

Ordinary Meeting

Meeting Date: Monday, 08 April, 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 - 25 March 2024

6. Declaration of Interests

7. Presentation of Petitions

8. Mayoral Minute

Mayoral Minute

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9. Deputations and Presentations

10. Call Over of the Business Paper

11. A Committee of the Whole (if necessary)

12. Committee Reports

Nil

13. Reports

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Notices of Motion / Questions on Notice

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15. Confidential Reports

Reports

CCL24.9	Confidential Tender Report – RFT 72696E - Construction of Ulladulla Harbour Boardwalk (Stage 3-5) and Harbourside Carpark (Stage 6). <i>Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.</i> <i>There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal</i>	
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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.

MM24.10 Mayoral Minute - Condolence Motion - Christine Rigg

HPERM Ref: D24/118804

Recommendation

That Council notes the passing of Christine Rigg and acknowledges her contribution to the Bay and Basin community and extends condolences to her family.

Details

Christine Rigg will be remembered by many as a lovely, kind lady who had a passion for music and the natural world. She dedicated much of her time to the Basin Villages Forum, as the Secretary / Treasurer and website manager for many years.

Together, Christine and her husband David (President) were known as an indispensable duo, Christine was known for her tenacity, honesty and forthright nature, they spent countless hours advocating for the Bay and Basin community through the Basin Villages Forum.

She was admired for her wonderful musical ability, as well as her love of the natural world even producing a book of photographs, sharing the wonderful plants and animals found during walks on Redhead Point Reserve at Sanctuary Point.

Her fascination of nature also became a calendar of dragonflies, butterflies, plants, frogs, fungi and all things beautiful that caught her discerning eye.

Christine Rigg will be fondly remembered for her music and laughter, having left a wonderful legacy of dedication to the community.

On behalf of Shoalhaven City Council, I extend my deepest condolence to David, their family, friends and all who knew her.

MM24.10

MM24.11 Mayoral Minute - Deputy Mayor Resignation & Replacement

HPERM Ref: D24/128950

Recommendation

That Council:

1. Note the resignation of Councillor Evan Christen from the Deputy Mayor role and thank him for his service to The City and his assistance since September 2023.
2. Note that a replacement Deputy Mayor is able to be elected at the next Ordinary Meeting.

Details

Clr Christen has tendered his resignation as Deputy Mayor due to his ongoing work commitments that necessitate Clr Christen's presence overseas, and impacts on his availability for additional duties. Clr Christen has been a supportive and collaborative Deputy Mayor and leads with compassion and empathy in every instance and we thank him for his service in the Deputy Mayor role.

MM24.11

CL24.86 Proposed Local Character Planning Proposal - Shoalhaven LEP 2014

HPERM Ref: D24/112690

Department: Strategic Planning

Approver: Coralie McCarthy, Acting Director - City Futures

Reason for Report

The purpose of this report is to obtain endorsement to:

- Prepare a Planning Proposal to make amendments to the aims and land use table objectives in the Shoalhaven Local Environmental Plan 2014 (LEP) to enhance local character consideration, and to submit to the NSW Government for Gateway Determination.
- Obtain support to progress other supporting work in the character space.

Recommendation

That Council:

1. Endorse the preparation of a planning proposal relating to character, based on the scope in Table 1 of this report.
2. Submit the planning proposal to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination and, if favourable:
 - a. Proceed to formal public exhibition in accordance with the terms of the determination and legislative requirements; and
 - b. Receive a further report on the following the conclusion of the public exhibition period.
3. Endorse the progression of heritage investigations for the following areas as part of stage 2 of the New Land Use Planning Scheme, subject to appropriate budget allocation:
 - a. Kangaroo Valley urban area.
 - b. Milton urban area.
 - c. The coastal areas of Currarong, Bandalong, North Bandalong, Depot Beach and North Durras.
4. Continue to advocate for the NSW Government to recommence and implement appropriate and flexible local character provisions in the Standard Instrument LEP or other mechanism that will enable local councils to better protect areas with unique character.
5. Advise key stakeholders, including relevant Community Consultative Bodies, of the resolution and public exhibition arrangements for the planning proposal.

Options

1. As recommended.

Implications: Local character continues to be a key concern for the community, particularly in residential areas with increased medium density residential pressure. The progression of a planning proposal to include additional aims and land use objectives in

the LEP relating to character will provide a mechanism for consideration of character in the development assessment process.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could delay the enhancement of local character in the LEP.

3. Not proceed with the planning proposal.

Implications: This is not the preferred option as the identified local character protection matters will not be resolved.

Background

On 14 November 2022, a Notice of Motion was presented to Council highlighting community concern regarding the impacts of inappropriate development on local character. A primary focus was the investigation of how local character could be elevated as a key consideration in the assessment of development proposals through planning instruments and related documents.

Council resolved (MIN22.856) that the Strategic Planning Working Party (SPWP) investigate the immediate steps that could be incorporated into future projects. The SPWP identified that character is a strength for Shoalhaven's towns and villages and that future work was required to protect the character of these important places.

On 28 August 2023, Council resolved (MIN23.451) as part of the New Land Use Planning Scheme process to:

(Part 1) Endorse the preparation of a Planning Proposal to update the City-wide Local Environmental Plan with provisions elevating the consideration of character in the assessment of development applications. Potential updates could include new Aim(s) for the Plan and Land Use Zone Objectives

(Part 4) Adopt the "Existing Character Statements" and "Future Desired Local Character Statements" identified in the Shoalhaven Character Assessment Report (February 2020) as 'interim' character statements to support the proposed planning controls for managing local character. ([link to document](#))

Proposed Planning Proposal – Additional Aims and Objectives

An investigation into the most appropriate way to manage character consideration in the LEP has now been completed. The review focused on the land use zones in the LEP where medium density residential development opportunities were permissible with consent. It is in these areas that a large proportion of submissions relating to medium density development applications raised concern that the proposal did not reflect or was not consistent with the dominant local character.

The Strategic Planning Working Party (SPWP) was briefed on the potential opportunities at its February 2024 meeting with general support received for the proposal.

Council endorsement for the following planning proposal scope (Table 1) is now sought, so the preparation can be finalised.

Table 1: Scope of Proposed Planning Proposal

Part of Shoalhaven LEP 2014	Proposed addition
Clause 1.2 Aims of Plan	Add additional aim: <i>To protect and enhance the unique character of Shoalhaven’s towns, villages and neighbourhoods, and the characteristic scenic landscapes that contribute to its liveability and identity.</i>
Land Use Table: RU5 Village	Insert an additional objective: <i>To ensure development is compatible with the identified existing or future desired character of the area.</i>
Land Use Table: R1 General Residential	Insert an additional objective: <i>To ensure development is compatible with the identified future desired character of the area.</i>
Land Use Table: R2 Low Density Residential and R5 Large Lot Residential	Insert an additional objective: <i>To provide for development that is compatible with the identified existing or future desired character and amenity of the surrounding area.</i>
Land Use Table: R3 Medium Density Residential and MU1 Mixed Use	Insert an additional objective: <i>To promote a high standard of urban design and built form that enhances the identified existing or future desired character of the area and achieves a high level of amenity.</i>

CL24.86

The NSW Government have strongly indicated that a local clause or map overlay/s relating to character will not be supported and therefore is not recommended at this stage. Refer to advocacy opportunities below.

Proposed Future Character Work

The proposed planning proposal will provide an immediate response that will partially assist in addressing character concerns for the Shoalhaven. Despite this, there are a range of other ways Council could further address character into the future, as follows:

- Integration of the Roberts Day “interim” character statements into the DCP , with further investigation and community consultation to refine. Council has already resolved to undertake this work as part of Stage 2 of the New Land Use Planning Scheme (MIN23.451).
- Consistent with the recommendations of the [Shoalhaven Heritage Study 1995-1998](#), undertake further heritage investigations (e.g., heritage conservation area potential) for the Kangaroo Valley urban area, Milton urban area and the coastal areas of Currarong, Bandalong, North Bandalong, Depot Beach and North Durras. This could be progressed as part of Stage 2 of the New Land Use Planning Scheme. If favourable, this would require an amendment to the LEP.

- In 2018, the NSW Government presented a proposed approach for respecting and enhancing local character that would involve amendments to the Standard Instrument LEP, providing an opportunity for councils to identify areas of significance and establish optional provisions and map overlays. The NSW Government's proposed Design and Place SEPP also presented opportunities for appropriate responses to context and local character. Both these reform opportunities have been discontinued by the NSW Government; however, there is scope to undertake longer-term advocacy in this area by continuing representations to the NSW Government for state driven character consideration.

Internal Consultation

High level consultation has occurred with relevant City Development staff on the scope of the proposed planning proposal.

External Consultation

Should the PP proceed further, the Gateway determination will require consultation with relevant State Agencies, including Heritage NSW.

Community Consultation

Should the PP proceed further, it will be publicly exhibited in accordance with the relevant legislative and any Gateway requirements. The Gateway determination will specify the minimum exhibition period and any government agencies who should be consulted. It is anticipated that the timeframe will be a minimum of 28 days.

All Community Consultative Bodies (CCB's) and relevant stakeholders will be advised of the exhibition arrangements.

Formal community consultation on the proposed future heritage and character statement work would be as per legislative requirements. It would also be beneficial to undertake early engagement activities with Shoalhaven's town and village communities to inform the preparation of these projects, especially the character statement work.

Policy Implications

The progression of a planning proposal to include additional aims and land use objectives in the LEP relating to character will provide a mechanism for consideration of character in the development assessment process.

The proposed future heritage and character statement work would be addressed as part of Stage 2 of the New Land Use Planning Scheme. The exact nature of this work will be reported to the SPWP in due course, when that stage commences.

Advocacy opportunities relating to character reform at the State level may result in future opportunities to address character in the LEP.

Financial Implications

There are no immediate financial implications for Council relating to the proposed amendment to the LEP or the character advocacy work. This will be resourced from the existing Strategic Planning budget.

Budget needs for the proposed future heritage and character statement work will need to be considered as part of Stage 2 of the New Land Use Planning Scheme.

CL24.87 Sister City Relationship - Way Forward with the City of Fuzhou, China

HPERM Ref: D24/16385

Department: Tourism & Economic Development
Approver: Coralie McCarthy, Acting Director - City Futures

Attachments: 1. Letter of Intent - Fuzhou [↓](#)

Reason for Report

The purpose of this report is to inform Council of the Sister City Relationship between Shoalhaven City, Australia and Fuzhou City, China and to determine the way forward with their request to restore the relationship.

Recommendation

That Council

1. Maintain the status quo regarding the Sister City Relationship with Fuzhou, China, where the relationship is considered to be dormant in nature.
2. Revisit the status of all Council's Sister City Relationships at the completion of Council's Financial Sustainability Project.
3. Write a letter to Fuzhou Foreign Affairs Office of China thanking them for their correspondence and advising them of Council's current position on the relationship.

Options

1. That Council adopt the recommendation as written.

Implications: This will allow Council to maintain the current arrangement of its Sister City Relationships and Friendship Agreements. This is in line with current budget arrangements. Relationships can be revisited upon finalisation of budgets in upcoming financial years.

2. That Council restore the Sister City Relationship with Fuzhou, China and commence activities that reflect the agreement.

Implications: If Council were to fully restore the relationship with Fuzhou, consideration would need to be given to restoring all other recognised relationships. Activities under these agreements are not currently funded by Council budget. It is estimated that a budget of \$50,000 would be required to effectively manage its Sister City Relationships.

3. That Council adopt an alternate recommendation.

Implications: Pending nature of the recommendation.

Background

A Sister City Relationship is a form of legal or social agreement between two political and geographically distinct localities for the purpose of promoting cultural and commercial bonds. Sister City activities have independently commenced on many different continents, all with a similar goal. These goals include:

- Developing enduring networks of communication between the cities of the world
- Cutting across boundaries such as distance, culture and politics
- Reducing the likelihood of polarization and conflict among nations

In the year 2000, Council delegates received a visit from Delegates of the Fujian Province of China. The Fujian Province is located in Southern China adjacent to Taiwan, with Fuzhou being their capital. The Delegates brought with them a letter from the Provincial Government requesting that Council give consideration to Shoalhaven entering into a Sister City Relationship with the provincial capital Fuzhou.

As a result, a Mayoral Minute was reported to Council on 22 August 2000, where the consensus was that it was more appropriate for Council to enter into a Friendship Agreement with the city of Fuzhou. As a result, it was resolved:

- a) Shoalhaven City Council enter into negotiations with the Government of Fujian Province in China with a view to forming educational, cultural and economic ties by way of a Friendship Agreement.*
- b) The Mayor and other Councillors be authorised to officially represent Shoalhaven City Council subject to individuals meeting their own travel costs.*
- c) Any visit to the Fujian Province in China be declared business outside the area.*

On 28 March 2001, Delegates from the Fuzhou City visited the Shoalhaven, and a letter of intent was signed. A copy of the letter can be found in Attachment 1.

Between 2001 and 2018, Shoalhaven City and Fuzhou City remained in contact. In line with the Friendship Agreement, several activities occurred, including:

- Fuzhou delegates visiting the Shoalhaven, and Shoalhaven Delegates visiting Fuzhou to attend expositions, events, business tours, and cultural matters.
- Art exhibitions in Fuzhou and the Shoalhaven representing the cultural exchange.
- Letters of support for relevant cultural projects including the Shaolin Temple proposal.
- Regular correspondence between delegates.

Due to a lack of contact between Shoalhaven City and Fuzhou City over recent years (from approximately 2018), these relationships have become dormant. Council has not received any recent correspondence from Fuzhou, and Council has not pursued any activity with Fuzhou during recent times.

As a result, the relationship with Fuzhou City is not currently active or operating as originally intended. Council staff consider the relationship to be dormant in nature.

Other Registered Relationships

Sister Cities Australia (<https://www.sistercitiesaustralia.org.au/>) have registered Shoalhaven for their relationship with Fuzhou. A number of other relationships are also listed as a result of other agreements:

- Shoalhaven - Fuzhou China 2003
- Shoalhaven - Jiamusi, Heilongjiang Province China 1987
- Shoalhaven - Paeroa New Zealand
- Shoalhaven - Zuan City, Beijing China 2010

In 2023, Council staff conducted a review of internal files to determine if any other relationships exist, where they found files identifying the following additional Sister City Relationships or Friendship Agreements:

- Shoalhaven and Xuan Wu District, China 2008

- Shoalhaven and Nanchang, China 2015
- Shoalhaven and Fuyang, China 2015

Recent Request

In December 2023, a staff member from the Fuzhou Foreign Affairs Office of China made contact with Council to enquire about the Friendship Agreement with Shoalhaven City Council, noting that contact had not been maintained since 2018.

The request detailed the open nature of Fuzhou City and their willingness to resume the relationship with the Shoalhaven and seek opportunities for possible exchanges and cooperation. Their suggestions for reinvigorating the relationship included:

- Delegation of the Fuzhou People's Congress to visit Shoalhaven in March/April 2024 to meet Shoalhaven Delegates.
- Extending an invitation to Shoalhaven Delegates to visit Fuzhou and discover their City.
- Invitation for Shoalhaven Delegates to attend upcoming expositions (Digital, Trade and Economy, Fishery, Maritime, Tourism) and potential exhibit our local products.
- Arranging educational exchange programs, including home stays and cultural events.
- Arranging sports and tourism events.

Next Steps

Following the outcome of this report, contact will be made with staff at the Fuzhou Foreign Affairs Office of China and advise them of Council's resolution. Actions will be taken that reflect Council's decision on the current relationship with Fuzhou.

Financial Implications

Council does not have any identified budget allocated to maintaining its Sister City Relationships. Past visits to Sister Cities by Shoalhaven Delegates required travel costs to be met by individuals, however costs were incurred to provide hospitality to Delegates visiting Shoalhaven due to the arrangement of events, and exhibition attendance.

To effectively maintain all of Council's Sister City Relationships, significant budget would be required and is estimated at:

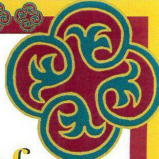
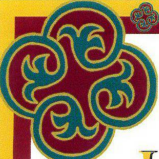
- Approximately \$10,000 for Shoalhaven Delegates to prepare for and attend international events or exhibitions.
- Approximately \$20,000 for the Shoalhaven to host events and exhibitions.
- Approximately \$20,000 to provide hospitality to Delegates visiting the Shoalhaven.

The total estimated budget requires min. of \$50,000 plus staff time. This is not currently identified as an action in the DPOP.

Risk Implications

It has been identified that the Shoalhaven has several other relationships with international cities, all of which have recently been considered dormant in nature. If Council were to fully restore the relationship with Fuzhou, consideration would need to be given to restoring all their relationships to remain consistent on this matter.

CL24.87




**Letter of Intent for the Establishment of
Sister City Relations Between the
City of Shoalhaven, New South Wales, Australia
and the
City of Fuzhou, Fujian Province,
the People's Republic of China**

At the invitation of the City of Shoalhaven, Australia, a delegation from Fuzhou Municipality, Fujian Province, the People's Republic of China visited the City of Shoalhaven from 27th March, 2001 to 29th March, 2001. During the visit, representatives of the two Cities held talks on the establishment of Sister City relations between the City of Fuzhou, Fujian Province and the City of Shoalhaven, New South Wales and reached the following agreement:


In accordance with the principles stated in the Joint Communiqué on the Establishment of Diplomatic Relations between the People's Republic of China and Australia, and with a view to enhancing friendly relations and co-operation and deepening mutual understanding and friendship between the peoples of Fuzhou, Fujian Province and Shoalhaven, New South Wales, the City of Fuzhou, Fujian Province and the City of Shoalhaven, New South Wales have agreed to establish friendly and co-operative relations so as to jointly promote friendly exchanges between the peoples of Fuzhou City and Shoalhaven City and to develop co-operation in the fields of economy, trade, science and technology, culture, education and public health. The two sides will make joint efforts to establish Sister City relations between the City of Fuzhou and the City of Shoalhaven in the future.

Done in duplicate in Shoalhaven City on the 28th March, 2001 in the Chinese and English languages both texts being equally authentic.



**The Hon. Weng Fulin
Mayor of Fuzhou City
Fujian Province
The People's Republic of China**

**Councillor Gregory Watson,
Mayor of The City of Shoalhaven
New South Wales
Australia**



关于中华人民共和国福建省福州市和澳大利亚新南威尔士州肖尔海文市建立姐妹市关系的意向书

在澳大利亚肖尔海文市的邀请下，中华人民共和国福建省福州市代表团在2001年三月二十七日到三月二十九日之间访问了肖尔海文市。访问期间，两个城市的代表就在福建省福州市和新南威尔士州肖尔海文市之间建立姐妹市关系的事项举行了会谈并达成了以下协议：

遵照中华人民共和国和澳大利亚建立外交关系的联合声明的原则，为增进友好关系和协作，加深福建省福州市和新南威尔士州肖尔海文市人民之间的相互了解和友谊，福建省福州市和新南威尔士州肖尔海文市同意建立友好互助关系，共同促进福建省福州市和新南威尔士州肖尔海文市人民间的友好交流，加强在经济，商业，科学技术，文化，教育和公共卫生领域的协作。双方将共同努力，在未来建立福州市和肖尔海文市之间的姐妹市关系。

此件于2001年三月二十八日在肖尔海文市制成具有同等效力的中英文两份。

中华人民共和国
福建省
福州市长

翁福琳

澳大利亚
新南威尔士州
肖尔海文市长

乔治 华生 议员

CL24.88 Proposed Submission to the NSW Government's Discussion Paper on Short-Term and Long-Term Rental Accommodation

HPERM Ref: D24/107718

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

Attachments: 1. Short-Term Rental Accommodation - Council Resolutions [↓](#)
2. Draft Submission to NSW Government's Short-Term Rental Discussion Paper [↓](#)

Reason for Report

This report presents a proposed submission on the NSW Government's Discussion Paper about short-term and long-term rental accommodation.

Recommendation

That Council endorse the proposed submission on the NSW Government's Discussion Paper about short-term and long-term rental accommodation and submit it to the NSW Department of Planning, Housing, and Infrastructure.

Options

1. As recommended.

Implications: This option allows Council to provide feedback on the Discussion Paper.

2. Amend the proposed submission to include or exclude matters.

Implications: This option allows Council to provide feedback on the Discussion Paper.

3. Not make a submission.

Implications: Council misses the opportunity to provide feedback on the Discussion Paper.

Background

The NSW Government manages a state-wide regulatory framework of policy and laws for short-term rental accommodation. This includes a land use planning policy, fire safety standards, code of conduct, and register. The planning policy provides definitions for short-term rental accommodation and an exempt development pathway for short-term rental accommodation (Council's development consent is not required). The planning policy allows homeowners to use dwellings for holiday rentals. The laws impose obligations on all industry participants, including booking platforms, hosts, letting agents, and guests.

Since the introduction of the regulatory framework in November 2021, housing supply and affordability has deteriorated. The NSW Government is investigating policy levers to help unlock housing supply and alleviate housing affordability pressures. The Department of Planning, Housing, and Infrastructure and NSW Treasury are reviewing the planning and regulatory framework to strike a balance between short-term and long-term rental

accommodation. The review is also identifying ways to incentivise the transition of existing short-term rentals, vacant properties, and holiday homes to long-term rentals.

The NSW Government is seeking feedback on the current regulatory framework and related options to encourage the supply of long-term rental accommodation. It has asked for comments on a Discussion Paper which examines:

- How well the current framework is balancing benefits to the tourism economy with the potential costs for housing availability and affordability.
- Potential policy options, including revenue measures, to encourage property investors to make homes available for long-term rental accommodation.

The Paper outlines the scope of the review, provides examples of measures and initiatives in place in other locations. However, it is not informed by a relevant evidence base, nor does it confirm the NSW Government's proposed or preferred approach. Although the opportunity to provide feedback on the Discussion Paper closed on 14 March 2024, Council has been granted an extension to allow it to consider the draft submission at an Ordinary Meeting.

Short-term rental accommodation in Shoalhaven

There are about 4,000 short-term rental properties currently operating in Shoalhaven. This represents about 7% of Shoalhaven's existing housing stock. There were a further 8,700 unoccupied dwellings on census night in 2021, indicating their potential use as holiday homes and weekenders.

Mirroring housing pressures felt across New South Wales with rents rising faster than incomes, Shoalhaven is experiencing significant stress within the rental market. The median rent and sale price of dwellings has outpaced income and combined with low vacancy rates, is increasing housing stress. While the type of dwellings affordable to very low-, low-, and moderate-income households do not generally cross over with those provided as short-term rentals, the use of properties for such rentals can worsen affordability due to high demand and limited supply.

The tourism or visitor economy is an integral part of Shoalhaven's economy, contributing both revenue and jobs. Tourism spending data shows overnight visitors make a significant contribution to the economy, suggesting overnight accommodation is essential for supporting Shoalhaven's visitor economy.

Throughout 2022 and 2023 Council made a series of resolutions about short-term rental accommodation (Attachment 1). These resolutions called for work on potential measures and actions to manage short-term rentals with regards to the housing situation and the amenity impacts on existing communities. Measures included land use planning options, special rates, and a campaign for the transition of homes to long-term rentals. The resolutions also guided advocacy activity with the Commonwealth and NSW Governments, calling for the review of the current framework. Since the introduction of the framework, Council has had limited ability to implement its own measures and actions to manage short-term rentals.

The proposed submission

The proposed submission welcomes the review, highlights the current housing situation in Shoalhaven, and outlines the sensitive interaction between housing supply and affordability and the tourism economy. It recommends the NSW Government:

- Must consider all available measures and options including land use planning mechanisms, limits or caps on days, guests, and length of stays, area restrictions, levies, and rates.
- Prepare an appropriate evidence base to inform further consideration and selection of measures.
- Support councils to test, choose, and implement measures, including identification of a discrete range of options, a clear framework of rules to work within, and resourcing.

- Implement revenue raising measures and introduce mechanisms for councils to use the funds to increase the supply of social housing and affordable rental housing and deliver and maintain tourism infrastructure.
- Investigate other incentives, including tax relief, for providing shared accommodation in underoccupied properties.
- Introduce regulations and procedures to manage the risks associated with bushfires and flooding.
- Improve data collection and data-sharing between the booking platforms, the register, and councils.
- Increase regulatory and compliance activity.
- Advocate for national tax reform, with a focus on negative gearing and capital gains tax concessions.
- Continues to consult with Council on selected measures and implementation opportunities.

Internal Consultations

The draft submission is a collaboration between City Futures and City Development.

Community Consultations

All Community Consultative Bodies were advised of the opportunity to provide feedback to the NSW Government.

Policy Implications

The NSW Government, following its consideration of the Discussion Paper and stakeholder feedback, may confirm recommendations and actions to implement any amendment of current planning policy. The implications of any amendments will be reviewed and reported to Council.

Financial Implications

Continued advocacy activity on short-term rental accommodation and the implementation of any future adjustments to planning policy are a confirmed component of the work preparing a new land use planning scheme for Shoalhaven. An allowance has been made for this work in the Strategic Planning Department's budget.

Attachment – Council's Resolutions About Short-Term Rental Accommodation

September 2022

That Council:

1. Receives a report from staff in a timely manner on potential proactive actions that can be taken to influence the availability of existing housing and increase the amount of affordable housing available in Shoalhaven, that specifically considers the following opportunities/potential Council actions:

- a. Special rate variation (SRV) to create an affordable housing fund.

Note: including how relevant Short-Term Rental Accommodation (STRA) properties could be identified; options to create a specific rating category for STRA properties and the associated administrative process, including any legislative impediments, for the movement of relevant properties; the processes required to establish and administer the SRV; and the creation of a restricted reserve account where all funds raised through the SRV are to be used for the purpose of generating additional perpetual affordable housing in Shoalhaven.

- b. Land use planning options to better manage the amount of STRA available within Shoalhaven and its use/operation.

Note: including the potential for mapping and/or other provisions in Councils Local Environmental Plan and other planning documents to prohibit, cap/limit or allow the continuation of STRA in Shoalhaven.

- c. Run a campaign to reach non-resident ratepayers and STRA owners to urge them to consider renting their dwellings longer term to contribute to the local rental accommodation market and assist in the provision of additional much needed affordable housing opportunities.

Note: including all possible practical and cost-effective ways of reaching relevant owners, such as direct mail outs, and the potential associated costs.

2. Considers the potential impact of any actions that are ultimately pursued in this regard on the visitor economy of the City (including research if necessary) and achieve a supportable balanced outcome, if possible, for the future.

March 2023 (1)

That Council:

1. Progress the affordable housing investigation work initiated by the Council resolution of 14 November 2022 (MIN22.849), using funding received from the Regional Housing Strategic Planning Fund and formally thank the NSW Government for the funding (\$200,000).
2. Strongly request, in association with other interested Councils and Local Government NSW, that the NSW Government bring forward the foreshadowed

Attachment – Council's Resolutions About Short-Term Rental Accommodation

two-year review of the Short-Term Rental Accommodation (STRA) planning provisions contained in the State Environmental Planning Policy (Housing) 2021 and that Councils be given greater ability to set the relevant provisions (number of days and areas) in their Local Government Areas.

3. Continue to strongly advocate to both the Commonwealth and NSW Government for holistic legislative changes and interventions to assist with the provision of additional social and affordable housing and the management of STRA, including, but not limited to the following:
 - a. Ability to better identify, generally regulate and separately rate STRA.
 - b. Significant increased funding for and delivery of additional social and affordable housing.
 - c. Adjustments to relevant fiscal and taxation settings associated with housing, particularly related to STRA.
 - d. Reforms to provide better protection for renters.
 - e. Increased funding for homelessness and transitional housing support

March 2023 (2)

That Council:

1. Develops a specific policy to be drafted by staff, for the purpose of ensuring the amenity impacts of Short-Term Rental Accommodation (STRA) are better managed. The development of the policy should include an investigation of:
 - a. Managing the negative aspects of STRA on neighbours by, for example, making it easier for Shoalhaven residents and visitors to report negative aspects of STRA, including building a Council system (or similar) where residents/visitors can lodge complaints and that links to the relevant complaint pages of different organisations.
 - b. Managing impacts on bush fire safety.
 - c. Making it possible to collect and analyse complaint data to provide a clearer picture of the type and severity of issues.
 - d. A Council approach to STRA that are associated with regular complaints, with regard to compliance action and/or reporting to appropriate organisations.
 - e. How Council can check premises against NSW Fair Trading register for compliance and check against Code of Conduct and STRA Fire Safety Standard.
 - f. How to ensure that fire safety rules are complied with and checking against STRA Fire Safety Standards.

Attachment – Council's Resolutions About Short-Term Rental Accommodation

- g. Any other powers of Council under existing policy and legislation that can be used in this regard.
 - h. Other approaches in Australia and overseas that may be relevant.
2. Seek a further timely report from staff in relation to the development of a policy and in doing so specifically address the matters raised by the Deputee.

5 June 2023

That Council;

1. Note the recommendations arising from the Independent Planning Commission (IPC) final advice report titled "Byron Shire Short-Term Rental Accommodation Planning Proposal PP-2021-3351".
2. Receive a report from staff that addresses the following matters, arising from recommendations in the report:
 - a. Advice specific to the Shoalhaven LEP on any explicit measures that may be implemented to recognise Short-Term Rental Accommodation (STRA) as a use/activity, and limitations that may legally be imposed; and,
 - b. Advice specific to Council's ability to impose conditions of consent on new developments that limit or prevent residential properties use as STRA's for the life of a development.
3. Investigate taking up the opportunity to report a property to NSW Fair trading.

Shoalhaven City Council’s submission on the NSW Government’s Discussion Paper on Short- and Long-Term Rental Accommodation

Executive Summary

Council welcomes the NSW Government’s review of the regulatory framework for short-term rental accommodation. It also welcomes the opportunity to provide feedback on related options to encourage the supply of long-term rental accommodation. Providing homes to meet all need and lifestyles and promoting a responsible visitor economy are confirmed Planning Priorities in Council’s Local Strategic Planning Statement. Council has committed to provide a range of homes to provide housing choice and work on improving housing affordability.

On the night of the 2021 Census, 12,730 dwellings were recorded as unoccupied in Shoalhaven. This represents nearly 22% of all the homes in Shoalhaven. There are currently about 4,000 short-term rentals operating in Shoalhaven or 7% of all homes. This suggests multiple reasons for unoccupied dwellings including short-term rentals, holiday homes, and vacant properties.

Mirroring housing pressures felt across New South Wales with rents rising faster than incomes, Shoalhaven is experiencing significant stress within the rental market. The median rent and sale price of dwellings has outpaced income and combined with low vacancy rates, is increasing housing stress. While the type of dwellings affordable to very low-, low-, and moderate-income households do not generally cross over with those provided as short-term rentals, the use of properties for such rentals can worsen affordability due to high demand and limited supply.

In contrast, the tourism or visitor economy is an integral part of Shoalhaven’s economy, contributing both revenue and jobs. Tourism spending data shows overnight visitors make a significant contribution to the economy, suggesting overnight accommodation is essential for supporting Shoalhaven’s visitor economy.

The lack of evidence and analysis supporting the options examined in the Discussion Paper is disappointing, as is the lack of confirmation on the NSW Government’s preferred direction to better balance short-term rentals and the current housing situation. Council recommends NSW Planning and NSW Treasury continue to build the evidence base to inform full consideration of all available options, before undertaking further consultation on its preferred option(s) and confirming the support it will provide councils to implement a revised framework.

Several organisations are undertaking relevant research to identify suitable intervention options to manage short-term rentals and other vacant properties. Council has engaged an economic consultant to model the interaction of housing availability and the visitor economy to test various options. The Australian Coastal Council’s Association has engaged the University of Sydney to research impacts and policy responses. The NSW Government should also consider the findings of this work.

This submission describes the Shoalhaven's housing situation, visitor economy, and provides feedback on a range of regulatory and revenue measures, expanding on those described in the Discussion Paper. It also makes recommendations for related activities, such as advocacy with the Federal Government for supporting taxation reform.

Shoalhaven's Housing Situation

The number of people living in Shoalhaven is forecast to grow from 108,547 in 2021 to 142,936 in 2051. This is an increase of 34,389 people or 32%. Shoalhaven's communities are aging, and the average household or family size is predicted to get smaller. There is continued demand for short-term tourist accommodation and holiday homes. These matters all contribute to the demand for the existing 58,694 dwellings and create a need for at least 14,200 extra dwellings by 2051.

This identified housing need is based on detailed demographic information and modelled forecasts provided by Council's demographers - Informed Decisions (or .id). The forecasts consider census results and a range of drivers behind population change. Council provides the forecast results and a range of demographic data online ([link](#)).

The NSW Department of Planning, Housing, and Infrastructure also prepare population projections ([link](#)). These projections indicate an additional 36,900 people will choose to live in Shoalhaven by 2041, increasing the current population to 145,527. This is greater than the growth identified by Council, with a forecast increase of an extra 2,500 people in a shorter timeframe (by 2041 instead of 2051). This is accompanied by an estimate of implied dwelling demand for 28,300 new dwellings (or about 50% more than Council's forecast demand).

On the night of the 2021 Census, 12,730 dwellings were recorded as unoccupied in Shoalhaven. This represents nearly 22% of all the homes in Shoalhaven. There are currently about 4,000 short-term rentals operating in Shoalhaven or 7% of all homes. This suggests multiple reasons for unoccupied dwellings including short-term rentals, holiday homes, and vacant properties.

The demand for housing is affecting availability and affordability. Nearly 2,150 households, or 5% of all households, in Shoalhaven have an unmet need for affordable housing¹. In the 12 months to June 2023, only 47 sales (2.6% of all sales) and 209 rentals (9.5% of all rentals) were affordable to low-income households.

A significant number of households (4,138 or 9%) are experiencing housing stress with 2,888 households spending more than 30% of household income on rent and 1,250 households spending more than 30% of household income on mortgage repayments.

¹ This includes homeless, marginally housed and very low-, low-, and moderate-income households in rental stress, but excludes households in social housing as there are alternative avenues to meet their housing need.

While the type of dwellings affordable to very low-, low-, and moderate-income households do not generally cross over with those provided as short-term rentals, the use of properties for short-term rentals can inflate prices due to high demand and limited supply.

Shoalhaven's Visitor Economy

Tourism and the broader visitor economy are an integral part of Shoalhaven's economy, accounting for \$742.5 million in total tourism sales and \$358.1 million in total value in the 2021-2022 financial year. The industry employed 2,501 residents directly and 1,722 residents indirectly, equivalent to about 9% of Shoalhaven's total workforce.

Nearly 81% of domestic visitor days in the 2021-2022 financial year were from overnight stays, with the remainder generated by daytrips. Tourism Research Australia estimates. The average stay of overnight visitors is 3.2 nights with an average spend of \$205 per night, or \$656 per trip, making up 76% of total tourism spend in Shoalhaven. As such, encouraging overnight visitors and ensuring they stay for extended periods of time is important to Shoalhaven's visitor economy.

Council's Destination Management Plan ([link](#)) confirms visitor accommodation in Shoalhaven is provided by short-term rentals which appear to meet demand during all but peak times. This Plan also indicates the many challenges for traditional visitor accommodation, including site and investor availability, the community appetite for new development, and regulation. It notes traditional visitor accommodation is tired and run down with operators struggling to compete in the market and/or meet visitor's needs. This implies short-term rentals remain critical to Shoalhaven's accommodation offering.

Vacation rental data indicates:

- There are about 4,000 active short-term rental listings within Shoalhaven.
- An average daily rate of \$480.
- An average occupancy rate of 45%.
- The busiest period is January (71% occupancy rate) and the quietest period is in May (30% occupancy rate).
- A focus on coastal areas with high natural amenity.

The return on investing in a short-term rental in Shoalhaven has been modelled to be 2.54 times more than the return on a long-term rental. This strong performance indicates a good incentive to prioritise the use of properties for short-term rentals.

Short-term rentals have also been shown to impact the amenity of existing communities.

Shoalhaven City Council's Current Work & Considerations

In response to the census results, recorded vacancy rate, and contemporary data about the housing situation in Shoalhaven, Council passed a series of resolutions about short-term rental accommodation. These resolutions are provided in Attachment 1.

These resolutions called for work on potential measures and actions to manage short-term rentals with regards to the housing situation and the amenity impacts on existing communities. Proposed measures include land use planning options, special rates, and a campaign encouraging owners to transition their homes to long-term rentals. The resolutions also guided advocacy activity with the Federal and State Governments, calling for the review of the current framework.

Since the introduction of the framework in 2021, Council has had limited ability to implement its own measures and actions to manage short-term rentals.

Council has commissioned research to better understand the interaction of the housing situation and the visitor economy and the potential policy options to balance the two. It models the effect of various options including day caps, area restrictions, and levies and rates. This work is due to be completed later this year and will be shared with the NSW Government.

Options to Improve the Current Framework

The following section of this submission provides feedback on opportunities to improve the current framework, including recommendations on regulatory and revenue raising measures, balancing housing supply and the visitor economy, data sharing, compliance and enforcement activities, managing environmental risks, and advocacy and education opportunities.

Balancing Housing Supply & Affordability with the Visitor Economy

Council supports the NSW Government's examination of a range of measures and encourages it to consider a broad as possible range of measures. This includes the opportunities presented by the land use planning system with new land use definitions, planning controls providing caps or area restrictions, and assessment requirements for significant or intensive uses. However, any measures should maintain the ability for households to provide their primary residence for short-term rental while away or on vacation to maintain supplementary income opportunities.

Council strongly supports measures which allow it to consider and apply restrictions on areas which provide lower cost housing and areas of new housing, such as greenfield release areas and significant in-fill precincts. This would maintain areas of lower cost housing, reflect Council's intent to deliver a supply of new homes, including for long-term rentals, and allow short-term rentals to continue to operate where they make a contribution to the visitor economy. It also ensures significant investment of resources and land use planning efforts to increase the supply of new homes are best used to meet the communities' housing needs.

To ensure full and thorough consideration and selection of measures, the NSW Government must build an evidence base. The housing situation and the visitor economy are interrelated, and each one is sensitive to change. For example, Council's indicative economic modelling suggests quite significant caps are needed to incentivise the shift from short- to long-term rentals and that any homes released are unlikely to be affordable for very-low, low-, and moderate-income households.

The impacts of measures need to be fully understood. The evidence base should include, as a minimum, economic modelling and surveys of homeowners, operators and booking platforms for short-term rentals. The considerations around Byron Shire Council's proposal to manage short-term rentals generated a significant amount of evidence and recommendations. The current review provides the opportunity to consider both in more detail.

The varying conditions and effects of short-term rentals and the housing situation across NSW indicates the effectiveness of a standard or state-wide approach may be limited. Any settled approach must provide councils the flexibility to select from a specific range of measures to tailor controls to match local conditions and then monitor and adjust them over time.

To do this, Councils need support to examine, test, and implement measures. Work to examine and select measures could include detailed analysis and economic modelling, surveys of area to identify short-term and long-term rental use, and the adjustment of local planning documents. Assistance would be required to implement measures because of increased development assessment and compliance activities. For example, more onerous development approval requirements would increase the number of applications made to councils and potentially divert already stretched resources from processing consents which increase dwelling supply.

Support should take the form of resources and, for the selection of measures, a framework or methodology for testing measures, and associated process(es) to guide considerations. Implementation of measures, provision of resources, and other support should be prioritised to assist the areas with a larger number of short-term rentals and/or where such rentals make a significant contribution to the visitor economy.

The Discussion Paper notes the primary solution to the housing situation is an increase in housing supply. Council-led activities to increase the supply of diverse dwellings would benefit from increased support and resourcing. These activities include strategic land use planning exercises to identify growth opportunities, the delivery of planning documents for planned growth areas, and the funding of infrastructure to support future communities.

Revenue Measures

Council supports the use of levies and/or rates noting the dual-opportunities to capture value from the short-term rental industry and encourage the transition of homes from short- to long-term rentals. There is stronger support for a rate which would apply to short-term rentals, holiday homes, and vacant properties. This would help capture those properties which switch to informal arrangements following the introduction of any new measures.

Collaboration between NSW Planning, NSW Treasury and the Office of Local Government is essential. Continued consideration of providing council's the ability to set and levy rates requires input from the Office of Local Government.

Any levy or rate must be supported with a system which ensures the revenue is spent in the area it is collected and used to increase the supply of social housing, affordable rental housing, and provide and maintain infrastructure to support the visitor economy.

Increased registration fees, both initial and annual, for short-term rentals provide further revenue raising measures. It's unlikely these fees could be set high enough to encourage the transition from short- to long-term rentals without impacting smaller operators, but any funds generated through increased registration fees should be allocated to improving resourcing of compliance activities.

Data Sharing

Data is essential to monitoring the effectiveness and impact of any measures and any necessary reviews of selected measures to respond to changing conditions. Short-term rentals are a relatively new industry and there is limited evidence on the effectiveness of various measures to manage them. Data should not be limited to the number of active rentals in each area. It should be expanded to include information on occupancy rates, revenue, complaints etc.

Data collection and sharing arrangements between booking platforms, the NSW Government, and councils need to be improved. There is a significant opportunity to provide a consistent, single source of data about short-term rental registrations.

Monitoring of housing availability and affordability is also essential to understand the effect of the measures. Opportunities for regional monitoring programs and online data “dashboards” must be considered.

Compliance and Enforcement Activities

Compliance and enforcement considerations broadly fall into two categories; land use planning (e.g. is a development lawful), and the management of impacts on neighbours (e.g. anti-social behaviour).

The role and responsibility of NSW Fair Trading, as the organisation responsible for ensuring compliance with the current framework, needs clarification and greater resourcing. Community education is also required to remove confusion about the management of short-term rentals. Expectations for councils to support compliance and enforcement activities to implement the current, or a future framework, must be accompanied by resources and support, noting the opportunities to generate revenue from increased registration fees for short-term rentals.

To help resolve the use of unauthorised developments as short-term rentals, increased vetting of properties by NSW Fair Trading is required. Increased information requirements for registration, including a copy of any development consent(s) and approved plans are recommended.

Party bookings of short-term rentals sometimes involve excessive alcohol, anti-social behaviour, and extreme noise. The impacts of these bookings are often exacerbated in areas with limited police presence. The shift from holiday rental agents and locally based individuals to anonymous online operators was seen as an issue due to making complaints less effective. The Code of Conduct attempts to manage these issues. The effectiveness of current measures should continue to be monitored and if not considered a sufficient deterrent or control measure, increased penalties should be considered.

Managing Environmental Risks

A significant number of short-term rentals are in or close to areas with high natural amenity, close to beaches, lakes and rivers, national parks, and bushland areas. These areas often experience increased risk from natural hazards including bushfire and flooding. In regional areas, Shoalhaven included, many coastal towns and villages are serviced by a single road. Previous flooding and bushfire events demonstrate severe restrictions on and loss of access and evacuation opportunities during an event. This is also accompanied by a significant loading on the emergency services.

Visitors are unlikely to be aware of the risks and measures they need to need as long-term residents. They don't benefit from local connections, community networks, and education campaigns delivered by councils and emergency services. The current framework should be bolstered to require information to be provided at time of booking and within properties that explains risks and any management and evacuation procedures. Opportunities for a formal process to cancel bookings when relevant government warnings are issued, or inclement weather is expected should also be considered.

Advocacy and Education

The Federal and State Governments are pursuing a wholistic response to the current housing situation through the National Housing Accord. The Accord offers collaboration and advocacy opportunities which should be used to discuss the opportunities provided by tax reform, with a focus on reviewing negative gearing and capital gains tax concessions.

Opportunities include incentives for those households willing to provide rooms in under occupied properties for long-term rental accommodation or continued consideration of incentives, monetary or other, to encourage owners of short-term rentals and vacant properties to transition homes to long-term rentals.

The Accord also has the opportunity to run a comprehensive and far-reaching education campaign about the current housing situation and the assistance which could be provided if owners provided homes for long-term rental accommodation.

Future Consultation and Finalising Measures

The selection and finalisation of any selected measures to manage short-term rentals and encourage the supply of long-term rentals must include further stakeholder consultation. Council welcomes further opportunities to inform the selection of measures.

Summary of Recommendations

1. The NSW Government examine the efficiency and effectiveness of all available regulatory and revenue measures before selecting initiatives to manage short-term rentals and encourage the supply of long-term rentals. The following measures are considered essential:
 - a. Restricting short term rentals in areas providing lower-cost housing, new greenfield release areas, and significant in-fill development precincts.

- b. The ability to levy a special rate on short-term rentals, holiday homes, and vacant properties and the use of revenue to increase the supply of social and affordable rental housing.
2. Collaboration with the NSW Office of Local Government must occur to fully consider the opportunities and challenges of a separate or additional rate for short-term rentals, holiday homes, and vacant properties and the associated framework to ensure revenue is spent in the area it is collected.
3. The NSW Government build an evidence base from a range of sources to inform consideration and selection of measures to manage short-term rentals and encourage the supply of long-term rentals.
4. The NSW Government support councils to examine, test, select, and implement measures with resources and a framework of processes and methodologies.
5. The NSW Government continue to support council-led activities to increase the supply of diverse dwellings, including strategic land use planning activities, preparing planning documents for urban release areas, and funding infrastructure for future communities.
6. The role and responsibility of NSW Fair Trading, as the organisation ensuring compliance with the current framework, needs clarification and greater resourcing.
7. More rigorous vetting and registration requirements are needed to manage the use of unauthorised development to provide short-term rental accommodation.
8. Any expectations for councils to supplement compliance and enforcement activities to implement the current, or a future framework, must be accompanied by resources.
9. The NSW Government increase initial and annual registration fees for short-term rentals and use the revenue generated to improve compliance and enforcement activities.
10. The NSW Government run an education campaign to confirm the responsibilities for managing complaints about guest behaviour at short-term rental properties.
11. Data collection and sharing arrangements must be improved to provide a consistent, single source of data about short-term rentals. Data is essential to monitoring the effectiveness of any measures and must include number of rentals occupancy rates, revenue, complaints etc.
12. The NSW Government create and publish online dashboards providing contemporary information on housing supply and affordability.
13. The NSW Government regulate provision of information about environmental risks and management and evacuation measures to visitors and investigate a formal process to cancel bookings linked to government warnings.
14. The collaboration opportunities provided by the Housing Accord examine opportunities to prioritise tax reform, tax incentives, an education campaign about the current housing situation and the benefits of transitioning homes from short- to long-term rentals.

Attachment – Council's Resolutions About Short-Term Rental Accommodation

September 2022

That Council:

1. Receives a report from staff in a timely manner on potential proactive actions that can be taken to influence the availability of existing housing and increase the amount of affordable housing available in Shoalhaven, that specifically considers the following opportunities/potential Council actions:

- a. Special rate variation (SRV) to create an affordable housing fund.

Note: including how relevant Short-Term Rental Accommodation (STRA) properties could be identified; options to create a specific rating category for STRA properties and the associated administrative process, including any legislative impediments, for the movement of relevant properties; the processes required to establish and administer the SRV; and the creation of a restricted reserve account where all funds raised through the SRV are to be used for the purpose of generating additional perpetual affordable housing in Shoalhaven.

- b. Land use planning options to better manage the amount of STRA available within Shoalhaven and its use/operation.

Note: including the potential for mapping and/or other provisions in Councils Local Environmental Plan and other planning documents to prohibit, cap/limit or allow the continuation of STRA in Shoalhaven.

- c. Run a campaign to reach non-resident ratepayers and STRA owners to urge them to consider renting their dwellings longer term to contribute to the local rental accommodation market and assist in the provision of additional much needed affordable housing opportunities.

Note: including all possible practical and cost-effective ways of reaching relevant owners, such as direct mail outs, and the potential associated costs.

2. Considers the potential impact of any actions that are ultimately pursued in this regard on the visitor economy of the City (including research if necessary) and achieve a supportable balanced outcome, if possible, for the future.

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That Council:

1. Progress the affordable housing investigation work initiated by the Council resolution of 14 November 2022 (MIN22.849), using funding received from the Regional Housing Strategic Planning Fund and formally thank the NSW Government for the funding (\$200,000).
2. Strongly request, in association with other interested Councils and Local Government NSW, that the NSW Government bring forward the foreshadowed

Attachment – Council's Resolutions About Short-Term Rental Accommodation

two-year review of the Short-Term Rental Accommodation (STRA) planning provisions contained in the State Environmental Planning Policy (Housing) 2021 and that Councils be given greater ability to set the relevant provisions (number of days and areas) in their Local Government Areas.

3. Continue to strongly advocate to both the Commonwealth and NSW Government for holistic legislative changes and interventions to assist with the provision of additional social and affordable housing and the management of STRA, including, but not limited to the following:
 - a. Ability to better identify, generally regulate and separately rate STRA.
 - b. Significant increased funding for and delivery of additional social and affordable housing.
 - c. Adjustments to relevant fiscal and taxation settings associated with housing, particularly related to STRA.
 - d. Reforms to provide better protection for renters.
 - e. Increased funding for homelessness and transitional housing support

March 2023 (2)

That Council:

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 - a. Managing the negative aspects of STRA on neighbours by, for example, making it easier for Shoalhaven residents and visitors to report negative aspects of STRA, including building a Council system (or similar) where residents/visitors can lodge complaints and that links to the relevant complaint pages of different organisations.
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 - c. Making it possible to collect and analyse complaint data to provide a clearer picture of the type and severity of issues.
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Attachment – Council's Resolutions About Short-Term Rental Accommodation

- g. Any other powers of Council under existing policy and legislation that can be used in this regard.
 - h. Other approaches in Australia and overseas that may be relevant.
2. Seek a further timely report from staff in relation to the development of a policy and in doing so specifically address the matters raised by the Deputee.

5 June 2023

That Council;

1. Note the recommendations arising from the Independent Planning Commission (IPC) final advice report titled "Byron Shire Short-Term Rental Accommodation Planning Proposal PP-2021-3351".
2. Receive a report from staff that addresses the following matters, arising from recommendations in the report:
 - a. Advice specific to the Shoalhaven LEP on any explicit measures that may be implemented to recognise Short-Term Rental Accommodation (STRA) as a use/activity, and limitations that may legally be imposed; and,
 - b. Advice specific to Council's ability to impose conditions of consent on new developments that limit or prevent residential properties use as STRA's for the life of a development.
3. Investigate taking up the opportunity to report a property to NSW Fair trading.

CL24.89 Council's Land Sales Strategy - Update

HPERM Ref: D24/113589

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

Attachments:

1. Immediate Land Sales [↓](#)
2. Proposed Road Closure - Depot Beach Road, Depot Beach [↓](#)
3. Proposed Road Closure - Banksia Road, Vincentia [↓](#)

Reason for Report

To provide an update to Council's Land Sales Strategy and gain a resolution for the sale of Council land.

Recommendation

That Council resolves to:

1. Sell the following operational classified land for not less than the market value as determined by an independent valuer through a competitive sales process as identified within Attachment 1 – Immediate Land Sales (D24/123258):
 - a. 42 Matthews St, Shoalhaven Heads (Lot 84 DP 823256)
 - b. 5 Kean Av, Sanctuary Point (Lot 23 DP 803826)
 - c. 98 Lackersteen St, Callala Bay (Lot 10 Sec 9A DP 9063)
 - d. 333 Illaroo Rd, Bangalee (Lot 13 DP 1261805)
 - e. Lot 1 George Evans Rd, Mundamia (Lot 1 DP 1226624) and rescind any former recommendations or resolutions over this property requiring any purchaser to develop the land as affordable housing.
2. Sell 10 Pleasant Way, Nowra (Lot 1 DP 1010062) for not less than the market value as determined by an independent valuer, and delegate authority to the CEO to determine sale either via direct negotiation or through a competitive sales process as appropriate, noting the property has been subject to a competitive EOI without success several times.
3. Sell the following operational classified land for not less than the market value as determined by an independent valuer through a competitive sales process:
 - a. 1 Mattes Way, Bomaderry (Lot 31 DP 793122)
 - b. 2 Mattes Way, Bomaderry (Lot 30 DP 793122)
 - c. 3 Mattes Way, Bomaderry (Lot 29 DP 793122)
 - d. Mattes Way, Bomaderry (Lot 28 DP 793122)
 - e. Mattes Way, Bomaderry (Lot 27 DP 793122), and
 - f. Delegate authority to the Chief Executive Officer (or her delegate) to dedicate or create a road over part lots 27 and 28 in DP 793122 so as to ensure adequate vehicular access.
4. Sell North Cr, Culburra Beach (Lot 1 DP 1287563) being operational classified land for not less than the market value as determined by an independent valuer through a competitive sales process
 - a. Delegate authority to the Chief Executive Officer (or her delegate) to create any easements or restrictions over the North Cr, Culburra Beach (Lot 1 DP 1287563)

land for any services.

5. Sell the land known as Green St Ulladulla (Lot 3 & 4 DP 851748) by direct negotiation to The Department of Education or associated entity, for a value determined by an independent valuer.
6. Close approximately 1,655sqm, subject to final survey, of unformed road reserve known as Depot Beach Rd, Depot Beach shown in red on Attachment 2 – Depot Beach Road Closure (D24/123285) by notice published in the Government Gazette, and
 - a. Sell the closed road at Depot Beach Rd, Depot Beach for not less than the market value as determined by an independent valuer through a competitive sales process.
7. Close approximately 2,162sqm, subject to final survey, of unformed road reserve known as Banksia Street, Vincentia, shown in red on Attachment 3 – Banksia Road Closure (D24/123291) by notice published in the Government Gazette;
 - a. Create a right of carriageway over the closed road maintaining access for the adjacent neighbours of the closed road at Banksia Street, Vincentia.
 - b. Sell the closed road at Banksia Street, Vincentia for not less than the market value as determined by an independent valuer through a competitive sales process.
8. Commence investigation to sell land identified within **Table 2** of this report with a further report brought to Council on the outcomes of this investigation.
9. Note the strategic value of land identified in **Table 3** of this report, and
 - a. Recognise these sites are not considered for sale at this time
 - b. Commence investigation into master planning or progressing strategic opportunities for these sites, in line with previous resolutions of Council, as time and budget allows
 - c. Continue to report back to council the status of these projects as matters progress
10. Commence investigation to rezone and / or reclassify the land identified within Table 4 and 5 with a further report brought to Council on the outcomes of this investigation.
11. Authorise the funding of 10% of any land sales to be retained within the Property Reserve for master planning, reclassification and rezoning activities which would lead to the development and / or sale of land identified within this report.
12. Provide regular progress reports to Council and ensure the community is kept up to date with land sales and investigations via easy to understand website updates.

CL24.89

Options

1. That Council adopt the proposed recommendations.

Implications: Subject to the sale of land identified within this resolution, revenue from these sales would support Council in its financial commitments.

2. That Council do not adopt the proposed recommendations.

Implications: Council would need to find alternative measures to meet its financial commitments and obligations.

Background

At its meeting of 22 January 2024, Council considered options for financial sustainability, including a report detailing strategy of property sales. At this meeting, Council resolved to investigate all its land portfolio with the view of identifying immediate land which could be sold – this forms the basis of this report. That report grouped Council’s land portfolio into 3 categories:

Category 1 - Isolated and underutilised operational land:

Table 1 identifies the land proposed for immediate sale, further Table 2 identifies land requiring continued investigated. Further information on this land is available in Attachment 1.

Table 1 – Land identified for immediate sale

Address	Suburb	Lot & DP
42 Matthews St	Shoalhaven Heads	Lot 84 DP 823256
5 Kean Av	Sanctuary Point	Lot 23 DP 803826
98 Lackersteen St	Callala Bay	Lot 10 Sec 9A DP 9063
333 Illaroo Rd	Bangalee	Lot 13 DP 1261805
Lot 1 George Evans Rd	Mundamia	Lot 1 DP 1226624
10 Pleasant Way	Nowra	Lot 1 DP 1010062
Green St	Ulladulla	Lot 3 & 4 DP 851748
1 -3 Mattes Way	Bomaderry	Lots 27 – 31 DP 793122
North Cr	Culburra Beach	Lot 1 DP 1287563

Within this initial group is included Lot 1 George Evans Rd, Mundamia (Lot 1 DP 1226624); which Council has previously resolved to sell through an EOI process. That EOI process was unsuccessful in selling the land as the terms did not identify a suitable purchaser. More recently at its Strategy and Assets Committee meeting of 8 June 2021, Council considered selling the land with the condition that any purchaser be required to develop affordable housing on the subject land. As the aims and objectives of this recommendation were considered during a different financial time, it is proposed that the land be sold without any such requirement for affordable housing. This is because this condition would reduce the land value and limit the number of purchasers who could make this requirement viable in this location with the associated planning controls. Further, the proposed master planning process associated with this land sales project has identified more suitable sites for any affordable housing which are close to public transport and services. As such, it is proposed at this stage to rescind any former recommendation requiring this land to be developed for affordable housing.

Similarly, Council ran 3 EOI process for the sale of 10 Pleasant Way, Nowra which was also unsuccessful given the complicated strategic framework of this site. This includes the location of the site within the Nowra Riverfront Activation (NRAT) precinct, as well as the heritage and flooding issues associated with the land and improvements. Notwithstanding these issues, Council could consider this site as part of a master planning process by subdividing Graham Lodge from the former tourist information building and carpark. This would ensure that Council retained public ownership and access to Graham Lodge. However, given the costs and time associated with any subdivision and rectification works it

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is proposed that this site be sold en-globo. It is noted that any development on the land would be subject to the conservation management plan protecting Graham Lodge and controls surrounding heritage listed items, as well as development consent. Further, there are many recent examples of heritage items successfully being revitalised by private entities. An example of this is the Bulli Railway Guesthouse Restoration which recently won the National Trust Heritage Awards for its adaptive re-use into a successful brewery.

Also included for immediate sale are the unformed roads which could be closed and sold as part of this process. It has been identified that these unformed roads are not required as part of the road network and could be closed to form part of the associated residential subdivision. Refer to Attachment 2 and 3 for details on these proposed road closures. It is noted that the neighbouring lots to Banksia Street Vincentia currently benefit from access of this unformed road, and Council would be required to create a right of carriage way that benefits these lots so that access can be maintained once the land is sold.

Table 2 represents operational land which may be suitable for sale pending further investigation. This includes clearing any public trusts, strategic use or other issues that would prevent the sale of the land.

Table 2 – Land pending further investigation

Address	Suburb	Lot & DP
Woodhill Mountain Rd	Berry	Lot 11 DP 1191953
29 McArthur Dr	Falls Creek	Lot 10 DP 801527
Queen Mary St	Callala Beach	Lot 51 Sec T DP 27357
Woollamia Rd	Woollamia	Lot 488 DP 27575
Ilett St	Mollymook	Lot 61 DP 833017
Moss Vale Rd	Kangaroo Valley	Lot 13 DP 900834
Moss Vale Rd	Kangaroo Valley	Lot 14 DP 900834
53 Addison Rd	Culburra Beach	Lot 1339 DP 11893
Chisholm St	Callala Bay	Lot 1 DP 825970
37 Hyam St & 39 – 43 Bridge Rd	Nowra	Lot 3 DP 154453, Lot 1 DP 797111, Lot 1 & 2 DP 199958

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Category 2 - Potentially strategic land, where master planning (including any subdivision) would provide better outcomes to the Community. N.B. Some sites may require reclassification and/or rezoning as a result of the master planning process.

Table 3 represents the initial review of Council’s land portfolio where land was acquired for a specific strategic outcome. It is recommended that master planning activities may provide a better outcome for the community and at this time, whilst these sites could be sold, it is not recommended. Council’s Nowra CBD land holdings are largely car park sites and its administration building. Previously Council has considered a multi-storey car park site, however this has never been affordable, if considered in conjunction with a review of all land holdings may be possible to redesign the fabric of the CBD.

Table 3 – Land identified for master planning activities

Common Name	Address	Suburb	Lot & DP
Osbourne St Carpark	Osbourne & Collins	Nowra	Lot 2 DP 581350, Lot 1 DP 781201, Lot 1 DP 526713, Lot 2 DP 860572, Lot 1 DP 391906, Lot 1 DP 508216, Lot A DP 398969
Egans Lane Carpark	North & Berry Sts	Nowra	Lot 1 DP 152474, Lot 1, 2 DP 115855, Lot C, D, F, G, J, M, N DP 39259, Lot 1 DP 567875, Lot 1 DP 907058, Lot 1 DP 1114089, Lot 1 DP 565610, Lot P, Q DP 420838, Lot 1 DP 657192, Lot 1, 2 DP 200161, Lot 3, 4, 5, 6 DP 541050, Lot 1 DP 657193, Lot 1 DP 657194, Lot 1 DP 42870, Lot 1 DP 657195
Nowra Admin Building	Bridge St	Nowra	Lot 4 DP 1254210, Lot A DP 158942, Lot 5 DP 1254210, Lot 5 DP 1254210, Lot 1 DP 1162777, Lot 6 DP 1254210, part lots Lot 7 DP 1254210.
	Emmett & Sheaffe Sts	Callala Bay	Lot 7 and 8 Sec 21 DP 9063, and Lot 17 & 18 Sec 21 DP 9063, Lot 1 & 2 DP 813527
Owen St parking	26, 36, 38, 40, Owen St and 3 Morton St	Huskisson	Lot A, B, C DP 348180, Lot 1 and 23 DP 7169,
Ulladulla Administrative Centre and Depot	14 Deering St	Ulladulla	Lot 351 DP 45795
South St Car Park	85 South St	Ulladulla	Lot 11 DP 791198
CWA Land	26 Myrtle St	Milton	Lot 17 Sec B DP 192188

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Bay and Basin Community Centre	141 The Wool Rd	Vincentia	Lot 1 DP 1294562
Huskisson foreshore	Owen St	Huskisson	Lot 2 DP 571682, Lot 61 DP 1242966, Lot 1 DP 571682
Valley Tourist Park	5 & 7 Cullen Cres	Kangaroo Valley	Lot 20 and 21 DP 22827

Category 3 - Underperforming community facilities

Table 4 – Operational Land identified for sale pending investigation and rezoning

Address	Suburb	Lot & DP
West St	Nowra	Lot 1 DP 562802
The Wool Rd	Sanctuary Point	Lot 1 DP 587404
Hillcrest Av	South Nowra	Lot 46 DP 31078, Lots 2 DP 26782, Lots 8 DP 26782, Lots 1 DP 26782
77 Princess St	Berry	Lot 1 DP 209665

Table 5 – Operational and Community Land identified for sale pending further investigation, rezoning / and or reclassification

Address	Suburb	Lot & DP
Jenanter Dr	Kangaroo Valley	Lot 105 DP 264466
Oval Dr	Shoalhaven Heads	Lot 379 DP 248149
Golden Hill Av	Shoalhaven Heads	Lot 35 DP 506007
Hillcrest Av	South Nowra	Lot 2 DP 1151683, Lot 3 DP 1151683, Lot 6 – 11 DP 26782, Lot 4 DP 1151683, Lot 30 – 32 DP 1181229, Lot 12 DP 1158088, Lot 13 – 16 DP 1158088, Lot 20 DP 26782
51 Addison Rd	Culburra Beach	Lot 1316 DP 11893
71 Sunset Strip	Manyana	Lot 129 DP 205240
Brace Cl	Kioloa	Lot 14 DP 740846
Weemala Cr	Bawley Point	Lot 17 DP 261475
Princes Hwy	Lake Tabourie	Lot 63 DP 251562
McDonald Pde	Burrill Lake	Lot 380 DP 15648
Jerry Bailey Rd	Shoalhaven Heads	Lot 13 DP 630628

It should be noted that in conjunction with this land sales process, Council is also undertaking a review of its community buildings and facilities – this will be part of the Community Infrastructure Strategic Plan Review (CISP). Further, Council is assessing all Leases & licences (Property management review) to identify any opportunities for cost savings or financial improvements.

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For clarity,

- The site known as 39a Berry St Nowra, is not included within these lists as it has already been resolved for sale and / or lease pending suitable alternate accommodation for the current lessee (MIN23.724C).
- The site known as “Muir House in Berry, 10 Prince Alfred Street, is not included within these lists, as it has already been resolved investigation of sale pending rezoning (MIN24.41).

Internal Consultations

In developing the initial group of land for sale, high level advice and feedback has been sought from Council’s strategic planning department, asset custodians, City Lifestyles and City Services, Council’s EMT and a Councillor briefing session.

External Consultations

Subject to the Council adopting the proposed resolutions, the subject land identified for sale would be valued by an independent valuer. A real estate agent and conveyancer would also be appointed to assist Council in transacting on the marketing and sale of the land.

Community Consultations

If Council adopts the proposed resolutions, Council will update its website to identify land being considered for sale, and land under investigation for community feedback and information.

Policy Implications

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

Financial Implications

Council will require valuations on each of the properties identified for sale, these will be in the order of \$3,000 – \$6,000 per valuation. This will be funded from Council’s Property Reserve. Further, conveyancing and sale fees will be required at the point of settlement and can be taken from the proceeds of any completed sale.

With regards to any rezoning or reclassification of land, this would require the preparation of a planning proposal, the costs of which could be in the order of between \$30,000 - \$40,000 each, however there may be cost savings associated with combined proposals. Council would seek competitive fee proposals to facilitate these works.

Master planning activities would require consultant fees which may include planning, design, survey and engineering consultancy costs to develop proposals. It is proposed as part of this Land Sales project that 10% of any sale be retained in Council’s Property Reserve to fund these activities so that further sales from these master planning sites be achieved.

Risk Implications

To mitigate any risk in the proposed sales, the land will require appropriate due diligence checks including provenance, ecology, easement and title checks.

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

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ATTACHMENT 1

LAND IDENTIFIED FOR IMMEDIATE SALE (Group 1.1)

CL24.89 - Attachment 1

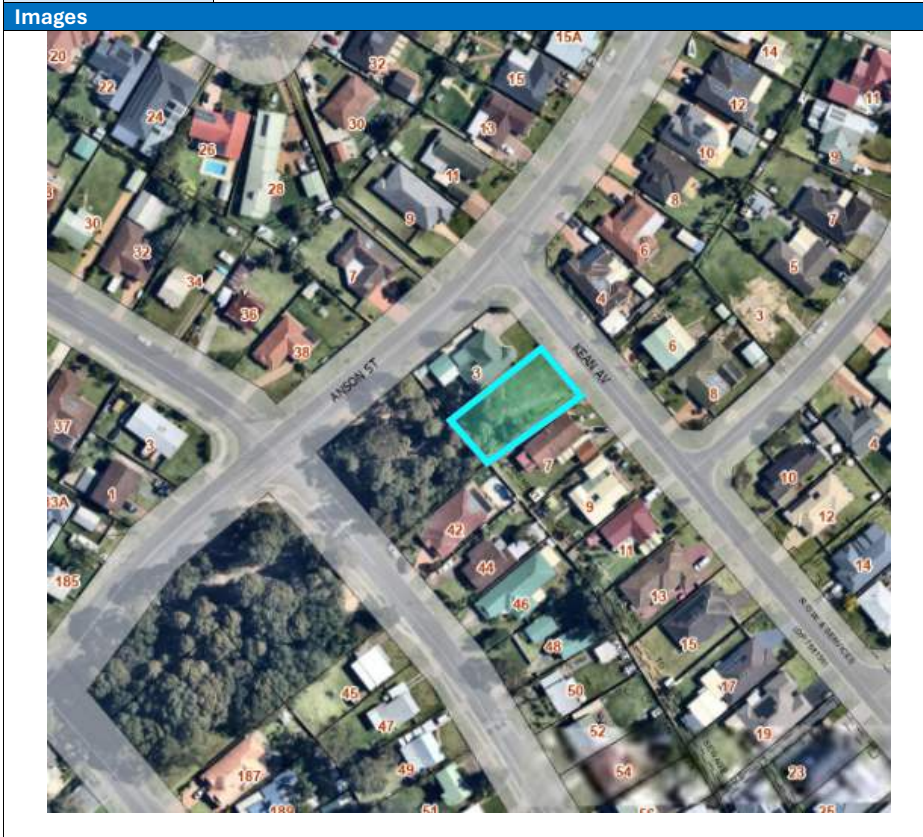
Parcel Information - 42 Mathews St, Shoalhaven Heads			
Lot(s) & DP	Lot 84 DP 823256	Site Description	Vacant land
Land Size	715m ²	Classification	Operational
How it came into Council ownership	Land acquired for sewer works.	Easements and restrictions	Right of Carriage
Zone	R2 Low Density Residential	Ecology	Nil
Strategic Implications	Part incumbered by a right of carriageway associated with an adjoining property.		
Risks (Community)	Neighbours have been storing caravans and trailers on the land, rear of property has gate to neighbour's land.		

Images



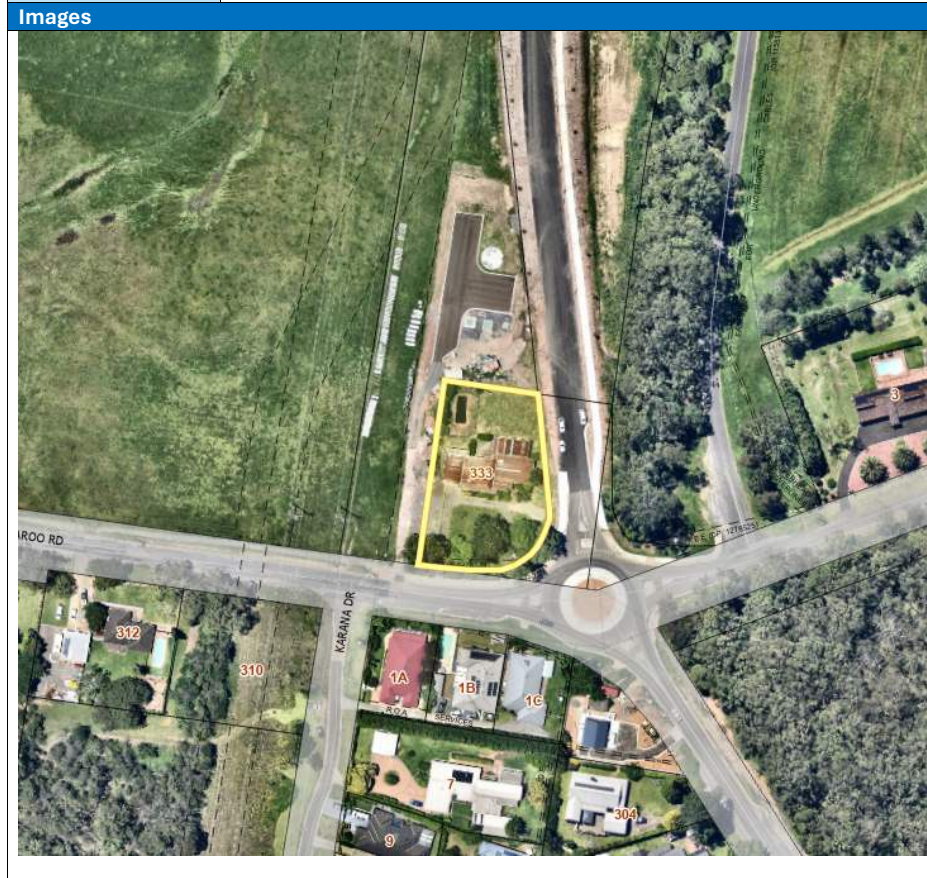
(R) - RIGHT OF CARRIAGEWAY 5 WIDE AND VARIABLE WIDTH
(S) - RESTRICTION AS TO USER

Parcel Information - 5 Kean Av Sanctuary Point			
Lot(s) & DP	Lot 23 DP 803826	Site Description	5 Kean Av Sanctuary Point
Land Size	703.90 m2	Classification	Operational
How it came into Council ownership	Open Space	Easements and restrictions	Drainage easement
Zone	R2 – Low Density Residential	Ecology	Treed to rear of site.
Strategic Implications	1994 operational classification		
Risks (Community)	Appears to have informal short-cut path through site through to adjacent site. Loss of access.		



Parcel Information - 98 Lackersteen St, Callala Bay			
Lot(s) & DP	Lot 10 Sec 9A DP 9063	Site Description	Reserve / Open Space
Land Size	1,422.72 m2	Classification	Operational
How it came into Council ownership	Acquired In Lieu Of Overdue Rates	Easements and restrictions	Land is adjacent to an unformed road which is being used as part of a drainage reserve
Zone	R2 - Low Density Residential	Ecology	Heavily treed, requires ecology inspection
Strategic Implications	1994 operational classification		
Risks (Community)	Loss of open space		
Images			

Parcel Information - 333 Illaroo Rd, Bangalee			
Lot(s) & DP	Lot 13 DP 1261805	Site Description	House
Land Size	2,580.50 m2	Classification	Operational
How it came into Council ownership	Acquired for road widening	Easements and restrictions	Nil
Zone	R5	Ecology	Nil
Strategic Implications	Was acquired as part of the Far North Collector Road Project given potential impacts/amenity on owners during construction and uncertain land area requirements. Given that the road works and lot subdivision has occurred, it is now appropriate to sell the residue land.		
Risks (Community)	House is dilapidated, and any sale would be on an as is basis.		



Parcel Information - Lot 1 George Evans Rd, Mundamia			
Lot(s) & DP	Lot 1 DP 1226624	Site Description	Vacant Land
Land Size	9.394 ha	Classification	Operational
How it came into Council ownership	Mundamia Urban Release Area	Easements and restrictions	Nil
Zone	R1 – General Residential	Ecology	Biodiversity consideration required as part of any proposed development.
Strategic Implications	Part of the Mundamia Urban Release Area. Specific DCP Chapter applies guiding development.		
Risks (Community)			



Parcel Information - 10 Pleasant Way, Nowra			
Lot(s) & DP	Lot 1 DP 1010062	Site Description	Graham Lodge & Visitor Information Centre
Land Size	8,112.00 m2	Classification	Operational
How it came into Council ownership	After a long period of disuse in which the building became derelict and vandalised, Council purchased the property in 1998	Easements and restrictions	Contains a State Listed Heritage Item, part of land is flood prone and there are associated access issues.
Zone	Business - Mu1 - Mixed Use	Ecology	Nil
Strategic Implications	The master planning for the broader riverfront area is still underway, as such the potential outcome for this site is not clear and this may impact its ultimate value.		
Risks (Community)	Graham Lodge is covered by a Conservation Management Plan, gateway site to Nowra, development needs to provide suitable entry statement.		
Images			



Parcel Information - 1-3 Mattes Way, Bomaderry			
Lot(s) & DP	Lots 27 – 31 DP 793122	Site Description	1 Mattes Way, Bomaderry
Land Size	2,310m2	Classification	Operational
How it came into Council ownership	Council works Dept	Easements and restrictions	Right of Carriage - Lots within road reserve need to be dedicated as road.
Zone	SP2 – Special Infrastructure	Ecology	Nil
Strategic Implications	1994 operational classification. Was previously a Council works Dept. Depending on the future use the site will require a PP to change or adjust the current zoning. The current zoning is SP Infrastructure – Community Facilities. As such this does enable some flexibility depending on future use. Strategic justification needs to be considered.		
Risks (Community)	Currently leased as community college, loss of community building.		
Images			

Parcel Information - North Cr, Culburra Beach			
Lot(s) & DP	Lot 1 DP 1287563	Site Description	Open Space
Land Size	3,527 m2	Classification	Operational
How it came into Council ownership	Road reserve which has been closed.	Easements and restrictions	Requires easements created for any services
Zone	R2 - Low Density Residential	Ecology	Treed, requires ecology report
Strategic Implications	This site has been the subject of recent consideration by Council regarding possible sale.		
Risks (Community)	Loss of vegetated buffer to adjoining neighbours		



CL24.89 - Attachment 1

Parcel Information - Green St Ulladulla			
Lot(s) & DP	Lot 3 & 4 DP 851748	Site Description	Closed Road
Land Size	700m2	Classification	Operational
How it came into Council ownership	Closed road remains vested in SCC.	Easements and restrictions	School buildings encroach over the land, appropriate to sell to the Department of Education
Zone	SP2 – Special Infrastructure	Ecology	Nil
Strategic Implications	Limited commercial options as only suitable for Department of Education.		
Risks (Community)	Nil.		





CL24.90 Tender Report – RFT 72696E - Construction of Ulladulla Harbour Boardwalk (Stage 3-5) & Harbourside Carpark (Stage 6).

HPERM Ref: D24/13724

Department: Technical Services

Approver: Carey McIntyre, Director - City Services

Reason for Report

The reason for this report is to allow Council to consider the recommendation from the tender process for the 'Construction of Ulladulla Harbour Boardwalk (Stage 3 to 5) and Harbourside Carpark (Stage 6)'.

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

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Recommendation

That Council consider a separate confidential report 'Construction of Ulladulla Harbour Boardwalk (Stage 3 to 5) and Harbourside Carpark (Stage 6)' in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

Options

1. Consider the separate confidential report.

Implications: Full details of the tendering process is provided in the confidential report to enable Council to make an informed decision in this regard.

2. Alternative recommendation.

Implications: Council would defer the opportunity to assess and make an informed decision on the tender process and results.

Details

Project Description

Site & Context

The proposed Ulladulla Harbour boardwalk (Stages 3 to 5) and upgrade to the existing Harbourside Carpark is located adjacent to Ulladulla Harbour and to the north of Wason Street.

The site comprises of seven (7) irregular shaped land parcels highlighted yellow and blue on the aerial image below, **Figure 1**.

- Lot 1 DP 537126 – Owned by Council
- Lot 2 DP 526958 – Owned by Council.

Lot is burdened by a Right of Way (ROW) that benefits the owner of 94 Princes Highway – Lot 1 DP 526958.

- Lot 53 DP 828221 – Owned by Council
- Lot 52 DP 828221 – Owned by Council
- Lot 7040 DP 1045201 – Owned by Crown Lands. Managed by Council.
- Lot 7313 DP 1166835 – Owned by Crown Lands. Managed by Transport for NSW (TfNSW)
- Part Lot 7 Sec 17 DP 759018 – Owned by Crown Lands

Figure 1: Aerial photo of proposed development lots



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Scope of Works:

As an integrated package of works, two project areas are proposed to be delivered:

- Construction of stages 3, 4 and 5 of the Ulladulla Boardwalk comprising of an elevated accessible timber boardwalk from stage 2 through to Wason Street with dedicated viewing points, access stairs to the harbourside below, pathways, lighting landscaping and street furniture.
- Construction of stage 6 of Ulladulla Harbourside encompassing carpark redevelopment. Carpark upgrades include new pavement, new kerb and guttering, new line marking and formalised parking for cars and boat trailers as well as a turning head at the western end of the carpark for cars with boat trailers. New fish cleaning table and boat rigging and washdown areas.

Tendering

Council called tenders for ‘Construction of Ulladulla Harbour Boardwalk (Stage 3 to 5) and Harbourside Carpark (Stage 6)’ on 5 January 2024 which closed at 10:00 am on 8 February 2024. Six tenders were received at the time of closing.

Tenderer	Location
Green Civil Services	Bella Vista, NSW
Jirgens Civil	South Nowra, NSW
Kingsline	Greenfield Park, NSW
Project Coordination	Unanderra, NSW
Quality Management Constructions	Bella Vista, NSW
Zauner Construction	Lavington, NSW

Details relating to the evaluation of the tender(s) are contained in the associated confidential report.

Community Engagement / consultation

The community has been regularly updated via Councils Major Projects webpage. Refer to <https://www.shoalhaven.nsw.gov.au/Projects-Engagement/Major-Projects-Works/Ulladulla-Harbour-and-Foreshore-Improvement-Projects>

The following stakeholder groups have been updated regularly on project progress.

- Grant funding bodies – NSW State Government Department of Planning and Environment (PSLP) and Commonwealth Department of Industry, Science and Resources (BBRF)
- Operational management of the Harbour - Transport for NSW Maritime Infrastructure Delivery Office
- Shoalhaven City Council – Asset Custodians and affected departments via monthly project control group (PCG) meetings.
- Community groups such as: Ulladulla & Districts Community Forum Inc, Ulladulla Fishing Co-operative, Ulladulla Marine Rescue, Ulladulla Game Fishing Club, Small Ships Slipway committee, Blessing of the Fleet committee.

Consultation relating to DA22/1716 (boardwalk stages 3 to 5):

The Development Application (DA) associated with the Boardwalk stages 3 to 5 (DA22/1716) was subject to community engagement as part of the DA notification requirements.

Notification was made to adjacent property owners in accordance with Council’s Community Consultation Policy with letters being sent within a 120m buffer of the site and was notified in the Milton Ulladulla Times Newspaper from 6 July 2022

On the 31 July 2023, Council resolved to approve the DA subject to conditions. Refer to MIN23.403.

Consultation relating to the harbourside carpark upgrade (stage 6):

Consultation relating to the carpark upgrade consisted of letters being sent to key stakeholder groups, the adjacent property owners surrounding the site including the Ulladulla Fishing Co-op and property owners along Burrill Street on 7 November 23.

The letter included a site plan of the proposed carpark upgrade and requested feedback on the proposed design.

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Policy implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993 and the tenders were assessed in accordance with Council's *Local Preference Policy*.

Financial Implications

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

Risk Implications

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

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CL24.91 Proposed Disposal of Council land - Part 24 Cumberland Avenue, South Nowra

HPERM Ref: D24/106249

Department: Technical Services

Approver: Carey McIntyre, Director - City Services

Attachments: 1. Map representation - Area for proposed sale highlighted in red - Part Lot 112 DP 1096630 Cumberland Avenue, South Nowra [↓](#)

Reason for Report

The reason for this report is to consider the proposed sale of Council-owned land being Part Lot 112 DP 1096630, 24 Cumberland Avenue, South Nowra.

Recommendation

That Council:

1. Approve the sale of Part of Lot 112 DP 1096630, 24 Cumberland Avenue, South Nowra being the area highlighted red in **Attachment 1** (D24/106210) and comprising approximately 1150sqm (subject to survey), to Supagas Pty Ltd for \$220,000 excluding GST, conditional upon subdivision from Council's land and consolidation with adjoining Lot 82 DP 1077878, 6 Sextant Street, South Nowra;
2. Require Council's existing sewer infrastructure and sewer easement be retained;
3. Require Council's existing drainage infrastructure be retained within a drainage easement to be created to Council's benefit in accordance with Council's Engineering design specifications;
4. Acknowledge that all associated costs to the sale be borne by the purchaser.
5. Delegate authority to the Chief Executive Officer (or her delegate) to adjust the sale price in accordance with the area of the land determined by the registered plan in consultation with Council's solicitor;
6. Authorise the affixing of the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed, otherwise, the Chief Executive Officer is authorised to sign any documentation necessary to give effect to this resolution.

Options

1. Resolve as recommended

Implications: The subject land which has been identified as surplus to Council's needs will be sold, providing revenue to Council. Council's interests in the land shall be retained by way of easements over Council's sewer and drainage infrastructure.

2. Not resolve as recommended

Implications: The land will remain in Council's ownership with no identified future need.

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Background

Council received a request from Supagas Pty Ltd to purchase part of Council-owned land at the rear of their lot in the Flinders Industrial Estate, South Nowra. The Council-owned land is Lot 112 DP 1096630, 24 Cumberland Avenue, which is highlighted in yellow in **Attachment 1**, with the part of land proposed to be sold highlighted in red. Supagas' adjoining Lot 82 DP 1077878, 6 Sextant Street, South Nowra is highlighted in blue.

The part for potential disposal is approximately 1,150 sqm in size, which is to be subdivided from Council's land and consolidated with the adjoining land at 6 Sextant Street. The zoning is Business – E4 – General Industrial. The current intention of Supagas' purchase is for use as additional space for storage and workflow.

Lot 112 DP 1096630 is held in freehold by Shoalhaven City Council and is classified as Operational land by Council resolution on 30 November 1993 as required at the introduction of the Local Government Act 1993. At the time of the resolution the land was within Lot 69 DP 818137.

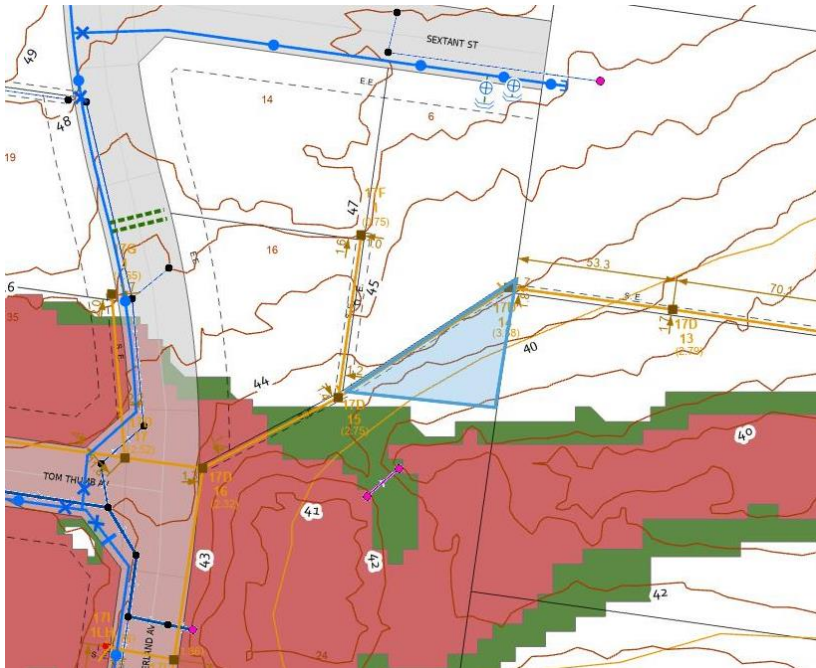
The land was acquired through Shoalhaven City Council subdivision SF9294, subdivided for the continuing development of industrial land holdings at Flinders Industrial Estate (MIN04.1615).

Historically the original Lot 1 and Part Lot 2 DP 11360 was acquired jointly with the Department of Decentralisation and Development from James Daniel Curran on 30 June 1971. The land was acquired for development for Industrial Purposes. Lot 112 DP 1096630 was created through a series of subdivisions. It's early parent Lot 4 in DP 249264 is shown as being in a 'Plan of Subdivision of Lot 1 and Part Lot 2 DP 11360' registered in 1975, and the subject land lies within the relevant part of parent Lot 2 DP 11360.

Therefore the subject land classification as Operational land was in keeping with the original purpose of acquisition and the land has not previously been classified as Community land.

24 Cumberland Avenue is used as a detention basin for the stormwater network, and to reduce flood impacts to the properties downstream. Council's civil engineers advise that the subject triangular northern corner of the lot is not being used, neither as a stormwater asset, nor as a flood overland flow path. As this small piece of land is on higher elevation, is unlikely to be used for drainage purposes in the future. The engineers have no objection if this section of the lot was to be sold, however it could not be any larger than the triangular northern corner as proposed - see **Figure 1** below.

Figure 1 – Flood affectation map showing subject northern corner of land as unaffected.



There is an existing sewer main along the boundary adjoining 6 Sextant Street (see **Figure 2** below) which has an Easement for Drainage of Sewage 2.5m wide per DP 1077878. As there is an easement in place, Shoalhaven Water advise that this would not impact a potential sale, however it would cause issues with any potential construction or development over or near the sewer mains and easements should it be sought. The applicant has been advised of this and is willing to proceed.

Figure 2 – Map showing location of sewer in orange within the boundary of 24 Cumberland Avenue, South Nowra:



The adjoining lot at 6 Sextant Street has an existing Easement for Drainage of water 2.5m wide along the western boundary per DP 1077878. The drainage infrastructure extends beyond the easement at the southwestern corner of 6 Sextant St, and into the subject part of Lot 112. Therefore, the drainage easement will be extended at “variable width” to be over the

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inter-allotment drainage in accordance with Council’s Engineering Design Specifications. An indicative sketch is shown in **Figure 3** below, and is to be captured in the surveying. The applicant has been advised of this and is willing to proceed.

Figure 3: Indicative sketch showing approximate location of existing drainage infrastructure in black and approximate proposed drainage easement location highlighted in yellow.



The land is identified as Bushfire prone and would need to be addressed in any future Development Application. The site is identified as having Class 5 acid sulphate soils, which is common to much of the Shoalhaven. The site itself is mapped as being flood prone, however as noted previously the portion identified is not impacted by this mapping. Vegetation mapping affects the site which would need to be addressed in any future development application. This information has been supplied to the purchaser in good faith, however also noting that any future development is the responsibility of the landowner.

In accordance with POL22/47 Development and/or Disposal of Council Lands, consideration has been given to factors such as best value in the disposal process, rationale to method of disposal and probity principles, public benefit i.e. loss or creation of facilities, cost-benefit analysis, and risk assessment, as summarised below.

Independent valuation for market value was obtained to ensure best value in the disposal process. The land has limited sale opportunity other than to adjoining landowners.

To justify direct negotiations as the most suitable method of disposal, an internal assessment was undertaken with reference to ‘Independent Commission Against Corruption Direct Negotiations: Guidelines for Managing Risks’. Direct negotiation is deemed the most suitable method as the subject land in isolation would be landlocked and unsuitable for sale on the open market. Therefore sale to the adjoining landowner is considered the highest and best use, with the purpose of consolidation with the surrounding lot.

Because the subject portion of land adjoins not only the applicant’s land to the north, but also Lot 52 DP 19407 to the east, the eastern neighbouring landowner was notified by letter of Council’s intention of the sale, allowing 28 days for submission. No submission was received.

In accordance with probity principles, no conflict of interest has been identified. The reasons for the decision to enter into direct negotiations are recorded and publicly accessible through this report and authorisation is by Council resolution. Council’s intention to sell Operational land does not require advertisement.

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The public benefit will be upheld as the sale meets Council's purpose for the land of Industrial Development. It will not compromise the stormwater infrastructure and flood prevention asset.

The proposed sale provides a cost benefit in terms of realisation of market value of the otherwise surplus land, and all associated costs to the disposal (such as valuation report, surveying work, Council's & purchaser's legal costs) are to be borne by the purchaser in line with Council's adopted Fees and Charges. Future savings of maintenance responsibility also serve the public benefit.

Risk assessment as per Council's process PRD16/284 Due Diligence for Land Transactions was considered. Inspection of the land shows the land has no improvements and no visible risks. The land is not shown as Potentially Contaminated land and therefore the sale is not considered to be a risk to Council.

To determine a suitable sale price, independent market valuation of the subject land was undertaken by IPN Valuers, taking into consideration the existing and proposed easements. The valuation was assessed at \$220,000 excluding GST. The applicant has accepted Council's proposal for the sale of the land at this price conditional upon the required sewer and drainage easements and land consolidation, pending Council resolution.

Internal Consultations

All Council Directors, Managers, Asset Custodian and Strategic Planners were notified requesting comments, with no objections received. The process has been carried out at the direction and in consultation with the asset custodian.

External Consultations

In line with probity principles for direct negotiation, a letter advising Council's intention to sell the subject land was sent to the only other neighbouring lot, allowing 28 days for submission. No submission was received.

Community Consultations

Sale of Operational land does not require community consultation.

Policy Implications

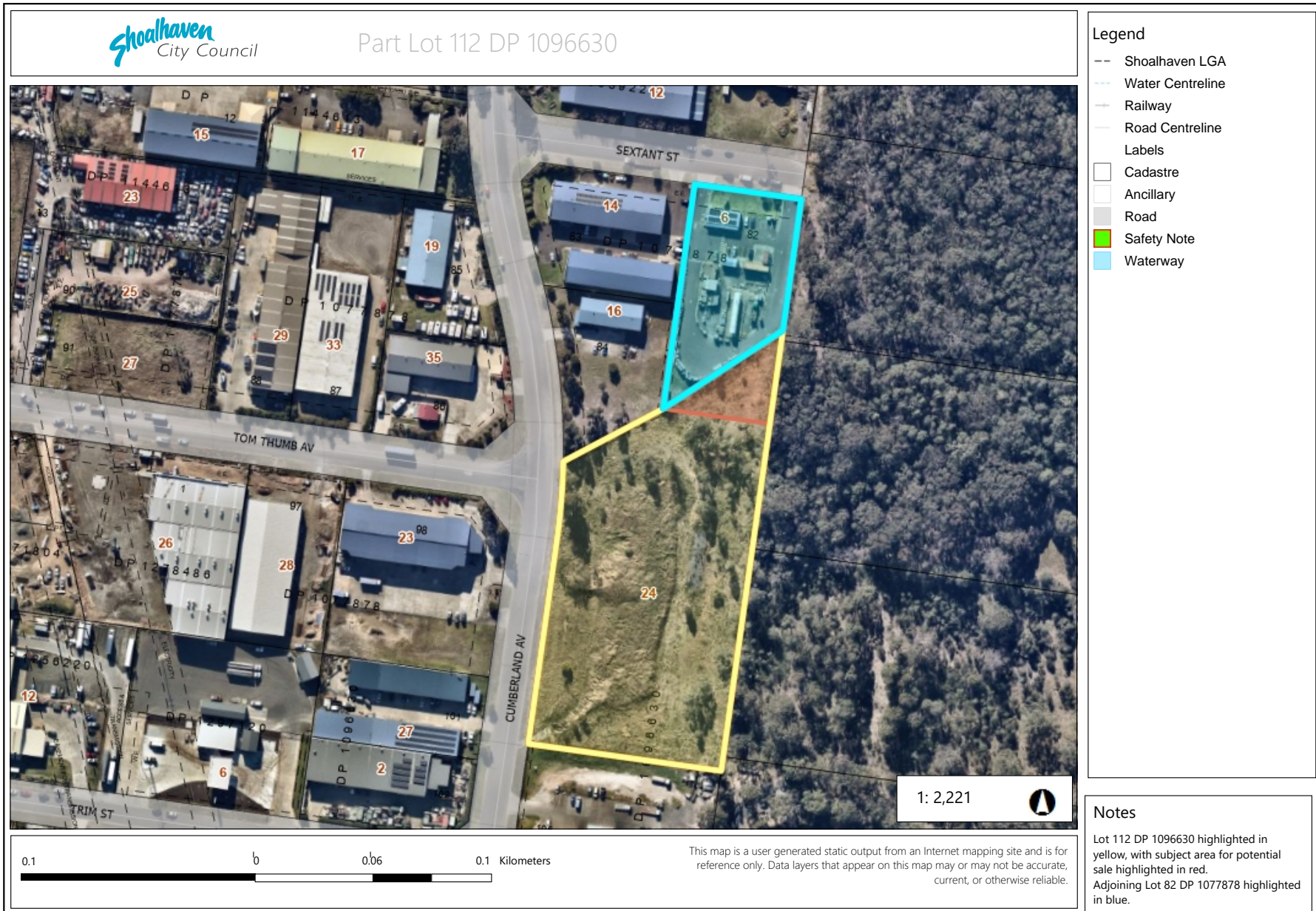
This process has been carried out in accordance with Council's policy POL22/47 Development and/or Disposal of Council Lands.

Financial Implications

Council will receive financial benefit of otherwise surplus Council-owned land. All associated costs to the transaction are borne by the purchaser in line with Council's adopted Fees and Charges.

Risk Implications

Risks have been evaluated per Council's process PRD16/284 Due Diligence for Land Transactions. The sale presents no identified risks to Council.



CL24.92 Berthing Facility - Ulladulla Harbour

HPERM Ref: D24/109284

Department: Technical Services

Approver: Carey McIntyre, Director - City Services

Reason for Report

The purpose of this report is to allow the elected Council to consider the recommendation for the following project: Construction of Berthing Facility, Ulladulla Harbour.

Recommendation

That Council,

1. Suspend the Berthing Facility project at Ulladulla Harbour until appropriate funding is available.
2. Write to the Department of Regional NSW (DRNSW) thanking it for its support and advising that we are unable to deliver on the objectives of the consolidated BLERF funding deed and that termination of the deed be considered.
3. Write to the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts, thank it for its support and advising that Council are unable to deliver on the objectives of the 'Community Development Grant Program' (CDG) funding deed and that termination of the deed be considered.
4. Continue to liaise with DRNSW to re-direct the remaining funding to alternate projects within the Ulladulla Harbour precinct where possible.

Options

1. Adopts the recommendation.

Implications:

- Construction of the berthing facility at Ulladulla Harbour will not be undertaken at this time.
 - Should the BLERF deed be cancelled or amended by DRNSW, Council would be required to relinquish any unspent grant funding.
 - Council would continue to liaise with DRNSW to exhaust opportunities for re-directing received funding to alternate projects in the Ulladulla Harbour precinct.
 - Should the Commonwealth cancel the CDG deed (no funding received to date), access to that funding stream would be lost with little to no prospect of reallocation.
 - Council will need to write to the contractors that entered into negotiations advising that the project is suspended.
 - Council risks negative reputational impact with the State and Federal Government Funding bodies, as well as community expectations.
 - Planning approvals and licences for the works may lapse should the works not proceed within the respective approval horizons.
2. Council could elect to commit the shortfall of approximately \$3.8 million to deliver the project.

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Implications: This is not recommended based on Councils current financial situation.

- Extensions to the current grant funding milestones will need to be requested.

Background

Ulladulla Harbour provides locals and tourists with an access point for recreation and commercial boating. The harbour is also of key importance to the local fishing industry.

To cater for increased demand within the community for recreational boating, commercial fishing and tourism, a new berthing facility has been proposed and designed for 19 vessels of varying sizes to moor in the harbour. These would be leased out at commercial rates.

Council was successful in receiving \$3,027,442.00 in grant funding through several streams for the construction of the Ulladulla Harbour Berthing Facility. An additional \$400,000 was co-contributed by Shoalhaven City Council.

The total project budget was \$3,427,442 (refer to the **Financial Implications** section below for a breakdown of grant funding amounts).

Tendering Round 1

Tenders were originally advertised for this project on 18 December 2021.

The tenders report was presented at Council Ordinary meeting on 7 February 2022. Council resolved to accept the Tender received from Clement Marine Services T/A Landmark Marinas for \$2,822,301 excluding GST.

Clement Marine Services were awarded the Contract for the project on 25 February 2022. Work commenced onsite shortly thereafter, including site establishment and construction works at the Camden Street Depot.

The Contract between Council and Clement Marine was terminated in April 2022 after irreconcilable contract administration issues arose.

Project Re-scoped

In an attempt to reduce delivery risk on the project and make it more attractive to the market, Westlake Punnett & Associates (Project Civil Engineer) were engaged to undertake the design and consultation process to prepare tender and construction ready documentation to re-tender the works as a 'Construct' only.

Due to the tight remaining budget, the scope of works was reduced.

The revised scope of works included:

- Dredging and excavation of sediment and rock.
- Fabrication and provision of a new floating pontoon berthing facility with concrete surface finish.
- Installation of piles.
- Construction of 19 berths with a combination of 4.5 to 5.5 metre widths and 8 to 12 metre lengths. (Minimum required to meet the objectives of the Deed)
- Construction of concrete paths, security gate and fence.
- Construction of platforms and gangway ramp to access the pontoon.
- Provision of effluent pump-out, power services (including testing and termination) and waste services.

Once construction documentation was completed and prior to re-tendering the works, a pre-tender estimate was received from Hanna Newman Quantity Surveyors in November 2022. Construction cost estimate totalled \$2,704,671 which was within the remaining allocated project budget.

Tendering Round 2

The project was then re-tendered on 24 February 2023 for the Construction of the Ulladulla Harbour Berthing Facility. Tenders closed on 15 March 2023. Two tenders were received at the time of closing.

Tender assessment was undertaken by the Tender Assessment Panel on 17 March 2023. A summary is provided below:

- Tenders came in considerably higher than anticipated, within the range of \$4.5 to \$5.2 million compared to the pre-tender estimate of \$2.7 million.
- Project timeframes were also longer than anticipated and would require a variation to the agreed funding milestones.
- To illustrate the extreme movement in the market, the new submission from a contractor that had tendered in the original 2022 tender was in the order of \$2 million higher despite the scope of work having been reduced from the previous tender.
- A review of a bid comparison determined that rates (as comparable rates were available due to 2022 submissions) had increased substantially, with most rates increasing by over 100%.

Advice from Transport for NSW is that this was typical of the marine market in the past 12 months.

The Tender Evaluation Panel recommended rejecting the two tenders received due to the tendered prices being significantly above budget. Council resolved at the Ordinary meeting on 31 July 2023 to enter negotiations with any suitably qualified Contractor and to fund the budget shortfall from the strategic land reserve. (Refer to meeting minute MIN23.417C)

Negotiation Phase

Negotiations were held with two marine contractors that had made a submission during the Tender process.

The contractors were asked to re-submit a tender price and program by 18 August 2023.

Following negotiations, prices ranged between \$4.3 to \$4.7 million.

The tender evaluation panel assessed the revised submissions and agreed on a preferred Contractor, subject to available funding.

However, following review of Council's financial commitments for 23/24, Council's Strategic Land Development reserve funds were no longer available to allocate toward this project. As a result, insufficient funds were available to deliver the project and the project was not awarded.

Request for Additional Funding – VRAF - DRNSW

Council holds regular external project control group (PCG) meetings with grant funding representatives and NSW Public Works. The significant shortfall in budget was raised at the 20 September 2023 PCG meeting.

It was recommended by the external PCG members that Council apply to be considered for additional funding. Council submitted this request on 19 October 2023 to NSW Public Works (Grant Program Assurance Team).

Council received an invitation to apply for additional funding via a VRAF process on 27 October 2023.

Council submitted documentation as required for the VRAF in November 2023. This application requested an additional \$3.8 million based on a revised total project forecast of approximately \$7.3 million.

A vigorous assessment process was undertaken by DRNSW. It was determined that the project would not receive additional funding as the project did not represent value for money and the co-funding arrangement with the Australian Government Community Development Program (CDG) had expired and an extension not yet granted.

On 8 March 2024 Council were advised that the VRAF application was unsuccessful and given two options; to either terminate the BLERF Funding Deed or propose a reduced scope that meets the overall objectives of the original BLERF grant and program guidelines.

Internal Consultations

Internal project control groups (PCG) meetings are held monthly with the client (City Futures – Economic Development), asset custodians and other affected departments.

Community Consultations

The community has been regularly updated via Councils Major Projects webpage.

Refer to <https://www.shoalhaven.nsw.gov.au/Projects-Engagement/Major-Projects-Works/Ulladulla-Harbour-and-Foreshore-Improvement-Projects>

The following stakeholder groups have been updated regularly on project progress.

- Grant funding bodies – Department of Regional NSW (DRNSW), NSW Public Works, Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
- Operational management of the Harbour - Transport for NSW - Maritime Infrastructure Delivery Office
- Community groups such as: Ulladulla & Districts Community Forum Inc, Ulladulla Fishing Co-operative, Ulladulla Marine Rescue, Ulladulla Game Fishing Club, Small Ships Slipway committee, Blessing of the Fleet committee.

Policy Implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993 and the tenders were assessed in accordance with Council's *Local Preference Policy*.

Financial Implications

The allocated project budget of **\$3,427,442.00** is insufficient to fund the recommended contract. A breakdown of grant funding is provided in **Table 1**, while a breakdown of the project budget is provided in **Table 2**.

Table 1: Breakdown of grant funding

Grant Funding	
1. NSW Public Works and Regional Development – Consolidated Grants:	
- NSW Crown Lands Fund (MIDO / TfNSW)	\$ 400,000
- NSW Better Boating (MIDO / TfNSW)	\$ 87,700
- Bushfire Local Economic Recovery Fund (BLERF)	\$ 1,750,000
Total	\$ 2,237,700
2. Commonwealth Community Development Program (CDG)	\$ 789,742
Total Grant Funding	\$ 3,027,442

Table 2: Breakdown of the project budget

Project Budget Table	Amount (excl GST)
Project Budget	
Grant Funding (Finance Number 102853)	\$3,027,442
SCC Economic Development Project Reserve	\$400,000
Total Project Budget	\$3,427,442
Project Forecast Expenditure	
Contract Budget (from negotiated tender price) Includes 10% contingency and provisional sums	\$4,800,000
Construction Phase Consultants (5% of contract)	\$250,000
Works required outside of this Contract	\$400,000.00
Expenditure to date (2016 to 22/08/23). Refer to D23/343415. Note: Actuals and Commitments: Project number 106056. Is \$606,359.64 as of 22/08/23. \$415,000 from Councils Economic Development Project Reserve Fund has already been spent.	\$785,000
Allowance for Additional Sediment Disposal above Provisional sum (3000t @ \$200/tonne including carting and spreading)	\$600,000.00
Allowance for breaking hard rock over ripping (@\$100/m ³ for 1500m ³)	\$150,000.00
Hydrogeographic survey pre and post undertaken by council	\$70,000.00
Total Forecast Project Cost	\$7,055,000
Shortfall estimate (Project Budget – Project Forecast Expenditure)	\$3,627,558
Contingency on shortfall (10%)	\$255,470

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Total additional Budget Required (as requested from BLERF)	\$3,883,028
Revised Forecast Total Project Cost	\$7,310,470

To proceed with the preferred contractor an additional budget allocation of **\$3,883,030** would be required.

Risk Implications

Should the project not continue, Council risks negative reputational impact with the State and Federal Government funding bodies, as well as community stakeholders who would like to see improvements made to the Ulladulla Harbour precinct.

Grant funding

NSW Public Works and Regional Development – Consolidated Grants.

- Council has received \$700,000 from BLERF.
- DRNSW have advised that any unspent funds will need to be returned.
- Current project completion date is 31 March 2024 (variation received on 2 June 2023).
- The grants may not be able to be extended if the project was suspended until a later date as extensions have previously been granted for this project.

CDG grant

- A variation request to extend the CDG funding was submitted on the 10 November 2023 and has not yet been granted.
- Current project completion date is 05 February 2024. Council requested to extend this to 31 December 2024.
- To date, council has not received any funding from this grant.
- The grants may not be able to be extended if the project was suspended until a later date as extensions have previously been granted for this project.

Should the project continue Council will not have sufficient funds to proceed and will be left with a shortfall of **\$3,883,028** which it cannot fund at this time.

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CL24.93 Development Application – DA23/1856 - 408 Bunkers Hill Road BARRENGARRY– Lot 144 DP 751262

DA. No: DA23/1856/4

HPERM Ref: D24/86217

Department: Development Services
Approver: James Ruprai, Director - City Development

Attachments:

1. DRAFT Determination - DA23/1856 - 408 Bunkers Hill Rd BARRENGARRY - Lot 144 DP 751262 (under separate cover) [⇨](#)
2. s4.15 Assessment Report - 408 Bunkers Hill Rd BARRENGARRY - Lot 144 DP 751262 (under separate cover) [⇨](#)
3. Revised Plans (2) - Notification Plans - 408 Bunkers Hill Rd BARRENGARRY - Lot 144 DP 751262 (under separate cover) [⇨](#)

Description of Development: Consolidation of lots, alterations and additions to existing building and use as a dwelling house.

Owner: G Scarf

Notification Dates: 17 November 2023 to 4 December 2023

No. of Submissions: 5 submissions

Purpose / Reason for consideration by Council

The Development Application was called in for determination on public interest grounds (MIN23.749).

Recommendation

That Council approve the Development Application DA23/1856 for consolidation of lots, alterations and additions to existing building and use as a dwelling house at 408 Bunkers Hill Road BARRENGARRY – Lot 144 DP 751262, Lot 145 DP 751262 & Lot 1 DP1263250 as detailed in the draft conditions of consent (Attachment 1) to this report.

Options

1. That Council approve the recommendation as printed.

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

2. Refuse the Development Application (DA).

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

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3. Adopt an alternative recommendation.

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

Location Map



Figure 1: Location Map

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Figure 2: Aerial imagery of development site. Building proposed to be used as dwelling house circled in red.

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Background

The subject site contains several existing buildings and the site benefits from a development consent for *tourist and visitor accommodation* (DA14/1117 (as modified)), an *animal boarding and training facility* (equine education centre) and *temporary function centre* (DA17/1157 (as modified)). Further commentary about these approved land uses and how they relate to the current application is included in the History section of this report.

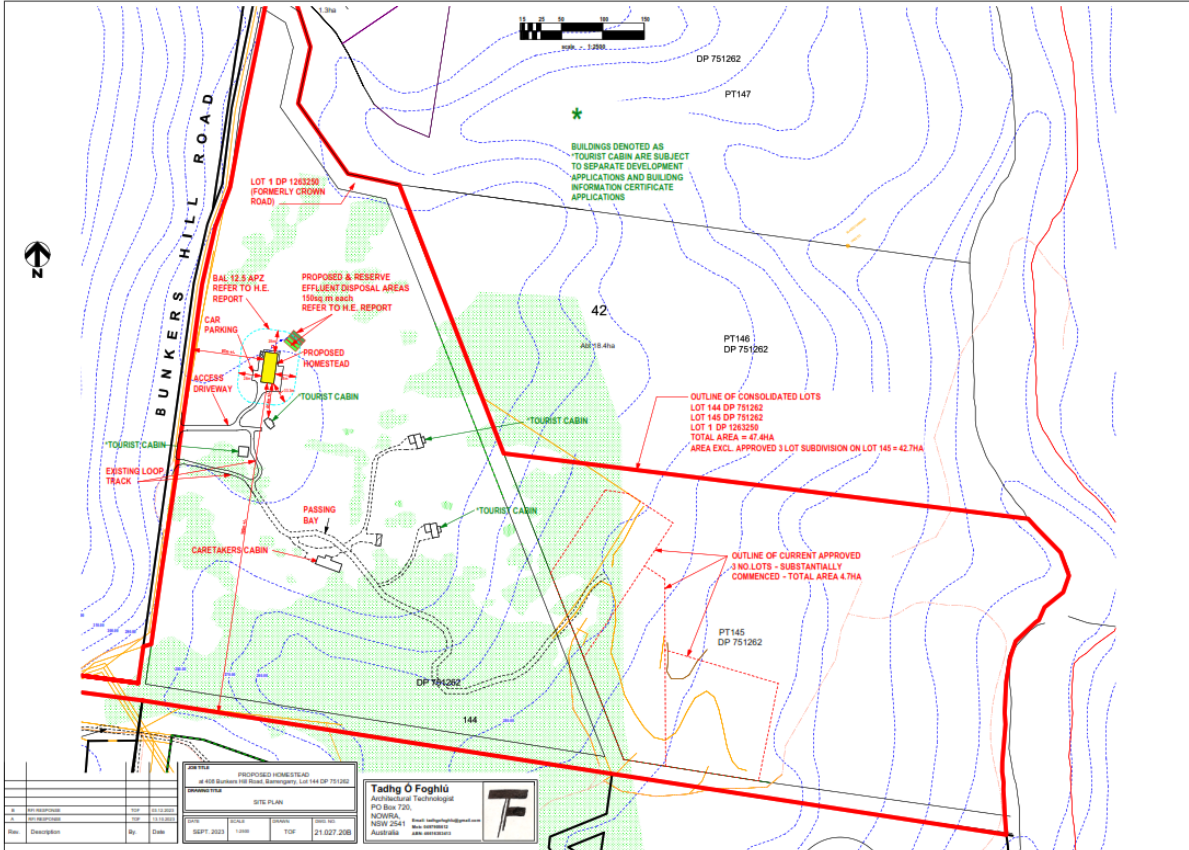
Proposed Development

DA23/1856 proposes consolidation of lots, alterations and additions to existing building and use as a *dwelling house*. The scope of this development is limited to the use of the “equestrian centre building” as a dwelling house. This assessment cannot consider other uses of the site i.e. tourist accommodation as this is not what has been applied for.

The proposed dwelling house use is not compatible with the uses approved by DA17/1157 (as modified) as it proposes to change the use of the building previously approved as the “equine centre hall” which was also approved for use as a temporary function centre as per condition 4 of DA17/1157 (as modified). As such, conditions of consent will require the surrender of DA17/1157 (as modified) prior to the issue of a Construction Certificate. This will effectively surrender the use of the property as an equine education centre and temporary function centre.

The constructed “equine centre” building is not consistent with that approved vide DA17/1157 (as modified). As such the existing building that is proposed to be used for a dwelling under this application (DA23/1856) is subject to a Building Information Certificate (BIC). Conditions

of consent are proposed to require a BIC be obtained prior to the issue of an Occupation Certificate for the dwelling.



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Subject Land

The development site comprises Lot 144 DP 751262, Lot 145 DP 751262 & Lot 1 DP1263250 – 408 Bunkers Hill Rd BARRENGARRY.

The site is irregular in shape and has a total area of 45.909ha. SF8305 (as modified) approved Lots 31,32 and 33 as concessional allotments from Lot 145 DP 751262. According to the approved subdivision plans in DS14/1275, The approved lot sizes are as follows:

- Lot 31 = 1.45ha
 - Lot 32 = 1.59ha
 - Lot 33 = 1.63ha
- TOTAL = 4.67ha**



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Figure 3: Approved subdivision plan from DS14/1275 with approved lots 31, 32 & 33 outlined in red.

Therefore, considering the proposed lot consolidation of Lot 144 DP 751262, Lot 145 DP 751262 & Lot 1 DP1263250, and the approved lots under SF8305 (if the subdivision is realised), the land will have a total area of 41.239ha.

Site & Context

The subject site is zoned RU1 Primary Production and is adjoined by other rural and environmental zones.

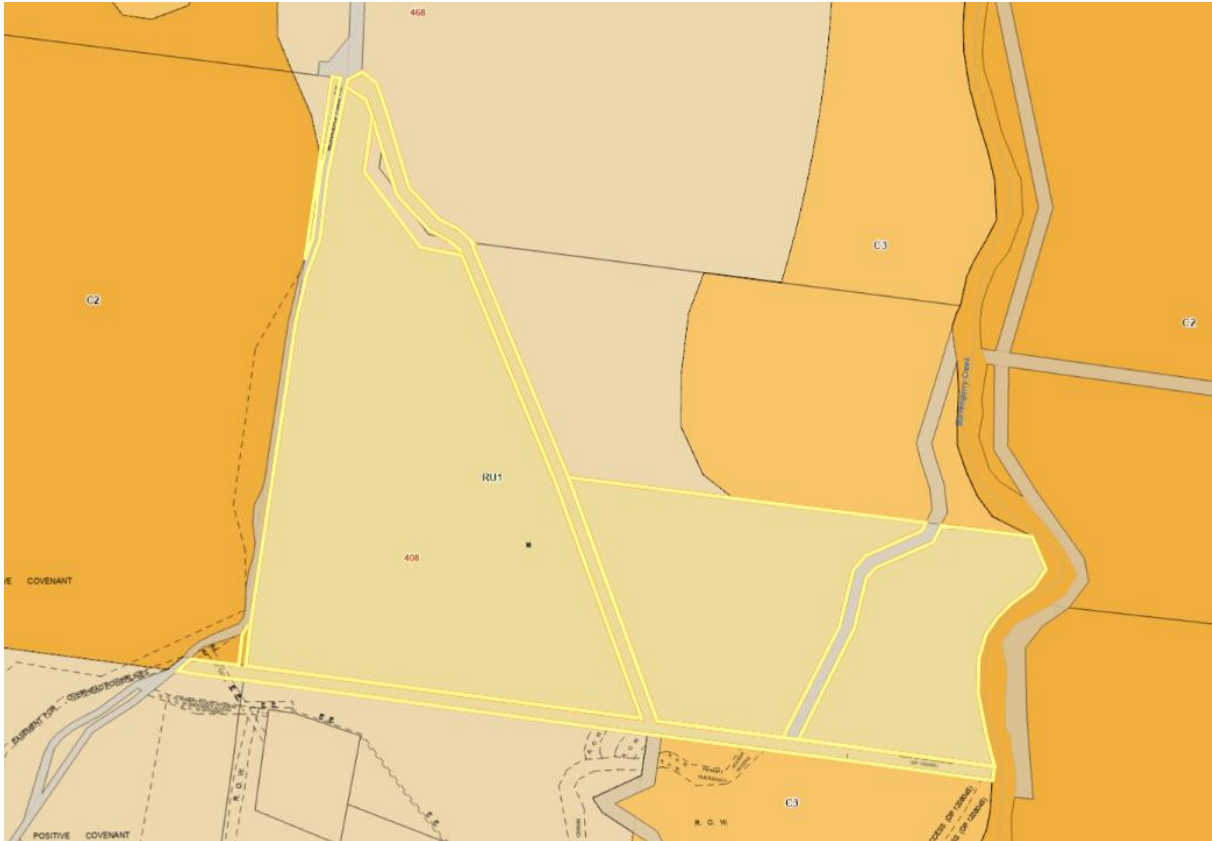


Figure 4: Zone Mapping – SLEP 2014

History

DA14/1117 – Tourist Accommodation

DA14/1117 (as modified) approved “regularisation / continued use of 3 existing buildings as tourist cabins and manager’s residence and approval for two new tourist cabins”. The approved uses as per DA14/1117 (as modified) are as follows:

- WB Cottage Metal Roof “Banksia” = Tourist Cabin
- WB Cottage Metal Roof “Jacaranda” = Tourist Cabin
- WB Cottage Metal Roof “Willow” = Tourist Cabin
- WB Cottage Metal Roof “Ferndale” = Tourist Cabin
- Metal Building Metal Roof “Caretaker’s Cottage” = Caretakers Cottage

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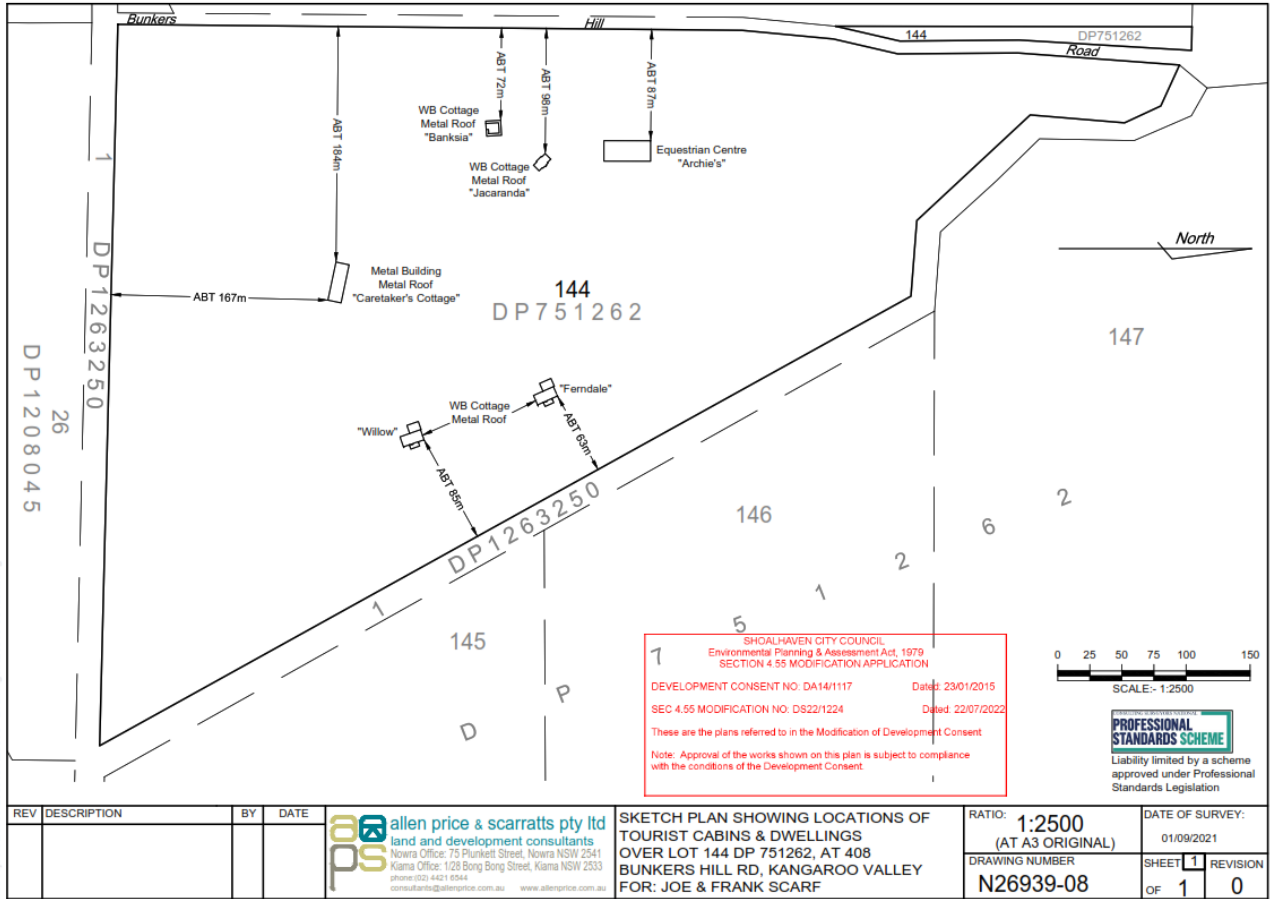


Figure 5: Approved site plan from DA14/1117 (As modified by DS22/1224).

The tourist cabin buildings across the site have not been constructed fully in accordance with DA14/1117(as modified) and are subject to various Building Information Certificates.

DA17/1157 – Animal Boarding and Training Establishment and Temporary Function Centre

DA17/1157 (as modified) approved “Animal Boarding and Training Establishment (equine education centre) and the temporary use of the building as a Function Centre”.

The Equestrian Centre “Archie’s” is noted on the approved site plan from DS22/1224 and has approval for use as an animal boarding and training establishment (equine education centre) and the temporary use of the building as a function centre under DA17/1157 (as modified). This building is the subject of the current DA23/1856 in which it is proposed to be used as a dwelling house.

Limited Consent

4. The temporary use of the building as a Function Centre is limited for a period of three years as measured from the issue of an Occupation Certificate. *(modified by DS19/1196)*
5. Should the use of the building for the purpose of an Animal Boarding and Training Establishment cease to operate, then the temporary use of the building as a Function Centre must also cease.

Notes

- a) Application may be made to extend the consent under Section 96(1A) of the Environmental Planning & Assessment Act, 1979.
- b) If the applicant under S96 is not the original applicant, the written consent of the owner of the land must first be obtained.
- c) An application to extend the consent should be made at least 28 days **before** the consent will cease to operate.
- d) In deciding whether to extend the consent, Council will take into account any relevant policy amendments made since the consent was issued.

Conditions 4 & 5 from Consolidated Consent DA17/1157 (incorporating DS19/1196) (D19/281880)

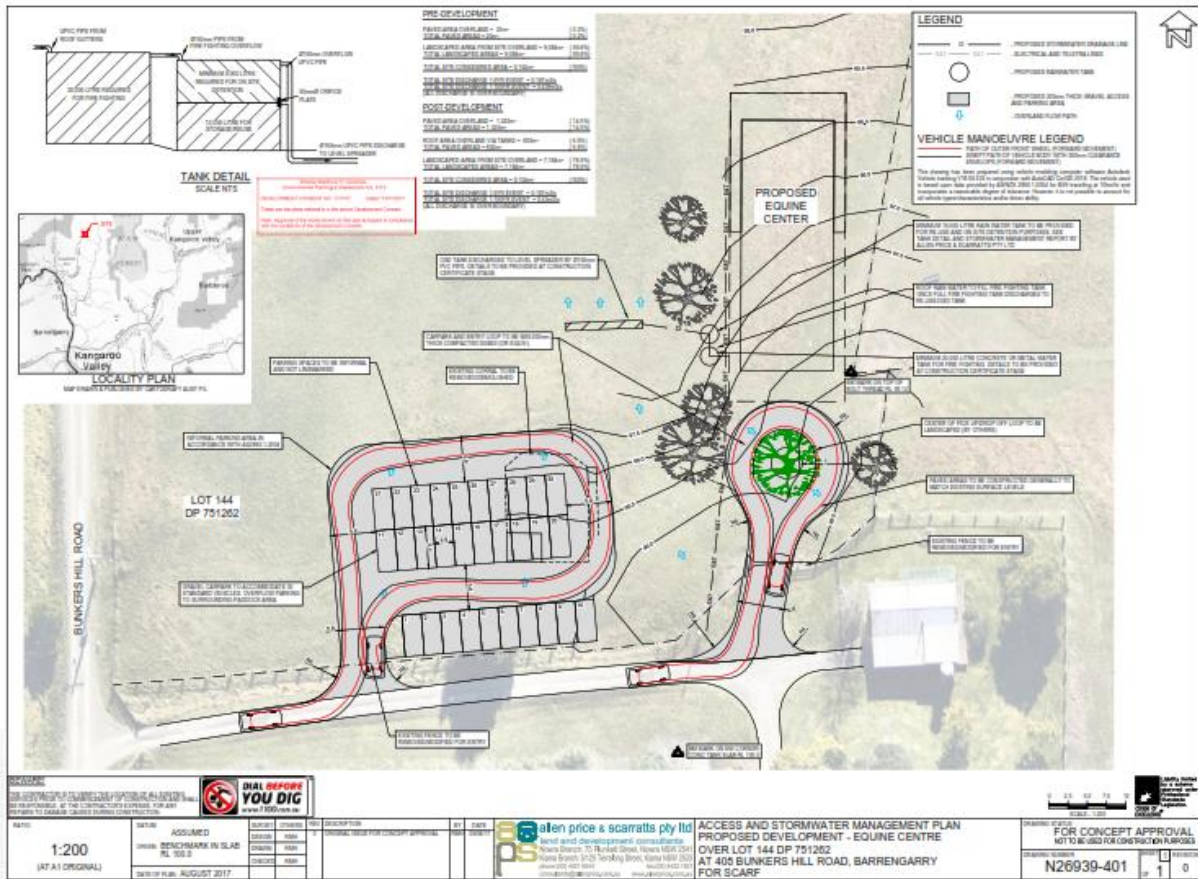
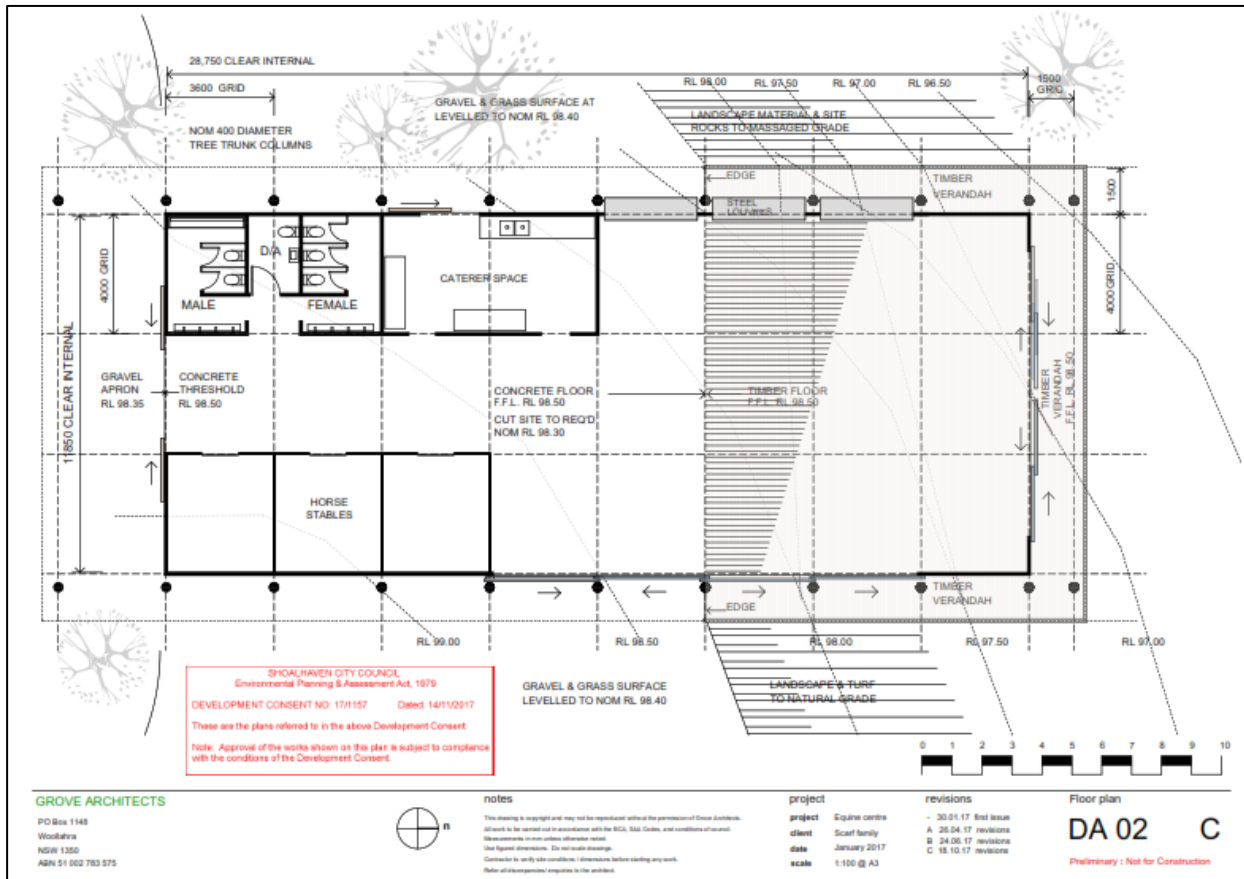


Figure 6: Approved Site Plan of Equine Centre from DA17/1157

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Figure 7: Approved floor plan of Equine Centre from DA17/1157

Issues

The Development Application DA23/1856 was called in for determination on public interest grounds (MIN23.749). Submissions have been received regarding this DA and these are discussed further in this report. There are not variations proposed to development controls set out in either Shoalhaven LEP or Shoalhaven DCP.

The attached assessment report identifies the proposal complies with the requirements of Shoalhaven LEP and Shoalhaven DCP.

Planning Assessment

The DA has been assessed under s4.15 of the *Environmental Planning and Assessment Act 1979*.

Community Consultation

Five (5) public submissions were received in relation to Council’s notification of the development. All submissions received are objections to the development.

The notification was made in accordance with Council’s Community Consultation Policy with letters being sent to neighbours within 100m of the site. The notification period was between 17 November 2023 and 4 December 2023.

Key issues raised in submissions are provided below.

1. Submission - Characterisation of use and misrepresentation of the intended purpose of the development.

Submissions to DA23/1856 suggest that the proposal for use of an existing building as a dwelling house is a mischaracterisation/misrepresentation of the intended purpose of the development, contending that the proposal is intended to be used as tourist and visitor accommodation or a function centre.

Comment

The current DA before the Council (DA23/1856) is for the use of an existing building as a dwelling house and prospective alterations and additions, as well as the consolidation of lots. A dwelling house is a permissible land use within the RU1 primary production zone and Council is satisfied that the proposal can be characterised as such.

DA17/1157 already approves the use as an animal boarding and training establishment (equine education centre) and the temporary use of the building as a function centre. If DA23/1856 for use of the building as a dwelling is approved, it is recommended that conditions of consent will require the surrender of the animal boarding and training establishment use and temporary function centre.

The applicant has provided a statement (Attachment 4) which responds to objector concerns in this regard:

Re: Development Application (DA23/1856) – Landowner statement to objection

We recently lodged a development application (DA23/1856) which seeks to convert a building on our property to a 'dwelling house', with the intention to use the building as a 'dwelling house'.

The building has been designed for the use and enjoyment of our immediate and extended families to holiday on our property. When our family is not occupying it, we intend to rent it under the regulations for short term rental accommodation (STRA) and abide by the code of conduct by Fair Trading.

Following the notification of our DA, we have received 4 objections containing false claims of our intentions to build a hotel which will also be used for functions.

We understand how some neighbours may be concerned, given the history of the property. However, we were somewhat thankful to our neighbours and local community for their objection to our previous DA, as we now share the concern that 120 guest functions would not be ideal for our community.

We want you to know that we unreservedly have no intentions whatsoever to use the property for anything other than a dwelling house, and if approved we would be happy to surrender our existing DA that currently allows for functions.

Therefore, in converting the building to a dwelling house, we plan to remove all the impacts on not only our neighbours, but also the increased traffic on Bunkers Hill Road.

We are currently one of the only families on the entire road who does not have a dwelling house on our property, and we wish to enjoy the property just as our neighbours do.

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Extract from landowners response to objector submissions

2. Submission – Property Access

Submissions suggest that access to the property is inappropriate for increased traffic.

Comment

Access to the property for the purpose of a dwelling is considered acceptable.

3. Submission – Mischaracterisation of land use because of “breezeway and “two kitchens”

The proposal should not be characterised as a dwelling because of the internal layout of the building and the presence of “two kitchens”.

Comment

This assessment is satisfied that the dwelling will operate as a single domicile. The different compartments within the dwelling are isolated, however they rely on components within other parts of the building to function as a dwelling, for example the southern ground floor wing includes a kitchen, but no laundry. The northern ground floor wing includes a laundry, but no kitchen. The ground floor alfresco breezeway includes an alfresco BBQ kitchen; however, the layout of the building does not lend itself to a separate dwelling house occupancy, with entry to the southern ground floor wing either via bedrooms or through the alfresco area. Similarly, the upstairs wings do not include any kitchen or laundry facilities and require access through the alfresco area.

Council can be satisfied that the proposed dwelling house will operate as a single domicile.

4. Submission – Non-compliance LEP and DCP controls

Submissions suggest that the proposal does not comply with the relevant LEP and DCP controls.

Comment

Assessment staff have assessed the application against the relevant controls and the proposal is considered acceptable with regard to the LEP and DCP controls.

5. Submission – Misleading, erroneous and missing documentation

Submissions to DA23/1856 suggest that the proposal includes misleading or erroneous documentation. Specifically, errors in the BASIX certificate, bushfire assessment report and requirement for a Building Information Certificate.

Comment

Assessment staff have reviewed all supporting information to the DA, and this is considered acceptable. Revised plans and BASIX certificates have been provided to address minor inconsistencies. Regarding the Building Information Certificate, DA23/1856 is for prospective works and use. If approved, conditions of consent will require a BIC be obtained for any retrospective works relating to the dwelling house.

6. Submission – Development history of site and permissibility of current application

Submissions suggest that the proposal cannot be supported because of the development history of the site and that the current proposal for a dwelling house is not permissible.

Comment

DA23/1856 is for the use of an existing building as a dwelling house and prospective alterations and additions, as well as the consolidation of lots. A dwelling house is a permissible land use within the RU1 primary production zone and development assessment staff are satisfied that the proposal can be characterised as such.

Development assessment staff are satisfied that the proposal will not result in more than one dwelling house on site as the approved land uses have changed the use of any existing dwelling to tourist accommodation, or the use of any building has been abandoned under the provisions of 4.66 (4) of the Environmental Planning and Assessment Act 1979.

It is advised that the subject site currently does not support an existing dwelling house. It is advised that the cottage currently identified as “Banksia” and previously identified as “Misty Glen” was approved for use as a tourist cabin via DA 14/1117 and has been used for that purpose since 1996. The structure has been used for tourist accommodation since that time.

Extract from Applicant’s Statement of Environmental Effects confirming no other dwelling houses currently exist on site

To confirm the permissibility of the current proposal a condition of consent will be included to specify that “no other existing buildings on site may be used as a dwelling house except where approved by Council in a subsequent development application”.

7. Submission – Previous approvals SF8305 and SF1032

Submissions to DA23/1856 suggest issues with previous subdivision approvals under SF8305 and SF1032.

Comment

The current DA23/1856 is for a use of an existing building as a dwelling house. The proposal is not incompatible with previous subdivision approvals for the property.

The status of previous subdivision approvals and associated certificates is not pertinent to the current application.

8. Submission – Environmental Impact

The proposal will have an adverse environmental impact.

Comment

Assessment staff have considered the proposals impact on visual amenity, scenic values, native fauna, water quality, traffic and safety and is satisfied that the proposal will not have a significant adverse environmental impact.

9. Submission – Zoning

The proposal is incompatible with the RU1 Primary Production zoning.

Comment

The application is for use of an existing building as a dwelling house which is permissible in the RU1 zone under Shoalhaven LEP 2014.

10. Submission – Bushfire

The proposal does not adequately address bushfire hazards.

Comment

The application has been supported by a Bushfire Hazard Assessment Report prepared by an appropriately qualified BPAD consultant which demonstrates the proposal complies with the requirements of Planning for Bushfire Protection.

11. Submission – Contaminated land

The proposal does not adequately address potentially contaminated land.

Comment

Potentially contaminated land has been considered and assessment staff are satisfied that the land is fit for residential use.

12. Submission – Lot consolidation and access arrangements

The proposal does not adequately address lot consolidation and results in landlocked properties.

Comment

This application relates to the consolidation of Lots 144 and 145 DP 751262, Lot 1 DP1263250 and the use of an existing building as a dwelling house. The proposal benefits from coincidental legal and practical access and is appropriate.

The proposal for consolidation of land and use of an existing building as a dwelling house is not contrary to any identified easements or restrictions on the title of the land.

The consolidation of Lots 144 and 145 DP 751262, Lot 1 DP1263250 is not inappropriate, and this application does not create landlocked parcels of land, rather, landlocked parcels of land are preexisting. Access arrangements to other parcels of land is not pertinent to this development application. Access arrangements identified in the submission are civil matters between individual land holders.

It is also noted that the consolidation of lots can be undertaken without development consent.

13. Submission – Request for a working group with local residents

Submissions to DA23/1856 have requested the establishment of a working group with local residents to consider the outcome of this DA.

Comment

DA23/1856 for use of an existing building as a dwelling house, which is a permitted use within the zone, is not a type of development warranting a local resident working group. Instead, the application has been called in to Council for determination for reasons of public interest.

Financial Implications

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

Legal Implications

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

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

Summary and Conclusion

This application has been assessed having regard to section 4.15 (Evaluation) under the *Environmental Planning and Assessment Act 1979*. Based upon the recommendations of the s4.15 Assessment Report (Attachment 1), Development Application No. DA23/1856 is recommended for approval subject to conditions of consent for the following reasons:

- 1) The proposed development is consistent with the objects of the Environmental Planning and Assessment Act 1979.
- 2) The proposed development complies with the development standards and is consistent with the aims, objectives, and provisions of the applicable environmental planning instruments.
- 3) The proposed development complies with the performance criteria and is consistent with the aims, objectives, and provisions of Shoalhaven Development Control Plan 2014.
- 4) The proposed development is consistent with the aims, objectives, and provisions of relevant Council policies.

- 5) The likely impacts of the proposed development are considered acceptable.
- 6) The site is suitable for the proposed development.
- 7) Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
- 8) The proposed development does not conflict with the public interest.

CL24.94 Notice of Motion - Request to Investigate an Audit of the City's Kerbside Wheely Bins

HPERM Ref: D24/128912

Submitted by: Cllr Serena Copley

Purpose / Summary

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

Recommendation

That Council:

1. Direct staff, through the CEO to consider what would be associated with undertaking an audit of kerbside wheely bins in the City, to understand bin use and cross-contamination levels. To collect relevant information and data on the waste management needs of our community.
2. Receive a report from staff on the outcomes of that consideration, including the cost, a funding mechanism, and a timeframe for completion of an audit.
3. Subject to a resolution of the Council, as a result, undertake an audit of kerbside wheely bins in the City.

Background

Council must explore waste treatment technology/processes that will minimise waste going to landfill. The landfill space at the West Nowra site has a limited lifespan and is expected to be exhausted within the next 10 years. Options to divert waste will benefit longevity and bear positive environmental and financial benefits for the City.

The NSW Government's NSW Waste and Sustainable Materials Strategy 2041 notes a target reduction of 50% organic waste going to landfills by 2030.

The concerns of the community regarding future management of waste collection in the City must be allayed. The new Council to be elected in September this year must be equipped with relevant information and supporting data to make an informed decision about the future of the City's waste management collection strategy, including which waste streams currently going into landfill can be diverted in both a cost effective and environmentally beneficial manner.

CL24.94

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.