

Ordinary Meeting

Meeting Date: Monday, 22 January, 2024
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.30pm

Membership (Quorum - 7)
All Councillors

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

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

Statement of Ethical Obligations

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

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

Agenda

1. **Acknowledgement of Country**
2. **Moment of Silence and Reflection**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
 - Ordinary Meeting - 11 December 2023
6. **Declaration of Interests**
7. **Presentation of Petitions**

8. Mayoral Minute

Mayoral Minute

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10. Call Over of the Business Paper

11. A Committee of the Whole (if necessary)

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Notices of Motion / Questions on Notice

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Reports

- CCL24.1 Buy-Back Property - Industrial Land South Nowra

Local Government Act - Section 10A(2)(c) - Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

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

- CCL24.2 Exemption to Tendering - Mobile Library Van

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.

MM24.1 Mayoral Minute - Condolence Motion Uncle Stanley Braddick (Poddy)

HPERM Ref: D24/6958

Recommendation

That Shoalhaven City Council note the passing of Uncle Stanley Braddick (Poddy). We acknowledge his contribution to the community and extends condolences to the Braddick family.

Details

Uncle Stanley (Stan) was a proud Aboriginal man and well-known Elder with Aboriginal Native Custodian connection across the Shoalhaven.

Uncle Stan lived in the Shoalhaven all his life and grew up in the 1960's. He was a well-known sportsman, playing rugby league predominantly with the local Aboriginal team for about 20 years and coaching others later in life.

Uncle Stan worked in the Aboriginal sector in housing, employment and liaising between organisations. He will be remembered for providing cultural training in bush tucker, medicines, and Aboriginal cultural burning as well as teaching local cadets Aboriginal bush crafts.

Working in the Aboriginal community space was Uncle Stan's passion, and this showed through in everything he did in his life. Uncle Stan contributed to supporting local land councils in any capacity that they needed in particular with language and cultural site identification.

As a valued member of the Aboriginal community the gap that Uncle Stan has left is significant and will be difficult to fill, he will be sorely missed. He was loved by all.

On behalf of Shoalhaven City Council, Councillors and staff I offer my sincerest condolences to his family, friends and all who knew him.

MM24.1

MM24.2 Mayoral Minute - Condolence Motion Scott Balsar

HPERM Ref: D24/17691

Recommendation

That Council notes the passing of Mr Scott Balsar and writes to his wife Carla and children Chloe, Elijah and Gemma.

Details

Scott Balsar will be remembered as an esteemed and respected basketball coach, community leader and well-loved member of the Shoalhaven and Illawarra Basketball communities.

Scotty as he was affectionally known was a key person in basketball circles, coaching Shoalhaven Tigers teams to several State titles. His passion for the sport saw him forge a path within basketball as a coach for Illawarra Basketball Association, Basketball NSW and USA Pathways. He led teams at the Association, State and Womens National Basketball League levels. He worked for 14 years with Basketball NSW in High Performance, Coach Education and as a Development Officer.

Scotty contribution to basketball in the Shoalhaven was remarkable with his passion for the sport being shared with the many junior representative sportsmen and women he coached and mentored over the years. He was determined to provide young sportspeople opportunities to shine no matter where they lived in this state.

As Shoalhaven Basketball's Development Coordinator based at the Bomaderry Basketball Stadium, Scotty was responsible for hundreds of youngsters signing up to play the sport and learning their first skills. Whilst encouraging young players to start their basketball journey he was also coaching senior teams to success in the State titles.

Scotty had a passion for helping people and was very community minded. His dedication extended beyond the basketball court, marked by his role as the President of Bomaderry Primary School P&C, emphasizing his commitment to education and student welfare.

On behalf of Shoalhaven City Council I extend my deepest condolences to Scotty's wife Carla and their children, Chloe, Elijah and Gemma, their family and all who knew him.

MM24.2

CL24.1 Report of the Shoalhaven Sports Board - 29 November 2023

HPERM Ref: D23/501903

Attachments: 1. Copy of report SB23.16 (under separate cover) [⇒](#)

SB23.16 Sports Grants Program 2023 / 24 - Funding Determinations

HPERM Ref:
D23/325693

Recommendation

That Council as recommended by the Shoalhaven Sports Board:

1. Endorse the following four applications for the 2023/24 Sports Grants Program:
 - a. Milton Ulladulla District Tennis Association – Synthetic grass resurfacing of two tennis courts - \$50,000.
 - b. Shoalhaven District Football Association – Improve pathway network – \$6,617.
 - c. Shoalhaven Hockey Incorporated – Wall rebuild – \$35,666.67.
 - d. Shoalhaven Dog Training Club – Kitchen refurbishment - \$6,906.

Note by the CEO:

It is recommended that this process be reviewed in 2024 to assure value for money and equity across the LGA as we look at maintaining Council assets.

CL24.1

CL24.2 Report of the Arts Advisory Committee - 12 December 2023

HPERM Ref: D24/2716

Attachments: 1. Report - Shoalhaven City Art Collection - Acquisition of Works - Arts Advisory Committee 12 December 2023 [↓](#)

AB23.38 Shoalhaven City Art Collection - Acquisition of Works

HPERM Ref:
D23/470262

Recommendation

That Council, as recommended by the Arts Advisory Committee:

1. Accept the offer of donation for the work Untitled watercolour by Samuel Elyard. Donation by Peter Carlisle.
2. Accept the offer of donation for the work 'Jonah (and the Whale)' by John Edward. Donation by John Turner.
3. Accept the offer of a donation through the Cultural Gifts Program for the work 'Art and War' by Ahn Do. Donation by Ahn Do.

CL24.2

AB23.38 Shoalhaven City Art Collection - Acquisition of Works

HPERM Ref: D23/470262

Department: Arts & Culture
Approver: Jane Lewis, Director - City Lifestyles

Reason for Report

The purpose of this report is to inform the Shoalhaven Arts Advisory Committee of the deliberations and recommendations of the Arts Acquisition Sub-Committee for works to be added to the Collection in line with Shoalhaven City Art Collection – Acquisition and Management Policy POL22/49.

Recommendation

That the Shoalhaven Arts Advisory Committee:

1. Accept the offer of donation for the work Untitled watercolour by Samuel Elyard. Donation by Peter Carlisle
2. Accept the offer of donation for the work 'Jonah (and the Whale)' by John Edward. Donation by John Turner.
3. Accept the offer of a donation through the Cultural Gifts Program for the work 'Art and War' by Ahn Do. Donation by Ahn Do.

Options

1. Accept the Recommendation as written.
Implications: The Shoalhaven City Art Collection will grow as per the Policy and the advice of the Art Acquisition Sub-Committee.
2. Amend or change the Recommendation.
Implications: Acquisition of works may not be in line with Shoalhaven City Art Collection – Acquisition and Management Policy POL2/49.

Background

Several offers of work for the Shoalhaven City Art Collection have been received in the last quarter. These works and the Arts Acquisition Sub-Committee are noted below.

1. **Offer of donation for the work Untitled Watercolour by Samuel Elyard. Donation by Peter Carlisle**



Samuel Elyard

Watercolour and pencil on paper

54 x 38cm (76 x 61cm framed)

This work by noted Shoalhaven artist Samuel Elyard does not have a known title but appears to be a painting of the Shoalhaven River. Max Dingle, the current expert on the Elyard Collection held by Shoalhaven City Council, recommends this acquisition as it complements and builds on the current holdings of this artist's works. The work was purchased by the donor's great grandmother from the artist in the early 1900s. It has remained in the family's private collection since that time.

Acquisition of work meets the criteria of the Shoalhaven City Council Art Collection under section 3.1.6 under the following considerations:

- Significance of artist
 - Local significance
 - Cost and/or value for money
 - Advantageous opportunities
2. **Offer of donation for the work 'Jonah (and the Whale)' by John Edward. Donation by John Turner.**



John Edward

Jonah (and the Whale)

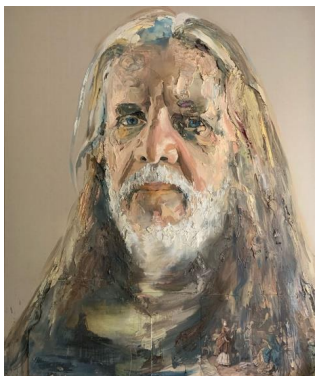
Polychrome pigment on glass, double-sided, framed

43 x 33cm

John Edward is a late local artist, working predominantly in the 1950s and 1960's. The Collection features several of his prints and photographs, but no paintings. This unique work on glass would increase and broaden the holdings of this artist's work. It was gifted by the artist to the donor's father Keith Turner, the first secretary of the Regional Galleries Association, and Hon. Art Advisor for Shoalhaven Council during the 1960s.

Acquisition of the work meets the criteria of the Shoalhaven City Council Art Collection under section 3.1.6 under the following considerations:

- Local significance
 - Cost and/or value for money
3. Offer of a donation through the Cultural Gifts Program for the work 'Art and War' by Anh Do. Donation by Anh Do.



Anh Do

Art and War

Oil on linen with found prints and other objects

240 x 200 cm

Anh Do is a prominent Australian artist, widely recognised through his TV series 'Anh's Brush With Fame'. This work is a 2019 Archibald Finalist of renowned Australian artist George Gittoes, a local personality who has owned a house in Gerringong for several years.

It is a large work, so storage could become problematic, but it would be a popular addition to the collection. Ideally it would be installed in the Council Nowra Administration Building, where it could be enjoyed by the public.

Acquisition of the work meets the criteria of the Shoalhaven City Council Art Collection under section 3.1.6 under the following considerations:

- Significance of artist
- Local significance
- Cost and/or value for money
- Advantageous opportunities

Community Engagement

The City Art Collection is made available to the community via the Gallery's online collection catalogue, at Shoalhaven Regional Gallery exhibitions, and through placement of works in

the Council's Nowra Administration Building, Shoalhaven Entertainment Centre foyer, and other appropriate locations.

Policy Implications

All offers of work for acquisition were reviewed against the Shoalhaven City Art Collection – Acquisition and Management policy.

Financial Implications

The Elyard and Edward works are being offered as direct donations with no costs associated with the immediate acquisition. The Do is offered under the Cultural Gifts Program, incurring a small fee to have the work valued.

CL24.3 Financial Sustainability Improvement Initiatives Update

HPERM Ref: D23/507444

Department: Corporate Performance & Reporting

Approver: Kerrie Hamilton, Acting Chief Executive Officer

Reason for Report

The purpose of this report is to provide an update on implementing the actions endorsed by Council following receipt of the independent Financial Sustainability Review Report in November 2023. The report includes an update on progress towards rationalisation of land and facility assets, assessment of identified efficiency initiatives and recommended asset management improvements.

Recommendation

That Council receive and note the update on financial sustainability improvement initiatives.

Options

1. Adopt the recommendation

Implications: Nil

2. Adopt an alternative recommendation

Implications: Staff will act in accordance with alternative resolution.

Background

At Council's Extraordinary meeting on 20 November 2023, Council received the final report of the independent Financial Sustainability Review into Council's financial position.

The community engagement on proposed Special Rate Variation Options and Council's updated Resourcing Strategy 2022-26 including the updated Long Term Financial Plan 2024-34 is currently underway. The exhibition closing date was extended from 10 January to 24 January 2024, taking the total exhibition period to 62 days.

Plain english summaries were developed for the updated Resourcing Strategy 2022-26 and FAQs made available on Council's Get Involved website.

A report will be included in the agenda for 29 January 2024 meeting to consider the outcomes of the engagement and the Resourcing Strategy for adoption. Council will also consider an Special Rate Variation application to IPART.

This report provides an update on progress on the following points of the 20 November 2023 Ordinary meeting resolution (MIN23.667).

That Council:

4. *Prepare a priority report to explore options to rationalise land and facilities assets with a clear timeline and budget for achieving swift results, including any efficiency savings that have already been identified with staff as part of the AEC Group review, that can be implemented swiftly and cost effectively.*

5. *Implements the asset management improvements identified in the financial sustainability review including the establishment of a project management office and project management framework, in order for projects to have tighter fiscal management and implementation.*
6. *Creates a program to strategically review/update its asset management plans and asset condition data, commencing with road assets in early 2024. Report back to council on a strategy to include other asset classes with quarterly reporting to council.*
7. *Adopts a minimum target of \$3 million in efficiency savings to be found over the next four years. This will be underpinned by a comprehensive calendar of service review with a quarterly report to council.*

Land and property asset rationalisation options

A report outlining Council's strategic framework to review its land and property assets with the aim of disposing of any underperforming assets has been prepared. The *Land Sales Strategy* report included with the agenda papers for this 22 January 2024 Ordinary Council meeting.

Review of initiatives provided during Financial Sustainability Review

As part of the recent independent Financial Sustainability Review, Council's Service Managers were asked to list any initiatives that present an opportunity to improve efficiencies or productivity with an estimate of any potential increase revenue or reduction in costs. These initiatives were included as a Appendix E in the final Financial Sustainability Review report. A copy of the report can be accessed via Council's website:

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D23/465710>

Of the total 138 identified efficiencies and productivity improvements identified through the financial sustainability review, these initiatives have been investigated, assessed and prioritised based on:

- Benefit to Council (reduced cost, increased revenue, efficiency or customer satisfaction)
- Improvement opportunities or as income generation only
- Readiness to implement (and potential phasing)
- Data to measure success of improvement measure

Shoalhaven Water included 18 productivity and efficiency initiatives through the financial sustainability review process which will be considered by Shoalhaven Water's innovation and business improvement team. These include opportunities for additional income generation through the Jervis Bay Territory water supply and sewer services agreement. This will not have an impact on Council's General Fund.

Some of the suggested initiatives were excluded from the assessment as they did not meet the criteria as an efficiency improvement measure, had ambiguous scope or were improvement statements only.

Within the remaining list of 85 initiatives, many involved the review of Council's fees and charges, building operational initiatives or changes to service levels.

These initiatives will be progressed through the following stages:

Amendments to Fees and Charges - Any proposed changes to Council's fees and charges will be investigated during the development of the 2024-25 Budget and will be reported to Councillors in late February 2024.

Building efficiency measures – These relate to improvements to the energy or water efficiency of Council buildings. Initiatives will be incorporated into the relevant Asset Management Plans and Council’s Sustainability Action Plan. As funding opportunities arise the initiatives will be assessed to progress.

Changes to service levels – Suggestions relating to changes to service levels or facility opening or closing hours will be included in assessments undertaken as part of future service reviews. Any amendments to Council’s operations will be progressed and reported through to Council as required.

Service Managers will be progressing 32 initiatives in forward programs with seven initiatives already underway. The remaining initiatives will be included in Council’s Corporate Improvement Register for ongoing consideration.

Business Improvement Review Program and Service Reviews

As part of the Office of Local Government Integrated Planning & Reporting Framework, councils are required to have a program to regularly review services to ensure they are effective and efficient, meeting the diverse needs of the local community.

Council continues to regularly review and improve its service delivery and there are a number of formal elements underway.

Business Improvement Review Program

Council has developed and resourced a formal Business Improvement Program. The Business Improvement Program Framework has been developed and endorsed by the Executive Management Team. Program outline:

- 2-3 structured service reviews each year. Forward program to be identified and adopted in Delivery Program Operational Plan (4 year) rolled out each financial year.
- Internally resourced service review on a particular service or sub-service element.
- Facilitated by the Business Improvement team and involves a staged process looking at service delivery and may take 3-6 months depending on scope. Designed to build capability within the organisation amongst Service Owners.

Pilot Business Improvement Reviews have now commenced with Holiday Haven and Library Services. The Business Improvement Review Program will be subject to a future report to Council.

Service Reviews

Initiatives led by individual Directorate or teams, may also include consultant supported service reviews, including structural reviews.

A key recommendation from Council’s financial sustainability review was to review the efficiency and effectiveness of current corporate overhead functions, particularly areas with large operating expenditure. To support this assessment, Council has commenced the development of a scope for a service review into Council’s Fleet and Mechanical Services operations.

That review will be a collaboration between external review expertise, in-house subject matter experience and a relatively newly appointed Manager Commercial Services who brings to the role experience in process, system and structural review, to minimise expenditures and maximise revenues in enterprises such as Fleet and Mechanical Services. Progress will be reported to Council at a future meeting.

The annual Business Improvement Review and Service Review Program will be developed in consultation with the Executive Management Team and Councillors and will form part of the adoption of Council’s Delivery Program Operational Plan each year.

Quarterly Progress Reporting

It is proposed that an overview on progress of these initiatives will be included in the Delivery Program Operational Plan quarterly performance reports with the first report due as part of the 2023-24 Quarter 2 (October to December) report due for consideration by Council at the 26 February Ordinary meeting. It is proposed to integrate reporting on the progress towards the \$3M in efficiency savings target over the next 4 years into Council's regular budget reporting cycles.

Asset Management Strategy Improvement Plan

Council's updated Asset Management Strategy, currently on public exhibition, includes a self-assessment of Council's Asset Management Maturity Assessment. Council's main objective is to elevate its maturity to the "Core" level. The Asset Management Improvement Plan and related implementation schedule identifies existing gaps and deficiencies in asset data, systems maturity and resources that are to be addressed to meet Council's Asset Management vision.

The next stages are:

- i. progress a thorough update of the condition data for Council's roads network in early 2024 and the development of a consultant brief and accompanying operational budget bid in FY24/25 for a more substantial overhaul of the Strategic Asset Management Plan for inclusion in the Resourcing Strategy 2025/26 (Feb 2025).
- ii. continue the review into the updating of asset-class specific Asset Management Plans (AMP). This is ongoing, with the capacity of the Asset Custodians to deliver these documents being assessed.
- iii. Review the suite of AMP's in conjunction with the implementation of the Project Lifecycle Management (PLM) module. The PLM module allows for a more robust linkage between AMP's and individual projects.
- iv. estimate the value of the financial dividend achieved from the completion of this work.

Enterprise Project Management Office – Project Management Framework

The "Project Initiatives" stage of PLM is now operational and accepting necessary project proposals to be considered for inclusion in the 2024/25 Capital budget where appropriate. The Project Management Framework (PMF) continues to be developed in parallel with the development of PLM. PLM is the system that will regulate the operational status of a project through its lifecycle and facilitate consistent and timely project status reporting, whereas the PMF provides the detailed guidance for project managers to deliver projects.

The kernel of an Enterprise Project Management Office (ePMO) is functioning within the Technical Services department under the oversight of the Director City Services. The ePMO will assess the readiness of project initiative proposals in PLM and provide recommendations on candidate projects to be considered for inclusion in the 2024/25 Capital Budget.

Internal Consultations

This report was prepared with input from staff from across the organisation.

External Consultations

Community engagement in relation to Council's services is currently underway as part of the exhibition of the updated Resourcing Strategy 2022-26, Financial Sustainability Review Report and Special Rate Variation Options. The outcomes of this engagement will be considered by Council as part of the 29 January Council report to consider the adoption of the updated Resourcing Strategy. This engagement input also be utilised in the assessment of forward efficiency initiatives, business improvement reviews and service review programs.

CL24.4 CEO Appointment - Delegations

HPERM Ref: D24/3769

Department: Business Assurance & Risk

Approver: Lauren Buckingham, Acting Director - City Performance

Attachments: 1. Instrument of Delegation [↓](#)

Reason for Report

To provide the Instrument of Delegation for the newly appointed Chief Executive Officer.

Recommendation

That Council

1. Delegate to the Chief Executive Officer the authority as outlined in the Instrument of Delegation provided as Attachment 1.
2. That for the period 12 February to 30 September 2024, one of the persons (determined by the Mayor at the relevant time) holding the position of:
 - a. Director of City Services, or
 - b. Director of City Performance, or
 - c. Director of City Development, or
 - d. Director of City Lifestyles, or
 - e. Director of City Futures

be appointed to act as the Chief Executive Officer if the Chief Executive Officer is sick or otherwise absent from work on leave or for any other purpose. Such appointment is to cease upon the return to work of the Chief Executive Officer or by other resolution of the Council.

3. That any person acting as the Chief Executive Officer pursuant to this resolution has all the functions, delegations, and sub-delegations given to the Chief Executive Officer by the Council.

Options

1. As recommended.
2. Amend the Instrument prior to endorsement.

Implications: Not known. Depending upon the proposed amendments, legal advice may be required to confirm that proposed amendments achieve the intentions of the Council and meet legislative requirements.

Background

Following the appointment of Ms Robyn Stevens as the General Manager (styled as Chief Executive Officer) who will commence on 12 February 2024, a draft instrument of delegation has been created and is provided to the Council at **Attachment 1** for endorsement in accordance with Section 377 of the Local Government Act, 1993.

In accordance with Section 377 (see below) of the *Local Government Act 1993* Council may delegate to the General Manager (CEO) the functions of Council with the exception of those listed below.

377 General power of the council to delegate

(1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following--

- (a) the appointment of a general manager,*
- (b) the making of a rate,*
- (c) a determination under section 549 as to the levying of a rate,*
- (d) the making of a charge,*
- (e) the fixing of a fee,*
- (f) the borrowing of money,*
- (g) the voting of money for expenditure on its works, services or operations,*
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),*
- (i) the acceptance of tenders to provide services currently provided by members of staff of the council,*
- (j) the adoption of an operational plan under section 405,*
- (k) the adoption of a financial statement included in an annual financial report,*
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,*
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,*
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,*
- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979,*
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,*
- (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,*
- (r) a decision under section 234 to grant leave of absence to the holder of a civic office,*
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,*
- (t) this power of delegation,*
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.*

Delegations to the General Manager (CEO) allow the normal functions of Council to be undertaken without the requirement of resolutions from Council.

The Draft Instrument of Delegation provided reflects the powers previously delegated to the position of CEO (General Manager) held by Mr Dunshea as last resolved by Council in January 2022. The intent and coverage of the delegation in the attached document has not been amended, however some slight amendments have been included to reflect relevant

policy and legislative updates which have occurred since the confirmation of the previous delegation.

The delegation instrument is provided for consideration at the Council at this time so that there is clear direction for the new CEO on their commencement at Council.

The Recommendations 2 and 3 outlined in this report are included to reconfirm the previous arrangements and provide clarity to allow for the appointment of an Acting Chief Executive Officer in circumstances where the Chief Executive Officer is absent, without requiring a further resolution of the Council at any such time.

SHOALHAVEN CITY COUNCIL

INSTRUMENT OF DELEGATION TO CHIEF EXECUTIVE OFFICER – S10003

On _____ the Shoalhaven City Council (“**Council**”) resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. The person who from time to time holds the position of General Manager of Council (“**General Manager**”), being at the date of this instrument _____, be delegated authority under section 377 of the LG Act, to exercise and/or perform on behalf of Council the Council’s Functions under all Legislation in force and as amended from time to time:
 - 2.a **Subject to** any condition or limitation on a Function specified in Schedule 1; and
 - 2.b **Excluding** those Functions:
 - i. that are expressly prohibited from delegation as listed under Section 377 of the LG Act;
 - ii. which are expressly required by legislation to be exercised by a resolution of the Council.
3. The General Manager be sub-delegated authority to exercise and/or perform on behalf of Council the Functions delegated to the Council under, and in accordance with, the instrument of delegation to the Council set out in **Schedule 2**, **excluding** those Functions which pursuant to the terms of the delegation to the Council may not be sub-delegated.
4. The General Manager be conferred authority to carry out the Policy Authorities listed in **Schedule 3** and undertake any administrative actions necessary to carry out those Policy Authorities.
5. The General Manager be delegated any Function which is taken to be conferred or imposed on the Council pursuant to section 381(1) of the LG Act.
6. In the absence of the General Manager that a person appointed by resolution to act as General Manager assume all Functions, delegations, and sub-delegations of the General Manager for the period only of the absence of the General Manager unless otherwise resolved by the Council.
7. These delegations and authorities are subject to, and are to be exercised in accordance with:
 - a.a the requirements of the relevant Legislation;
 - a.b any conditions or limitations set out in **Schedule 1** and **Schedule 3**; and
 - a.c any resolution or policy, procedure or budget adopted from time to time by the Council.

8. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.

9. In this delegation:

- **“Functions”** means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.

- **“Legislation”** means legislation enacted by the parliament of New South Wales and the parliament of the Commonwealth of Australia, including an Act, regulation made under an Act, by-law, rule or ordinance.

- **“LG Act”** means the *Local Government Act 1993* as amended.

Schedule 1: Limitations

Part A – Limitations applicable to specific statutory Function (if any)	
Legislation	Limitation (if any)
N/A	N/A
Part B – General Limitations	
N/A	

Schedule 2: Instruments of Delegation to Council

Delegator	Instrument Name	Date Of Instrument
Department of Fair Trading	Instrument of delegation under section 21 of the Plumbing and Drainage Act 2011	Thursday, 8 November 2012
Roads and Maritime Services	Transport Administration Act Delegation - Section 50	Monday, 31 October 2011

Schedule 3: Policy Authorities

Code	Policy Authority	Conditions / Limitations (if any)
AA05 - Crisis Management - Level 1	Authority to direct staff and other resources, authorise expenditure or any other action necessary for the management of a crisis and the recovery of	N/A

	<p>operations in accordance with Council's <i>Business Continuity Plan</i>, the <i>Local Government Act 1993</i> or other relevant Acts.</p> <p>Pursuant to the <i>Local Government Act 1993</i>, Council's <i>Business Continuity Plan</i> and other relevant legislation.</p>	
F01 - Authority to Operate on Accounts - Shoalhaven City Council	<p>Authorised to:</p> <p>a) to operate on any accounts now opened or to be opened by the Shoalhaven City Council with financial institutions</p> <p>b) Authority to sign, draw, make, accept and negotiate cheques and electronic transfers on behalf of Shoalhaven City Council.</p> <p>Pursuant to the resolution of the Executive Management Team Meeting 15 December 2020 (EM20.343).</p>	N/A
F02 - Accounts Receivable - Write-Offs <\$5000	<p>To authorise the abandonment or write off of accounts receivable for any amount up to but not exceeding \$5,000.</p> <p>Pursuant to the Local Government Act 1993, Council's policies - Rates and Other Monies - Delegation of Authority to Write Off and Revenue - Debt Recovery & Hardship as reviewed from time to time</p>	N/A
GM01 - International Gifts Giving and Receiving	<p>Authority to administer the giving and receiving of gifts to the City as a result of international interactions by Councillors or staff, according to Code of Conduct Guidelines.</p> <p>Pursuant to the Local Government Act 1993 and the International Gifts (Giving & Receiving) Policy as reviewed from time to time</p>	N/A
GM02 - Leases < 5 Years < \$5000	<p>Authority to approve and execute leases and licences that are a maximum term of 5 years, are in accordance with current policies and relevant legislation, have an annual rental of \$5,000 or less and have not been objected to as a result of the public exhibition process (Community Land).</p> <p>Authority to approve and execute telecommunications licences where the agreement</p>	N/A

	<p>relates to an existing telecommunication site.</p> <p>Pursuant to the Local Government Act 1993 and Council MIN14.912 adopted 16 December 2014.</p>	
GM03 - Leases - Integrity Real Estate	<p>Authority to approve and finalise all lease negotiations in relation to the properties managed by Integrity Real Estate and to sign any documents necessary.</p> <p>Pursuant to the Local Government Act 1993 and Council MIN15.237 adopted at Council Meeting 21 April 2015.</p>	N/A
GM04 - Expend Funds for Tree Removal	<p>Authority to expend funds to remove trees subject to a Court Order under the <i>Trees (Dispute Between Neighbours) Act 2006</i>.</p> <p>Pursuant to the <i>Environmental Planning & Assessment Act 1979</i>, the <i>Trees (Dispute Between Neighbours) Act 2006</i> and Council's Tree Management Policy as reviewed from time to time</p>	N/A
GM08 - Determine and Accept Tenders < \$1M	<p>Authority to determine and accept any tenders with a value of less than \$1M except those tenders required by law to be determined by the Council; and</p> <p>Authority to determine and accept tenders initiated by the Illawarra Shoalhaven Joint Organisation (ISJO) on behalf of all or a majority of member councils.</p> <p>Pursuant to a Resolution of Council dated 26 April 2017 – MIN17.334</p> <p>Note: Tenders will be reported directly to the Ordinary Meeting when the recommendation is to not accept any tender (Group Directors Meeting 3 December 2019 GD19.164)</p>	N/A
GM12 - COVID 19 – Rent Relief – Occupiers of Council Owned or Managed Properties	<p>Authority to review the status category of Not Impacted tenants if representations are received making a case for being impacted.</p> <p>Pursuant to MIN20.242 adopted 7 April 2020</p>	N/A
GM13 - COVID 19 – Refund of Section 7.11	<p>For the purpose of approving the refund of Section 7.11 contributions the CEO/delegate will be the sole</p>	N/A

Contributions	<p>arbitrator in determining and assessing the status of a development regarding it satisfying the refund criteria or if the development is staged that a point of approximately 25% of the stage has been reached at which point the CEO/delegate may make the refund.</p> <p>Pursuant to MIN20.275 adopted 28 April 2020</p>	
GM14 - COVID 19 – Refund of Section 64 Contributions	<p>For the purpose of approving the refund of Section 64 contributions the CEO/delegate will be the sole arbitrator in determining and assessing the status of a development regarding it satisfying the refund criteria or if the development is staged that a point of approximately 25% of the stage has been reached at which point the CEO/delegate may make the refund.</p> <p>Pursuant to MIN20.276 adopted 28 April 2020</p>	N/A
GM15 - Bushfire Recovery – Water Usage Accounts	<p>Provide the CEO (Director Shoalhaven Water) general delegated authority to determine all requests for fire impacted properties on their merit. For clarity, where an application is made the CEO be authorised to waive the difference between the water used during the fire event to the meter reading for the same period in the previous year. The fire event being where the RFS Incident Controller advised residents they should consider leaving or it was too late to leave.</p> <p>Pursuant to MIN20.136 adopted 25 February 2020</p>	N/A
GM16 - General Manager - COVID 19 - Stimulus to Business - Reduction of Fees & Charges	<p>That the reduction of any fees and charges to business, that would assist business viability, be delegated to the Chief Executive Officer.</p> <p>Pursuant to MIN20.442 adopted 23 June 2020.</p>	N/A
GM19 - Disaster Recovery Funding – Authority to Accept Tenders & Approve Variations	<p>Authority to accept tender and approve variations, on Council's behalf, for projects funded under the joint Australian Government-State Disaster Recovery Funding Arrangements 2018, related to the funding of asset restoration resulting from the March and July 2022 severe weather events.</p> <p>Pursuant to MIN22.801 adopted 31 October 2022.</p> <p>Note: This delegation be revoked in November 2024</p>	N/A

	and be reconsidered by the newly elected Council.	
PED00 - EP&A Act - Council's Delegable Functions - LEP's	<p>Authority to exercise the powers of Council in accordance with Section 2.4 of the Environmental Planning and Assessment Act 1979 in respect to Local Environmental Plans (LEPs) and minor amendments to existing LEPs.</p> <p>Pursuant to the <i>Local Government Act 1993</i> and Section 2.4 of the <i>Environmental Planning and Assessment Act 1979</i></p>	N/A

Pursuant to a Resolution of the Council at its meeting of _____,

Mayor Amanda FINDLEY

Mayor / Councillor

Date:

Review date: Sunday, 1 September 2024

Chief Executive Officer's acknowledgement of Delegations of Authority

I _____, currently employed by the Council in the position of Chief Executive Officer, do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

Chief Executive Officer of Shoalhaven City Council

Date:

CL24.5 Presentation of Annual Financial Statements - 30 June 2023

HPERM Ref: D23/521157

Department: Finance

Approver: Lauren Buckingham, Acting Director - City Performance

Attachments: 1. Annual Financial Statements 2023 (under separate cover) [⇒](#)
2. Submission - SCC Audited Financial Statements 2023 (under separate cover) [⇒](#)

Reason for Report

In accordance with the Local Government Act 1993 Council is required to present its Financial Statements to the public within five weeks of receiving the Auditor's Report.

Recommendation

That:

1. The audited Annual Financial Statements for the year ended 30 June 2023, together with the Report on the Conduct of the Audit, be presented to the public at the Ordinary Meeting of Council on 22 January 2024.
2. Council notes the attendance of David Daniels, Delegate of the Auditor-General for New South Wales, and thank him for his presentation and professionalism in relation to the auditing of Council's Annual Financial Statements.

Options

1. The audited Annual Financial Statements for the year ended 30 June 2023 are presented to the public.

Implications: Council meets its statutory requirements in relation to reporting the Financial Statements to Council and the public.

2. Further information regarding the Annual Financial Statements be requested.

Implications: Staff will need to prepare a further report to provide any information that is required.

Background

Council resolved on 11 December 2023 that the Draft Financial Statements and the Auditor's Report be presented to the public at this Council meeting. Public Notice of the presentation of the audited Financial Statements was given on 19 December 2023.

The public notice was in accordance with Section 418 of the Local Government Act 1993. Copies of the audited Annual Financial Statements are available for inspection by members of the public at Council's Nowra Administration Building and available on Council's website.

David Daniels, Delegate of the Auditor-General for New South Wales, and his team have audited the financial statements for the financial year ending 30 June 2023 and Mr Daniels has provided the Audit Reports including the Audit Conduct Report which have been included in the Annual Financial Statements.

The Conduct of the Audit Report states that:

“I expressed an unmodified opinion on the Council’s GPFS.”

The report also states that:

“The Council’s:

- *“While we noted some improvements compared to the prior year, delays were again encountered in relation to the provision of financial statements to the audit team”*
- *“The Council requested and received extensions for the lodgement of the Audited Financial Statements with the Office of Local Government initially to 30 November 2023, and then to 21 December 2023.*

The General Purpose Financial Statements, Special Purpose Financial Statements and Special Schedules have been prepared in accordance with the Local Government Code of Accounting Practice and Financial Reporting and applicable Accounting Standards.

Conduct of Audit Report is provided to the Council for information.

Community Engagement

The presentation of the Financial Statements has been advertised, inviting the community to provide feedback by COB 10 January 2023. Council did not receive any submissions directly; however, Council is aware of one submission addressed and directly forwarded to the NSW Audit Office for response (refer Attachment 2).

Council has contacted the NSW Audit Office to confirm their receipt of this submission. The NSW Audit Office will provide a response to the submission. Council staff will also provide their own response to the questions raised in the submission.

Financial Implications

Prudent financial management remains a key priority for both staff and Councillors. A comprehensive Financial Sustainability Review commenced in the first quarter of 2023/24 and the results were reported to Council at the 20 November 2023 Council meeting. Whilst Council continues to be a going concern, the Financial Sustainability Review has outlined the projected financial position. The review indicates that Council needs to act immediately to address its financial challenges, or it will become unsustainable. This is further reinforced through the financial results reported in the 30 June 2023 General Purpose Financial Statements.

There is considerable financial risk to the organisation if corrective action is not taken, including Council breaching its restricted cash requirements. Further Councils current financial position does not allow for Council to actively deal with its backlog of infrastructure, not the adequate funding of asset renewals moving forward.

Risk Implications

As indicated in the 30 June 2023 General Purpose Financial Statements, Council does not hold sufficient unrestricted cash impacting on the ability to respond effectively to natural disaster events. If Council reaches the point where it has to take drastic actions in a reactive manner it is likely to result in negative media attention as seen with other Councils in recent times.

CL24.6 Investment Report - November/December 2023

HPERM Ref: D24/6638

Department: Finance

Approver: Lauren Buckingham, Acting Director - City Performance

Attachments:

1. Shoalhaven Monthly Investment Report - December 2023 (under separate cover) [↗](#)
2. Shoalhaven Monthly Investment Report - November 2023 (under separate cover) [↗](#)

Reason for Report

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

Recommendation

That Council:

1. Receive the Record of Investments for the period to 30 November 2023.
2. Receive the Record of Investments for the period to 31 December 2023.
3. Note that Council's total Investment Portfolio (excluding the Long-Term Growth Fund) returned 4.63% per annum for the month of November 2023, outperforming the benchmark AusBond Bank Bill Index (4.34% pa) by 29 basis points (0.29%).
4. Note that Council's total Investment Portfolio (excluding the Long-Term Growth Fund) returned 4.76% per annum for the month of December 2023, outperforming the benchmark AusBond Bank Bill Index (4.43% pa) by 33 basis points (0.33%).
5. Note the performance of the Long-Term Growth Fund as presented in the report.

Options

1. The report on the Record of Investments for the period to 30 November 2023 be received for information.

Implications: Nil

2. The report on the Record of Investments for the period to 31 December 2023 be received for information.

Implications: Nil

3. Further information regarding the Record of Investments for the period to 30 November 2023 be requested.

Implications: Nil

4. Further information regarding the Record of Investments for the period to 31 December 2023 be requested.

Implications: Nil

5. The report of the record of Investments for the period to 30 November 2023 be received for information, with any changes requested for the Record of Investments to be reflected in the report for the period to 31 January 2024.

Implications: Nil

6. The report of the record of Investments for the period to 31 December 2023 be received for information, with any changes requested for the Record of Investments to be reflected in the report for the period to 31 January 2024.

Implications: Nil

Background

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

Portfolio Return

The investment returns (excluding Long-Term Growth Fund) were a stable 4.63% p.a. in November 2023, outperforming the benchmark AusBond Bank Bill Index (4.34% p.a.) by twenty-nine basis points (0.29%). The investment returns (excluding Long-Term Growth Fund) were a stable 4.76% p.a. in December 2023, outperforming the benchmark AusBond Bank Bill Index (4.43% p.a.) by thirty-three basis points (0.33%).

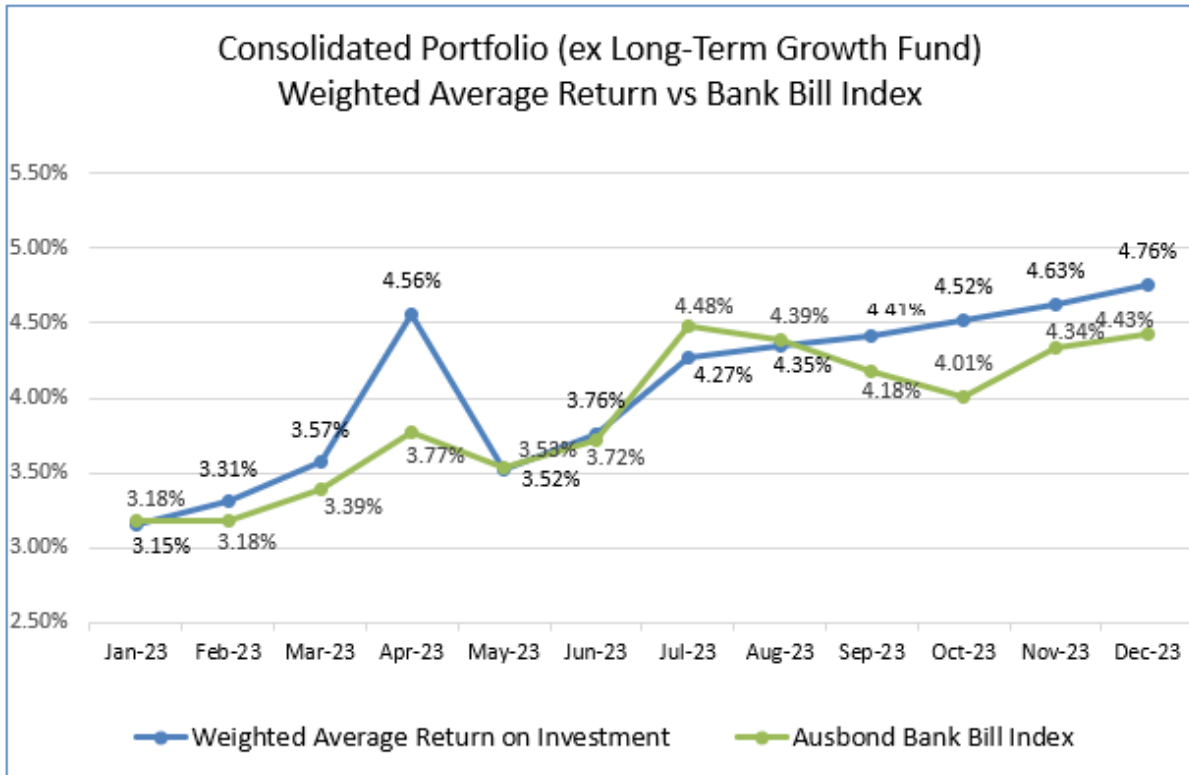
The overall portfolio (excluding cash) returned a positive 12.29% p.a. for the month of November 2023, outperforming the benchmark AusBond Bank Bill Index return by 7.95% p.a. The overall portfolio (excluding cash) returned a positive 11.32% p.a. for the month of December 2023, outperforming the benchmark AusBond Bank Bill Index return by 6.89% p.a.

The RBA kept rates on hold at 4.35% as expected in its December meeting. Concerns remain, however, over Australia's inflation rate and the need to target the mid-point of the 2-3% inflation band. Minutes indicated the RBA is willing to act aggressively to achieve its goal. Councils' investment in the Long-Term Growth fund (shares) grew by \$1.4 million dollars in November and December due to projected interest rate cuts in the USA.

Investments (Excluding Long-Term Growth Fund)

Graph 1 below, shows the performance of Council's Investment Portfolio (excluding Long-Term Growth Fund) against the benchmark on a rolling 12-month basis.

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



CL24.6

Long-Term Growth Fund

Council's investment in the Long-Term Growth Fund outperformed and returned a positive - \$755,975.66 or 3.77% (net actual) for the month of November 2023.

Council's investment in the Long-Term Growth Fund outperformed and returned a positive - \$640,227.20 or 3.08% (net actual) for the month of December 2023.

It is important to note that TCorp has a target of 3.5% above inflation of 2.5%, therefore the long-term target is expected to return an average of 6.0% per annum (benchmark) over a seven-year cycle with positive months outweighing the negative months over the long-term.

Investment Interest Earned – November 2023

Table 1 below, shows the interest earned for the month of November 2023.

Table 1- Interest Earned for the Month of November 2023

Fund	Monthly Revised Budget \$	Actual Earned \$	Difference \$
General	251,199	276,547	25,348
Water	85,150	150,403	65,253
Sewer	55,069	58,221	3,152
Total excluding Long-Term Growth Fund	391,418	485,171	93,753

The interest earned for the month of November, excluding changes in the fair value of the TCorp Long-Term Growth Fund was \$485,171 compared to the monthly revised budget of \$391,418.

Investment Interest Earned – December 2023

Table 1 below, shows the interest earned for the month of December 2023.

Table 1- Interest Earned for the Month of December 2023

Fund	Monthly Revised Budget \$	Actual Earned \$	Difference \$
General	259,572	329,122	69,550
Water	87,989	178,996	91,007
Sewer	56,904	69,289	12,385
Total excluding Long-Term Growth Fund	404,465	577,407	172,942

The interest earned for the month of December, excluding changes in the fair value of the TCorp Long-Term Growth Fund was \$577,407 compared to the monthly revised budget of \$404,465.

Investment Interest Earned - Year to Date

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

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

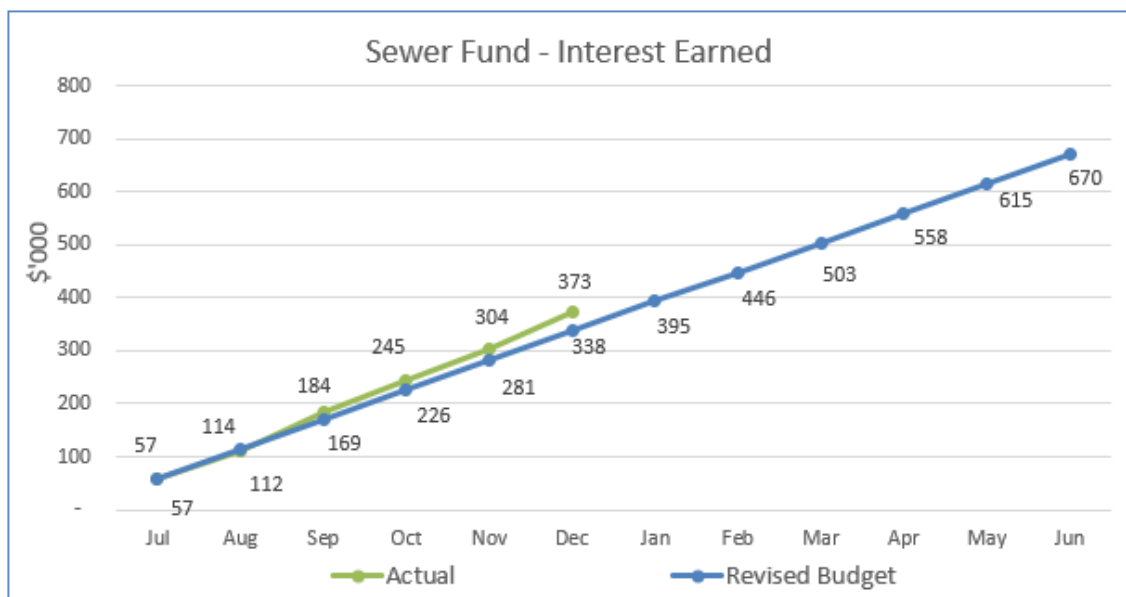
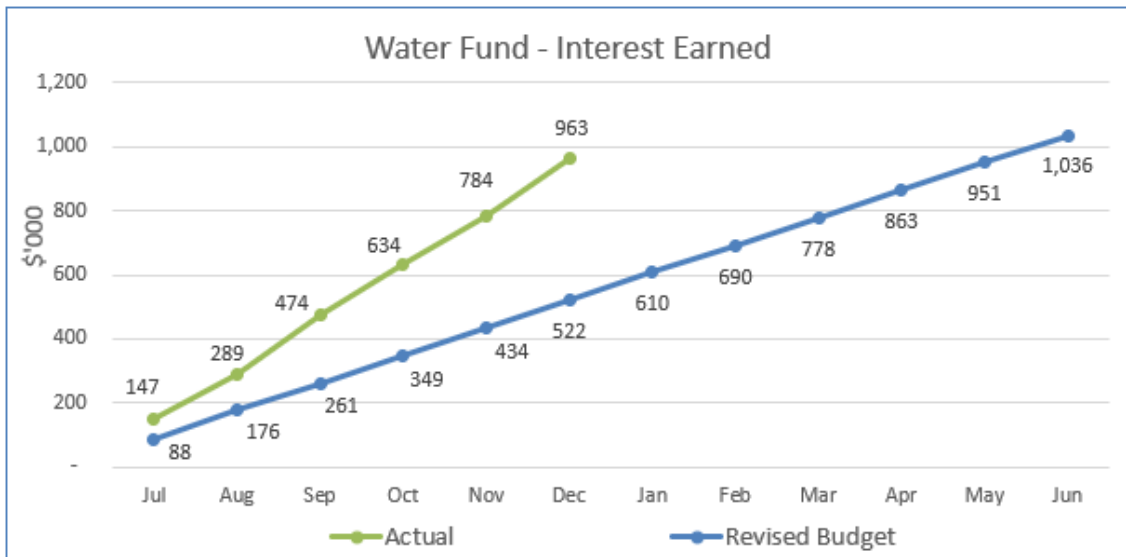
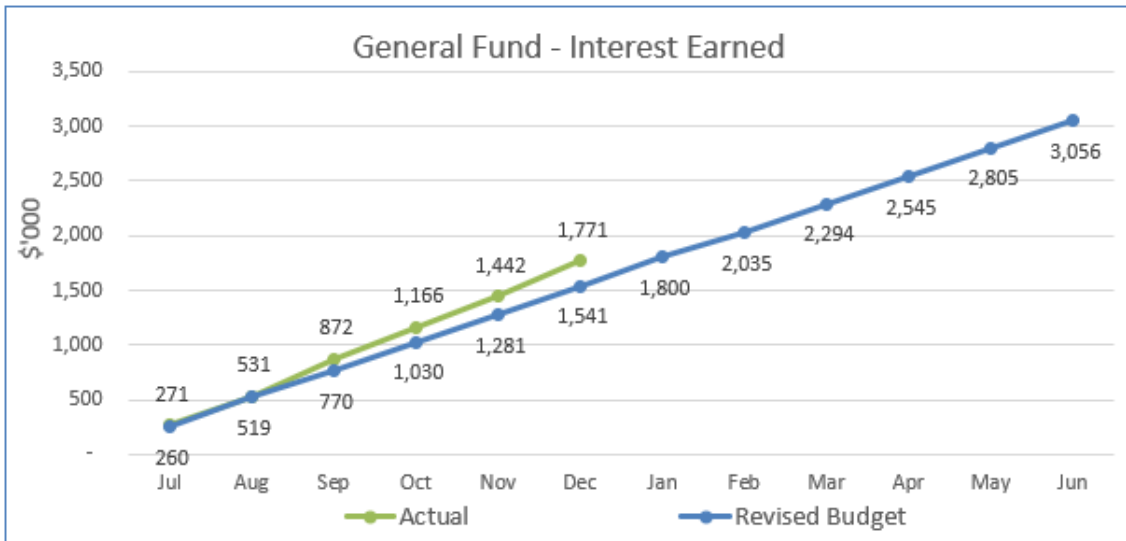
Fund	Revised Total Annual Budget \$	Actual YTD \$	% Achieved
General	3,056,247	1,771,177	57.95%
Water	1,036,000	963,272	92.98%
Sewer	670,000	372,880	55.65%
Total excluding Long-Term Growth Fund	4,762,247	3,107,329	65.25%

The cumulative interest earned for the year (July to December), excluding the change in fair value of TCorp Long-Term Growth Fund was \$3,107,329 which is 65.25% of the current full year revised budget.

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

CL24.6

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



CL24.6

Cash and Restricted Assets, Restricted Asset Movements and Liquidity Indicators

At the time of preparing this report, Finance was in the process of finalising the December quarter budget reviews. Accordingly, the Cash and Restricted Assets, Restricted Asset Movements and Liquidity Indicators sections have necessarily been excluded from the November/December Investment Report.

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

Since 30 June 2023 and up to 31 December 2023, Council received \$22.2M of the outstanding grants spent in advance balance.

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: 15 January 2024

CL24.6

CL24.7 Ordinary Meeting - Change of Dates - May 2024

HPERM Ref: D24/1032

Department: Business Assurance & Risk

Approver: Lauren Buckingham, Acting Director - City Performance

Reason for Report

To seek Councils approval to amend the scheduled Ordinary Meeting dates for May 2024.

Recommendation

That Council amend the scheduled May 2024 Council Meetings to reschedule Ordinary Meetings to be held on the following dates:

- Monday, 6 May 2024 commencing at 5.30pm
- Monday, 20 May 2024 commencing at 5.30pm

Options

1. As recommended

Implications: Ordinary Meeting dates will be amended as recommended.

2. Council proceeds with the current scheduled dates for May 2024.

Background

At its Ordinary Meeting of 25 September 2023, Council determined (MIN23.513) the date and time of the Core Committee and Ordinary Council meetings through to October 2024. Those meeting dates resolved by the Council can be viewed as [Upcoming Meetings](#) on Council's Website.

After consideration of related processes and schedules it has been identified that a rescheduling of the dates in May 2024 will be more suitable for business requirements. Those dates are summarised in the table below.

Ordinary Meeting Dates Previously resolved by Council	Proposed altered Ordinary Meeting dates
Monday 13 May 2024	Monday 6 May 2024
Monday 27 May 2024	Monday 24 May 2024

In effect this proposal will move the proposed Council Ordinary Meetings for May forward one week. These times will align with requirements for Budget preparation and approval.

Should the timeframe proposed not be endorsed, the dates to remain as Monday, 13 2024 and Monday, 27 May 2024.

Community Consultations

The community will be advised of the changes via notification on Councils website.

CL24.7

CL24.8 Ongoing Register of Pecuniary Interest Returns - December 2023

HPERM Ref: D23/512678

Department: Business Assurance & Risk

Approver: Lauren Buckingham, Acting Director - City Performance

Reason for Report

To provide the Council with the Register of Pecuniary Interest Returns from newly designated persons lodged with the Chief Executive Officer for the period of 1 December to 31 December 2023 as required under Section 440AAB of the Local Government Act 1993 and Part 4.26 of the Code of Conduct.

Recommendation

That the report of the Chief Executive Officer regarding the Ongoing Register of Pecuniary Interest Returns lodged for the period of 1 December to 31 December 2023 be received for information.

Background

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

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

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

Part 4.26 of the Model Code of Conduct states:

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

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

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

Directorate	Name	Designated Position Start Date	Returned
City Development	John Wright	27/11/2023	01/12/2023
City Services	Darron Ellery	4/12/2023	8/12/2023
City Development	Mathew Ganderton	22/11/2023	20/12/2023

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

Risk Implications

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

CL24.9 Road Naming Proposal - Unnamed Lane, Huskisson

HPERM Ref: D23/524841

Department: Information Services

Approver: Kerrie Hamilton, Director City Performance

Reason for Report

The purpose of this report is to request Council to determine the outcome of a road naming proposal undertaken for an unnamed lane off Owen Street, Huskisson.

Recommendation

That Council proceed with formalising the road name of the 'unnamed lane' off Owen Street, Carpenter Lane.

Options

1. Proceed with formalising the unnamed lane off Owen Street, Carpenter Lane.

Implications: unnamed lane will be formally named, Carpenter Lane.

2. Provide further direction to staff and propose an alternative recommendation.

Implications: A new consultation process for an alternative proposed name will need to be undertaken.

Background

At the Ordinary Meeting held on 26 June 2023 Council resolved (MIN23.335) to recommence a new consultation process, consulting on the name Carpenter Lane, consistent with Council's Road and Place Naming Policy (POL22/91), based on feedback received from the community. Endorsement for the name Carpenter Lane has been received from the Local Aboriginal Land Council and a descendant of the Carpenter family.

Under Section 162 of the Roads Act 1993, Council is a designated naming authority and in line with the Road and Place Naming Policy (POL22/91) public consultation has been undertaken to obtain community feedback on the proposed name for the unnamed lane. Summary of the process undertaken by Council and feedback provided as part of the road naming process is outlined below for consideration.

Council proceeded with the proposal in accordance with NSW Legislation and Council Policy and advertised the proposal for public comment for a period of 4 weeks (20 working days). The Road Naming Proposal was advertised on Council's website and in the South Coast Register. The end date for public comment on the proposal was 8 December 2023.

Five submissions were received: four within close of the submission period and one after close of the submission period. Three submissions received within the close of the submission period supported the proposal, including submissions from The Huskisson Woollamia Community Voice (HWCV) and the Huskisson Historical Society. Two submissions did not support naming Carpenter Lane and suggested this name be used for the adjoining unnamed lane.



Figure 1 Unnamed Lane off Owen St, Huskisson

CL24.9

As a result of the work undertaken to date and the feedback that has been received, Council could:

1. Proceed with naming the unnamed lane Carpenter Lane. Consultation undertaken has demonstrated that the proposed name is supported by the Huskisson Woollamia Community Voice and the Huskisson Heritage Association.
2. Provide further direction to staff and propose an alternative recommendation.

Community Consultations

Council has undertaken public consultation in accordance with NSW Legislation and Council Policy and advertised the proposal for public comment for a period of four weeks (20 working days) on Council's website and in the South Coast Register. The end date for public comment on the proposal was 8 December 2023.

CL24.10 Post Exhibition and Finalisation – 45 Degree Rule Trial Amendment (No 54) – Shoalhaven Development Control Plan 2014

HPERM Ref: D23/504381

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

Attachments: 1. Submission Summary - Amendment 54 [↓](#)

Reason for Report

This report presents the results of the public exhibition of the proposed amendments to the 12-month trial of the 45 Degree Rule exemption in *Chapter G4: Tree and Vegetation Management* of the City-wide Development Control Plan.

Recommendation

That Council:

1. Adopt the publicly exhibited 45 Degree Rule Trial Amendment to Chapter G4: Tree and Vegetation Management of *Shoalhaven Development Control Plan 2014* (Amendment No. 54).
2. Update the online notification tool and associated documents to reflect the changes to the required arboriculture qualification upon commencement of the Amendment.
3. Advise key stakeholders, including as many as possible tree removal operators working in the Shoalhaven Local Government Area and those who made a submission, of this decision.

Options

1. As recommended.

Implications: This is the preferred option as it enables Council to respond to the qualification/standard issues raised by the Industry. It is consistent with the level of support indicated in submissions responding to the public exhibition. This option allows the amendment to be finalised the online notification tool to be updated.

2. Adopt an alternative recommendation.

Implications: This will depend on the nature of any alternative recommendation.

3. Not adopt the recommendation.

Implications: No change would be made the development controls relating to the trial 45 Degree Rule exemption. The current provisions (in force since 16 August 2023) would remain in place.

Background

The 45 Degree Rule (the Rule) allows the removal or significant pruning of trees in urban areas without Council's development consent, subject to meeting specific criteria set out in Chapter G4: Tree and Vegetation Management of *Shoalhaven Development Control Plan 2014*.

On 16 August 2023, Council began a 12-month trial amendment to the Rule which introduced additional criteria including a mandatory notification process and a requirement for relevant tree works to be undertaken by an Australian Qualifications Framework Level 3 Arborist (AQF Level 3 Arborist).

On 23 October 2023, in response to feedback received during the trial, Council resolved to (MIN23.613):

1. *Endorse the following minor draft changes to Shoalhaven DCP 2014 Chapter G4 (Section 5.2.3(d)), pertaining to the 45 Degree Rule exemption, for public exhibition:*
 - a. *Replace “Ensure the tree removal is undertaken by an AQF Level 3 arborist in accordance with relevant Australian Standards” with “Ensure the tree work is undertaken by a suitably qualified and experienced Arborist in accordance with the following:*
 - i. *Relevant Safe Work Australia’s Guide/Code of Conduct (as amended from time to time) for complete tree removal.*
 - ii. *Relevant Australian Standards and Safe Work Australia’s Guide/Code of Conduct (as amended from time to time) for all other tree works”.*
2. *Publicly exhibit the draft DCP amendment for a minimum period of 28 days, as required by legislation.*
3. *Receive a further report on the outcomes of the public exhibition, except where no submissions are received. If no submissions are received, proceed to finalise the DCP amendment as exhibited, in accordance with legislative requirements.*
4. *Maintain ongoing liaison with TAFE NSW and Registered Training Organisations (RTOs), with the aim of enhancing and converting skills and experience to formal qualifications for current Arborists practising within the Shoalhaven region.*

Parts 1 and 2 of this resolution are complete. A draft amendment to the development controls was prepared which modifies the existing rule requiring an AQF Level 3 Arborist to undertake the works to qualify for the exemption from obtaining development consent. The Amendment adjusts the criteria in accordance with the resolution to confirm works can be undertaken by a suitably qualified and experienced arborist and in accordance with relevant Australian Standards and industry guides.

Public Notification

The draft Amendment was publicly exhibited for 28 days (1-29 November 2023) and included a [Draft Chapter G4: Tree and Vegetation Management](#) and an [Explanatory Document](#) providing an overview of proposed changes. The exhibition was notified on Council’s website ([Media Release](#)) and [Get Involved Project Page](#). The exhibition material was available online and at Council’s Nowra and Ulladulla Offices. Community Consultative Bodies (24) and Industry Stakeholders (54) were directly notified of the exhibition.

A total of 24 submissions were received, with 21 community submissions and three industry submissions. In summary:

- Ten submissions specifically addressed the scope of the proposed Amendment, with **8 supporting the proposal** and 2 not supporting the proposal.
- Two submissions were unclear about whether they supported the amendment or not.
- The remaining 12 submissions raised matters relating to the 45 Degree Rule in a general sense, not the proposed Amendment.

A summary of all submissions and a consideration of the matters raised is provided in **Attachment 1**. The submissions or parts of submissions unrelated to the Amendment will be

presented to Council at the end of the 12-month trial. A copy of submissions is available on request.

Recommendation

The exhibited Amendment addresses industry and community concerns with the Rule while ensuring the remaining objectives of the trial to the Rule continue to be met. Most of the feedback received in response to the exhibition supports the proposed amendment. It is recommended that Council adopt the exhibited Amendment for the remainder of the trial period.

Policy Implications

Changes to the criteria relating to qualifications and standards require amendments to Shoalhaven Development Control Plan 2014 (Chapter G4). The amended criteria associated with the Rule will be reflected in the wording on the associated notification form, upon commencement.

Financial Implications

The finalisation of the Amendment will continue to be resourced within the existing Strategic Planning budget.

Risk Implications

Legal advice confirms there are no risk implications for Council resulting from any change (or no change) in policy position relating to any element of the Rule.

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Summary of Submissions

Amendment 54: 45 Degree Rule Exemption Amendment

Public Exhibition: 1 November to 29 November 2023

No.	Submitter	Summary of submission relating to Amendment 54	Staff feedback on submission points relating to Amendment 54	Other feedback not related to Amendment 54
1	Individual <i>Swanhaven,</i>	<ul style="list-style-type: none"> Supports the amendment with changes. 'Suitably qualified' is vague and may be misjudged by assessors. 	<ul style="list-style-type: none"> This phrase is commonly used in legal documents to refer to selecting or appointing individuals with different types of expertise for different tasks, acknowledging that both qualifications and experience are important factors in the selection or appointment process. Council obtained legal advice on this matter which confirms that this wording is legally sound. 	<ul style="list-style-type: none"> Figure 1 is unclear. The APZ/50m rule needs clearing up
2	Individual <i>Culburra Beach</i>	<ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> Wants the 'old' 45 Degree Rule reinstated. People should have a right to protect themselves and their property from trees.
3	Individual <i>Termeil</i>	<ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> The former Rule worked perfectly and should never have been changed. There is no need to notify neighbours unless they are affected.
4	Individual <i>Ulladulla</i>	<ul style="list-style-type: none"> Supports the changes from an AQF 3 to 'suitable qualified'. Consistent with Eurobodalla. 	<ul style="list-style-type: none"> Noted. 	<ul style="list-style-type: none"> Nil.
5	Industry <i>Ulladulla</i>	<ul style="list-style-type: none"> Does not support the changes to the Rule. Does not believe any proposed amendments will be delivered honourably. 	<ul style="list-style-type: none"> Noted 	<ul style="list-style-type: none"> Wants to see the Rule return to the original policy that was in place for the last 20 years.
6	Industry <i>Nowra</i>	<ul style="list-style-type: none"> Unclear whether in support or not. Submission notes the changes are not 	<ul style="list-style-type: none"> Noted. 	<ul style="list-style-type: none"> More clarification and industry consultation should have been provided regarding who can undertake tree work in

		<p>supported and supports more regulation but also appears to support the loosening of the qualification requirements.</p> <ul style="list-style-type: none"> • Is a level 3 arborist. • Does not support the way Council has dealt with the level 2 arborists. • If you are not qualified you shouldn't do the work. • People won't hire other trades that aren't trade qualified. • Believe it is up to the individual to have the correct qualifications. • The industry should be more licensed and regulated to ensure that arborists are held accountable. 		<p>Shoalhaven, including one on one personal consultation with the industry.</p>
7	Individual <i>Bomaderry</i>	<ul style="list-style-type: none"> • Nil 	<ul style="list-style-type: none"> • n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> • Appears to not support the trial changes made in August 2023. The original Rule was put in place to protect ratepayers.
8	Individual <i>Conjola Park</i>	<ul style="list-style-type: none"> • Unclear whether in support or not. • Submission notes that they do not support the proposed changes, but also notes that local level 2 arborists are very capable. 	<ul style="list-style-type: none"> • Noted. 	<ul style="list-style-type: none"> • The unchanged original 45 degree rule should be reinstated immediately. Residents need to be able to remove trees that are endangering their homes or lives without having to jump through hoops to do so. How many more people need to die to prove this is essential.
9	Individual <i>Ulladulla</i>	<ul style="list-style-type: none"> • Nil 	<ul style="list-style-type: none"> • n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> • There was nothing wrong with the original 45 degree rule. It kept the public safe and gave you the right to decide what you want to happen to the trees on your land. It's not Councils decision
10	Individual <i>Culburra Beach</i>	<p>Nil</p>	<ul style="list-style-type: none"> • n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> • The rule needs to be go back to the original 45 Degree Rule which worked for the community. Changes to the 45 Degree Rule have been a waste of rate payers money.
11	Individual <i>Bewong</i>	<ul style="list-style-type: none"> • Supports tree removal undertaken by a suitably qualified arborist. 	<ul style="list-style-type: none"> • Noted. 	<ul style="list-style-type: none"> • Nil
12	Individual	<ul style="list-style-type: none"> • Supports the proposed amendment. 	<ul style="list-style-type: none"> • Noted. 	<ul style="list-style-type: none"> • Nil

	<i>Nowra Hill</i>			
13	Individual <i>Nowra</i>	<ul style="list-style-type: none"> Supports the proposed amendment. 	<ul style="list-style-type: none"> Noted. 	<ul style="list-style-type: none"> Nil
14	Individual <i>Bangalee</i>	<ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> Leave rule as it was, it worked well. There was no abuse of the old rule. Only trees that were a danger to humans. We don't need any more bureaucracy or red tape. Not to mention the additional cost to ratepayers, which they can't afford. I believe you have made it too complicated, and portal doesn't work.
15	Individual <i>Bangalee</i>	Nil	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> Council is trying to change something that isn't broken. The 45 degree rule has worked perfectly for our region in protecting residents and without the added confusion of council requirements.
16	Industry <i>Bomaderry</i>	<ul style="list-style-type: none"> Supports the proposed amendment. As an AQF 3 arborist, the amended version of the proposed amendments appears suitable. 	<ul style="list-style-type: none"> Noted. 	<ul style="list-style-type: none"> Nil
17	Individual <i>Lake Conjola</i>	<ul style="list-style-type: none"> Supports the proposed amendment. 	<ul style="list-style-type: none"> Noted. 	<ul style="list-style-type: none"> Nil
18	Individual <i>Brooman</i>	<ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> The rule did not need to be changed. There are so many other things to work on at this point in time. It's important to concentrate on more urgent matters that need attention in the area.
19	Individual <i>Burrill Lake</i>	<ul style="list-style-type: none"> Does not support changes to the Rule; would like it to stay as is. 	<ul style="list-style-type: none"> Noted. 	<ul style="list-style-type: none"> Nil
20	Individual <i>Berry</i>	<ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> Reporting requirements should have been instigated first before introducing new policy to determine the extent of otherwise unlawful tree removal.
21	Individual <i>Bawley Point</i>	Nil	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> Thank you for trailing this [<i>presumably the August 2023 changes</i>]. Since the 2019 bushfires, the sound of chainsaws in

				Bawley Point has been continual. A lot of health beautiful trees have been felled under the 45 Degree Rule.
22	Individual <i>Vincentia</i>	Nil	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> Shoalhaven City Council should apply the 45 degree rule as it applies to every other Council in NSW. Apply a small fee, inspection of the proposed site and address the danger issue immediately. To allow wholesale lopping is irresponsible. Shoalhaven City Council must not be swayed by emotive and unjustifiable reasons. The rule that applies to every other Council in NSW works well and should be implemented in this LGA. The constant politicisation of this issue is appalling.
23	Individual <i>Nowra</i>	<ul style="list-style-type: none"> Supports the proposed amendment to modify the wording to 'suitably qualified.' 	<ul style="list-style-type: none"> Noted. 	<ul style="list-style-type: none"> Nil
24	Individual <i>Nowra</i>	<ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> n/a – submission does not provide feedback on the proposed amendment. 	<ul style="list-style-type: none"> Concerned with the lack of clarity in the exemption clause of Shoalhaven Council's draft Tree and Vegetation Management policy regarding bushfire risk. It suggests that the policy should be amended to specify the level of bushfire risk and BAL that may be provided for by the clearance of vegetation for existing assets and new developments.

CL24.11 Land Sales Strategy

HPERM Ref: D24/5321

Department: Strategic Property

Approver: Coralie McCarthy, Acting Director - City Futures

Reason for Report

To provide Council with a strategic framework to review its land and property assets with the aim of disposing of any underperforming assets.

Recommendation

That Council proceed to investigate Categories 1, 2 & 3 operational and community classified assets with a further report to be received listing proposed properties for disposal and proposed community consultation.

Options

1. That Council commence the review of all its operational and community classified land, with the view of identifying opportunities within **Categories 1, 2, and 3 asset types.**

This is the preferred option.

Implications: This provides the highest financial return for Council, however, requires the longest duration for preparing assets for disposal and involves extensive community consultation, reclassification, rezoning, public private partnerships or other preparatory works for disposal.

2. That Council commence the review of all its operational and community land, with the view of identifying opportunities only within **Categories 1 and 2 land types.**

Implications: This still provides a substantial financial return for Council, with some initial sales available immediately and others requiring a longer time to prepare assets for sale.

3. That Council commence the review of all its operational classified land, with the view of identifying opportunities only within **Categories 1 land type only.**

Implications: This provides the lowest financial return for Council, however, would require minimal impact to Council resources and community engagement.

Background

Council at its meeting of 20 November 2023 resolved (MIN23.667) to:

Prepare a priority report to explore options to rationalise land and facilities assets with a clear timeline and budget for achieving swift results, including any efficiency savings that have already been identified with staff as part of the AEC Group review, that can be implemented swiftly and cost effectively.

Within the AEC Report provided to Council in the same meeting, it was recommended to: (Item 6a) "Identify strategic options for Council to improve the forecast position, including opportunities for Council to improve the strategic management of assets, including increased utilisation, asset recycling, rationalisation, and disposal of assets."

Further, in Section 7.1.2, it was recognised that Council could “obtain better utilisation and improve overall sustainability (of its buildings and land) by reducing the cost of under-utilised assets and achieving commercial returns through asset recycling.” Asset Recycling (or Capital Recycling) is the term used to describe the sale of underperforming or surplus assets to return the capital to either invest in new assets, revitalise existing assets, or otherwise to alleviate budget pressures.

Various governmental agencies within Australia have also recognised that asset recycling allows the private sector to better utilise or inject capital into land and assets through development that would otherwise be cost or procedurally prohibitive to the public sector, including local government. In some scenarios this may also include Public-private partnerships, where Council could retain land ownership, but sell development rights or other commercial incentives.

This report responds to this resolution, with the aim of providing a strategic framework to:

- a) review Council’s land and property holdings;
- b) commence land sales of underperforming assets where private ownership would improve land utilisation and economic benefit to the community;
- c) review leases and licences to ensure best community and commercial terms are achieved (leveraging off the property portfolio to achieve a commercially sustainable return on assets where appropriate);
- d) exploring partnerships with other landowners and commercial enterprises to maximise opportunities for the community benefit arising from shared land use.

Council’s property portfolio currently comprises over 3,100 lots. The distribution of Council Land is roughly split between 1,700 lots of operational classified land, 1,000 lots of community classified land and 400 lots of Crown Land under Council management. Council manages the use of these land types under the direction of the Local Government Act 1993, which restricts the sale of Community Land without reclassification, and further that Crown land managers cannot sell or re-categorise managed Crown land without Ministerial consent.

Most of the land owned and managed by Council is used for civic, community and operational purposes. This includes offices, libraries, reserves, infrastructure, roads, day care facilities, leisure centres, holiday parks, telecommunication assets and car parks. A limited number are leased for commercial purposes providing ongoing cashflow to Council.

It is proposed that in order to undertake this review in a strategic and pragmatic manner, the following categories are included to establish deliver clear and meaningful guiding principles:

- **Category 1** - Sale of isolated and underutilised operational land. This would include vacant lots with minimal strategic merit, and which could be made available for immediate sale. This may be residue or excised lots from subdivided land held in Council ownership, that is no longer required and little ability to serve any community benefit due to size or location.
- **Category 2** - Sale of potentially strategic operational land. This could include carparks, vacant lots adjoining public reserves or recreational land, unrequired road reserves, or unformed roads. This is land which is not identified in any strategic planning document or masterplan, with which the sale and / or redevelopment would provide a net benefit to the broader community. For instance, a Council owned carpark adjoining a shopping centre, and the sale could lead to a more vibrant retail precinct. In this instance, a condition of sale could include the car park spaces are maintained.
- **Category 3** - Sale of underperforming community facilities. This could include stand-alone buildings or properties, which are no longer fit for purpose, providing low

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financial or community benefit and where private ownership could guarantee improved utilisation. An example of this could be a community centre experiencing irregular or poor use, and where a private ownership could lead to improved use and activation of the asset and / or adjoining lands.

It is important to note that this review excludes land already identified for sale as part of Council's existing Industrial Land Sales such as employment land located within Council's industrial subdivisions (i.e. Albatross Aviation Technology Park, Flinders and Woollamia Industrial Estates) any sale will be by competitive process (public auction, private treaty, tender or expression of interest). The Authority will set a reserve price based on the recommendation of an independent valuer.

Before any land is progressed for disposal it will progress to Council for consideration. The report will include commentary around the rationale for considering the sale of each of these properties through these above-mentioned steps – i.e. why the land is surplus, whether it is constrained, whether it can be improved for sale, and further the projected valuation of the land sale. The land classification and zoning will also be discussed so as to ascertain the process by which the land can be sold. That is, land that is operational can be sold immediately, however, land that is community or improperly zoned requires reclassification or rezoning. This requires approval from the Minister to make this amendment to the LEP and as such a longer and more complicated process.

Any sale will be by competitive process (public auction, private treaty, tender or expression of Interest). The resolution to Council will recommend that a sale price be based on the recommendation of an independent valuer.

Internal Consultations

This report has been authored by City Services – Property & Survey Services with input from City Futures – Strategic Property and City Services – Building Services.

Policy Implications

Council's property activities will be managed within legislative parameters. There are no implications for existing policies.

Financial Implications

The various mechanisms for the sale of Council property require some financial outlay, for example, the cost of, Valuations, Conveyancing, Surveys, Subdivision, Reclassification

The upfront costs associated with a property sale are funded by the asset custodian of the lands' operational budget. As sales progress and income is realised it is proposed to use a percentage of these funds to explore higher cost, higher complexity and higher reward development and sales opportunities. Any sale of Council property will be reported to Council and include detailed financial implications for the specific sale.

Land categorisation and projected sales value.

Category	Approach to assessment of property disposal	Timeframe (months)	Risk Profile	Projected estimated value (\$M)*
1	Sale of isolated and underutilised operational land	6-12	Low	1 - 2
2	Sale of strategic yet underperforming operational land.	12 - 24	Moderate	5 - 8
3	Sale of underperforming community facilities	24 - 36	High	10 - 15

**Values are indicative only, and gross of any transaction costs.*

Risk Implications

Section 377 of the Local Government Act 1993 requires all sales and acquisitions of Council land can only be achieved through a Resolution of Council. The report to Council to make any such resolution will outline how any transactions are consistent with Council's policies including on community engagement.

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CL24.12 Industrial Land - Repurchase

This item has been withdrawn from the agenda.

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CL24.13 Buy Back Property - Industrial Land South Nowra

HPERM Ref: D24/2555

Department: Strategic Property

Approver: Coralie McCarthy, Acting Director - City Futures

Reason for Report

The reason for this report is to provide the Council with the opportunity to consider a separate confidential report on a buy back property within the Flinders Industrial Estate.

Further information is provided in a separate confidential report in accordance with Section 10A(2)(c) of the *Local government Act 1993* – 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.

Recommendation

That Council consider a separate confidential report in accordance with section 10A(2)(c) of the Local government Act 1993.

Options

1. Council considers a separate confidential report.

Implications: Council would be well informed of Options.

2. Council does not consider a separate confidential report.

Implications: Council would not be informed of the relevant information.

Background

Council's long term vision for the Industrial Estates is to establish an employment generating industrial activity upon the allotments. To secure Council's long term vision for the Estates, Council's contracts for sale were specially drafted to include conditions of sale which protected Council's interest in the lots.

The contract conditions clearly state Council's purpose and aim and contain an acknowledgement by purchasers that lots are sold at minimum valuation on the understanding that purchasers will establish an employment generating industrial activity approved by Council upon the lot within two years of the completion of the sale. These conditions were included in the contracts to stop purchasers from land banking. A caveat is also registered on title on completion to ensure the purchaser complies with the covenants contained within the contract.

CL24.14 Proposed Lease to F M Morison Pty Ltd - Morisons Arcade Airspace - Junction Street Nowra

HPERM Ref: D23/472066

Department: Technical Services

Approver: Carey McIntyre, Director - City Services

Reason for Report

The reason for this report is to provide Council with an opportunity to consider granting a five-year commercial lease with an option for a further three x five years, being 20 years in total, to F M Morison Pty Ltd for the lease of Airspace in Morisons Arcade, being Part Lot A DP 161880 Junction Street, Nowra.

Recommendation

That Council

1. Enters a five-year lease with an option for a further three x five year extensions, 20 years total, to F M Morison Pty Ltd for the lease of Airspace in Morisons Arcade, being Part Lot A DP 161880 at a commencement rent of \$5,400 (plus GST) per annum;
2. Authorises the Common Seal of the Council of the City of Shoalhaven to 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: Council granted a lease to the landowner of 103 Junction Street, Nowra for the occupation of airspace in Morisons Arcade. The lease expired 31 December 2022. By renewing the agreement, the lease will legalise the ongoing use by the landowners of 103 Junction Street, being F M Morisons Pty Ltd. Council will receive \$5,400 per annum (plus GST) rental income for the airspace.

2. Not approve the Lease.

Implications: F M Morison Pty Ltd would not have legal occupation of the airspace over Morisons Arcade. This will cause a liability risk to Council and may result in Council needing to remove the building within the airspace of Morisons Arcade.

Background

Morisons Arcade stands upon Part Lot A DP 161880 Junction Street, Nowra on the southern side of Egans Lane Carpark. The arcade provides a public thoroughfare from Egans Lane Carpark to Junction Street Nowra, as shown in **Figure 1** below:

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Figure 1: Morisons Arcade

Morisons Arcade stands on Council Operational Land.

In the early 1970's, Council agreed with the landowners of the property adjoining Morisons Arcade, being 103 Junction Street Nowra, to grant a lease for the airspace above Council's land for the purpose of constructing commercial additions thereupon. 103 Junction Street Nowra is shown below in **Figure 2**:

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Figure 2: 103 Junction Street, Nowra directly adjoins Morisons Arcade

The purpose of the commercial additions over Morisons Arcade was for office and storage space. The use is permitted under the zoning of Business – E2 – Commercial Centre.

The lease for the airspace above Morisons Arcade was executed on 1 January 1973. The lease term was 50 years, expiring on 31 December 2022.

A condition of the original lease stated that it was the lessee's responsibility to provide ceiling light in Morisons Arcade to satisfactorily illuminate the access way at all times of the day and night. The light was to be installed and maintained during the lease at the expense of the lessee. In response to community concern that the thoroughfare is not sufficiently illuminated, it has been proposed that Council will take over management of the lighting within the arcade in accordance with the new lease. The lessee, F M Morisons Pty Ltd, has agreed.

Council taking over management of the lighting includes funding the cost of engaging an electrician to install a separate electricity meter so that the lighting within the arcade is separately metered. Council will be responsible for ongoing costs associated with the running and maintenance of the lighting within the arcade.

In accordance with Occupation of Council Owned or Managed Land Policy (POL22/98), market rental valuation by a registered valuer was carried out. Market rent was determined by Walsh & Monaghan to be \$5,400 per annum (excluding GST). The commencing rent of the lease will be \$5,400 plus GST with fixed 3% increases on the anniversary date of the commencement of the lease. A registered valuer will determine market rent at the exercise of each option period.

The Real Property Act provides that commercial leases of 3 years or more need to be registered on Title. If the lease term exceeds 3 years and the lease is not registered on Title, it is considered an equitable lease only as opposed to a legal lease. The tenant has requested the lease be registered on Title and is responsible for all associated costs.

Internal Consultations

A request for internal comments was made on 04 January 2023. No objections were received.

It was requested that due to public concern that the thoroughfare is not sufficiently illuminated, Council would take over the responsibility of lighting within the arcade.

External Consultations

Nil.

Community Consultations

Further community engagement is not considered necessary as there will be no change to the current use of the site, the immediately affected stakeholder is a party to the agreement and the proposal is consistent with the Operational Land classification.

Policy Implications

The proposed lease over Operational Land is in accordance with Occupation of Council Owned or Managed Land Policy (POL22/98) with the decision to grant a term greater than five years, requiring Council resolution.

Financial Implications

Should Council resolve to enter into a new lease, Council will receive an annual rental income determined by Walsh & Monaghan to commence at \$5,400 plus GST with fixed 3% increases annually. There is no rental subsidy. Market rent will be assessed upon exercise of each option.

The lessee will be responsible for the costs associated with the registration of the lease on Title.

Council is responsible for the installation of a separate electricity meter for lighting within the arcade. A quote of \$2,200 has been obtained for the installation of the electricity meter. Council will be responsible for ongoing maintenance and electrical costs.

Risk Implications

Nil.

CL24.15 Exemption to Tendering - Mobile Library Van

HPERM Ref: D24/18558

Department: Commercial Services

Approver: Carey McIntyre, Director - City Services

Reason for Report

The reason for this report is to allow Council to consider an exemption to tendering and enter direct contract negotiations with any identified suitable supplier for the supply of a new Mobile Library Van.

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

Recommendation

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

Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Council choose not to accept the recommendation and resolve to undertake a full open tender process.

Implications: This is not recommended as open tender process is expected to reflect the outcome of the market analysis and fail to identify a suitable supplier, further delaying the replacement of an aging asset, increasing maintenance costs and downtime.

3. Council could elect to not accept the recommendation and not replace the current Mobile Library Truck.

Implications: This is not recommended as the service is still an important offering to the community and the current asset is at end of life and should be removed from the fleet.

Details

Project Description

Details relating the procurement options are contained in the confidential report.

Policy Implications

This report and proposed recommendation is in accordance with Council's adopted Procurement Procedures and applicable legislation.

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Financial Implications:

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.

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CL24.16 Membership Appointment - Arts Advisory Committee

HPERM Ref: D23/514454

Department: Arts & Culture

Approver: Jane Lewis, Director - City Lifestyles

Reason for Report

The purpose of this report is to seek endorsement from Council to appoint a community member to the Arts Advisory Committee, following the recent call for Expressions of Interest to fill four vacant community positions.

Recommendation

That Council:

1. Appoint Mr Frank Howarth as a member of the Arts Advisory Committee for a 2-year term, to expire 20 December 2025.
2. Note that the Expression of Interest will remain open until two remaining community positions are filled.

Options

1. Adopt the recommendations as written.

Implications: Appointing the above member will fill one of the three membership vacancies.

2. Provide an alternative recommendation.

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

Background

Council advertised an Expression of Interest (EOI) to fill four vacant community positions on Councils Arts Advisory Committee from 17 October 2023 to 10 November 2023. Only one application was received during this period. As a result, the Expression of Interest remains open until all four community positions are filled. Council received an application from Frank Howarth on 7 December 2024.

As per the Terms of Reference (ToR), each member of the EOI assessment panel, consisting of a Council staff member (Manager – Arts & Culture), the Chairperson of the Committee and one suitably qualified independent representative received a copy of the applications to review. All panel members supported making a recommendation to Council for the appointment for Frank Howarth.

The Panel recommended that Council appoint Mr Howarth, who will bring valuable insight into the discussions held by the Arts Advisory Committee.

Mr Howarth is not only a previous member of the Arts Advisory Committee but will be able to draw on his knowledge as a past Director of the Royal Botanic Gardens and Domain Trust and the Australian Museum in Sydney. Mr Howarth has also served as National President of

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the Australian Museums and Galleries Association, and the International Council of Museums.

His work as a cultural sector consultant in strategy, philanthropy and fundraising in Australia and New Zealand will also be an asset to the Committee.

It has been determined that the EOI will remain open until the remaining two vacant community positions are filled so the Committee will have adequate membership to reach community representation requirements and quorum. The three remaining vacant positions will continue to be advertised on Council's [Arts Advisory Committee Webpage](#) and via social media posts.

Community Engagement

The first EOI was open from 17 October 2023 to 10 November 2024 and advertised in local newspapers, via social media platforms and distributed via relevant City Lifestyles networks. The EOI will now remain open until all vacant community member positions are filled. The EOI has been re-posted via social media.

Policy Implications

The recommendation is in accordance with the Arts Advisory Committee Terms of Reference.

CL24.17 Circularity Conference 2023

HPERM Ref: D23/521569

Submitted by: Clr John Kotlash
 Clr Tonia Gray

Attachments: 1. Melbourne Circularity Conference 2023 Report [↓](#)

Reason for Report

To provide a report (Attachment 1) from Clr John Kotlash and Clr Tonia Gray on the Circularity Conference 2023 held in Melbourne on 20-21 November 2023 in accordance with Clause 3.3(e) of the Council Members – Payment of Expenses and Provision of Facilities Policy.

Recommendation

That:

1. Council receive the report from Clr John Kotlash and Clr Tonia Gray on the Circularity Conference 2023 for information.
2. Council continue to support the transition to a Circular Economy in the Shoalhaven LGA by reducing landfill demand and increasing material recovery rates.
3. Future Circularity conferences should be encouraged to be attended by the sustainability experts within council, such as Pip Hildebrand and Darren O'Connell.
4. In 2024 Council invite Professor Veena Sahajwalla to the SCC to present to the Councillors and Executive team, the latest advancements in waste recovery.

Options

1. Receive the report for information
2. Request further information on the conference

Background

The 2023 Circularity Conference is considered relevant to local government, Information in relation to the conference via the link below:

<https://circularitylive.com.au/about/>

The 2023 Circularity Conference was held at the Grand Hyatt, Melbourne, proved to be a vibrant and insightful platform for driving actionable change towards a more circular economy in Australia and the Asia Pacific. Over two days, a diverse range of stakeholders – including business leaders, government officials, sustainability professionals, and academics – convened to share knowledge, collaborate, and explore innovative solutions for transitioning to a closed-loop system.

This report explores the key themes, discussions, and outcomes of the conference, highlighting its significance in shaping the future of circularity in the region.

CL24.17

Melbourne Circularity Conference 2023:

A Roadmap to a Sustainable Future.

November 20-21, 2023.

Report: Cirs John Kotlash & Tonia Gray

Recommendations to council.

- Continue to support the transition to a Circular Economy in the Shoalhaven LGA by reducing landfill demand and increasing material recovery rates.
- Future Circularity conferences should be encouraged to be attended by the sustainability experts within council.
- In 2024 invite Professor Veena Sahajwalla to the SCC to present to the Councillors and Executive team, the latest advancements in waste recovery.

Executive Summary:

The 2023 Circularity Conference was held at the Grand Hyatt, Melbourne, proved to be a vibrant and insightful platform for driving actionable change towards a more circular economy in Australia and the Asia Pacific. Over two days, a diverse range of stakeholders – including business leaders, government officials, sustainability professionals, and academics – convened to share knowledge, collaborate, and explore innovative solutions for transitioning to a closed-loop system. This report explores the key themes, discussions, and outcomes of the conference, highlighting its significance in shaping the future of circularity in the region.

The Rise of Circularity:

The opening keynote by Professor Wayne Errington, Chief Scientist of Australia, set the stage by emphasizing the urgency and necessity of adopting circular economy principles. He highlighted the environmental and economic benefits of minimizing waste, maximizing resource efficiency, and extending product lifecycles. Tanya Plibersek, environment minister also addressed the conference reporting back on Government efforts to embed circularity in Government policy. This message resonated throughout the conference, as sessions explored the potential of circularity to address pressing challenges like climate change, resource depletion, and pollution. Interestingly, the Victorian Government have committed \$380 million to deliver the circular economy policy which includes more than \$130 million in grants to improve the waste and recycling sector.

The 2023 conference delved deeper into circular principles and explored the current landscape, with this year's focus being turning practical learnings into action and implementing systems change into a range of business models. Australia's innovative business leaders are cognisant the importance of transitioning away from our current 'take-make-use-dispose' model and seek greater awareness of circular practices and solutions. We were constantly reminded that *"Nature has no waste, everything interconnected and*

has a purpose and a function". There is a knowledge and behavioural gap. Sadly, 88% of business decision-makers agree that the circular economy would be important to the future of their business. However, only 27% could correctly identify the definition of circular economy.

Major Themes and Discussions:

The conference program was structured around five key themes:

- **Designing for Circularity:** This theme focused on shifting mindsets and design approaches to prioritize product lifecycles, material selection, and adaptability for future use. Experts discussed the role of biomimicry, modularity, and closed-loop manufacturing in creating truly circular products and systems.
- **Circular Business Models:** The discussions explored innovative business models that decouple economic growth from resource consumption. Examples included product-as-a-service models, resource recovery and upcycling initiatives, and collaborative platforms for sharing and reuse.
- The Shoalhaven LGA was well represented as Professor Veena Sahajwalla showcased the evolution of micro factories and the future possibilities they provide. The session highlighted the potential of circularity to unlock new business opportunities and create a more resilient and competitive economy.
- **Enabling Policies and Regulations:** Government support and policy frameworks were recognized as crucial drivers for circularity. Sessions examined existing policies and proposed new initiatives, such as extended producer responsibility schemes, tax incentives for circular businesses, and investment in research and development. The need for collaboration between government, industry, and academia to develop effective policy frameworks was emphasized.
- **Financing and Investment:** Access to capital is a critical barrier for many circular economy ventures. The conference explored innovative financing models, including circular economy funds, green bonds, and impact investing. Discussions also highlighted the role of public-private partnerships and blended finance in scaling up circular initiatives.
- **Community Engagement and Education:** Building public awareness and understanding of circularity principles is essential for its widespread adoption. Education is the key to ensuring our society adapts to the circular model as Consumers see the benefits it brings. The conference showcased successful community engagement initiatives and educational programs that are empowering individuals and communities to participate in the circular economy.

Key Takeaways and Outcomes:

The Melbourne Circularity Conference 2023 generated several key takeaways:

- **Circularity is a viable and necessary pathway to a sustainable future.** The conference provided compelling evidence of the economic, environmental, and social benefits of transitioning to a circular economy.

- **Collaboration is key to success.** The conference highlighted the importance of partnerships and collaboration between government, industry, academia, and communities to accelerate the implementation of circular solutions.
- **Innovation is critical.** The conference showcased a range of innovative technologies, business models, and policy approaches that can drive circularity.
- **Scaling up is essential.** The conference identified the need for targeted investments and support mechanisms to scale up successful circular initiatives and reach a critical mass.

Looking Ahead

The Melbourne Circularity Conference 2023 served as a powerful catalyst for advancing the circular economy in the Asia Pacific region. The insights and connections forged during the event will undoubtedly inspire further action and collaboration in the months and years to come most especially here in the Shoalhaven. As we move forward, it is crucial to harness the momentum generated by the conference, translate knowledge into action, and work together to create a circular future that is sustainable, prosperous, and equitable.

CL24.18 Notice of Motion - Citizenship Ceremonies on Australia Day

HPERM Ref: D24/10988

Submitted by: Cllr Paul Ell

Purpose / Summary

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

Recommendation

That Council:

1. Notes the changes made by the Federal Government to the Australian Citizenship Ceremonies Code ("the Code") removing the obligation for councils to hold a Citizenship Ceremony on Australia Day.
2. Resolves that notwithstanding the changes to the Code, it is the firm policy position of Council to continue the practice of conducting Citizenship Ceremonies in the Shoalhaven on the 26th of January (Australia Day) every year.
3. Resolves that any change to the policy position adopted at point 2 above can only be made by the elected Council.
4. Affirms its strong support for Australia Day as our national day and as an important opportunity to celebrate our great nation.
5. Expresses its appreciation to the many community organisations and volunteers who help arrange events throughout the Shoalhaven which give residents and visitors the opportunity to participate in Australia Day festivities.

Background

The purpose of this notice of motion is to clarify Council's position with respect to conducting Citizenship Ceremonies on Australia Day in to the future.

I have spoken to Shoalhaven residents who have become citizens on Australia Day and they have shared how this made it an even more significant occasion for them.

Councillors will be aware of the announcement made by the Federal Government removing the requirement under the Australian Citizenship Ceremonies Code ("the Code") for Council to conduct Citizenship Ceremonies on Australia Day.

Even before it was made mandatory by the former Coalition Government, it has been the longstanding practice in the Shoalhaven for these ceremonies to be conducted on Australia Day.

Despite the changes to the Code taking effect in 2023, Council still conducted Citizenship Ceremonies on Australia Day.

This motion also affirms our support for Australia Day and acknowledges the work of community volunteers who organise the many fantastic events which all of us will no doubt be attending on the 26th.

CL24.18

CL24.19 Notice of Motion - Call in DA23/1839

HPERM Ref: D24/13566

Submitted by: Clr Tonia Gray
Clr Evan Christen

Purpose / Summary

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

Recommendation

That Council call in DA23/1839 due to significant community interest.

Background

Significant community concern has been raised over DA23/1839 which is on 8.09 Ha at 140B Bryces Rd, Far Meadow. Community concerns raised with Councillors relate to the conversion of an outbuilding/shed into habitable rooms. The existing 8-bedroom residence, 4 bathroom and 2 kitchens (with an additional 2-bedroom detached residence). Given the level of expressed community interest, the development application should be called in for Council to make a final determination.

In terms of zoning regulations, bulk and scale, concerns have been raised regarding the proposed additions and alterations to the property.

For this reason, we recommend this DA be called in for the Councillors to assess in the chamber after hearing from concerned community members.

CL24.19

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.