

Ordinary Meeting

Meeting Date: Tuesday, 21 January, 2025
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.30pm

Membership (Quorum - 7)
All Councillors

Clr Patricia White – Mayor

Ward 1

Clr Jason Cox
Clr Matthew Norris - Assist. Deput Mayor
Clr Peter Wilkins - Deputy Mayor
Clr Selena Clancy

Ward 2

Clr Ben Krikstolaitis
Clr Bob Proudfoot
Clr Jemma Tribe
Clr Luciano Casmiri

Ward 3

Clr Denise Kemp
Clr Gilliam Boyd
Clr Karlee Dunn
Clr Natalee Johnston

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

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

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

Statement of Ethical Obligations

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

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

Agenda

1. Acknowledgement of Country

Walawaani (welcome),

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

Walawaani njindiwan (safe journey to you all)

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

- 2. Moment of Silence and Reflection**
- 3. Australian National Anthem**
- 4. Apologies / Leave of Absence**
- 5. Confirmation of Minutes**
 - Ordinary Meeting - 17 December 2024
- 6. Declaration of Interests**
- 7. Presentation of Petitions**
- 8. Mayoral Minute**
- 9. Deputations and Presentations**
- 10. Notices of Motion / Questions on Notice**

Notices of Motion / Questions on Notice

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- 11. Call Over of the Business Paper**
- 12. A Committee of the Whole (if necessary)**
- 13. Committee Reports**

Nil

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15. Confidential Reports

Reports

CCL25.1	Compulsory Acquisition of Council Land - Department of Education - Lot 33 DP 1207847 Holloway Road, Nowra
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Local Government Act - Section 10A(2)(d)(iii) - Information that would, if disclosed, reveal a trade secret.

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

CL25.1 Rescission Motion - CL24.384 - Notice of Motion - Post-Exhibition and Finalisation - Planning Proposal - Local Character - Shoalhaven Local Environmental Plan 2014 (PP073)

HPERM Ref: D24/541443

Submitted by: Clr Jemma Tribe
 Clr Matthew Norris
 Clr Natalee Johnston

Purpose / Summary

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

Recommendation

That Council rescind the Motion relating to Item CL24.384 - Notice of Motion - Post-Exhibition and Finalisation - Planning Proposal - Local Character - Shoalhaven Local Environmental Plan 2014 (PP073) of the Council Meeting held on Tuesday 10 December 2024.

Background

The following resolution was adopted at the Ordinary Meeting held Tuesday 10 December 2024.

(MIN24.655)

That Council:

- 1. Pause Planning Proposal PP073 and the drafting of character statements and design guidelines to be considered including work on the new Land Use Planning Scheme (Local Environmental Plan), until such time as Council can hold a briefing to receive information on the background and status.*
- 2. Acknowledge that the Shoalhaven Development Industry Reference Group has workshopped design at a previous meeting.*
- 3. Ensure there is adequate Community involvement/consultation in the development of any Character and Design Guidelines or requirements.*
- 4. Ensure this issue is investigated with other items yet to emerge impacting housing supply.*

CL25.1

CL25.2 Notice of Motion - CL24.384 - Post-Exhibition and Finalisation - Planning Proposal - Local Character - Shoalhaven Local Environmental Plan 2014 (PP073)

HPERM Ref: D24/541523

Submitted by: Cllr Jemma Tribe
Cllr Matthew Norris
Cllr Natalee Johnston

Purpose / Summary

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

Recommendation

That Council:

1. Adopt Planning Proposal PP073 as exhibited, and using Council's delegation, forward to the NSW Parliamentary Counsel's Office to draft the resulting amendment to the Shoalhaven Local Environmental Plan 2014 and proceed to finalisation.
2. Advise key stakeholders, including those who made a submission and CCBs, of this decision and when the Amendment will be made effective.

Background

That Council re-adopt the original motion (from CL24.376 - Post Exhibition and Finalisation - Planning Proposal - Local Character - Shoalhaven Local Environment Plan 2014 (PP073)), recognising the extensive community consultation that has been undertaken, attracting widespread support in submissions from across the Shoalhaven's 50 towns and villages.

Note by the CEO

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

CL25.2

CL25.3 Notice of Motion - Reinstate Greenwell Point Village Pool Operating Hours Petition

HPERM Ref: D25/294

Submitted by: Cllr Luciano Casmiri

Purpose / Summary

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

Recommendation

That Council:

1. Grant special dispensation to Greenwell Point Pool and reverse the recent changes to its operating hours, based on the following considerations:
 - a. Drowning prevention: Drowning remains one of the leading causes of death among Australian children. Access to Greenwell point Pool is critical for children to learn swimming and water safety skills in a safe, community-focused environment. The decision to shorten the pool's season significantly limits this vital access.
 - b. Impact on school programs: The shortened season affects Berry Public School students' participation in swimming programs. Term 4 swimming classes, which prepare students for safe summer activities, can no longer proceed. Many parents with young children who are still learning to swim, rely on initiatives like this.
 - c. Extended swimming season: Greenwell point's swimming season and warmer weather.
 - d. Economic and operational efficiency: Greenwell Point Pool operates with fewer staff and lower overheads compared to larger facilities like Bomaderry Aquatic Centre, making it a cost-effective and vital community resource during the warmer months.
 - e. Tourism and local patronage: Greenwell Point Pool benefits from additional use by visitors staying, including day-trippers and guests in short-term rentals.
2. Explore a pro-rata fee structure for Season Passes. This initiative would encourage more patrons and families to purchase season passes, even late in the season, potentially boosting both pool usage and revenue.

Background

At Council's Ordinary Meeting on Monday, 14 October 2024, in response to a petition on behalf of Kangaroo Valley residents, Council resolved to reverse recent changes to the Kangaroo Valley (KV) Community Pool operating hours.

At Council's Ordinary Meeting 10 December 2024, in response to a petition from Berry residents, Council resolved to revert changes to the Berry Community Pool operating hours.

A similar petition, submitted on behalf of the Greenwell Point community and concerned parents, calls for the restoration of Greenwell Point's full season operating hours. This petition has attracted 300+ signatures, along with a number of emails in support.

Note by the CEO

The reinstatement of operating hours would reduce the savings achieved through review of our facilities by a projected \$19,540.00.

Council staff are working with local schools (including the Greenwell Point Public School) to ensure Term 4 and Term 1 lessons can be accommodated while still achieving the savings through reduced operating hours.

The recent changes to operating hours represented a sustainable cost saving and any reduction in this will need to be achieved or offset through other mechanisms.

CL25.4 Question on Notice - Planning for Projected Population Growth

HPERM Ref: D25/2994

Submitted by: Cllr Luciano Casmiri

Question

Treasurer Jim Chalmers in December released current population estimates suggesting 13.8 million people in 40 years assuming a lower immigration rate than the past 30 years.

It is anticipated that the majority will settle on the east coast. Given global warming concerns and the migration from an over-crowded Sydney, the south coast beachside towns as illustrated by the record number of visitors during the past month, the Shoalhaven locations are most attractive.

Before finalising any strategic planning items currently in preparation by council can councillors be assured, we are planning adequately for facilitating this growth across all 5 planning areas in the Shoalhaven City Council "A Failure to Plan adequately for facilitating developments is a Plan to Fail".

Response

Comprehensive confirmation on the inclusion of adequate growth management principles across the 5 planning areas will be addressed with Councillors as a result of this Question on Notice.

Strategic growth planning/management in Shoalhaven is currently informed by Council's existing [Shoalhaven Growth Management Strategy](#) and the NSW Government's [Illawarra-Shoalhaven Regional Plan](#).

Council has commenced the review of its Local Environmental Plan (LEP), which is the most appropriate and structured approach to ensuring suitable growth management is achieved. Accordingly, Council staff can respond to this matter as part of ongoing and structured discussions with Council as part of the Land Use planning Scheme work.

CL25.4

CL25.5 Notice of Motion - Contributions Plan Briefing

HPERM Ref: D25/4539

Submitted by: Cllr Luciano Casmiri

Purpose / Summary

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

Recommendation

That the CEO organise a briefing on the review of Council's contributions framework and new contributions plan as soon as possible, including more detail on projects that have reached at least 50% completion and the feasibility of early delivery.

Background

During a Councillor briefing it became clear to me that Council has commenced projects which deliver Council a positive cashflow. Projects which were instigated by councils many years ago and are still not complete. With the previous Council deleting tens of millions worth of projects, it is my understanding that our management structure has little to complete. Delivering no projects and maintaining current staff and expenditure levels is not an option financially. In my opinion, completing commenced projects which pay for themselves is a responsible direction in the current climate.

CL25.5

CL25.6 Notice of Motion - Report Request - History of Investigations Sanctuary Point Shopping Centre Rear Area and Laneway

HPERM Ref: D25/12315

Submitted by: Cllr Bob Proudfoot

Purpose / Summary

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

Recommendation

That Council directs the CEO to prepare a report which details the history of investigations of the area and laneway at the rear of the Sanctuary Point shopping centre, Paradise Beach Road. In particular the report will focus on the following:

1. Previous resolutions of Council designed at working with shopkeepers in order to tidy up the overall appearance of the location.
2. The most recent survey which clearly defines the common boundary of the laneway and the rear of the shops.
3. Any identified health or safety issues with the location of large garbage disposal bins.
4. The availability of government funding which could be used to provide an aesthetically pleasing facelift of the location, which can best be described as neglected.

CL25.6

CL25.7 Notice of Motion - Urgent Clarification Minister for Local Government - Labor Meeting November

HPERM Ref: D25/12371

Submitted by: Clr Bob Proudfoot

Purpose / Summary

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

Recommendation

That Council writes to the Minister For Local Government and the Member For South Coast seeking urgent clarification as to the assertions made at a meeting of the Jervis Bay branch of the Labor Party on 13/11/24, where the resolution moved and carried sought intervention into the activities of Shoalhaven City Council and its subsequent sacking.

Background

Within 2 months of the new Council, where we had all agreed to work together for the betterment of our wonderful city, this ill-informed bombshell was resolved. Further, the motion put includes assertions that are extremely negatively about the capacity of the elected Council to oversee the financial management of Shoalhaven City Council. The motion calls on the Minister and the Local Member to immediately appoint an administrator.

These actions must be condemned as they do not represent the views of mainstream Shoalhaven which were convincingly conveyed during the September council election.

CL25.7

CL25.8 Notice of Motion - Condolences to the Fire Affected Areas of Southern California

HPERM Ref: D25/13687

Submitted by: Cllr Matthew Norris

Purpose / Summary

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

Recommendation

That

1. Council express its condolences to the Mayors of fire-affected areas in Southern California, on behalf of the City of Shoalhaven, for the tragic loss of life and widespread devastation caused by the ongoing wildfires.
2. Furthermore, Council offers to share insights from our Recovery into Resilience and Fortis House Projects, which provided support to Shoalhaven residents following the 2019/2020 bushfires, should these communities wish to draw upon our experiences in their recovery efforts.

Background

As of 13 January 2025, Southern California is enduring catastrophic wildfires, particularly in areas such as the Pacific Palisades, Malibu, and Santa Monica. These fires have tragically resulted in at least 24 confirmed fatalities and have caused widespread destruction of homes, businesses, and critical infrastructure, displacing thousands of residents. The situation remains dire, with firefighting efforts ongoing as the region battles multiple active blazes.

Shoalhaven's experience with recovery following the 2019/2020 Black Summer Bushfires, particularly through our Recovery into Resilience and Fortis House initiatives, has provided valuable lessons. By extending our condolences and offering to share our expertise, we hope to provide meaningful support to these communities as they begin their long journey toward recovery.

CL25.8

**CL25.9 Notice of Motion - “Call In” DA23/1825 - Lot 2,
DP701597 - 1 Wharf Rd, Shoalhaven Heads**

HPERM Ref: D25/15838

Submitted by: Cllr Peter Wilkins

Purpose / Summary

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

Recommendation

That Council “Call In” DA23/1825 relating to Lot 2, DP701597 – 1 Wharf Rd, Shoalhaven Heads be reported to Council for determination due to the public interest.

CL25.9

CL25.10 Notice of Motion - Feasibility Study for Establishment of a Traffic Control Function

HPERM Ref: D25/16211

Submitted by: Cllr Gillian Boyd

Purpose / Summary

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

Recommendation

That the Council direct the Acting Chief Executive Officer to prepare a report to Council, which includes a study into the financial and practical feasibility of establishing an appropriately trained, licensed and fully equipped traffic control business unit, or the integration of traffic management skill sets within appropriate current job roles, with that feasibility study including:

1. Case studies of minor Council projects showing high level costing/expenditure, indicating the amount that is paid for traffic control services;
2. What support such a business unit, or integrated traffic management skill sets, could provide Council for projects and initiatives that require the services of Traffic Controllers including road repair and renewal, erecting or repairing roadside fences, clearing roadside drains, and maintaining roundabouts and roadside vegetation; and
3. Consideration of a fee-for-service function to external agencies or businesses that require Traffic Control services while conducting their business.

Background

The purchase of Traffic Control services is a significant cost to Council when undertaking any project or maintenance work that requires traffic management. It can be more than 50 per cent of costs for relatively minor projects. Projects needing traffic control can range from trimming roadside vegetation to renewing a section of road.

Under the Work Health and Safety Act 2011 No 10 (WHS Act), Council, as an employer, is required to ensure, so far as is reasonably practicable, that a workplace, such as a roadside, is provided and maintained that is free from health and safety risks, and that the health and safety of other persons is not put at risk from work carried out as part of the work undertaken in that workplace or worksite.

Provision of Traffic Control services diminishes the risks workers are exposed to by traffic in and around the worksite and at the same time protecting health and safety of drivers, cyclists and pedestrians who may be passing by.

Traffic control work is defined in the WHS Act as work that:

- a. Directs traffic in accordance with a work zone traffic management plan,
- b. Implements a work zone traffic management plan in the immediate vicinity of a workplace, i.e. a plan showing how traffic will be controlled on a public road to allow work to be carried out safely on or adjacent to the road (or another public road).

CL25.10

- c. The design, amendment or inspection a work zone traffic management plan. Under Work Health and Safety Regulations, traffic controllers must be appropriately trained and licensed by WorkSafe NSW. Currently, training for Traffic Controllers is provided by TAFE NSW, is free. If it is achievable from a workforce perspective, and financially viable, it would be beneficial for Shoalhaven City Council to establish an appropriately qualified and licensed business unit that could undertake traffic control work for internal Council projects as well as tendering for work on external projects. For flexibility, it may be more practical to integrate the traffic control skill sets into appropriate existing roles so the skills are available to assemble a dedicated team to undertake traffic control duties when required. Currently, there are existing Council employees that have the relevant traffic control qualifications

I encourage Councillors to support this request for a feasibility study to be prepared and reported to Council in order to realise potential advantages to the Council and to the community, of establishing a dedicated Traffic Control Business Function.

CL25.11 Notice of Motion - Code of Meeting Practice - Mobile Phones and Tech Use in the Chambers

HPERM Ref: D25/16637

Submitted by: Cllr Jason Cox

Purpose / Summary

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

Recommendation

That Council formally request the Mayor / CEO to instruct staff to include *The Use of Mobile Phones* in the upcoming review of the Code of Meeting Practice. *As part of the Code of Meeting Practice, Councillors refrain from Mobile phone use in the Chamber (they be removed from sight which allows for them in bags / handbags etc for 'emergencies') and that laptops not be used for live communication with non-council related external parties, especially social media platforms whilst in SCC Ordinary meetings.*

Background

It has been suggested, observed and evidenced on live streams that use of mobile phones and Laptop use is distracting from council business at hand being conducted.

CL25.11

CL25.12 Determination of Date & Time of Council Meetings - February and March 2025

HPERM Ref: D24/477743

Department: Business Assurance & Risk

Approver: Dane Hamilton, Acting Director - City Performance

Purpose:

To provide Council with an update on establishment of the Development & Environment and Strategy & Assets Committees in accordance with MIN24.506, and to determine Ordinary Meeting dates for the period of February and March 2025 whilst details, framework, policy change and delegations are put in place to facilitate the Committees' establishment.

Summary and Key Points for Consideration:

Council's Code of Meeting Practice states that *"The Council shall, by resolution, set the frequency, time, date and place of its ordinary meetings"* in accordance with Section 365 of the Local Government Act 1993, which states Council is required to meet at least ten times each year, each time in a different month.

Council at its first meeting of the term (14 October 2024) resolved MIN24.506:

"That Council

1. *Adopt a schedule for two (2) Ordinary Council Meetings per month held on a Tuesday for the period ending 31 January 2025 subject to the following:*
 - a. *Meetings and briefings not being held on public holidays or during the period of Christmas / New Year break from 23 December 2024 to 13 January 2025.*
2. *From the period of 1 February 2025 adopt a schedule of one (1) Ordinary Meeting per month held on a Tuesday.*
3. *Reaffirm the authorisations to the Chief Executive Officer as set out in the report.*
4. *Determine the start time for Council meetings to be generally at 5.30pm.*
5. *Determine the start time for Councillor Briefings to be generally at 5.00 pm.*
6. *Reaffirm its current practice to hold deputations as part of the proceedings of the Ordinary Meetings.*
7. *Adopt in principle a change in structure of Council Meetings to incorporate the re-establishment of the Strategy & Assets Committee and the Development & Environment Committees which:*
 - a. *Have the functions and delegations as held by those Committees of the same name which were in place at Shoalhaven City Council for a number of years until they were disestablished on 25 January 2022.*
 - b. *Are comprised of all Councillors.*
 - c. *Each have a meeting scheduled once per month, on Tuesdays commencing at 5.30pm.*
 - d. *Receive deputations on matters listed on their agenda.*

8. *Receive a further report from the Chief Executive Officer which will outline matters to be endorsed by the Council in preparation for the implementation of the new arrangements from February 2025 at the latest, including details of:*
 - a. *A revised timetable scheduling Ordinary Meetings and Committee Meetings*
 - b. *Any amendments required under the Code of Meeting Practice to bring about the change*
 - c. *Any amendments required to delegation instruments and functions of those previous Committees to ensure compliance with current legislation.*
 - d. *Membership, Quorum and appointment of Chairperson.*
 - e. *Other relevant information required to be considered by the Council.”*

The local government operating environment is continually evolving. Therefore, re-establishing these committees necessitates a thorough review of governing legislation and policy to effectively manage reputational risk. Consequently, the details for the committees' commencement are still being finalised. This report offers an update on the progress made so far, outlines the remaining tasks, and requests that the Council establish a meeting structure to set Ordinary Meeting dates, ensuring the continuation of Council business in the interim.

Recommendation

That Council

1. Notes the report providing update on arrangements for the establishment of the Development and Environment Committee and Strategy and Assets Committee.
2. Adopt the following schedule of Ordinary Meeting Dates for the period of February and March 2025 whilst details and arrangements for the Committees are finalised:
 - Tuesday, 11 February 2025
 - Tuesday, 25 February 2025
 - Tuesday, 11 March 2025
 - Tuesday, 25 March 2025

Options

1. As recommended
Implications: Council will continue established schedule and arrangements for Ordinary Meetings during February and March 2025 whilst final arrangements for the Committees are confirmed.
2. Council adopts an altered schedule or range of meeting dates to those proposed in this report
Implications: Arrangement will be made for Ordinary Meetings according to the schedule adopted by the Council
3. Another recommendation
Implications: Unknown

Background and Supplementary information

Council may appoint or elect such committees as it considers necessary and when doing so, Council must specify the functions, membership and quorum of each Committee.

Council at the Ordinary Meeting of 14 October 2024 resolved (MIN24.506) to adopt in principle a change in structure of Council Meetings to incorporate the re- establishment of the Strategy & Assets Committee and the Development & Environment Committees which:

- a. *Have the functions and delegations as held by those Committees of the same name which were in place at Shoalhaven City Council for a number of years until they were disestablished on 25 January 2022*
- b. *Are comprised of all Councillors*
- c. *Each have a meeting scheduled once per month, on Tuesdays commencing at 5.30pm*
- d. *Receive deputations on matters listed on their agenda.*

For ease of reference, these Committees have been collectively and historically referred to as 'Core Committees' of the Council.

In the period since the last Development & Environment and Strategy & Assets Committees operated in October 2021, the legislative, policy and operational environments of Council have changed.

Since the Council Resolution of 14 October 2024, work has been undertaken which has identified those changes from the 2021 operating environment which will impact on the new Committee arrangements to establish a new framework for decision making which will reflect the previous Committees and our legislative and policy requirements.

Under the Local Government Act, Council is unable to delegate all its decision-making capacity to the CEO or a Committee or other body. In particular, [Section 377 of the Local Government Act](#), outlines decisions which must be resolved by the full Council as they cannot be delegated. There are other provisions within legislation which govern Council activities and decisions which require certain decisions to be made only by the governing body of the Council at Ordinary (or Extra Ordinary) Meetings. Therefore, the Core Committees may consider a wide range of matters but may not make a final decision (resolution) on all matters.

In practice this means that during the proceedings of Core Committee meetings, depending upon the situation and topic at hand the Committee will be making '*Resolutions*' (i.e. Making the final decision as they have the power by delegation to lawfully do so) on some matters and on others will be making '*Recommendations*', that is considering and discussing matters before recommending and referring the business to an Ordinary Meeting for final resolution.

The Council needs to take care when establishing Committees to clearly articulate and resolve the delegations (powers) that the Committees may lawfully have to ensure that they do not make decisions for which they do not have delegation, not hamper or impede efficiency in decision making, and for which there is clarity and transparency for Councillors, staff and the Community on the function, role and business rules applying to the new decision making processes.

While work is advanced in achieving this structure, tasks are incomplete with respect to the following work which is still required before Committee commencement:

- Preparing a Draft Code of Meeting Practice incorporating required changes which will be presented to the Council and be subject to 28 days of community consultation (as required by legislation) prior to final adoption by the Council and implementation.
- Finalisation of drafting of the formal instruments of delegation to empower the committees for decision making.

- Modification and testing of the system used by Council to administer the creation and approval of reports, production and publication of business papers and minutes and implementation of resolutions.

The Council shall be presented further reports in February 2025 required to achieve endorsement of Council for the new decision-making structure, Final adoption of Committee delegations and to put other arrangements in place for these Committees, after which necessary training will be provided to Councillors and Staff and website updates and materials published prior to the new arrangements commencing.

Internal Consultations

Council's Executive Leadership Team and internal subject experts have and are being consulted of the proposed structure and arrangements for Committees.

External Consultations

No external consultation has been undertaken or is required with respect to the proposed meeting dates.

Where required advice has been sought from OLG and legal advice obtained on matters pertaining to meeting and committee arrangements.

Community Consultations

No community consultation has been undertaken or is required with respect to the proposed meeting dates.

Any amendments that are required to the Code of Meeting Practice upon Council determining changed arrangements will require public exhibition of the Code, prior to its adoption under legislation.

Council is required to make publicly available a list of endorsed meeting times and dates. Council will also need to provide public information informing the community of the arrangements in place.

Policy Implications

Any amendments that are required to the Code of Meeting Practice as a result of an alternate recommendation will require Public Exhibition of the Code, prior to its adoption under legislation.

Financial Implications

The frequency and time dedicated to Council Meetings and Committees has a direct correlation with the administrative costs and resources for those meetings.

Risk Implications

Decisions of the Council need to be made in accordance with legislation, guidelines and adopted policy. Hence care is being taken to ensure the functions and delegations of Committees are specifically and appropriately worded and endorsed prior to commencement of Committee operations.

There is also reputational risk for the Council if the arrangements put in place for the Council are insufficiently transparent, ineffective, unlawful or inefficient.

CL25.13 Acquisition of Land for Road Widening - part of 220 Moss Vale Road, Badagarang

HPERM Ref: D24/521151

Department: Buildings & Property Services

Approver: Carey McIntyre, Director - City Services

Attachments: 1. Survey Plan Area for Acquisition - part Lot 4 DP 268209, 220 Moss Vale Road, Badagarang [↓](#)

Purpose:

The purpose of this report is to seek Council resolution for the acquisition of land for road widening of Moss Vale Road, at the intersection of Bells Lane and Far North Collector Road, Badagarang.

Summary and Key Points for Consideration:

Council has authority under section 177 of the *Roads Act 1993* to acquire land for the purpose of road widening. Land acquired under this authority must be carried out in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* ('Just Terms Act'). The Just Terms Act sets out compensation provisions for acquisition of land by a public authority. Council is obliged to attempt a negotiated outcome for acquisition of the land after which time acquisition by compulsory process can take place, if required.

Council resolution is required for the acquisition of land under section 377 of the *Local Government Act 1993*.

Recommendation

That Council:

1. Acquire by negotiation under section 177 of the *Roads Act 1993* the land described as Part Lot 4 DP 268209, shown on Annexure 1 to this report, for road widening purposes and comprising an area of approximately 290m² (subject to final survey and plan of acquisition).
2. Authorise the Chief Executive Officer be delegated with authority to complete negotiations including determining the compensation payable in accordance with the market value range determined by registered certified valuer.
3. Authorise that in the event an agreement cannot be reached within a reasonable timeframe (being at least a minimum period of six months from opening negotiations) that Council is authorised to proceed via Compulsory Acquisition to acquire the part of Lot 4 DP 268209 shown on Annexure 1 (subject to final survey and plan of acquisition) for road widening purposes by applications to the Minister for Local Government and the Governor under authority contained within section 177 of the *Roads Act 1993* and pursuant to the *Land Acquisition (Just Terms Compensation) Act 1991*.
4. Dedicate the identified area of Part Lot 4 DP 268209 as public road pursuant to section 10 of the *Roads Act 1993* including notice in the Government Gazette.
5. Be responsible for all costs including landowner's reasonable costs such as valuation, survey, plan registration, transfer and legal costs in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
6. Authorise the Common Seal of the Council of the City of Shoalhaven to be affixed to any

document required to be sealed and delegate authority to the Chief Executive to sign any documentation necessary to give effect to this resolution.

Options

1. Resolve as recommended

Implications: Council will acquire the identified land for the future delivery of public footpath to service the future residential catchment of Badagarang.

2. Not adopt the recommendation

Implications: The identified land comprising the future public footpath will not be in Council ownership.

Background and Supplementary information

The section of Moss Vale Road immediately adjoining the subject land has recently been upgraded to accommodate the intersection of the new Far North Collector Road and Bells Lane. The area to the north is identified for future residential development as part of the Moss Vale Road Urban Release Area. To facilitate future public footpath establishment on the road verge, additional land at the south-western corner Moss Vale Road and Bells Lane (the new roundabout) needs to be acquired from the adjoining landowner. The identified land is part of Lot 4 DP 268209 being approximately 290m² in area and shown generally on **Figure 1**.

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Figure 1: Map showing proposed acquisition area (shown in red), forming part of Lot 4 DP 268209 (highlighted blue).

Council issued an opening letter of offer to the landowner in November 2023 and has continued to attempt to reach agreement for compensation in accordance with section 38 (negotiated agreement) of the Just Terms Act. At the time of writing this report, Council continues to pursue a negotiated outcome with the landowner.

Federal Government funding for the road upgrade works requires expenditure acquittal within the established timeframes. If agreement cannot be reached with the landowner for a negotiated acquisition, it will need to commence the compulsory acquisition process to meet funding requirements. Notwithstanding, it is Council's preference to achieve a negotiated acquisition with the landowner.

Internal Consultations

The proposed acquisition has been undertaken in consultation with Council's Project Governance Manager.

External Consultations

An independent valuation report was commissioned from a certified practising valuer to assess the compensation amount.

Negotiations with the landowner are being undertaken in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Community Consultations

Community engagement is not required for operational purposes such as land acquisition.

Policy Implications

This acquisition process is in accordance with policy POL22/120 – Acquisition of Land by Shoalhaven City Council.

Financial Implications

As required under the *Land Acquisition (Just Terms Compensation) Act 1991*, an independent valuation report was commissioned from a certified practicing valuer to establish the compensation amount for the land acquisition. The valuation report assessed a compensation amount of \$2,000 excluding GST (if applicable).

Council will reimburse the landowner's reasonable legal, valuation and other costs associated with the acquisition as required under the Act. These costs can ordinarily be expected to be in the range \$5,000 to \$10,000.

In the event a compulsory acquisition is required either because of not reaching a negotiated position on the compensation amount, or Council activating the compulsory process to meet the Federal Government funding timeline, additional costs will be incurred in the order of \$15,000 to \$30,000.

The costs of acquisition will be funded from a Federal Government grant. No costs will be incurred by Council from its Operational budget.

Risk Implications

Acquisition of land is required to formalise Council's ownership of the constructed footpath and facilitate future access over public land. This is necessary to properly service the future population of Badagarang and provide safe off-road access for residents.

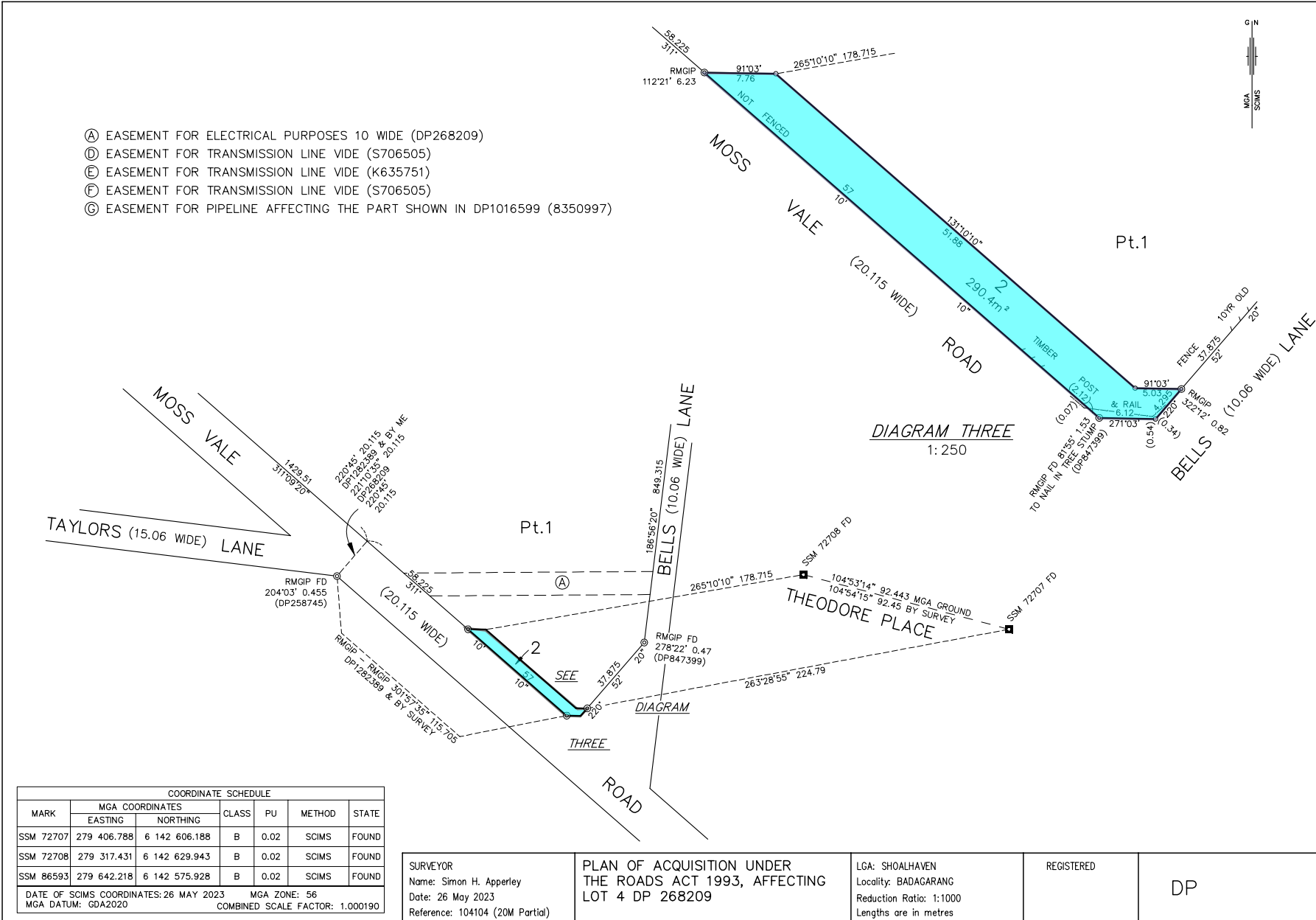
The acquisition process is funded by the Federal Government. In the event a negotiated agreement to acquire the land is not able to be reached, it will be necessary to complete the acquisition by compulsory process and ensure the Federal Government funding is accessed.

PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet 2 of 2 sheets

- (A) EASEMENT FOR ELECTRICAL PURPOSES 10 WIDE (DP268209)
- (D) EASEMENT FOR TRANSMISSION LINE VIDE (S706505)
- (E) EASEMENT FOR TRANSMISSION LINE VIDE (K635751)
- (F) EASEMENT FOR TRANSMISSION LINE VIDE (S706505)
- (G) EASEMENT FOR PIPELINE AFFECTING THE PART SHOWN IN DP1016599 (8350997)



COORDINATE SCHEDULE						
MARK	MGA COORDINATES		CLASS	PU	METHOD	STATE
	EASTING	NORTHING				
SSM 72707	279 406.788	6 142 606.188	B	0.02	SCIMS	FOUND
SSM 72708	279 317.431	6 142 629.943	B	0.02	SCIMS	FOUND
SSM 86593	279 642.218	6 142 575.928	B	0.02	SCIMS	FOUND
DATE OF SCIMS COORDINATES: 26 MAY 2023 MGA ZONE: 56						
MGA DATUM: GDA2020 COMBINED SCALE FACTOR: 1.000190						

SURVEYOR
Name: Simon H. Apperley
Date: 26 May 2023
Reference: 104104 (20M Partial)

PLAN OF ACQUISITION UNDER
THE ROADS ACT 1993, AFFECTING
LOT 4 DP 268209

LGA: SHOALHAVEN
Locality: BADAGARANG
Reduction Ratio: 1:1000
Lengths are in metres

REGISTERED

DP

CL25.13 - Attachment 1

CL25.14 Proposed Road Closure and Sale - Public Road Reserve Adjoining Lot 425 DP 720906 Depot Road, West Nowra

HPERM Ref: D24/530462

Department: Buildings & Property Services

Approver: Carey McIntyre, Director - City Services

Purpose:

The purpose of this report is to seek a resolution of Council to close a portion of surplus road reserve adjoining Lot 425 DP 720906 Depot Road, West Nowra, to be consolidated with the adjoining land.

Summary and Key Points for Consideration:

Section 38A of the *Roads Act 1993* provides that Council as the roads authority may close a council public road if it is not reasonably required as a road for public use (whether for present or future needs), is not required to provide continuity for an existing road network, and; if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.

After consideration of any submissions following notification of the proposal to close road, Council may close the public road by notice in the NSW Government Gazette. Under section 43 of the *Roads Act 1993*, proceeds of the sale of a closed road are to be used for acquiring land for public roads or for carrying out road work on public roads.

Council resolution is required for closure of a public road by gazette notice to effect the closure of a road under s38D of the *Roads Act 1993* as well as for land sale. This report recommends closure of the identified section of surplus road reserve under the *Roads Act 1993*.

Recommendation

That Council:

1. Approve the road closure under section 38D of the *Roads Act 1993* for the unused surplus road reserve adjoining Lot 425 DP 720906, Depot Road, West Nowra, as shown on Figure 1 to this report and subject to final survey, by notice in the NSW Government Gazette.
2. Classifies the closed section of road as operational land following public notice of the proposed classification under the *Local Government Act 1993*.
3. Authorise the sale of the closed road to the registered proprietor of the adjoining land being Lot 425 DP 720906 for the amount of \$425,000 (excluding GST), if applicable, including adjustment to the sale price after final survey and authorise the Chief Executive Officer to complete negotiations including acceptance of offer for purchase based on the final survey.
4. Endorse that the costs incurred with the road closure and sale comprising legal, conveyancing, valuation and survey expenses will be met by the applicant.
5. Direct the net land sale proceeds to the Strategic Property Reserve and be used for the purposes expressed in section 43 of the *Roads Act 1993*.

6. Require that the lot to be created with formal road closure be consolidated in title with Lot 425 DP 720906.
7. Authorise the Common Seal of the Council of the City of Shoalhaven to be affixed to any document required to be sealed and delegate authority to the Chief Executive Officer to sign any documentation necessary to give effect to this resolution.

Options

1. Resolve as recommended

Implications: The unused surplus road reserve will cease to be a Council public road and the land will be transferred into private ownership and consolidated with the adjoining property. As the area of road has no future or alternative strategies identified, the disposal will not negatively impact the community. Additionally, the sale will generate an income of \$425,000 excluding GST (if applicable).

2. Not adopt the recommendation.

Implications: Council will retain ownership of the surplus public road reserve.

Background and Supplementary information

The subject section of road reserve adjoining Lot 425 DP 720906, Depot Road, West Nowra is shown on **Figure 1** and approximately 851m² in area (subject to final survey).

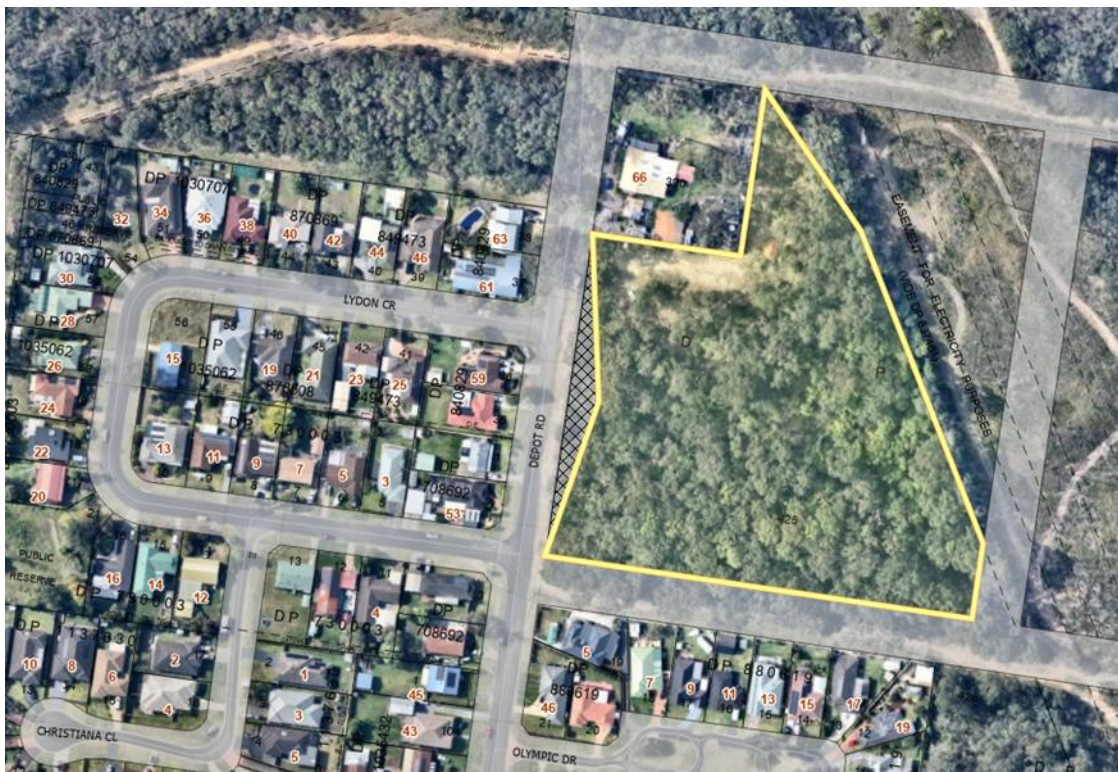


Figure 1 – part of Depot Road proposed for road closure (hatched) with adjoining Lot 425 DP 720906 highlighted yellow

Council received interest in early 2023 from the owner of adjoining Lot 425 DP 720906 to purchase the subject part of the road reserve for incorporation into a future development application for residential subdivision of the adjoining private land.

Lot 425 DP 720906 is currently the subject of a development application (RA23/1003). At the time of writing this report, no determination was made in respect of that application. The road closure is subject to the provisions of the *Roads Act 1993* and under section 38D, Council may close a public road. The road closure assessment and determination are undertaken independently of a development application.

In the event the section of road is closed by Government Gazette notice, the land can be sold to the adjoining landowner and the additional area included in a future development stage for the residential subdivision (if approved).

Internal Consultations

Internal consultation was undertaken. No objections were raised to the proposed road closure and sale, however, the following comments from the consultation process will be incorporated into any future contract for sale conditions and final survey plan requirements;

1. The new road boundary is to be offset from existing Shoal Water main assets a minimum of 2.4m as determined by final survey and services location.
2. The proposed sale area shall not impact Council's Pedestrian Access and Mobility Plan ('PAMP') strategy, which identifies this location for a Shared User Path (SUP), to ensure no detrimental public impact.

External Consultations

In accordance with section 38B of the *Roads Act 1993*, notifiable authorities were advised of the road closure proposal. No objections were received.

An independent valuation by certified practising valuer was obtained to assess market value for the land sale.

Community Consultations

In accordance with section 38B of the *Roads Act 1993*, notice of the road closure proposal was published in a local newspaper and given to owners of adjoining land. No submissions were received.

Policy Implications

This proposal is in accordance with Council Policy "Development and/or Disposal of Council Lands" POL22/47 and Council's Due Diligence for Land Transactions procedure.

Direct negotiation sale process is appropriate as there is no opportunity to dispose the closed section of road on the open market.

Financial Implications

A valuation was undertaken by a registered practicing valuer and the assessed market value is \$425,000 (excluding GST). The adjoining landowner has agreed with the compensation amount. The compensation amount may be adjusted in accordance with final survey.

As per Council's adopted Fees and Charges, the applicant will be responsible for all associated costs including road closure application fees, valuation, surveying, legal and conveyancing fees. This transaction will occur at zero cost to Council.

Net land sale proceeds will go to the Strategic Property Reserve and used for the purposes expressed in section 43 of the Roads Act 1993.

Risk Implications

Valuation advice has been received for the recommended sale of land following gazettal of the road closure. Council's interests have been considered and there is minimal risk associated with the recommended road closure and sale.

CL25.15 Compulsory Acquisition of Council Land - Department of Education - Lot 33 DP 1207847 Holloway Road Nowra

HPERM Ref: D24/535625

Department: Technical Services

Approver: Carey McIntyre, Director - City Services

Purpose:

The purpose of this report is to provide Council with an opportunity to consider a confidential report for the compulsory acquisition of Council land known as Lot 33 DP 1207847, Holloway Road, Nowra.

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

Summary and Key Points for Consideration:

Details relating to the Summary and Key Points for Consideration are contained in the confidential report.

Recommendation

That Council consider a separate confidential report in accordance with Section 10A(2)(d)(iii) of the *Local Government Act 1993* in relation to the compulsory acquisition of Council land known as Lot 33 DP 1207847, Holloway Road, Nowra.

Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Reject the recommendation

Implications: Information regarding the acquisition would be made public.

Background and Supplementary information

An acquiring authority is seeking agreement to the acquisition of Council community land, known as Lot 33 DP 1207847, by consent of owner under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Under Section 45(1) of the *Local Government Act 1993*, Council has no power to sell, exchange or otherwise dispose of community land. However, the acquiring authority has the power to compulsorily acquire land.

The acquiring authority is seeking to compulsorily acquire Council's land under Section 30 (consent of owners) of the *Land Acquisition (Just Terms Compensation) Act 1991* which states:

- (1) *An authority of the State and the owners of land may agree in writing that the land be compulsorily acquired by that authority.*

(2) *The provisions of Division 1 (Pre-acquisition procedures) and Part 3 (Compensation for acquisition of land) do not apply to any such compulsory acquisition if the owners have agreed in writing on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.*

The Land Acquisition Act otherwise enables an acquiring authority to acquire land from the landowner by negotiation (section 38 of the Act) for a compensation outcome after which time (minimum six-month negotiation period) the acquiring authority can rely on section 19 of the Act to compulsorily acquire land by gazette notice.

Details regarding the offer of compensation is detailed in the confidential report.

Internal Consultations

Consultation has taken place with the relevant stakeholders and the asset custodian.

External Consultations

Details relating to external consultations are contained in the confidential report.

Community Consultations

Community engagement is not required for the proposed compulsory acquisition by an authority of the state as the *Land Acquisition (Just Terms Compensation Act) 1991* provides for the acquisition to take place if required by gazette notice.

Policy Implications

The compulsory acquisition is consistent with Council's policy Development and/or Disposal of Council Lands (POL22/47).

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.

CL25.16 Proposed Exhibition - Draft Community Participation Plan (CPP)

HPERM Ref: D24/530402

Department: Strategic Planning

Approver: Bruce Gibbs, Acting Director - City Development

Attachments: 1. DRAFT - Community Participation Plan (under separate cover) [↗](#)

Purpose:

To present a draft Community Participation Plan (CPP) for Council's endorsement to enable it to proceed to be publicly exhibited for community and stakeholder feedback.

Summary and Key Points for Consideration:

The CPP outlines how Council (and other authorities which consider and determine development) will engage with its communities on planning and development activities. Council is statutorily required to prepare, publish, and review the Plan by the Environmental NSW Planning and Assessment legislation.

The CPP supports, and for completeness will ultimately be attached to or be part of, Council's Community Engagement Strategy (a draft of which is currently on public exhibition).

It sets out community participation opportunities and explains how and when communities will be involved when Council exercises its land use planning and development approval functions. This includes minimum exhibition timeframes. The Community Engagement Strategy has a broader focus, defining the level of community involvement for other Council activities.

Council's first plan of this kind was published in 2019 and needs updating due to its age and changing requirements and expectations around community participation in planning. Council has also recently resolved to increase exhibition periods and feedback opportunities in December and January and this needs to be reflected in the CPP - the contemporary draft of a new Plan is provided as **Attachment 1**.

This report recommends that the draft CPP now be public exhibited (for a minimum of 28-days) for review/comment. It also recommends options to finalise and publish the CPP based on any community feedback received to the exhibition. Once it is finalised it will be added to Council's *Community Engagement Strategy and Framework 2024* and published on Council's website and the NSW Planning Portal. Other current policies governing Council's community engagement activities will also be rescinded at this time.

Recommendation

That Council:

1. Exhibit the draft Community Participation Plan for a minimum of 28 days.
2. Delegate authority to the CEO to finalise and add the Community Participation Plan to Council's *Community Engagement Strategy and Framework 2024* if no or minimal feedback is received in response to the exhibition.
3. Only receive a further report providing the outcomes of the public exhibition if substantial feedback is received in response to the exhibition.

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4. Rescind *POL22/8: Community Consultation Policy for Development Applications (including Subdivision)*, following the addition of the Community Participation Plan to Council's Community Engagement Strategy.

Options

1. As recommended.

Implications: The exhibition of the draft CPP will continue work towards the publication of a new Plan confirming opportunities for the community to participate in Council's planning and development decisions.

It ensures Council continues to meet its legislative requirements and the commitments made in its Community Strategic Plan under *Priority 4.3 Inform and engage with the community about the decisions that affect their lives*.

The 2019 version of the CPP and Policy *POL22/8: Community Consultation Policy for Development Applications (including Subdivision)* will also be rescinded.

2. Make an alternative decision, including not to exhibit the draft Plan.

Implications: Subject to the nature of the decision, the finalisation of the new CPP may be delayed or not proceed. The 2019 CPP and associated policies will remain in place.

Background and Supplementary information

Council adopted the current Community Participation Plan (CPP) in November 2019 (MIN19.904). The environmental planning and assessment legislation requires the periodic review and update of these plans to ensure they remain contemporary. Council previously resolved to commence a review of the CPP (MIN21.434).

The update of the CPP ensures it remains consistent with legislative requirements and meets the community's expectations. It provides opportunities to respond to feedback and issues identified since the 2019 CPP was adopted. The draft CPP will also simplify Council's related policy framework by incorporating policy *POL22/8: Community Consultation Policy for Development Applications (including Subdivision)*.

In December 2024, Council resolved to extend the submission period for planning documents and applications due to be placed on exhibition during December and January of any given year. This resolution recognised these months were particularly busy and Shoalhaven's communities required more time to provide feedback on planning and development decisions. The draft CPP implements this resolution, confirming submission periods will be extended to 31 January.

The final CPP will be attached to or form part of Council's Community Engagement Strategy, a draft of which is currently on public exhibition. Including the CPP as a Chapter to the broader Strategy removes duplication between the two documents. It also simplifies Council's guidance and improves the accessibility and usefulness of the documents. On 26 November 2024, Council endorsed the exhibition of a draft Strategy, with the accompanying report noting the Community Participation Plan was being reviewed and an updated draft would be presented to Council at a later date.

Internal Consultation

A City Development working group with members from Development Services and Strategic Planning, the two teams responsible for Administering Council's planning and development activities, collaborated on the preparation of the draft CPP.

External Consultation

The draft CPP will be exhibited for a minimum of 28 days in accordance with legislative requirements.

Community Consultations

The draft CPP will be exhibited for a minimum of 28 days in accordance with legislative requirements.

Policy Implications

The adoption of an updated CPP will rescind and replace the 2019 Plan and policy *POL22/8: Community Consultation Policy for Development Applications (including Subdivision)*.

The additional extension of timeframes period for December-January applications to cover the Christmas / New Year period, will have a material impact on Development Application (DA) assessment timeframes, that will erode Council's position on the State Government League Tables. This has a follow-on impact on Council's potential to receive future grant funding tied to DA timeframes, as alluded to by the State Government.

Financial Implications

There are no immediate financial implications. The review and update the CPP will continue to be resourced within the existing City Development Directorate budget.

Risk Implications

If the CPP is not updated, the 2019 version will remain in place and create risks associated with the provision of inaccurate information, missing the community's expectations, and not meeting legislative requirements.

CL25.17 South Nowra Employment Precinct - Update and Proposed Interim Development Control Plan

HPERM Ref: D24/421891

Department: Strategic Planning

Approver: Bruce Gibbs, Acting Director - City Development

Attachments: 1. Comprehensive Planning Package Scope and Budget Estimate [↓](#)

Purpose:

The purpose of this report is to:

- Provide an update on the planning for the zoned, but undeveloped, portion of the South Nowra Employment Precinct;
- Obtain direction regarding the progression of a proposed 'interim' Development Control Plan (DCP) Chapter; and
- Outline how Council can advocate to the NSW Government for their support and commitment to delivering this regionally significant Precinct.

Summary and Key Points for Consideration:

The South Nowra Employment Precinct (the Precinct) is identified as a Regionally Significant Employment Precinct with the potential to provide significant employment generating and economic development opportunities. However, a range of detailed planning work is required to actually 'unlock' the zoned and undeveloped portion of the Precinct, located immediately east of the existing Flinders Estate, South Nowra and enable its development.

The Precinct contains biodiversity values and other constraints which are currently a limitation on development and require a holistic framework to help manage/resolve. Under the NSW Biodiversity Conservation Act 2016 (BC Act), development is required to offset the impacts of clearing, either on-site or by purchasing biodiversity credits. Recently Council has been investigating possible strategic approaches to help enable development and conservation outcomes across the broader South Nowra area, including the potential for what is known as strategic biodiversity certification. Further work is needed to determine whether there is actually a way forward.

The Precinct ultimately also needs site-specific development controls, an infrastructure servicing strategy and possible adjusting amendments to Shoalhaven Local Environmental Plan (LEP) 2014 to help guide development and coordinate/fund the delivery of essential supporting infrastructure. Funding will be required to undertake the necessary supporting investigations into flooding/drainage, bushfire, servicing and other matters.

In the meantime, it is proposed to prepare an 'interim' Development Control Plan (DCP) Chapter reflecting the relevant outcomes of the ecological investigations completed to date, and containing general Precinct-specific guidance on other matters to assist parties who may be considering developing prior to a comprehensive planning package being completed, noting that the area is already zoned.

This report outlines recent planning effort/work, the proposed 'interim' DCP chapter and the work required for a comprehensive planning package. Given the scale and complexities of the Precinct, the report also highlights the importance of continued advocacy to the NSW Government for support and commitment to realising this regionally significant employment precinct.

Recommendation

That Council:

1. Receive the update on this ongoing matter for information.
2. Endorse the preparation of a draft 'interim' Shoalhaven Development Control Plan 2014 chapter for the zoned and undeveloped part of South Nowra Employment Precinct, that incorporates the relevant outcomes of the preliminary ecological constraints assessment and general high-level guidance on other relevant matters (e.g. information to support development applications), with the work to be undertaken in-house by Council staff (Strategic Planning Section budget).
3. Note that work on the draft interim' Development Control Plan chapter will be undertaken alongside work on the proposed new land use planning scheme and as such this may impact on its timing/priority.
4. Receive a further report to consider the draft 'interim' Development Control Plan chapter prior to public exhibition.
5. Continue to work with relevant NSW Government Agencies on a possible strategic approach to enable development and conservation outcomes in the broader South Nowra Area, including possible Strategic Biodiversity Certification as per the Biodiversity Conservation Act 2016 (NSW).
6. Advise key stakeholders of this resolution, including (not exclusively): affected landowners, the NSW Department of Planning, Housing and Infrastructure and NSW Department of Climate Change, Energy, the Environment and Water.
7. Continue to advocate to the NSW Government regarding:
 - a. Possible NSW Government led approach to complete the planning and deliver the Precinct.
 - b. Strategic approach to enable biodiversity, transport and development outcomes across South Nowra through the planning for the Nowra bypass and South Nowra Employment Precinct.
 - c. Funding and/or support to progress a strategic biodiversity solution (e.g. biodiversity certification).
 - d. Funding to prepare a comprehensive planning package for the Precinct.

Options

1. As recommended.

Implications: Council staff will prepare a draft 'interim' DCP chapter incorporating relevant outcomes of the preliminary ecological constraints assessment and general guidance on other matters. The 'interim' DCP will help clarify ecological constraints within the Precinct and assist parties who are considering developing land prior to a comprehensive planning package being completed, given the land is already zoned. Council will receive a future report to consider the actual draft 'interim' DCP chapter prior to it proceeding further, including to public exhibition.

Council staff will also continue to work with relevant NSW Government Agencies to pursue a possible strategic biodiversity solution across the broader South Nowra area.

2. Proceed with the preparation of a comprehensive draft planning package (DCP Chapter, infrastructure framework and possible LEP amendments), including the necessary technical investigations, and receive a further report to consider the detail of the draft package.

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Implications: This option would see the preparation of a comprehensive planning package (draft DCP Chapter, infrastructure framework and possible adjusting amendment to the LEP) being prepared, including required supporting technical investigations. The assistance of external consultants will be required. This option could resolve some of the uncertainties around potential development and servicing but will require a funding commitment from Council of \$600-900,000 that has not currently been budgeted for.

However, if a strategic biodiversity solution is not found first, then biodiversity will remain a significant barrier and an uncertainty to development. This approach is not preferred at this point.

3. Adopt an alternative recommendation.

Implications: This will depend on the alternate recommendation, but could for example involve rezoning the area back to large lot residential. This would be problematic given the long term desired strategic intent for the Precinct (future employment growth precinct). Also some development of a commercial/industrial nature has already been approved and commenced in parts of the Precinct. This approach is not preferred at this point.

4. Do not proceed with a recommendation.

Implications: Council will not prepare an 'interim' DCP chapter for the Precinct and would miss an opportunity to provide a level of guidance on the Precinct's ecological constraints to landowners/potential developers. This approach is not preferred at this point

Background and Supplementary information

The Precinct is located generally South of Flinders Road between the Princes Highway and Albatross Road, as shown in **Figure 1** and It is identified as regionally significant in the [Illawarra-Shoalhaven Regional Plan 2041](#) The Precinct has significant strengths and economic development opportunities.

It includes existing developed areas to the west (Flinders industrial estate) and north-east. The central and southern areas are largely undeveloped, apart from a number of rural-residential dwellings, associated buildings and uses.



Figure 1: Aerial view of South Nowra Employment Precinct

Short Planning History

The Precinct is currently zoned E4 General Industrial under Shoalhaven Local Environmental Plan (LEP) 2014.

Prior to 2014, the central and southern areas of the Precinct were zoned part Rural 1(c) (Rural Lifestyle) and part Rural 1(d) (General) under the earlier LEP. Part of that area was identified as “Future Industrial Land” in the [Nowra-Bomaderry Structure Plan \(NBSP\) 2006](#) which was prepared by Council and endorsed by the NSW Government. Some additional land was also rezoned to industrial in response to submissions from landowners during the preparation of LEP .

To date a supporting Development Control Plan (DCP) Chapter and Infrastructure framework (e.g. Contributions Plan) has not been prepared for the central and southern areas that were rezoned. It is not a prerequisite to prepare these supporting plans before development can be considered on the zoned land.

As such, development can still be considered and possibly approved and matters that would benefit from a holistic/coordinated approach (e.g. road access, drainage, biodiversity, infrastructure utilities etc) have to be considered and resolved or managed site by site which is problematic. This generally results in higher costs for development or less than desired development outcomes. The cost of providing the new and upgraded infrastructure needed for industrial development is likely to be disproportionately borne by whichever development ‘goes first’.

Recent Work

The focus of Council’s recent planning work has been on the ‘undeveloped’ central and southern parts of the Precinct shaded red in **Figure 2**.

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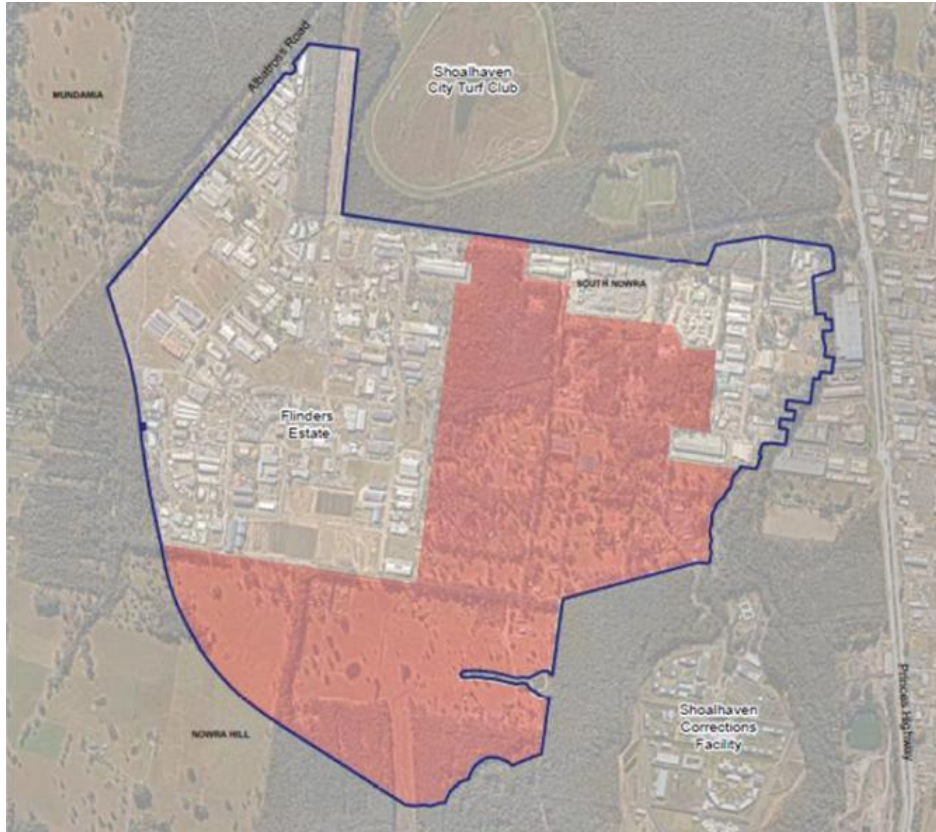


Figure 2 – Study area

The following timeline summarises the key recent steps that Council has taken. Further details are also available in the [Explanatory Document](#) that accompanies the Preliminary Ecological Constraints Assessment on Council’s website.

August 2021 Representations to the NSW Government to ‘exempt’ employment zoned land from the requirements of the BC Act.

August 2022	NSW Minister for the Environment and Heritage advised that there are no provisions in the BC Act that allow employment zoned land to be exempted, but identified an opportunity for a ‘whole of Government’ approach to enable development and conservation outcomes in the broader area.
March 2023	Council considered the Minister’s response (item CL23.69) and resolved (MIN23.128) to work with relevant NSW Government Agencies on a possible strategic approach to enable development and conservation outcomes in the broader area, including possible Biodiversity Certification.
December 2023	Preliminary Ecological Constraints Assessment (link) completed for the Study Area, funded by the NSW Department of Planning, Housing and Infrastructure (DPHI). The report clarifies areas of low/moderate/high ecological constraint and estimates biodiversity offset costs for potential development scenarios. The overall constraints map is shown at Figure 3 .
February 2024	Council’s Strategic Planning Working Party received an update on the planning investigations. Was generally agreed to continue investigating/pursuing a strategic outcome with the NSW Government.
May 2024	Update published in Councillor newsletter. Preliminary Ecological Constraints Assessment report released to landowners in the Study Area and also published on Council website.
July 2023 -	Investigations into the feasibility of strategic biodiversity certification,

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<p>present</p>	<p>including offset opportunities on external sites. Funded by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW). As part of this, initial approaches made to a range of external landholders:</p> <ul style="list-style-type: none"> • Crown Lands – unable to consider offset agreements as the sites are subject to Native Title and/or land claims. • South Coast Correctional Centre – as above. • Nowra Local Aboriginal Land Council (LALC) – potential interest, further discussion needed. • State Forests – potential interest, further discussion needed. • 14 private landowners – surveys undertaken on 2 sites. • Council owns three sites in South Nowra which are potentially suitable. <p>Discussions will continue with external landowners to progress potential biodiversity offset opportunities. The Crown Land, Corrections and Nowra LALC sites could be the key to a future biodiversity outcome and it is worth pursuing these options further. If one or more could ultimately be secured for offsets they could provide a large number of the credits needed to offset development within the Study Area.</p> <p>Council staff are continuing ongoing discussions with DPHI and DCCEEW seeking further government funding and/or support to help progress a possible strategic biodiversity certification.</p>
<p>Nov 2024</p>	<p>Written representations by the Mayor to the NSW Minister for Planning and Public Spaces and Secretary of DPHI seeking the NSW Government’s commitment to advancing the South Nowra Employment Precinct, including a possible State-led approach. Response pending.</p>

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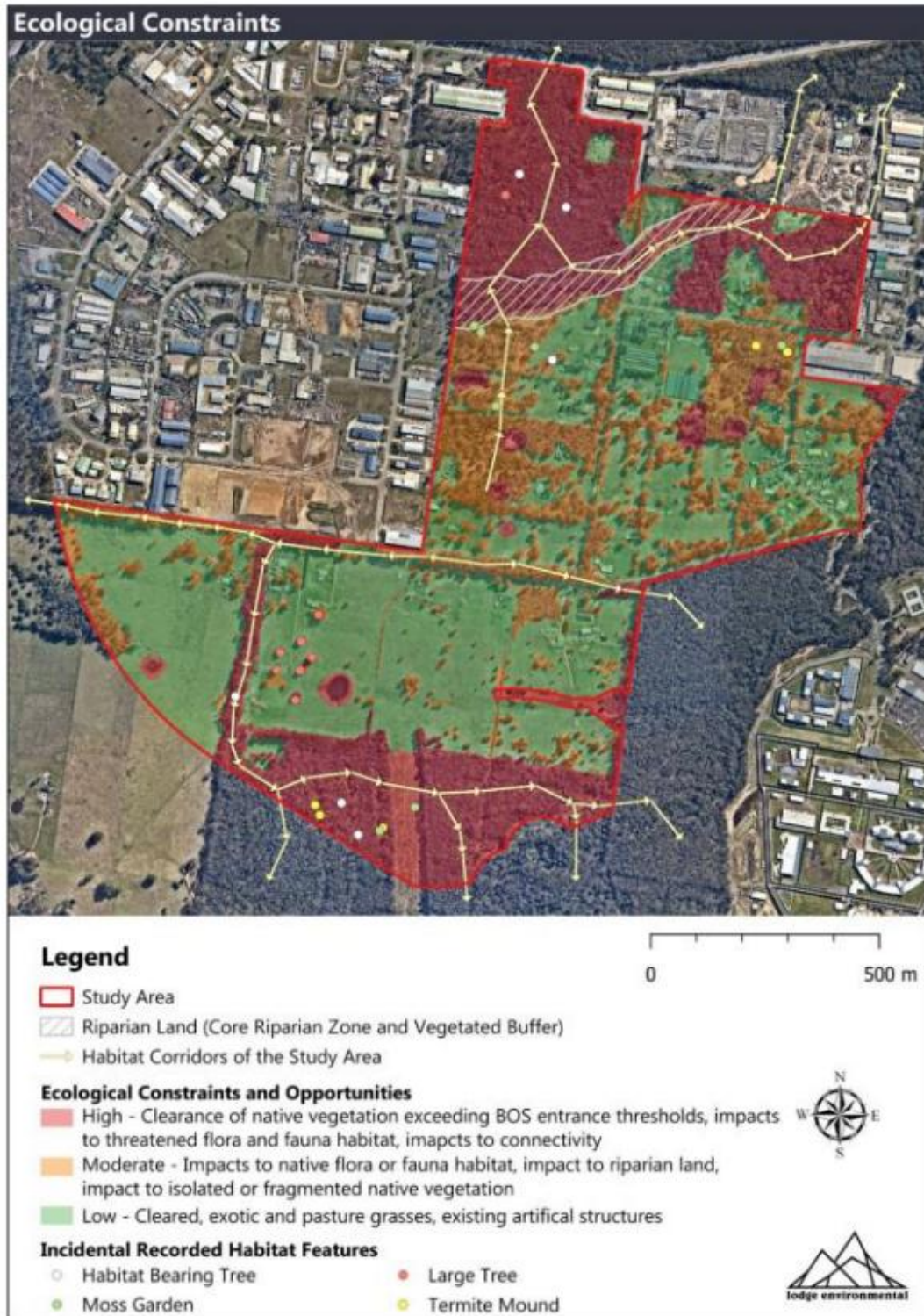


Figure 3 - Ecological constraints within the study area

Proposed 'interim' DCP Chapter

At this stage it is recommended that an 'interim' DCP Chapter be prepared incorporating relevant outcomes of the Preliminary Ecological Constraints Assessment and possible site-specific guidance on other matters. This will help in the shorter term clarify areas of high and low ecological constraints within the Study Area and assist parties who are considering developing land prior to a comprehensive biodiversity solution and/or planning package and being completed. An 'interim' DCP chapter can be prepared and resourced in-house by Council staff and a strategic biodiversity solution will continue to be pursued/considered to

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determine whether there is a broader way forward for this key consideration that is currently impact on what level of development can be considered.

An alternate option is to commence preparing a comprehensive planning package now, comprising site-specific DCP Chapter, indicative layout plan, infrastructure framework (e.g. contributions plan) and possible adjusting amendments to the LEP (if required). The DCP chapter would address matters including subdivision layout, staging, road design and network, services / utilities network, management of flood risk, stormwater and water quality management, biodiversity and bushfire management (e.g. asset protection zones).

This work will require a range of supporting technical investigations and assistance from external consultants. If Council wishes to proceed with this approach, an indicative budget of between \$600,000-\$900,000 would need to be provided or sourced. **Attachment 1** provides a scope of work and budget breakdown for this work. While this option would resolve some existing uncertainties, biodiversity will most likely remain a significant barrier to development unless a strategic solution can be found and implemented alongside a planning package. As such, it is not recommended at this point that this option be pursued until there is confidence that a strategic biodiversity solution is feasible and can be implemented.

Advocacy

The South Nowra Employment Precinct is regionally significant and as such there is clearly a role for the NSW Government to play in helping 'unlock' its delivery and development.

There are opportunities for the NSW Government to contribute the funding required for a comprehensive planning package and biodiversity solution, or alternatively, lead this process under a State-led planning pathway (for example, the [State Significant Rezoning Policy](#)) with detailed input and engagement from Council. The planning work that is underway for the Nowra bypass, led by Transport for NSW (Tens), is another opportunity for the NSW Government to consider biodiversity, transport and development outcomes holistically across the broader South Nowra area.

Council staff will continue to review funding opportunities that may arise and advocate to relevant NSW Government agencies for further support/commitment. It is important that the Council also continue to advocate to NSW Government for support/involvement/leadership. This could take one or more of the following forms:

1. Lead the planning and delivery of the Precinct under the *State Significant Rezoning Policy* or other suitable State-led planning pathway (DPHI).
2. Pursue and implement a strategic approach to enable biodiversity, transport and development outcomes across South Nowra through the planning for the Nowra bypass and the Precinct (Tens / DPHI / DCCEEW).
3. Provide funding and/or support to Council to progress a strategic biodiversity solution (DCCEEW).
4. Provide Council with the funding needed for a comprehensive planning package – approximately \$600-900,000 (DPHI).

Internal Consultations

The biodiversity investigations completed to date have been jointly managed by the Council's Strategic Planning and Environmental Services Departments. Feedback from the Environmental Services Department has also been incorporated into this report.

External Consultations

Council has consulted with the DPHI Regional Planning team and the DCCEEW Biodiversity and Conservation team throughout the biodiversity investigations. These teams would be consulted as part of the public exhibition of the proposed 'interim' DCP chapter.

Community Consultations

Council has advised and updated landowners in the Study Area throughout the biodiversity investigations, including representatives of the 'South Nowra Disadvantaged Landholders Group'. This group primarily comprises landowners of sites rezoned from rural to industrial at the inception of the LEP. These landowners are generally frustrated by the lack of certainty regarding the potential development of their land, many of whom have owned or lived in the area prior to its rezoning in 2014.

Landowners will continue to be advised and consulted, including in the future public exhibition of the proposed draft 'interim' DCP Chapter.

Policy Implications

The proposed 'interim' DCP Chapter for the Precinct would ultimately become an additional area-specific chapter of Shoalhaven DCP 2014. The 'interim' DCP Chapter would apply generally to land within the Study Area, noting that the exact boundaries of the chapter may need to be refined during its preparation.

If Council were to proceed with the option of a comprehensive planning package for the Study Area, this may ultimately include the addition of new infrastructure contributions projects to Shoalhaven Contributions Plan 2019 and amendments to relevant planning controls (e.g. zoning) of Shoalhaven LEP 2014, in addition to a comprehensive area-specific chapter of Shoalhaven DCP 2014.

Financial Implications

The preparation of an 'interim' DCP Chapter would be undertaken in-house by staff and funded from the recurrent Strategic Planning budget.

If Council resolved to prepare a comprehensive planning package, an indicative budget of approximately \$600 – 900,000 would need to be found and allocated if possible (see **Attachment 1** for further details).

Risk Implications

The proposed 'interim' DCP Chapter would help to remove some of the uncertainty around biodiversity constraints within the Study Area and assist with the assessment of development proposals. A strategic biodiversity solution and comprehensive planning package are ultimately required to enable development and conservation outcomes in the South Nowra Employment Precinct.

South Nowra Employment Precinct

Comprehensive Planning Package Scope & Budget Estimate

The studies outlined in **Table 1** are considered essential to inform the preparation of an area specific DCP Chapter, infrastructure framework (e.g. contributions plan) and possible amendments to relevant controls (e.g. zoning) in Shoalhaven LEP 2014 for the Study Area.

The studies outlined in **Table 2** are not considered essential but may produce a more robust planning framework if undertaken along with those in Table 1.

Table 1 – Essential Studies / investigations

Study / task	Cost Est	Details
Riparian lands restoration plan	\$20K	Plan to guide the restoration of riparian corridors and recommendations for associated / supporting development controls.
Flood Impact and Risk Assessment (FIRA)	\$100K	To examine flood constraints and determine management measures to apply to new development. The study will revisit the hazard and hydraulic categories and provide recommendations for development controls.
Integrated Water Cycle Management Study (IWCMS)	\$100K	To investigate drainage design, onsite detention and stormwater treatment across the Study Area. An IWCMS is required to progress the project from a planning stage through to engineering design.
Traffic and Transport Assessment	\$80K	To consider impacts on State and local roads and pedestrian and vehicular access arrangements. To include recommendations for road layout / design and supporting development controls.
Infrastructure Servicing Study	\$80K	Preparation of an infrastructure assessment and delivery plan outlining the utilities and servicing requirements for future development and any required upgrades. To include recommendations for infrastructure location / design and supporting development controls.
Bushfire Assessment	\$35K	Study to identify risks and provide management measures for future development, in accordance with Planning for Bushfire Protection 2019 (Asset Protection Zones, water supply, perimeter roads etc).
Biodiversity Certification Assessment	\$100K	Preparation of a Biodiversity Certification Assessment Report (BCAR) to support a possible Biodiversity Certification application for the Study Area. <i>Note: preparation of a BCAR is subject to suitable external sites being secured as biodiversity offsets.</i>
Concept Design and Costing of Infrastructure	\$100K	Design and costing for roads, drainage and other infrastructure required to service the Study Area. Required to inform Contributions Plan amendments.
Preparation of draft DCP Chapter, Contributions Plan & possible amendments to Shoalhaven LEP 2014.	NA	To be undertaken in-house by Council staff, drawing on recommendations from supporting studies.
Estimated Total Cost	\$615K	

Table 2 – Possible Additional Studies / investigations

Study / task	Cost Est	Details
Stage 1 Contamination Assessment	\$35K	To determine the potential for land contamination based on current and historical uses. To include recommendations for DCP controls and/or further detailed investigation if required.
Cultural Heritage Due Diligence Assessment	\$30K	Due Diligence Assessment in accordance with the <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales</i> . To include recommendations for DCP controls and/or more detailed Aboriginal Cultural Heritage Assessment (ACHA) if required.
Social Impact Assessment	\$40K	Social and community needs assessment to identify and analyse the potential social impacts of the Precinct's development and make recommendations to address any determined gaps.
Strategic Economic and Employment Analysis	\$35K	To review the economic and market factors affecting the Precinct (drivers, demand etc) and to identify opportunities, target industries and their needs/preferences. The recommendations would inform a preferred structure plan and development controls (e.g. lot sizes, servicing) to help support investment and achieve economic objectives.
Urban Design Study	\$80K	To review and consolidate the findings from other studies and guide preparation of a structure plan and DCP Chapter. To include vision, opportunities and constraints analysis, proposed urban structure / site layout, Connection to Country, proposed land uses and distribution, existing and proposed transport network and connectivity, indicative yield, staging, views, envelope massing, shadow analysis distribution of building heights and/or floor space controls and cross sections and artistic impressions.
Economic Feasibility Assessment	\$30K	To test proposed planning controls to ensure development feasibility.
Estimated Total Cost	\$250K	
Grand total (Table 1 and 2)	\$865K	

CL25.18 Classification of Land - Lot 1 DP 1308159 The Wool Road Vincentia

HPERM Ref: D24/541591

Department: Water Asset Planning & Development
Approver: Robert Horner, Director Shoalhaven Water

Purpose:

The purpose of this report is for Council to consider the classification of land, being Lot 1 DP 1308159 The Wool Road, Vincentia as 'Operational Land' within the meaning of the Local Government Act 1993 (LGA 1993), to provide unfettered access to critical sewer infrastructure.

Summary and Key Points for Consideration:

- The LGA 1993 requires all public land to be classified.
- Council resolution is required to classify land as operational.
- The subject land is considered operational in its use to provide unfettered access to critical sewerage infrastructure.

Recommendation

That Council classifies the land being Lot 1 DP 1308159 The Wool Road, Vincentia as operational land, following public notice of the proposed classification under the *Local Government Act 1993*.

Options

1. Resolve as recommended.

Implications: The operational classification will provide Council with flexibility in its use for future operational dealings.

2. Not adopt the recommendation.

Implications: The classification of the land will default to Community Land and be subject to the Community Land provisions as outlined in the LGA 1993. This would limit future operational potential.

Background and Supplementary information

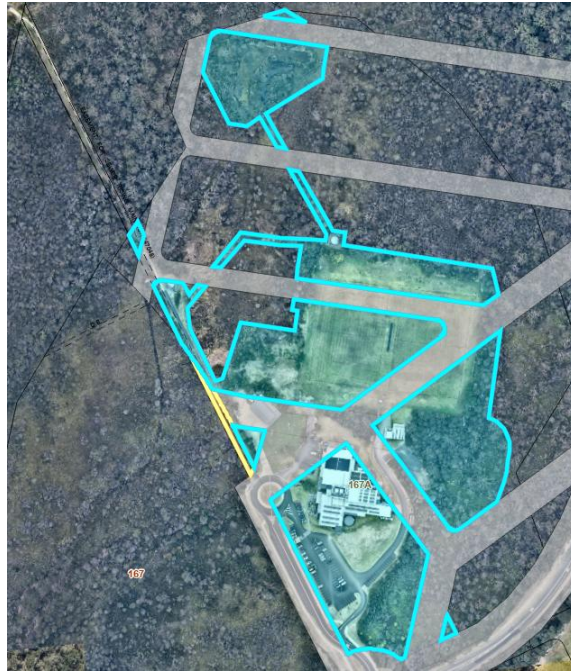
Council resolved (MIN23.411) at its Ordinary Meeting on 31 July 2023 to acquire proposed Lot 2, 167 The Wool Road Vincentia, registered as Lot 1 DP 1308159 The Wool Road, Vincentia. The purpose of this acquisition was to secure permanent, unfettered access to Shoalhaven Water's critical infrastructure, specifically for infrastructure associated with a sewer pumping station within the Huskisson/Vincentia Sewage Scheme.

The recommendation in MIN23.411 indicated the land was intended for additions to the Bay and Basin Leisure Centre. However, this addition was primarily an administrative measure to consolidate land and make tidy, rather than an operational necessity as the land acquired was not required for the operation of the Bay and Basin Leisure Centre.

Given the current financial climate, Council considers the additional expense for survey and subdivision to consolidate land unnecessary at this stage.

Figure 1 below illustrates the land being classified (in yellow) and the land of the Bay and Basin Leisure Centre (in blue).

Figure 1



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Internal Consultations

Internal consultation is not required for operational purposes such as land classification.

External Consultations

External consultation is not required for operational purposes such as land classification.

Community Consultations

In accordance with Section 34 of the LGA 1993, public notice of Council's intention to classify the land as Operational was placed on Council's website, allowing 28 days for written submissions. No submissions were received.

Policy Implications

Section 31(2) of the LGA 1993 provides that before Council acquires land, or within 3 months after it acquires land (acquisition date of the subject property, 25 October 2024), Council may resolve to classify it.

There are two classifications available:

1. Operational Land – land which Council owns as a business entity and upon which it conducts Council business, and
2. Community Land – land in Council's ownership which is held for and on behalf of the Community subject to the Community Land provisions of the LGA 1993.

A resolution of Council, within the time frame prescribed in the LGA 1993, is required to finalise the classification of land as operational.

Financial Implications

Finance is not required to fund the classification of land. Should the recommendation not be resolved, the land will default to community classification in accordance with the LGA 1993. Any future reclassification to operational land will require a Local Environmental Plan (LEP) amendment under the Environmental Planning and Assessment Act 1979, a time consuming and costly process requiring budget allocation.

Risk Implications

The resolution to classify the land as operational is required within 3 months of acquisition, otherwise the classification will default to Community and trigger the unfavourable process outlined in the financial implications of this report.

The ability for Council to implement improvements on the site in future would be constrained by the limitations of the community land provisions if an operational land classification is not applied.

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.