per year)	Clr Chairperson All other Clrs Non-Voting.

The details of each of the listed Committees is available for review in **Attachment 1**.

Once the Council has determined the Committees and Boards, meetings of the Committees and Boards will be called with initial discussions to consider the terms of reference and any adjustments to be recommended to the Council with respect to membership. Any adjustments to the Terms of Reference or Membership will be reported to the Council for determination.

Internal Consultations

Internal consultation has been held with the departments and directorates responsible for each committee. This is still ongoing for those committees listed for future reports.

External Consultations

No external consultation required for this report.

Community Consultations

No community consultation was undertaken prior to this report. Community and External Organisation members of Committees will be informed of the Council’s resolution.

Policy Implications

For those Committees reaffirmed at this meeting, the Committees Terms of Reference will be reviewed following the first meeting of the Committee.

Committee members are obliged to adhere to the Code of Conduct, Code of Meeting Practice and other legislation and Council Policy applicable to the Committee operations and activities.

CL24.289

Financial Implications

There are costs to the Council with respect to the administration, preparation of agenda, attendance by staff and Councillors at meetings, and actioning the request of the Committees. These costs vary dependent upon the operations of each Committee and frequency of meetings.

Risk Implications

There is reputational risk to the Council if Committee operations are ineffectual and not considered to be representative or aligned to identified expectations as outlined in the Council's adopted strategic plans. There are also reputational and health risks which may arise if Committee members and staff and Councillors in attendance do not abide by the Council's Code of Conduct or if meetings are not physically and psychologically safe activities for those in attendance.

CL24.289

CL24.290 Council Representatives on Other Committees or Organisations Outside of Council

HPERM Ref: D24/226843

Department: Business Assurance & Risk

Approver: Kerrie Hamilton, Director City Performance

Reason for Report

To confirm the list of Council representatives on Other Committees or Organisations Outside of Council.

Summary and Key Points for Consideration:

Details of the other committees or organisations in which Council has an interest, along with their respective purpose and current membership, are listed below.

Recommendation

That Council resolve the representative membership of Councillors and other delegates on other Committees or Organisations Outside of Council for the period to September 2025.

Options

1. Council confirm membership as per the recommendation.
2. Council changes the membership of Councillors and other delegates on other Committees or Organisations Outside of Council.

Background and Supplementary information

a)

<u>Australian Coastal Councils Association – 3245E</u>	
Purpose: To advocate of behalf of coastal councils. It also commissions research on behalf of councils in coastal areas in relation to a range of coastal issues.	
Note: The Committee of Management is a separate entity and nominations are called every two years. The representative(s) nominated below perform a liaison role only. The Association has confirmed that Council would be able to nominate a Councillor &/or a staff member.	
Current Council Members	2024/2025 Council Members
Clr Christen	Clr

b)

<u>Cemeteries and Crematoria Association of NSW – 24714E</u>	
Current Council Members	2024/2025 Council Members
Manager - Bereavement Services	Manager - Bereavement Services

CL24.290

c)

<u>Illawarra Academy of Sports – 2388E</u>	
Purpose: To develop outstanding young community citizens who utilise their sporting talents and role model status in a positive manner within the Illawarra Region.	
Current Council Members	2024/2025 Council Members
Mayor Appointed Representative – Director City Lifestyles	Mayor Appointed Representative – Director City Lifestyles

d)

<u>Illawarra Shoalhaven Joint Organisation – 50403E</u>	
The functions of the ISJO are: Core Functions:	
<ul style="list-style-type: none"> • Regional Strategic Planning, including high level planning across the quadruple bottom line • Inter-Governmental Collaboration, working closely with the NSW Government as well as the Australian Government and other councils and JOs • Regional Leadership and Advocacy, as the preeminent regional voice for councils and communities 	
Optional Functions:	
<ul style="list-style-type: none"> • Enhancing Regional Strategic Capacity, to support member councils to deliver services to their communities • Regional Service Delivery, to provide services directly to communities within the region. 	
The Illawarra Shoalhaven Joint Organisation is comprised of representatives from Shellharbour; Kiama; Wollongong & Shoalhaven Councils.	
Current Council Members	2024/2025 Council Members
Clr Findley – Mayor Clr Christen Clr Ell (alternate delegate) CEO (non-voting delegate)	Clr White- Mayor Clr Clr (alternate delegate) CEO (non-voting delegate)

e)

Illawarra Shoalhaven Regional Plan 2024 – Coordination and Monitoring Committee – 29118E
Purpose: The Illawarra Shoalhaven Coordination and Monitoring Committee oversees and coordinates the implementation of the Illawarra Shoalhaven Regional Plan 2041, bringing together NSW Government agencies, Councils and organisations responsible for delivering the Plan’s actions.
The Committee is administered by the NSW Department of Planning, Housing & Infrastructure and it:
<ul style="list-style-type: none"> • Oversees and coordinates the implementation of the Regional Plan • Provides accountability for delivery of the Plan • Monitors and reports periodically on the progress of implementing the Plan • Collaborates to resolve issues where impediments are identified • Provides a forum to discuss and resolve implementation issues or action delivery in a changing regional policy environment • Prioritises delivery of actions and review project plans for each action in the Regional Plan

CL24.290

<ul style="list-style-type: none"> • Develops a communication strategy to guide communication from Committee members to the wider network of stakeholders • Provides high level progress updates to the Illawarra Shoalhaven Regional Leadership Executive (NSW Government) • Signs off completed actions that have been finalised or no longer appropriate, relevant, or possible due to a changing regional policy environment • Informs and participate in a five-year review of the Regional Plan. <p>More information on the Regional Plan is available here</p>	
Current Council Members	2024/2025 Council Members
Strategic Planning Manager (Gordon Clark)	Strategic Planning Manager (Gordon Clark)

f)

Illawarra Shoalhaven Urban Development Committee – 50697e	
<p>Purpose: The Urban Development Program (UDP) Committee is a collaborative forum that assists with the implementation of the NSW Government’s Illawarra-Shoalhaven Urban Development Program (UDP), including:</p> <ul style="list-style-type: none"> • Ensuring there is up to date, detailed and accessible data to enable regular monitoring of land supply, barriers to development and development activity within the area. • Improving the coordination and integration of land use, infrastructure, development planning, investment and sequencing to ensure sufficient housing and infrastructure to meet current and future community needs. • Promoting broader and earlier engagement with stakeholders across government and industry to allow proactive interventions that remove barriers to housing land supply and housing delivery. <p>The Committee is administered by the NSW Department of Planning, Housing & Infrastructure and brings together representatives from NSW Government Departments/Agencies, Local Government, industry and infrastructure providers to focus on stakeholders working together to maintain a strong pipeline of housing in the area by aligning development, state and regional infrastructure and planning priorities to ensure a coordinated response to address issues.</p> <p>More information on the UDP is available online here</p>	
Current Council Members	2024/2025 Council Members
Strategic Planning Manager (Gordon Clark)	Strategic Planning Manager (Gordon Clark)

CL24.290

g) The terms of appointment for the Jervis Bay Marine Park Advisory Committee expired on 2 February 2024. A call for nominations to appoint a new committee will be progressed soon and publicised on this website and via other processes.

Jervis Bay Marine Park Advisory Committee – 1462E	
<p>Purpose: Advise the Ministers and the Marine Parks Authority (NSW) on the management of the Park and:</p> <ul style="list-style-type: none"> • The conservation of the marine biological diversity within the Marine Park • The ecologically sustainable use of the Marine Park • The public use and enjoyment of the Marine Park 	

Current Council Members	2024/2025 Council Members
Clr Findley Clr Christen (alternative delegate) Clr Ell (alternative delegate)	Clr Clr (alternative delegate)

h) Note: The Mayor & CEO are members under the constitution. Council may wish to appoint an alternate delegate.

NSW Country Mayors Association – 14214E	
<p>Purpose: The NSW Country Mayors Association is a group that comprises Mayors and General Managers, or their representatives, from country areas of NSW under its constitution.</p> <p>Note: The Mayor & CEO are members under the constitution. Council may wish to appoint an alternate delegate</p>	
Current Council Members	2024/2025 Council Members
Clr Findley – Mayor Clr Ell – Deputy Mayor (alternate delegate) Robyn Stevens - CEO	Mayor Clr (alternate delegate) CEO

i)

NSW Public Libraries Association – 4442E	
<p>Purpose: The New South Wales Public Libraries Association (NSWPLA) is the peak body for public libraries in New South Wales. The organisation advocates for the public library cause, provides relevant information to stakeholders, fosters cooperation and collaboration, and strengthens the public library network.</p>	
Current Council Members	2024/2025 Council Members
Clr D’Ath Library Services Manager	Clr Library Services Manager

j)

Rural Fire Service Shoalhaven District Liaison Committee – 2122E	
<p>Purpose: The Liaison Committee will:</p> <ol style="list-style-type: none"> a. Monitor and periodically review the performance of this Rural Fire District Service Agreement by the Council and the RFS; b. Review the following documents prepared by the District Manager prior to submission to and consideration by the Council: <ol style="list-style-type: none"> i. The annual budget and business plan; and ii. The quarterly financial and performance reports 	
Current Council Members	2024/2025 Council Members
Clr Christen Clr Ell CEO (or nominee)	Clr Clr CEO (or nominee)

k)

Shoalhaven Bush Fire Management Committee – 2820E
<p>Purpose: Under the Rural Fires Regulation 2002 – Part 3, At the request of the Bush Fire Co-ordinating Committee:</p> <ul style="list-style-type: none"> • Assist the Bush Fire Co-ordinating Committee in the performance of its functions under Section 48 of the Act; • Assist the Bush Fire Co-ordinating Committee in the performance of its functions under Sections 60(2) and 63(4) of the Act; • Draw to the attention of the following in regard to any matter it considers relevant to

CL24.290

<p>the protection of land, life, property or the environment in that area from the impact of bush fires:</p> <ul style="list-style-type: none"> ▪ The Bush fire Co-ordinating Committee; or ▪ A public authority exercising its functions in the Bush Fire Management Committee’s area. <p><u>Note:</u> The Committee has no power to conduct or take part in firefighting or fire prevention operations authorised by the Act, this regulation or any other Act or statutory instrument.</p>	
Current Council Members	2024/2025 Council Members
Clr Christen Clr Norris CEO (or nominee- Manager Works & Services) as an observer)	Clr Clr (Alternate) CEO (or nominee – Manager Works & Services) as an observer

l)

Shoalhaven Traffic Committee – 1491E	
<p>Purpose: The Traffic Authority has delegated certain powers to Councils in respect of the provision of Traffic control facilities and traffic management measures on public streets. The exercise of such powers is conditional upon the Council forming a Local Traffic Committee and seeking its advice /approval before as traffic facility/traffic management measure is implemented or removed.</p> <p><u>NOTE-</u> the Local Traffic Committee is not a Committee appointed by Council under the Local Government Act but a Committee to be formed by Council in the exercise of its delegated powers. Councillor members are considered informal members who may contribute to discussion but may not vote.</p> <p>The recommendations from the Shoalhaven Traffic Committee are approved by the Director City Services under delegation of Council (MIN21.411) unless a Councillor requests that a specific item be considered at an Ordinary Meeting.</p>	
Current Council Members	2024/2025 Council Members
Informal – Clr White Informal – Clr Norris CONVENOR/CHAIRPERSON - As appointed by the Director City Services	Informal – Clr Informal – Clr CONVENOR/CHAIRPERSON - As appointed by the Director City Services

m)

<u>South Coast Co-operative Library Services – 3934E</u>	
<p>Purpose: To provide control and manage libraries or library services within the areas of the Member Councils upon the terms and subject to the conditions specified in the agreement</p> <p><u>Note:</u> The member Councils are Shoalhaven City Council and Kiama Municipal Council.</p> <p>In accordance with the South Coast Cooperative Libraries Agreement the committee must meet at least once a year (for an AGM) and the membership must consist of a Councillor, Director responsible for Library Services and a Library Manager from each participating Council.</p>	
Current Council Members	2024/2025 Council Members
Clr D’Ath Director City Lifestyles Manager - Library Services	Clr Director City Lifestyles Manager - Library Services

CL24.290

n)

South Coast Correctional Centre Community Consultative Committee – 4043E	
Purpose:	
<ul style="list-style-type: none"> To assist in the development and maintenance of a positive relationship with the local community To provide a forum for local community consultation and comment on correctional programs and procedures To facilitate the involvement of the local community in correctional centres programs To provide a mechanism to identify appropriate programs in which the correctional centre can participate and assist in the local community To assist in the establishment of worthwhile community partnerships 	
Current Council Members	2024/2025 Council Members
Clr D’Ath Clr Watson Director City Services	Clr Clr Director City Services

o)

<u>South Coast Arts Board of Directors</u> (previously known as South Coast Regional Arts Development Organisation) – 4043E	
Purpose:	
South Coast Arts (SCA) is a regional arts organisation servicing the creative communities of Shellharbour, Kiama and the Shoalhaven. We provide advocacy, professional services and resources for our diverse artists and communities to support creative development.	
<ul style="list-style-type: none"> Provide resources and advice on arts funding and creative development Encourage participation in arts and culture Initiate and develop quality programs in collaboration with our partners Facilitate projects and programs that support artists Create social connectedness and well being	
Current Council Members	2024/2025 Council Members
Clr Gray Appropriate staff member as support person and proxy	Clr Appropriate staff member as support person and proxy

p)

<u>South East Australian Transport Strategy Inc</u> – 3678E	
Purpose: To improve the transport network to enhance economic development within the region.	
Note: Council is entitled to one voting delegate but may also nominate alternative delegates (Councillors &/or staff).	
Current Council Members	2024/2025 Council Members
Clr White Clr Ell (Alternate delegate) Clr Copley (Alternate delegate)	Clr Clr (Alternate delegate) Clr (Alternate delegate)

CL24.290

q)

South East Regional Weeds Committee – 52451E	
<p>Purpose: The purpose of the RWC is to provide ‘tenure neutral’ strategic planning and coordination of weed management activities at the regional level. These activities play an integral part in an overall state weed management framework.</p> <p>The RWC is a local community advisory group under the provisions of Section 33 of the <i>Local Land Services Act 2013</i>.</p> <p>The RWC is established to:</p> <ul style="list-style-type: none"> • Support implementation of the weeds components and underlining principles of the NSW Biosecurity Strategy, NSW Biosecurity Act and the NSW Invasive Species Plan 2015-2023; • Provide advice to the Board regarding delivery weed functions for the Local Land Services (LLS) consistent with the Local Strategic Plan; • To develop innovative and effective regional weed management strategic plans that consider risks, include all land tenure, and major stakeholders in the landscape; and • Provide a forum for the community and stakeholders in decision making, and develop communication education and awareness programs based on local and/or regional priority weeds and issues. 	
Current Council Members	2024/2025 Council Members
Biosecurity Coordinator (Erin Fardy)	Biosecurity Coordinator (Erin Fardy)

CL24.290

r) Southern Regional Planning Panel

Note: The SRPP is made up of five members. Three of these are independent experts appointed by the Minister for Planning. The other two are Council representatives. The council appointed members can either be councillors, community members or a combination of both. If Council decides to appoint community representative(s) a formal expression of interest will need to be held.

Section 4.4 of the Sydney and Regional Planning Panel Operational [Procedures](#) states that two council members are appointed by each council. **At least one council member must have expertise in one or more of the following areas:**

- *planning,*
- *architecture,*
- *heritage, the environment,*
- *urban design,*
- *land economics,*
- *traffic and transport,*
- *law,*
- *engineering*
- *tourism.*

In confirming your nominations Council must indicate which member is an expert and in which field.

To reduce the opportunity to improperly influence panel members councils should consider appointing a minimum of 4 alternate members to enable regular rotation.

When appointing its nominees to a panel, council should require a statutory declaration to be signed by proposed nominees stating that they are not property developers or real estate agents, as required by section [2.13 of the Act](#).

Council determines the sitting fee, previous representatives received remuneration of \$400.00 per meeting is paid to the Council and Community Representatives.

Southern Regional Planning Panel – 39782E	
Meetings per year: As required	
Purpose: To determine regionally significant development applications	
Current Council Members	2024/2025 Council Members
No members appointed	<ol style="list-style-type: none"> 1. Clr (insert name) – member 2. (insert name) – member 3. (insert name) – alternate 4. (insert name) – alternate 5. (insert name) – alternate 6. (insert name) – alternate
Other requirements: The Procedures advise that Council should also arrange probity checks. These checks should include, at a minimum: <ol style="list-style-type: none"> a. public register of real estate agents check b. bankruptcy record check c. National Police check (ACIC). 	

s)

Southern Water Services Pty Ltd – 4043E	
Purpose: To operate in a commercial way under the Companies Act on a similar basis to any other trading Company.	
Note: Southern Water Services is a Council owned company formed in 1998 with permission from the Minister of the day. Its constitution states that the Company was formed to “undertake the provision of water, sewerage and related services”. It currently has no relationship with Shoalhaven Water operations or staff.	
Current Directors	2024/2025 Directors
CEO Katie Buckman – Secretary	CEO Katie Buckman – Secretary
Note: No Councillors were appointed to the Board	

t)

Ulladulla Harbour User Group – 4043E	
Purpose: To assist Transport for NSW (Maritime Infrastructure Delivery Office – MIDO) to resolve operational matters and identify emerging issues in relation to operation and maintenance of coastal infrastructure including Ulladulla Harbour.	
Current Council Members	2024/2025 Council Members
Commercial Services Manager	Commercial Services Manager

Internal Consultations

The report has been updated based on staff consultation for the relevant external bodies.

External Consultations

The report has been updated based on any new information received from the external bodies.

CL24.290

Community Consultations

Not required.

Policy Implications

Should the Council make any amendments where relevant it will be updated in the relevant policies and procedures.

Financial Implications

Costs for attendance of Councillors and or staff will apply when attending these external meetings.

Risk Implications

List provided is to allow the Council's involvement with external bodies to benefit the organisation. Should Council not participate this may impact on the Council's involvement on key decision making and or understanding of key matters as they arise.

CL24.291 Investment Report - August and September 2024

HPERM Ref: D24/431880

Department: Finance

Approver: Kerrie Hamilton, Director City Performance

Attachments:

1. Shoalhaven Monthly Investment Report - September 2024 (under separate cover) [⇒](#)
2. Shoalhaven Monthly Investment Report - August 2024 (under separate cover) [⇒](#)
3. Investment Policy (under separate cover) [⇒](#)

Reason for Report

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

Recommendation

That Council:

1. Receive the Record of Investments for the period to 31 August 2024.
2. Receive the Record of Investments for the period to 30 September 2024.
3. Note that Council's total Investment Portfolio (excluding the Long-Term Growth Fund) returned 5.16% per annum for the month of August 2024, outperforming the benchmark AusBond Bank Bill Index (4.54% pa) by 62 basis points (0.62%).
4. Note that Council's total Investment Portfolio (excluding the Long-Term Growth Fund) returned 5.17% per annum for the month of September 2024, outperforming the benchmark AusBond Bank Bill Index (4.45% pa) by 72 basis points (0.72%).
5. Adopt the Investment Policy noting the Policy remains unchanged.

Options

1. The report on the Record of Investments for the period to 31 August 2024 and the report on the Record of Investments for the period to 30 September 2024 be received for information and adopt the Policy

Implications: Nil

2. The report of the record of Investments for the period to 31 August 2024 and the report of the record of Investments for the period to 30 September 2024 be received for information, with any changes requested for the Record of Investments to be reflected in the report for the period to 31 October 2024.

Implications: Nil

CL24.291

3. Option 1 or 2 and modify the Investment Policy, with any changes requested for the Policy to be updated and reported back to Council for adoption.

Implications: Nil

Background

Please refer to the attached Monthly Investment Review reports provided by Council's independent investment advisor, Arlo Advisory Pty Ltd (formally Imperium Markets Pty Ltd).

Investment Portfolio

Council's investment portfolio as at 31 August 2024 consisted of the following investments.

Investment type	Invested (\$)
Term deposits/cash	170,892,082
Floating rate notes	35,400,000
Bonds	5,000,000
Total	211,292,082

Council's investment portfolio as at 30 September 2024 consisted of the following investments.

Investment type	Invested (\$)
Term deposits/cash	165,370,349
Floating rate notes	35,400,000
Bonds	5,000,000
Total	205,770,349

Portfolio Return

The investment returns were a stable 5.16% p.a. in August 2024, outperforming the benchmark AusBond Bank Bill Index (4.54% p.a.) by sixty-two basis points (0.62%).

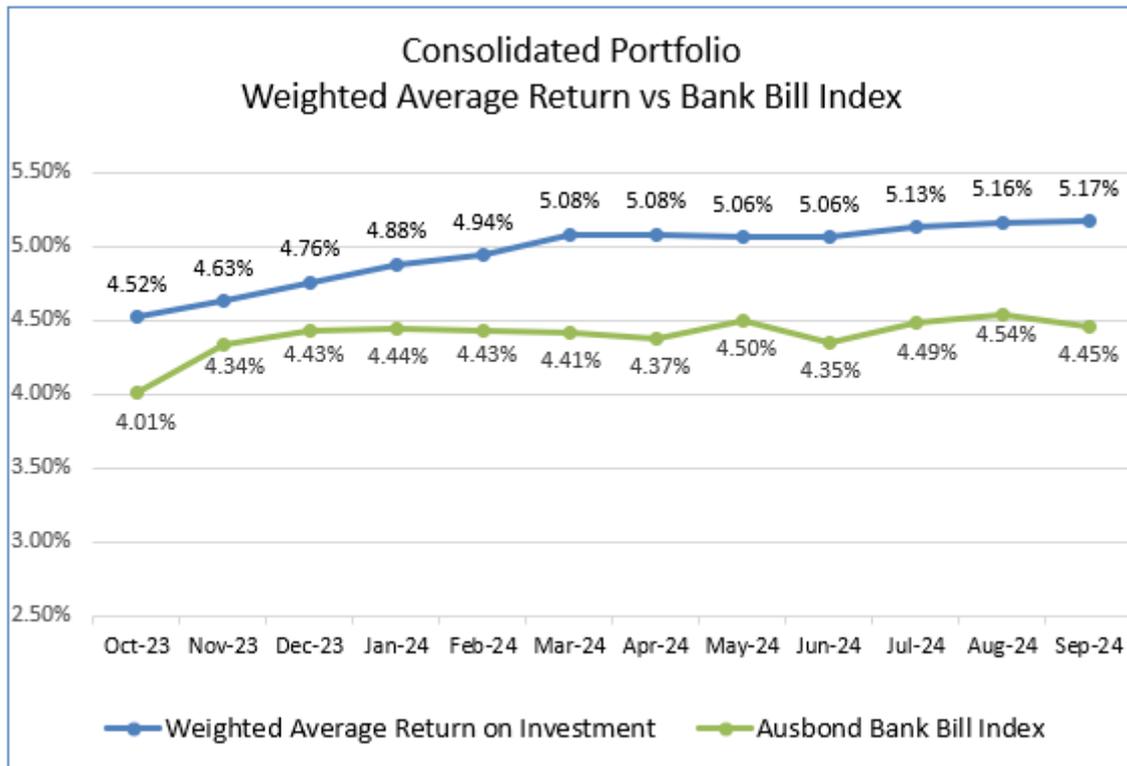
The investment returns in September 2004 were a stable 5.17% p.a. in September 2024, also outperforming the benchmark AusBond Bank Bill Index (4.45% p.a.) by seventy-two basis points (0.72%).

Investments

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

CL24.291

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



CL24.291

Investment Interest Earned – August 2024

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

Table 1- Interest Earned for the Month of August 2024

Fund	Monthly Original Budget \$	Actual Earned \$	Difference \$
General	296,224	459,983	163,758
Water	140,754	250,123	109,369
Sewer	54,485	96,822	42,336
Total excluding Long-Term Growth Fund	491,464	806,928	315,464

The interest earned for the month of August, was \$806,928 compared to the monthly original budget of \$491,464.

Investment Interest Earned – September 2024

Table 2 below, shows the interest earned for the month of September 2024.

Table 2- Interest Earned for the Month of September 2

Fund	Monthly Original Budget \$	Actual Earned \$	Difference \$
General	286,669	463,820	177,151
Water	136,213	252,253	116,040
Sewer	52,728	97,646	44,918
Total excluding Long-Term Growth Fund	475,610	813,719	338,109

The interest earned for the month of September was \$813,719 compared to the monthly original budget of \$475,610.

Investment Interest Earned - Year to Date

Table 3 below, demonstrates how the actual amount of interest earned year to date has performed against the total budget.

Table 3 - Amount of interest earned year to date, against the total budget.

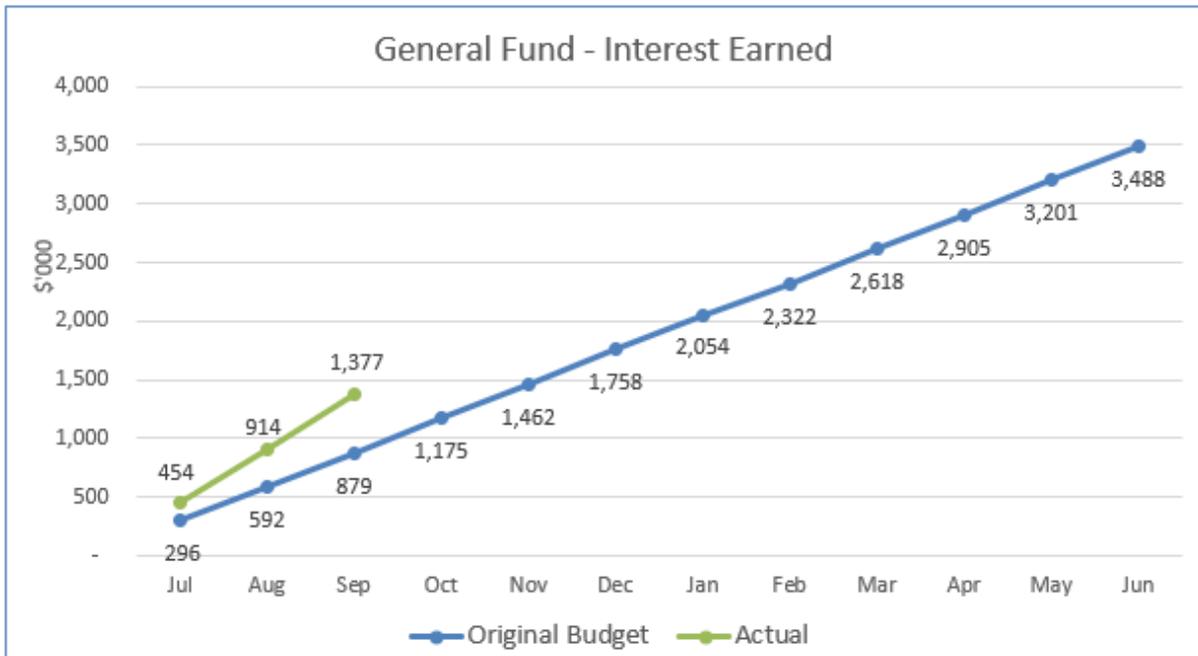
Fund	Total Original Annual Budget \$	Actual YTD \$	% Achieved
General	3,487,804	1,377,321	39.49%
Water	1,657,263	749,069	45.20%
Sewer	641,521	289,962	45.20%
Total excluding Long-Term Growth Fund	5,786,589	2,416,353	41.76%

The interest earned in the general fund of \$1,377,321 includes interest earned on unspent s7.11 developer contributions and Domestic Waste Management reserves, which is required to be restricted by legislation. Interest earned on unspent s7.11 developer contributions is \$371,877 and Domestic Waste Management reserves is \$234,145 to the end of September 2024. This leaves \$771,299 which is unrestricted.

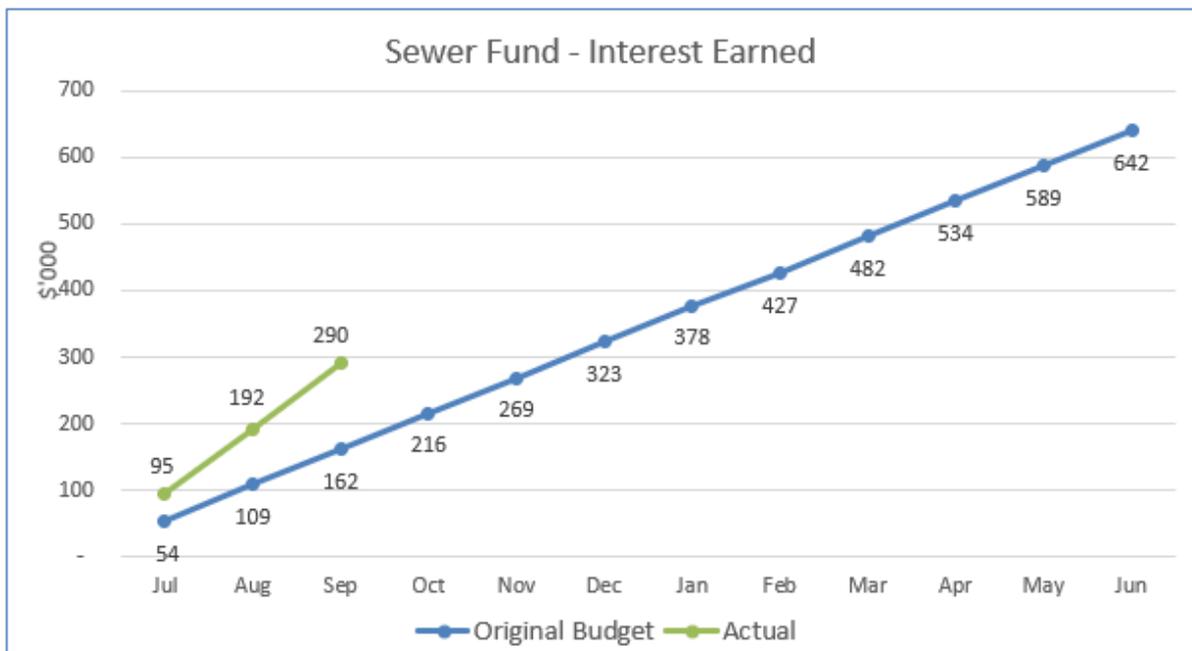
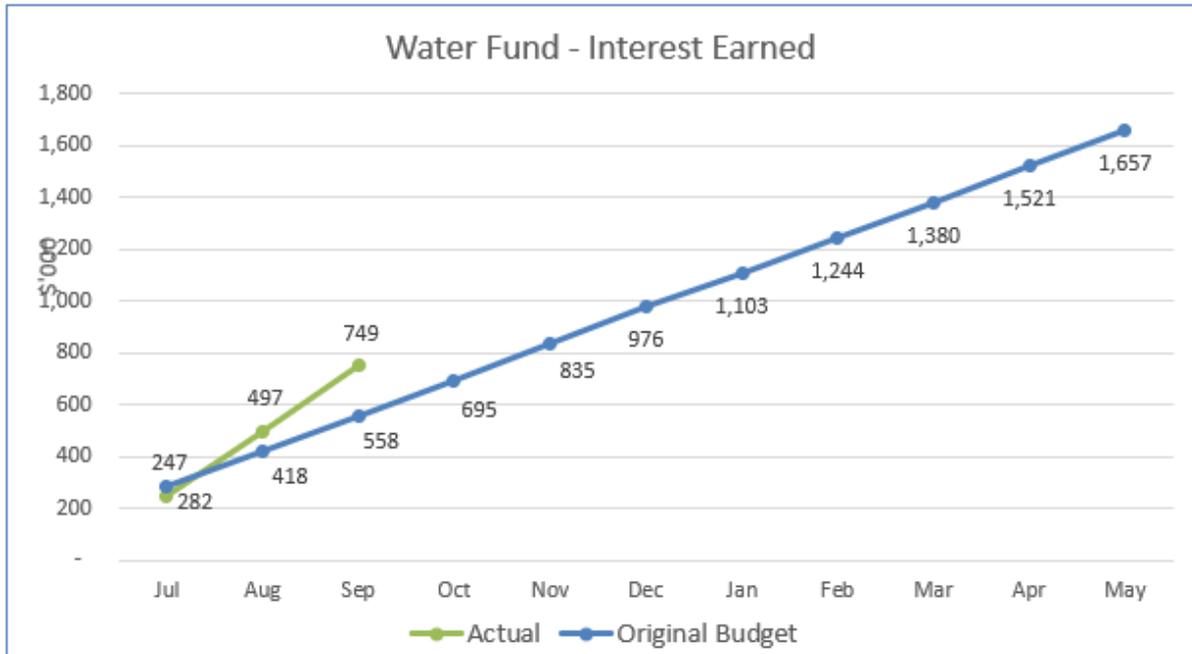
The cumulative interest earned for the year (July to September) was \$2,416,353 which is 41.76% of the current full year original budget.

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

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



CL24.291



CL24.291

Review of the Investment Policy

In accordance with the Ministerial Order, all councils are required to adopt an Investment Policy which is consistent with the Order and Investment Policy Guidelines issued by the Office of Local Government. Council’s current Investment Policy was last reviewed on 18 May 2023 and is required to be reviewed.

A review of the adopted Policy has been undertaken in consultation with Council’s investment advisor (Arlo Advisory).

The Investment Policy provides the governance framework which safeguards Council’s cash investment portfolio. The primary objectives of the Policy are:

- Compliance with legislation, regulations, the prudent person tests of the Trustee Act and best practice guidelines.

- Preservation of the amount invested for defensive fixed interest investments. Some NSW Tcorp Funds are highly volatile, and Council understands it should take a long-term view when placing surplus assets into any of their managed funds.
- To ensure there is sufficient liquid funds to meet all reasonably anticipated cash flow requirements.
- Adherence to debt covenants.
- To generate income from the investment that exceeds the performance benchmarks mentioned later in this document.

There has been no change to legislation or Ministerial Investment Orders since the last Policy review and it is recommended to leave the Policy unchanged. The Investment Policy is attached as **Attachment 3**.

Statement by Responsible Accounting Officer

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulations 2021 and Council's Investments Policy POL 22/78.



Katie Buckman

Date: 28 October 2024

CL24.291

CL24.292 State of our City Report

HPERM Ref: D24/218866

Department: Corporate Performance & Reporting
Approver: Coralie McCarthy, Acting Director - City Futures

Attachments: 1. State of our City Report - Shoalhaven 2024 (under separate cover) [⇒](#)

Purpose:

The State of our City Report (the Report) outlines the progress in implementing the Community Strategic Plan over the previous Council term. The Report accompanies the Annual Report in the year in which an ordinary election of Councillors is held and should be presented to the second meeting of a newly elected council for noting.

Summary and Key Points for Consideration:

- The Report focuses on how effective Council has been in delivering social, environmental, economic and civic leadership objectives over the previous Council term (December 2021 - September 2024).
- It reports against the high-level priorities of the Community Strategic Plan and shows the relevant indicator progress away from, or towards the desired target.
- It includes an assessment of the key challenges being experienced across the community and should be considered in framing the priorities in the revised Community Strategic Plan.
- It also includes some of the key Council highlights during the term which work towards the community priorities in the Community Strategic Plan.
- Once noted by the incoming Council, the Report will be appended to the Annual Report 2023-24.

Recommendation

That Council receive and note the State of our City Report – Shoalhaven 2024.

Options

1. Adopt the recommendation in relation to the State of our City Report.

Implications: The Report will be ready to be appended to the Annual Report.

2. Council resolves to adopt an alternative recommendation in relation to the State of our City Report.

Implications: Staff will be required to update the Report.

Background and Supplementary information

The Integrated Planning and Reporting (IP&R) Guidelines explain what councils must do to ensure they comply with their planning and reporting requirements set out in section 406 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.

The Report covers the previous council term (July 2021 – June 2024) and is based around the structure of the Community Strategic Plan. The Report shows the community's progress towards (or away from) its stated priorities and aspirations. The Report will be utilised as a key informant to the review of the Community Strategic Plan (CSP).

The indicators selected to show progress were finalised as part of the development of the Community Strategic Plan and were endorsed by Council in September 2022.

Many of the measures selected to assess progress against the key priorities are the results from Council's independent community satisfaction survey. The survey is scheduled to run every 2 years and was last conducted in February 2023. At the time, it was noted that major dissatisfaction in relation to road damage from natural disasters had a negative impact on the satisfaction responses across all of the Council services and facilities measured.

This concern with road damage and the impact on overall satisfaction were common factors among all NSW regional councils surveyed since the start of 2022. A copy of the most recent Community Satisfaction Survey Report can be found on Council's website: <https://www.shoalhaven.nsw.gov.au/Council/Reports/Community-satisfaction-survey>

CSP Indicators which are steady or improving

Resilient, Safe, Accessible & Inclusive Communities

- Increase in the SEIFA (Socio Economic Indexes for Areas)
- Decrease in the percentage of households in housing stress (down to 9%)
- Australian Personal Wellbeing Index (steady at 82%)
- Satisfaction with Regional Gallery and Entertainment Centre (steady)

Sustainable, Liveable Environments

- Increase in length of footpaths and cycleways (up 27% on 2021-22)
- Satisfaction with management of natural environment (steady)
- Increase in waterway samples meeting quality guidelines (up to 76%)
- Reduction in Council Greenhouse Gas emissions (down 14% on 2021-22)
- Increase in the percentage of waste diverted from landfill (up to 40%)

Thriving local economies that meet community needs

- Increase in Gross regional product (up 31% on 2021-22)
- Increase in people employed (up to 48.8%)
- Increase in new businesses (up to 8,115)
- Maintained percentage of jobs in top 10 employing industries (up to 88%)
- Maintained perception that Shoalhaven is a vibrant place to live and work

Effective, Responsible & Authentic Leadership

- Satisfaction with Council's timeliness responding to requests (steady)
- Increasing number of aboriginal identified positions within Council
- Increasing community awareness of engagement projects/initiatives
- Increasing active participation in community engagement projects/initiatives

CSP Indicators not progressing in desired direction or data unavailable

The attached Report includes an indicator table under each CSP priority showing the areas where we aren't progressing towards the set target. For some measures, updated data will not be available until the next Census is held in 2026. There are a number of indicators which will be added once Council's Financial Statements are finalised.

What Next?

Council will commence engaging with the community to conduct a review of the Community Strategic Plan to ensure it continues to represent the vision and aspirations of the City of Shoalhaven community.

In reviewing the CSP, Council will strive to ensure that the social, environmental, economic, and civic leadership needs of our community are addressed. A review of the CSP progress indicators will also be undertaken with consideration of the liveability metrics now available from the Australian Liveability Census.

Council will also align its strategic objectives to relevant Federal and NSW Government plans in order to manage growth and change across the Shoalhaven. The new CSP - Shoalhaven 2035, is due to be adopted by 30 June 2025.

Internal Consultations

Council highlights and indicator data were provided by teams from across the organisation.

External Consultations

There were no external consultations undertaken as this is a report that updates the community.

Community Consultations

Council's Community Satisfaction Survey involved phone surveys with residents from across the Shoalhaven. There were no specific community consultations undertaken to support preparation of this Report. A comprehensive communications and engagement plan for the review and update of the Community Strategic Plan will be reported to the elected Councillors at a future meeting.

Policy Implications

There are no policy implications. This Report will inform the review and update of the Community Strategic Plan.

Financial Implications

There are no financial implications.

Risk Implications

There are no additional risk implications.

CL24.293 Proposed Planning Agreement - Hitchcocks Lane, Berry

HPERM Ref: D24/452380

Department: Strategic Planning

Approver: Coralie McCarthy, Acting Director - City Futures

Purpose:

The purpose of this report is to seek a resolution of the Council in relation to a proposed planning agreement associated with a subdivision at Hitchcocks Lane, Berry which is the subject of Class 1 proceedings currently before the Land and Environment Court.

In accordance with Section 10A(2)(e) of the Local Government Act 1993, some information should remain confidential as, if disclosed, could reasonably be expected to prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings or prejudice the fair trial of any person, the impartial adjudication of any case or a person's right to procedural fairness. This information will be considered under a separate confidential report

Summary and Key Points for Consideration:

This report involves development application SF10965 for the multi-lot subdivision at Hitchcocks Lane, Berry ("the Development Application").

The Development Application is currently the subject of Class 1 proceedings before the Land and Environment Court. The matter is listed for hearing on 20, 21 and 22 November 2024.

The Applicant has submitted a letter of offer for a Proposed Planning Agreement which requires a council resolution. Further details are contained in the confidential report.

Recommendation

That Council consider a confidential report on this matter pursuant to section 10A(2)(e) of the *Local government Act 1993*.

Options

1. As recommended in the confidential report.

Implications: Details of the implications are outlined in the confidential report.

2. Adopt an alternative recommendation.

Implications: Details of adopting an alternative recommendation are outlined in the confidential report.

Background and Supplementary information

Details of the background and supplementary information are outlined in the confidential report.

CL24.293

Internal Consultations

Internal consultation has been undertaken with the following Council stakeholders as relevant to the appeal and scope of the proposed planning agreement: Assets & Works, Development Services, Open Space & Recreation Planning and Council's General Counsel. The recommendations in the confidential report include input from these stakeholders.

External Consultations

No external consultation with state agencies or the like is required due to the nature of the proposed planning agreement which sits within the Court process.

Community Consultations

Community consultation is not required at the letter of offer stage of a Voluntary Planning Agreement. However, prior to Council entering into a Planning Agreement, pursuant to the *Environmental Planning and Assessment Act 1979* and associated regulations, Council is required to undertake a public notification process.

Policy Implications

Details of the policy implications are outlined in the confidential report.

Financial Implications

Details of the financial implications are outlined in the confidential report.

Risk Implications

Details of the risk implications are outlined in the confidential report.

CL24.294 Proposed Lease to Productivity Bootcamp - 21 Norfolk Ave, South Nowra - Lot 77 DP 1032397

HPERM Ref: D24/395693

Department: Building Services

Approver: Carey McIntyre, Director - City Services

Purpose:

The purpose of this report is to allow Council to consider options for the proposed lease renewal to Productivity Bootcamp Pty Ltd at 21 Norfolk Ave, South Nowra (Lot 77 DP 1032397), for a term of two years from 1 November 2023 at a determined market rental of \$50,000 + GST per annum.

Summary and Key Points for Consideration:

Consideration by Council is required due to this Lease having a proposed annual rental value exceeding \$5,000. Therefore, in accordance with Council's delegations, a resolution of the elected Council is required.

Recommendation

That Council:

1. Enter into a Lease agreement with Productivity Bootcamp Pty Ltd at 21 Norfolk Ave, South Nowra for a term of two years commencing 1 November 2023 and terminating on 31 October 2025 at full market rent of \$50,000 + GST per annum with 3% increases (no rental subsidy).
2. Authorise the Chief Executive Officer to execute relevant documentation for the lease at 21 Norfolk Ave, South Nowra for two years expiring on 31 October 2025 to Productivity Bootcamp Pty Ltd.

Options

1. As recommended

Council approves the Recommendation for the lease renewal expiring 31 October 2025 under relevant terms which will include the full market rental (no rental subsidy)

Implications: Council will secure the existing tenant and associated income; maintenance of the property, and a continued service to the community over the two-year term.

2. Opportunities for new tenants

Investigate the opportunity for new Lessees (via Expression of Interest Process) for the leasing of 21 Norfolk Ave, South Nowra and report back to Council on the responses and recommendation which would provide for a lease term of five years.

Implications:

This is not recommended. The existing tenant has been operating from the premises since 2021 and will be paying the full market rental price. Following this short-term lease, the investigation for the sale of the premises can commence. Any new lease with a longer term can delay the sale of the premises.

CL24.294

Background and Supplementary information

Productivity Bootcamp Pty Ltd was founded in 2015 and is a training organisation teaching young Australians practical skills and values to assist them to succeed in life and seek future employment within the construction industry, they currently operate out of four sites, one being within the Shoalhaven.

Productivity Bootcamp Pty Ltd has occupied 21 Norfolk Ave, South Nowra since 1 January 2021. It was approved in 2020 by the then City Services Director and CEO for Council, to enter into a Lease agreement with Productivity Bootcamp for a term of 18 months with a six-month option at statutory minimum rent.

Following the initial Lease of 18 months, another lease was issued for a term of one year and four months which terminated on 31 October 2023. Since the expiry of the previous lease's expiration, Building Services have been in negotiations with Productivity Bootcamp to determine suitable terms noting the alternative funding that is received by Productivity Bootcamp.

Property

The entire site comprises of 5,970 m² and is located within the Flinders Industrial Estate in South Nowra. The land is Council owned and is classified as operational land, zoned as E4 – General Industrial. There is a large industrial sized shed built on the site. The shed is constructed from brick on the lower level with metal cladding above.

Internal Consultations

The Strategic Property team has been informed regarding the lease renewal.

External Consultations

Council has discussed the proposed rent increase with Productivity Bootcamp Pty Ltd which has been accepted.

Community Consultations

Not required as the land is classified as 'Operational Land'.

Policy Implications

POL19/40 Occupation of Council owned or Managed Land.

Clause 5.8 Cost Recovery provides that *“Council is to ensure that agreements do not impose an unreasonable burden on general revenue. Council is to obtain a reasonable dividend and at a minimum, cost neutrality from the use of its property, i.e. the tenancy is to be at no cost to Council.”*

Implication – This report provides for a determined market rental and is therefore consistent with this Policy. It is noted however that little capital expenditure for the maintenance of the structure has occurred by Council; therefore, a number of items may be required during the lease term.

Clause 5.9 and 5.11 Defined Lease Term and Asset Plan notes that *“no lease is for a term greater than five years unless under exceptional circumstances.”*

Implication - The proposed lease term is for a period of two years, which is consistent with this policy.

Clause 5.17 Rental and Other Fees and Charges provides that “*All rentals charged in the first instance are to be determined in accordance with market values and Community Groups – rental figure is determined through a rental assessment framework (RAF).*”

Implication – This report provides for a commercial rental return, with no rental subsidy and is therefore consistent with this Policy.

Financial Implications

Council will receive an annual market rental for a term of two years, as determined by Walsh & Monaghan valuers (9 October 2023), which provides for an annual 3% increase and no rental subsidy. The Lessee will be required to keep the premises in a clean and tidy condition and maintain part of the land that surrounds the building.

A total rental income of \$101,500 + GST will be received for the entirety of the term.

No major works have been identified as required during this term.

Risk Implications

Through negotiations of a commercial rent, Productivity Bootcamp has agreed to pay the \$50,000 + GST in rent owing from 1 November 2023 to 31 October 2024 through increased instalments until July 2025 allowing repayment of rental arrears to be completed prior to the termination of the lease agreement.

Additional funds have been sought by Productivity Bootcamp from their funding sources to secure the premises until termination of this proposed Lease.

If the Lease agreement was not supported by Council, a potential loss in income of \$100,955 + GST could result for the entire term, considering that \$50,000 + GST, can potentially be recovered in rental arrears. Productivity Bootcamp is currently on holdover and paying an annual rental amount of \$505 + GST.

CL24.295 Grant of Electricity Easement to Endeavour Energy – Community Battery – Lot 35 DP 242182 33 Tannery Road Cambewarra

HPERM Ref: D24/153678

Department: Technical Services

Approver: Carey McIntyre, Director - City Services

Purpose:

The purpose of this report is to seek approval to the grant of an easement for a proposed community battery installation and the associated compensation.

Endeavour Energy has approached Council to install a community battery over Council land known as Howell Faulks Park being Lot 35 DP 242182, 33 Tannery Road, Cambewarra. The community battery is part of an Endeavour Energy program to roll out battery infrastructure over sites in nominated local government areas.

Summary and Key Points for Consideration:

- Pursuant to Section 46(1)(a) of the Local Government Act 1993, Council may grant easements for public utilities and works over community land.
- Endeavour Energy is an acquiring authority and can acquire land (or an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.
- Council resolution is required to determine the compensation amount associated with the grant of easement.

Recommendation

That Council:

1. Grant an Easement for Electricity pursuant to section 46(1)(a) of the *Local Government Act 1993* approximately 64m² area (subject to final survey) over Council community land known as Lot 35 DP 242182, 33 Tannery Road, Cambewarra in favour of Endeavour Energy as shown on Figure 2.
2. Accept payment in the amount of \$10,000 (excluding GST) as compensation for the grant of easement which includes Council's valuation and legal costs of \$2,700 (excluding GST) associated with the proposed grant of easement.
3. Consent to Endeavour Energy being responsible for preparation of the easement survey and plan registration with NSW Land Registry Services.
4. Authorise the Common Seal of the Council of the City of Shoalhaven be affixed to any document required to be sealed and delegates authority to the Chief Executive Officer to sign any documentation necessary to give effect to this resolution.

CL24.295

Options

1. Resolve as recommended.

Implications: Occupation of the land will be formalised by registered plan of subdivision and Section 88B Instrument benefitting Endeavour Energy and protecting the long-term integrity of the community battery. Council will receive compensation for the creation of the easement determined by valuation.

2. Not resolve as recommended.

Implications: Endeavour Energy is an acquiring authority and can acquire land (or an interest in land) in accordance with the Land Acquisition (Just Terms Compensation) Act 1991. Compulsory acquisition process to create an easement for the proposed community battery installation will incur more costs and significantly longer period to procure.

Background and Supplementary information

Endeavour Energy has approached Council seeking an easement for a proposed community battery on Council land.

About Community Batteries

Community batteries give customers choice on how they generate, share and consume energy. They are part of an initiative to maximise rooftop solar on homes across the Endeavour Energy network.

Community batteries allow a group of neighbours to store and share solar power. For residents with solar installation, excess solar is stored in the community battery and available when needed. The Endeavour Energy community battery program seeks to deliver 10 community batteries across Blacktown, Campbelltown, Kiama, Liverpool, Shellharbour, Shoalhaven, Wingecarribee and Wollondilly local government areas.

Proposed Works

Lot 35 DP 242182, 33 Tannery Road, Cambewarra (Howell Faulks Park) is Council owned community land. The grant of the easement will not impact the current use of the community land.

The battery unit proposed is an Ecojoule 30kVA pole mounted battery bank. A new single power pole (timber) will be installed to hold the battery unit, and a single overhead conductor will run between an existing pole supporting the Tannery Road overhead powerline to the new pole (see **Figure 1**). Endeavour Energy has advised that the site meets the technical and environmental requirements needed for the battery project.

Figure 1 – Proposed new community battery pole and overhead cable.



Easement

Endeavour Energy require an easement to formalise the occupation of the land and protect the long-term integrity of the community battery. The easement and Section 88B Instrument will formalise maintenance obligations of the proposed infrastructure to ensure Council is not responsible for future maintenance and repair.

The easement size will vary with an easement approximately 7.5m wide around the pole and battery unit and 1.5m wide easement for the overhead conductor. The total easement area is approximately 64sqm subject to final survey as shown in red and green on **Figure 2**.

Figure 2 – Proposed easement plan (subject to final survey).



Internal Consultations

The District Engineering office – North has been consulted and no objection has been raised to the easement proposal.

External Consultations

Walsh and Monaghan Valuers acted as Council’s valuers to advise the value of the easement.

CL24.295

Community Consultations

Community consultation on the installation of the battery at this site was undertaken in January 2024 by Endeavour Energy as part of the environment assessment and determination process. Endeavour Energy will be the determining authority under Part 5 of the *Environmental Planning and Assessment Act 1979* for this project. Endeavour Energy directly notified owners/occupiers adjoining the community land of the proposal. No submissions were received. No further adjoining owner/occupier notification is required for this proposal.

Policy Implications

Council's Development and/or Disposal of Council Lands policy has been adhered to.

Financial Implications

Council will receive net compensation of \$7,300 (excluding GST) for the grant of the easement which is considered fair and reasonable based on the valuation report obtained. The applicant will be responsible for all costs in the creation of the easement including survey plan and registration at NSW Land Registry Services to complete.

Council engaged Walsh and Monaghan to undertake a valuation for compensation that would be payable by the applicant to Council for the grant of an easement. The amount of compensation was assessed at \$3,500.00 (excluding GST). Endeavour Energy has offered to pay compensation to Council for the grant of the easement of \$10,000.00 excluding GST which includes Council's incurred valuation and legal costs (\$2,700.00 excluding GST).

Compensation would be allocated to the Easement Right of Use budget.

Risk Implications

It is normal practice to allow for an interest in land in the form of an easement with compensation determined by valuation. Council's interests have been considered and there is minimal risk associated with the recommended grant of easement.

CL24.295

CL24.296 Report Back - Result of Investigations - Seagrass Avenue Vincentia - Parking and Vegetation

HPERM Ref: D24/320696

Department: Works & Services
Approver: Carey McIntyre, Director - City Services

Attachments: 1. Detailed Report Bayswood Estate Vincentia - Parking 02 July 2024 to 31 July 2024 [↓](#)
2. Letter - Parkcare - Gardens at Bayswood Vincentia [↓](#)

Purpose:

The purpose of this report is to advise Councillors on the results of community survey and investigations into grant options for the provision of parking and Parkcare options for the re-vegetation of Seagrass Avenue, Vincentia (Bayswood estate).

Summary and Key Points for Consideration:

This report directly responds to Council resolution (MIN24.308) to further investigate this issue following consideration of the report titled '*Detailed Report Bayswood Estate Vincentia - Parking 02 July 2024 To 31 July 2024*' (**Attachment 1**).

Recommendation

That Council note that:

1. Most respondents do not support the proposal for additional parking on Seagrass Avenue.
2. No Federal and State grant programs have been identified to fund additional parking on Seagrass Avenue.
3. Correspondence to Federal and State representatives regarding grant options has been sent.
4. Parkcare is not recommended as an appropriate option for re-vegetation of the median due to its capacity and safety requirements for working near traffic.

Options

1. Adopt the recommendations as above.

Implications: This will maintain the status quo.

2. Re-allocate funding to enable improved vegetation management, gardening and re-vegetation.

Implications: Progressive improvements could be undertaken depending on the magnitude of funding made available.

3. Re-allocate funding to enable progression of design and construction of parking improvements.

Implications: This process may or may not be able to develop a design that balances the competing interests of the residents in the area. Any increase in parking area, requires a reduction in vegetated or grassed area.

Background and Supplementary information

A report was provided to Council on 3 June 2024 (D24/126236), which investigated parking options and vegetation management. Following consideration of this report, Council resolved (MIN24.308) to:

1. Note the provision of vegetation in Seagrass Ave is pending capital budget allocation.
2. Note that significant capital investment is required to construct additional parking within the road reserve.
3. Proceed with survey regarding parking, despite the absence of any available budget to design or construct any improvements.
4. Investigate grant options from Fiona Phillips, Federal member for Gilmore and Liza Butler, State member for South Coast for parking provision on Seagrass Avenue.
5. Investigate Park Care options for progressing the appropriate re-vegetation of the areas identified in the report.

This report will address items three to five above.

Survey results

A survey was conducted and advertised via Facebook and letterbox drop of local residents. The survey was open for responses throughout July 2024.

There were 62 responses. As is evident in **Figure 1** below, most respondents did not support additional parking or were neutral.

Figure 1 – Seagrass Avenue survey results of question: *Do you support the conversion of all or part of the existing median strip to increase parking availability?*



97% of respondents (60) listed an address in the Bayswood Estate, Vincentia.

52% of the respondents (32) listed an address on Seagrass Avenue.

- 66% of the respondents on Seagrass Ave (21 of 32) supported the proposed parking.
- 75% of the respondents with an address not on Seagrass Avenue either were neutral (2 of 28) or did not support (19 of 28) the proposal.

CL24.296

Other themes:

- 12 respondents (29%) also raised concerns about existing (and potential new) parking being used for long term storage of caravans, boats, trailers and vehicles.
- Of the 28 respondents who supported the provision of additional parking, four expressed a desire to limit the loss of trees or vegetation while doing so.

Detailed survey results are shown in **Attachment 1**.

Grant options

Council's Grants Officer conducted investigations into appropriate grant programs but could not identify anything suitable that would allow Council to source funding for parking upgrades to an already established residential area.

All of the programs identified were focused on fixing the road infrastructure and not car parking.

Correspondence to State and Federal MP

Correspondence to Fiona Phillips Federal Member for Gilmore and Liza Butler Member for the South Coast have been sent.

Parkcare options

The Bayswood Parkcare group mainly do mulching and some plant maintenance in Pacific City Park, Halloran Street Recreational area, landscaped road reserve along Summercloud Crescent, and an unnamed Park off Halloran and Spinnaker Reserve.

The Parkcare Group does not currently work on any roadside gardens for safety reasons. Although this could be overcome with road closures and traffic control, this would reduce the cost savings associated with volunteer work, especially if volunteers are only available on weekends and outside of regular work hours.

Aside from any safety concerns, the local Parkcare Group has expressed concerns about capacity for additional work. Additional areas under an amended Parkcare plan are likely to be contingent on additional volunteers which cannot be guaranteed.

Currently the Parkcare Group are at capacity with gardening chores and have no capacity to maintain or perform gardening tasks on this large area.

Internal Consultations

Council's Grants Officer has been consulted on grants available.

Council's Parkcare Coordinator has been consulted regarding parkcare arrangements.

External Consultations

Bayswood Parkcare Group has been consulted through the Parkcare Coordinator and a letter outlining their position is shown in **Attachment 2**.

Community Consultations

A community survey was conducted as outlined in this report, the results are in **Attachment 1**.

CL24.296

Policy Implications

Under Council's verge maintenance policy vegetation on the verge (between the property line and the road) is the responsibility of the property owner to maintain. This includes grass and shrubs, but not trees, which remain Council's responsibility.

Financial Implications

There is no current budget allocated to this initiative. Previous Council resolutions have directed a focus on renewal and maintenance of existing assets, not the creation of new ones.

Detail on financial impacts were previously outlined within the [previous report](#). No favourable change to operational budgets has occurred.

Risk Implications

The safety risks associated with use of volunteers to maintain roadside vegetation is discussed above.

Given the low-speed environment the road safety risk is manageable with vegetation pruning undertaken to provide minimum sight line requirements, although it is likely minimum safety requirements may not satisfy individual desires for increased visibility.

The strategic infrastructure risk associated with continuous expansion of Council's infrastructure asset base (including by new developments such as the Bayswood Estate), without any ability for a commensurate increase in operation and maintenance budgets represents a significant and steadily increasing risk. This risk is further amplified by the steadily increasing costs of materials and labour to carry out maintenance activities.

Project Report

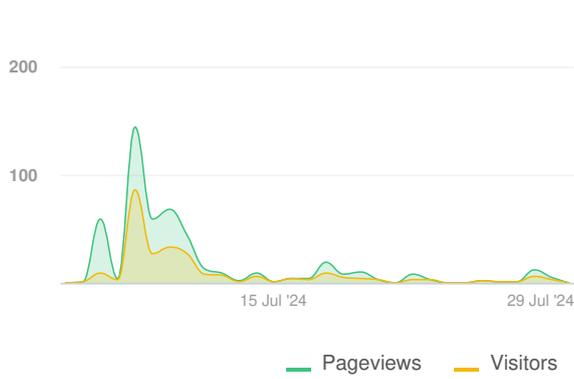
02 July 2024 - 31 July 2024

Get Involved Shoalhaven

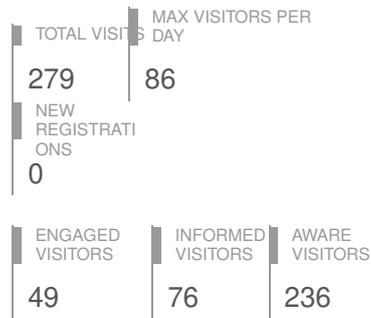
Bayswood Estate, Vincentia - Parking



Visitors Summary



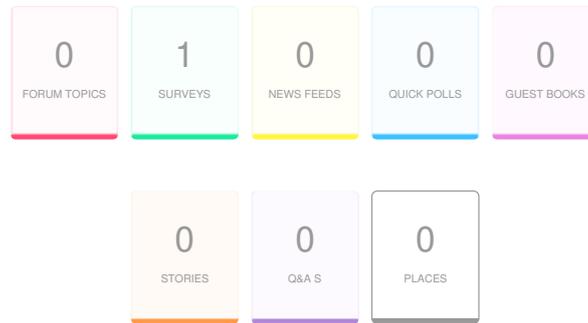
Highlights



Aware Participants	236	Engaged Participants	49		
Aware Actions Performed	Participants	Engaged Actions Performed	Registered	Unverified	Anonymous
Visited a Project or Tool Page	236				
Informed Participants	76	Contributed on Forums	0	0	0
Informed Actions Performed	Participants	Participated in Surveys	0	0	49
Viewed a video	0	Contributed to Newsfeeds	0	0	0
Viewed a photo	28	Participated in Quick Polls	0	0	0
Downloaded a document	0	Posted on Guestbooks	0	0	0
Visited the Key Dates page	0	Contributed to Stories	0	0	0
Visited an FAQ list Page	0	Asked Questions	0	0	0
Visited Instagram Page	0	Placed Pins on Places	0	0	0
Visited Multiple Project Pages	28	Contributed to Ideas	0	0	0
Contributed to a tool (engaged)	49				

Get Involved Shoalhaven : Summary Report for 02 July 2024 to 31 July 2024

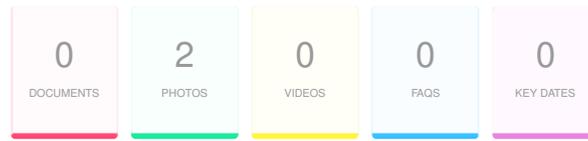
ENGAGEMENT TOOLS SUMMARY



Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Survey Tool	Survey - Seagrass Avenue, Bayswood Estate Parking	Archived	213	0	0	49

Get Involved Shoalhaven : Summary Report for 02 July 2024 to 31 July 2024

INFORMATION WIDGET SUMMARY



Widget Type	Engagement Tool Name	Visitors	Views/Downloads
Photo	Example 1 Seagrass Avenue.png	28	32
Photo	Example 2 Seagrass Avenue.png	19	20

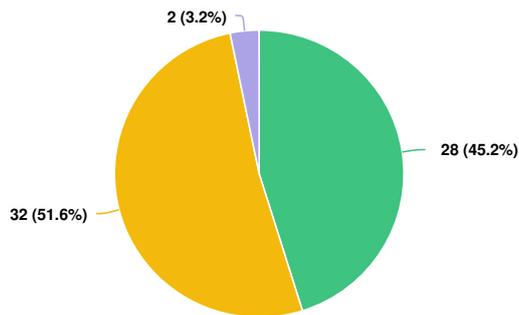
Get Involved Shoalhaven : Summary Report for 02 July 2024 to 31 July 2024

ENGAGEMENT TOOL: SURVEY TOOL

Survey - Seagrass Avenue, Bayswood Estate Parking

Visitors 213	Contributors 49	CONTRIBUTIONS 62
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Do you support the conversion of all or part of the existing median strip to increase parking availability? (please refer t...



Question options

● Yes ● No ● Neutral

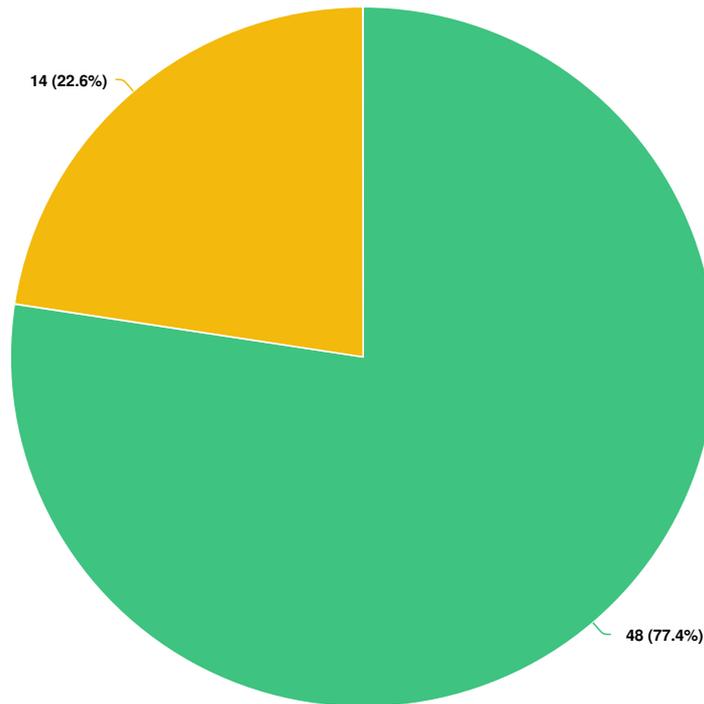
Mandatory Question (62 response(s))

Question type: Dropdown Question

CL24.296 - Attachment 1

Get Involved Shoalhaven : Summary Report for 02 July 2024 to 31 July 2024

Do you have any other comments?



Question options

● Yes ● No

Mandatory Question (62 response(s))

Question type: Dropdown Question

In response to a recent article in the South Coast Register re the poor state of gardens and reserves, median strips etc in Bayswood Vincentia and the fact that Council has been left holding the can over improvements needed, I would like to supply history and background as a resident of 14 years and in my capacity as Co-Ordinator of the Bayswood Parkcare Group. This may be of value in your upcoming discussions.

In the early stages of the development, the developer was still on site and employed a Landscape Contractor (team of workers) who worked more or less full-time to maintain the native gardens.

Bayswood Parkcare Group was set up in 2016, the group picking up any gardening tasks needed in the main park, Pacific City Park.

Since then, 2016-2024 the Parkcare responsibility has grown to include the Spinnaker Park reserve and all native gardens along the footpath verges, up to 15 separate sites. **WE DO NOT work on any gardens adjacent to roads/roadside kerbs for safety reasons.**

We see the footpath verges as a priority because of the high use of all footpaths and walkways for pedestrians, dog walkers, families, kids on bikes, trikes and scooters – **these paths are very much part of the appeal of our estate.**

Since the developer's landscape team has left our task list:

Help to maintain the landscaping and recreational areas of the parks in the Bayswood Estate

Plan and undertake minor improvements on the facilities and the appearance of the parks/planted gardens in the estate - excluding gardens directly on roadside.

Weeding mulching, replanting of the landscaped areas where needed, Control of weeds and self-sown trees

has become burdensome, and in some ways, unrewarding. Lomandra and native grasses, that dominate all gardens, are becoming harder to control – we trim and tidy, remove weeds and mulch the gardens – only to find 2 months later that its all back to how it was, and the mulch has washed away!! This is unsustainable – **what can be done to make all of the gardens easier to maintain???**
We just want to do the top-up, not the heavy lifting!!

Some roadside vegetation could be replaced with turf – Parkcare could then assist in keeping out the thistle and fireweed that is now also infesting Council verge lawn patches.

The only vegetated areas of Bayswood that always look tidy and attractive are those areas (about 5 small sections) where a resident has decided to “look after” the garden opposite or in the vicinity of their home – a great outcome, but cannot be expected of all residents.

PLEASE **do not** see our Parkcare group as a solution to the problems mentioned in the SCR news article – we are already up to our eyeballs in gardening chores!!

On this same subject, I am aware of residents of **Seagrass Ave** and the issue of the centre garden – its overgrown, unsightly and a traffic hazard. **Our Parkcare group has NO CAPABILITY to maintain, or perform gardening tasks on this large area.** Recent “clearing” there by Council staff lasted a few months, and now it is all back to being an overgrown mess. Perhaps a solution could be to retain the large trees and shrubs, turf all the rest. Mulch does not prevent weed regrowth!!

I am fully aware that all of the garden problems are the result of the developer's lay-out of Bayswood, and I understand the responses from the Mayor re that large amounts of money are not

available to “fix the problem”. However, stop-gap measures and short-term fixes have gone on too long. Many of the lomandra/native grass gardens need to be replaced. Parkcare is happy to continue working on garden maintenance but would welcome a change to some Council practices – eg slash and mulch, followed shortly after by regrowth of weeds and grasses is getting us nowhere!! Its not good enough – a better solution needs to be investigated, PLEASE!!

Judi Nethery

Bayswood Parkcare Group

CL24.297 Funding Model - Materials Recovery Facility

HPERM Ref: D24/384492

Approver: Carey McIntyre, Director - City Services

Purpose:

The purpose of this report is to seek Council’s adoption of a funding model to allow completion of the Materials Recovery Facility at Council’s West Nowra Recycling and Waste Facility.

Summary and Key Points for Consideration:

Shoalhaven City Council (Council) is constructing a Materials Recovery Facility (MRF) at its existing West Nowra Recycling and Waste Facility.

Shoalhaven City Council’s Waste Services department has been coordinating the project since its inception, including design, approvals, procurement, and construction. The project is 60% complete by cost. A business case was initially prepared by Waste Services and Talis Consultants in October 2019.

The project of designing, building, commissioning and running the MRF (the project) has incurred some cost increases since the initial budget was approved because of delays and scope growth. These are detailed in this report.

Amount spent on project to date	\$22,371,634
The forecast final project cost is	\$37,150,000
The forecast cost to complete the project is	\$14,778,366
The amount of funding available is	\$4,540,280
Therefore, the total shortfall is	\$10,238,086

CL24.297

Recommendation

That:

1. Council proceeds to complete the Materials Recovery Facility (MRF).
2. The shortfall funding required, of **\$10,238,086** be funded from:
 - a. Internally restricted Industrial and non-industrial land sales of up to \$4,000,000.
 - b. Projects cancelled or postponed to fund the MRF of up to \$4,000,000.
 - c. Proceeds from a rescoped and delayed Shoalhaven Resource Recovery Learning Centre of up to \$1,700,000.
 - d. Proceeds from a Value Engineering process and a reduced contingency of up to \$640,000.
3. Council be briefed on the progress and cost of the MRF project every two months until commissioning of the facility.

Options

1. Adopt the recommendations as printed.

Implications: Council will provide for the additional cost, by funding the **\$10,238,086** shortfall, and will deliver a project that has the potential to achieve a profit of approximately \$0.5m in FY 2027 and \$6m in FY 2033, with the entirety of that project being able to be directed to Council's Domestic and Commercial Waste Reserves.

2. Not proceed to fully fund the increased cost of the MRF and so not complete the project, by adopting the following alternative recommendations or similar:

That:

- a. Council call for tenders from suitable recyclables processing service providers, to receive, sort, process and market products from approximately 12,500 tonnes per year of commingled recyclables that are delivered to the West Nowra Recycling and Waste Facility.

The contract will run until either the commencement of operation by others under b. below or, if b is not applicable, until 30 June 2029 (the end date of the kerbside collections contract).

- b. Council call for tenders from parties interested in purchasing the equipment Council has already obtained, and
- c. transporting it off site, or
- d. entering into a lease agreement to occupy the new building, and providing a licence to install, test, commission and operate the purchased equipment to process the materials referred to in a. for a period of 10 years with an option to extend the lease for a period of up to 10 further years, appropriately maintaining equipment for transfer to Council at the end of the lease.

Implications: This is not recommended nor considered a sustainable financial response.

Council will forgo a potential project profit of approximately \$77m over the first 15 years of the operation of the project, while still incurring the operational cost of haulage and processing of SCC's comingled recyclables – currently \$3.13m per year.

Council would be expected to suffer a significant financial loss on the value of the capital expenditure of \$22m incurred on the project to date, offset only by any lease income and/or the sale of MRF equipment that has already been purchased.

Background and Supplementary information

Council is constructing a MRF at its existing West Nowra Recycling and Waste Facility. The MRF will source comingled recyclables from across the Illawarra and Shoalhaven with a processing rate of 15 tonnes per hour and expected annual capacity of up to 24,720 tonnes.

This best practice MRF owned, operated, and maintained by Council will provide greater flexibility to adapt to an ever-changing waste industry. It will provide valuable employment opportunities, reduce Council dependency on third party services, reduce recycling costs, improve Council's landfill diversion rate and assist in the transition towards a circular economy.

The Waste Services department has been coordinating the project since its inception, including design, approvals, procurement, and construction. The project is 60% complete by cost.

The project has incurred some cost increases since the initial budget was approved because of delays and scope growth

In response to this, an internal working group was established consisting of the following positions:

- i. Director City Services
- ii. Chief Financial Officer
- iii. Manager Waste Services
- iv. Manager Technical Services
- v. Manager Budgeting and Analysis.
- vi. Project Governance (ePMO) Manager
- vii. Waste Operations Coordinator
- viii. Waste Contracts Coordinator

Its aim was to establish the current costings associated with the project, identify the financial challenge that needed to be met, consider options to do that, review the revenue generation of the project and develop a proposed funding model to be considered by the elected Council.

In this way, the expertise and processes of the recently created enterprise Project Management Office (ePMO), which was developed to ensure projects are managed with an overseeing governance, that assures proper planning, funding and execution of projects, was able to be brought to bear. In addition, through their direct participation in the working group, the high level of financial accountability that has been supported by the work of the Chief Financial Officer was applied to the project.

1. Project Overview

The project comprises the design and construction of utilities, civil works, building, and process plant and equipment, its commissioning and ultimately, its operation. Civil works includes earthworks, stormwater drainage, and pavement construction for the building and associated supporting infrastructure.

The ~7,200m² building will have two main areas, being the receival hall for commingled recyclables collection trucks, and the processing area. Outputs from the MRF will be packaged, ready for sale and pickup, or directed to a further recycling process at the West Nowra Recycling and Waste Facility.

The base building services fit-out will include electrical power and lighting, mechanical services, and fire detection and suppression. Other base building elements include an elevated viewing room for operations staff and visitors. The process plant and equipment will incorporate best practice innovative technology to ensure commodities are recovered to exceed market specifications (<1% contamination).

The tender for the process components of the MRF has been let as a design, construct, and commission package, which was won by Australian Bale Press (ABP) in 2021, who have already completed the design and majority of manufacturing, most of which is being stored on site in West Nowra, ready for installation.

2. Business Case

A business case was prepared by Waste Services and Talis Consultants in October 2019, which concluded, amongst other things. The financial model yielded a pay-back period of 11.67 years. The Net Present Value (NPV) of the project was equated to \$5 million. The positive NPV result means that the value of the cash inflows is greater than the cash outflows, suggesting that the project is financially viable.

The business case was peer reviewed by GHD, and ultimately used by SCC and informed, in part, the original project budget approval.

When Council authorised the project in August 2020 the estimated capital cost was \$23m provided for across FY21-FY22. Subsequently when Council approved the award of tender for the MRF building in August 2021 the cost of the project was estimated to be \$28m. This costing has now been further revised.

3. Finance – Cost to Build the MRF

The original anticipated project cost was established in 2019. This is detailed further in the *Summary of Cost Increases* section.

The current forecast cost to complete the project is summarised in **Table 1**.

Table 1 - Forecast Project Cost

Trade	Budget	Procurement status
Process plant and equipment	\$16,555,000	Contracted
Leachate pump station supply	\$103,000	
Building electrical - light and power	\$766,722	
Base building	\$8,495,260	Contracted (administrators appointed)
Building fire suppression, wet and dry	\$1,604,668	Contracted
Building fire suppression - variation for awning coverage	\$100,000	Quote
Supply and installation of tanks - rain and fire water	\$300,000	RFQ not commenced
Viewing and MCC room construction	\$125,000	Tender Assessment
Civils including earthworks, stormwater, including basin, and pavement.	\$3,028,881	Estimate - detailed
Building mechanical	\$100,000	Estimate - preliminary
Building fire suppression - wet below plant and equipment	\$150,000	
Building electrical - mechanical feed	\$5,000	
Building electrical - Metering in accordance with BCA Section J9D3	\$8,000	
Building electrical - UPS for roller shutters to open on fire trip	\$20,000	

CL24.297

Fire booster room enclosure (Shed)	\$10,000	Estimate - preliminary
Leachate pump station install	\$25,000	
Leachate discharge line from pump station to leachate dam including above ground pipe manifold	\$30,000	
Electrical supply L1 to site & L2 front boundary to and including kiosk at MRF,	\$600,000	
Excavation and backfill for hydrant ring main	\$30,000	
Amenities upgrade	\$10,000	
Project management	\$250,000	
Civils for building pad	\$736,000	Cost record
Entry roadway	\$900,000	
Design, project management and approvals etc.	\$1,577,109	
Subtotal	\$35,529,640	
Risk contingency	\$1,620,360	
Total	\$37,150,000	

CL24.297

4. Finance – Income and Expense Associated with the MRF

A summary of the 15 year operational expenditure and income forecast is provided in **Table 2**.

Table 2 – 15 Year Operational Expenditure and Income Forecast

Year	Income (gate fees and product sales)	Expenditure (labour, utilities, maintenance, capital repayments)	Margin
2026	\$ 4,718,855	\$ 4,726,222	-\$ 7,367
2027	\$ 7,743,007	\$ 7,251,143	\$ 491,863
2028	\$ 9,001,940	\$ 7,401,025	\$ 1,600,915
2029	\$ 10,067,077	\$ 7,534,733	\$ 2,532,345
2030	\$ 10,278,055	\$ 7,845,633	\$ 2,432,422
2031	\$ 10,495,043	\$ 6,346,803	\$ 4,148,240

2032	\$ 10,718,232	\$ 6,337,918	\$ 4,380,314
2033	\$ 10,947,817	\$ 4,873,826	\$ 6,073,991
2034	\$ 11,184,001	\$ 4,343,857	\$ 6,840,144
2035	\$ 11,426,993	\$ 4,302,126	\$ 7,124,867
2036	\$ 11,677,008	\$ 4,042,808	\$ 7,634,200
2037	\$ 11,934,269	\$ 3,676,223	\$ 8,258,046
2038	\$ 12,199,006	\$ 3,771,962	\$ 8,427,044
2039	\$ 12,471,457	\$ 3,870,338	\$ 8,601,119
2040	\$ 12,751,866	\$ 4,321,425	\$ 8,430,441

Table 2 includes the cost of borrowing the full amount of the project and planned repairs and renewals of equipment. It does not account for unplanned equipment breakdowns and replacement needs. Unforeseen costs will be drawn from project profits.

5. Project Status

Construction of the MRF is well progressed; the building structure is complete except for quality assurance testing. **Figure 1** provides an aerial image of the site, taken on **5 March 2024**.

The contractor responsible for the base building has gone into voluntary administration. Council has issued a ‘take-out’ notice and will manage the remainder of the base building package and subsequent fit-out and civil packages directly, without a managing/head contractor. Local business, MIEngineers will provide project and construction management support to Council.

Figure 1 - Aerial image of site



CL24.297

Figure 2 - Site at the start of October 2024



6. Summary of Delays

The project has been the subject of extensive and unanticipated delays. A summary is provided in **Table 3**.

Table 3 - Summary of delays

Cause of delay	Duration	Start	Finish
Development application - determined by the Southern Regional Planning Panel. The reasons for the delay were not clear.	338 days	17/01/22	21/12/22
Construction certificate 1 (inground services and building structure)	253 days	22/12/22	01/09/23
Construction certificate 2 (building façade, fit-out, and civil works) Delays due to changes in legislation and regulation.	14 days	4/03/24	18/03/24
Building contractor entered voluntary administration	78 days	19/03/24	05/06/24
SCC approval of procurement for building packages	53 days	06/06/24	29/07/24

7. Summary of Cost Increases

The delays have resulted in cost increases along with design revisions for obtaining approvals and meeting regulations. **Table 4** provides a cost increase overview.

Table 4 - Summary of cost increases

Package	2021 budget	Updated budget		Contributing factors to increase
Base building	\$8M	\$8.54M		- Delay - Escalation - Design revision
Process plant and equipment	\$16M	\$16.55M		- Letting loss
Rain and fire water tanks	\$4M	\$5.04M	\$300K	- Delay - Escalation - Design revision
Building pad (earthworks and retaining wall)			\$700K	

CL24.297

Stormwater			\$160K	
Safety barrier, road furniture, and line marking			\$410K	
Pavements around building			\$770K	
Building services – Fire			\$1.9M	
Building services - Electrical			\$800K	
Project management		Included above	\$500K	Escalation and design revision.
Design and approvals			\$1.0M	
Site master works	Utilities	Nil	\$600K	These works support various parts of the existing site and will service future projects. Budget for these was anticipated to be dealt with separately from the MRF.
	Civil Works	Nil	\$2.65M	
Amenities upgrade		Nil	\$10K	Design revisions due to approvals process.
Building service - mechanical		Nil	\$100K	
Leachate collection and discharge		Nil	\$160K	
Other miscellaneous			\$300K	
Sub-total (base) cost)		\$28M	\$35.5M	
Remaining risk contingency		Included above	\$1.6M	
Total (exc. GST)		\$28M	\$37.1M	

CL24.297

8. Contributing Factors to Cost Increases

8.1 Masterplan works

Some of the civil works required for the MRF to reach operational status will also service other ongoing or planned projects and site operations at the West Nowra Recycling and Waste Facility. Waste Services had anticipated that these elements were to be funded by other capital works budgets, referred to collectively as site masterplan works. To facilitate whole-of-project budget monitoring and asset capture for delivery of the MRF, the relevant site masterplan works were consolidated into the MRF project. However, the process of consolidating the site masterplan works into the MRF project has identified that budgets had not been secured for the associated site masterplan works, which has consequently exacerbated the funding shortfall to complete the MRF project. Works that were originally allocated to site masterplan budget included:

- Stormwater including pit, pipe, swale, subsurface drainage, sedimentation basin and associated overflow into the leachate dam.
- Secondary access road to service the sedimentation basin.
- Site entry roadway.
- Electrical upgrade to existing services.

8.2 Delays to project and escalation

The expenses incurred due to the delays resulted in payments to contractors for delays and escalation.

During this time, the cost of construction went up also and at an unprecedented rate as a result of changes to the economy which flowed from the COVID-19 pandemic.

Using the Australian Bureau of Statistics (ABS) producer price indexes for construction outputs in Australia up to March 2024, the equivalent escalated value was calculated. This is provided in **Table 5**.

Table 5 - ABS producer price index summary and effect on the project budget

Quarter	ABS consumer price index no.	% increase for the quarter preceding	Increase (\$)	Escalated budget (\$)
Sep-21	122.5	2.1%		28,000,000.00
Dec-21	126.0	2.9%	812,000.00	28,812,000.00
Mar-22	129.7	2.9%	835,548.00	29,647,548.00
Jun-22	134.6	3.8%	1,126,606.82	30,774,154.82
Sep-22	138.2	2.7%	830,902.18	31,605,057.00
Dec-22	140.4	1.6%	505,680.91	32,110,737.92
Mar-23	141.9	1.1%	353,218.12	32,463,956.03
Jun-23	143.3	1.0%	324,639.56	32,788,595.59
Sep-23	145.2	1.3%	426,251.74	33,214,847.34
Dec-23	148.0	1.9%	631,082.10	33,845,929.44
Mar-24	150.3	1.6%	541,534.87	34,387,464.31
			\$6,387,464.31	

CL24.297

8.3 Legislative and regulatory changes

Several legislative and regulatory changes were made to the construction industry following the Opal Tower disaster in 2018 and the Mascot Towers defects soon after. These changes came into effect after the project commenced and increased the level of scrutiny applied to development and construction certificate applications, which contributed to design delays and unanticipated additional processes and authority approvals.

8.4 Revisions associated with design development

Design development of the MRF resulted in necessary increases in scope. A summary of key changes follows:

- Performance solution for the omission of amenities and upgrade of existing site amenities.
- Fire engineering for excessive travel distances to a point of exit.
- Leachate collection and discharge required to capture fire water runoff which encounters waste.
- Increase in size of fire water tanks to accommodate increased firefighting requirements.
- Increase in pavements for 6m clear pavement around building to accommodate fire trucks.
- A bushfire rating of BAL-40 imposed during the S4.55 DA modification process.

- Mechanical services to exhaust air from the receival hall due to the presence of combustion engine powered plant and vehicles.
- Subsurface drainage to collect leachate as a secondary control to manage existing site because of an existing site condition.

Table 6 provides a summary estimate of the main contributors to the price increase.

Table 6 - Summary of contributors to price rise

Estimated price increase description	Value
Amount attributable to escalation (based on ABS index)	\$6,397,367
Amount attributable to design revision required for approvals	\$1,166,800
Amount attributable to scope increase to include masterplan works	\$2,673,919
Total justifiable price rise	\$10,238,086

9. Opportunities Considered in Development of Proposed Funding Model

9.1 Value Engineering

Value Engineering is an organised approach to providing necessary components of a project at the lowest cost. Value Engineering in the case of the MRF, combined with a reduced project contingency could reduce costs in the vicinity of **\$634,777**.

9.2 Additional borrowings

Additional borrowings (internal or external) could include paying down the Bioelektra loan and taking out a MRF loan.

9.3 Drawing a loan

Drawing a loan on the internal restriction associated with industrial and non-industrial land sales.

9.4 Delay of other Waste Services works

Delay of other (non MRF) Waste Services works to make budget available for the MRF. These include:

- Landfill extension *
- Bins and equipment
- Waste plant and vehicles
- Waste landfill cell construction *
- West Nowra landfill closure *
- Shoalhaven MICROfactorie
- West Nowra Leachate project *

Total deferred costs will be approximately **\$3,995,382**.

Note: * Removing money from the projects will mean we need to find funds to deliver them in the coming years, assuming they are all still needed. Delaying these projects increases the risk Council is carrying. Unanticipated changes in waste volumes, significant further delays in commissioning the MRF or further delays in securing funding to commence these works places Council at risk of not being able to provide an EPA compliant waste service for SCC and its waste clients. Whilst the risk is considered manageable for a deferment of one financial year, Council could become exposed should disruption occur.

This option assumes that the income from an operational MRF would recoup the funds needed to provide budgets for the deferred projects from the FY25 capital program. Council would need to determine whether the MRF will generate enough income in time to complete

the deferred projects, including possibly the Shoalhaven Resource Recovery Learning Centre (see below) if it continues, as further loans to complete these are to be avoided if possible.

9.5 Rescope and reduce the scale

Rescope and reduce the scale of, or defer, the Shoalhaven Resource Recovery Learning Centre and utilise some of the borrowing capacity on the MRF. This could provide up to **\$1,606,927**.

9.6 Placing the MRF project on hold

Placing the MRF project on hold has been considered but found to be an extremely poor outcome and is not recommended. The potential to generate revenue from an operational MRF is anticipated to have increased in recent years with capacity to process recyclable material in deficit across NSW.

If the MRF is not operational Council will continue to need to pay for the transport and processing of comingled recyclables to a supplier in the Sydney area.

Placing the project on hold would have considerable risk for Council. There are several live contracts which would incur costs to cancel, the largest of which is the design and construct contract for the process plant and equipment. If the contractor was released of their obligations to close out the contract, the chances of finding another contractor to pick up and finish their works without incurring significant additional cost, would be slim.

10. Recommended Funding Model

Council has approximate estimates of the land reserve balances with anticipated sales. These are shown in **Table 7**. Up to \$4,000,000 could be directed loaned to the MRF as a result of an internal borrowing against these proceeds.

If a loan was taken from land sales to help fund the MRF, Council would need to ensure a repayment strategy is established and followed, based on the income the MRF would provide. This would need to be a maximum 5-year payback period.

Table 7 – Estimates of industrial and non-industrial land sales in 2025, showing potential internal loan for MRF

Opening industrial land Reserve Balance 1/7/24	7,000,000
Add industrial sales 2025	11,000,000
Add non-industrial sales 2025	8,000,000
Less costs of sale	-3,000,000
Less loan repayments from land sales <i>(as resolved by Council in the FY25 DPOP)</i>	-10,000,000
Less Capital expenditure from land sales	-5,000,000
Anticipated balance 30/06/2025	8,000,000
Potential loan for MRF	-4,000,000
Estimated new balance	4,000,000

NOTE: while there is expected to be land sales in FY 2025, these figures are as estimate at this time in terms of quantum and timing.

CL24.297

Council could not use all the available land sales in reserve. Council needs to have some contingency to protect it if the timing/value of land sales differs to forecast, or should Council need to purchase land that becomes available because it is in line with the elected Council's strategic priorities.

The impact of applying the Industrial Land Reserve proceeds in combination with funds diverted away from other waste projects to be cancelled/deferred to fund the MRF, proceeds achieved through a re-scoped Shoalhaven Resource Recovery Learning Centre and proceeds from a Value Engineering process, combined with a reduced project contingency is shown as a model to address the current shortfall in **Table 8**.

Table 8 – A model to address current budget shortfall

Current shortfall	\$10,238,086
Less \$4m (internal loan from land sales)	-4,000,000
Less Waste Services projects cancelled/deferred to fund MRF	-3,995,382
Less savings from a rescoped Shoalhaven Resource Recovery Learning Centre	-1,606,927
Less value engineering and reduced contingency	-635,777
Balance to fund	0

Internal Consultations

Internal consultation in respect of this report has been undertaken with Waste Management staff, Technical Services project management staff and Finance staff.

External Consultations

External Consultation in respect of this report has been undertaken with MIEngineers in regard to project completion status and contemporary project costing.

Community Consultations

This report has been the subject of a briefing of the previous Council, a briefing of the new Council and is part of an open Council report. Subject to the resolution of the Council, further advice will be provided via the MRF project page on Council's we site.

Policy Implications

There are no policy implications as a result of the recommendations of this report. The report has been referred to Council for consideration, as the amount of funding needing to be bought to bear exceeds officer delegations. The report is not considered to be confidential in nature and, consistent with the NSW Local Government Act, 1993 is provided to Council for consideration in an open meeting of the Council.

Financial Implications

The financial implications are set out in the *Opportunities Considered in Development of Proposed Funding Model* and the *Recommended Funding Model* sections of this report.

CL24.297

The forecast final project cost is	\$37,150,000
The forecast cost to complete the project is	\$14,750,506
The amount of funding available is	\$4,540,280
Therefore, the total shortfall is	\$10,238,086

The Cost Increases since the inception of the project in 2019 are set out in the *Summary of Cost Increases* of this report, with the options to reallocate existing funds shown in the *Opportunities Considered in Development of Proposed Funding Model* section of this report. The effect of the proposed funding model will be to utilise \$4m in anticipated land sales receipts, reduce the number of ancillary waste projects by a value of \$4m, rescope the Shoalhaven Resource Recovery Learning Centre to reduce costs by up to \$1.7m and finally, to achieve a saving of \$0.6m by undertaking value engineering, with a reduced contingency allowance, in order to achieve the shortfall.

Risk Implications

Placing the project on hold is not considered to be a viable option, as it would have considerable risk for Council. There are several live contracts, which would incur costs to cancel, the largest of which is the process plant and equipment contract, which is a design and construct contract. If the contractor were released of their obligations to close out the contract, the chances of finding another contractor to pick up and finish their works without incurring significant additional cost, would be slim.

Depending on the on-hold timeframe Council may also encounter a risk of the plant and equipment degrading which would also add further future cost.

However, it should be noted that the cost of the plant not operating would result in significant losses to Council from continuing to pay to transport recyclable material offsite to be processed elsewhere and the loss of revenue from the future Council-owned MRF.

Discontinuing the project is not recommended. Council will forgo a potential project profit of approximately \$77m over the first 15 years of the operation of the project, while still incurring the operational cost of haulage and processing of SCC's comingled recyclables – currently \$3.13m per year.

Council would be expected to suffer a significant financial loss on the value of the current expenditure of \$22m incurred on the project to date (including sunk capital costs), offset only by any lease income and/or the sale of MRF equipment that has already been purchased.

The risk of adopting the recommendation is considered to present the least risk. The residual risk is the assumption in **Tables 7** and **8** of the proposed Recommended Funding Model are not able to be achieved. Perpetual monitoring of the variables will be needed and as per Recommendation 3, Council will receive a briefing on the progress of the MRF project every two months, with that report to include cost and expenditure updates.

These assumptions are considered to be achievable and have erred on being conservative where necessary and where able.

CL24.298 Tenders - Construction of Manyana RFS Station

HPERM Ref: D24/436468

Department: Building 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 Manyana RFS Station.

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 'Construction of Manyana RFS Station' in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

Options

1. Accept the recommendation

Implications: This will facilitate a suitable contract being negotiated so that works can commence and align with the grant funding milestone activity completion and reporting timeframes.

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 new four-bay RFS facility including multifunction room, kitchen, office, locker rooms, amenities, BA room / laundry, hardstand and 22 car spaces.

The new facility will serve the community as a whole, and the increased firefighting resources will enable the RFS to provide better protection to the community and other areas of the Shoalhaven.

The benefits of the new facility include:

- Ability to accommodate newer, larger firefighting appliances and other equipment as need for strategic purposes.
- Enable the RFS to attend multiple fire incidents during peak fire season.
- Better capacity for strategic allocation of resources and decreased dependency on other district resources during peak fire season.

CL24.298

- Increase capacity for community involvement and volunteering.

Tendering

Council called tenders for the Construction of Manyana RFS Station on 12 July 2024 which closed at 10:00am on 27 August 2024. Twelve tenders were received at the time of closing.

The Tenders received in no particular order are summarised in **Table 1**.

Table 1. Tenders Received

Tenderer	Location
Baseline Projects Pty Ltd	Crows Nest, NSW
Batmac Constructions Pty Ltd	North Nowra, NSW
Build Australia Pty Ltd	Arndell Park, NSW
Cerak Constructions Pty Ltd	Alexandria, NSW
Edwards Constructions (NSW) Pty Ltd	Nowra, NSW
Joss Facility Management Pty Ltd	Albury, NSW
Monarch Building Solutions (Australia) Pty Ltd	Fyshwick, ACT
Pearce & Percy Construction Pty Ltd	North Nowra, NSW
Rogers Construction Group Pty Ltd	Bella Vista, NSW
Ryka Corp Pty Ltd	North Nowra, NSW
Utilstra Pty Ltd	Fyshwick, ACT
Zauner Constructions Pty Ltd	Lavington, NSW

CL24.298

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

Community Engagement

The following stakeholder groups have been consulted and regularly updated on the project progress:

- RFS (Shoalhaven District) via monthly progress meetings
- RFS (Manyana Brigade) design development and consultation
- Shoalhaven City Council – Asset Custodians and affected departments via regular progress meetings

The Development Application (DA22/2368) was subject to community engagement as part of the DA notification requirements.

Financial Implications

This project is fully funded by the Regional NSW – Bushfire Local Economic Relief Fund.

Sufficient funds have been allocated in the Construction of Manyana RFS Station budget for FY2024/25. 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.

CL24.299 Quarterly Review for Compliance Matters

HPERM Ref: D24/270483

Department: Certification & Compliance
Approver: James Ruprai, Director - City Development

Attachments: 1. Summary of Compliance Activities - Quarterly Review - City Development - April to June 2024 (under separate cover) [↔](#)

Purpose:

This report provides a key overview of compliance activities for Quarter 4 FY24 (1 April 2024 to 30 June 2024).

Summary and Key Points for Consideration:

Council resolved that detailed quarterly reports on compliance activities will be prepared and presented (MIN18.907) and that these reports are to include an analysis of trends, effectiveness, and current arising areas of risk (MIN22.348).

Recommendation

That Council:

1. Receive the 1 April 2024 to 30 June 2024 quarterly report (Q4) on compliance matters for information.
2. Note previous minutes related to receipt of Quarterly Review for Compliance Matters and conduct a briefing to review the content and form for compliance reporting on a quarterly basis.

Options

1. Council adopts the recommendation as shown.

Implications: Nil

2. Council receives the report and provides additional direction.

Implications: Any changes or additional matters will need to be assessed by staff and advised accordingly.

Background and Supplementary information

Council resolved that detailed quarterly reports on compliance activities will be prepared and presented (MIN18.907) and that these reports are to include an analysis of trends, effectiveness, and current arising areas of risk (MIN22.348).

CL24.299

Report

Compliance activities are completed by the following Units within City Development:

- (a) Compliance (Certification and Compliance): Development compliance matters including unauthorised development, development not in accordance with development consent, land use issues and swimming pool safety issues.
- (b) Environmental Health (Environmental Services): Pollution incidents (noise, water, and sediment control), environmental incidents, food shops and the operation of on-site sewage waste management facilities.
- (c) Ranger Services (Certification and Compliance): Parking, animal management, unauthorised camping, littering, rubbish dumping, unattended vehicles, and other environmental offences.
- (d) Fire Safety (Certification and Compliance): Fire Safety relating to commercial buildings.

This report provides Council with an update on the penalties issued (number, type and ticket value) and any Local or Land and Environment Court matters determined or progressing.

This report relates to 1 April 2024 to 30 June 2024 (Q4 FY24).

Internal Consultations

Internal consultation is undertaken with City Development departments who contribute to the report.

External Consultations

There are no external consultations required. However, data from Revenue NSW is included in the report.

Community Consultations

There is no community consultation required to compile this report. However, the report is made available to the public for information.

Policy Implications

There are no policy implications related to this report. However, policies such as the Compliance and Enforcement Policy underpin enforcement decisions and reporting outcomes.

Financial Implications

There are no financial implications related to this report. The report is for information.

Risk Implications

There are no risk implications related to this report. The report is for information.

CL24.300 SF10987 - 33 Forest Rd Kioloa - Lot 5 DP 1280813

DA. No: SF10987/4

HPERM Ref: D24/204703

Department: Development Services

Approver: James Ruprai, Director - City Development

Attachments: 1. Planning Report S4.15 Assessment (under separate cover) [⇨](#)
2. Draft Determination (under separate cover) [⇨](#)
3. Subdivision & Landscape Plans (under separate cover) [⇨](#)

Description of Development: Subdivision of land into 20 Torrens title lots

Owner: AJ Taylor, DP Tyrrell, ADY Taylor

Applicant: Tahnee Ironside

Notification Dates: 27.4.2023 to 25.5.2023

No. of Submissions: Eighteen (18)

Purpose / Reason for consideration by Council

The application was called in for determination by the Council due to the public interest on 5 June 2023 by a Notice of Motion (MIN23.188).

Recommendation

That the Development Application SF10987 for a 20 lot Torrens title subdivision at Lot 5 DP 1280813, 33 Forest Rd Kioloa be approved subject to the conditions contained in Attachment 2 of this report.

Options

1. Approve the development application (DA) in accordance with the recommendation of this report.

Implications: This would allow the applicant to pursue construction of the developments.

2. Refuse the development application (DA).

Implications: Council would need to determine the grounds on which the application is refused, having regard to sections 4.15 considerations. A refusal enables the applicant to lodge a section 8.2 Review and / or appeal with the Land and Environment Court of NSW (LEC).

3. Alternative recommendation.

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

CL24.300

Location Map



Figure 1 – 33 Forest Rd Kioloa

CL24.300



Figure 2 – View of lot looking south



Figure 3 – View of north east corner of lot

CL24.300



Figure 4 – Existing dwelling to be retained

CL24.300

Background

Proposed Development

The proposal includes:

- A one into twenty lot subdivision.
- Lots between 1291m² and 4079.1m².
- Associated civil, stormwater works and internal road infrastructure.
- Proposed subdivision in three stages, see Concept Stage Plan – Figure 6 below.
 - Stage 1: Lots 1 to 6 - Land that fronts Forest Rd, therefore avoiding Merry Beach Road realignment.
 - Stage 2: Lots 7 to 9 and Lots 18 to 20, including the realignment of Merry Beach Road.
 - Stage 3: Lots 10 to 17.
- Variation request to DCP Chapter G8 minimum lot size for subdivision of land in areas that do not have reticulated sewer infrastructure.
- Retention of the existing dwelling and demolition of outbuildings.
- Realignment of Merry Beach Road.

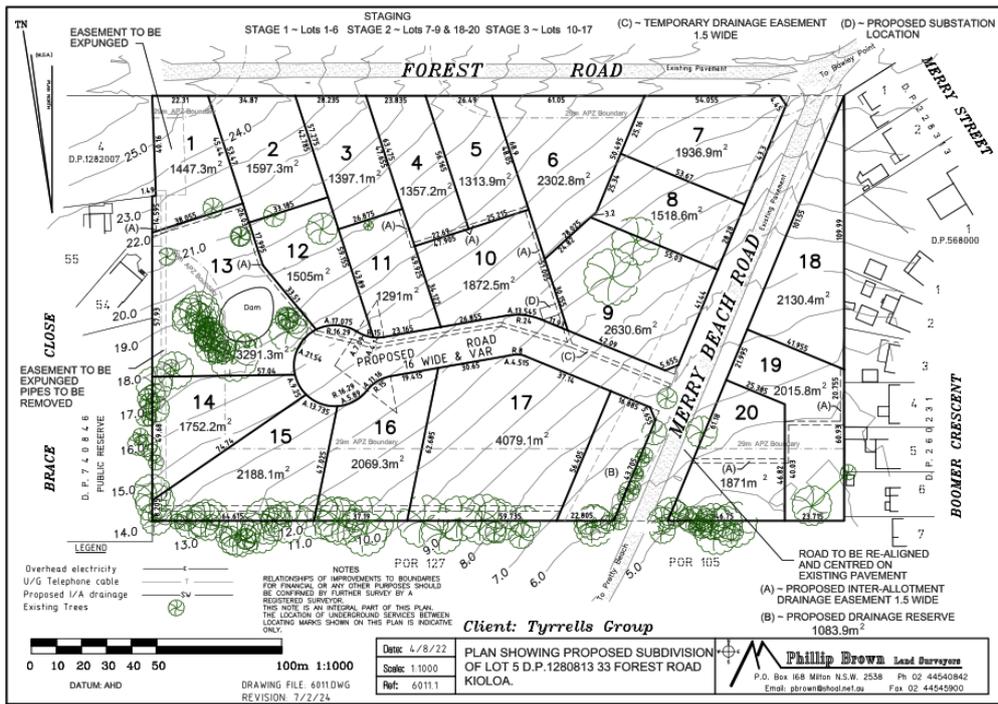


Figure 5 - Proposed Subdivision Plan

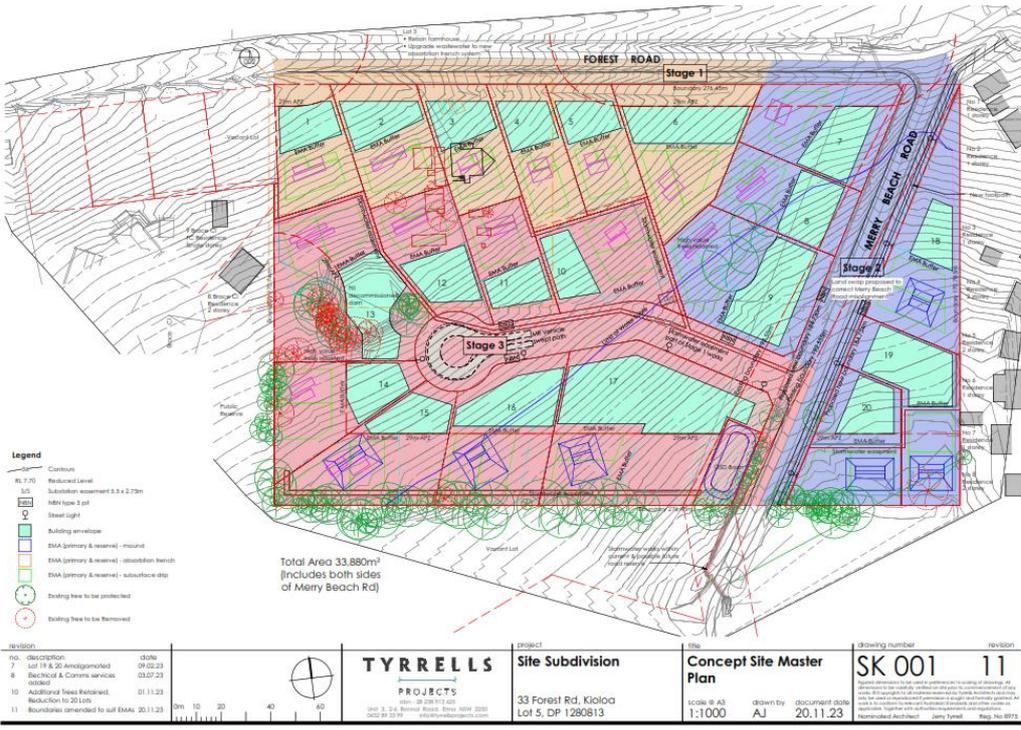


Figure 6 - Concept Staging Plan

Site & Context

The subject site has a frontage to Forest Rd and Merry Beach Rd Kioloa. The site is 4.333ha and currently contains an old dwelling and some outbuildings.

The surrounding area is residential in character. The site is adjoined by low density residential to the east and west, a larger residential lot and Crown land to the north which is still in its natural state. The lot also adjoins Crown land to the south, beyond which is the Merry Beach Caravan Park. Murramarang National Park is situated about 270m to the west.

CL24.300

The lot has a corner location, and the existing Merry Beach Rd traverses the site is not aligned within the surveyed map casement. The lot slopes from northwest to southeast with a cross fall of about 21m. There is no reticulated water or sewer available to the lot or the Kioloa Village.

The site is approximately 100m from Merry Beach General Store, 4.6km from Bawley Point shopping village and 160m to the north of Merry Beach. The Kioloa area is a popular tourist destination due to its wide selection of beaches, the National Park and Caravan Parks.

History

The following provides details on pre-lodgement discussions, post-lodgement actions and general site history for context:

- Pre lodgement discussions were held prior to lodgement.
- The application was lodged on 17.4.2023.
- As a result of detailed assessment of the application and based on concerns regarding the impacts of the proposed onsite wastewater management and biodiversity, additional information was requested from the applicant on 27.4.2023, 19.5.2023, 23.6.2023. A meeting was held between Council Officers and the Applicant’s consultants’ on 7.8.2023 to discuss the issues raised. As a result, revisions to the plans, the onsite wastewater report, biodiversity assessment report, bushfire and civil design were requested. The applicant provided revised plans and documents on 4.12.2023 that included the following revisions:
 - A reduction of lots from 22 to 20 and lot boundaries reconfigured.
 - Additional trees retained in the revised Biodiversity Development Assessment Report (BDAR).
 - Revised civil and stormwater plans.
 - Revised bushfire and onsite wastewater report provided.
- Further information was requested on 14.2.2024 in relation to the Biodiversity Development Assessment Report.
- An amended BDAR was provided on 18.3.2024, 23.5.2024 and 2.7.2024.
- Request for further information on 20.6.2024 in relation to APZs, details of detention basin, revised civil plans and drainage easement modification.
- Revised Civil Plans and Bushfire Assessment provided 22.7.2024.
- Request for further information on 1.10.2024 relating to amendments to Civil Plans and Bushfire Report.
- Revised Civil Plans, IWCMS and Bushfire Report Supplementary Letter provided 11.10.2024.

CL24.300

Previous Approvals over the Site

DA number	Description of Proposal	Decision & Date of Decision	Officer Comment
BA76/0367	Dwelling Additions	Approved	N/A
BA80/0981	Dwelling Additions	Approved	N/A
BA80/1033	Dwelling Additions	Approved	N/A
BA83/1546	Fibro Garage	Approved	N/A

Zoning

The site is zoned RU5 Village, with a 500m² minimum lot size, under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014), see Figure 7 & 8. The proposed development is best characterised as subdivision which is permissible with consent. The objectives of the zone are:

- To provide for a range of land uses, services and facilities that are associated with a rural village.

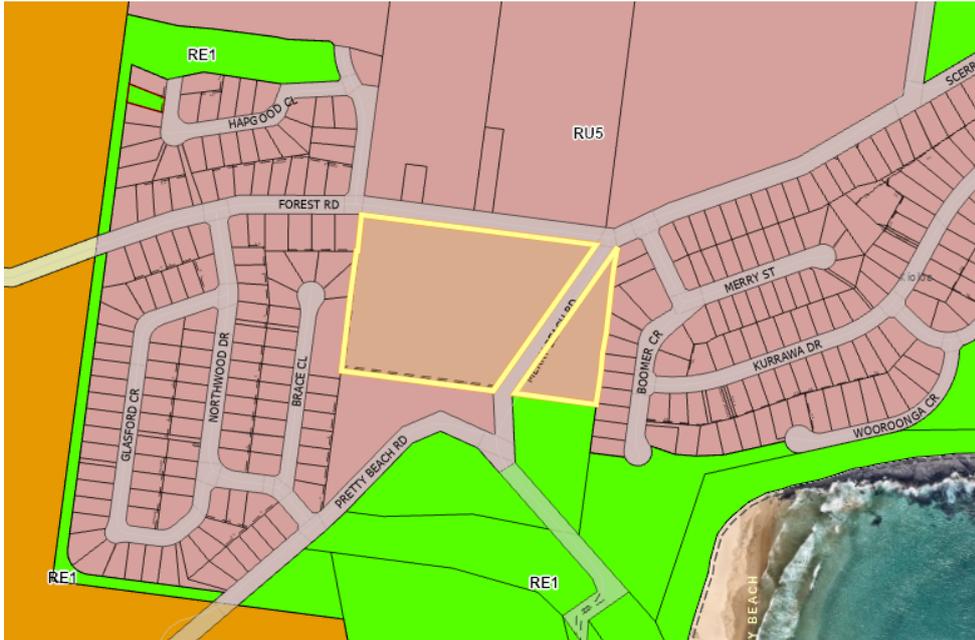


Figure 7 – Zoning Map



Figure 8 – SLEP 2014 Minimum Lot Size Map

CL24.300

Summary of key concerns raised by submitters through notification

Issue

The lack of Infrastructure, including roads, electricity, sewer and water.

Comment:

The lot is zoned RU5 with a minimum lot size of 500m² on which subdivision and residential development is permitted with consent. The proposal is for 20 lots ranging in size from 1291m² to 4079m² which are at a minimum double the LEP minimum lot size. The larger size is to accommodate onsite wastewater systems. It will be a small increase in the population and traffic in the Kioloa area. The existing infrastructure is considered adequate to support the proposal.

The applicant's electrical engineer has assessed the power supply which they have deemed to be acceptable for the proposed future residential use. The application was also referred to Endeavour Energy who have advised that a padmount substation is required to service the subdivision. A space for the padmount substation has been provided in the revised plans.

Issue

The state of existing roads.

Comment:

The condition of the existing roads is not a planning consideration for the proposed development. The state of the existing roads is one of maintenance for Council's capital works program.

Issue

The impact on groundwater quality from the proposed onsite wastewater systems.

Comment:

The applicant has provided an Onsite Wastewater Report prepared by Martens Engineering, who undertook site investigation and effluent modelling to demonstrate that the proposed onsite systems can be accommodated on the individual lots without causing adverse impacts to the surrounding environment including local groundwater, infrastructure and residential land. It has been reviewed by Council's Environmental Health Officer who is satisfied that the report has demonstrated that onsite effluent disposal can be achieved within the proposed lots on the amended lot layout, and the objectives and performance requirements of Shoalhaven Development Control Plan have been met.

Issue

The proposed lot sizes are non-compliant with Council's DCP.

Comment:

The lot sizes range from 1291m² to 4079m² and comply with the LEP minimum lot size of 500m². However, they do not comply with Acceptable Solution A8.2 of Chapter G8 DCP requirement of 2500m² minimum for subdivision of lots that require onsite wastewater systems. The applicant has requested a variation to Acceptable Solution.

The proposal includes 16 lots that are less than 2500m². The variation in the lot sizes range from 8% to 48%.

The following is a summary of their request:

Applicants Variation Statement

The extent of the proposed variation and the unique circumstances as to why the variation is being sought

On 12 January 2021 Council granted consent to development application No. SF10812 for the subdivision of the adjoining land at 17 Forest Road, Kioloa into four lots, with each of the lots being 1,000m². The LEP and DCP controls that apply to 17 Forest Road, Kioloa are identical to those applicable to the subject land at 33 Forest Road, Kioloa.

The subject application relies on identical science and effluent management systems as those approved in SF10812. The On-Site Wastewater Management Assessment prepared by Martens and Associates demonstrates how the EMA will treat and dispose of effluent within, therefore wholly contained within each proposed lot. Martens and Associates prepared the documentation and EMA design for both applications.

This variation is being sought to allow for more availability of lots of similar size to existing neighbourhood properties, "Existing homes are generally on blocks between 500-700sqm" (Planning report).

CL24.300

The lots have been subdivided to ensure that there is the capability that dwellings are generally oriented north and south. Compliant setbacks are such that there is privacy for the proposed dwellings and their neighbours. Lots are large enough to accommodate living areas and private open spaces.

The EMA will be contained within the area identified on the plans submitted with application. It is worth noting that the areas are large enough to contain 2 option disposal as described below.

Demonstrate how the relevant objectives and performance criteria (as appropriate) are being met with the proposed variations

Wastewater treatment and dispersal options have been designed using conservative estimates as outlined in the accompanying On-Site Wastewater Management Assessment prepared by Martens and Associates. In summary, wastewater from a future dwelling of 8 persons/dwelling generated at 960 L/dwelling/day will be treated by an accredited (NSW Health) domestic aerated wastewater treatment system (AWTS). Treated water will then be dispersed on-site by one of 3 options available to the future purchaser, those being via a Wisconsin Mound, absorption trench solution or subsurface drip. A reserve area of 100% will also be allowed for and will be separated from neighbouring properties with appropriate buffer zones.

The future lots are proposed to contain restrictive covenants on title which will restrict the number of bedrooms of dwellings that may be approved. This will ensure that the area designated to the effluent management system is sufficient to properly treat and dispose of effluent. These covenants will only be able to be released, varied, or modified by Council: Part 3.2 of Planning Report prepared by Smith & Tzannes.

Demonstrate that the development will not have any additional adverse impacts as a result of the variation.

The applicant has provided an Onsite Wastewater Assessment Report that assesses the suitability of the land and the installation of onsite systems on smaller lots, and the impact on the environment. Each property will require a detailed design at application stage that should be generally consistent with the approved Onsite Wastewater Report. Council is satisfied that the report has demonstrated that onsite effluent disposal can be achieved within the amended lot layout and the objectives and performance requirements of Shoalhaven Development Control Plan have been met.

Conclusion

The proposed development is supported by comprehensive testing and reporting by Martens and Associates which demonstrates that the proposed lots are provided with sufficient area to treat and dispose of effluent. The objectives of Chapter 8 of the DCP are achieved and the proposed development will not have any additional adverse impacts on the environment or neighbouring properties. It is considered that the proposed development will provide high quality land for future housing in the locality, without creating adverse impacts, and avoiding an increase on existing septic pump out service providers.

In these circumstances, variation of the control should be supported by Council.

Comment:

As discussed above, the Onsite Wastewater Report prepared by Martens and Associates has demonstrated that the proposed onsite systems can be accommodated on the individual lots without causing adverse impacts to the surrounding environment including local groundwater, infrastructure and residential land. Therefore, the request to vary the development control of 2500m² lot size is supported.

The proposed lots will be required to have restrictive covenants placed on title worded appropriately to comply with the approved onsite wastewater report, building envelopes, effluent disposal areas and stormwater design. Each property will require a detailed design at

application stage that should be generally consistent with the report. This will ensure that any future development of the lot will comply with the relevant objectives and performance criteria of Chapter G8.

Issue

The site is currently a wildlife corridor.

Comment:

The lot is a grassland/pasture lot used for animal grazing in the past. A biodiversity assessment report has been provided that confirms that the vegetation on the lot is not significant, nor does it recommend that a wildlife corridor is required.

Issue

Future tourist uses such as an 'air bnb'.

Comment:

The application is for subdivision and not for dwelling construction or tourist and visitor accommodation. Air bnbs can be conducted in dwellings without Council consent and are regulated by the Department of Fair Trading.

Issue

Lack of provision of green space.

Comment:

The relatively small size (20 lots) of the subdivision does not require public open space to be provided. The proposed subdivision is within walking distance to Merry Beach and in close proximity to the Murramarang National Park.

Issue

The provision of affordable housing.

Comment:

The proposal is for subdivision of land and not affordable housing. There is no legislative planning requirement for the developer to provide affordable housing.

Issue

Stormwater runoff from future development.

Comment:

It is proposed that stormwater runoff will be captured via onsite detention, utilising rainwater tanks on the lots and a water quality basin downstream. The stormwater will go through a treatment train consisting of rainwater tanks, swales and bioretention basin to manage the stormwater quality. The proposal meets Councils stormwater management DCP requirements. In addition, to further protect water quality a restrictive covenant will be conditioned to ensure that there are no overland surface water drainage connections into the stormwater drainage system servicing the properties.

Issue

The proposal is not consistent with the coastal character of the area

Comment:

The proposed lot sizes are generally larger than surrounding development and will not be inconsistent with the coastal character of the area. The land is a large parcel that is zoned RU5 Village in the current LEP and 2E residential under the previous LEP 1985 with a minimum lot size of 500m². Future development application for residences on the lots will be

CL24.300

required to comply with Council’s Development Controls which includes controls pertaining to local character and context.

Issue

Bushfire

Comment:

The application is integrated development with the NSW RFS who have no objections and have issued General Terms of Approval for the development in accordance with Planning for Bushfire Protection 2019.

Applicant’s Response to Submissions

- The applicant was invited to consider and respond to submissions and provided their response which is summarised below:

Applicant’s Submission

<p><i>Minimum lot size</i></p>	<p><i>Given the DCP minimum lot size requirement is inconsistent and incompatible with the provision of the LEP, the DCP minimum lot size requirement has no effect. Council cannot refuse the DA on the grounds of minimum lot size given the application provides lots well in excess of the LEP requirement. To do so would be a breach of the Act.</i></p>
<p><i>Inadequate infrastructure/power/amenities/shops</i></p>	<p><i>The DA has been reviewed by Raymond Romanos (Electrical Engineer) who has confirmed that the power infrastructure is sufficient. A plan marked up by Mr Romanos will be submitted to Council through the Planning Portal.</i></p> <p><i>The concern regarding insufficient amenities is not reasonable and has no merit.</i></p>
<p><i>Inadequate Block Size</i></p>	<p><i>The minimum lot size pursuant to the Shoalhaven LEP is 500m². The proposed lots range from 1,180m² (lot 5) to 4,370.7m² (lot 19).</i></p> <p><i>The variation to the DCP lot size requirement has been addressed by Dr Daniel Martens in his report submitted with the DA, and the subsequent response to the engineering referral dated 9 June 2023. The science supports the proposed lot sizes and effluent management systems. As does the precedent set by Council in approving our client’s previous DA at 17 Forest Road, for four lots, all 1,000m² with identical effluent management systems proposed.</i></p> <p><i>The proposed lots will be bigger than all lots adjoining the subject site, which are generally 600m². We are genuinely surprised that the submissions would raise lot size as a concern.</i></p>
<p><i>Wildlife corridor</i></p>	<p><i>In response to these concerns, we provide the following extracts from the BDAR prepared by South East Environmental submitted with the DA: -</i></p> <p><i>Part 1.3: “The disturbance from many years of livestock grazing and grass mowing is apparent</i></p>

CL24.300

	<p><i>throughout the cleared areas where minimal native vegetation occurs, and exotic grasses dominate the vegetation class.”</i></p> <p><i>Part 7: “The subject property has a history of disturbance from the use as a livestock grazing property and lifestyle living. The vegetation within the study area is significantly disturbed which is reflected in the Vegetation Integrity Score achieved via the BAM survey data....</i></p> <p><i>Due to the poor condition of the vegetation subject to removal and its position within the landscape, it is highly unlikely that a Serious and Irreversible Impact will occur to either of the Endangered Ecological Communities or the threatened fauna species which may occur onsite...</i></p> <p><i>The proposed development of a new subdivision will not significantly impact upon any threatened species, threatened population or threatened ecological community as listed on the schedule of the NSW BC Act. No other potential habitat for any threatened fauna species or populations will be directly affected should the development be approved providing recommendations within this report are adopted.”</i></p> <p><i>The concerns raised have been considered and addressed by South East Environmental.</i></p>
<p><i>Stormwater drainage/quality of runoff</i></p>	<p><i>In response to these concerns, we provide the below extract from the Statement of Environmental Effects prepared by Smith & Tzannes, submitted with the DA:</i></p> <p><i>-</i></p> <p><i>Part 3.7: “At present, the stormwater catchment associated with the site falls from Forest Road and collects to the south and south-east of the property. Stormwater from future development will be captured for occupant use. Excess and surface runoff will be diverted away from the wastewater treatment area and along a 2m wide easement, as shown on the concept drawing.</i></p> <p><i>Disposal will be via existing infrastructure on Merry Beach Road. Refer accompanying Civil Engineer documentation. The proposed stormwater catchment is generally consistent with the existing catchment in that it falls from Forest Road to the rear boundary.”</i></p> <p><i>With reference to the plans prepared by MAKER Engineers, all stormwater that is not captured and reused onsite, will be filtered in the proposed bioretention basin before being disposed of. This is a better outcome than that currently in place.</i></p>
<p><i>Parking</i></p>	<p><i>The proposed large lots will accommodate an overflow of parking for future residents and visitors. This concern is not reasonable and has no merit.</i></p>

CL24.300

Roads	<p><i>The addition of 22 lots will not have any discernible impact on the local road network.</i></p> <p><i>The quality of the local road network is a matter that the residents should raise with Council.</i></p>
Bushfire	<p><i>Given the RFS has issued GTA's for the proposed development, this concern is addressed.</i></p>

Planning Assessment

The DA has been assessed under s4.15 of the *Environmental Planning and Assessment Act 1979*. Please refer to Attachment 1.

Policy Implications

Not applicable

Financial Implications:

Nil, unless the matter is potentially litigated. See below.

Legal Implications

If the application is refused, or if the applicant is dissatisfied with Council’s determination, the applicant is entitled to appeal to the Land and Environment Court (LEC).

Under some circumstances, third parties may have a right to appeal Council’s decision to the LEC.

Summary and Conclusion

The Report and the attached s4.15 Assessment Report (Attachment 1) provides an assessment of the proposal for the subdivision of land into 20 Torrens title lots and associated civil works on the land identified as 33 Forest Rd Kioloa legally described as Lot 5 DP 1280813.

The proposed development has satisfied the provisions of SLEP 2014, and the overall objectives and provisions contained within Shoalhaven Development Control Plan (SDCP) 2014.

The proposal is considered to result in a development, which is suitable in the context of the existing and desired future character of the area.

This application has been subjected to a detailed analysis of the issues raised in the submissions which have been addressed in this report.

The application for subdivision is compliant with the relevant planning instruments and recommended for determination by way of deferred commencement approval subject to conditions outlined in Attachment 2 - the draft determination.

CL24.300

CL24.301 Petition - Shoalhaven River (Heads) - Entrance Management Plan - Mechanical opening

HPERM Ref: D24/335187

Department: Environmental Services

Approver: James Ruprai, Director - City Development

Attachments:

1. Shoalhaven River Entrance Management Fact Sheet [↓](#)
2. Ongoing Process Relating to Shoalhaven River Entrance Management at Shoalhaven Heads [↓](#)
3. Response to the Shoalhaven Heads Community Forum regarding the Shoalhaven River EMP [↓](#)

Purpose:

Council received a petition from the Shoalhaven Heads Community Forum regarding the Shoalhaven River Entrance Management Policy for Flood Mitigation. A report to Council has been prepared in accordance with the Petition to Council Policy.

Summary and Key Points for Consideration:

In the Council Ordinary Meeting 29 July 2024, Councillor Copley tabled a petition containing 892 signatures which reads:

*The Shoalhaven Heads Community Forum and the residents of Shoalhaven Heads and surrounds call on Shoalhaven City Council and the NSW State Government to **adopt an entrance management plan** for the Shoalhaven River at Shoalhaven Heads which achieves a **mechanical opening of the river entrance** when the flood level **reaches or is predicted to reach minor flood level** (2.3m at Nowra Bridge and 1.5m at Shoalhaven Heads).*

Recommendation

That Council

1. Acknowledge the receipt of the petition.
2. Advise the petitioner that the petition relates to issues previously addressed in the resolution MIN24.414 whereby Council resolved the following:
 - a. *Acknowledge the Shoalhaven Heads community have expressed their urgency regarding review of the Entrance Management Plan, trigger levels and regulatory requirements.*
 - b. *Acknowledge the current work program completed or underway on: Flood Modelling; Floor Level Surveys; Floodplain Risk Management Study/Plan; and, Coastal Management Program, that will appropriately inform a review of the Entrance Management Plan.*
 - c. *Direct the CEO (Director, City Development) to continue the drafting of the Lower Shoalhaven River Coastal Management Program and give priority to the review of the Entrance Management Plan as an action and outcome.*
 - d. *That the CMP incorporates extensive community consultation, with the results of public exhibition including and accounting for local resident views as part of assessment of the entrance management plan (EMP).*

CL24.301

- e. *Ensure the Shoalhaven Heads Estuary Taskforce is briefed and consulted on the EMP review by December 2024, giving an intended approach to proposed revised licence conditions; community consultation; and progression to relevant State Government Departments and NSW Crown Lands for intended determination by mid-2025.*
3. Advise the petitioner that evidence-based investigations required to update the Shoalhaven River Entrance Management Policy (EMP), and Review of Environmental Factors (REF) are underway and had commenced prior to the commencement of the petition by the Shoalhaven Heads Community Forum.
4. Direct the CEO (Director, City Development) to provide updates on progression of the Shoalhaven River EMP to the Shoalhaven Heads Community Forum as it progresses.

Options

1. That Council note the recommendation.

Implications: Nil.

1. Council may wish to adopt an alternative recommendation.

Implications: Unknown. This could delay the completion of ongoing evidence-based investigations to inform the EMP review and associated REF and NSW Crown Lands licence application.

Background and Supplementary information

Reviewing an EMP is a complex process, which takes time. Council will liaise closely with NSW State Government agencies to gain their support prior to implementing these in an updated EMP. As such, the NSW State Government has a process that Council needs to follow to update an EMP, including preparing a Review of Environmental Factors (REF) under Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW), and this process is well underway already. The outcomes of these investigations will be conveyed to advisory committees and the wider Shoalhaven Heads community when they have been completed in collaboration with relevant NSW State Government agencies. It is anticipated that the Lower Shoalhaven River Coastal Management Program (CMP) package will go on public exhibition in late 2024.

Upon completion of the CMP and EMP, Council can prepare a NSW Crown Land licence application to seek approval to implement the EMP. It is important to note that the Shoalhaven River entrance is located on Crown Land and is therefore governed by the *Crown Land Management Act 2016* (NSW). Shoalhaven City Council has no legal jurisdiction to manage the Shoalhaven River entrance outside the conditions stipulated in a Crown Land licence. For Council to obtain a new Crown Land licence, the NSW Government require Council to prepare an EMP and a REF before applying for a Crown Lands Licence to implement and/or change the content, including trigger levels, of an EMP. Council will only receive a Crown Land licence if all relevant State Government agencies have provided their support through the process, namely NSW Crown Lands, NSW DPI Fisheries, NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW), and NSW National Parks and Wildlife Service (NPWS). Although the purpose of the EMP is to facilitate mechanical intervention of the entrance, it also needs to consider the environmental management of the entrance berm, threatened shorebird habitat and the integrity of the coastal dune system. The NSW Government require the entrance to be managed in accordance with numerous Acts including, but not limited to, the *Crown Land Management Act 2016*, *Fisheries Management Act 1994*, *National Parks and Wildlife Act 1974*, and

Coastal Management Act 2016. Operating outside of these requirements would be considered an illegal activity, subject to heavy fines.

Council had commenced this multidisciplinary process prior to the petition being tabled, by undertaking and completing several projects, ultimately working towards a contemporary Shoalhaven River EMP and NSW Crown Lands licence.

Refer to Attachment 1 for the Shoalhaven River Entrance Management Fact Sheet.

Refer to Attachment 2 for a process diagram which summarises the investigations underway to support the completion of an evidence-based review of the existing EMP trigger levels.

Internal Consultations

The Shoalhaven River EMP and REF are being reviewed and updated by Council's Coastal Management Unit and Floodplain Management Unit as part of the Lower Shoalhaven River CMP and Lower Shoalhaven River Floodplain Risk Management Study & Plan (FRMSP).

External Consultations

The existing Shoalhaven River EMP triggers are being reviewed by Rhelm as part of the Lower Shoalhaven River FRMSP.

An updated draft Shoalhaven River EMP has been prepared by Rhelm as part of the Lower Shoalhaven River CMP. This has included initial consultation with various NSW State Government agencies.

An REF for the Shoalhaven River EMP is currently being prepared by Water Technology.

Community Consultations

The Shoalhaven Heads Community Forum were notified by email from Council on 7 March 2024 that the Lower Shoalhaven River FRMSP had commenced and that this included a review of the Shoalhaven River EMP triggers (refer Attachment 3). This was further discussed at the Northern Floodplain Risk Management Committee on 6 March 2024.

There has been ongoing consultation with the Shoalhaven Heads community about the review and update of the Shoalhaven River EMP as part of the development of the Lower Shoalhaven River CMP.

Further to this, the petitioner sent emails to Council on 5 July 2024, 6 July 2024, and 11 July 2024 and Council responded on 29 July 2024 to The Shoalhaven Heads Community Forum providing the information pertaining to the EMP.

Policy Implications

Following the completion of the evidence-based review of the Shoalhaven River EMP triggers, community consultation will be undertaken for the draft Shoalhaven River EMP prior to this being reported to Council for adoption. Upon adoption of the EMP, the EMP and REF will be submitted to NSW Crown Lands as part of the formal NSW Crown Lands licence application. After the NSW Crown Lands licence has been obtained, Council will undertake entrance management for the Shoalhaven River entrance in accordance with the EMP, REF and NSW Crown Lands licence.

Financial Implications

The evidence-based review of EMP triggers, updated EMP and REF are all funded as part of the ongoing Lower Shoalhaven River CMP and Lower Shoalhaven River FRMSP investigations.

Risk Implications

The purpose of an EMP is to reduce flood risk. It is noted that a mechanical opening of the Shoalhaven River entrance will not prevent flooding of houses within the entirety of the catchment. Even if the entrance is fully open at the start of a large flood (i.e., it has recently been scoured by a preceding flood) there are existing houses that can still be flooded. Accordingly, the EMP aims to reduce, not eliminate, the impacts of flooding on the community and properties. Entrance management can be an effective management strategy for smaller frequent flood events but will not result in reductions in flood levels for larger flood events.

Council needs to satisfy the requirements of the *Work Health and Safety Act 2011* as part of all entrance management activities. There may be circumstances (e.g., closed roads, dangerous sea conditions) where, despite best endeavours, Council cannot enact opening of the entrance at the level indicated in the EMP.

CL24.301

Shoalhaven River Entrance Management Fact Sheet

The Shoalhaven River

Following the construction of Berry's Canal in 1822, the Shoalhaven River entrance at Shoalhaven Heads became intermittently open, with normal flows reaching the sea at Crookhaven Heads via Berry's Canal. The Shoalhaven River entrance is opened by floods and subject to closure by natural onshore coastal processes.

The Shoalhaven River entrance is located on land owned by NSW Crown Lands. Council can artificially open the Shoalhaven River to the sea at Shoalhaven Heads with machinery, however, are only permitted to do so in accordance with the trigger levels and conditions specified within the Shoalhaven River Entrance Management Plan (EMP) for Flood Mitigation (2006) and NSW Crown Lands licence.

The Dynamic Environment

The Shoalhaven River entrance at Shoalhaven Heads is dynamic in nature. When open, sand builds up from wave action, forming a berm at the opening. Incoming tides then push sand into the entrance. This process constricts flows and leads to a gradual closure of the entrance. Long periods of closure may occur during periods of drought or severe coastal storms.

The Shoalhaven River is unique from the perspective that the estuary at Shoalhaven Heads remains tidal when the entrance is closed to the sea, due to the permanent opening of the river at Crookhaven Heads.

During times of significant rainfall in the catchment, the water level within the estuary can rise to eventually overtop the beach berm, scouring a channel and opening the entrance naturally to the sea.

These channels can drift and change shape by wave and wind action moving sand into and around the entrance.

When entrances close, it can often cause community concern, particularly with regard to flooding of low-lying areas and perceived changes in water quality.

Flood Mitigation

Council, in conjunction with the NSW Government, is responsible for managing the Shoalhaven River entrance for the purpose of flood mitigation for low-lying properties.

Due to the historical development of the floodplain, low-lying properties are at risk of flooding under certain flooding and entrance conditions.



Figure 1. Shoalhaven River Entrance During Flood (Feb 2020)

The Shoalhaven River EMP for Flood Mitigation (2006) documents the procedure for the mechanical opening of the Shoalhaven River entrance at Shoalhaven Heads.

The mechanical opening of the Shoalhaven River entrance will not prevent flooding of houses within the entirety of the catchment. Even if the entrance is fully open at the start of a large flood (i.e., it has recently been scoured by a preceding flood) there are existing houses that can still be flooded. Accordingly, the EMP aims to reduce, not eliminate, the impacts of flooding.

The Shoalhaven River EMP aims to implement a management regime which is consistent with the principles of ecologically sustainable development.

Under the Shoalhaven River EMP, the Shoalhaven River entrance can be mechanically opened when the following conditions have been met:

- Water level at or exceeding 3.0m AHD at the Nowra gauge (Wharf Rd) initiates an immediate entrance opening; or
- Water level at or exceeding 2.0m AHD at the Shoalhaven Heads gauge (Hay Av) initiates an immediate entrance opening; or
- If either of the above trigger levels are expected to be reached based on a Flood Warning from the Bureau of Meteorology (the Bureau), a pre-emptive entrance opening can be undertaken.

The EMP allows a "dry notch" to be maintained. The dry notch restricts the level of sand immediately behind the main beach berm to lower than 2.0m AHD. This reduces

Shoalhaven River | Entrance Management Fact Sheet

the quantity of sand requiring movement in an emergency opening of the entrance.

The entrance berm is surveyed monthly by Council during periods when the entrance is closed and immediately prior to significant weather events, in which flooding may occur, and thus, necessitate an opening of the entrance.

Council closely monitors flood warnings from the Bureau and water levels in the Shoalhaven River catchment at several locations during significant rainfall events.

If the entrance is closed and flood levels (actual or forecast) are below the opening trigger levels, floodwater can discharge to the sea via Berry's Canal and Crookhaven Heads without impacts.

If the entrance is closed but the beach berm elevation is below 2m AHD, the entrance can naturally open without mechanical intervention before the trigger levels are reached.

If the entrance is closed and the beach berm is above 2m AHD, Council can mechanically open the entrance at times of flood as per the EMP to alleviate low-level flooding.

Opening the entrance involves excavation of a pilot channel through the beach berm. This allows floodwater to scour open and widen the Shoalhaven River entrance prior to the arrival of the flood peak.

There are a number of factors that need to be considered as part of any entrance opening, such as water level and washover from the sea (Figure 2), the presence of protected migratory shorebirds, and the safety of machinery operators.

There may be circumstances (e.g., closed roads, dangerous sea conditions) where, despite best endeavours, Council cannot enact opening of the entrance at the level indicated in the EMP.

Review of the EMP

Council is committed to reviewing and updating the Shoalhaven River EMP, to contemporise and reflect the predicted changes resulting from climate change, growth of the Shoalhaven Heads community and legislative changes.

The review of the EMP is being undertaken as part of the Lower Shoalhaven River Coastal Management Program (CMP). Council is working closely with its Coastal Management Program Advisory Committees, with

community members having several opportunities to provide input. To receive updates and follow the progress of the CMP, we encourage the community to subscribe to Council's "Get Involved" webpage.

The triggers in the current EMP will be reviewed as part of the Lower Shoalhaven River Floodplain Risk Management Study & Plan. If changes to the triggers are recommended, this would be included in an updated EMP and NSW Crown Lands licence.

Prior to undertaking artificial openings of rivers and lakes, Council is required to obtain a licence under the *Crown Land Management Act 2016* by consulting and reaching an agreement with State Government agencies.



Figure 2. Shoalhaven River Entrance Mechanical Opening at Shoalhaven Heads (Mar 2022)

Water Quality

Long periods of closure often lead to community concern regarding water quality. Periods of closure, however, do not necessarily result in a poor or unhealthy environment.

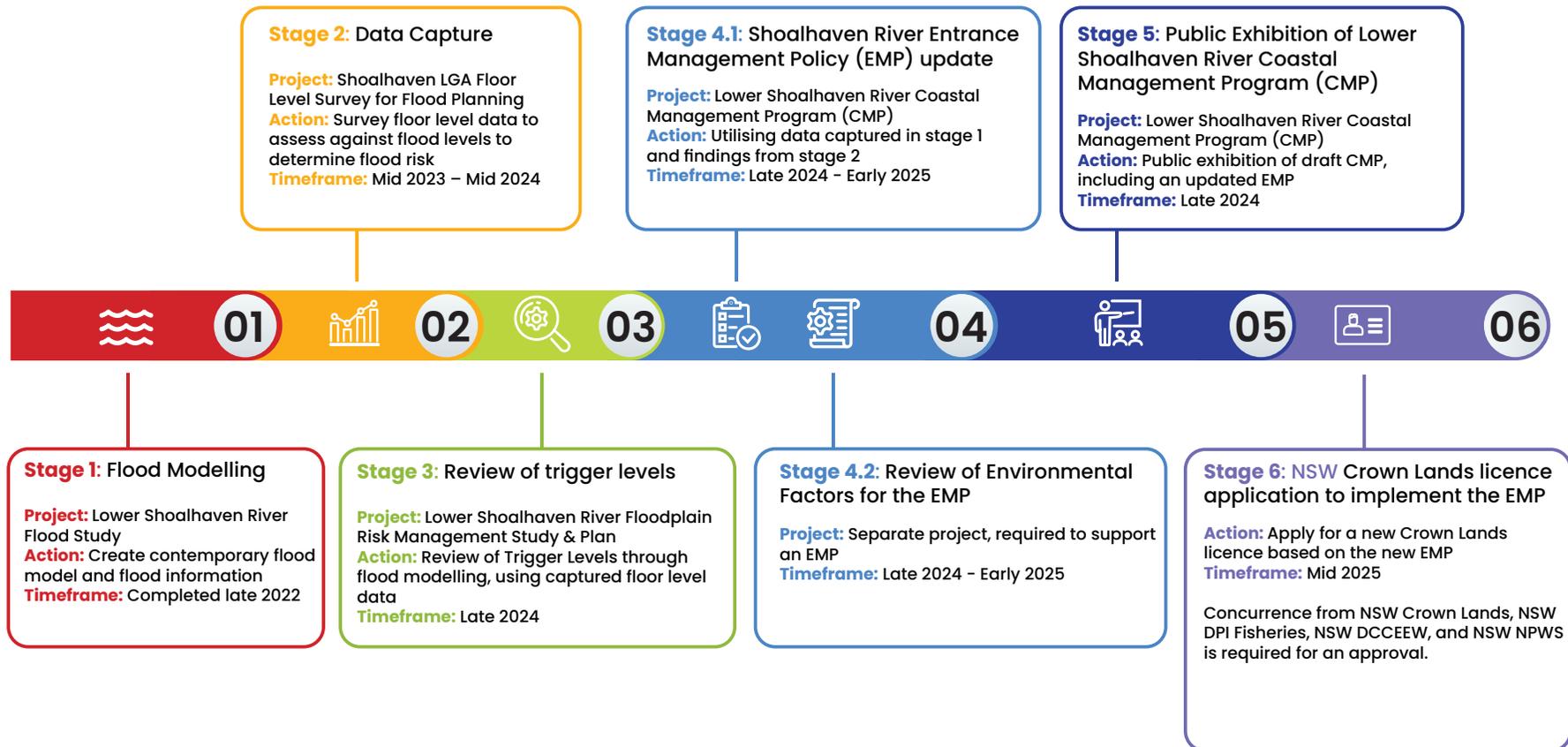
Council has ongoing water quality monitoring programs that measure the levels of pollutants within waterways in the Shoalhaven. When entrances are closed, further water quality monitoring is typically undertaken by Council to ensure the same healthy water quality is maintained. Council will erect warning signs and notify the public if it becomes unsafe.

Unauthorised opening of the Shoalhaven River is prohibited and can carry a maximum fine of up to \$110,000 for individuals and \$220,000 for corporations.



Find out more
<https://www.shoalhaven.nsw.gov.au/For-Residents/Our-Environment/Coast-Waterways/Entrance-management>
Or search "Entrance Management" on our website.

Contact Us
shoalhaven.nsw.gov.au/contact | 1300 293 111
36 Bridge Road, Nowra (Mon-Fri – 9am-5pm)



From: Environmental Services Management
Sent: Monday, 29 July 2024 2:49 PM
To: Shoalhaven Heads Community Forum
Cc: 'Robyn Flack'; James Ruprai; All Councillors
Subject: Response to the Shoalhaven Heads Community Forum regarding the Shoalhaven River EMP
Attachments: Flooding in lower Shoalhaven River.; Shoalhaven Heads Entrance Notch Maintenance; Height Level of Notch at Shoalhaven Heads; Ongoing Process relating to Shoalhaven River Entrance Management at Shoalhaven Heads.pdf

Dear Robyn (on behalf of the Shoalhaven Heads Community Forum),

It is noted that you have sent three separate emails to Council relating to the management of the Shoalhaven River entrance at Shoalhaven Heads, namely:

- Email dated 6 July 2024 – Re: Information requests relating to the level of the dry notch at Shoalhaven Heads and undertaken maintenance in the past two years;
- Email dated 11 July 2024 – Re: Shoalhaven River entrance at Shoalhaven Heads maintenance request; and,
- Email dated 5 July 2024 – Re: Shoalhaven Heads Community Forum has carried a motion requesting Council in conjunction with the NSW Government to adopt a revised trigger and dry notch levels of the Shoalhaven River at Shoalhaven Heads.

This response will address all of the above emails.

Re: Information requests relating to the level of the dry notch at Shoalhaven Heads and undertaken maintenance in the past two years.

Council continuously monitors the Shoalhaven River entrance at Shoalhaven Heads. When closed, Council conducts a monthly survey of the dune crest / entrance berm and dry notch to understand current conditions. The Shoalhaven River was last opened in March 2022, and remained opened until May 2023. As such, Council did not undertake any survey or maintenance of the entrance during this period. Since the entrance closed in May 2023, Council has undertaken monthly surveys of the dune crest / entrance berm and dry notch, the latest conducted in July 2024.

The surveys identified that the entrance berm level was approximately 1m AHD immediately after closure and increased to 2.15m AHD by December 2023. Several severe coastal events in 2024 led to the continued increase of the entrance berm level to 2.6m AHD as of July 2024. The “dry notch” area was not at 2.4m AHD. Rather, the dune crest / entrance berm was above 2.0m AHD and the dry notch area was below 2m AHD.

Figure 1 below shows a cross section of the Shoalhaven River entrance at Shoalhaven Heads. The cross section illustrates the dry notch area (green) and the dune crest / entrance berm (red). It is important to note that Council currently do not have approval for entrance berm lowering works to be conducted at the Shoalhaven River entrance. As demonstrated in Figure 1, Council is required to maintain a 10-20m wide dune crest / entrance berm untouched in accordance with the *Review of Environmental Factors (REF) Shoalhaven River Dry Notch*. This is to reduce wash over to limit further shoaling of the dry notch and to reduce the length of excavation required should a mechanical opening be warranted.

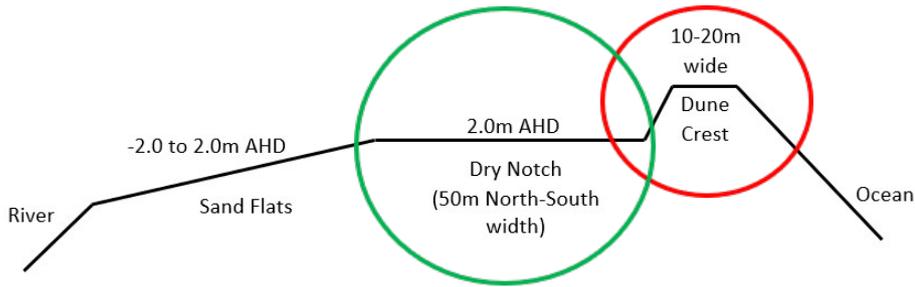


Figure 1 - Cross section of Shoalhaven River entrance at Shoalhaven Heads

Illustrated in Figure 2 below is the area where Council can conduct dry notch maintenance works. It is important to note, while the entrance berm level may be above 2.0m AHD, the sand within the licensed dry notch area may not. In April 2024, the total volume of sand above 2.0m AHD within the dry notch area was approximately 50m³. In July 2024, this volume had reduced to only 10m³ of sand above 2.0m AHD. As such, Council has not undertaken any dry notch maintenance works within the licensed area in the past two years as these works have not been warranted. The completion of monthly entrance surveys allows Council to constantly monitor the elevation and volume of sand in the dry notch area and then remove sand as may be required.



Figure 2 Licensed Dry Notch area (purple)

Re: Shoalhaven River entrance at Shoalhaven Heads maintenance request.

As described above, there is a difference between the “sand berm” and “dry notch” areas of a closed entrance. Council currently has a NSW Crown Lands licence to undertake dry notch maintenance. Such maintenance has not been warranted in the past two years (refer to above response).

It is unclear, and quite unfortunate, that the community finds it concerning, not reassuring, when Council informs that continuous monitoring and close liaison with state and federal agencies are being undertaken. Please note that Council would be subject to significant fines, should works be undertaken on community request, and not agency information, outside of relevant licence conditions, as you indicated “should have” occurred in your email in June 2024.

In Council’s opinion, providing survey results on Council’s website would provide little benefit to the community and the information could be easily misinterpreted in terms of maintenance

requirements. When and how maintenance occurs is an operational decision made by Council. Misinterpretation of this information could cause undue stress to the community.

As you may be aware, the Lower Shoalhaven River is included in the Bureau of Meteorology's (BoM) Flood Forecast and Warning Service. This means that during severe weather events, BoM will issue a Flood Watch to provide early advice of a developing situation that may lead to flooding. A Flood Watch is NOT a warning of imminent flooding. A Flood Warning is issued when flooding is expected to occur in a geographical area and will generally include specific predictions of the severity of the expected flooding. It is highly unlikely that a Flood Warning would be issued without a preceding Flood Watch. As such, Council receives early warning for potential flooding in the Lower Shoalhaven River, and the magnitude of the potential flooding, through BoM's Flood Forecast and Warning Service. A BoM Flood Warning allows Council to undertake pre-emptive entrance management works, such as the excavation of a pilot channel, prior to the flood levels rising in the Lower Shoalhaven River.

According to BoM, 85% of flood forecast peak height predictions met service level specification targets (typically within 0.3metres) and 73% of flood forecast lead times met service level specification targets (which vary in lead time for each river forecasted for) [\[LINK\]](#). The benefit of BoM providing Flood Warning to the Lower Shoalhaven River is that it provides Council with lead time to implement pre-emptive management actions when required. The BoM forecast flood levels at Nowra for all flood events over the past four years have been very accurate. As noted above, the observed peak flood level at Nowra was within 150mm of the BoM forecasts for the June 2024 flood events.

It is also noted that the Shoalhaven River catchment includes a significant number of rainfall and water level gauges which record information in real time. Council continuously monitors flood levels throughout the catchment during a flood event. The travel time of floodwater from these upstream gauges to Nowra and Shoalhaven Heads allows time for pre-emptive entrance management works when the planned opening trigger levels are forecast to be reached. Accordingly, the trigger level of 3.0m AHD at the Nowra Bridge is assessed and evaluated with a high level of scrutiny for this purpose.

In the days leading up to the flood event on the 6th & 7th of June 2024, BoM issued several Flood Watches and Flood Warnings. None of the Flood Warnings issued indicated that the peak flood level in the river would reach, or exceed, the trigger levels required for entrance management. However, Council kept an excavator on standby at Shoalhaven Heads should the forecast or warnings change. Importantly, Council's Floodplain Management Unit continued to monitor the situation as it developed to determine if any maintenance actions would be required. The Lower Shoalhaven River peaked overnight on 6 June 2024 at 2.44m AHD at Nowra Bridge and at 1.71m AHD at Shoalhaven Heads. The observed peak flood level at Nowra was within 150mm of the BoM forecasts for the June 2024 flood events.

Council is currently following a process to ultimately apply for a new NSW Crown Lands licence for entrance management at the Shoalhaven River entrance at Shoalhaven Heads. This application will cover entrance management including dry notch maintenance, pilot channel excavation, berm lowering, and storage of sand for sand nourishment purposes.

Re: Shoalhaven Heads Community Forum has carried a motion requesting Council in conjunction with the NSW Government to adopt a revised trigger and dry notch levels of the Shoalhaven River at Shoalhaven Heads.

Council notes that the Shoalhaven Heads Community Forum has carried a motion relating to revised trigger levels for the Shoalhaven River Entrance Management Policy (EMP) for flood mitigation purposes at Shoalhaven Heads.

Reviewing an EMP is a complex process, which takes time. However, Council has commenced this process by undertaking and completing several projects, ultimately working towards a contemporary Shoalhaven River EMP and NSW Crown Lands licence.

Please refer to the attached illustration of a infographic flowchart that summarises the below information.

Lower Shoalhaven River Flood Study [\[LINK\]](#)

Council completed a contemporary Lower Shoalhaven River Flood Study in 2022. The outcomes of this Flood Study are required to review the Shoalhaven River EMP.

Shoalhaven LGA Floor Level Survey for Flood Planning [\[LINK\]](#)

Council received funding from the Disaster Risk Reduction Fund (DRRF), jointly funded by the Australian and New South Wales governments to undertake a risk-based floor level survey of properties located on flood prone land within the Shoalhaven LGA. The captured floor level data will assist Council and the NSW State Emergency Service (SES) to identify, plan and prepare suitable actions and measures to reduce existing and future flood risk to the community. This includes considering the captured floor level data for Shoalhaven Heads when reviewing the Shoalhaven River EMP at Shoalhaven Heads.

The project was 100% grant funded and was undertaken between June 2023 and June 2024.

Lower Shoalhaven River Floodplain Risk Management Study & Plan (FRMSP) [\[LINK\]](#)

Council engaged a consultant, Rhelm, in early 2024 to assist with the preparation of this study, which is 2/3 funded by the State Government. One component of this study, which is currently being investigated, is to review the trigger levels in the existing EMP and their potential impacts on flood levels, incorporating the captured floor level data and utilising contemporary flood modelling from the *Lower Shoalhaven River Flood Study (2022)*. If this investigation identifies any recommended changes to the existing trigger levels, these will be included in an updated EMP and Review of Environmental Factors (REF)(refer to below sections for further info). It is important to note that any potential changes to planned opening trigger levels in the Shoalhaven River need to be supported by an evidence-based process, such as flood modelling and floor level surveys, and approved by NSW State Government agencies.

As soon as Council received the floor level data for the Lower Shoalhaven River floodplain from the Shoalhaven LGA Floor Level Survey for Flood Planning project, this was immediately provided to the consultant completing the Lower Shoalhaven River FRMSP to commence the review the trigger levels in the existing EMP. The review of the trigger levels is expected to be completed in late 2024.

Council acknowledges the impact the recent weather events in June 2024 had on parts of the Shoalhaven Heads community and it is always unfortunate when natural disasters impact communities. However, it is important to highlight that occupying flood prone land comes at a risk. A risk that residents of flood prone land accepted when deciding to occupy such land. NSW planning regulations have historically allowed for, and still do allow for, development of non-habitable floor areas (storage, garage, laundry etc.) in flood zones without any requirements for minimum floor levels, with habitable floor levels having to be at or above a set Flood Planning Level to reduce the risk of flooding. This is the case for some properties located in Hay Avenue where the flood debris marks are indicated on a non-habitable area. The purpose of an EMP is for flood mitigation to habitable floor areas, not non-habitable floor areas. Protecting non-habitable floor areas from flooding through an EMP would unlikely ever be approved by the State Government as these structures have been approved on extremely low-lying land. As such, there are significant limitations in terms of what level of protection to the community an EMP can provide, as rivers and lakes floods naturally (with or without an open entrance) as a result of

significant rainfall. Hence, occupying low-lying land comes with a significant flood risk when severe rain events occur in the catchment. The EMP aims to mitigate impacts from flooding, but it cannot prevent flooding altogether. To effectively mitigate flood impacts, other measures will need to be considered. The long-term flood risk management strategy for the Lower Shoalhaven River is currently being investigated in the Lower Shoalhaven River Floodplain Risk Management Study & Plan.

Lower Shoalhaven River Coastal Management Program (CMP) [\[LINK\]](#)

The Shoalhaven River EMP is currently being updated as part of the Lower Shoalhaven River CMP. Council has also received funding to prepare a REF to support an update to the EMP, which has also commenced. The updated EMP and REF will consider the findings from the review of planned opening trigger levels undertaken as part of the Lower Shoalhaven River FRMSP. If a change to the existing trigger levels is recommended, Council will have to liaise closely with State Government agencies to gain their support prior to implementing these in an updated EMP.

As such, the NSW Government has a process that Council needs to follow to update an EMP, including preparing a REF, and this process is well underway already. The outcomes of these investigations will be conveyed to advisory committees and the wider Shoalhaven Heads community when they have been completed in collaboration with relevant State Government agencies. It is anticipated that the Lower Shoalhaven River CMP package will go on public exhibition in late 2024, including an updated EMP, for community input.

Crown Land Licence Application

Upon completion of the CMP and EMP, Council can prepare a Crown Land licence application to seek approval to implement the EMP. It is important to note that the Shoalhaven River entrance is located on Crown Land and is therefore governed by the *Crown Land Management Act 2016* (NSW). Shoalhaven City Council has no legal jurisdiction to manage the Shoalhaven River entrance outside the conditions stipulated in a Crown Land licence. For Council to obtain a new Crown Land licence, the NSW Government require Council to prepare an EMP and a REF before applying for a Crown Lands Licence to implement and/or change the content, including trigger levels, of an EMP (as described above). Council will only receive a Crown Land licence if all relevant State Government agencies have provided their support through the process, namely NSW Crown Lands, NSW DPI Fisheries, NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW), and NSW National Parks and Wildlife Service (NPWS). Although the purpose of the EMP is to facilitate mechanical intervention of the entrance, it also needs to consider the environmental management of the entrance berm, shorebird habitat and the integrity of the coastal dune system. The NSW Government require the entrance to be managed in accordance with numerous Acts including, but not limited to, the *Crown Land Management Act 2016*, *Fisheries Management Act 1994*, *National Parks and Wildlife Act 1974*, and *Coastal Management Act 2016*. Operating outside of these requirements would be considered an illegal activity, subject to heavy fines.

An application for a new Crown Lands licence to implement an updated EMP of the Shoalhaven River entrance at Shoalhaven Heads is likely to be submitted in mid-2025.

I trust the above appropriately responds to your queries relating to Shoalhaven River entrance management at Shoalhaven Heads.

Kind regards,

Environmental Services



[1300 293 111](tel:1300293111)
Bridge Road (PO Box 42) Nowra NSW 2541
shoalhaven.nsw.gov.au

RESPECT | INTEGRITY | ADAPTABILITY | COLLABORATION

CL24.301 - Attachment 3

CL24.302 Development Application - 102 & 106 Hillcrest Avenue SOUTH NOWRA - Lot 72 DP31078 & Lot 4 DP561605

DA. No: DA24/1457/4

HPERM Ref: D24/454920

Department: Development Services

Approver: James Ruprai, Director - City Development

Attachments: 1. Assessment Report & Consent Conditions (under separate cover) [↗](#)

Description of Development: Construction and occupation of new single storey building for health services facility includes landscaping, carparking and consolidation of two lots.

Owner: Waminda South Coast Women's Health & Wellbeing Aboriginal Corp.

Applicant: Papesch Architecture

Notification Dates: 17 July 2024 to 7 August 2024

No. of Submissions: 5 submissions consisting of the following:

- 3 in objection and
- 2 submissions wanting clarification on the development contributions and consideration of an existing childcare facility during construction.

Purpose / Reason for consideration by Council

The application is for regionally significant development under Schedule 6 clause 5 of State Environmental Planning Policy (Planning Systems) 2021 and must be determined by the Regional Planning Panel.

The matter is put to Council in accordance with the protocol developed for these regionally significant applications to afford Council the opportunity to consider the Application and put forward its opinion via formal resolution to the Panel.

Recommendation

That:

1. Council receive and note the report DA2024/1457 – 102 & 106 Hillcrest Avenue, South Nowra
2. Council support the staff recommendation to the Southern Regional Planning Panel to approve DA2024/1457 for 'Construction and occupation of new single storey building for health services facility includes landscaping, carparking and consolidation of two lots' having consideration to section 4.15 of the *Environmental Planning and Assessment Act 1979*.
3. The resolution made by Council be submitted to the Southern Regional Planning Panel prior to their consideration and determination of DA2024/1457.

CL24.302

Options

1. Support the staff recommendation to the Southern Regional Planning Panel (SRPP) for approval of the application and advise the RPP accordingly

Implications: The recommendation would be provided to the SRPP for their information as part of their consideration of the regional application.

2. Make an alternative resolution and make a separate submission to the SRPP.

Implications: The alternative resolution would be provided to the SRPP for their information as part of their consideration of the regional application. The SRPP will be the determining authority for the application.

Location Map

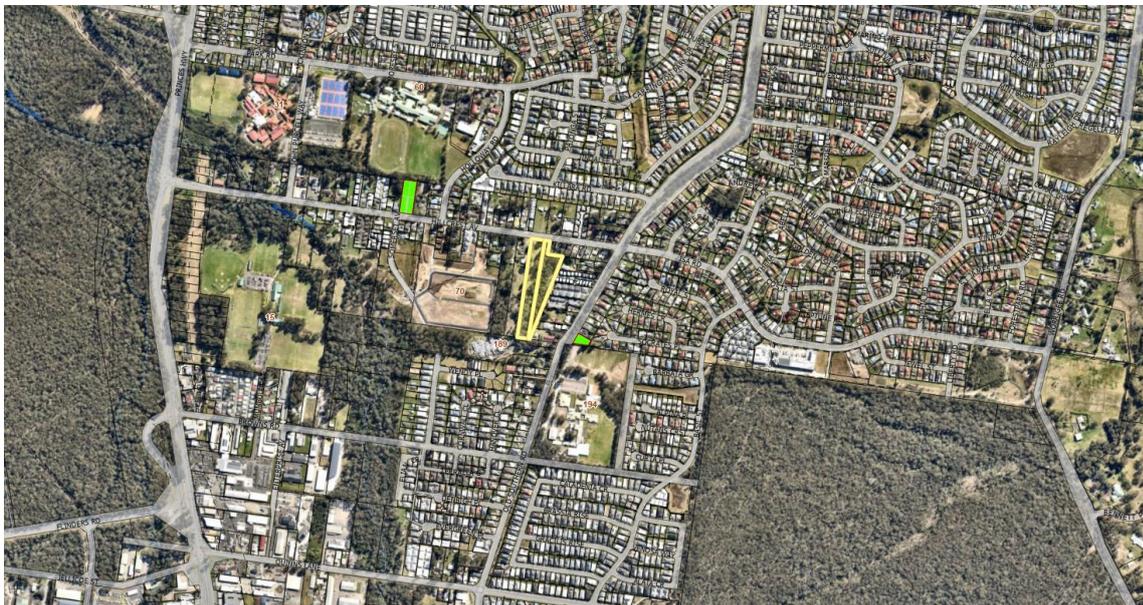


Figure 1: Location Map – Locality

CL24.302

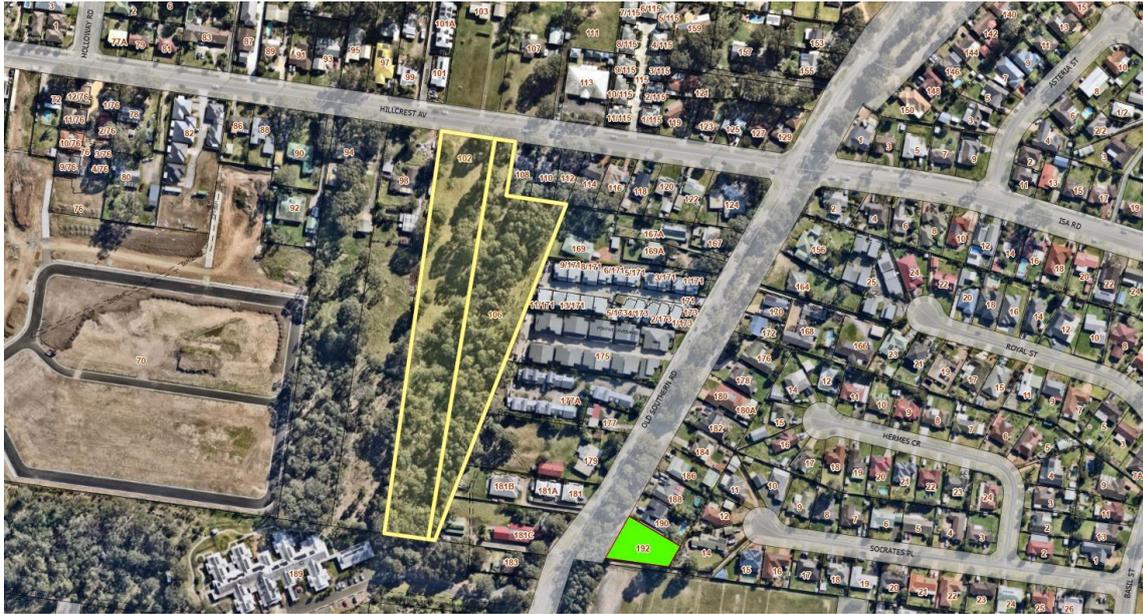


Figure 2: Location Map – Subject Site

Background

Why this DA is being reported to the Regional Planning Panel

This Application is being reported to the Regional Planning Panel for the following reasons:

- a) The proposal has an estimated development cost \$21,598,500.
- b) The Development Application is considered to be a regionally significant development under Part 2.4 (listed under Schedule 6) of *State Environmental Planning Policy (Planning Systems) 2021* (SEPP) as it is private infrastructure and community facilities that has an estimated development cost of more than \$5 million.

Proposed Development

The application is described as ‘Construction and occupation of new single storey building for health services facility includes landscaping, carparking and consolidation of two lots’.

Key aspects of the proposal include the following

- The ‘Gudjaga Gunyahlamai Birth Centre’ is a purpose-designed space for Aboriginal women for ‘Birthing on Country’ and the provision of maternity care, health consulting rooms and ancillary administration functions.
- The Birth Centre complements the wider activities of Waminda’s vision to provide well-being and support services to the local Aboriginal community.
- As detailed in the submitted SEE, the operation of the proposal is detailed as follows:
 - The proposed Birth Centre will accommodate a maximum of four (4) Aboriginal women at any one time, with the ancillary spaces designed to allow for their support partners and children.
 - Clients attending associated health care consulting services vary from day to day but expected to be approximately thirty (30) at any one time.
 - The Birth Centre daytime operation is predominantly staffed by local Aboriginal women with appropriate community health qualifications and qualified medical practitioners:

CL24.302

- 28 x medical professionals.
- 16 x Nabu staff.
- **Total = 44 staff.**

Additional local contractors will supply ongoing maintenance and servicing functions, using appropriately qualified Aboriginal persons where possible to do so.

- *The Birthing Centre is staffed on a 24/7 basis – 365 days per year. The medical operational hours reflect the medical use of the Birth Centre, that is typically available on a 24/7 basis.*
- *The Nabu support clinic and administrative functions are staffed during the hours of 8 am – 6pm Monday to Friday.*

Subject Land

The site is located on the southern side of Hillcrest Avenue approximately 177 metres west of Old Southern Road in South Nowra.

The site consists of two lots and legally identified as Lot 72 in DP31078 (#102) and Lot 4 in DP 561605 (#106) Hillcrest Avenue South Nowra NSW.

The site comprises two (2) separate lots, is irregular in shape, has an area of approximately 20,116 m², and a combined frontage of 56 metres to Hillcrest Avenue. Vehicular access to the site is directly from Hillcrest Avenue.

Topographically, the land is gently to moderately sloping with undulating slopes across the site falling to the west.

The land is generally cleared, grassed with stands of mature trees and remnant native vegetation

Site & Context

The surrounding land-use is typically low to medium density residential to the north, east and south (community facility – aged care), with some remnant rural-residential lots adjoining to the western boundary and cleared land for future residential subdivision further to the west.

A 63-lot subdivision has been approved at 70 Hillcrest Ave, South Nowra.

History

There is no directly relevant history or background for this application.

It is noted that a 63-lot subdivision has been approved at 70 Hillcrest Avenue (southwest of the subject site) and works have already been undertaken for the development of the site for the subdivision.

There is also medium density development potentially proposed at 98 Hillcrest Avenue but is yet to be lodged at Council.

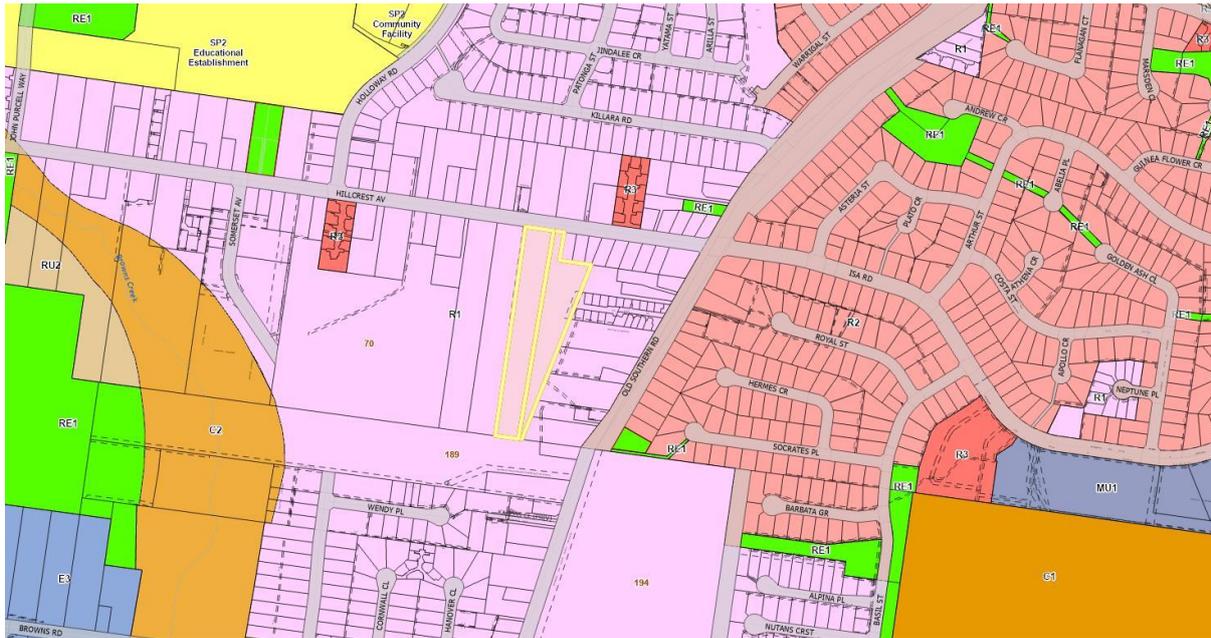


Figure 3: Zoning Map

Issues

S4.15 Environmental Planning and Assessment Act 1979

The consent authority must assess the application and consider the matters for consideration set out in s4.15 of the Environmental Planning and Assessment 1979:

(1) **Matters for consideration**—general *In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—*

(a) *the provisions of—*

(i) *any environmental planning instrument, and*

(ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

(iii) *any development control plan, and*

(iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

(iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

(v) *(Repealed)*

that apply to the land to which the development application relates,

(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

(c) *the suitability of the site for the development,*

(d) *any submissions made in accordance with this Act or the regulations,*

CL24.302

(e) *the public interest.*

Discussion

Council staff have considered the requirements of s4.15 of the Environmental Planning and Assessment Act 1979 and recommend that the application be approved.

The proposal complies with the provisions of applicable environmental planning instruments (e.g. applicable State Environmental Planning Policies, Shoalhaven Local Environmental Plan 2014). The proposal complies with the provisions of the Shoalhaven DCP 2014 and the Environmental Planning and Assessment Regulations 2021.

Council staff are satisfied that the proposal will not have a significant adverse impact on the natural and built environment and will have a positive social and economic impact in the locality/

Council staff have considered the submissions made during the notification period and are satisfied that the proposal is appropriate within the locality and has been suitably designed.

Council staff are satisfied that the site is suitable for the proposed development and that the proposal is in the public interest.

Planning Assessment

The DA has been assessed under s4.15(1) of the Environmental Planning and Assessment Act 1979. Please refer to Attachment 1.

Community Consultations

The proposal was notified in accordance with the Council’s Community Consultation Policy from 17 July 2024 until 14 August 2024. The notification included the following:

- An advertisement in the local newspaper;
- Notification letters sent to adjoining and adjacent properties;

The Council received a total of 5 unique submissions, comprising 3 objections and 2 submissions wanting clarification on the development contributions and consideration of an existing childcare facility during construction

Key issues raised as a result of the notification are provided below.

Issue	No of submissions	Council Comments
<p>Noise</p> <p>Submissions raised concern the development will adversely increase within the immediate surrounds.</p>	<p>3</p>	<p>The application is supported by an Acoustic Assessment that uses modelling to predict the potential impact of the facility on the nearby residential premises.</p> <p>Additional information is required to demonstrate that, with the addition of building plant and equipment noise (e.g. air handling, heating and cooling equipment), the proposed backup generator and the potential noise from the birthing suites that the development will not generate noise levels above the project specific criteria.</p> <p>A condition will be applied to require an amended acoustic report to ensure noise from all sources is considered.</p>
<p>Biodiversity Assessment</p> <p>Loss of fauna & flora</p>	<p>2</p>	<p>The proposal has been reviewed by Council’s Biodiversity section who have advised no objection to the proposal. Further the majority of the remainder of the site is to be left untouched and landscaping is proposed which is considered a significant enhancement of the site.</p>

CL24.302

Traffic Impact Increased traffic	2	Council's development engineers have reviewed the proposal and advised no objection with regard to traffic, parking and access matters, subject to compliance with prescribed conditions.
Compatibility with zone Incompatible use with zone	1	The proposal is located in a prescribed zone hence is considered to be compatible with the zone. Impacts on surrounding uses have been considered and it is found that the proposed development is appropriate within the context of the locality.
Loss of Amenity & Privacy	1	<p>Council's assessment finds that the predominant amenity related impact will be noise. This has been addressed per the comment provided in relation to noise above.</p> <p>Council has undertaken an assessment regarding impacts of the development on the privacy of the surrounding locality. In this regard, it is found that the proposal would not have an adverse impact on privacy. In particular, outdoor spaces within the development which would be frequently occupied are not located directly adjacent to adjoining property boundaries, and/or are sufficiently buffered by proposed buildings or vegetation / landscaping.</p>

Financial Implications

There are potential cost implications if the application is refused. Such costs would be associated with defending an appeal in the Land and Environment Court of NSW.

Legal Implications

A section 8.2 review and/or appeal with the Land and Environment Court are possible if the application is refused

Summary and Conclusion

This application has been assessed having regard to section 4.15 (Evaluation) under the *Environmental Planning and Assessment Act 1979*. Based upon the recommendations of the s4.15 Assessment Report (Attachment 1), Development Application No. DA2024/1457 is recommended to the RPP for approval.

CL24.302

CL24.303 Sanctuary Point Library - Project Update 2

HPERM Ref: D24/283923

Department: Recreation Projects - Planning & Delivery
Approver: Kevin Norwood, Acting Director - City Lifestyles

Attachments:

1. Close Out and Rescoping - Status Update (under separate cover) ⇒
2. Scope-of-Works - Revised 2024 (under separate cover) ⇒
3. Project Programme (under separate cover) ⇒
4. Preliminary Cost Estimates (under separate cover) ⇒

Purpose:

The purpose of this report is to provide an update on the Sanctuary Point Library project, in accordance with MIN24.241 and MIN24.404.

Summary and Key Points for Consideration:

Council has requested regular updates on the Sanctuary Point Library project (ref. [MIN24.241](#)).

This is the second update report on this matter. Update Report 1 was presented to Council at the Ordinary Council Meeting held on 29 July 2024 (ref. [CL24.225](#)).

In summary:

- Workstreams are currently organised into two processes running concurrently: 1) close-out of the original capital works project (now discontinued), which is approximately 80% complete; and 2) rescoping of a new capital works project, which is approximately 20% complete.
- A Feasibility Study will be undertaken to confirm the viability of delivering a new library in Sanctuary Point based on precedent projects such as Warilla Library in Shellharbour. This study will be presented to the Council in conjunction with *Update Report 3* in early 2025.
- It is anticipated the rescoped project will deliver a gross floor area (GFA) of approximately 900m², in line with the GFA of Warilla Library. The GFA for the previous project (now discontinued) was approximately 1,500m².
- Consultation is ongoing with grant funding bodies to review grant reporting milestones and payment schedules in line with the revised scope-of-works.
- Outcomes of the Feasibility Study will be used to inform an Expenditure Review in accordance with the [Capital Expenditure Guidelines 2010](#) (published by the Office of Local Government); and the Council's requirements for business cases (ref. part 8, [MIN24.404](#)).
- A funding solution will need to be identified for capital works and operational expenditure associated with this project in the Long Term Financial Plan and Delivery Program Operation Plan and Budget 2025/26 and future years.

These costs will need to be considered in relation to work currently underway to improve Shoalhaven City Council's financial sustainability, including through the Council's deliberations in relation to a foreshadowed application for a special rate variation to the Independent Pricing and Regulatory Tribunal (IPART).

Recommendation

That Council:

1. Receive the *Sanctuary Point Library - Project Update 2* report for information as an update on:
 - a. Close-out and rescoping processes as outlined in *Attachment 1*;
 - b. Feasibility investigations as outlined in *Attachment 2*;
 - c. Project programme (timelines) as outlined in *Attachment 3*;
 - d. Preliminary cost estimates as outlined in *Financial Implications*.
2. Direct the CEO (Director – City Lifestyles) to provide a further update report for Council’s consideration upon completion of feasibility investigations, to enabling the Council to confirm:
 - a. Budget;
 - b. Scope-of-Works;
 - c. Delivery Timelines;
 - d. Funding Solution.

Options

1. Adopt the recommendation, as presented.

Implications: City Lifestyles staff will continue work, in accordance with [MIN24.241](#) and [MIN24.404](#). The Council will receive a further update report in early 2025.
2. Adopt an alternative recommendation, as determined by the Council.

Implications: Unknown. The Council would need to provide further direction to the CEO in relation to progression of any works associated with the Sanctuary Point Library project.

Background and Supplementary Information

At the Ordinary Council meeting held on 6 May 2024, the Council considered a Notice of Motion in relation to the Sanctuary Point Library project (ref. [MIN24.241](#)).

Accordingly, work is underway to close out the previous Sanctuary Point Library project and to rescope a new project at the corner of Paradise Beach Road and Kerry Street in Sanctuary Point (subject site).

Subsequently, at the Ordinary Meeting held on 29 July 2024, Council accepted Project Update Report 1 (ref. [MIN24.404](#)).

These resolutions have set the framework for work currently underway in relation to this matter.

Current efforts are focused on: determining insights from the previous project; procurement of architectural services related to a Feasibility Study; financial planning & risk management; internal stakeholder coordination; and engagement with grant funding bodies.

These efforts are informed by the Council’s decision to deliver a new library in Sanctuary Point informed by precedent projects such as Warilla Library in Shellharbour.

CL24.303

Close Out and Rescoping – Status Update

Refer to **Attachment 1**.

Scope-of-Works – Revised 2024

Refer to **Attachment 2**.

Project Programme

Refer to **Attachment 3**.

Internal Consultations

Work associated with the contents of this report is being led by City Lifestyles (Recreation Projects – Planning & Delivery) and has included coordination with the following teams:

- City Performance (Finance, Procurement);
- City Lifestyles (Library Services);
- City Services (Building Services).

Finance

The Finance team has provided information regarding expenditure to date, funding availability, and Council's forecasted financial contributions to the project, to provide a clear understanding of the impact on the project's funding structure given Council's current financial circumstances.

Procurement

The Procurement team has provided advice in relation to procurement planning for the Feasibility Study described in this report to ensure compliance with Council's procurement obligations under the *Local Government Act 1993* and Council's procurement policies.

Library Services

As the future tenants of the proposed facility, Library Services have provided recommendations on the scope for the proposed library and associated staffing requirements. Their insights into spatial and functional requirements ensure the library meets community and organisational needs and complies with industry guidelines and grant specifications.

Building Services

The Building Services team, as future asset custodian for the new facility, are providing operational and maintenance advice.

External Consultations

Shellharbour City Council

On 17 September 2024, the Sanctuary Point Library project team conducted a site visit to Warilla Library, hosted by Shellharbour City Council staff. The purpose of this visit was to observe and analyse outcomes at the Warilla Library and to gain post-occupancy insights that can be used to refine the scope of works for the new Sanctuary Point Library, and to tailor the design to better meet the needs of the Sanctuary Point community.

Department of Infrastructure

Coordination has been undertaken with the Department of Infrastructure regarding the Priority Community Infrastructure Program (PCIP) grant. Further information in relation to grant funds allocated to this project is presented in the Financial Implications chapter of

[CL24.225 Sanctuary Point Library – Project Update 1](#), presented at the Ordinary Council Meeting held on 29 July 2024.

Key matters to note include:

- Grant deed to be renegotiated, including milestones, based on outcome of the Feasibility Study described in this report. Negotiations to be completed in February 2024.
- Extension for milestone reporting granted until 28 February 2025.
- Funding envelope for PCIP expires on 30 June 2027. All works identified in the revised PCIP grant deed must be completed by this date.
- Future coordination will be required to identify a staging solution for project delivery and corresponding grant milestones. This may involve allocating PCIP funds to stages that can be feasibly delivered before the expiration of the funding envelope, such as planning, design, site establishment, and initial construction phases.
- Further coordination between Council staff and the Department will occur as needed.
- Regular project updates to be provided to the offices of the Member for Gilmore and Member for South Coast.
- A copy of this report is to be provided to the Department of Infrastructure, as requested.

Community Consultations

Extensive community consultation was undertaken in relation to the previous project (now discontinued). The outcomes of previous engagement activities have informed the scope of services brief for the Feasibility Study. These outcomes will continue to be considered throughout the lifecycle of the new project.

Direct community engagement has not been undertaken in relation to the contents of this report. It is foreshadowed that further community engagement activities will be necessary as project maturity develops (pending outcomes of the Feasibility Study).

Policy Implications

There are no policy implications associated with the contents of this report.

Financial Implications

As at 28 October 2024, total expenditure on the Sanctuary Point Library project is: \$1,411,371.

Further details about expenditure to date and sources of funding for this project are presented in the Financial Implications chapter of [CL24.225 Sanctuary Point Library – Project Update 1](#).

Preliminary estimates for capital works and operational expenditure is presented in **Attachment 4**.

Risk Implications

Risk assessments of key components of the project have been undertaken in accordance with Shoalhaven City Council's enterprise Risk Management Policy.

CL24.304 Reconciliation Action Plan - Public Exhibition

HPERM Ref: D24/422772

Department: Community Connections

Approver: Michael Paine, Manager - Community Connections

Attachments:

1. Draft Reconciliation Action Plan (under separate cover) [⇒](#)
2. RAP Levels and Framework - Which RAP is right for you? (under separate cover) [⇒](#)

Purpose:

The purpose of this report is to provide the Draft Reconciliation Action Plan (RAP) for Council's information and endorsement to place the Plan on public exhibition for a period of 28 days.

Summary and Key Points for Consideration:

Council received a report at its Ordinary Meeting, 9 October 2023, on the *Commencement of Development of Reconciliation Action Plan* for Council. The full report (CL23.380) is available on Council's website via this link, [Ordinary Meeting Agenda 9 October 2023](#). The report includes historical information and outlines project roles and processes for the development of the Reconciliation Action Plan (RAP). At that meeting Council resolved:

MIN23.601

That Council receive:

1. *This report Commencement of development of Reconciliation Action Plan for Council for information.*
2. *Future reports, to*
 - a. *Endorse the public exhibition of the Reconciliation Action Plan.*
 - b. *Adopt the Reconciliation Action Plan following the Public Exhibition period.*

This report provides the Draft RAP – Reflect (Attachment 1) for Council's information and endorsement to proceed to public exhibition for a period of 28 days, for community review and feedback. The Draft RAP has been developed in line with the previously identified processes, including:

- The Draft RAP has been developed by the RAP Working Group, with advice from the Yarning Group and using the required template from Reconciliation Australia.
- Both the Working Group and the Yarning Group agreed that Council should commence the RAP journey at the Reflect level RAP: a 12–18-month RAP that prepares the organisation for future RAPs and reconciliation initiatives.
- The Draft RAP includes both mandatory (required by Reconciliation Australia) and non-mandatory (proposed by staff) actions. Each identified deliverable is achievable and has a plan for implementation, with financial implications noted below.

Recommendation

That Council

1. Place the Draft Reconciliation Action Plan on public exhibition for a period of 28 days.
2. If no significant adverse comments are received at the close of the public exhibition period, direct the CEO (Director – City Lifestyles) to submit the Draft Reconciliation Action Plan to Reconciliation Australia for Conditional Endorsement, and report to a future Ordinary Council Meeting for adoption of the Plan.

Options

1. That Council endorse that the Draft Reconciliation Action Plan be placed on Public Exhibition for 28 days from 4 November to 2 December 2024.

Implications: Council will place the Draft Reconciliation Action Plan on Public Exhibition for four weeks to seek community feedback.

2. That Council do not endorse that the Draft Reconciliation Action Plan be placed on Public Exhibition for 28 days from 4 November to 2 December 2024 and make an alternative recommendation.

Implications: The Reconciliation Action Plan will be delayed. Public exhibition will not be completed on time to present the plan to Reconciliation Australia for final approval, and Council adoption before March 2025.

Background and Supplementary information

The RAP outlines actions, within the scope of Council's role, that Council will undertake towards reconciliation in the Shoalhaven. As a strategic document for the organisation, the RAP sets out a plan for ensuring that Council is an inclusive and culturally safe workplace and service provider, with a strong focus on reconciliation.

Reconciliation Australia's RAP Framework provides organisations with a structured approach to advance reconciliation. There are four different types of RAP that an organisation can develop: *Reflect, Innovate, Stretch & Elevate*.

Council's Working and Yarning Group members have agreed that Council should commence the RAP journey at the introductory Reflect level. This is a 12–18-month RAP that scopes the organisation's capacity for reconciliation and prepares for future RAPs and initiatives. Further information regarding the Reconciliation Australia RAP Framework and Levels is provided in the *Which RAP is right for you?* Flyer (Attachment 2).

Internal Consultations

Three groups have been established to guide and develop Council's RAP: the Yarning (mainly external), Working and Steering (mainly internal) Groups. Details of the Yarning Group can be found in the External Consultations section.

Working Group - 14 members of staff, representing all directorates and Shoalhaven Water, plus two Co-chairs and two representatives of the Yarning Group. The Working Group has developed the content in the Draft RAP.

Steering Group – Director City Lifestyles, Director City Performance, Manager People and Culture (Working Group Co-Chair) Manager Community Connections (Working Group Co-

Chair), Manager Comms and Media, Social Planner (RAP Project Lead), Community Capacity Builder Aboriginal (Yarning Group chair).

Additionally, three staff engagement sessions were open to all staff, and held at Bomaderry, Bay and Basin and Nowra.

External Consultations

Yarning Group – Membership of the group included six Aboriginal employee representatives, 10 Aboriginal community representatives and two Aboriginal Advisory Committee representatives, plus a Chair and Co-chair. The Yarning Group has guided the development of the Draft RAP and advised regarding its likely effectiveness in progressing towards reconciliation in the Shoalhaven.

Di Ellis of the National Roads and Motorists Association (NRMA) - Di is the Senior Indigenous Affairs Manager and has developed multiple RAPs for teams within NRMA. Di attended a Working Group meeting to provide advice and mentorship as Council develops its first RAP.

Reconciliation Australia - Reconciliation Australia has provided initial feedback on the Draft RAP. This feedback has been incorporated in the Draft. A second round of feedback will be provided following public exhibition, and prior to a final report to Council for adoption of the Plan.

Community Consultations

This report seeks Council endorsement to proceed to 28 days' public exhibition of the Draft RAP.

Policy Implications

The following reviews and investigations are identified as actions in the Draft RAP, and may result in future policy recommendations to Council:

- 1.4.2 Conduct a review of HR policies and procedures to identify existing anti-discrimination provisions, and future needs.
- 2.1.2 Conduct a review of cultural learning needs within our organisation.
- 3.1.3 Investigate mechanisms to acknowledge the cultural load on Council's Aboriginal staff.
- 3.3.1 Review Council's leave policy considering impacts on Aboriginal and Torres Strait Islander people.

Financial Implications

The majority of deliverables in the Draft RAP can be implemented through business-as-usual and will not require additional funding.

Any additional costs associated with the implementation of the Draft RAP, for Financial Year 2025/26, will be considered for prioritisation in annual budget provisions, or be the subject of future budget bids.

Risk Implications

Not proceeding with the Draft RAP would pose reputational risk to Council as a RAP affirms Council's commitment to improving reconciliation in the Shoalhaven and ensuring that

Shoalhaven City Council is an inclusive and culturally safe place for people to work and engage.

The risks involved in the activities used to develop and implement the RAP will be managed using the organisation's risk management procedures.

CL24.304

CL24.305 Lease of Nowra Showground Tennis Clubhouse and Courts - 27 West Street, Nowra

HPERM Ref: D24/382504

Department: Technical Services

Approver: Kevin Norwood, Acting Director - City Lifestyles

Purpose:

The purpose of this report is for Council to consider approval of a new five year lease agreement with Interchange Shoalhaven Incorporated at the Nowra Showground (Tennis Clubhouse and adjoining two Courts) at Part Lot 702 DP 1024852, 27 West Street, Nowra.

Summary and Key Points for Consideration:

- Pursuant to Section 46(1)(b)(i) of the *Local Government Act 1993*, Council may grant a lease over community land for the carrying out of activities and facilities appropriate to the current and future needs within the local community and the wider public in relation to public recreation and the physical, cultural, social and intellectual welfare or development of persons. The *Crown Land Management Regulation 2018* allows Council to enter into a new lease over the land before Council adopts its first plan of management for the Crown reserve.
- Council resolution is required to determine the granting of the proposed lease on the basis the annual rent exceeds \$5,000 per annum.

CL24.305

Recommendation

That Council:

1. In accordance with the Crown Land Management Act (2016) (NSW) and Crown Land Management Regulation (2018) (NSW), enter a five-year lease with Interchange Shoalhaven Incorporated on Council managed Crown land at the Nowra Showground (Tennis Clubhouse and adjoining two southern Courts) at Part Lot 702 DP 1024852, 27 West Street Nowra,
2. Establish lease rental and associated fees as follows:
 - a. Rent of clubhouse building of \$10,721.66 excluding GST per annum.
 - b. Contribution to court sinking fund for capital upgrades (court resurface) of \$3,090.00 excluding GST per annum.
3. Apply annual rent adjustments to the rent of the clubhouse building and court sinking fund for capital upgrades in line with the Consumer Price Index (All Groups Sydney).
4. Authorise the allocation of court resurface contribution into the Restricted Asset Account for this facility.
5. Authorise the Common Seal of the Council of the City of Shoalhaven be affixed to any document required to be sealed and delegates authority to the Chief Executive Officer to sign any documentation necessary to give effect to this resolution.

Options

1. Resolve as recommended

Implications: The lease will formalise the intended use of the Nowra Showground Tennis Clubhouse and Courts by Interchange Shoalhaven Incorporated. Council will receive an annual rent for the premises and an annual court resurface contribution for two tennis courts being allocated to the restricted asset account, in accordance with Council's Occupation of Council Owned and Managed Land policy (POL22/98).

The lease will allow the lessee primary use of the facility however, community groups are able to book the facility for casual hire when not in use directly with Interchange Shoalhaven Incorporated.

2. Not adopt the recommendation

Implications: Interchange Shoalhaven Incorporated would not have the benefit of a lease agreement for the proposed use of the Clubhouse and Courts and the absence of a lease will have implications for Council in terms of ongoing maintenance responsibilities and reduced income. Under this scenario, Interchange Shoalhaven Incorporated would need to find alternate premises and an Expression of Interest undertaken to seek a new lessee.

Background and Supplementary information

The facility is located on Council managed crown land being part of the Nowra Showground (Reserve D580011). Under clause 70(2)(c) of the Crown Land Management Regulation 2018, Council can enter into a new lease agreement. The Plan of Management in place over the subject site is: [Nowra Showground Plan of Management \(2008\)](#).

The land has been classified as community land, with a proposed categorisation of General Community Use. The dedicated reserve purpose allows for public recreation or community use. The prevailing Nowra Showground Plan of Management is consistent with the proposed new lease. The proposed lease area is shown hatched red in Figure 1 below:

Figure 1 – Leased Area - Nowra Showground Tennis Clubhouse and Two Courts at Part Lot 702 DP 1024852, 27 West Street, Nowra



The previous lease of the subject land (Schizophrenia Fellowship NSW Ltd - One Door Mental Health) terminated on 28 July 2023. Since that time Council has accommodated existing community groups who accessed the facility under the previous lessee, through a casual hiring system. This was intended as an interim measure until a new lease arrangement was in place. Council received unprompted enquiries for a new lease from potentially interested groups continuing a similar service. Council provided the interested groups opportunity to submit a lease proposal. Four lease applications were received. The lease criteria included the ability to pay agreed rental costs and outgoings, and the ability to provide a community service or benefit to the local area (demonstrated community, social, and economic benefits to the community and Council).

There is no requirement to tender for this proposal. Proposed leases to not-for-profit groups are exempt from tendering in any case.

Two applications met the lease proposal criteria, however, one of the applicants elected not to proceed with the process any further. Interchange Shoalhaven Incorporated became the sole negotiating party. Interchange Shoalhaven's proposal is to use the facility as a dedicated hub for multiple program sessions that cater to a wide range of interest and skill development, and group support activities for physical and emotional well-being. Whilst the proposed lessee will be the primary user of the facility, the flexible arrangements will allow availability to the public for casual hire when not in use by the lessee. Interchange will manage the casual hirers in accordance with Council's Fees and Charges, hiring fees will be retained towards maintenance of the crown reserve.

The community will continue to have access to the four tennis courts located to the north of the Clubhouse (refer Figure 1).

CL24.305

Internal Consultations

Consultation was undertaken with relevant Director, Manager, Asset Custodian and Strategic Planners and no objections were raised to the proposed lease.

External Consultations

A valuation report was obtained from Walsh & Monaghan to assess the market rent for the tennis clubhouse building.

Community Consultations

The proposed lease was advertised in accordance with section 47 of *the Local Government Act 1993*. No submissions were received.

Policy Implications

The proposed lease is in accordance with Council's Occupation of Council Owned or Managed Land policy (POL22/98).

Financial Implications

Council engaged Walsh & Monaghan to undertake a valuation for the market rental of the Clubhouse building and was assessed at \$26,500.00 excluding GST per annum.

Based on the information received from the lessee and using Council's rental assessment framework, Interchange Shoalhaven Incorporated qualifies for a rental subsidy of 60.91% equating to an adjusted annual rent of \$10,721.66 excluding GST per annum.

Council will also receive a contribution to the capital costs of resurfacing the two courts of \$3,090.00 excluding GST per annum, to be allocated to the restricted asset account for this facility in accordance with Council's Occupation of Council Owned or Managed Land policy (POL 22/98).

In accordance with the policy and Council's adopted Fees and Charges, the lessee is also responsible for costs associated with preparation of the lease.

The casual hiring fees received by the lessee for public use of the facility will be attributed to the purposes of the Crown reserve in line with the *Crown Land Management Act 2016*.

Risk Implications

It is normal practice to allow for an interest in land in the form of a lease and the statutory requirements of the Local Government Act and Crown Land Management Act respectively have been met. Valuation advice was received for the proposed lease. Council's interests have been considered and there is minimal risk associated with the recommended new lease agreement.

CL24.306 Connection to Town Sewerage System - 9A Bindaree Street Greenwell Point

HPERM Ref: D24/382560

Department: Water Asset Planning & Development

Approver: Robert Horner, Executive Manager Shoalhaven Water

Purpose:

Shoalhaven Water is in receipt of an application under the Non-Urban Wastewater Connection Policy to connect part of Lot 3 DP 1196876, being 9A Bindaree Street Greenwell Point to Council's Sewerage System. Such an application requires Council resolution under its Non-Urban Wastewater Connection Policy for approval to proceed.

Summary and Key Points for Consideration:

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

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

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

Assessment under each of these criteria is outlined below:

- ***Where capacity exists in the existing system***

The calculated loading is 1.0 Equivalent Tenement (ET). The town sewerage system does have the capacity to support the proposed connection.

- ***Where the current levels of service can be provided***

Current levels of service via pressure sewer can be provided.

- ***Where the property is paying the wastewater availability charge***

The property is not paying the wastewater availability charge.

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

Council's Environmental Services Unit is supportive of a connection to the town sewerage system.

Recommendation

That Council approve the connection of Lot 3 DP 1196876, 9A Bindaree Street Greenwell Point to the Culburra Sewerage Scheme by a pressure sewer system and subject to the applicant complying with all conditions specified in the Shoalhaven Water, Water Development Notice.

CL24.306

Options

1. Adopt the recommendation

Implications: This is recommended as there is sufficient capacity within the Greenwell Point/Culburra Sewerage Scheme, the proposal is considered minor development, and it is of positive economic benefit to Council.

2. Refuse the request to connect to Town Sewerage Scheme

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

Background and Supplementary information

Council has received an application under the Non-Urban Wastewater Connection Policy for the connection of Lot 3 DP 1196876, 9A Bindaree Street Greenwell Point to Council's sewerage system. The applicant has identified environmental constraints of the existing onsite system due to its proximity to the Shaws Creek/Crookhaven River and the land being flood-prone.

The property has an existing dwelling located on the land and this dwelling is connected to the existing onsite sewage management facility.

Sewer Servicing Options

The location of the existing dwelling is such that it cannot connect by a conventional gravity system as it is at the same level or lower than the existing sewer mains in West Street or Bindaree Street, therefore a pressure sewer system must be installed to pump the flows to the agreed connection point, located in West St.

All designs and construction works are at the applicant's expense. In addition, approval from Shoalhaven City Council Property Unit will be required for the construction works within the adjacent Public Reserve (fronting West Street).



CL24.306

Internal Consultations

Council's Environmental Services Unit are supportive of the connection to the town sewerage system as:

- there is very little information on the installed system or its performance,
- the proximity of the system to Shaws Creek/Crookhaven River and oyster leases.
- the flood risk on the property, to which Effluent disposal is prohibited for areas below the 1 in 20 flood height (which this property is within) under the current Development Control Plan Chapter G8.

Council's Property Unit (as the asset custodian of the West Street Reserve) was also consulted on requirements for the construction of the sewer rising main. Pursuant to Section 46(1)(a) of the Local Government Act 1993, Council may grant an estate or allow for the provision of public utilities and works by means of a construction license. The proposed work can be considered under the Plan of Management.

External Consultations

No external Consultations are required as defined under the Policy.

Community Consultations

No Community consultations have been carried out as the matter concerns a private development and is dealt with under Council's Policies.

Policy Implications

Assessment under the Non-Urban Wastewater Connection Policy:

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

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

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

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

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

- ***Where capacity exists in the existing system***

The calculated loading is 1.0 Equivalent Tenement (ET). The town sewerage system does have capacity to support the proposed connection.

- ***Where the current levels of service can be provided***

Current levels of service via pressure sewer can be provided.

- ***Where the property is paying the wastewater availability charge***

The property is not paying the wastewater availability charge.

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

The age of the existing on-site system is unknown and would likely require an upgrade to current standards which will be problematic due to the surrounding sensitive environment.

Council's Environmental Services Unit is supportive of a connection to the town sewerage system as it provides improved environmental outcomes and reduces the risk of wastewater entering the sensitive land and waterways during a flood event or system failure.

Financial Implications

There are no negative financial impacts to Council as all works are at the applicants full expense, including payment of the once off Separate System Connection Fee of \$8,964.40

(2024/25) and the levying of the wastewater availability charges once it is connected. Shoalhaven Water will retain ownership of the pressure sewer unit and therefore be responsible for its maintenance.

Risk Implications

The environmental risk implications will be reduced following a successful connection to Council sewer system with a pressure sewer option. Pressure sewer systems are fully sealed and therefore significantly reduce risk of overflows. Shoalhaven Water has installed in excess of 1000 similar systems in other low lying and flood susceptible areas such as Lake Conjola, Woollamia, Lake Tabourie and Currarong.

CL24.307 Easement Acquisition for Water Supply - Lot 203 DP 883494, 14 Reservoir Lane Cambewarra

HPERM Ref: D24/427596

Department: Water Asset Planning & Development

Approver: Robert Horner, Executive Manager Shoalhaven Water

Purpose:

The purpose of this report is to provide Council with an opportunity to consider the acquisition of an easement for water main over part Lot 203 DP 883494, 14 Reservoir Lane, Cambewarra.

Summary and Key Points for Consideration:

- Acquisition of easement under the Land Acquisition (Just Terms Compensation) Act 1991 can occur by agreement or by compulsory acquisition depending on landowner consultation outcome.
- MIN22.610 was resolved for Council to make the necessary applications to the Minister for Local Government and the Governor, for approval to acquire an easement for water by compulsory process in accordance with the Local Government Act 1993 and Land Acquisition (Just Terms Compensation) Act 1991 as the negotiation process failed to reach an agreement within a six-month period.
- In accordance with Land Acquisition (Just Terms Compensation) Act 1991, Council continued to negotiate the easement acquisition, and an agreement was reached with the landowners.
- Council resolution is required to resolve the agreed compensation (\$27,000 ex GST) and request for an easement.

Recommendation

That Council

1. Acquires by agreement an easement for water supply main, six metres wide and variable (subject to final survey) over part Lot 203 DP 883494, 14 Reservoir Lane, Cambewarra.
2. Agrees to pay compensation of \$27,000 plus GST (if applicable) and reasonable legal and valuation costs associated with the acquisition in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, from Council's Water Fund.
3. Delegates authority to the Chief Executive Officer to adjust the compensation in accordance with the area of the easement determined by the final survey plan.
4. Authorises the Chief Executive Officer to sign all 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.

CL24.307

Options

1. Resolve as recommended.

Implications: Acquisition of the easement is required to formalise the existing Shoalhaven Water infrastructure, enabling legal capacity to access for operation and maintenance.

2. Not adopt the recommendation

Implications: Council will continue to have no legal entitlement for future access, repair and maintenance of the subject asset.

Background and Supplementary information

The subject water main (W1) was constructed in 2023-24 over private land, being part Lot 203 DP 883494, 14 Reservoir Land, Cambewarra.

Shoalhaven Water obtained consent from the landowners to construct the water main to avoid delays in delivering essential public infrastructure for the Moss Vale Road Urban Release Area. At the time of construction, no legal entitlement was created to benefit Council for future repair, maintenance, and protection of this asset. Therefore, an easement is required to ensure these activities can be carried out.

A valuation was undertaken on Council's behalf by Walsh & Monaghan Valuers Pty Ltd, who assessed compensation for the easement at \$12,500 ex GST (if applicable), subject to final survey. An offer of that amount was made to the landowners.

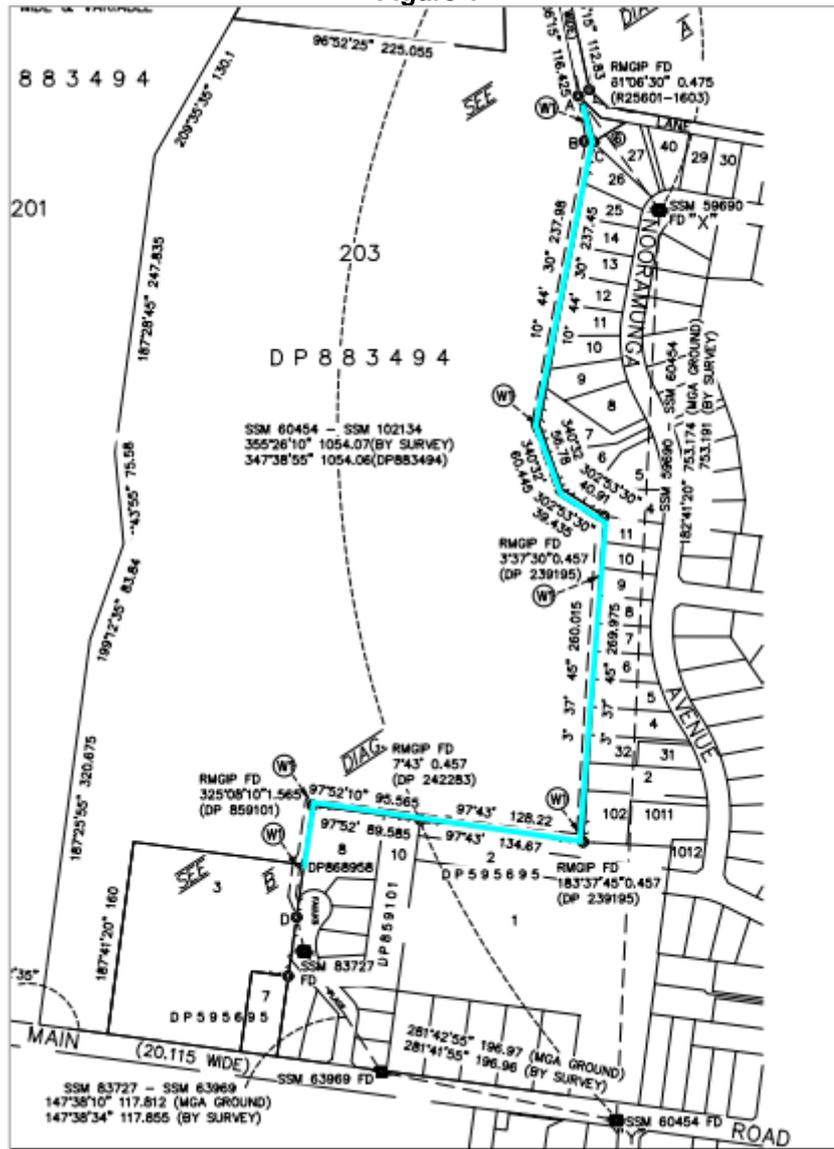
A valuation undertaken on behalf of the landowners by M Dyson Valuations assessed compensation for the easement at \$75,000 (ex GST). A counteroffer at that amount was made to Council.

Council identified discrepancies in the valuation report, prompting a meeting between the valuers to discuss the differences and reach agreement on the valuation. Walsh & Monaghan Valuers Pty Ltd revised valuation assessed compensation at \$27,000 plus GST (if applicable). An offer of that amount was made to the landowners. M Dyson Valuations revised their assessed compensation at \$47,500 plus GST (if applicable). A counteroffer of \$45,000 was made to Council.

Council rejected the counteroffer on the basis that it contained items beyond the provisions allowed in Section 55 of the Land Acquisition (Just Terms Compensation) Act 1991. Council's final offer of \$27,000 plus GST (if applicable) was accepted by the landowner.

Figure 1 below shows the proposed easement being acquired. The easement is marked (W1) and highlighted in blue on the plan below, over part Lot 203 DP 883494.

Figure 1



CL24.307

Internal Consultations

This process has been carried out under instruction and consultation with Shoalhaven Water.

External Consultations

Negotiations with the landowners has been undertaken in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

Community Consultations

Wider community engagement is not required for operational purposes such as an easement acquisition.

Policy Implications

The acquisition of the easement will be undertaken in accordance with Council’s Acquisition of Land by Shoalhaven City Council, POL22/120.

Financial Implications

The compensation and reasonable valuation and legal costs associated with the acquisition are to be funded from Council's Water Fund.

Risk Implications

The acquisition is necessary to secure Shoalhaven Water's legal rights to access, operate and maintain critical public infrastructure.

CL24.307

CL24.308 Exemption to Tender - Sewage Pumping Station Design and Construction - Twin Nowra Estate - Old Southern Road South Nowra - SF10743

HPERM Ref: D24/433396

Department: Water Asset Planning & Development

Approver: Robert Horner, Executive Manager Shoalhaven Water

Purpose:

To allow Council to consider an Exemption to Tendering in accordance with Section 55 of the Local Government Act 1993 to design and construct a sewage pumping station (SPS) and associated infrastructure to serve the approved 162 lot residential subdivision at Old Southern Road South Nowra (known as Twin Nowra Estate).

Summary and Key Points for Consideration:

Shoalhaven Waters' Development Servicing Plans 2005 have proposed a new sewage pumping station D (SPS D) to enable sewerage servicing of the residential zoned area south of Quinns Lane in South Nowra (see diagram below). The delivery of SPS D was initially forecast for 2017 but uncertainty in the land release market along with the developer obtaining the required approvals have resulted in delays to the delivery of this critical piece of infrastructure.

The developer has commenced the construction of the required roads and services within the approved development, and to facilitate the timely and coordinated delivery of SPS D, staff seek Council's endorsement for the works to be procured through a Deed of Agreement with the developer (thus enabling the developer to coordinate the works to suit their overall delivery program). This methodology has been successfully utilised in the past for the delivery of pumping stations in Green Orchid Estate, South Nowra and Bayswood, Vincentia.

An Exemption to Tender under Section 55(3)(i) of the Local Government Act 1993 is sought and must be approved by Council resolution. In order to accept exemption from tendering Council needs to be comfortable that extenuating circumstances exist.

Extenuating circumstances exist due to:

- Works being carried out on privately owned lands which would require negotiations with the affected landowner(s) for access to the site for the Council's nominated contractor(s).
- Coordination for infrastructure delivery in line with the developer's schedule for the land release.
- Coordination of design of internal infrastructure (developers' responsibility) with the design of the SPS and associated infrastructure (Council's responsibility).

Recommendation

That Council

1. Approves an exemption from tendering (due to extenuating circumstances) in accordance with Section 55(3)(i) of the Local Government Act 1993 for the design and construction of a sewage pumping station (SPS) and associated infrastructure to serve the approved the 162 lot residential subdivision at Old Southern Road South Nowra (known as Twin Nowra Estate).

CL24.308

2. Authorise the Chief Executive Officer (Executive Manager, Shoalhaven Water) to enter into a Deed of Agreement with the developer and execute any necessary documents to implement this resolution.

Options

1. Resolve to adopt the recommendation

Implications: This is recommended to enable the timely and coordinated delivery of sewerage services to the approved residential subdivision. The developer has control as to the design and timing of the construction works for the pumping station to coordinate with their other obligations to deliver the subdivision.

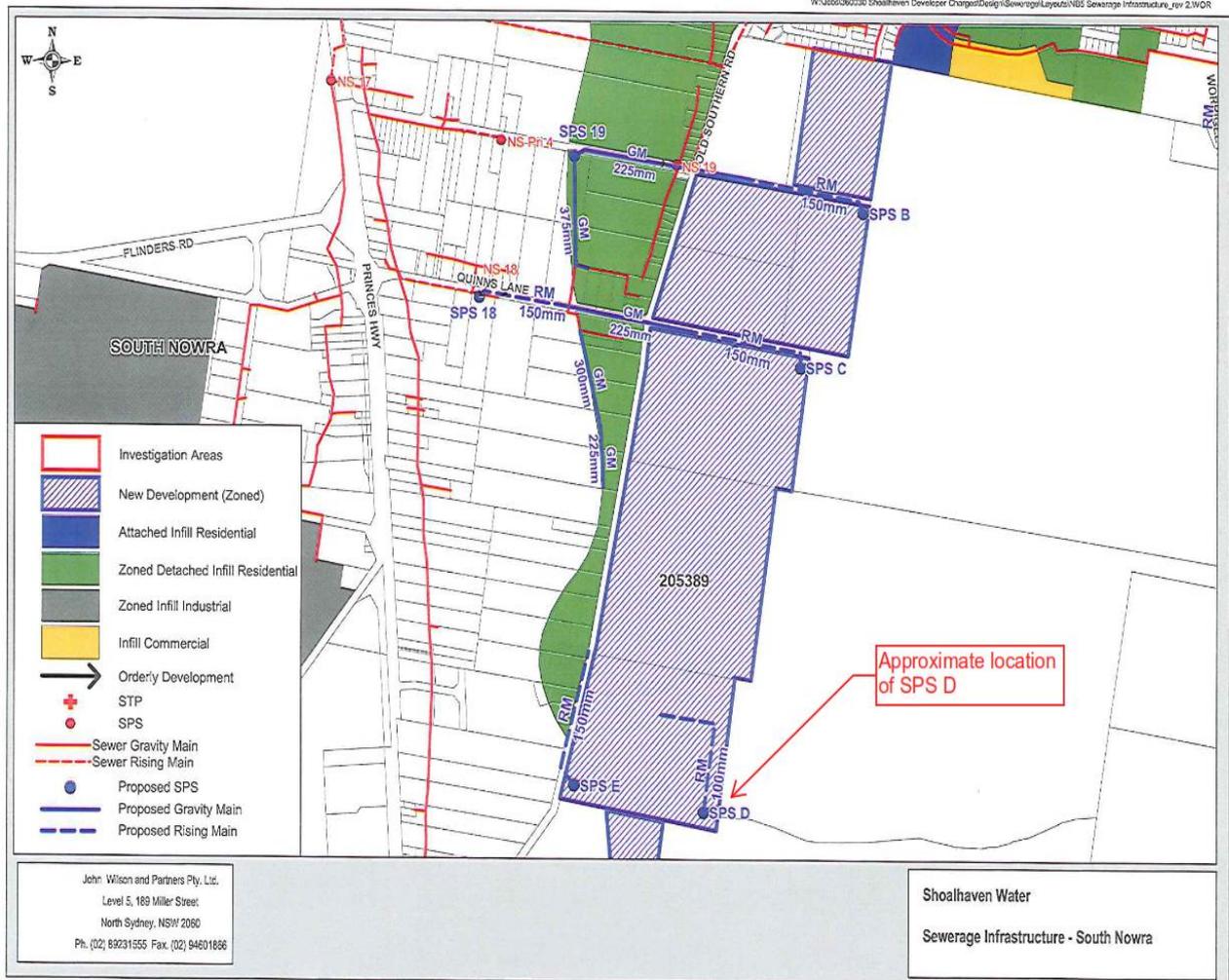
2. Council chooses not to accept the exemption to tendering and direct staff to tender the project.

Implications: This is not recommended as a full open tender process will be lengthy and likely result in either an equal or greater cost to that provided by the developers nominated contractor.

Any delays to the developers program may be met with community and government frustration due to potential inability to connect new dwellings to the sewerage system in a timely fashion.

Background and Supplementary information

In accordance with Council's Development Servicing Plan (DSP) for Sewerage Services, a sewage pump station (SPS D) is required to facilitate sewerage services to the area south of Quinns Lane South Nowra as shown in the map below.



The proposed SPS D is not located within Council-owned land, however the pumping station is required to support the subject development (SF 10743) which obtained consent on 5 December 2022. Since that time the developer has been seeking the required approvals to enable the delivery of this critical infrastructure.

A Deed of Agreement between Council and the developer has been drafted for the required works and subject to approval for an exemption from tendering in accordance with Section 55(3)(i) of the Local Government Act 1993 the works can be undertaken promptly to ensure the sewer infrastructure is available for connection once the subdivision has been released.

Internal Consultations

Guidance from Council's Procurement and Governance teams was sought on the financial limitations, delegations, and statutory provision for the procurement of the works.

External Consultations

Extensive negotiations have been undertaken between Council staff and representatives of the developer to facilitate the delivery of SPS D. The negotiations/discussions have mainly related to the timing of the works, preparation of the required drawings, and the relevant design and construction standards that will apply.

Community Consultations

The developer has obtained approval for the residential development through Council’s and NSW Government development processes which included the required Community Consultation periods.

Policy Implications

The proposed works are in excess of the financial delegation of the CEO (and outside the limits of Council’s Procurement Policy) and therefore an Exemption to Tender under Section 55 of the Local Government Act 1993 is sought.

Financial Implications

Council received a detailed costing for the approved works from the developer and a review has been undertaken by staff. Cost comparisons with similar projects revealed that the proposal was reasonable and provides value for money for Council.

The project costs are within the allocated 2024/25 budget and funded through Council’s Sewer Fund.

The proposed total cost of the Deed of Agreement (and funding by Council) is shown in the table below:

Item	Cost (ex. GST)
SPS Wet Well, valve pits and emergency storage tank	\$520,690.00
SPS site civil works (driveway, landscaping etc), sewer rising main and gravity sewer main to connect to existing sewer network	\$1,286,819.71
Project Management (design drawings, survey and works as executed documentation)	\$65,565.00
TOTAL	\$1,873,074.71

Risk Implications

Adopting the recommendation will provide the least risk to Council in terms of timely delivery of the essential sewerage infrastructure required to service the subdivision.

Without a dedicated Council owned lot and access, extensive negotiations between staff and the landowners/developers would be required to ensure timely and continuous access to the site. This combined with the fact that multiple contractors are likely to be onsite concurrently, with their own objectives and delivery timeframe pressures, presents unnecessary risk to Council, particularly in relation to delay claims. It is considered appropriate that the developer is responsible for coordinating all construction works on the site.

CL24.308

CL24.309 Land and Easement Acquisition - Part Lot 2 DP 1261811, 49 Taylors Lane Badagarang

HPERM Ref: D24/429693

Department: Technical Services

Approver: Robert Horner, Executive Manager Shoalhaven Water

Purpose:

The purpose of this report is for Council to consider the acquisition of land and easements over Lot 2 DP 1261811, 49 Taylors Lane Badagarang, by agreement, under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991. Acquisition is required for:

- Land for Far North Collector Road Widening (1.38Ha)
- Land for Access Road to the Sewage Pumping Station (2429m²)
- Easement for Drainage of Sewage
- Easement for Right of Access

Summary and Key Points for Consideration:

- Acquisition of land and easements under the Land Acquisition (Just Terms Compensation) Act 1991 can occur with consent of owners, by agreement or by compulsory acquisition depending on consultation outcome with the current landowner/registered proprietor.
- Acquisition by agreement has been achieved.
- Council resolution is required to acquire land and easements and approve the agreed compensation.

Recommendation

That Council

1. Under the Land Acquisition (Just Terms Compensation) Act 1991 acquire land and easements shown on Figure 1 (subject to final survey) over Part Lot 2 DP 1261811, 49 Taylors Lane Badagarang as follows:
 - a. Land for Far North Collector Road Widening (1.38Ha)
 - b. Land for Access Road to the Sewerage Pumping Station (2429m²)
 - c. Easement for Drainage of Sewage 6m wide and variable
 - d. Easement for Right of Access 6m wide and variable
2. Authorise the dedication of land for Far North Collector Road Widening (1.38Ha) as Public Road in accordance with section 10 of the Roads Act 1993.
3. Give public notice of the classification of the proposed Land for Access Road to the Sewage Pumping Station (2429m²) as operational land shown in Figure 1, under section 34 of the *Local Government Act 1993*.
4. Following the public notice period, classify proposed Land for Access Road to the Sewage Pumping Station as operational land under section 31 of the *Local Government Act 1993*.

CL24.309

- a. Agrees to pay compensation of \$107,000 (excluding GST) and the reasonable legal and valuation costs (disturbance costs) associated with the acquisition in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991.
- b. Endorse funding for this acquisition from the Federal Governments' Australian Government Infrastructure Investment Program and Council's Sewer Fund.
- c. Delegates authority to the Chief Executive Officer to adjust the compensation in accordance with the area of the easement determined by final survey plan.
- d. Authorise the common seal of the Council of the City of Shoalhaven be affixed to any documentation required to be sealed and delegates authority to the Chief Executive Officer to sign any documentation necessary to give effect to this resolution.

Options

1. Resolve as recommended.

Implications: The acquisition of land and easement is required to formalise Council's ownership and entitlement, providing the legal capacity for access, operation and maintenance.

2. Not adopt the recommendation.

Implications: Council will continue to have no legal ownership or entitlement hindering future access, operation, repair and maintenance of critical infrastructure.

Background and Supplementary information

Road construction works took place between 2021 and 2024 over privately owned land, being part Lot 2 DP 1261811, 49 Taylors Lane Badagarang.

Council entered into a lease agreement with the landowners to facilitate road widening as part of the Far North Collector Road (FNCR) and to construct an access road to the sewerage pumping station. This arrangement was to avoid delays in delivering the FNCR project and essential public infrastructure for the Southern Urban Release Area.

At the time of construction, no legal ownership or entitlements were created for the future operation, repair, maintenance and protection of Council assets. Therefore, the acquisition of land and easements is necessary to support these activities.

Figure 1 below illustrates the proposed land and easements to be acquired (subject to final survey):

- Land for Far North Collector Road Widening (1.38Ha) - Highlighted in pink
- Land for Access Road to the Sewerage Pumping Station (2429m²) - Highlighted in green
- Easement for Drainage of Sewage 6m wide and variable (D) - Highlighted in blue
- Easement for Right of Access 6m wide and variable (E) - Highlighted in blue

Figure 1



CL24.309

Internal Consultations

Consultation has taken place with Shoalhaven Water, City Services, Development Services and Strategic Planning.

External Consultations

Negotiations with the landowners has been undertaken in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

Community Consultations

Community consultation is not required for operational purposes such as land and easement acquisitions.

Policy Implications

The acquisition of the land and easements will be undertaken in accordance with Council’s Acquisition of Land by Shoalhaven City Council, POL22/120.

Financial Implications

A valuation was conducted on behalf of Council and the landowners by Walsh & Monaghan Valuers Pty Ltd, who assessed compensation for the proposed land acquisition at

\$105,488.50. The valuation only considered the land acquisition. Using the same rate per hectare for the easement and applying a physical effect of 33% (an easement only being a right to use land), compensation for the easements has been assessed as \$1,306.50.

Total compensation for land and easements is \$106,795.00 and rounded to 107,000.00.

The offer of \$107,000.00 (excluding GST) was accepted by the landowners.

The compensation, valuation and legal costs associated with the acquisition are to be funded by the Federal Governments' Australian Government Infrastructure Investment Program and Shoalhaven Water's Sewer Fund.

Risk Implications

The acquisition of land is required to secure Council's ownership, operation and management of road and sewerage pumping station infrastructure. Easement acquisition is necessary to ensure Council's legal rights to access, repair and maintain essential public infrastructure.

Council interests have been considered and there is minimal risk associated with the proposed acquisition.

CL24.309

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.