

## Ordinary Meeting

**Meeting Date:** Monday, 11 March, 2024  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 5.30pm

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

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

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

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

### Statement of Ethical Obligations

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

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

## Agenda

1. **Acknowledgement of Country**
2. **Moment of Silence and Reflection**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
  - Ordinary Meeting - 26 February 2024

<b>6. Declaration of Interests</b>	
<b>7. Presentation of Petitions</b>	
<b>8. Mayoral Minute</b>	
<u>Mayoral Minute</u>	
MM24.6    Mayoral Minute - Condolence Motion - Mrs Shelley Grant.....	1
<b>9. Deputations and Presentations</b>	
<b>10. Call Over of the Business Paper</b>	
<b>11. A Committee of the Whole (if necessary)</b>	
<b>12. Committee Reports</b>	
Nil	
<b>13. Reports</b>	
<u>City Performance</u>	
CL24.56    Shoalhaven City Council Flag Policy.....	2
<u>City Futures</u>	
CL24.57    Proposed Submission - NSW Planning Reforms: Low and Mid-Rise Housing.....	11
CL24.58    Proposed Heritage Listing of the Former Huskisson Anglican Church and Site: Public Exhibition Outcomes and Next Steps.....	28
CL24.59    Industrial Land - to Repurchase .....	41
CL24.60    Proposed Voluntary Planning Agreement - Nowra Bioenergy - 54 Terara Road, Terara .....	42
<u>City Services</u>	
CL24.61    Progress Update - Infrastructure Recovery Works - Natural Disasters .....	47
CL24.62    Exemption to Tender - Coomee Nulunga Boardwalk - Warden Head Ulladulla .....	56
<u>City Development</u>	
CL24.63    Quarterly Review for Compliance Matters .....	59
CL24.64    IPART Submission - Draft Terms of Reference for NSW Council's Financial Model Review. ....	77
<u>Councillor Conference Report</u>	
CL24.65    South East Australian Transport Strategy (SEATS) Meeting - February 2024.....	88
<b>14. Notices of Motion / Questions on Notice</b>	
<u>Notices of Motion / Questions on Notice</u>	
CL24.66    Notice of Motion - Cat Containment in the Shoalhaven .....	95
CL24.67    Notice of Motion - Proposal to Erect & Install Seating 'The Gannet Beach Headland South End', Bawley Point by Local Community.....	97
<b>15. Confidential Reports</b>	
<u>Reports</u>	

CCL24.6 Industrial Land - to Repurchase

*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.*

## **MM24.6      Mayoral Minute - Condolence Motion - Mrs Shelley Grant**

**HPERM Ref:**      D24/88582

### **Recommendation**

That Council notes the passing of Shelley Grant and acknowledges her significant contribution to education in our community and extend condolences to her family.

### **Details**

Shelley Grant was a much loved teacher and friend to many people within our community, particularly the many students and teachers she worked with over the years at St Johns and Vincentia High Schools.

Her warmth and light filled up a room, her smile was infectious as too, were her words of wisdom. Shelley always had time to listen, gave great advice and guidance and empowered those around her to reach their full potential.

On behalf of Council I extend my condolences to her husband Rob and their children Vivienne and Patrick, and to all who knew her. Shelley will be sorely missed.

**MM24.6**

## **CL24.56 Shoalhaven City Council Flag Policy**

**HPERM Ref:** D24/54624

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

**Attachments:** 1. DRAFT - Shoalhaven City Council Flag Policy - POL23/22 [↓](#)

### **Reason for Report**

For Council to adopt the proposed policy renamed Shoalhaven City Flag Policy.

### **Recommendation**

That Council

1. Adopt the Shoalhaven City Council Flag Policy (previously the Australian and other Flags Policy) and rescind the Flag Protocol - Australian Aboriginal Flag Policy (POL22/53).
2. Rescind the Flag Protocol - Australian Aboriginal Flag Policy (POL22/53) as per MIN22.908

### **Options**

1. As recommended
2. Request further updates to be made, prior to the Policy being adopted.

Implications: unknown

### **Background**

The Australian and other Flags Policy had not previously been formally adopted by the Council. The policy was first created to reflect the following resolution arising from a Notice of Motion (CL19.55) which was considered on 26 March 2019 (MIN19.153):

*“That*

1. *Council adopt a formal policy on the Australian Flag and other Flags.*
2. *The Australian Flag be displayed at as many Council Buildings as is reasonably possible, and particularly where they are occupied by Council Staff.*
3. *The display of Flags of other Nations be restricted to occasions when we have an official delegation visiting our City area and be flown to demonstrate respect for the visitors.*
4. *The adopted Aboriginal Flag continue to be displayed with the Australian Flag and Council’s City Flag.*
5. *Council write to our Local Members of Parliament, the Prime Minister and the Leader of the Opposition seeking a commitment from them to retain our flag. “*

Upon adopting the Flag Protocol – Australian Aboriginal Flag Policy on 28 November 2022, the Council directed that both directives should be included in one policy document (MIN22.908.)

*That Council:*

1. *Endorse the reviewed and updated Flag Protocol - Australian Aboriginal Flag - POL22/53.*

CL24.56

2. Add the information from the *Flag Protocol - Australian Aboriginal Flag - POL22/53* to the draft of *Australian Flag & Other Flags (POL19/21)*.
3. Upon adoption of *Australian Flag & Other Flags Policy (POL19/21)* the *Flag Protocol - Australian Aboriginal Flag Policy (POL22/53)* is to be rescinded.

### **Internal Consultations**

Internal Consultation has occurred on the draft policy with feedback from key stakeholders received and included.

The proposed policy is combination of the *Australian Flag & Other Flags Policy (POL19/21)* the *Flag Protocol - Australian Aboriginal Flag Policy (POL22/53)* with amendments.

The main the changes are the change of title being, the Shoalhaven City Flags Policy and the inclusion of the Torres Strait Islander Flag as a flag which is flown prominent to the Shoalhaven Council Flag, reflecting consideration of:

- The existing flagpole arrangements that the Council has in place
- The Inclusive and Respectful Language Document and Australian Flag and the Aboriginal and Torres Strait Flag Protocol Documents produced by the Department of Premier and Cabinet.
- Anticipated actions arising from the Council's Reconciliation Action Plan (currently being drafted)

### **Community Consultations**

There is no formal requirement for community consultation to occur, however the policy will be available for the community to view on the meeting agenda and have opportunity to make deputation.

### **Policy Implications**

Upon adoption of Shoalhaven City Council Flag Policy (POL23/22) the *Flag Protocol - Australian Aboriginal Flag Policy (POL22/53)* will be rescinded.

### **Financial Implications**

The policy as drafted does not require the change to current flagpole configuration and utilises current flags held by Council.



# Shoalhaven City Council Flag Policy

<b>Adoption Date:</b>	[Click here to enter Minute number]
<b>Amendment Date:</b>	
<b>Minute Number:</b>	[Click here to enter Minute number]
<b>Review Date:</b>	
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL23/22

Australian Flag & Other Flags Policy

---

**Contents**

1. Purpose ..... 1

2. Introduction..... 1

3. Statement ..... 1

4. Related Policies ..... 2

5. Flying of Flags Guidelines ..... 2

6. Flying of Flags at Half-Mast ..... 2

7. Requests to Fly Community Flags ..... 3

8. Implementation ..... 4

9. Review ..... 4



Australian Flag & Other Flags Policy

**1. Purpose**

- 1.1 To formalise a policy on the display of flags on flagpoles that are the responsibility of Shoalhaven City Council to ensure that the Australian National, Aboriginal and Torres Strait Islander flags are flown with dignity and respect.

**2. Introduction**

- 2.1 Flags are flown by Council at the Nowra Administration Centre, Ulladulla Civic Centre and other Council facilities in accordance with the Flags Act 1953 and the Australian Flag Booklet - Part 2: The Protocols, administered by the Department of the Prime Minister and Cabinet.

*“As one of Australia’s most important symbols, the [Australian National] flag should be used with respect and dignity.”* (Department of the Prime Minister and Cabinet – Australian National Flag Protocols website - <https://www.pmc.gov.au/government/australian-national-flag/australian-national-flag-protocols> )

- 2.2 Flying the Australian National, Aboriginal and the Torres Strait Islander Flags aligns with Council’s aim to uphold the 1997 Statement of Commitment to Indigenous Australians. It gives respect for their customs, tradition and acknowledges their spiritual relationship and custodianship across millennia to the Country we all now call home.

**3. Statement**

- 3.1 Shoalhaven City Council recognises the significance of flags that are connected to its governance responsibilities and will utilise designated flagpoles within the Shoalhaven to fly such flags. The flags that are to be flown permanently are: (see Appendix 1 for a graphic representation)
- a) The recognised Australian National Flag (pursuant to the Flags Act 1953, including subsequent Proclamations)
  - b) The Aboriginal Flag - Council recognises the Aboriginal Flag was adopted as an official flag of Australia in July 1971. The flag is flown or displayed permanently at Aboriginal centres throughout Australia. It is popularly recognised as the flag of the Aboriginal peoples of Australia.
  - c) The Torres Strait Islander Flag- Council recognises the Torres Strait Islander Flag was adopted in May 1992 as an official flag of Australia. The flag stands for the unity and identity of all Torres Strait Islander peoples of Australia.
- 3.2 Where circumstances dictate, other flags may be flown as approved for this purpose by specific resolution of Council or by the Chief Executive Officer and/or Mayor where there is insufficient time for a Council resolution without holding a special meeting of Council.
- 3.3 Council’s Administration Centre maintains six flagpoles in total, three flagpoles to the adjacent main entrance of the building and three flagpoles on the corner of Princes highway and Bridge Road which will fly the following flags.
- a) The Australian National Flag
  - b) The Aboriginal Flag

---

**Australian Flag & Other Flags Policy**

---

- c) The Torres Strait Islander Flag
- 3.4 Council's Bomaderry Works Depot maintains one flagpole used to fly:
  - a) The Australian National Flag
  - b) The Aboriginal Flag
  - c) The Torres Strait Islander Flag
- 3.5 Ulladulla Civic Centre maintains three flagpoles adjacent to the main entrance
  - a) The Australian National Flag
  - b) The Aboriginal Flag
  - c) The Torres Strait Islander Flag

**4. Related Policies**

- 4.1 This policy should be read in conjunction with the following:
  - a) Flags Act 1953; and
  - b) Australian Flags Booklet – the Department of the Prime Minister and Cabinet.

**5. Flying of Flags Guidelines**

- 5.1 The Australian National Flag will be flown on all days of the year in conjunction with the Aboriginal Flag and Torres Strait Islander Flag in accordance with established flag protocol.
- 5.2 Subject to paragraph 5.1 the following guidelines will also be considered when flying the Australian National Flag and other flags listed in this policy or as requested by the community:
  - a) All flags should be treated with respect and dignity and the Australian National Flag must always be flown in a position superior to that of any other flag or ensign;
  - b) All flags flown must be of standard size, in good repair and capable of being flown on Councils flagpoles; and
  - c) Any requests to fly Community flags on days or events listed under Section 6 will not be considered.

**6. Flying of Flags at Half-Mast**

- 6.1 As directed by the Commonwealth Flag Network and in accordance with the protocols stated in the Australian Flag Booklet, Council will fly its flags at half-mast as a sign of mourning or in the case of an event which requires the Australian National Flag to be flown at half-mast.
- 6.2 When flying the Australian National Flag with other flags, all flags in the set should be flown at half-mast. The Australian National Flag should be raised first and lowered last.
- 6.3 The half-mast position shall be when the top of the flag is a third of the distance down from the top of the flagpole
- 6.4 When lowering a flag from a half-mast position, it will be briefly raised to the peak and then lowered ceremoniously

---

**Australian Flag & Other Flags Policy**

---

- 6.5 Flags will not be flown at half-mast at night even if it is illuminated due to the possibility of vandalism

**Public Notice**

- 6.6 Where flags are flown at half-mast or if a flag not listed in paragraph 3.3 is flown at the Nowra Administration Building then a public notice will be published on Council's website indicating the reason.

**ANZAC Day – 25 April**

- 6.7 Anzac Day is a day of special significance to Australians, particularly for serving military personnel and returned veterans. In accordance with Australian flag protocols, flags will be flown at half-mast on 25 April, from dawn until noon, at which time the flag should be raised to the peak of the flag mast for the remainder of the day.

**Remembrance Day – 11 November**

- 6.8 Remembrance Day is a day of special significance to Australians, commemorating the loss of Australian lives in all wars, conflicts and peace operations. Flags will be flown on this day at the peak of the flagpole until precisely 10:30 am (local time) when they should be adjusted to the half-mast position. At 11:02 am the Australian National Flag should be moved back to the peak of the flag mast for the remainder of the day. This protocol allows for the traditional ceremonial duties to be carried out, including a minute of silence from 11:00 am.

**Commemorating Local Elders**

- 6.9 On request from relevant Aboriginal community members (in consultation with Council's Community Capacity Builder – Aboriginal) all flags may be flown at half-mast on the death of an elder or significant Aboriginal community member on the day, or part of the day, of their funeral.

**Councillors, Council Staff & Community**

- 6.10 On request and in consultation with the Chief Executive Officer and the Mayor, all flags may be flown at half-mast on the death of a current or former Councillor, member of Council staff, on the day, or part of the day, of their funeral.
- 6.11 By a resolution of Council, flags may be flown at half-mast on the death of residents or volunteers who have contributed to the Shoalhaven community on the day, or part of the day, of their funeral.

**Discretionary Requests**

- 6.12 At the discretion of the Chief Executive Officer and in consultation with the Mayor, the Australian National Flag may be flown at half-mast.

**7. Requests to Fly Community Flags**

- 7.1 Upon a formal written request, Council will consider requests from members of staff or the community to fly a flag at the Nowra Administration Building to acknowledge a significant celebration, festival, community organisation or event.

---

**Australian Flag & Other Flags Policy**

---

- 7.2 Such requests will not be approved where the flying of the flag is inconsistent with Council's values and provision 5.2 (c)
- 7.3 The Governance team will manage requests from the community to fly community flags, including seeking the approval of the Chief Executive Officer and communicating the Chief Executive Officer's decision to those responsible for the execution of new flags.

**8. Implementation**

- 8.1 The City Performance Directorate has responsibility for implementing this policy.
- 8.2 In regard to Provision 6.9 and 5.2, the City Performance & City Lifestyles Directorates have responsibility for implementing this policy. On the passing of an Elder within the Shoalhaven region Councils Community Capacity Builder - Aboriginal will advise Building Services to implement 6.9 of this Protocol. Communication will then be provided to all customer facing teams and the Senior Leadership Team to inform them as to why the flags are at half-mast.

**Roles and Responsibilities**

- 8.3 The Chief Executive Officer must:
  - a) Approve, in consultation with the Mayor, requests from community organisations to fly flags other than the Australian National, Aboriginal and Torres Strait Islander flags, in accordance with this Policy and the protocols as outlined in the Australian Flag Booklet;
  - b) Direct that the flags be flown at half-mast on the day of the funeral of a current or former Councillor, member of Council staff, or any other significant funeral at their discretion; and
  - c) Direct that the national flag of another nation be flown during officially sanctioned visits of representatives of the nation or to acknowledge a significant event of that nation.
- 8.4 The Governance Team is responsible for:
  - a) Managing enquiries about the Policy and ensuring the Policy is implemented and reviewed;
  - b) Promptly communicating flag notifications to the appropriate staff and advising when the Australian National Flag must be flown at half-mast; and

**9. Review**

- 9.1 The City Performance Directorate, in consultation with the City Lifestyles Directorate, will review this policy within one year of the election of every new Council.

Australian Flag & Other Flags Policy

**Appendix 1.**

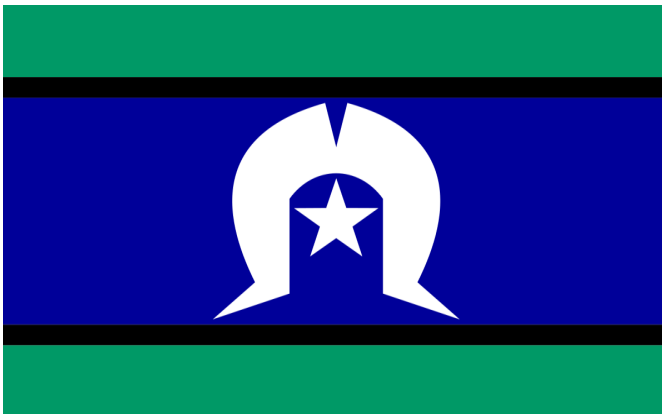
Australian National Flag



Aboriginal Flag



Torres Strait Islander Flag



## CL24.57 Proposed Submission - NSW Planning Reforms: Low and Mid-Rise Housing

**HPERM Ref:** D24/57113

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

**Attachments:**

1. Draft Submission [↓](#)
2. Relevant Land Use Terms, Shoalhaven LEP2014 [↓](#)
3. Future Housing Challenges - NSW Planning Ministers Letter & Mayoral Response [↓](#)

### Reason for Report

The purpose of this report is to enable Council to consider a proposed submission on planning reforms aimed at providing opportunities to increase housing supply. The proposed reforms aim to generally permit a range of higher density and taller forms of residential development in certain residential zones that are near train stations, town centres and employment (business) zones.

### Recommendation

That Council:

1. Endorse and finalise the draft submission on the Explanation of Intended Effect (EIE) for Low and Mid - Rise Housing at **Attachment 1** and submit it to the NSW Department of Planning Housing and Infrastructure.
2. Receive a further report at the appropriate point on the progression or outcome of the proposed reforms.

### Options

1. As recommended.

Implications: This is the preferred option and will enable Council to finalise its submission on the proposed planning reforms. The submission highlights a range of concerns and matters requiring clarification in relation to the proposed reforms.

2. Make changes to the draft submission and submit it or adopt an alternate recommendation.

Implications: Will still enable Council to make changes to the submission after considering the proposed reforms or could delay the provision of a final submission, noting it is due by 15 March.

### Background

The NSW Department of Planning Housing and Infrastructure (DPHI) released an Explanation of Intended Effect (EIE) outlining planning reforms that aim “to encourage more low and mid-rise housing options for NSW households that are in the right places and designed well” for comment. The exhibition period commenced on 15 December 2023.

No draft legislation or policy instruments to enact the proposed changes have been released for comment at this stage.

Key elements of the proposed state-wide reforms outline in the EIE include:

1. Permitting *dual occupancies* (two dwellings on the same lot) in the R2 Low Density Residential zone across NSW.
2. Permitting low-rise terraces, townhouses and two storey apartment blocks near transport hubs and town centres in the R2 zone across the Six Cities Region (which includes Shoalhaven).
3. Permitting mid-rise residential flat buildings near transport hubs and town centres in the R3 Medium Density Residential zone and R1 General Residential zone across the Six Cities Region.
4. Proposing numeric “Non-refusal standards” for building height, floor space ratio, site area, lot width and car parking on which Council cannot refuse a development if it complies with the standard.

The housing types that the proposals seek to specifically enable include:

1. **Low-rise:** dual occupancies, manor houses, multi-dwelling housing (terraces) and multi-dwelling housing up to 9.5m high.
2. **Mid-rise:** residential flat buildings and shop top housing ranging from 16m to 21m high.

The EIE, which is on exhibition until 23 February 2024, states that under the August 2023 National Accord, the NSW Government is committed to deliver at least 314,000 new homes by 2029, with a ‘stretch’ goal of 377,000 new homes. The EIE however does not state how many new homes it aims to deliver through the proposed reforms and does not propose housing targets for Local Government Areas in the Six Cities Region.

DPHI has extended the due date for Council’s submission to 15 March 2024 but requested Council provide a draft submission by 23 February 2024. The draft submission provided is at **Attachment 1** and will be finalised/submitted inclusive of any amendments made by Council.

The EIE and related exhibition material are available to view at the following link:

<https://www.planningportal.nsw.gov.au/draftplans/exhibition/explanation-intended-effect-changes-create-low-and-mid-rise-housing>

### **EIE Overview**

The details of the proposed changes in the EIE are provided below. The relevant current Shoalhaven Local Environmental Plan 2014 (the LEP) definitions of the various land use terms are also provided for reference as **Attachment 2**.

- *Dual Occupancies* permitted in the R2 Low Density Residential zone. (Note: dual occupancies are already permissible in the R2 zone in Shoalhaven via the Shoalhaven LEP2014);
- Maximum building height of 9.5m and Floor Space Ratio (FSR) of 0.65:1 for *Dual Occupancies* in the R2 zones of Greater Sydney only.
- *Manor Houses* permitted in the R2 zone within “Station and Town Centre Precincts” (see definition below), with a maximum building height of 9.5m and FSR of 0.8:1; other Non-refusal standards are also proposed as documented in Table 1 below.
- *Multi-dwelling housing* and *Multi-dwelling housing (terraces)* comprising three or more dwellings permitted in the R2 zone within “station and town centre precincts”, with a maximum building height of 9.5m and FSR of 0.7: 1; other Non-refusal standards are also proposed as documented in Table 1 below.

- *Residential flat buildings* (RFBs) permitted in the R3 Medium Density Residential zone and R1 General Residential zone within certain distances of “station and town centre precincts”:
  - Within 0-400m: maximum building height of 21m and FSR of 3:1
  - Within 400-800m: maximum building height of 16m and FSR of 2:1
- *Shop-top housing* developments will have the same controls as RFBs wherever they are already permitted excluding the R2 Low Density Residential zone.

The EIE currently proposes to define “**Station and Town Centre precincts**” as:

- a) Within 800m walking distance of a railway station;
- b) Within 800m walking distance of the E2 Commercial Centre zone;
- c) Within 800m walking distance of the E1 Local Centre zone or MU1 Mixed Use zone if the zone contains a wide range of frequently needed goods and services, such as a full line supermarket, shops and restaurants.

This definition is crucial as the majority of the reforms focus on “Station and Town Centre precincts”. When applied to Shoalhaven it could potentially include:

- a) areas within 800m walk of the Berry and Bomaderry railway stations. A concern here is that the definition does not appear to consider the frequency of passenger services. Both stations, it could be argued, are not serviced by high frequency, reliable passenger services to employment precincts, making them potentially unsuitable locations for higher density residential without service improvements.
- b) Areas within 800m walking distance of Nowra and Ulladulla commercial centres.
- c) Potentially areas within 800m walking distance of E1 and MU1 zones in the following locations. The criteria is ambiguous and it is currently unclear where the changes would and would not apply. Unless this is ultimately clarified it will lead to confusion and uncertainty at the development application stage if the reforms proceed. It is also likely to raise community concerns given the nature and character of some of the locations.

*Berry, Bomaderry, Meroo Meadow, Badagarang (Moss Vale Road North area), Cambewarra Village, Greenwell Point, North Nowra, Nowra, Shoalhaven Heads, South Nowra, West Nowra, Worrigea, Callala Bay, Callala Beach, Myola, Culburra Beach, Orient Point, Currarong, St Georges Basin & Basin View, Erowal Bay, Old Erowal Bay, Wrights Beach, Huskisson, Sanctuary Point, Vincentia, Sussex Inlet, Berrara, Cudmirrah, Swanhaven, Bawley Point, Burrill Lake, Dolphin Point, Manyana, Cunjurong Point, Mollymook, Mollymook Beach, Narrawallee Milton and Ulladulla.*

## **Shoalhaven context and existing controls**

### Shoalhaven Local Environmental Plan 2014 (the LEP)

Dual occupancies are already currently permitted with consent in the R2 zone under the LEP. Most of Shoalhaven’s towns and villages include R2 zones.

*Manor Houses, Multi-dwelling housing or Multi-dwelling housing (terraces)* are currently prohibited in the R2 zone under the LEP. The EIE however proposes to make these higher density residential forms permitted with consent within “Station and Town Centre precincts”.

*Residential flat buildings* are already permitted with consent under the LEP in the R3 and R1 zones, with maximum building height generally ranging between 8.5m to 11m.

The tables below compare Council’s existing LEP and DCP controls with the proposed controls suggested in the EIE.



The proposed “Non-refusal standards” are shown in ***bold italics*** in the third column of the tables.

**Table 1: R2 Low Density Residential Zone**

	<b>Existing Shoalhaven LEP 2014 / DCP Controls</b>	<b>EIE Proposed controls</b> Non-refusal standards in <b><i>bold italics</i></b>
<b>Dual Occupancy</b>	Permitted with consent	Permitted with consent
• Max Building Height	8.5m	As per Council’s LEP/DCP
• Max FSR	-	-
• Min Site area	500m <sup>2</sup>	As per Council’s LEP/DCP
• Min lot width	-	-
• Min car parking - space per dwelling	2	As per Council’s LEP/DCP
<b>Manor Homes</b>	Prohibited	Permitted within “Station and Town Centre precincts”
• Max Building Height	-	<b><i>9.5m</i></b>
• Max FSR	-	<b><i>0.8:1</i></b>
• Min Site area	-	<b><i>500m<sup>2</sup></i></b>
• Min lot width	-	<b><i>12m</i></b>
• Min car parking - space per dwelling	-	<b><i>0.5</i></b>
<b>Multi-dwelling housing</b>	Prohibited by SLEP 2014	Permitted within “Station and Town Centre precincts”
• Max Building Height	-	<b><i>9.5m</i></b>
• Max FSR	-	<b><i>0.7:1</i></b>
• Min Site area	-	<b><i>600m<sup>2</sup></i></b>
• Min lot width	-	<b><i>12m</i></b>
• Min car parking - space per dwelling	-	<b><i>1</i></b>
<b>Multi-dwelling housing (terrace)</b>	Prohibited	Permitted within “Station and Town Centre precincts”
• Max Building Height	-	<b><i>9.5m</i></b>
• Max FSR	-	<b><i>0.7:1</i></b>
• Min Site area	-	<b><i>500m<sup>2</sup></i></b>
• Min lot width	-	<b><i>18m</i></b>
• Min car parking - space per dwelling	-	<b><i>0.5</i></b>

CL24.57

**Table 2: R1 General Residential and R3 Medium Density Residential Zones**

	<b>Existing Shoalhaven LEP 2014 / DCP Controls</b>	<b>EIE Proposed controls</b> Non-refusal standards in <b><i>bold italics</i></b>
<b>Residential flat buildings</b>	Permitted with consent	Permitted with consent within 400m walk to “Station & town centre precincts”  Would potentially apply to parts of Berry, Bomaderry & Meroo Meadow, Badagarang (Moss Vale Road North), Greenwell Point, North Nowra, Nowra, South Nowra, West Nowra, Worrigee, Shoalhaven Heads, Culburra Beach & Orient Point, Huskisson, Sanctuary Point, Sussex Inlet, Burrill Lake & Dolphin Point, Mollymook & Mollymook Beach, Ulladulla & Milton
• Max Building Height	7.5-11m	<b><i>21m</i></b>
• Max FSR	1:1 and 1.5:1 (Ulladulla only)	<b><i>3:1</i></b>
• Min Site area	-	As per Council’s LEP/DCP
• Min lot width	-	-
• Min car parking - space per dwelling	1	As per Council’s LEP/DCP
<b>Residential flat buildings</b>	Permitted with consent	Permitted with consent within 400-800m walk to “Station & town centre precincts”  Would potentially apply to parts of Berry, Bomaderry & Meroo Meadow, Badagarang (Moss Vale Road North), Greenwell Point, North Nowra, Nowra, South Nowra, West Nowra, Worrigee, Shoalhaven Heads, Culburra Beach & Orient Point, Huskisson, Sanctuary Point, Sussex Inlet, Burrill Lake & Dolphin Point, Mollymook & Mollymook Beach Ulladulla and Milton.
• Max Building Height	7.5-11m	<b><i>16m</i></b>
• Max FSR	1:1 and 1.5:1 (Ulladulla only)	<b><i>2:1</i></b>
• Min Site area	-	As per Council’s LEP/DCP
• Min lot width	-	-
• Min car parking - space per dwelling	1	As per Council’s LEP/DCP

CL24.57

## Discussion

The need to facilitate and deliver additional housing opportunities is acknowledged. However the proposals outlined in the EIE are a concern and appear to be a somewhat blunt and ad-hoc policy response to the housing crisis, that if implemented could have a range of impacts and consequences. They also appear to be somewhat at odds with the NSW Minister for Planning and Public Spaces' 8 August 2023 letter to NSW Councils which emphasised State and Local Government's shared responsibility to address housing crisis and advocated a collaborative approach to accelerate new housing supply. The Minister's letter and Mayoral response are provided as **Attachment 3**.

No modelling has been released as yet to demonstrate that the extra housing capacity created by the suggested changes will actually be delivered. The work undertaken recently for DPHI's Nowra City Centre Strategic Roadmap process has shown that planning controls are only one of a range of factors influencing development. The reforms do not appear to consider the range of other factors such as land prices, construction costs, financing, access to public transport and amenity that influence development feasibility and opportunities.

The proposals will impose standard State-wide changes to local planning controls with limited regard to the constraints and characteristics of the places they affect. They are likely to generally enable higher density forms of residential development of a scale, height and bulk that is out of character and context with many of Shoalhaven's communities. There are currently no design standards accompanying the proposals to ensure that new housing developments are indeed "in the right place and designed well".

The proposed "Non-refusal standards" would overrule Council's local LEP and DCP provisions, that have often been prepared with extensive community input, to the extent of any inconsistency. This would remove Council's ability to refuse development applications that comply with the Non-refusal standards. The EIE states that all other applicable planning controls in LEPs and DCPs such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with the Non-refusal standards. If compliance with non-refusal standards causes a development to contravene other LEP controls (e.g. local character, heritage) it is not currently clear if Council would be able to refuse the development.

The EIE proposals unfortunately do not appear to consider and potentially undermine a range of existing state and local strategic planning initiatives including:

- City-wide Housing Strategy preparatory work
- Affordable Housing Strategy review
- New Character and Heritage planning controls being prepared for Berry
- Shoalhaven Contributions Plan 2019
- Shoalhaven 2040 - Our Strategic Land-use Planning Statement (LSPS)
- Illawarra-Shoalhaven Regional Plan 2041 (DPHI)
- Nowra City Centre Strategic Roadmap work (DPHI)
- Illawarra-Shoalhaven Regional Transport Plan (Aug 2021)
- Nowra-Bomaderry Movement & Place Framework (TfNSW)
- The Six Cities Region Discussion Paper (Sept 2022)

## Comments and Recommendations for Council's submission

1. Shoalhaven's two railway stations (Bomaderry and Berry) should be excluded from the definition of "*station and town centre precincts*". They currently lack the high frequency,

reliable public transport connections to employment precincts and other key locations that would make them suitable for higher density housing.

2. Express concern about the blunt and ad-hoc nature of the proposed reforms on the basis that:
  - They do not consider and potentially undermine a range of existing state and local strategic planning initiatives.
  - Councils should continue to lead the planning for additional housing options that address the specific constraints, characteristics and needs of their communities.
  - They do not consider and are likely to undermine the local character, heritage and amenity of many of Shoalhaven’s communities.
  - The Government has not sought to meaningfully engage or collaborate with Councils or their communities in designing and drafting the proposals.
3. Council should oppose the blanket proposal to permit *residential flat buildings* and *shop-top housing* between 16m and 21m high in all R3 and R1 zones in “*station and town centre precincts*”. The density and scale of development potentially enabled by this proposal would most likely be highly out of character in many locations. Further, most communities that would be affected are not well located or well serviced (infrastructure etc) to accommodate such increases in density without more detailed planning and the provision of necessary supporting infrastructure/upgrades. Any changes to residential density and building heights in “*station and town centre precincts*” should be led by or at least informed by Council’s strategic planning work including:
  - *City-wide Housing Strategy*
  - *Affordable Housing Strategy*
  - *New Character and Heritage Controls for Berry (and similar work in other communities)*
  - *Contributions Plan 2019 review and other servicing strategies*

If Council has the opportunity to nominate “*station and town centre precincts*”, it is suggested that only the area around the Nowra CBD and Ulladulla CBD Commercial Centre (E2) zones are considered suitable for further discussion at this point.

4. The reforms do not include any framework to provide the essential community infrastructure (e.g. roads, drainage, public transport, parks) needed to support higher density residential development.
 

Council’s existing contribution plan provides for a level of servicing based on existing zoned development capacity. The reforms create a significant amount of additional unplanned/unpredictable capacity without any arrangements to fund and provide the essential supporting infrastructure.
5. The proposals include no obligation on developers to provide or contribute to actual affordable housing and in the longer term.
6. Cautious support should be expressed for the possible limited application of the *Manor House* and *Multi dwelling housing* proposals in appropriate R2 zones. The R2 zones in Nowra, North Nowra, Bomaderry, Worrigeer, South Nowra and Ulladulla are potentially suitable. However, Council should oppose the proposed 9.5m maximum building height “Non-refusal standard”. 9.5m is excessive for development that is meant to be limited to two storeys. The existing LEP building height of 7.5m-8.5m in the R2 zone should apply.
7. Request that the “Non-refusal standards” do not apply to development on land that adjoins a heritage item or that is in a heritage conservation area.

8. It is imperative that the draft legal instrument be exhibited for review/comment prior to enacting any of the proposed changes. Some aspects of the proposals are ambiguous and further actual detail needs to be released to resolve uncertainties and enable the full range of implications to be understood.
9. If the reforms come in they need to include savings and transitional arrangements. The scale and nature of the proposals may require updates to Council's local planning documents (DCPs and Contributions Plan). Savings and transitional arrangements need to provide a suitable timeframe for that. The government should also provide funding to Councils to enable any resulting local planning changes to be implemented in a timely manner.

### **Internal Consultations**

Comments from the City Development Directorate have been incorporated into this report and the draft submission.

### **External Consultations**

Council's Community Consultative Bodies were notified of the exhibition of the EIE and advised to direct any submissions and enquiries to DHPI.

The Red Head Villages Association provided Council with a copy of its submission on the EIE. The submission raises concerns about the provisions related to dual occupancy development, non-refusal standards and car parking rates. It suggests that the Government should focus supportive mid-rise development in the Nowra-Bomaderry CBD areas and incentivise good regional planning outcomes.

### **Policy Implications**

The EIE proposals, if enacted, would override and potentially undermine a range of local planning controls in Shoalhaven LEP 2014 and Shoalhaven DCP 2014. The full range of potential implications is not known due to the lack of detail on some proposals, as a draft legal instrument has not been released for comment.

Dear Sir/Madam

## **SUBMISSION**

### **Explanation of Intended Effect: Low and Mid-rise Housing**

Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) relating to the proposed changes to create additional opportunities for low-and mid-rise housing.

#### **Introduction**

The proposals outlined in the exhibited EIE focus principally on increasing housing diversity in the R2 Low Density Residential (R2), R1 General Residential (R1) and R3 Medium Density Residential (R3) zones in the Six Cities Region.

Council notes that:

- these proposals are a significant policy reform of the NSW Government aimed at helping addressing the housing crisis;
- the NSW Government wishes to enable and encourage more density and diverse housing options across the Six Cities Region (which includes Shoalhaven) in “well located areas” including where there is “good public transport”; and

Council acknowledges that:

- there is a need to increase housing supply and it also has a desire to see additional affordable and appropriate housing opportunities provided for Shoalhaven’s growing and changing population;
- more diverse, well-designed, low-rise and mid-rise housing should be facilitated through collaboration in suitable well located areas, including near higher order town centres and in areas with good public transport connections to employment precincts and other services.
- The majority of Shoalhaven’s urban zones that would be affected by the current proposals (R1, R2 and R3 zones) are potentially not well located, near higher order town centres or serviced by what could be considered good public transport.

In October 2023 the Mayor responded to a letter from the NSW Minister for Planning & Public Spaces dated 8 August 2023 that covered the shared responsibility to address Housing Crisis and promoting the need to collaborate to accelerate the supply of new housing. The Mayor’s letter is attached and it outlines how Council is responding to the delivery of new housing.

#### **Council Feedback – Proposed Reforms**

1. The proposals released for consultation on 15 December 2023 present a blunt ad hoc approach to planning policy for housing and are at somewhat at odds with the collaborative narrative indicated in the Minister’s letter of 8 August 2023.

No evidence base has been presented to support the scale of changes proposed, nor any modelling released to help determine the potential impacts on the various areas they could possibly apply to. There is also a lack of detail on the range of suggested supporting measures/mechanism, for example the proposed ‘pattern book’ that will include endorsed designs for new low-rise housing and mid-rise apartment buildings of up to 6 storeys. The early material notes that developers who use it will have access to an accelerated approval pathway.

2. It is concerning that the changes resulting from the exhibit EIE could be implemented around the middle of this year. It is essential that Councils are fully engaged on the nature and detail of any changes that result and are provided the opportunity to review any draft legislation. This will enable the operation of any actual changes to be considered and any unintended consequences to be identified/resolved.
3. The proposals will impose blanket planning controls, via a de facto rezoning/LEP amendment mechanism, that will allow the potential for virtually unfettered higher density residential development of a scale, height and bulk that could be at odds with the character and context of most urban communities in the Shoalhaven. The proposed controls and their blanket nature may not ultimately facilitate “doing good design well”.
4. The proposals have the potential to have significant adverse impacts on many of Shoalhaven’s town centres and coastal villages that may, arguably, meet the “town centre precinct” requirements, particularly those areas with distinct character and heritage values such as Berry and Milton. The potential cumulative impact of increased densities through significantly inflated building heights, coupled with higher floor space ratios (FSR) and reduced minimum site requirements, would most likely result in poor development outcomes that do not align with communities’ values and sense of liveability.
5. There are significant concerns about the potential impact the resultant unplanned growth would have on Shoalhaven’s existing infrastructure capacity. As a large regional area with limited public transport options and no regular commuter rail service, the majority of the area is heavily car dependent and this is likely to continue for the foreseeable future. The proposed non-refusal standards have the potential to place additional pressures on local road networks through increased uptake of traffic generating development, and car parking standards that are well below the requirements currently specified in Council’s own local planning controls.

There are also significant concerns about the potential impacts on Council’s waste management services and water and wastewater networks, as well as State and other key infrastructure including schools, hospitals, electricity and telecommunications networks.

6. The proposals have the potential to undermine Council’s existing planning controls and powers. They will also conflict with and/or make redundant many current and recent and state and local strategic planning and policy initiatives aimed at ultimately helping deliver a range of housing options in appropriate locations, including:
  - City-wide Housing Strategy preparatory work
  - Affordable Housing Strategy review
  - New Character and Heritage planning controls being prepared for Berry
  - Shoalhaven Contributions Plan 2019
  - Shoalhaven 2040 - Our Strategic Land-use Planning Statement (LSPS)
  - Illawarra-Shoalhaven Regional Plan 2041 (DPHI)
  - Nowra City Centre Strategic Roadmap work (DPHI)
  - Illawarra-Shoalhaven Regional Transport Plan (Aug 2021)
  - Nowra-Bomaderry Movement & Place Framework (TfNSW)
  - The Six Cities Region Discussion Paper (Sept 2022)

### Conclusion

1. Council has significant concerns about the reforms foreshadowed in the EIE and requests that more collaboration and engagement occur with Councils before the resultant reforms progress and eventuate.
2. Council does not support the two train stations in Shoalhaven (Bomaderry and Berry) being included in the “definition” of “*station and town centre precincts*”. These train stations are not currently serviced by regular, reliable commuter passenger services. Further investigation and discussion should be undertaken before either or both stations are included.
3. The Shoalhaven Local Environmental Plan 2014 (LEP 2014) already permits *Residential flat buildings* (RFBs) with consent in both the R1 and R3 zones. Council however opposes the proposed changes that are intended to permit RFBs of between 16m and 21m in height in a blanket manner across the R1 and R3 zones near “*station and town centre precincts*” without further detailed work and engagement.

The density and scale of development enabled by the proposed controls is considered highly out character. Further, most Shoalhaven communities are not well located to receive the increase in housing density enabled by such changes and the resultant impacts. Council opposes any change to housing density and building heights affecting the R1 and R3 zones until the completion of a range of current strategic planning work including and identified in the following:

- *City-wide Housing Strategy*
- *Affordable Housing Strategy review*
- *Draft DCP for the area of Berry east of the Princes Highway and Princess Street, Berry Heritage Conservation area*
- *Shoalhaven 2040 - Our Strategic Land-use Planning Statement (LSPS)*
- *Illawarra-Shoalhaven Regional Plan 2041 (DPHI)*
- *Nowra City Centre Strategic Roadmap (DPHI)*
- *Illawarra-Shoalhaven Regional Transport Plan (Aug 2021)*
- *The Six Cities Region Discussion Paper (Sept 2022)*

Parts of Nowra and Bomaderry near the E2 zone and near some limited E1/MU1 zones may prove suitable for some increased housing density opportunities following the completion of current and proposed strategic planning work.

4. The LEP 2014 already permits *Dual occupancies* with consent in the R2 zone. Council supports the proposals to make *Dual occupancies* permissible with consent in all R2 zones across NSW. However, it notes that in the case of the Shoalhaven this specific proposal does not by itself create any additional housing opportunities.
5. Council supports the limited application only of the *manor house* and *multi dwelling housing* (MDH) proposals in its R2 zones. It supports making *manor houses* and MDH (including MDH (Terraces) permissible with consent in appropriate R2 zones in Nowra, North Nowra, Bomaderry, Worrigea, South Nowra and Ulladulla. Further work and detailed engagement should occur in this regard.



Council does not support the 9.5m maximum building height (HoB) non-refusal standard. Current and long established HoB standards (generally 8.5m for most R2 zoned areas and 7.5m in some instances) should be respected and maintained.

6. Council requests that the non-refusal standards be turned off for development on land that adjoins a heritage item or is within a Heritage Conservation Area.
7. Council requests that if these proposals proceed then, at least, a draft instrument is provided for review by local government. Many aspects of the proposals are currently unknown/uncertain and further detail needs to be released for review and comment to enable the full range of possible implications to be considered and understood.

Finally, Council strongly requests that the NSW Government take the necessary steps to fully engage and collaborate with Councils to ensure that the changes that ultimately result from these reforms actually encourage additional housing in appropriate locations, are well designed and supported by necessary infrastructure.

Council is also working hard to deliver new housing opportunities and its current and proposed strategic planning will continue to provide new housing opportunities, including increased density in appropriate locations.

Should you require further information about this matter, please contact xxx, City Futures, on (02) 4429 xxxx. Please quote Council's reference Dxx/yy (31157e) in any correspondence.

Yours faithfully

**Gordon Clark**  
**Strategic Planning Manager**

DRAFT

CL24.57 - Attachment 1

**Attachment 2**

**Relevant Current Land Use Definitions, Shoalhaven Local Environmental Plan 2014:**

*Dual Occupancy* means 2 dwellings (either attached or detached) on one lot of land but does not include a secondary dwelling.

*Manor House* means a residential flat building containing 3 or 4 dwellings, where—

- (a) each dwelling is attached to another dwelling by a common wall or floor, and
- (b) at least 1 dwelling is partially or wholly located above another dwelling, and
- (c) the building contains no more than 2 storeys (excluding any basement).

*Multi-dwelling housing* means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

*Multi-dwelling housing (terraces)* means multi-dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

*Residential flat building* means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

*Shop-top housing* means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

**The Hon Paul Scully MP**  
Minister for Planning and Public Spaces



Ref: IRF23/1420

Clr Amanda Findley  
Mayor  
Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541  
[Via: council@shoalhaven.nsw.gov.au;](mailto:council@shoalhaven.nsw.gov.au)

Dear Clr Findley, *Amanda*

We have a shared responsibility to address the housing crisis and meet the goals of the National Housing Accord, and I want to thank you for the collaborative effort you have made and continue to make on behalf of the communities you represent.

The urgency is real — as we return to strong population growth in challenging market conditions, we are seeing housing pressures impacting housing supply, diversity and diminishing housing choice.

Delivering a fair distribution of housing, jobs, and social and economic infrastructure for the people of NSW is going to take effort from all levels of government.

Our decisions, whether at state or council level, need to be supported by a planning system that makes decisions based on current needs, circumstances, and priorities.

While governments at all levels have undertaken substantial work to implement strategic plans and deliver housing targets, it's clear to me that past strategic plans didn't anticipate or account for the scale of the housing crisis we now face.

The immediate need is for us to make sure the planning system presents no impediment to dwelling approvals and construction in appropriate locations.

I am asking councils and planning panels to factor this into their decision-making and prioritise the delivery of housing when assessing development applications and rezoning schemes, so that the entire planning system is geared to addressing the housing shortfall.

While I await the publication of updated region and cities plans by the Greater Cities Commission, I ask that you and your council teams prioritise the opportunity to deliver homes as part of merit considerations where, on balance, dwelling numbers may warrant a scale or built form that is different to or greater than the outcome originally anticipated.

The [Strategic Merit Test](#) (referenced in the [Local Environmental Plan Making Guideline](#)) exists for such times and provides a framework for responding to a change in circumstances, such as the investment in new infrastructure or changing population and demographic trends.

I do not deny this is a difficult and challenging time, but it is critically important we undertake this shared responsibility and work together to meet that challenge. I look forward to working with each of you to create cities and regions that deliver fair opportunities for all.

Should you have any questions, Malcolm McDonald, Executive Director, Local and Regional Planning, at the Department of Planning and Environment can be contacted on 02 9274 6267.

Yours sincerely

Paul Scully MP  
Minister for Planning and Public Spaces

5/8/23



Amanda Findley  
Mayor

PO Box 42, Nowra NSW 2541 Australia  
(02) 4429 3250 |



19 October 2023

The Hon Paul Scully MP  
Minister for Planning & Public Spaces  
GPO Box 5341  
SYDNEY NSW 2001  
By email: [office@scully.minister.nsw.gov.au](mailto:office@scully.minister.nsw.gov.au)  
Cc: [wollongong@parliament.nsw.gov.au](mailto:wollongong@parliament.nsw.gov.au)

Dear Minister,

### Shared Responsibility to address Housing Crisis

Thank you for your letter dated 5 August 2023, promoting the need to collaborate to accelerate the supply of new housing.

Like many local government areas in NSW, the Shoalhaven has a number of housing challenges. Council anticipates the requirement to construct a minimum of 14,200 new homes by 2051. Additionally, our goals include bolstering the availability of affordable rental housing and social housing while also focusing on enhancing housing affordability in a broader sense.

Council is fully committed to continuing to meet identified housing needs by facilitating the delivery of a sustainable supply of all housing types throughout the city. Whilst acknowledging housing as a significant current and ongoing need, the strategic merit of rezoning and development proposals will continue to be based on consistency with Shoalhaven's existing and robust strategic planning framework. This framework has been thoroughly tested with the Shoalhaven community and seeks to ensure good planning outcomes; namely, sustainable, and resilient homes in areas of low environmental risk and close to jobs, shops and services.

Our priority work to increase housing supply includes the preparation and implementation of local planning documents and delivery of infrastructure to support the delivery of over 3,000 new homes in the Nowra-Bomaderry Regional Release Area. There have been several challenges in realising this Urban Release Area, including delays in receiving advice from NSW Government agencies, as well as the complexity of impacts of that advice on local planning documents.

Council's ongoing and strong efforts to address housing affordability includes the preparation of an Affordable Housing Strategy and an Affordable Housing Development Contribution Scheme. The Strategy is funded through the NSW Government's Regional Housing Strategic Planning Fund and includes testing of



## CL24.58 Proposed Heritage Listing of the Former Huskisson Anglican Church and Site: Public Exhibition Outcomes and Next Steps

**HPERM Ref:** D24/60309

**Department:** Strategic Planning

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

**Attachments:**

1. Gateway Determination - Planning Proposal PP068: Heritage Listing: Former Huskisson Anglican Church and Site [↓](#)
2. Alteration of Gateway Determination - Planning Proposal PP068: Heritage Listing: Former Huskisson Anglican Church and Site [↓](#)

### Reason for Report

The purpose of this report is to provide Council with an overview of the submissions received on the public exhibition of Planning Proposal PP068 – Heritage Listing: Former Huskisson Anglican Church and Site (comprising the land identified as Lots 7-9 Section 3 DP 758530) and to seek direction from Council on the next steps.

### Recommendation

That Council:

1. Acknowledge the submissions received on the public exhibition of Planning Proposal PP068 - Heritage Listing: Former Huskisson Anglican Church and Site (comprising the land identified as Lots 7-9 Section 3 DP 758530) and give due consideration to the submissions.
2. Support the Planning Proposal as exhibited.
3. Finalise the Planning Proposal as exhibited in accordance with the Local Environmental Plan Making Guidelines including liaising with the Parliamentary Counsel's Office and NSW Department of Planning, Housing and Infrastructure.

### Options

1. As recommended.

Implications and summary of advice: This option allows the Planning Proposal (PP) to progress to the next steps to formally heritage list the Former Huskisson Anglican Church and Site within Shoalhaven Local Environmental Plan (SLEP) 2014 in accordance with the recommendations of the contemporary Statement of Heritage Significance (SoHS) prepared for the site by Extent Heritage.

2. That Council:

1. Acknowledge the submissions received on the public exhibition of Planning Proposal PP068 – Heritage Listing: Former Huskisson Anglican Church and Site (comprising the land identified as Lots 7-9 Section 3 DP 758530) and give due consideration to submissions.
2. Commission an independent Economic Impact Assessment (EIA) (or similar) and/or a peer review of the contemporary SoHS in response to the concerns raised in the submissions by the owner of Lots 7 and 8, prior to any further consideration of the PP.

Implications and summary of advice: An EIA is not a requirement for every PP and was not a condition of the Gateway determination issued by the (then) NSW Department of Planning and Environment (DPE) (now the NSW Department of Planning, Housing and Infrastructure (DPHI)). The Department also did not require a peer review of the contemporary SoHS.

Should an EIA (or similar) or peer review of the SoHS (or both) be commissioned for the Council to consider and the Council determined to progress the PP (with or without changes), the PP may need to be reexhibited and potentially referred back to the Department. An extension to the Gateway determination may be required. There will be additional financial and resource implications for Council, which cannot be quantified at this time.

3. That Council:

1. Acknowledge the submissions received on the public exhibition of Planning Proposal PP068 – Heritage Listing: Former Huskisson Anglican Church and Site (comprising the land identified as Lots 7-9 Section 3 DP 758530) and give due consideration to submissions.
2. Withdraw its support for the PP and discontinue the process to heritage list the Former Huskisson Anglican Church and Site.

Implications and summary of advice: This option would remove the interim protection provided by the draft heritage listing, and the Church and Site would not be listed as a heritage item in the SLEP 2014. This option is not in accordance with the recommendations of the contemporary SoHS that was prepared for the site.

**Background**

In July and August 2023, Council publicly exhibited a PP which proposes the listing of the Former Huskisson Anglican Church and Site as a local heritage item in the SLEP 2014. The PP applies to 17 Hawke Street and 22-26 Currambene Street, Huskisson (Lots 7-9 Section 3 DP 758530) as identified in Figure 1.



CL24.58



*Figure 1: Aerial image of the subject site, outlined in red, as sourced from PP068.*

The PP was prepared to action Council's 20 September 2022 resolution (in part) to (MIN22.618):

2. *Commence the process to immediately list the Former Anglican Church, Huskisson and any associated items on the site (including Lots 7 and 8 Section 3 DP 758530) as a 'Heritage Item' of local significance in Schedule 5 of Shoalhaven Local Environmental Plan 2014, including the preparation of an updated statement of heritage significance and any other required supporting information.*
3. *As part of the Gateway determination submitted to the NSW Department of Planning and Environment, note that although a development consent for the relocation of the church has been issued and commenced, that this is not the will of the current Council elected in December 2021.*

Heritage consultants (Extent Heritage Pty Ltd) were commissioned to assess the heritage significance of Lots 7 and 8 Section 3 DP 758530 (**the Site**) and prepare a contemporary SoHS, if required. The consultants were asked to consider the significance of the Site with the Former Huskisson Anglican Church building:

1. In its current location, and
2. Relocated in accordance with Development Consent DA18/2102.

Development Consent DA18/2102 has since been surrendered by the owner of the site. This was not requested by Council, nor would that have been the outcome of the PP. Despite this, Extent Heritage considered the heritage significance of the church building if relocation were to be proposed in the future.

Extent Heritage also considered the significance of the land adjoining the Site; Lot 9 Section 3 DP 758530, owned by Jerrinja Local Aboriginal Land Council (LALC) in preparing the contemporary SoHS. The report found that Lot 9 is contributory to the historical, aesthetic and social value of the Former Huskisson Anglican Church and grounds.

Extent Heritage prepared a contemporary SoHS that concluded the Former Huskisson Anglican Church and Site meets NSW heritage assessment criteria for listing as a heritage item of local significance. The following extracts from the PP are provided directly from the recommendations of the SoHS and supplementary statement:

- *Council progress with listing the Church and its site as a heritage item of local significance within Schedule 5 of the SLEP 2014.*
- *The curtilage of the listing should include all elements that have been identified as contributing to the significance of the site.*
- *Lot 9 should be included in the heritage listing and the statutory curtilage of the heritage item, and mapped and included in Schedule 5 of the SLEP 2014, following discussions with Jerrinja LALC.*

A PP recommending the heritage listing of the Former Huskisson Anglican Church and Site, Lots 7-9 Section 3 DP 758530, was prepared and submitted to the (then) NSW DPE via the NSW Planning Portal on 12 May 2023. DPE issued a Gateway determination on 3 June 2023 which sets a timeframe for the completion of the PP by 3 July 2024 (**Attachment 1**). The Gateway determination also set conditions for public exhibition requirements, consultation with government agencies and other organisations, and public hearing requirements.

A minor alteration to Condition 2 of the Gateway determination was issued on 9 October 2023 to address technical difficulties experienced when consulting with agencies through the Planning Portal (**Attachment 2**).

**Public Exhibition**

The PP was publicly exhibited for 30 days from 26 July to 25 August 2023 (inclusive) via Council’s Documents on Exhibition website ([link](#)). Notification letters were sent to landowners (affected and adjoining), relevant public authorities, and community and interest groups.

102 written submissions were received, comprising:

- 98 public submissions from community members and interest groups, including the Huskisson Heritage Association and Huskisson Woollamia Community Voice.
- One from Jerrinja LALC (as the owner of Lot 9).
- Two from the owner of Lots 7 and 8.
- One from Heritage NSW.

Hardcopies of all submissions are available in the Councillors’ Rooms for Councillors’ review and consideration. For privacy reasons, submissions are not attached to this report; however, a summary of the submission comments and key issues raised is provided below.

Summary of Public Submissions

All submissions except two supported the proposed heritage listing. A summary of feedback supporting the PP along with clarification, where necessary, is provided in Table 1. Landowner submissions are addressed separately. None of the submissions requested a public hearing.

*Table 1: Summary of issues and additional comments raised in the submissions in support of the PP.*

<p><b>51 submissions</b> commented on the importance of protecting the church building and its site to preserve the community’s connection with Huskisson’s history and heritage.</p>
<p><b>30 submissions</b> expressed gratitude to Council for progressing the heritage listing and for listening to the views of the community on this matter.</p>
<p><b>27 submissions</b> commented on the graves on the site, both in an Aboriginal and non-Aboriginal context. Submissions noted the importance of protecting the grave sites, including the known graves (including those that are unmarked), and those that have not been confirmed.</p>
<p><b>26 submissions</b> commented on the importance of maintaining green space and preserving the stands of large trees on the site.</p>
<p><b>21 submissions</b> expressed support for the PP and the measures taken to protect Aboriginal cultural heritage values on the site.</p> <p><u>Staff Comment:</u> The PP recommends protecting the heritage values of the site through a listing in the SLEP 2014. The contemporary SoHS assessment does not include an assessment of aboriginal archaeology or cultural heritage. Please refer to Part 8 of the Extent Heritage Report (from page 101) for the SoHS for an explanation of the values identified in the site. It does not expressly protect the site’s Aboriginal cultural heritage values.</p> <p>Protection of these Aboriginal objects and places can be achieved under Part 6 of the <i>National Parks and Wildlife Act 1979</i>. However, this requires the preparation of an Aboriginal Cultural Heritage Assessment Report. That is not what is proposed under the PP;</p> <p>There is also understood to be an unresolved application from Jerrinja LALC to have the site permanently protected under the Commonwealth <i>Aboriginal and Torres Strait Islander Heritage Protection Act</i>.</p>

CL24.58

**21 submissions** commented on the site’s potential cultural, educational, and tourism opportunities for the Huskisson community and broader region.

Staff Comment: The PP recommends formally recognising the heritage values of the site. Any future use of the site is subject to the will and intentions of the owners.

**11 submissions** commented on the architectural significance of the church building. Comments focussed on the building’s architectural style and its importance as a late example of the work by notable architect Cyril Blacket.

**7 submissions** raised objections to the potential loss of public open space should the site ever be developed in the future. Submission comments suggested alternative uses for the site, including public parks and other community uses.

Staff Comment: The site is privately owned and has not been reserved for public open space.

**5 submissions** raised concerns about the sale of Lots 7 and 8 by the Anglican Church to a private landowner, feeling that there should have been some degree of community consultation when the site was sold.

Staff Comment: The community’s connection to the church is appreciated, but the site is privately owned and can be sold without community consultation in the same manner as any other freehold land.

**4 submissions** confirmed support for the inclusion of Lot 9 in the heritage listing subject to agreement from Jerrinja LALC.

Staff Comment: Details of the consultation with Jerrinja LALC is provided below.

**20 submissions** provided comments on a range of matters, including:

- Objections to potential surface scraping of the site out of respect for Aboriginal sensitivities.
- Highlighting the contribution of the church building to Huskisson’s character.
- Identifying personal and family connections to the church and site through weddings, christenings, funerals, and social activities.
- Raising concerns about the loss of other heritage items through development and the possibility of unsympathetic redevelopment of this site.
- Claims that support from the community to protect the site continue to outweigh the support for its redevelopment.

Summary of Landowner Consultation

Jerrinja LALC (Lot 9)

Council officers met with a representative of Jerrinja LALC to provide a copy of the PP and discuss the inclusion of their land (Lot 9) in the heritage listing. This meeting met the requirements of the Gateway determination and the commitments of the existing Memorandum of Understanding (MOU) between Jerrinja LALC and Council. A written response from Jerrinja LALC confirmed there was no objection with the inclusion of Lot 9 in the heritage listing.

Owner of Lots 7 and 8

Two submissions were made by the owner of Lots 7 and 8, Hawke St Huskisson Pty Limited. Both submissions made objections in relation to the PP and the processes undertaken in relation to the proposal. The first submission was made during the exhibition period, on 23

CL24.58

August 2023. Council staff provided a letter in response to matters raised in the submission on 6 October 2023. A further letter was then sent by the owner after the exhibition period which responded to the Council’s letter and expanded on the matters raised in the initial submission. This letter is taken to be an additional submission on the PP.

Hardcopies of both submissions and the Council’s letter are available in the Councillors’ Rooms for Councillors’ review and consideration.

Table 2 (below) provides an overview of the submissions made by the owner of Lots 7 and 8, which has been prepared by Council staff, and the staff response to these issues. The submission summaries (noted as Sub No. 1 and 2 in the table) are provided for context only and should not be relied on in lieu of the actual submissions.

*Table 2 Summary of key issues raised in the submissions made by the owner of Lots 7 and 8 and Council staff response.*

<b>Issue 1: Inconsistent treatment of landowners</b>	
<b>Sub No.</b>	<b>Submission comments</b>
<b>1</b>	Council has failed to be consistent in its treatment of the owners of the subject land. The owner of Lot 9 was given the “option” for the site to be included in the heritage listing, whereas the owner of Lots 7 and 8 was not. The failure to be consistent between the landowners exposes Council to a claim of failing to ensure natural justice between equivalent landowners. The owner of Lots 7 and 8 should be afforded the same options and consideration as the owner of Lot 9.
<b>2</b>	At the Council meeting of 20 September 2022, Council made the decision to heritage list Lots 7 and 8. There was also discussion about the position of Lot 9 and the consultation that would occur with the landowners to determine if it should be included in the heritage listing. Extent Heritage’s recommendations in the SoHS appear to reflect the outcome of these discussions.  Council staff have used this conclusion to support the argument that Council was acting at the direction of NSW DPE in consulting with Jerrinja LALC, which is not a credible or reasonable claim. For consistency, the owner of Lot 9 should have been “directed” that Lot 9 was to be heritage listed with Lots 7 and 8, particularly noting the trees and the importance of the known graves on Lot 9 in the same circumstances at Lots 7 and 8.
<b>Staff Response</b>	
<p>The PP was prepared in response to a Council resolution to list the former church and associated items on the site. While the resolution specifically identified Lots 7 and 8, Extent Heritage, in undertaking their independent heritage assessment and preparing the contemporary SoHS, identified that Lot 9 was also contributory to the heritage significance of the site. The report recommended Lot 9 be considered for inclusion following discussions with Jerrinja LALC. The statements within the PP reflect, verbatim, the assessment of Extent Heritage, the recommendations of the independent contemporary SoHS and supplementary statement.</p> <p>The PP does not give Jerrinja LALC, as the owner of Lot 9, the option to determine whether its land is to be included or excluded in the heritage listing, nor was consultation with the LALC undertaken on this basis. Rather, the PP proposes listing all three lots (Lots 7-9) and notes that discussions will be undertaken with Jerrinja LALC throughout the process, with the outcome of these discussions to be considered in the finalisation of the PP. This approach is consistent with the requirements of the Gateway determination which require consultation with the LALC. It also aligns with the MOU between Jerrinja LALC and Council, and the undertakings therein, particularly:</p>	

CL24.58

- Building and maintaining a meaningful and appropriate relationship.
- Clear and open communication.
- Reviewing and maintaining mechanisms and processes which guarantee that appropriate consultation takes place in relation to development applications, PPs and Council’s civil works to ensure that Jerrinja culture and heritage are considered as part of the assessment and planning phase.

The owner of Lots 7 and 8 was given the opportunity to make submissions in relation to the PP. The owner was also offered an additional opportunity to meet with Council officers to discuss the concerns raised in the first submission; however, this was declined.

**Issue 2: Insufficient consideration of economic impact**

Sub No.	Submission comments
1	<p>Section 4.3.3 of the PP has not adequately addressed the economic impacts of the proposal as required by the <i>NSW Local Environmental Plan Making Guidelines</i>. The proposed heritage listing imposes a significant economic impact on the owner of Lots 7 and 8. As the proponent for the PP, Council is required to address the issue in a proper and independent manner.</p> <p>There are two statements within this section of the PP relating to the absence of anticipated economic effects and benefits from heritage tourism of the heritage listing. These statements are not supported by any rationale or reason from a qualified person. It is very unlikely that Council would accept such unsupported claims in a proponent-initiated PP.</p> <p>By failing to address these issues, Council is not holding itself to the same standard it requires from landowners. These claims should be independently verified by qualified parties, and any failure to do so exposes Council to a legal claim of failing to follow due and required process.</p>
2	<p>Council have refused to commission a proper economic assessment of the impact of the PP and is instead relying on the Extent Heritage claim that the PP is “not expected to result in adverse economic effects for the site.” Such a statement is neither reasonable nor credible. Council and NSW DPE would not accept such a statement in a proponent led PP. The key issues are:</p> <ol style="list-style-type: none"> <li>1. Extent Heritage are experts on heritage and have no credibility with economic impacts of a PP.</li> <li>2. Council always requires an expert report on the economic effect or feasibility of a PP. The refusal to commission an EIA shows that Council is not applying the same process to itself that it requires from PP proponents.</li> <li>3. Council staff have taken the position that because NSW DPE have accepted the SoHS as appropriate, further comment on the economic impact of the PP or other work is not required. This is not reasonable or acceptable.</li> <li>4. Should the listing proceed, the impact on the site’s development potential would be significant. The owner has received heritage architectural advice that the listing will require that at least 83% of the site remain in its current form. The reduction in gross floor area (GFA), from 18,000m<sup>2</sup> to 3,000m<sup>2</sup>, is estimated to result in an economic loss of at least \$60m.</li> <li>5. The Council’s claim that the benefit of heritage listing will offset the loss of GFA is not supported by financial investigation, potential development</li> </ol>

CL24.58

	<p>investigation or financial modelling.</p> <p>6. The Council's reliance on the current zoning of the site as special purpose – Church is only partly relevant. Any church may undertake the suggested developments on the site. Further, the NSW Valuer General assesses the land value having regard to the likely successful rezoning for commercial or residential use. Council should not be at odds with the Valuer General.</p>
--	---

**Staff Response**

As set out in the PP, it is the opinion of the Council staff that the PP “is not expected to result in adverse economic effects for the site”. As explained at Section 4.3.3 of the PP, the inclusion of the site as a heritage item does not by itself prohibit development nor the lodgement of any future PP, rather, it provides additional statutory considerations that must be addressed in any future development of, or proposal for, the site. Heritage items and places throughout Shoalhaven (and more broadly) have been sympathetically redeveloped and/or successfully repurposed for viable commercial uses, or, in some instances, demolished to facilitate redevelopment of the site.

The PP does not propose any changes to the Site's current land use zone of SP2 Place of Public Worship. The current zoning permits development of the site for a limited range of uses, being places of public worship (and ancillary uses), aquaculture, and roads.

The recommended heritage listing does not impact the permissible uses of the land as suggested by the landowner. For abundant clarity, a local heritage listing ‘turns off’ the ability to undertake most forms of complying development under the SEPP.<sup>1</sup> This means that any development that is not exempt will require full merit assessment by Council.

Two further, specific issues raised by the landowner in relation to the economic assessment of the development have been addressed in turn below.

Extent Heritage advice on economic impacts

The submissions raise an issue that the PP relies on an assessment of the economic impacts of the proposed heritage listing undertaken by Extent Heritage. However, the statements in the PP relating to economic impacts referred to by the landowner were prepared by the Council's planning staff, not by Extent Heritage. The PP incorporates the recommendations of the contemporary SoHS as they relate to the heritage significance of the site.

EIA

There is no express requirement in the *Environmental Planning and Assessment (EP&A) Act 1979* or the *Local Environmental Plan Making Guidelines* (the Guidelines) for Council to prepare or commission an EIA to support a PP. The Guidelines require a PP to adequately address any social and economic effects, including to “identify measures to mitigate any adverse social or economic impacts, where necessary, and whether additional studies are required”.

The Department has developed a supporting technical information guide to assist both proponents and councils to identify and inform what technical studies and information may be required when a planning proposal is being prepared. An EIA in the form requested by the landowner is not required under this guidance.

Whether an EIA is required to adequately address economic effects of a PP will therefore depend on the circumstances of each particular proposal including the nature, scale and complexity of a proposal.

It was open to the Minister's delegate, in granting the Gateway determination, to require

CL24.58

<sup>1</sup> This was noted in the PP.

additional studies to occur prior to the public exhibition of the PP. This was not required.

Contrary to the landowner’s submission, it is not the Council’s practice to always require an expert report on the economic effect or feasibility of a PP (for either Council or landowner-initiated proposals). For example, a recent and similar Council-initiated PP to heritage list an additional 12 items and two heritage conservation areas within Berry did not include the preparation of such an assessment.

**Issue 3: Independence of the SoHS and request for peer review**

Sub No.	Submission comments
1	The independence of the Extent Heritage report is questionable and as such is exposed to future challenges relating to quality and independence. Reports commissioned by the landowner and previously considered by Council have been discredited as biased and therefore not credible. The report should be peer reviewed by an independent expert acceptable to both the landowner and Council.
2	The conclusion of the Extent Heritage report is so different to the original report undertaken by Peter Freeman (1995-1998) and GBA Heritage report that a peer review should be undertaken. The Freeman report concluded that the church, the hall, and the land in between was worthy of heritage listing, but the land to the north of the hall, the Manse, and Lot 8 were not. Having regard to the different conclusions in these reports, Council should seek a genuine review.

**Staff Response**

Extent Heritage was engaged in accordance with the Council’s corporate procurement process and the assessment was undertaken independently from the elected Council. The procurement process included formal requests for quotations from four consultants (three of which responded) and the evaluation of proposals was undertaken by a panel. The panel considered the consultant’s experience, areas of expertise, and independence from previous heritage considerations, assessments, and decisions. Elected Councillors were not involved in the evaluation process and did not influence the selection, evaluation, or procurement process in any way.

The landowner has suggested that the conclusion of the Extent Heritage assessment is so different to the conclusions of previous reports that a peer review should be undertaken. The reports referred to by the landowner are the Shoalhaven Heritage Study 1995-1998 prepared by Peter Freeman and reports prepared by GBA Heritage on behalf of the landowner. Each of these reports are available in hardcopy in the Councillors’ Rooms for Councillors to review.

A summary of previous relevant reports and an analysis of the reports prepared by GBA Heritage referred to by the landowner is included in the Extent Heritage SoHS (see from page 12).

The Council’s staff do not consider that a peer review of the SoHS is required under the *EP&A Act* or the *Local Environmental Plan Making Guidelines*. The Council may review the other opinions referred to by the landowner in determining whether and how to proceed with the Planning Proposal.

CL24.58

## **Agency Consultation**

### Agency Consultation

The following public authorities were consulted during the public exhibition period, fulfilling the requirements of the Gateway determination:

1. Commonwealth Department of Climate Change, Energy, the Environment & Water (Heritage): This Agency did not provide feedback on the PP but did request to be kept informed of its progress.
2. Heritage NSW: This Agency supported the PP and the listing of the site as local heritage item in Schedule 5 Environmental Heritage of the SLEP 2014.

## **Internal Consultation**

Internal consultation occurred during the public exhibition, but no comments were made.

## **Financial Implications**

Should Council resolve to endorse and finalise the PP, associated costs will be managed within the existing Strategic Planning budget.

Should Council resolve to commission an EIA (or similar) for the site and/or a peer review of the SoHS, additional costs will be incurred. This will impact the budget and timing of Strategic Planning's current priorities, including the preparation of a new land use planning scheme for Shoalhaven. Resource and financial implications will be dependent on consultant fee proposals and are not able to be quantified at this time.

## **Risk Implications**

There is a risk that the making of this PP may be legally challenged. However, any PP carries the risk of legal challenge, and this should not form the basis of Council's decision on whether or not to progress this PP.





Department of Planning and Environment

## Gateway Determination

**Planning proposal (Department Ref: PP-2023-1002):** which seeks to amend Schedule 5 Environmental Heritage (and associated mapping) of the Shoalhaven LEP 2014 to include the Former Huskisson Anglican Church and its site at 17 Hawke Street and 22-26 Currumbene Street, Huskisson as a heritage item of local significance.

I, Daniel Thompson the Director, Southern Region at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan 2014 as described above should proceed subject to the following conditions:

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed on or before 3<sup>rd</sup> July 2024.

### Gateway Conditions

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 days; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).
2. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
  - Heritage NSW
  - Commonwealth Department of Climate Change, Energy, the Environment and Water (Heritage)

Consultation is also required with the following organisations:

- Jerrinja Local Aboriginal Land Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 3<sup>rd</sup> day of June 2023.



**Daniel Thompson**  
**Director, Southern Region**  
**Local and Regional Planning**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning and**  
**Public Spaces**

CL24.58 - Attachment 1



Department of Planning and Environment

## Alteration of Gateway Determination (GA-2023-106)

*Planning proposal (Department Ref: PP-2023-1002)*

I, Daniel Thompson Director, Southern Region at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 3 June 2023 for the proposed amendment to the Shoalhaven Local Environmental Plan 2014 as follows:

1. Delete:

“condition 2”

and replace with:

new condition 2 “Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:

- Heritage NSW
- Commonwealth Department of Climate Change, Energy, the Environment and Water (Heritage)

Consultation is also required with the following organisations

- Jerrinja Local Aboriginal Land Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal, or other practical means, and given at least 30 days to comment on the proposal.

Dated 9<sup>th</sup> day of October 2023.

A handwritten signature in blue ink, appearing to read "D Thompson".

**Daniel Thompson**  
**Director, Southern Region**  
**Local and Regional Planning**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning and**  
**Public Spaces**

## **CL24.59 Industrial Land - to Repurchase**

**HPERM Ref:** D24/61128

**Department:** Strategic Property

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

### **Reason for Report**

The reason for this report is to provide Council with the opportunity to consider a separate confidential report on Council's Industrial Land to repurchase.

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 considers a separate confidential report on this matter.

### **Options**

1. Council considers a separate confidential report.  
Implications: Council would have the relevant information to make an informed decision.
2. Council does not consider a separate confidential report.  
Implications: Council would not be informed of the relevant information.

### **Background**

Council's strategic vision for the Employment Land Precincts is to establish an employment generating industrial activity within a short timeframe on completion of the sale contract.

The contract's special conditions includes an acknowledgement by the purchasers that the vendor has sold the property at minimum valuation on the basis that purchasers will establish an employment generating industrial activity approved by Council upon the allotment within a set number of years from the completion date.

These conditions are included in the sale contracts to deter 'land banking' where developers purchase multiple allotments and on sell at a later date for a considerable profit.

## **CL24.60 Proposed Voluntary Planning Agreement - Nowra Bioenergy - 54 Terara Road, Terara**

**HPERM Ref:** D24/76204

**Department:** Strategic Planning

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

### **Reason for Report**

The purpose of the report is to obtain ‘in-principle’ support to enter into a Voluntary Planning Agreement (VPA) with the developer of the proposed Nowra Bioenergy facility at 54 Terara Road, Terara; relating to the payment of an ongoing monetary contribution for the rehabilitation and maintenance of the local road network.

### **Recommendation**

That Council:

1. Provide ‘in-principle’ support to commence the process of entering into a Voluntary Planning Agreement (VPA) with the developer of the proposed Nowra Bioenergy facility at 54 Terara Road, Terara; for an ongoing monetary contribution for the rehabilitation and maintenance of the local road network, consistent with the following terms:
  - a. The Developer will pay a monetary contribution of 64.3 cents per tonne of raw waste (solid dairy manure) entering the site and liquid/solid waste (digestate) exiting the site, with the rate to be indexed quarterly in accordance with CPI.
  - b. The Developer will provide a detailed quarterly report to Council, with payment of the monetary contribution made to Council within 21 days of Council’s acceptance of the quarterly contribution amount, noting that the specific terms will be subject to advice from Council’s legal counsel and the terms of the VPA.
2. Delegate authority to Council’s Chief Executive Officer, or her delegate, to:
  - a. Prepare the draft VPA and associated Explanatory Note, noting considerations outlined in Part 1(b) above.
  - b. Publicly exhibit the draft VPA and associated Explanatory Note for a minimum of 28 days as required by legislation.
  - c. Where no feedback warranting consideration is received, enter into the VPA consistent with the general terms outlined in this report, except where issues raised as a result of public notification result in substantial changes to the proposal, in which case Council will receive a further report prior to proceeding.
3. Notify the developer and the NSW Department of Planning, Housing and Infrastructure of this resolution.

### **Options**

1. As recommended.

Implications: This is the preferred option as the proposed facility will result in a range of positive benefits to local business, the community and the environment. The rate is based on a methodology that has been prepared by Council staff and accepted by Nowra Bioenergy. The methodology has calculated the rehabilitation and ongoing

maintenance costs which will be generated by the proposed development during operation to ensure these costs are covered by the developer, not Council/ratepayers.

2. Adopt an alternative recommendation.

Implications: This would depend on the nature of the alternative recommendation; however, could include a different rate/methodology or a decision to not enter into a VPA. This could also impact in the timing/outcome of the development application for the project.

**Background**

The NSW Department of Planning, Housing and Infrastructure (NSW DPHI) is currently considering a [State Significant Project Application \(SSD-26264096\)](#) for the proposed Nowra Bioenergy Project at 54 Terara Road, Terara (Figure 1). The facility is proposed to be located on the cleared eastern portion of the Nowra Sewage Treatment Plant site.



**Figure 1: The Site – Proposed Location of Nowra Bioenergy Facility**

The documentation supporting the Project Application describes the project as follows:

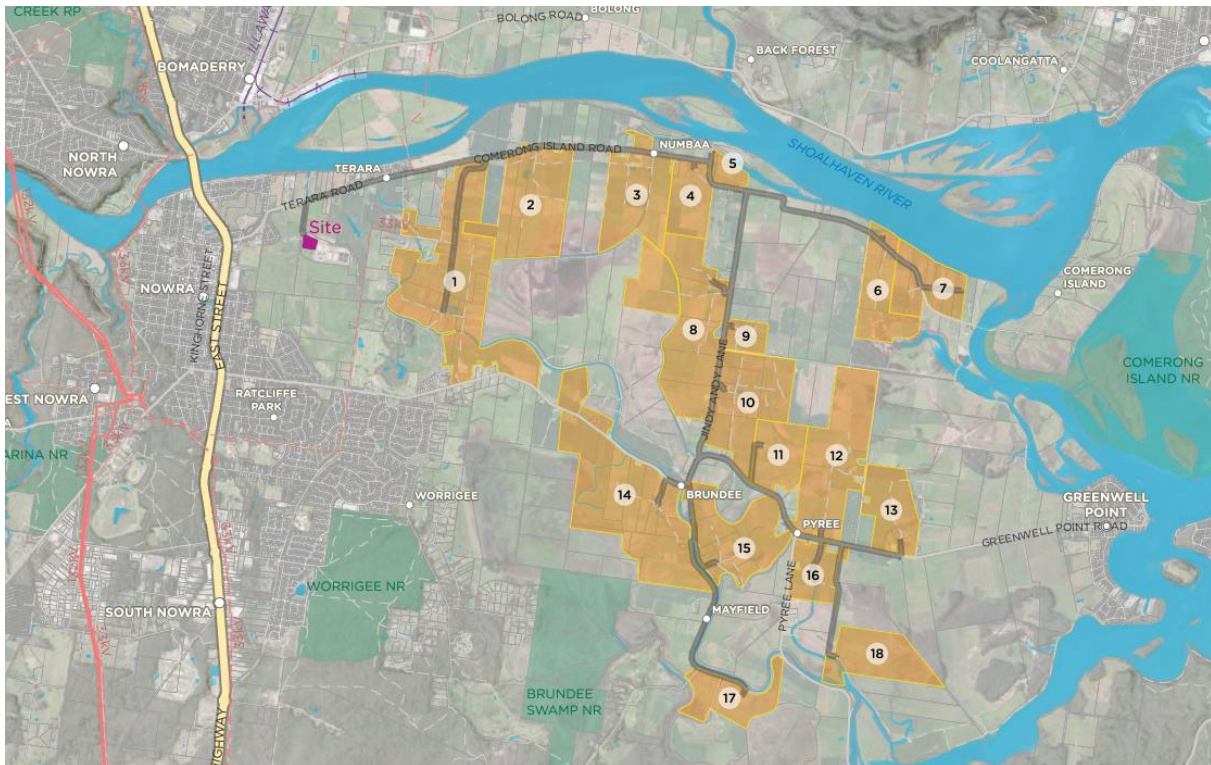
*The Project will process cow manure collected from nearby dairy farms and food waste from commercial kitchens to produce electricity via anaerobic digestion to produce biogas. The biogas will power gas turbines connected to a generator to produce reliable baseload electricity.*

*The Project will have the capacity to process up to 74,000 tonnes per annum of cow manure and 30,000 tonnes per annum of food waste to generate 2.2 megawatts (MW) of electricity. Generated electricity will be used to power the Nowra Sewage Treatment Plant (STP) and approximately 4% of the electricity generated will be supplied back to the participating dairy farms. The remainder will be supplied to the local network and sold to retail customers.*

CL24.60

*The project includes transport of digestate by-product back to participating farms for reuse as biofertilizer, and to an external third-party fertiliser manufacturer.*

During the development assessment process, Council identified that there would be adverse impacts associated with the proposed ongoing heavy vehicle movements over the local road network during operation, and as such, satisfactory arrangements would need to be made by the developer in this regard. Of greatest concern is the raw waste (solid dairy manure) which will be collected from up to 18 local dairy farms to the east of the site, shown in Figure 2, with liquid/solid waste (digestate) being returned to the same 18 farms.



**Figure 2: 18 Participating Dairy Farms (Source: EIS, Ramboll Australia)**

The developer subsequently submitted a VPA application that proposed a contribution rate of 12.5 cents per tonne of waste material accepted onto the site. No specific methodology was provided to support this rate, however the lease arrangement with Council and other contributions payable (e.g., s7.11 development contributions) was a consideration.

As part of the negotiation process, Council staff prepared a methodology for a possible contribution rate that considers both ongoing road rehabilitation and maintenance, based on the following:

- Movements are associated with both manure collection and digestate return.
- Rehabilitation costs derived from four recent nearby rehabilitation projects (Terara, Meroo, Culburra and Coonemia Roads).
- Only the additional demand generated by the development is included in the rate, acknowledging that some of the local road network already experiences a relatively high amount of traffic.
- The calculation method aligns with the current Austroads guide and a 25 year pavement life scenario.
- A road length of 13.25km is considered as “fully loaded”. The total road network that could be utilised is 26.5km, however this is unlikely to be an accurate reflection of the total road length that would receive full vehicle loading (trucks will not be 100% full along entire distance).

- Maintenance has been calculated at a cost per kilometre based on the Central District road maintenance budget.

The resulting rate identified is 64.3 cents per tonne of raw waste delivered to the site as well as digestate exiting the site. Following a review of the methodology, the developer has agreed to the 64.3 cents/tonne rate. Based on an approximate 74,000 tonnes of raw waste being delivered and 64,800 tonnes of digestate exiting the site per annum, an annual contribution of up to \$90,000 per annum (plus indexation) could be payable.

The specific terms associated with the agreement will be drafted and informed by the advice of Council's legal counsel; however, the reporting and payment approach suggested by the developer (report provided to Council each quarter, and contribution paid within 21 days of Council acceptance) is considered generally acceptable.

### **Conclusion**

Due to the public benefit associated with the proposed development, it is recommended that Council provide 'in-principle' support for the proposal and proceed to prepare the draft VPA and place it on public notice for review and comment. Once Council has made a decision on this matter, the NSW DPHI will be in a position to determine the development application.

### **Internal Consultations**

Council's Works and Services Department has prepared the rate methodology.

Both the City Services and City Development directorates are supportive of the recommended approach.

### **External Consultations**

As the NSW DPHI is the consent authority for the proposal, they have been kept updated re the negotiations, noting that the NSW Government will not be a party to the VPA.

### **Community Consultations**

As per legislative requirements, any resultant VPA would require a public notification process of at least 28 days.

### **Financial Implications**

#### Rehabilitation and maintenance

The rate methodology includes the anticipated rehabilitation and maintenance costs for the entire local road network utilised by the proposed development. The rate covers the wear and tear generated by the proposed development but does not cover the wear and tear generated by other road users (e.g., dairy farms, residents, through traffic), which will be covered by Council as per existing.

It is important that full cost recovery for rehabilitation/maintenance is realised for the additional wear and tear generated by the development overtime, to minimise the risk of adverse impacts on Council's general fund.

#### Costs associated with drafting and entering into an agreement

In accordance with Council's [Planning Agreement Policy](#), the developer will cover Council's costs (direct and incidental) relating to the negotiation, preparation, public notification and entering into the agreement (including associated legal costs) and enforcing the agreement.



### **Risk Implications**

The NSW DPHI have now addressed all outstanding matters relating to the assessment of the State Significant Project Application, with the exception of the contribution rate/VPA which is the subject of this report. Council has been requested to resolve this matter as soon as possible.

NSW DPHI have also recently advised that:

*...there would be scope for the Minister to require the Applicant to pay contributions under section 7.13 of the EP&A Act, rather than referring to the letter of offer in any condition of consent... this is not our current recommendation but is an approach that has been adopted on other Ministerial consents.*

The means that the Minister could condition the Applicant to pay a contribution rate before Council has made a decision on this matter. This has risk implications for Council as a VPA would best protect Council's interests, a rate could be imposed that ultimately Council may not be agreeable to, and it is unclear how this would be administered/enforced (there is no detail).

## **CL24.61 Progress Update - Infrastructure Recovery Works - Natural Disasters**

**HPERM Ref:** D24/64221

**Department:** Works & Services

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

### **Reason for Report**

The reason for this report is to provide Council with an update on the progress of public infrastructure reconstruction works as a result of the severe weather Natural Disaster events occurring during February 2022, June 2022, September 2022, and November 2023 in the Shoalhaven Local Government Area (LGA).

### **Recommendation**

That Council receives the March 2024 update on the progress of public infrastructure reconstruction works following the February 2022, June 2022, September 2022, and November 2023 severe weather Natural Disaster events.

### **Background**

Since the 2019/20 Bush Fire crisis, the worst in NSW history, there have been numerous significant weather events that have impacted the Shoalhaven. Ten of those included damages of significant magnitude to warrant the Shoalhaven LGA being declared a Natural Disaster area. The most recent of these was the November 2023 weather event.

For information and reference, formal natural disaster declarations can be found via the following link;

<https://www.nsw.gov.au/disaster-recovery/natural-disaster-declarations>

This report focuses on the four significant East Coast Low natural disaster events in 2022 & 2023, which caused extensive damage by way of major landslips, pavement failures, bridges, stormwater, and causeway damage:

- AGRN1012 February 2022,
- AGRN1025 June 2022,
- AGRN1034 September 2022.
- AGRN1086 November 2023

Whilst this report focuses on just these four declared events, the Shoalhaven City Council (SCC) Natural Disaster Reconstruction Team (NDRT) has been managing the repair work for eleven (11) natural disasters (eight of which occurred whilst Council was operating under the Business Continuity Plan arrangements due to the COVID19 crisis).

The current claims status of each natural disaster event is shown in **Table 1** below:

AGRN	Month	Event	EW	IRW	EPARW
871	Nov 2019	Currowan Fire	C	C	C
898	Feb 2020	Severe Weather Event	C	C	C
	Mar 2020	COVID19 Crisis Management Commences			
922	Jul 2020	Flood / Storm Damage	C	C	C
923	Aug 2020	Severe Weather	C	N/A	C
936	Oct 2020	Severe Weather	C	C	C
960	Mar 2021	Severe Weather	C	C	N/A
970	May 2021	Storm	C	C	C
987	Nov 2021	Severe Weather & Flooding	N/A	N/A	N/A
1012	Feb 2022	NSW Severe Weather & Flooding	C	C	P
1025	Jun 2022	NSW Severe Weather & Flooding	C	C	P
	Jul 2022	COVID19 Crisis Management Concludes			
1034	Sep 2022	NSW Severe Weather & Flooding	C	C	P
1086	Nov 2023	NSW Severe Weather & Flooding	P	P	P

Table 1 - Current Claims Status of Each Natural Disaster Event

C = Complete (work completed, grant funding acquitted)

P = In Progress

N/A = Not applicable

#### Natural Disaster Reconstruction Team

As reported in June 2023 (MIN23.298), SCC formed a NDRT to undertake the enormous task of managing the reconstruction of all eligible public infrastructure works following declared natural disaster events. As part of the complicated governance requirements, the NDRT works closely with:

- Council’s four Engineering Districts
- Council’s Coastal Management team
- Council’s Media and Communications team
- Council’s Community Recovery Officer
- Council’s Local Emergency Management Officer
- Council’s Local Emergency Management Committee
- NSW Reconstruction Authority
- Transport for NSW (TfNSW)
- NSW Public Works Advisory (PWA)
- NSW Environmental Protection Agency (EPA)
- Fisheries NSW

A status summary of the current resourcing of the NDRT resourcing is as follows:

- Senior Project Manager
- Project Manager x 2
- Project Officer - Road Recovery Technical Communication
- Business Support Officer (part time)
- Business Support Officer (fulltime- vacant)

CL24.61

- Financial Business Partner
- Administrative Assistant x 3
- Surveillance Officers x 2

Extent of Damage

**Table 2** below, summarises the extent of damage as result of the February 2022 (AGRN1012), June 2022 (AGRN1025), September 2022 (AGRN1034) and November 2023 (1086) natural disaster declarations:

Record of Damages from 1012, 1025 & 1034 Natural Disaster Declarations		
Number of Damages	Work Category	Work Status
<b>1347</b>	<b>Total of recorded damages</b>	Various
385	Emergency Works (EW)	Completed
138	Immediate Reconstruction Work (IRW)	Completed
824	Essential Public Asset Reconstruction Works (EPARW)	In Progress

Table 2 – Summary of the Extent of Damage as Result from the February 2022, June 2022, and September 2022 Natural Disaster Declarations

Damaged Assets from 1012, 1025 & 1034 Natural Disaster Declarations	
Number of Damages	Infrastructure Type
122	Landslips Road / embankment
4	Flood Levee
121	Other (Jetty, boat ramp, beach access, damage, debris, silt)
7	Bridge Structure
564	Roads (sealed)
88	Culverts
2	Footpaths
1	Roadside Furniture
44	Roads (unsealed)
9	Storm water (including sink holes)
385	Emergency Works
<b>1347</b>	<b>Total</b>

Table 3 – Number of Damages in 2022 by Infrastructure Type

CL24.61

The following statistics summarises the extent of damage as result of the November 2023 (AGRN1086), natural disaster declaration.

Record of Damages from AGRN1086 Natural Disaster Declaration		
Number of Damages	Work Category	Work Status
477	<b>Total damaged records</b>	Various
417	Emergency Works (EW)	In Progress
8	Immediate Reconstruction Work (IRW)	In Progress
52	Essential Public Asset Reconstruction Works (EPARW)	In Progress

Table 4 – Summary of the Extent of Damage as Result from the November 2023 declaration.

The total damage bill for all events in 2022 is estimated to be approximately \$85 million.

The total damage bill for AGRN1086 2023 to be estimated after 28 February 2024.

### Master Page

Important background information, related documents, links for further information and a platform for disseminating important general communication and urgent announcements is provided on the Master Page created for reconstruction work following the Severe Weather events of 2022, which interested persons can subscribe to.

### [Natural Disaster Reconstruction Works](#)

### Roadworks Pages

Interested persons can subscribe to individual roadworks pages where information is provided on the planning and progress of repair work along specific roads / locations. The link to these individual roadwork pages is:

### [Natural Disaster Repair Works Listings](#)

This listing identifies the status of various repair projects, i.e. which project are in the planning phase, construction phase or have been completed. A snapshot of works completed to date is as follows:

- Major Landslips – 31 of 38
- Croziers Road Bridge, Jaspers Brush – Abutment repair and retaining wall
- Yarramunmun Bridge, Yalwal – Abutment Repair
- Carters Road, Barrengarry – Stormwater Pipe Replacement
- Scott Street, Shoalhaven Heads – Stormwater Pipe Renewal
- O’Keefes Point, Numbaa – Flood Levee
- Boolijah Creek Bridge, Tianjara – Abutment Repair
- Wattamolla Road - Culver Crossings
- Burrier Road, Burrier – Landslip Repair
- Main Road, Cambewarra Village – Pavement Repair
- Coolangatta Road, Coolangatta – Pavement Repair
- Abernathys Road, Budgong – Gravel pavement re-sheeting
- Barfield Road, Cambewarra – Pavement repairs
- Bundewallah Road, Bundewallah – Pavement repairs
- Cabbage Tree Lane, Nowra Hill – Pavement repair
- Calla Beach Road, Callala Beach – Pavement repair

CL24.61

- Cammeray Drive, St Georges Basin – Pavement repair
- Greenwell Point Road, Greenwell Point – Pavement repair
- Hilldale Road, Broughton Vale – Pavement repair
- Irvines Road, Berry Mountain - Pavement repair
- Jervis Bay Road, Falls Creek – Pavement repair.
- Jindy Andy Lane, Pyree Numbaa – Pavement repair
- Kerry Street, Sanctuary Point – Pavement repair
- Martinvale Lane, Jaspers Brush – Causeway
- Old Burrier Fire trail – Yalwal – Unsealed pavement re-sheeting
- Penguins Head Road, Culburra Beach – Moderate Landslip
- Schofields Lane, Berry – Pavement Repair
- The Wool Road, Basin View – Pavement Repair

Major Landslip Repair Program

Landslip repair work by contractor Symal is now well underway with the last of the works currently expected to be completed by mid-2024. This program is shown in **Table 5** below:

Road	Site	Rural Address (approx.)
<b>Bunkers Hill Road</b>	AC00088	159
	DM00869	175
	DM00870	183
	DM00549	212
	DM00548	394
<b>Upper Kangaroo River Road</b>	DM00583	676
	DM00828	1291
	NH00011	755
	AQ00001	691
<b>Burrier Road</b>	SH00288	130
	SH00292	377
	DM00890	333
	SH00282	610
	SH00287*	356
<b>Mount Scanzi Road</b>	DM00755	823
	DM00533	794
	NH00013	779
	DM00757	777
	DM00864	771
	DM00822	657
	DM00718	587
	DM00577	588
<b>Yalwal Road</b>	NR00016	957
<b>Woodhill Mountain Road</b>	DM00808	552
	MT00008	570
<b>Foremans Road</b>	DM00882	43
	DM00555	32
<b>Kangaroo Valley Road</b>	DM00806	1260
	DM00805	1167
<b>Suffolk Road</b>	DM00523	48
<b>Wattamolla Road</b>	DM00513	13
	DM00863	356

CL24.61

	DM00551*	681
<b>Hughes Road</b>	DM00610	199
	DM00611	197
<b>Browns Mountain Road</b>	DM00706	364
<b>Wogamia Road</b>	SH00276	98
<b>Abernathys Road</b>	DM00865	191
<b>Bamarang Road</b>	SH00290	325
	DM00899	319

- Current construction works.
- Works Complete.

\*Indicates Works by others  
Table 5 – Major Landslip Repair Project

Council Contribution to Natural Disaster Arrangements

On 1 November 2022 Council was approved to “Opt In” to the NSW Disaster Funding Arrangements, backdated to 1 January 2022 to permit inclusion of all 2022 severe weather events into the [NSW Natural Disaster Essential Public Asset Restoration Guidelines 2018](#).

- Minimum \$ 579,683.00 (0.75% Rate Revenue) for each event in each financial year &
- Maximum \$1,545,821.33 (2.00% Rate Revenue) for multiple natural disaster events in any financial year.

**Expenditure and Income to Date**

**Table 6** below, shows the cost of damage (ex GST) as result of the February 2022 (AGRN1012), June 2022 (AGRN1025), September 2022 (AGRN1034) November 2023 natural disaster declarations:

<b>Costs to date</b>		
<b>Item</b>	<b>Amount</b>	<b>Comment</b>
Actual Expenditure	\$55,812,954.63	As at 08/02/2024
Commitments	\$25,630,985.98	As at 08/02/2024
<b>Total Expenditure &amp; Commitments</b>	<b>\$81,443,940.61</b>	These figures are only for events 1012 / 1025 / 1034 / 1086
Council’s co-contribution 21/22	\$1,159,366.00	1012 & 1025 events (21/22 FY) = 2 x 0.75% Rate Revenue
Council’s co-contribution 22/23	\$594,487.50	1034 event (22/23 FY) = 1 x 0.75% Rate Revenue
Council’s co-contribution 23/24	<b>\$611,648.00</b>	1086 event (23/24 FY) = 1 x 0.75% Rate Revenue
<b>Total Council Co-Contribution</b>	<b>\$2,365,501.50</b>	<b>This is the opt in fee to essentially buy into the event and be eligible for funding</b>

Table 6 - Cost of Damage (ex GST) as result of the February 2022, June 2022, September 2022, and November 2023 natural disaster declarations.

CL24.61

Funding acquittals submitted to TfNSW to date		
Item	Amount	Comment
Major Landslip AGRN1012	\$21,235,702.87	4 claims submitted
Major Landslip AGRN1025	\$10,038,843.58	4 claims submitted
AGRN1012 EW/IRW	\$4,602,693.41	EW / IRW claim in draft and under review
AGRN1012 EPARW	~\$4,000,000.00	EPARW claim in draft
AGRN1025 EW/IRW	\$1,921,244.65	EW / IRW claim in draft and under review
AGRN1025 EPARW	\$481,552.60	EPARW claim 1 submitted
AGRN1034 EW/IRW	\$2,210,906.69	EW / IRW being reviewed by TfNSW
AGRN1034 EPARW	~\$1,200,000.00	EPARW claim in draft
<b>Total funds claimed / in draft</b>	<b>~\$45,690,943.80</b>	<b>Claims will be offset by Pre-payment</b>

Table 7 – Natural Disaster Reconstruction Funding Acquittals

EW = Emergency Work

IRW = Immediate Reconstruction Work

EPARW = Essential Public Asset Reconstruction Works

~ = Approximate amount

Natural disaster recovery related funds received		
Item	Amount	Comment
TfNSW – Prepayment March 2022	\$5,000,000.00	Fully acquitted against claim 1 of Major Landslip package AGRN1012
TfNSW – Prepayment September 2023	\$25,400,000.00	Fully acquitted against claim 2, 3 and 4 of Major Landslip package. And final payment for event 923
TfNSW – Prepayment November 2023	\$15,528,703.68	To be acquitted
<b>Total Funds Received</b>	<b>\$45,928,703.68</b>	<b>Total funds received</b>

Table 8 – Prepayment Instalments

Other Grant Funding		
Item	Amount	Comment
Infrastructure Betterment Funding	\$5,211,900.00	Awaiting funding deed for execution

Table 9 – Other Grant Funding

CL24.61



Pre-payment of Natural Disaster Claims

The NSW Government has realised that some Councils are struggling to cover the costs of Natural Disaster response given the comprehensive claims and approval process. SCC has been given access to additional special pre-payment claims and the following pre-payments have been received:

- \$5,000,000 advanced payment received March 2022 to be acquitted against event AGRN1012.
- \$25,400,000 advanced payment received September 2023 (\$14.6M for estimated EW/IRW/EPARW outstanding as of August 2023 and \$10.8M advanced payment for 20% of approved EPARW Upper fee limit of \$54M).
- \$15,528,703.68 advanced payment received November 2023 for 20% ahead of acquittals.

We also greatly appreciate the assistance provided by our local State and Federal Members in securing these advance payments.

Approved Upper Fee Limit

For Essential Public Asset Reconstruction works, councils are offered a Total Upper Limit Grant amount based on the estimated reconstruction cost, less the council co-funding amount and any ineligible costs. Eligible claims are paid on actual costs (ex GST) upon completion of works, or in progressive stages as agreed with the administering agency, up to the Total Upper Limit Grant amount (ex GST). Upper Fee limit amounts are revised quarterly. The upper fee limits which have been agreed to, to date are shown in **Table 10** below:

<b>Major Landslip Program (TfNSW)</b>	
AGRN1012 (North)	\$14,187,802.95
AGRN1012 (Central)	\$23,190,788.75
AGRN1012 (Basin)	\$647,879.13
AGRN1025 (North)	\$18,700,847.90
<b>Sub-total</b>	<b>\$56,727,318.73</b>

Table 10 - The Upper Fee limits which have been agreed to, to date.

<b>All other road and stormwater damages (TfNSW)</b>	
These upper fee limits are for EPARW only – the limits are as at 08/02/2024 and will change as damages are submitted/approved	
AGRN1012	\$18,207,578.16
AGRN1025	\$4,087,158.57
AGRN1034	\$5,786,476.10
AGRN1086	\$0
<b>Sub-total</b>	<b>\$28,081,212.83</b>

Table 11 - The Upper Fee limits which have been agreed to, to date.

CL24.61

<b>Flood Levees, Jetties &amp; Parks (PWA)</b>	
These upper fee limits are for EPARW only – the limits are as at 08/02/2024 and will change as damages are submitted/approved	
AGRN1012	\$440,636.98
AGRN1025	n/a
AGRN1034	\$5,060,017.70
AGRN1086	\$0
<b>Sub-total</b>	<b>\$5,500,654.68</b>

Table 12 - The Upper Fee limits which have been agreed to, to date.

**Total Approved Upper Fee Limit across all current Natural Disaster events to date is \$90,309,186.24.**

### Other Grant funding

Besides receiving funding under the Commonwealth Disaster Funding Recovery arrangements administered by the NSW Government, Council also received the following:

#### Infrastructure Betterment Funding

In late 2022, the NSW Government announced a state-wide Infrastructure Betterment Funding program that allocated \$100M to NSW Councils. The funding is administered by the Department of Regional NSW to support the repair and rebuilding of public assets directly damaged by the 2019/20 NSW Bushfires (AGRN 871), February and March 2021 Storm and Floods (AGRN 954/AGRN 960) and February and March 2022 NSW Severe Weather and Flooding (AGRN 1012). Councils could apply for funding to upgrade the repair / replacement solution of damaged assets and build resilience / future proofing against future natural disasters.

In December 2022, the SCC NDRT applied for funding for eight projects from this program, with the combined value of the betterment component exceeding \$16M. SCC has recently been advised that two of their grant applications have been successful:

- \$4,447,974 for the pavement rehabilitation of approximately a 4.9 km length of Illaroo Road from the new West Cambewarra roundabout to west of Browns Mt Road. This funding is in addition to the Natural Disaster Funding of \$1,511,279. Total estimate reconstruction cost (TERC) earmarked for this project is \$5,950,253.
- \$763,926 for The Basin Walk for the construction of a raised boardwalk in addition to Natural Disaster funding (figures still under review by administrating authority).

## **CL24.62 Exemption to Tender - Coomee Nulunga Boardwalk - Warden Head Ulladulla**

**HPERM Ref:** D24/77465

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

### **Reason for Report**

The reason for this report is to allow Council to consider an exemption to Tendering in accordance with Section 55 of the Local Government Act for the supply of the boardwalk material for the construction of the Coomee Nulunga Boardwalk. If approved the procurement would be approved as a variation to the contract with Sustainabyt Pty Ltd which has the construction contract for the project.

### **Recommendation**

That Council:

1. Approves an exemption from tender in accordance with Section 55(3)(i) & (k) of the Local Government Act 1993, for the supply of boardwalk materials for the Coomee Nulunga Boardwalk located at Warden Headland Ulladulla, noting that a satisfactory result would not be achieved by inviting tenders due to:
  - a. Extenuating circumstances existing due to:
    - i. The current supplier, Sustainable Infrastructure Systems (SIS), are unable to perform the requirements of the contract and the contract is to be terminated.
    - ii. There is insufficient time to Tender the project again due to time constraints on the grant funding and community expectations.
    - iii. Sustainabyt Pty Ltd who are currently contracted to construct (only) the boardwalk has sourced alternative suppliers who have stock available immediately. Their proposed supplier also fabricates the majority of the material in the Australian market so additional supplies, should they be required, can be provided within a short timeframe and would not incur further increase in delays to the project.
    - iv. Ulladulla Local Aboriginal Land Council (ULALC) have committed staff to assist in the construction as part of their training program and this opportunity may be lost if there are further time delays.
2. Authorises the CEO (Director of City Services) to negotiate and vary the contract with Sustainabyt Pty Ltd to include the supply of boardwalk materials for the Coomee Nulunga Boardwalk.

### **Options**

1. Adopt the recommendation.

#### Implications:

Provides Council with its best opportunity to meet the requirements of the Restart NSW Funding Deed for the Shoalhaven Sustainable Tourism Infrastructure grant. Council is currently seeking an extension of time change request from December 2023 to August 2024. The construction contractor Sustainabyt is committed to constructing this project and have sound knowledge of the site and construction methodology. Supplying the

CL24.62

material will enable full responsibility for the entirety of the project and ensure the project is completed by the newly proposed due date.

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

Implications: This is not recommended as a full open tender process will be lengthy and likely result in either an equal or greater cost to that provided by the preferred contractor. Delays to the construction of the project will not fulfill our requirement under the Grant Deed.

Further delays may also be met with backlash from the community who have been expecting this project for considerable time.

## Background

The Coomee Nulunga Cultural Walk is project D6 - 2 of the Shoalhaven Sustainable Tourism Infrastructure Grant. The project is located on the southern side of Warden Headland, Ulladulla. The walk traverses many tenures including Shoalhaven City Council (SCC), Crown and Ulladulla Local Aboriginal Land Council (ULALC) lands.

The project involves the construction of 585m of low-level boardwalk with adjoining talking/viewing platforms and will be used by ULALC to conduct cultural walking tours. The Bunaan Sculpture commissioned by ULALC will also be installed at the western entrance (opposite the Lighthouse Oval). ULALC is contributing both financially and in-kind work towards this project and have committed staff to assist with the construction and initial clearing of the track. Council staff have been working collaboratively with ULALC for 3 years on the project.

All projects in the deed were to be completed by the end of December 2023. The Coomee Nulunga Walk is the last project to be constructed. However, due to the contractual issues with Sustainable Infrastructure System (SIS) and the subsequent delays Council is seeking an extension of time with the funding body - Restart NSW for completion by August 2024.

The original Tender was awarded to Sustainable Infrastructure System (SIS) for the design and construction of the Coomee Nulunga Boardwalk on 15 June 2023. Due to internal resourcing issues within SIS, SIS indicated they did not have the capacity to construct the works and indicated their interest in supplying the boardwalk materials only, as this is their core business.

At Council's Ordinary meeting, 27 November 2023 Council CL23.428, Council approved an Exemption to Tender authorising the CEO (Director of City Services) to negotiate and enter a contract with Sustainabylt Pty Lid for the construction of the Coomee Nulunga Boardwalk with SIS to supply the material only.

SIS have subsequently failed to confirm procurement and delivery for the materials for this project and construction of the boardwalk has not been able to proceed.

After many failed attempts to obtain information from SIS on the boardwalk material, two options were presented to the company on 22 January 2024 with a response due by COB on 24 January 2024:

1. Provide detailed delivery information including a BOQ with delivery dates.
2. Confirm that there will not be any material delivered and return the deposit paid back to SCC.

SIS decided to choose Option 2. An agreement has been undertaken to refund the deposit paid for the materials and SIS has been issued an invoice.

**Policy Implications**

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

**Financial Implications**

Adopting the recommendation will result in an increase in overall cost to Council (detailed in table 1 below). Due to the current position of the project vs budget this has been considered a manageable financial implication. The project is funded by the Shoalhaven Sustainable Tourism Grant (76%), SCC (24%) and ULALC (1%). If Council proceeds with the recommendation, the project can be completed within the allocated FY24 budget.

The revised proposed total cost of the Coomee Nulunga Boardwalk and the new engagement with Sustainabylt is broken down in Table 1 below:

**Table 1 - Revised cost estimate to deliver the works package**

Item	Cost (ex. GST)
A -Total Sustainabylt Construction Cost	\$306,034
B - Total Sustainabylt Supply Cost	\$304,412
C- Footings – SIS	\$49,275
D -Sub-Total project cost	\$659,721 (D= A+B+C)
E- Project Contingency (10%)	\$65,972
F - Total Project Cost	\$725,693 (F= D+E)
G.- Original Contract with SIS (incl Contingency)	\$477,863
H - Variance	\$247,830 (H=F-G)

Sustainabylt were the second highest scoring tenderer from the original tender process that awarded the project to SIS. It is worth noting that the forecast project cost (less contingency) of \$659,721 is still substantially lower than the next lowest price tendered in that original tendering process.

**Risk Implications**

Positive Implications. Adopting the recommendation will mitigate risk associated with lengthy delays to the project that would cause Council to miss meeting the grant milestone and incur additional cost associated with inflation of materials and labour. Council may be exposed to significant additional cost if the conditions of the grant milestone are not met.

CL24.62

## CL24.63 Quarterly Review for Compliance Matters

**HPERM Ref:** D24/19358

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

**Attachments:** 1. Penalty Notices & Warning Issued & Patrols - Quarterly Review - City Development - October to December 2023 [↓](#)

### Reason for Report

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

This report provides this information for Quarter 2 FY24 (1 October 2023 to 31 December 2023).

### Recommendation

That Council receive the 1 October 2023 to 31 December 2023 quarterly report (Q2) on compliance matters for information.

### Options

1. Council receives the report for information.  
Implications: Nil
2. Council receives the report and provides additional direction for future reports.  
Implications: Any changes or additional matters can be added to future reports.

### Report

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

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

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

This report relates to October to December 2023 (Q2 FY24).

**Penalties and Warnings**

A combined total of 2,915 penalty notices were issued by the compliance disciplines during Q2 (Table 1). These penalties have a face value of \$552,883 and based on historical figures, it is anticipated that Council will receive approximately 70% of this ticketed figure.

A total of 37 warnings were issued during the period.

Attachment 1 to this report provides a breakdown of the penalties and warnings issued. The following sections provide a summary of these penalties and warnings.

**Table 1:- Penalties and warnings issued for Q2 2023/24**

<b>Compliance discipline</b>	<b>Number Issued</b>	<b>Total Amount</b>	<b>% of total amount</b>	<b>Warnings issued</b>
Compliance	6	\$9,000	1.6%	1
Fire Safety	0	\$0	0.0%	0
Swimming Pools	1	\$550	0.1%	0
Environmental Health	4	\$3,520	0.6%	0
Rangers – Animal management	120	\$54,955	9.9%	30
Rangers – Environmental (e.g. littering)	16	\$12,670	2.3%	0
Rangers – Parking	2,768	\$472,188	85.5%	6
<b>Total</b>	<b>2,915</b>	<b>\$552,883</b>	<b>100.0%</b>	<b>37</b>

CL24.63

**Compliance**

Six (6) Compliance penalty notices were issued during Q2:

- (a) Culburra Beach (\$3,000): Two (2) penalty notices were issued to the owner of a premises (licensed builder) for the construction of an attached secondary dwelling without consent.

One (1) warning notice was also issued which would have equated to a further \$1,500 if this had been issued as a penalty notice.

- (b) Sassafras (\$6,000): Four (4) penalty notices were issued to the owners of a premises for the installation of sheds on a property without dwelling entitlement or lawful land use.

**Swimming Pools**

One (1) Swimming Pools penalty notice was issued during Q2:

- (a) Coolangatta (\$550): One (1) penalty notice was issued to the owner of a swimming pool for failing to maintain a compliant barrier. The barrier was considered a significant risk to public safety.

**Environmental Health**

Four (4) Environmental Health penalty notices were issued during Q2:

- a) Nowra (\$2,640): - Three (3) penalty notices were issued to a food business for failing to comply with the Food Standards Code in relation to lack of cleanliness, animals/pests in the premises and food storage issues.



**Nowra food premises compliance issues**

- b) Bomaderry (\$880): - One penalty notice was issued to a Food Business for failing to comply with the Food Standard Code for having unprotected food on display.

**Compliance and Environmental Services Court Elected Penalties**

The following matters have been court elected during Q2:

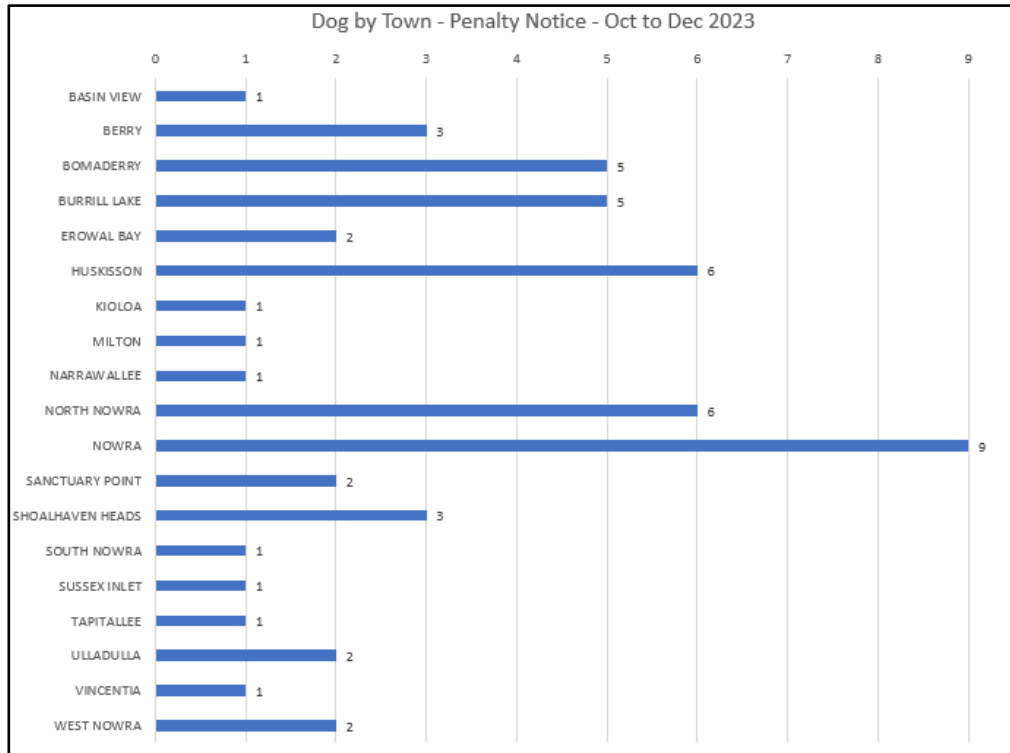
- (a) Compliance received an advice of court election for seven (7) penalty notices issued to the owner of a premises at Culburra Beach for offences relating to unauthorised development including land use, building works and an unsafe spa pool. The matter was set for hearing in February/March 2024.
- (b) One (1) Pollution of Waters penalty notice was court elected with the matter adjourned until April 2024.

**Ranger Services**

**Animal Management**

There was a total of 53 dog related penalty notices issued for the period (not including registration offences). Figure 1 provides information on the penalty notices issued by town for the period.





**Figure 1:- Dog related penalty notices by town for the period**

Dog attacks: Rangers received and attended 85 reports (including reoccurrences) of dogs attacking during the Q2 period. Of these reports, 22 investigations have been completed with 16 penalty notices issued (i.e., 16 x \$1,320 = \$21,120). A further 51 matters remain under investigation.

Although the penalty is high, dog attacks remain a major risk. Whilst there is more awareness in the community, there may still be several unreported dog attacks. Rangers continue to apply Council’s resolution of 21 April 2020 (MIN20.264) for zero tolerance and issue penalty notices for all substantiated dog attacks.

Registration non-compliances: 67 penalty notices were issued for non-compliance with the requirements for lifetime registration, microchipping and keeping details up to date on the Companion Animals Register.

**Rangers - Environmental**

A total of 16 penalty notices were issued for Rangers - Environmental, this includes camping, littering and fail to comply penalties.

**Parking**

A total of 2,768 parking tickets were issued in the period with a value of \$472,188. The breakdown of the tickets issued by town is provided in Figure 2.

CL24.63



Figure 2: - Parking penalty notices issued by town.

CL24.63

<p>Camping Woollamia Boat Ramp- Penalty Notice issued</p>	<p>Parked in <i>No Stopping</i> in wrong direction Queen St, Berry - Penalty Notice issued</p>
<p><i>No Stopping</i> offence Hyams Beach - Penalty Notice issued</p>	<p>Parked on path / strip Huskisson - Penalty Notice issued</p>

Selected examples of Ranger Services' issued penalty notices

## Customer Requests

### Compliance

The Compliance Unit received 149 Customer Requests in Q2 (Table 2).

**Table 2: - Customer requests by type received.**

Type of customer requests received	Number Received	Percentage of total (%)
Development Concern	101	68
Stormwater	21	14
Swimming Pool Inspection	27	18
<b>TOTALS</b>	<b>149</b>	<b>100</b>

The following additional comments are made:

- (a) Development concerns: This represents the highest percentage of customer requests and includes development without consent, development not in accordance with consent and land safety issues such as landslides and fire damaged dwellings.

The requests received were from all areas of the Shoalhaven LGA, with the southern area representing the highest total with 44 or 29.5% of the total requests received.

- (b) Stormwater: Compliance receives a high number of complaints following extreme weather events. These complaints are often in towns without street drainage infrastructure and require officers to liaise with the customers to acknowledge their concern but often to advise that Council is not able to implement actions.

- (c) Swimming pool compliance: This includes concerns raised by members of the public, referrals from private certifiers and Council's proactive inspection obligations. Council's Compliance Unit continue to enforce swimming pool legislation in accordance with the Council resolution (MIN22.946) to take a zero-tolerance approach to swimming pool breaches and have attended a high volume of unauthorised pools during the quarter.

Compliance has also been streamlining processes internally with the intent to reduce office-based time and increase the number of pools being inspected each quarter. For Q2, Council conducted 94 separate inspections. This included 79 inspections following an application to Council for a Certificate of Compliance whilst the remaining 15 inspections were under Council's Mandatory Inspection Policy.

### Environmental Health

The Environmental Health Unit received 227 Customer Requests in the quarter (Table 3).

**Table 3:- Environmental Health customer requests by type**

Category of customer requests	Number Received	% of total requests
Air, Land & Water Pollution (inc. Sediment & Erosion)	123	54
Noise Pollution	15	6
Public Health	80	36
Short Term Rental Accommodation (STRA)	9	4
<b>TOTAL</b>	<b>227</b>	<b>100</b>

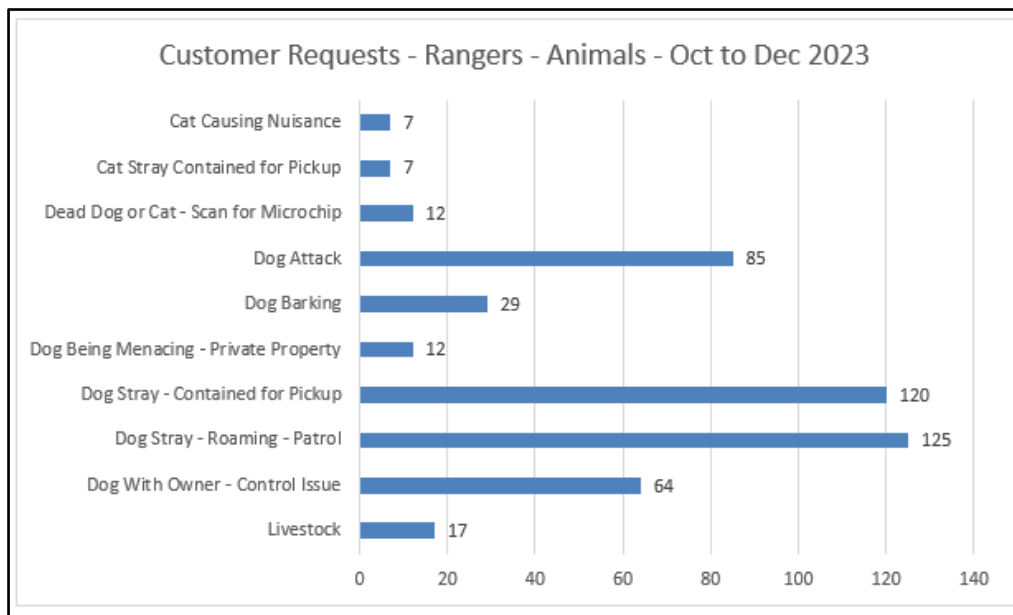
CL24.63

The following provides a breakdown of the aspects of the customer requests that Environmental Health received:

- (a) Air, Land and Water Pollution (inc. Sediment & Erosion): This category represents one of the highest percentages of customer requests received by Environmental Health and includes backyard burning, odour and smoke; pollution to waters and sediment and erosion pollution from building sites. Environmental Health Officers conducted over 268 building site inspections educating local building companies on the best practices for Erosion and Sediment controls.
- (b) Contaminated Land enquiries: Environmental Health administers the Potentially Contaminated Land (PCL) layer in GIS and provides advice internally and guidance to members of the public.
- (c) Noise Pollution: Noise disturbances from prescribed articles such as air conditioners and pool pumps as well as musical instruments, poultry, and licensed establishments.
- (d) Public Health enquiries: This category includes food premises, on-site septic systems, overgrown properties and hoarding and squalor.
- (e) Short Term Rental Accommodation (STRA): While STRA's are administered by NSW Fair Trading, Environmental Health will respond to complaints with letters outlining responsibility of owners and provide advice to customers.

**Ranger Services - Animal Management**

A total of 478 animal management complaints were received for the quarter (Figure 4).

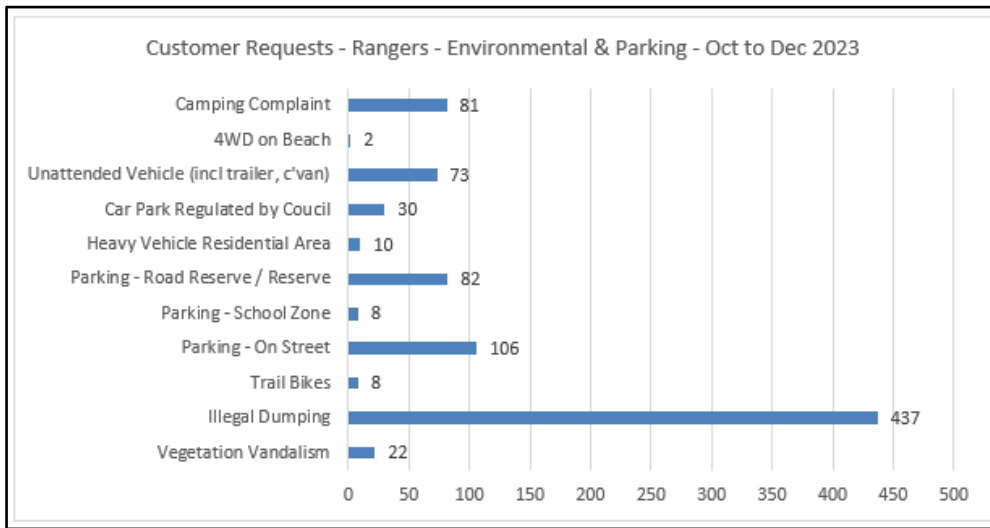


**Figure 4: – Customer requests for animal management issues**

CL24.63

**Ranger Services - Environmental and Parking**

Rangers attended 859 environmental and parking complaints (Figure 5).



**Figure 5: – Customer requests for environmental and parking issues**

The following provides a breakdown of the aspects of the customer requests that Ranger Services received:

- (a) Vegetation Vandalism: Ranger Services received 22 reports of vegetation vandalism and seven are still under investigation. Rangers continue surveillance of these vandalised areas in accordance with Council’s Vegetation Vandalism Prevention Policy.
- (b) Proactive Beach Patrols: Ranger Services completed 995 beach patrols during this quarter. A number of dog owners were spoken to during this period with Rangers identifying 811 compliant dogs and 102 non-compliant dogs. Enforcement action and education is undertaken when offences are detected.
- (c) Proactive Patrols – Other: Ranger Services completed 938 patrols with categories including Asset Inspection (RID), Asset Protection, Camping, CBD Foot Patrol, Illegal Dumping, Parking, Schools, Shopping Trolley, Unauthorised Signage, Vegetation Vandalism.
- (d) Shorebirds: The shorebird season commenced in August. A weekly spreadsheet is sent by the NPWS Shorebird Coordinator to Ranger Services and Environmental Services to provide details about nesting and breeding so patrols can be prioritised.

**Ranger Services - Report Illegal Dumping (RID)**

Illegal Dumping: - 437 incidents were reported to RID Online including 31 duplicate jobs. Of this figure, 50 incidents remain open pending further investigation. Strategies to reduce and prevent illegal dumping includes collaboration with other public land managers and Local Aboriginal Land Councils in the Shoalhaven. Rangers conducted 13 deployments of covert surveillance cameras during the reporting period at illegal dumping “hot spots”.

Table 4 provides a breakdown of the waste types and the relevant weights.

**Table 4: - Waste types and weight for the period (from RID online)**

Waste Types	Incidents	Weight (Tonnes)
Asbestos	2	0.3
Commercial & Industrial	28	2.63
Construction & Demolition	29	99.6
Electronic Waste	5	1.16

CL24.63

Household Waste	170	22.73
Liquid Waste	5	0.41
Mulch & Green Waste	24	11.38
Other	12	0.9
Scrap Metal	8	0.79
Soil and Excavated Material	4	126.77
Tyres	85	11.9
Vehicles & Car Parts	34	25.6
Duplicates	31	0
<b>TOTAL</b>	<b>437</b>	<b>304.17</b>

The estimated cost to Council for the removal of the waste reported for Q2 is \$52,975. The Correctional Service NSW Community Projects Team continue to support the RID Program in the Shoalhaven by removing waste from land managed by other public land custodians.

	
<p>Crown Reserve – Braidwood Road, Yerriyong. Investigation identified person responsible. Fined \$2,000 and Waste removed.</p>	<p>Crown Reserve – Yerriyong Road, Parma Corrective Services Community Projects Team removed 67 tyres.</p>
	
<p>Conjola National Park – Wents Road, Tullarwalla. Locate burnt out stolen motor vehicle. Removed by Insurance company.</p>	<p>Crown Reserve – Braidwood Road, Yerriyong. Site is regularly patrolled and OSDs deployed. Propose to nominate this specific location in the 2024 'Clean Up and Prevention' grant application.</p>

CL24.63

**Selected examples of sites where Corrective Services undertook the removal of illegally dumped waste.**

**Animal Shelter**

Data on the incoming and outgoing dogs and cats to and from the Animal Shelter is presented in Table 5.

The Animal Shelter currently has over 23,550 followers on Facebook. This platform provides an effective means of advertising adoptions, lost dogs, and the promotion of responsible pet ownership.

- i. Income: Overall income increased this quarter to \$29,873 (\$29,672 Q1).
- ii. Animal desexing vouchers: The Animal Shelter collaborated with external organisations obtaining continued support for the animal desexing program. This resulted in a total of 35 desexing vouchers being provided by RSPCA and AWL.
- iii. Contributions to the shelter: The Animal Shelter received \$418.00 in contributions from the public and businesses in the last quarter.

The Animal Shelter would like to acknowledge the generosity of the public and these businesses. These donations are also being used to create friendly and bright spaces in the exercise yards.

**Table 5: - Data on incoming and outgoing dogs and cats.**

<b>Cats</b>	<b>Number</b>	<b>Dogs</b>	<b>Number</b>
Cats incoming M/C	8	Dogs incoming M/C	63
Cats incoming not M/C	93	Dogs incoming not M/C	23
<b>TOTAL</b>	<b>101</b>	<b>TOTAL</b>	<b>86</b>
Cats incoming - Ranger	5	Dogs incoming - Ranger	46
Cats incoming - Public	96	Dogs incoming - Public	44
Cats Surrendered	15	Dogs Surrendered	15
Emergency Boarding	1	Emergency Boarding	0
<b>TOTAL</b>	<b>117</b>	<b>TOTAL</b>	<b>105</b>
Cats Reclaimed by Owner	5	Dogs Reclaimed by Owner	41
Cats Adopted	50	Dogs Adopted	63
Cats Euth'd Feral	12	Dogs Euth'd aggressive	4
Cats Euth'd medical	2	Dogs Euth'd medical	1
Transferred to rescue	4	Transferred to rescue	5
<b>TOTAL</b>	<b>73</b>	<b>TOTAL</b>	<b>114</b>
Cats returned home by Ranger	1	Dogs returned home by Ranger	45

CL24.63

**Companion Animals Register**

The numbers of companion animals per animal category is presented in Table 6.

**Table 6: - Companion animals in Shoalhaven LGA**

<b>Animal category</b>	<b>Total animals in Shoalhaven</b>		
	<b>ID Only</b>	<b>Registered</b>	<b>Total</b>
Cats	2608	13264	15872
Dogs	10395	49331	59726
<b>Total</b>	<b>13003</b>	<b>62595</b>	<b>75598</b>

Incoming Companion Animal forms from the public are processed at the Animal Shelter. Pet owners can manage their own data via NSW Pet Registry, but the option exists to utilise Council for this service. The number of forms entered onto the NSW

Companion Animals Register by the Animal Shelter staff this quarter are listed in Table 7.

**Table 7: - Companion animal forms processed by Council.**

Function	Number
Change of owner	813
Change of address	56
Permanent identification	147
Lifetime Registration	387
<b>Total</b>	<b>1,403</b>

A total of 436 registrations totalling \$26,668 were received via Council (Table 8).

**Table 8: - Registration income by registration type (Companion Animals Register).**

Registration Categories 1 Oct to 31 Dec 2023	Number	Total \$ Value
Assistance Animal	1	0
Cat - Desexed (eligible pensioner)	10	320
Cat - Desexed (sold by Pound/Shelter)	58	0
Cat - Desexed or Not Desexed	17	1105
Desexed (sold by Pound/Shelter)	71	0
Dog - Desexed (by relevant age - eligible pensioner)	64	2048
Dog - Desexed (by relevant age - eligible pensioner) with Late Fee	5	265
Dog - Desexed (by relevant age)	95	7125
Dog - Desexed (by relevant age) with Late Fee	12	1152
Dog - Not Desexed (not recommended - eligible pensioner)	5	160
Dog - Not Desexed (not recommended)	21	1575
Dog - Not Desexed (recognised breeder)	16	1200
Dog - Not Desexed or Desexed (after relevant age)	40	10080
Dog - Not Desexed or Desexed (after relevant age) with Late Fee	6	1638
Working Dog	15	0
<b>Grand Total</b>	<b>436</b>	<b>\$26,668</b>

CL24.63



**Education****Environmental Health**

Environmental Health Officers participated in the statewide 'Get the Site Right' Blitz week with 14 other Councils. 235 of the 968 building site inspections across the State were undertaken throughout the Shoalhaven with 67% compliance compared to 49% statewide.

Council Officers attended the annual Hotondo Southcoast Contractor's Toolbox Meeting and provided a presentation on the importance of erosion and sediment controls on building sites.

With the introduction of new legislation requirements under the Food Safety Standards, Environmental Health Officers have been providing technical support to all impacted food businesses. A communication and media package was also developed to inform businesses of the changes.

**Ranger Services**

The following education was carried out by Ranger Services:

- (a) Narrawallee Beach: Since the Land and Environment Court decision to reinstate the prohibited off leash areas, updated signage has been installed. Rangers provided a high level of education to dog owners to allow a smooth transition to the enforcement of the Court's decision. Positive feedback has been received about Ranger engagement and proactive patrols from both dog owners and environmental supporters within the community.
- (b) Responsible dog ownership project: Rangers visited 19 dog friendly tourist parks in November and December 2023. The visits were well received giving both Rangers and the tourist park managers the opportunity to share information. Rangers reported a noticeable improvement from dog owners near the prohibited shorebird nesting area at Shoalhaven Heads spit, near the Holiday Haven Tourist Park.

Rangers held two pop-up information and education stalls offering free microchipping for dogs and vouchers to microchip and desex eligible cat owners. This was a pilot project to see how microchipping would go without prior bookings, therefore advertising the events was limited. Apart from providing education and information at the stall, one dog was microchipped.

- (c) Keeping cats safe at home project:
  - i. Planning for the next year has commenced with desexing continuing, with a project specific to keeping cats safe by being contained at home.
  - ii. Number of cats desexed this quarter totals 21.
  - iii. Information from RSPCA has been posted on the Animal Shelter's Facebook and Council's Get Involved page.

Attachment to Report – D24/26253 - 60029E  
Quarterly Review for Compliance Matters - Ordinary Meeting 12/02/2024

**Contents**

Penalties Issued by Team and Offence Code ..... 1

    Compliance ..... 1

    Compliance Fire Safety ..... 1

    Compliance Pools ..... 1

    Enviro Health ..... 1

    Ranger Animal ..... 1

    Ranger Environment ..... 2

    Ranger Parking ..... 2

Warnings Issued by Team and Offence Code ..... 4

Proactive Patrols - Dogs Beaches & Reserves ..... 4

Proactive Patrols - Other Categories ..... 6

**Penalties Issued by Team and Offence Code**

Offence Code by Team	Number Issued	Offence Value	Total Amount
<b>Compliance</b>			
Development without development consent - class 1a or 10 building - Individual	3	1500	4500
Carry out building work without required certificate-class 1a or 10 building - Individual	2	1500	3000
Occupy or use building without required certificate-class 1a/10 building - Individual	1	1500	1500
<b>Compliance Fire Safety</b>			
	0	0	0
<b>Compliance Pools</b>			
Residential pool not have complying barrier - Owner	1	550	550
<b>Enviro Health</b>			
Fail to comply with Food Standards Code - Corporation	4	880	3520
<b>Ranger Animal</b>			
Companion animal (other) not registered as prescribed - first offence	39	330	12870
Fail to prevent dog from escaping - not dangerous/menacing/restricted dog	20	220	4400

In charge of dog which rushes at/attacks/bites/harasses/chases any person/animal	9	1320	11880
Owner of dog not under control in public place	6	330	1980
Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	7	1320	9240
Fail to comply with menacing dog control requirements	2	1760	3520
Not comply notice to register companion animal - first offence	23	305	7015
Owner of dog in prohibited public place	1	330	330
In charge of dog not under control in public place	2	330	660
In charge of dog in prohibited public place	1	330	330
Former owner not notify change of ownership	2	180	360
Companion animal (other) not registered if required by regulations - first offence	2	305	610
Fail to comply with nuisance dog order - 2nd plus offence	1	275	275
Fail to comply with nuisance dog order - 1st offence	3	275	825
Companion animal (other) not registered as prescribed - second or subsequent offence	1	330	330
Fail to state full name/residential address	1	330	330
<b>Ranger Environment</b>			
Carry out development forbidden on land - any other case - Individual	1	3000	3000
Deposit litter excluding cigarette and from vehicle - Individual	1	250	250
Development without development consent - any other case - Individual	1	3000	3000
Owner transport etc waste to unlawful facility - class 1 officer - Individual	1	2000	2000
Fail to comply with section 28 notice for class 3 item - Individual	2	1320	2640
Fail to comply with terms of notice erected by council	8	110	880
Aggravated deposit litter (small item) excluding cigarette and from vehicle - Individual	1	450	450
Aggravated deposit litter excluding cigarette and from vehicle - Individual	1	450	450
<b>Ranger Parking</b>			
Disobey motor bike parking sign	73	120	9390
Disobey no parking sign	39	120	4995
Disobey no stopping sign	264	283	79557
Disobey no stopping sign (in school zone)	34	387	13158
Double park	7	302	2114
Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	31	110	3410
Not angle park as on parking control sign or road marking	1	92	92
Not parallel park in direction of travel	71	283	21309
Not park wholly within parking bay	6	92	552
Not position front/rear of vehicle correctly - 90 degree angle parking	107	86	9857
Not position rear of vehicle correctly - 45 degree angle parking	387	86	35460
Not stand vehicle in marked parking space	16	92	1472
Parallel park close to dividing line/strip	4	302	1208

Park continuously for longer than indicated	694	86	63990
Park vehicle for longer than maximum period allowed	485	92	44620
Park vehicle not wholly in marked parking space	1	92	92
Stop at side of road with continuous yellow edge line	232	283	69342
Stop in bus zone (in school zone)	14	387	5418
Stop in bus zone (not clearway or transit/bus lane)	49	283	14779
Stop in disabled parking area without current permit displayed	74	603	47574
Stop in loading zone	34	215	7310
Stop in taxi zone	34	201	7282
Stop on path/strip in built-up area	28	283	8399
Stop on/across driveway/other access to/from land	14	283	4209
Stop within 10 metres of an intersection (no traffic lights)	18	362	6941
Stop in loading zone longer than 30 minutes	5	215	1075
Not parallel park in direction of travel (road related area)	12	120	1539
Disobey no parking sign (in school zone)	5	215	1075
Park so as to obstruct vehicles/pedestrians	1	120	120
Stop near postbox	1	129	129
Stop on painted island	1	129	129
Double park in school zone	1	387	387
Not park at 45 degree angle	4	129	516
Obstruct access to ramp/path/passageway	2	302	604
Stop on path/strip in built-up area (in school zone)	5	387	1935
Stop in mail zone	3	129	387
Stop on/hear pedestrian crossing	2	387	774
Not park at 90 degree angle	4	92	368
Not parallel park near left	1	129	129
Disobey no buses sign (GVM)	1	215	215
Park vehicle not in marked parking space	3	92	276
<b>Grand Total</b>	<b>2915</b>		<b>552,883</b>

Warnings Issued by Team and Offence Code

<b>Compliance</b>	
Occupy or use building without required certificate-class 1a/10 building - Individual	1
<b>Enviro Health</b>	
	0
<b>Ranger Animal</b>	
Companion animal (other) not registered as prescribed - first offence	1
Dog not wear collar and name tag - not dangerous/menacing/restricted dog	2
Fail to prevent dog from escaping - menacing dog	1
Fail to prevent dog from escaping - not dangerous/menacing/restricted dog	14
In charge of dog in prohibited public place	1
In charge of dog not under control in public place	1
Owner of dog in prohibited public place	5
Owner of dog not under control in public place	4
Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	1
<b>Ranger Environment</b>	
	0
<b>Ranger Parking</b>	
Double park	1
Stand unregistered registrable Class A motor vehicle on road	1
Stand vehicle in disabled persons parking space without authority	1
Stop heavy/long vehicle longer than 1 hour	1
Stop on path/strip in built-up area	2
<b>Grand Total</b>	
	<b>37</b>

Proactive Patrols - Dogs Beaches & Reserves

<b>Beach / Reserve</b>	<b># Beach / Reserve</b>	<b># Compliant Dogs</b>	<b># Non-compliant Dogs</b>
Basin View Boat Ramp Reserve - Off Leash 24 hrs	7	2	0
Bawley Beach	3	0	1
Bawley Point North Beach	1	0	0
Bendalong Boat Harbour Beach	1	0	0
Bendalong Dee Beach	3	1	0
Bendalong Flat Rock Beach Prohibited	5	0	0
Bendalong Inyadda Beach	1	0	0
Bendalong Monument Beach	1	0	0
Bendalong Washerwomans Beach Off Leash 24 hrs	1	0	0
Berrara Beach Spit Prohibited	32	1	2
Berry Showground	1	1	0
Burrill Lake Burrill Beach	3	11	1

Burrill Lake Entrance Beach	7	10	2
Callala Bay	6	20	0
Callala Bay Bicentennial Park	3	3	0
Callala Bay Wowly Creek	3	4	0
Callala Beach East End	12	16	9
Callala Beach Prohibited Area	15	0	2
Callala Beach West End	11	7	0
Crookhaven Boat Ramp	2	3	0
Cudmirrah Beach - South	1	0	0
Cudmirrah Kirby's Beach	2	2	0
Culburra Beach North On Leash	2	0	0
Culburra Beach South Off Leash timed	9	32	8
Culburra Beach Tilbury Cove	1	0	0
Culburra Lake Wollumboola Prohibited	14	1	0
Culburra Warrain Beach	18	0	1
Cunjarong Beach	1	1	0
Currarong Abrahams Bosom Beach	26	16	0
Currarong Beach Off Leash timed	22	24	3
Currarong Kinghorn Point	5	0	0
Currarong Rock Pool	7	2	0
Greenwell Point Foreshore Reserve	17	23	0
Huskisson Beach Off Leash timed	23	107	4
Huskisson Currambene Creek Prohibited	2	0	0
Huskisson Moona Moona Beach / Creek	100	0	5
Huskisson Shark Net Beach Prohibited	53	0	2
Hyams (Seamans) Beach	20	33	6
Hyams Beach Chinamans Beach - NPWS	12	4	0
Hyams Beach Little Hyams Beach	48	13	0
Kioloa Beach	1	2	0
Lake Conjola Conjola Beach	3	5	2
Lake Conjola Cunjurong Beach Shore Birds	3	0	0
Lake Conjola Ocean Beach Spit Prohibited	10	18	2
Lake Tabourie Crampton Island Beach	1	1	0
Lake Tabourie Wairo Beach	2	0	1
Merry Beach	2	0	0
Milton Showground	3	0	0
Mollymook Beach North Prohibited	20	0	0
Mollymook Beach South Prohibited	2	2	0
Mollymook Bogey Hole	2	0	1
Mollymook Colliers Beach Off Leash 24 hrs	3	2	0
Mollymook Unknown Beach nth of Collers	6	1	0
Myola Breakwall NPWS	19	0	1
Myola Spit Prohibited	31	0	5
Narrawallee Beach North Prohibited	42	16	2

Narrawallee Beach Off Leash timed	18	47	5
Narrawallee Beach South Prohibited	31	66	8
Narrawallee Spit Prohibited	4	0	0
Orient Point Foreshore Reserve Orama Crescent	3	0	1
Pretty Beach	2	0	0
Sanctuary Point Paradise Beach Reserve	6	10	0
Sanctuary Point Ray Brooks Rsrv (BTRMP - STR) PRHB	8	0	1
Shoalhaven Heads River Road Reserve Off Leash 24hr	9	16	0
Shoalhaven Heads Seven Mile Bch Off Lsh 24hr/OnLsh	28	80	1
Shoalhaven Heads Spit Prohibited	73	16	3
St Georges Basin Kingfisher Reserve	1	1	0
Sussex Inlet Entrance Beach	1	0	0
Sussex Inlet Waterfront Reserve	9	9	0
Ulladulla Bomies Beach	1	3	0
Ulladulla Racecourse Beach 1	20	9	3
Vincentia Barfleur Beach	7	10	0
Vincentia Blenheim Beach Prohibited	39	0	3
Vincentia Collingwood Beach Prohibited	63	0	4
Vincentia Nelsons Beach Off Leash timed	17	155	11
Vincentia Orion Beach	2	4	1
Vincentia Plantation Point	1	0	0
Woollamia Boat Ramp	1	1	1
<b>Grand Total</b>	<b>995</b>	<b>811</b>	<b>102</b>

Proactive Patrols - Other Categories

Patrol Type	# Patrol Type	Additional Information
Asset Inspection (RID)	36	Checking infrastructure
Asset Protection	71	
Camping	112	
CBD Foot Patrol	20	
Illegal Dumping	234	Rubbish found = 112
Parking	403	
Schools	50	
Shopping Trolley	6	
Unauthorised Signage	0	
Vegetation Vandalism	6	
<b>Grand Total</b>	<b>938</b>	

## CL24.64 IPART Submission - Draft Terms of Reference for NSW Council's Financial Model Review.

HPERM Ref: D24/66567

Department: Finance

Approver: James Ruprai, Director - City Development

Attachments: 1. Shoalhaven City Council - Letter to IPART - Feedback - Terms of Reference - Council's Financial Model Review for Council's [↓](#)  
2. Draft - Terms of Reference for NSW Council's Financial Model Review. [↓](#)

### Reason for Report

The purpose of this report is to inform Council of the current draft Terms of Reference (ToR) related to the NSW Governments tasking of IPART to review the financial sustainability models of Councils in NSW. Furthermore, Council's support in lodging a formal submission to IPART on the draft Terms of Reference is sought, outlining requested inclusions in the current ToR to effectively assess and address better long-term financial sustainability.

### Recommendation

That Council:

1. Note and receive this report; and,
2. Make a formal submission to IPART on the NSW Government's "Draft Terms of Reference for NSW Councils Financial Model Review" at attachment 1.

### Options

1. Council resolve to lodge a submission as recommended.  
Implications: No further resource, policy or risk issues are apparent.
2. Council resolve to not lodge a submission on the draft Terms of Reference.  
Implications: No further resource issues are apparent. Risks identified with respect to ToR deficiencies will not be expressed to IPART.
3. Council resolve an alternate course of action.  
Implications: Implications are unknown and will depend upon the resolved position.

### Background

In 2023 IPART, as part of their review of the rate peg methodology for Councils in NSW, recommended to the NSW Government that an independent review of the financial model for Councils be undertaken. As a result, the NSW Government has now tasked IPART to undertake such review, examining key issues impacting the financial sustainability of Councils and Local Governments overall financial models. In IPART's 'Review of the Rate Peg Methodology Final Report' provided to the NSW Government in August 2023 was noted:

- Longstanding financial sustainability issues
- Some councils are experiencing financial sustainability problems, which they suggest are related to the current financial model for councils.



- This is requiring strong financial management and council action to either increase rates or cut services, at a time when many people are less able to afford higher rates or to do without essential council services.
- Ratepayers are concerned about cost of living pressures and affordability of rates while they also depend on and value council services.
- Councils are very diverse, and IPART heard that a ‘one size fits all’ financial model does not respond to the specific and individual needs of councils and their community priorities.

On 11 January 2024 IPART received a draft Terms of Reference (ToR) from the NSW Government to guide their investigation and reporting accordingly, in line with section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992*. IPART are now seeking feedback on the NSW Government’s draft Terms of Reference. A review of the ToR has been undertaken by relevant staff, including finance and Councils Chief Financial Officer. The draft ToR appears at attachment 2. Submissions on the draft ToR must be made by the 15 March 2024.

The draft ToR proposes IPART review and recommend improvements on the following matters:

1. Whether the current funding model will sustainably support the needs of communities.
2. The visibility of councillors and the community over the financial and operational performance of their councils.
3. Whether the current budget and financial processes used by councils are delivering value-for-money for ratepayers and residents.
4. Whether councils (both councillors and staff) have the financial capacity and capability to meet current and future needs of communities.
5. How can better planning and reporting systems improve long term budget performance, transparency and accountability to the community?
6. Any other matters IPART considers relevant.

While the inclusions are all relevant and needed, the ToR fails to pick up on a range of specific matters that such a review would benefit from investigating, identifying and making recommendations on.

### **ISSUES FOR CONSIDERATION**

IPART is aware of the significant variations to average residential rates across Councils in NSW, and as a result Councils are struggling to meet minimum benchmarks (namely infrastructure backlog ratios and operating performance ratios) leading to the inability to meet minimum required community service obligations and unable to fund ongoing activities, which cannot be addressed via the current rate peg methodology.

### **EXTERNAL FACTORS:**

Many NSW Councils have dealt with the impacts of multiple (as many as 14) declared natural disasters in recent years including devastating bushfires, multiple floods, landslide events and impacts of east-coast low pressure systems that have caused substantial damage to our coastal and hinterland areas. Where Councils are lucky enough to secure grant funding for the betterment of affected assets, the forward funding of grant opportunities impacts both Councils cash position (operational surplus) and ongoing infrastructure backlog targets. During 2023, Shoalhaven City Council had forward funded over \$30 million in grant funding awaiting acquittals, which needed to be drawn from the general fund and liquid cash. Furthermore, since 2020, the cost of dealing with COVID-19 impacts (including supporting ratepayers), interest rates and inflation have impacted debt position and caused a decline in

the cash position of Councils across the state, hindering their ability to deal with unexpected circumstances (such as disasters) or forward fund grant opportunities moving forward.

#### RATE PEG CHALLENGES:

Current rate methodology and application does not account for the variable nature of different local government areas (LGA's), including those where non-primary residences are utilised for commercial/tourism purposes. There are several mechanisms that could be used to assess the maximum applicable rate for a property, including whether the premises is being utilised for Short-Term Rental Accommodation (such as AirBnB), and taking the improved capital value for rating purposes (as opposed to land valuation). Alternate mechanisms such as these would ensure that increases were not compromising the most disadvantaged individuals in our communities but were recovering income from those that are more likely to be able to afford it – akin to the method applied to scalable personal taxable income brackets.

The population factor fails to address the additional operational and capital costs of a growth council and is not achieving its intended purpose to enable Council to maintain per capita genera income over time. Council's per capita income will decrease as our population grows and we will be unable to maintain existing service levels.

Regional areas, particularly those in coastal locations which are subject to the breadth of different weather events and asset impacts, are faced with increased usage of critical infrastructure through peak visitation periods (predominately roads, beaches, parklands, footpaths, amongst other asset categories). However, the current rating methodology does not include mechanisms to collect the additional maintenance requirements from tourism related developments, but rather defaults to collection of revenue across the entirety of the rate base. Allowance to collect additional revenue from industries that benefit from tourism influx during peak periods would allow a contribution to the impacts and added wear & tear on critical public infrastructure.

It is in the community's best interests that Council is able to fund the level of services, infrastructure and assets at a level of reasonable expectation and which ratepayers can realistically afford. The number of Councils in NSW reporting operating deficits has increased since 2016, and more than half of NSW Councils do not meet the Office of Local Governments *Infrastructure Backlog Ratio*.

The application for Special Rates Variations (SRV) can be problematic, as they create contention and division in communities unnecessarily, where ratepayers have already been struggling with cost-of-living issues post COVID-19. Special Variations are typically applied for at a point of criticality for Councils where years of rate peg application have not been sufficient and left ongoing deficits across core services delivery areas. They have become a process for Council to follow when a sharp and large increase in rates is required, due to the shortfalls created over a long time period and loss of associated compounding that would have been achieved through lesser overall rates increases.

In short, had the rate pegging methodology been sufficient for the past decades, and allowed Council's in NSW to apply reasonable but conservative rateable measures over time to address infrastructure backlogs and true operating costs, as well as the ability to implement levy amounts (such as environmental levy for coastal protection), Shoalhaven City Council would not have been presented with the prospect of a 44% special rate variation this financial year.

#### FINANCIAL ASSISTANCE GRANT DECLINE:

There is a significant and immediate need for the Federal Government to confirm payment schedules of the Financial Assistance Grants (FAG) directly to Local Government, and further, increase the amount to a minimum of 1% of total taxation revenue. This is not a new issue for Councils, and while originally introduced on a platform of 1.2% of personal income

tax revenue (to be increased to 2% over time), the current levels are closer to 0.5%. This increase alone, with certainty over the financial year in which the grant is paid to Council, will substantially and positively increase operating sustainability and Councils ability to meet growing infrastructure needs. In Shoalhaven City Council's present situation, an increase of FAG to 1% would address 70% of our total operating deficit.

Statewide, 54 of 128 (42%) Councils failed to meet the operating performance benchmark in 2022. Had the Financial Assistance Grant (Councils share of personal taxable income revenue) been double its current rate, 36 of those would have been in surplus, bringing the total not meeting the benchmark to 18 (or only 14% of all Councils in NSW).

#### GOVERNMENT COST SHIFTING:

The shifting of financial burdens from the NSW Government to Councils is consuming rateable income at a local level at an unsustainable rate. In 2023, data compiled by independent experts *Morrison Low* showed that in the 2021/22 year a total of \$1.32 billion in costs were shifted onto Council in NSW by the State Government, totalling on average an additional \$460 per ratepayer annually. An increase of 78% from the 2015/16 financial year.

The top 5 cost shifting categories for which Councils do not have a mechanism to recoup costs are:

1. Waste levy = \$288.2 million.
2. Rate exemptions = \$273.1 million.
3. DA and Regulatory functions = \$208 million.
4. Emergency Services Contributions = \$165.4 million.
5. Funding of Libraries = \$156.7 million.

The NSW Waste Levy is a prime example where revenue collected by Council on rates notices is gathered by the State Government, and not wholly redistributed back to Local Governments who undertake end-to-end waste management functions (from kerbside collection, to landfill activities and end-of-life remediated landfill maintenance).

#### DEVELOPER CONTRIBUTIONS:

Councils are able, through adopted and approved 7.11 and 7.12 infrastructure contribution plans, to charge developers for new infrastructure where there is a nexus to the development in question. These plans have typically incorporated larger project delivery focussed on social infrastructure and transport infrastructure respectively. Ongoing, many projects are never realised as the total cost (particularly when coupled with inflation and other economic factors) is not recouped via the infrastructure charges.

Where developments impact existing assets and cause increased degradation of assets, there is limited ability to utilise developer contributions for the purposes of addressing asset maintenance backlogs. The ability for Councils to allocate even a percentage of 7.11 or 7.12 internally restricted funds towards maintenance would assist in addressing asset maintenance backlog targets, and upkeep of existing community assets in perpetuity.

#### ONGOING OBLIGATION FOR SERVICE DELIVERY:

Councils carry a statutory and legal obligation to perform and deliver crucial services to our communities, including road maintenance, public open space maintenance, local planning, development assessment, and libraries (amongst an array of others). The delivery of these services and infrastructure at an acceptable level is critical to ensuring public faith in government as well as being crucial to the economic, environmental and social fabric of NSW across its unique communities. Adding to these base services is an ever-increasing cost of emerging issues and risks. For example, in maintaining large volumes of personal information for our residents, ratepayers and customer base, cybersecurity has become both

a needed and legislated matter for Councils to address, without any additional funding from other levels of Government to do so. Added to this are statutory limits on fees and charges for required functions that no longer reflect the true cost of delivering the service (for example end to end development assessment and court appeal matters), and which Councils must now fund shortfalls in delivery through other means. In effect, additional required operational matters and statutory set fees continue to impact Councils financial position, without the ability to recoup costs via any mechanisms other than our applied rates base.

### **IPART's NEXT STEPS**

IPART will be required to undertake further public consultation as part of the review, including publishing a draft report prior to finalisation, and undertaking a formal public hearing. The final report will be presented to the Minister for Local Government within 12 months of the receipt of the draft ToR, and thus is expected to be finalised with recommendations by 11 January 2025. The final report will be tabled in Parliament.

### **RECOMMENDED SUBMISSION FROM SHOALHAVEN CITY COUNCIL**

The report and recommendations that arise from IPART's review have the potential to impact all Councils in NSW for decades to come. The draft ToR provided by the NSW Government contains much needed and broad inclusions on the transparency and governance for the review of Councils financial sustainability and elected representative and community input into these systems. They do fail to identify and make the subject of review specific matters we know have, and will continue to, impact Councils financial position and stability into the future.

For the reasons outlined in this report, and arising from a substantial review by key internal staff members, it is recommended that Shoalhaven City Council (by way of resolution) make a submission on the draft ToR that requests inclusion of specific issues impacting Councils financial sustainability as follows:

- The suitability of rate pegging methodology, its deficiencies and long-term impacts on local government sustainability and infrastructure backlogs.
- Impacts of disasters, disaster funding and infrastructure impacts on local government outside of standard IP&R scheduled works.
- The mechanisms and suitability of Financial Assistance Grant funding, and the current model versus originally proposed model in the context of operating sustainability.
- The marked impacts of government cost shifting, including operating and asset performance, as well as the inability to recoup costs from the NSW Government.
- Barriers to use of Developer Contributions in addressing existing infrastructure maintenance requirements.
- Ongoing and additional requirements in standard service delivery to meet the needs of evolving practices, technology and governance risks (such as cyber security and digitisation for example).

### **Internal Consultations**

The following internal consultation has occurred regarding the content of this paper and the proposed submission:

1. Chief Financial Officer.
2. Executive Management Team.

### External Consultations

Several Councils in NSW have been consulted on this matter in the review of the draft Terms of Reference.

### Community Consultations

No community consultation has occurred given the timeframe and nature of the submission. However, Council has recently consulted with our community on the prospect of a Special Rates Variation, and feedback has noted that the proposed increase was not supported.

### Policy Implications

Shoalhaven 2032 Community Strategic Plan priorities relate to this report and its recommendations:-

4.1 – Deliver reliable, high quality services.

4.2 – Provide transparent leadership through effective government administration.

And further, the following progress measures:

- Community satisfaction with basic council services.
- Council's financial benchmarks (number of financial ratios that meet the 6 target ratios).

Holistically, the IP&R Framework links Councils' financial position to our ability to deliver services. Implications on the following associated Council plans (our *Resourcing Strategy*) result from base revenue and rates scenarios: *Workforce Plan*; *Long Term Financial Plan*; and *Asset Management Policy/Strategy/Plan*.

### Financial Implications

Should the draft Terms of Reference not contain the right criteria for specific review of issues impacting Councils financial sustainability, the ongoing impact and deficiencies of rate pegging, revenue models and Special Variations will affect Local Governments in NSW, and the communities we serve, into the future.

### Risk Implications

Should a submission not be made, there is a risk that IPART will not incorporate the relevant criteria into the final Terms of Reference.

Council Reference: 75639E (D24/85357)

Independent Pricing and Regulatory Tribunal (IPART)

Attention: Jessica Clough

Email: Jessica.clough@ipart.nsw.gov.au

**Dear Ms Clough**

**Feedback – IPART review of financial model for Council's in NSW  
Terms of Reference (ToR)**

Shoalhaven City Council thanks IPART for the opportunity to provide feedback on the NSW Government's draft Terms of Reference (ToR) regarding IPART's review of the financial sustainability model for Council's in NSW.

Council reviewed the draft ToR and relevant issues, resolving to lodge this submission (MIN24.XXX):

<<include resolution>>>

Council appreciates that the draft ToR has been constructed to include issues relevant to transparency and accountability, and aim to align with the review of rate peg methodology undertaken by IPART last calendar year.

Council cannot understate the importance of this review. Councils are the level of government closest to our communities, and perform a critical role in service and infrastructure delivery. The ongoing financial sustainability and long term funding models for Councils is paramount to ensuring that communities continue to achieve and enjoy local priorities and core service delivery.

The draft ToR does not include a number of relevant areas that significantly impact local government financial position for all Councils in NSW. This includes reasonable revenue sources, cost shifting, funding mechanisms and the rating system as a whole. To this end, Council requests that, to achieve a holistic and fulsome review of the financial sustainability of Councils in NSW, the following must be included in the ToR for investigation and in devising a final report:

- The suitability of rate pegging methodology, its deficiencies, and long-term impacts on local government sustainability and infrastructure backlogs.
- Impacts of disasters, disaster funding and infrastructure impacts on local government financial performance outside of standard IP&R scheduled works.

- The mechanisms and suitability of Financial Assistance Grant funding, and the current model versus originally proposed model in the context of operating sustainability.
- The significant and ongoing impacts of government cost shifting on Council's operating and asset performance, as well as the inability to recoup costs from the NSW Government across a range of areas.
- Barriers to use of Developer Contributions in addressing existing infrastructure maintenance requirements.
- Review of cost recovery for statutory and legislated services, such as development applications, where statutory set fees do not achieve full cost recovery.
- Ongoing and additional requirements in standard service delivery to meet the needs of evolving practices, technology and governance risks (such as cyber security and digitisation for example), impacting operating costs and performance.

The report attached, tabled at the Ordinary Meeting of the 11 March 2024 for Councils consideration, outlines rationale for Councils requested inclusion of these points in the Terms of Reference.

Shoalhaven City Council would welcome any opportunity to further discuss these matters and the review of financial sustainability for Local Government in NSW. Please do not hesitate to contact Ms. Katie Buckman (Chief Financial Officer) directly on [katie.buckman@shoalhaven.nsw.gov.au](mailto:katie.buckman@shoalhaven.nsw.gov.au) at any time, or should IPART require any further information on this submission.

**Yours sincerely,**

**Robyn Stevens**  
Chief Executive Officer.

**The Hon Chris Minns MP**  
Premier of New South Wales



Ref: A5922499

Carmel Donnelly PSM  
Chair  
IPART  
PO Box K35  
HAYMARKET POST SHOP  
NSW 1240

---

Re: Referral to commence review of the financial modelling of councils

Dear Ms Donnelly,

I refer the financial modelling of councils to IPART under section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992* (the Act).

**Enclosed** are a draft terms of reference as provided to me by the Minister for Local Government. I understand that IPART will consult on the draft terms of reference in line with the requirements of the Act.

I look forward to hearing about the next steps and outcomes of this work.

Sincerely,



**Chris Minns MP**  
Premier of New South Wales

CC: The Hon. Ron Hoenig MP, Minister for Local Government

11/3/2024



OFFICIAL

## DRAFT TERMS OF REFERENCE

### Investigation of council financial model in NSW

I, the Hon. Christopher John Minns MP, Premier, under section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), request the Independent Pricing and Regulatory Tribunal (IPART) to investigate and report on the financial model for councils in NSW.

#### The task

IPART should review and recommend improvements on the following matters:

- 1. The visibility of councillors and the community over the financial and operational performance of their councils**
  - Are the mechanisms for reporting on council performance clear and understood. Does the accounting code for local government provide meaningful financial information to enable councillors to understand and influence the financial and budget performance of their council. Is there a need to update the performance indicators to make them more useful for 'real time' monitoring.
  - Are councillors receiving timely and appropriate information to enable decisions on allocation of public funds in an efficient and cost effective way.
  - Are there benefits to moving to dedicated budget or expenditure review committee models to ensure budget decisions are understood by councillors and the communities they serve?
- 2. Whether the current budget and financial processes used by councils are delivering value-for-money for ratepayers and residents**
  - Is the Integrated Planning and Reporting process, currently used by councils to make budget decisions, effective in allowing councillors to engage with the community on the challenges in setting a budget and meeting service level expectations
  - How well Councils are setting service delivery standards that match revenue, managing their expenses within allocated budgets, and what opportunities exist for improvement in efficiency, service quality and sustainability.
  - How to visibly boost elected councillor accountability for council budgets and expenditure to the community
- 3. Whether the current funding model will sustainably support the needs of communities**
  - How do councils balance cash flow to manage the different (and sometimes uncertain), timeframes for revenue and grants money (including Financial Assistance Grants), coming into council
  - How effective are councils in identifying and using other revenue sources beyond grants and rates to support the needs of communities and sustainably provide services required to be delivered by councils.
  - Identify measures to put downward pressure on rates through other 'own source' revenue or closer scrutiny of expenditure.
  - Consider the needs of diverse communities and councils and protect the interests of current and future ratepayers from unnecessary impact on their cost of living

OFFICIAL

OFFICIAL

**4. Whether councils (both councillors and staff) have the financial capacity and capability to meet current and future needs of communities.**

- Are councils equipped with the right internal capabilities to deliver on the services which their community requires?
- Has the Audit Mandate been successful in providing a consistent view on the accounting and risk management practices of councils?
- Are there opportunities to look at long term expenditure and service delivery improvements by insourcing services? Where outsourcing models have been used, do they provide an efficient and effective means of meeting community needs?
- What examples of best practice capability building and innovation could be implemented more widely?

**5. How can better planning and reporting systems improve long term budget performance, transparency and accountability to the community?**

- How effective councils are in managing their assets and planning for future growth and renewal of assets.
- Whether current community engagement allows for effective long-range planning and sustainable funding.
- Whether the current framework of reporting and compliance is appropriate and effective.

**6. Any other matters IPART considers relevant.**

**The review process and timeline**

IPART is required to consult publicly as part of this review, including publishing a Draft Report for comment and undertaking a public hearing prior to finalising its Final Report. IPART may undertake other methods, including targeted consultation, that it considers appropriate.

IPART will provide the final report to the Minister administering the Independent Pricing and Regulatory Tribunal Act 1992 (IPART Act) and the Minister for Local Government within 12 months of receiving the final terms of reference.

The Minister administering the IPART Act will table the final report in each House of Parliament and forward a copy to the Parliamentary Librarian in accordance with section 19 of the IPART Act. Once the final report has been tabled in Parliament or earlier if requested by the Minister administering the IPART Act, IPART will publish a copy of the report on its website.

**The Hon. Christopher John Minns MP**  
Premier

OFFICIAL

## **CL24.65 South East Australian Transport Strategy (SEATS) Meeting - February 2024**

**HPERM Ref:** D24/75532

**Submitted by:** Clr Patricia White

**Attachments:** 1. Conference Report [↓](#)

### **Reason for Report**

To provide a report (Attachment 1) from Clr Patricia White on the SEATS Meeting held in Bega NSW on 15 and 16 February 2024 in accordance with Clause 3.3(e) of the Council Members – Payment of Expenses and Provision of Facilities Policy.

### **Recommendation**

That Council:

1. Receive the report from Clr Patricia White on the South East Australian Transport Strategy (SEATS) Meeting – February 2024 for information.
2. Approve the attendance of Clr Patricia White to Transport for NSW Vehicle Strike Emerging Technologies Symposium in May 2024 in Sydney

### **Options**

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

**CL24.65**

**NOTICE OF MOTION**  
**Ordinary Council Meeting**

**Submitted: Cllr Patricia White**

**Subject: Councillor Report SEATS Meeting**  
**Bega 15<sup>th</sup> & 16<sup>th</sup> February 2024**

---

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

**Recommendation**

**That Council: -**

- 1. That Council receive the report from Councillor Patricia White on the SEATS Meeting held in Bega on 15<sup>th</sup> & 16<sup>th</sup> February 2024 for information.**
- 2. Approve the attendance of Cllr Patricia White to Transport for NSW Vehicle Strike Emerging Technologies Symposium in May 2024 in Sydney**

**Background**

Cllr White, on behalf of Shoalhaven City Council, attended the SEATS Meeting on the 15 & 16 February 2024 in Bega – Recommendation CL24.25.

The SEATS Meeting hosted Senior Council Staff, Councillors and Mayors from Councils across South-Eastern Australia.

***Issues discussed included:***

- Mayor of Bega Valley Shire Council, Councillor Russell Fitzpatrick welcome to delegates
- Virtual Fencing Trial – report & TNSW notes
- SEATS Submission to Aviation Green Paper – November 2023
- Aviation Green Paper – Key points from Submissions – January 2024
- Resolution of SEATS and submissions made:
  - TNSW – South-East & Tablelands Regional Transport Plan
  - Aust Govt – Impact of severe weather events on the regional, rural & remote road networks
  - TNSW – “Illawarra Escarpment Issues”
  - TNSW – “Peak Hour Congestion on M1 (Princes Motorway) between Yallah and Mt Ousley”

- Victorian Transport Ministers – Upgrade of Transport Infrastructure in Gippsland
- Response from State Member for Eastern Victoria
- Report by Chair on Gippsland Delegation to Vic Minister for Roads and Road Safety
- Executive Officer's Report
- Transport for NSW Report
- Key Freight Routes Project – NHVR/SEATS – joint project on priority routes in NSW/ACT & Vic
- NHVR Report – Demo Days, Goulburn
- Haulier perspectives & feedback - Adam Twyford, Bobbins Transport
- Vic Dept of Transport & Planning Report
- Transport for NSW – gathering of Freight Data – Scott Greenow, A/Executive Director Freight Regional and Outer Metropolitan
- Offshore Wind Farms – January 2024
- Star of the South Project update – 31 January 2024
- South Facing Ramps on the M1 at Dapto
- SEATS report on Urban Congestion on the Princes Highway Motorway M1 – Feb 2023
- NSW on track for life-saving level crossing upgrades

SEATS Quarterly Dinner was held on Thursday evening with a presentation from Guest Speaker – Andrew Taylor, Bega Cheese – Circular Economy.

***Virtual Fencing Trial – report & T4NSW notes***

Further discussion was held in relation to the Recommendations submitted by Shoalhaven and Eurobodalla Councils request for funding. SEATS Executive Officer has undertaken further research and also worked with TNSW on Virtual Fencing.

Subsequent to the November 2023 meeting(s) of SEATS, information has been provided by TNSW on some background history to the Virtual Fencing project and interaction both between SEATS and TNSW and within TNSW.

When SEATS first raised the issue of Virtual Fencing back in 2021 the TNSW position was: “until any further research demonstrates that virtual fencing is an effective solution to reduce wildlife vehicle strike, TNSW currently does not propose to implement virtual fencing on state roads”.

Since 2021 several trials, by mainly local government, have been conducted around Australia and positively reported by media. The question still remains – does Virtual Fencing work? The technical studies and data need to be correlated and assembled into a report to go forward. Discussions within TNSW have revealed that while there's been no new published research that demonstrates the effectiveness of virtual fencing, there's been some progress on this issue.

- Transport for NSW will be hosting a Vehicle Strike Emerging Technologies Symposium in May 2024 in Sydney to bring together ecologists, technology experts, local councils currently trialling new approaches, NGOs and relevant

Government Departments to investigate the range of promising new technologies to address vehicle strike on our roads.

- Virtual fencing will be one of the emerging technologies considered at the Symposium. The Symposium will be supported by a global literature review to be undertaken by Dr Rodney van der Ree, a leading road ecology researcher in Australia.
- The outcome of this work is expected to be recommendations for future trials of the most promising technologies. Transport is committed to supporting these trials as part of its Future Transport Strategy Action P4.1f.
- Further information about the Symposium will be released early in 2024.

Addition to the TNSW Symposium, SEATS has recommended in point 3, that SEATS approach the NSW Minister for Environment to sponsor the continuation of Virtue fencing trials with matching contribution of funding and to research with other agencies to partner to improve and develop a widespread rollout of the project.

***Recommendation from SEATS***

1. ***SEATS accept the Virtual Fencing report as tabled at meetings in November 2023.***
- 2, ***SEATS reviews future delivery of Virtue Fencing and funding opportunities for Shoalhaven and Eurobodalla following the Vehicle Strike Emerging Technologies Symposium in Sydney May 2024. Further report to the August 2024 Meeting.***
3. ***SEATS approach:***
  - a. ***The NSW Minister for the Environment to sponsor the continuation of the Virtual Fencing trial and offer a suitable contribution to be matched by the Minister as seed capital to proceed.***
  - b. ***Other research/implementation agencies like NSW Centre for Road Safety or the Insurance Council to partner with agencies to improve and develop a strategy for a widespread rollout of the project***
4. ***Executive Officer to attend the Vehicle Strike Emerging Technologies Symposium in Sydney in May 2024.***

***Moved: Cr Patricia White***

***Seconded: Ian MacFarlane***

***CARRIED***

Clr White believes this is a positive way forward to approach appropriate entity (Insurance Council; NSW Centre for Road Safety; AAMI) to partner with a sponsor and funding from NSW Minister for Environment to take the project expansion forward for protection of wildlife on our roads.

**SEATS Submission to Aviation Green Paper – November 2023 and Aviation Green Paper – Key points from Submissions – January 2024**

The Australian Government invited comments on the Green Paper, to support development of an Aviation White Paper. Submissions on the Aviation Green Paper closed on 30 November 2023. Submissions made are on the Aviation Green Paper website. SEATS prepared and lodged a submission on behalf of Councils.

*Summary:*

Within the SEATS region there are 3 military airfields, 4 airports that have RPT (Regular Passenger Transport) services and numerous airfields managed mostly by local government.

**Military airfields**

- Nowra within Shoalhaven City – HMAS Albatross
- Within Jervis Bay Territory – Jervis Bay Range
- Sale within Wellington – RAAF Base East Sale

**Regular Passenger Transport (RPT)**

- Canberra (CBR).
- Shellharbour Airport (WOL)
- Moruya Airport (MYA)
- Merimbula Airport (MIM)

FIFO (Fly in, Fly out) has been a growing transport activity in Australia. The areas within the SEATS region do have workers that commute to the mining areas in Western Australia and Queensland. Latrobe Regional Airport (TGN) at

SEATS believes that air transport plays a key role in regional economies.

Adjusting lifestyle choices have factored in the availability to travel to/from work appointments whilst enjoying living and working outside of a metropolitan area. This “sea change/tree change” phenomenon is also contributing to the national labour market adjustment of connecting FIFO workers to more remote areas of Australia.

Councils are the predominant owners of airports in regional Australia, yet with changing security requirements, pavement capabilities for different aircraft and the uncertainty of RPT operators to continue supporting a particular route, the need to scope out and plan for continual maintenance and upgrades is somewhat of a crystal ball exercise. This Aviation Green Paper is an opportunity for Government to sure up the policy framework that support regional aviation.

The full report and submission is available upon request.

**Offshore wind farms - requirements for transport infrastructure**

In September 2023, SEATS wrote to the Offshore Renewables office within the Dept of Climate Change, Energy, the Environment and Water seeking information on the consideration of transport in the preparation of the tender documents and the evaluation of such matters in the final analysis.

While consulting within the offshore renewables branch to address questions, it became clear that a lot of the information that SEATS was seeking is now available on the refreshed website, such as the process for choosing and declaring an offshore wind area in Australia. The website has been developed over the past couple of months and is now available at Offshore wind in Australia – DCCEEW. The website includes the most contemporary information relating to the declaration of offshore renewable energy zones in Australia.

The May meeting for SEATS will be held in Barry's Bay Victoria where presentations will be held for Offshore Wind Farms and the latest updates and information.

### ***Transport NSW Report***

Transport for New South Wales has a number of transport infrastructure projects and programs being delivered in the SEATS Network that are outlined in this report. They include:

- Seven road proposals in development
- Five road projects currently under construction
- Rail projects
- Bus Programs

#### *1 Road projects in development*

Princes Highway Upgrade Program  
Jervis Bay Road to Sussex Inlet Road upgrade  
Milton Ulladulla bypass  
Burrill Lake to Batemans Bay upgrade  
Moruya bypass  
Mount Ousley interchange  
Marulan bypass pavement rehabilitation  
Picton Road upgrade  
Wallaga Lake Bridge essential maintenance

#### *2 Road projects in construction*

Jervis Bay Road and Princes Highway intersection  
Nowra Bridge project  
Nelligen Bridge Replacement  
Kings Highway safety upgrade  
Barton Highway Upgrade  
Rail projects

#### *3 Transport Access Program*

#### *4 Bus Programs*

Transport Connected Bus Program Transport for New South Wales has a number of ***First section of Augusta Highway Duplication now open***

This project was part of SEATS major infrastructure project "Princes Highway Corridor Strategy" for the upgrade of the Princes Highway from Wollongong, Victoria to Port



Augusta. The strategy was undertaken on behalf of SEATS by GHD in February 2019, under the Chair of Cllr White. It is wonderful to see initiatives from SEATS improving the National roads network and safety for all on our roads, especially our freight transport.

**Reported:**

“Motorists have been given an early gift with the first fully completed section of the newly duplicated Augusta Highway opened in time for the holiday season.

All four lanes of the nine-kilometre stretch between Port Wakefield and Beaufort are now open to traffic for the first time, allowing drivers to travel on two brand-new northbound lanes and two refurbished southbound lanes.

The Augusta Highway Duplication project is part of the **\$450 million Princes Highway corridor package**, jointly funded by the Australian and South Australian governments, on an 80:20 basis.

Once complete, the project will provide dual, two-lane carriageways along a 28 kilometre stretch of the Augusta Highway from Port Wakefield to Lochiel.

The Augusta Highway Duplication project is supporting more than 300 jobs during construction and is expected to be fully completed in 2024.

The Augusta Highway is the key road corridor between Port Wakefield and Port Augusta and forms part of the National Land Transport Network, providing crucial connectivity to regional South Australia and interstate.

This corridor provides crucial connectivity to regional South Australia and interstate and the entire duplication project being completed in 2024.

This vital upgrade is one of several sections to be improved, which will improve safety, freight productivity and network reliability while also reducing travel times”.

**Reports:**

Information on all reports is available upon request.

**Next SEATS Meetings**

May 9<sup>th</sup> Barrys Bay Victoria

May 16<sup>th</sup> – Goulburn NSW

**Cllr Patricia White**

## **CL24.66 Notice of Motion - Cat Containment in the Shoalhaven**

**HPERM Ref:** D24/87093

**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. Acknowledges the significant impact on native wildlife and the amenity of neighbours caused by roaming domestic cats which aren't adequately contained.
2. Directs the CEO (City Development) to provide a briefing to Councillors about Council's policy and approach to cat containment including thorough planning controls.
3. Directs the CEO (City Development) to prepare a report detailing: options for controls Council can put in place to address the issue of roaming cats, information about what other councils are doing to achieve responsible onsite containment of cats and whether advocacy to the NSW Government is required to increase the powers of Councils in this area.

CL24.66

### **Note by the CEO**

#### **Options for controls Council can put into place to address the issue of roaming cats.**

There are no provisions in the Companion Animals Act (the Act) requiring cat owners to contain their cats. The legislation lacks powers to govern effectively and manage the scope of issues faced by local government and issues relating to cats.

Residents are able to trap cats on their own property and transfer to the Shoalhaven Animal Shelter. If the cat is feral it will be euthanised, if unclaimed, it is desexed and placed for adoption. Shelter staff educate cat owners on the importance of containment.

Shoalhaven City Council and nine other local councils have partnered with RSPCA NSW on the Keeping Cats Safe at Home project which commenced in February 2021 and will conclude in December 2024. The project aims to drastically reduce the negative impacts that cats have on wildlife and encourages cat owners to keep their cats safely contained at home.

The project provides free desexing, education, a social media presence and a competition to contain cats was launched on 4 March 2024. To date, 166 cats have been desexed, along with 78 cats via the Animal Welfare League since the beginning of 2023.

[Keeping-Cats-Safe-at-Home](#)

[Catnet-competition - March 2024](#)

[Projects-Engagement - Catnet-Competition](#)

#### **What other councils are doing**

Other councils in NSW face the same dilemma due to the constraints of the Act. The ACT government introduced cat containment laws which commenced in 1 July 2022. Any cats born after this date were to be contained to their property 24 hours per day.

**Advocacy to NSW Government**

At the Ordinary meeting on 17 July 2023 a NOM to request a review of the Act, domestic cat containment was resolved.

MIN23.374 resolved that the CEO write to NSW MPs requesting the Act be reviewed by way of Ministerial Briefing Paper This paper contained eight recommendations for consideration including cat containment controls.

A response was received by the Minister for Local Government acknowledging the issue and advising the community to participate in the Cat Management Inquiry which is part of the development of an animal management framework commencing work in 2024.

CL24.66

## **CL24.67 Notice of Motion - Proposal to Erect & Install Seating ‘The Gannet Beach Headland South End’, Bawley Point by Local Community.**

**HPERM Ref:** D24/89154

**Submitted by:** Clr Gillian Boyd

### **Purpose / Summary**

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

### **Recommendation**

That Council approve the following:

1. That the residents of Bawley Point, with the approval of the Bawley Point/Kioloa/Termeil Community Association, build and install up to nine bench seats (depending on final design) on the Gannet Beach Headland, hereinafter referred to as the Point, overlooking Gannet Beach to the North and with Murramarang Beach to the South.
2. The proposed seats will be built with a sandstone block base with composite timber secured on top within specifications negotiated with and provided by Council staff, at no cost to Council.
3. The seats will be installed under direction of Council and together with the surrounding cleared area, maintained by residents, in a similar manner in which the north end is maintained by a formalised and Council approved group of dedicated community members.

### **Background**

The Point area is a well-used meeting place for residents and visitors alike, affording a great view of the “No Toes and Moonlight” surf breaks as well as offering a great view of Gannet Beach and north towards Ulladulla. Currently there is no seating provided by Council for residents or visitors to sit and enjoy the view. There is a low square platform near the base of the sloping clearing, adjacent to rocks that can be used for seating but it is not accessible for people with mobility constraints. This platform will only take two people at a time.

In 2018 a plan for an accessible Board Walk and Viewing Platform on the Point was approved for installation by Council and the local residents via a resolution of the Community Association. However, these plans have not been included in the DPOP over the subsequent years. Refer to Figures 1 and 2 below for the artist impressions of the planned Boardwalk and Viewing Platform incorporating seating. To fulfill the need for seating in the area and knowing that it was unlikely that seats would be built in the area for some years due to Council’s financial situation, local residents erected several rustic-style seats made of wooden planks attached to tree stumps. They were stable, cheap and practical and allowed people with mobility constraints and their family to access this area to sit and simply enjoy the view and a chat with each other.

The residents were well aware that this seating was not and would not be approved by Council but served a much-needed purpose. On Sunday, 25 February following one complaint from a local resident and a subsequent visit from the Ranger, the seats were removed. There was also a complaint that trees were removed and the area cleared.

CL24.67

Residents claim that mowing was done but no trees or brush was removed. Council staff are currently undertaking an investigation into the alleged illegal clearing of vegetation and environmental damage on the site in question.

This proposal will not be initiated until the outcome of this investigation is known and it is consistent with the implementation of this proposal.

Further, one of the objectives of the current Coastal Zone Management Plan for the Shoalhaven Coastline is to: *Support the social and economic wellbeing of local communities by maintaining safe access to beaches and headlands and supporting recreational activities.*

This proposal amply contributes to achieving this objective for the residents of Bawley Point. Residents are happy to meet with relevant Council staff to refine this community-led project, as needed, at no cost to Council.

Figure 1 Boardwalk and Viewing Platform Preliminary Concept – East View: The artist impression below shows an easterly view with upgraded landscaping and planting to soften and integrate the structure with the Fibre Glass Plastic platform and pathway.



CL24.67

Figure 2 Preliminary Concept - West View: Artist impression showing a low-level boardwalk which will focus foot traffic and allow surrounding vegetation to re-establish.



**Note by the CEO**

The proposed installation of proposed furniture for the area to be undertaken by the Bawley Point/Kioloa/Termeil Community Association is noted.

The proposed works are unbudgeted and do not form part of any current or future capital or maintenance program within our adopted DPOP. Council would have been able to assess the suitability of such a project in the Open Coast Coastal Management Program (CMP), but as certification of this CMP is now impending, this is considered unlikely at its point of current maturation. The CMP has undergone extensive community consultation through the staged development process, including most recently the public exhibition of the document for 9 weeks from 29 November 2023 until 2 February 2024 – a total of 66 calendar days. Throughout the consultation on the CMP, no submissions were received that related to the installation of seating in this area. Inclusion through the CMP, however, will ensure that appropriate consideration is given to environmental constraints and the works are in alignment with Council’s overarching coastal management and infrastructure goals, and budget allocations.

Alternatively, should Council resolve to support this work being progressed by the Community Association under the design and installation oversight by Council as per the recommendation in this Notice of Motion, it is recommended that;

1. to ensure that liability is covered off and appropriate environmental matters are considered/mitigated, the Community Association should be required to carry out an environmental due diligence assessment and;
2. to ensure there is no additional cost to Council or the broader community, the Community Association enter into an agreement with Council for the community funding of ongoing maintenance of the structure and hold suitable public liability insurances ongoing.

It is noted that this alternative option is not supported by staff, being outside of the current Community Strategic Plan, Delivery Plan and Operational Plan process.

CL24.67

## 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.