

## Ordinary Meeting

**Meeting Date:** Tuesday, 28 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 - 21 January 2025

**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

CL25.19 Notice of Motion - Mens Shed Organisations ..... 1

**11. Call Over of the Business Paper**

**12. A Committee of the Whole (if necessary)**

**13. Committee Reports**

Nil

**14. Reports**

City Performance

CL25.20 Ongoing Register of Pecuniary Interest Returns - December 2024 ..... 2

CL25.21 Investment Report - December 2024 ..... 4

CL25.22 Budget Strategies and Parameters - 2025/26..... 10

City Services

CL25.23 Update Report - Francis Ryan Reserve Amenities - Grant Funding ..... 16

City Development

CL25.24 Proposed Submission - Cultural State Environmental Planning Policy  
(Cultural SEPP)..... 20

**15. Confidential Reports**

Nil

## **CL25.19 Notice of Motion - Mens Shed Organisations**

**HPERM Ref:** D25/21968

**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 direct the CEO to:

1. Prepare a historical report on the evolution of the current financial commitment incurred by the Men's Shed organisations regarding leases, licences, rates, garbage collection and other charges, over at least the past five years.
2. Make comment on the capacity of Council to provide some form of financial relief in the future, particularly as Council's own financial position makes a significant turn for the better.

### **Background**

The Men's Shed organisations are a vital part of the social and wellbeing benefits experienced by the many participants in their ranks. Various forms of fundraising activities occurs across the several groups located within our city, with much of the proceeds going towards administration costs. The Greenwell Point Men's Shed people, for example, raise their funds by way of collecting bottles and cans, converting this to cash, and then passing this onto Shoalhaven City Council in order to pay for rates and so on.

CL25.19

## **CL25.20 Ongoing Register of Pecuniary Interest Returns - December 2024**

**HPERM Ref:** D24/531766

**Department:** Business Assurance & Risk

**Approver:** Sara McMahon, Business Assurance & Risk Manager

**Purpose:**

To provide Council with the Register of Pecuniary Interest Returns from newly designated persons lodged with the Chief Executive Officer for the period of 1 December 2024 to 31 December 2024 as required under Section 440AAB of the Local Government Act 1993 and Part 4.26 of the Code of Conduct.

**Summary and Key Points for Consideration:**

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

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

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

Part 4.26 of the Model Code of Conduct states:

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

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

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

<b>Directorate</b>	<b>Name</b>	<b>Designated Position Start Date</b>	<b>Returned</b>
Councillor	Natalee Johnston	03/10/2024	06/12/2024
Councillor	Selena Clancy	03/10/2024	17/12/2024
Councillor	Karlee Dunn	03/10/2024	17/12/2024
Councillor	Peter Wilkins	03/10/2024	19/12/2024

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

CL25.20

### **Recommendation**

That the report of the Chief Executive Officer regarding the Ongoing Register of Pecuniary Interest Returns lodged for the period of 1 December to 31 December 2024 be received for information.

### **Options**

1. That the report be received for information.

Implications: Nil.

2. That the Council may seek further information.

Implications: Further information be provided to Council in future reports in line with the resolution.

### **Background and Supplementary information**

This report is being submitted directly to the Ordinary Meeting due to the requirements under the Code of Conduct and the Local Government Act 1993.

### **Internal Consultations**

Internal consultation is not required as the process for Initial Pecuniary Interest forms is governed by the *Local Government Act 1993*, the Model Code of Conduct and the *Government Information (Public Access) Act, 2009*.

### **External Consultations**

External consultation is not required as the process for Initial Pecuniary Interest forms is governed by the *Local Government Act 1993*, the Model Code of Conduct and the *Government Information (Public Access) Act, 2009*.

### **Community Consultations**

Community consultation is not required as the process for Initial Pecuniary Interest forms is governed by the *Local Government Act 1993*, the Model Code of Conduct and the *Government Information (Public Access) Act, 2009*.

### **Policy Implications**

The obligations with respect to the Pecuniary Interest Returns by designated officers are in accordance with the Model Code of Conduct and the *Government Information (Public Access) Act, 2009*.

### **Financial Implications**

There are no financial implications for this report.

### **Risk Implications**

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

## **CL25.21 Investment Report - December 2024**

**HPERM Ref:** D25/5253

**Department:** Finance

**Approver:** Dane Hamilton, Acting Director - City Performance

**Attachments:** 1. Monthly Investment Review (under separate cover)  
2. Statement of Investments (under separate cover)

### **Purpose:**

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

### **Summary and Key Points for Consideration:**

Council's total Investment Portfolio returned 5.17% per annum for the month of December 2024, outperforming the benchmark Aus Bond Bank Bill Index (4.53% p.a.) by 64 basis points (0.64%).

### **Recommendation**

That Council receive the Record of Investments for the period to 31 December 2024.

### **Options**

1. The report of the record of Investments for the period to 31 December 2024 be received for information, with any changes requested for the Record of Investments to be reflected in the report for the period to 31 January 2025.

Implications: Nil

2. Further information regarding the Record of Investments for the period to 31 December 2024 be requested.

Implications: Nil

### **Background and Supplementary information**

#### **Investment Portfolio**

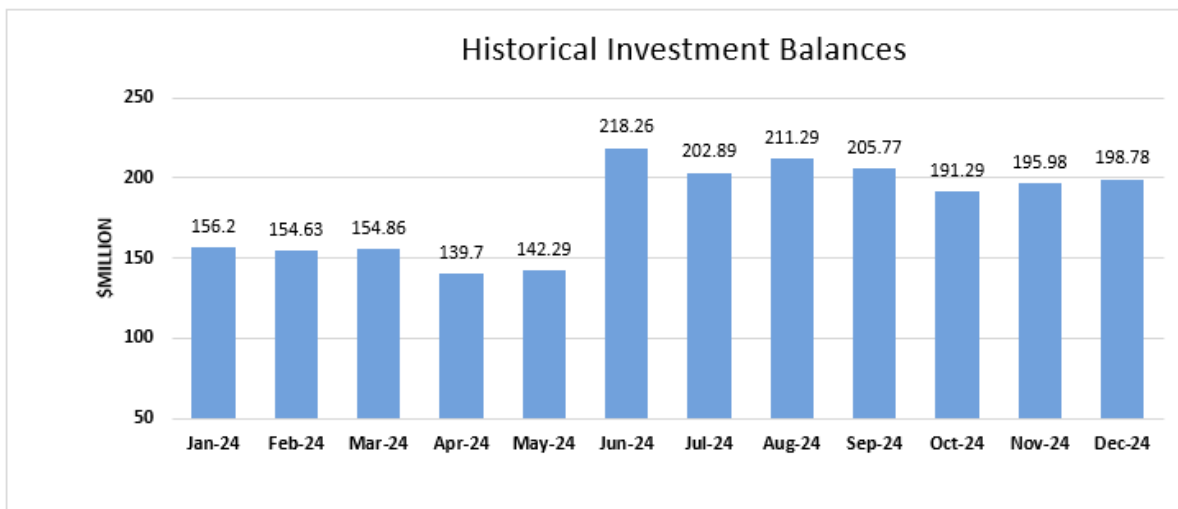
Council's investment balance as of 31 December 2024 was \$198.78 million and consisted of the following types of investments.

CL25.21

Investment type	Invested (\$)
Term Deposit/cash	159,159,947
Floating rate notes	37,623,975
Bonds	2,000,000
<b>Total</b>	<b>198,783,922</b>

The details of each investment held by Council at 31 December 2024 is included in the Statement of Investments at [Attachment 2](#).

The graph below illustrates Council's investments balance on a rolling 12-month basis. Timing of expenditure and grant monies varies throughout the year which can cause fluctuations in the overall balance at the end of each month.



CL25.21

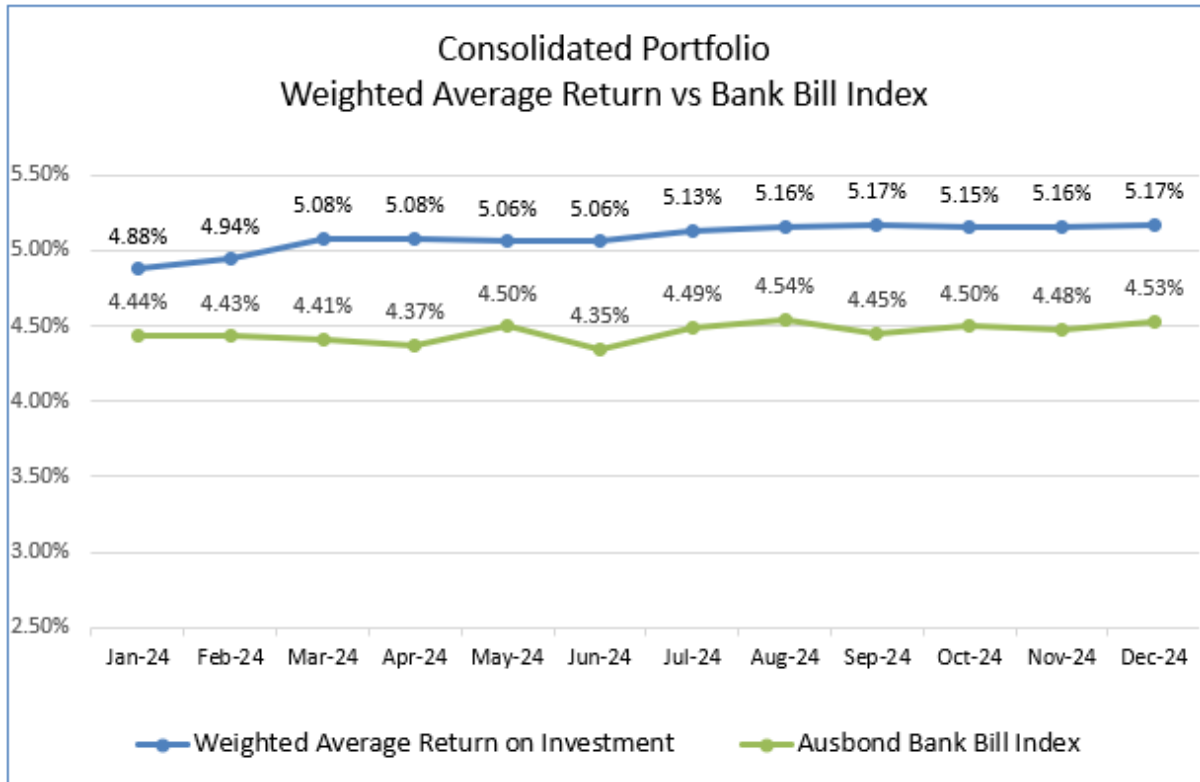
**Portfolio Return**

For the month of December, the total investment returns were a positive 5.17% p.a. outperforming Aus bond Bank Bill Index (4.53%) by 64 basis points.

**Investments**

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

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



CL25.21

**Investment Interest Earned – December 2024**

Much of Council's cash is restricted in its use to specific purposes by external bodies, legislation and Council resolutions. Interest earned on externally restricted cash must be allocated to those external restrictions in accordance with legislation. The two tables below show the allocation of interest to each applicable Fund.

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

**Table 1- Interest Earned for the Month of December 2024**

Fund	Monthly Original Budget \$	Actual Earned \$	Difference \$
General	296,224	483,933	187,708
Water	140,754	182,466	41,713
Sewer	54,485	126,933	72,448
<b>Total</b>	<b>491,464</b>	<b>793,332</b>	<b>301,869</b>

The interest earned for the month of December, was \$793,332 compared to the monthly original budget of \$491,464.

**Investment Interest Earned - Year to Date**

**Table 3** below, demonstrates how the actual amount of interest earned year to date has performed against the 2024/25 budget.



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

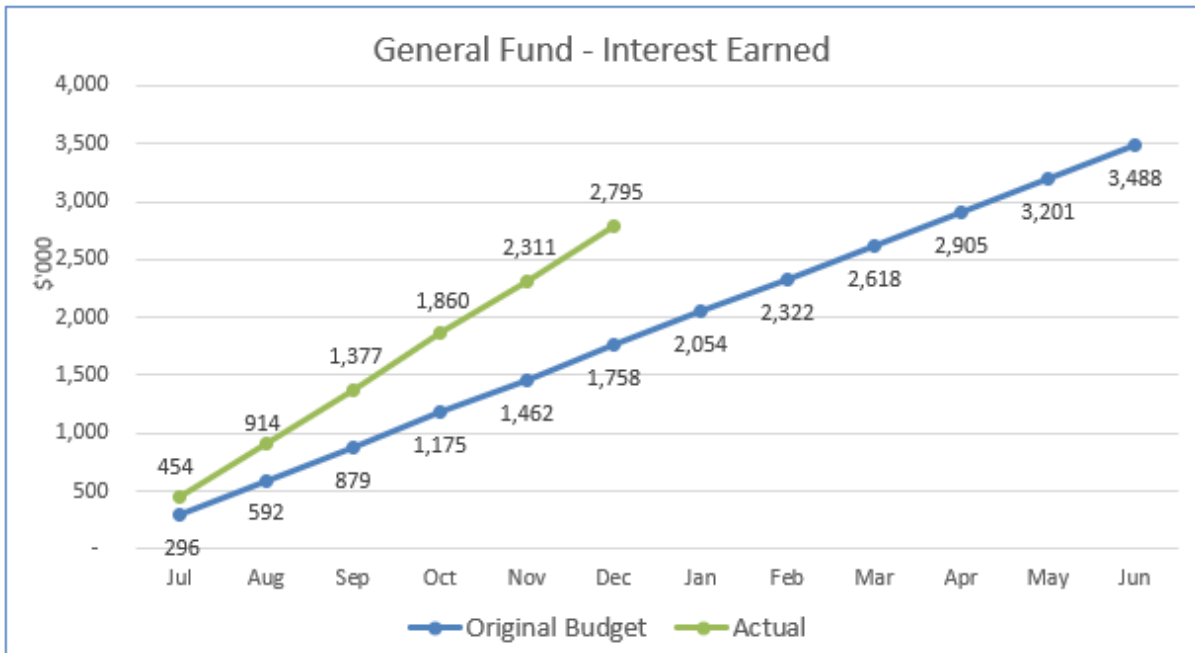
Fund	Total Original Annual Budget \$	Actual YTD \$	% Achieved
General	3,487,804	2,794,726	80%
Water	1,657,263	1,283,501	77%
Sewer	641,521	661,741	103%
<b>Total</b>	<b>5,786,588</b>	<b>4,739,968</b>	<b>82%</b>

The interest earned in the general fund of \$2,794,726 includes interest earned on unspent s7.11 developer contributions and Domestic Waste Management reserves, which is required to be restricted by legislation. Interest earned on unspent s7.11 developer contributions is \$754,576 and Domestic Waste Management reserves is \$316,126 to the end of December 2024. This leaves \$1,724,024 which is unrestricted however, the amount of unrestricted interest is only slightly above YTD budget (above budget by \$146,764).

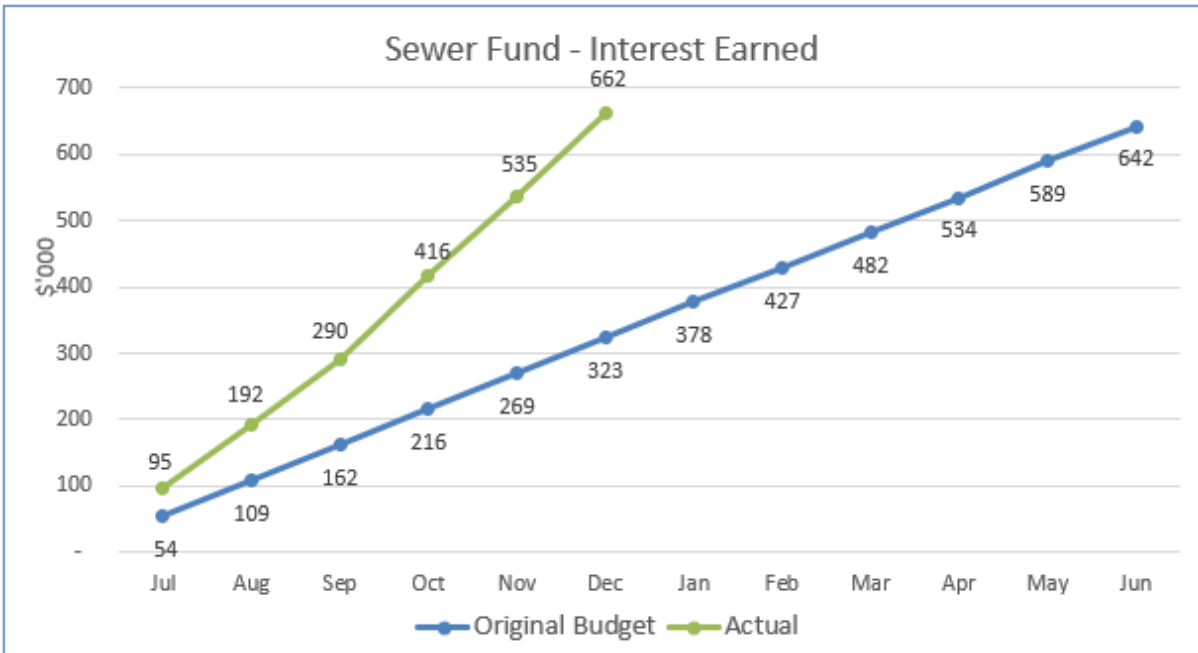
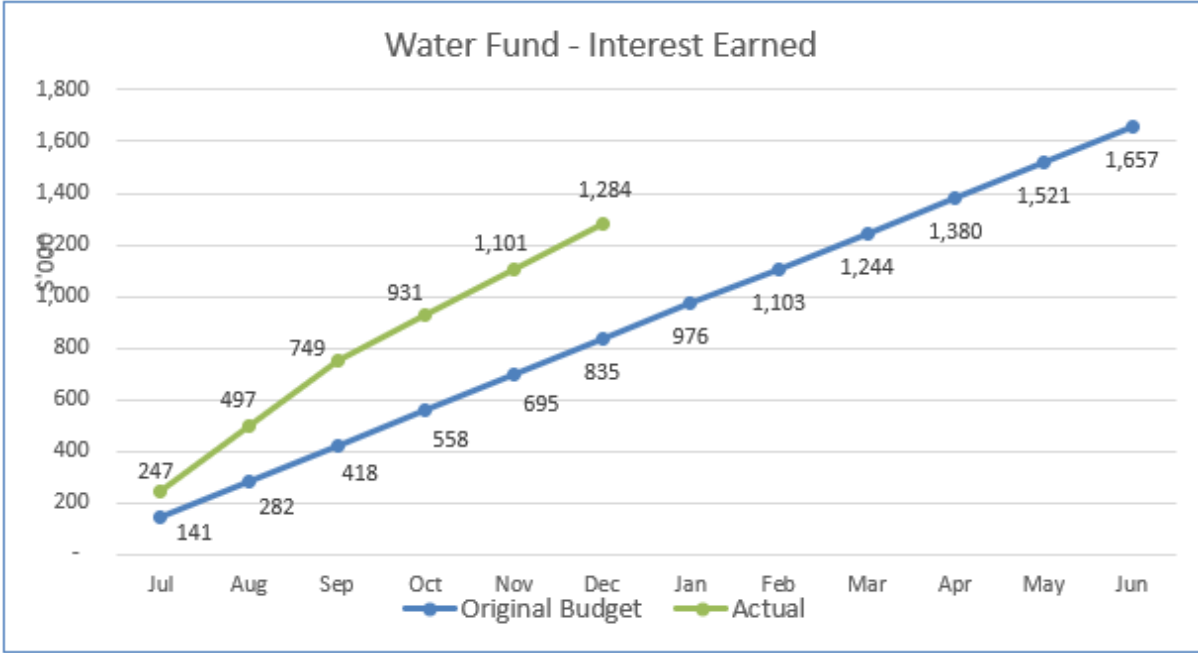
The cumulative interest earned for the year (July to December) was \$4,739,968 which is 82% of the current full year original budget.

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

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



CL25.21



CL25.21

**Internal Consultations**

Not applicable.

**External Consultations**

Council's investment advisor, Arlo Advisory Pty Ltd.

**Community Consultations**

Not applicable.

**Policy Implications**

All investments have been placed in accordance with Council's Investment Policy.

**Financial Implications**

Council's return on investments are exceeding budget and a budgetary adjustment will be made as part of the December Quarterly Budget Review to reflect current market rates and interest forecast.

**Risk Implications**

All investments are placed with preservation of capital the key consideration to prevent any loss of principal invested.

**Statement by Responsible Accounting Officer**

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulations 2021 and Council's Investments Policy POL22/78.

*K Buckman*

Katie Buckman

Date: 23 January 2025.

CL25.21

## **CL25.22 Budget Strategies and Parameters - 2025/26**

**HPERM Ref:** D25/19809

**Department:** Finance

**Approver:** James Ruprai, Acting CEO

**Purpose:**

To seek adoption of the budgeting strategies and economic parameters to guide the preparation of the draft 2025/26 Budget.

**Summary and Key Points for Consideration:**

- The adoption of a high-level budget strategy and economic parameters by Council enables staff to prepare the draft budget with an improved level of confidence that the draft budget, following discussion at budget workshops and ultimately presented formally for consideration, will meet Council's expectations.
- The adoption of a high-level budget strategy and economic parameters by Council makes the budget preparation more transparent and efficient with strategic priorities and budget constraints being identified in advance.
- Budgeting strategies align with Council's financial sustainability objectives, ensuring council presents a balance budget with an emphasis on growing unrestricted cash reserves, and focusing on asset renewal.
- Economic parameters are set with reference to legislation and publicly available economic data.
- No borrowings are proposed for the FY2025/26 budget

CL25.22

**Recommendation**

That Council adopt the following budgeting strategies and guiding economic parameters for the preparation of the initial Draft of the 2025/26 Budget to be considered at future Budget Workshops:

1. Principal budgeting strategies:
  - a. The budget will not result in an unrestricted cash deficit
  - b. Prioritise funding in the following order:
    - i. Provide sufficient funding for all continuing services
    - ii. Continue Council's commitment to asset renewal
    - iii. Continue a program of capital improvements to address historic budget shortfalls
  - c. Maintain or improve Council's financial and asset management performance indicators reported in the annual financial statements
  - d. Increase Council's working funds balance
  - e. Minimise carry forwards through substantial completion and long-term planning of the capital works program
2. Economic parameters for budgeting:

- a. Rates are increased by 12% (including rate peg) assuming Council's application for a Special Rate Variation (SRV) is approved by IPART. Should the SRV not be approved, the 3.8% rate peg is to be applied.
- b. User fees and charges are increased by a minimum of 5%
- c. Salaries and wages are increased by 3%, plus bonus payable, as per the Local Government (State) Award
- d. Superannuation guarantee is to be increased from 11.5% to 12% in line with legislated increases
- e. Materials and other expenditures increase by 3%
- f. The capital works program is appropriately set in order to assist in the management of Council's financial sustainability challenges and to ensure there is no reduction in Council's unrestricted cash balance.
- g. Consistent with Council's Long Term Financial Plan, no additional loan borrowing borrowings are to be taken out in FY 2025/26
- h. Should the need arise during the year for additional funding, the following options will be considered:
  - i. Internal borrowing opportunities
  - ii. Asset rationalisation
3. Repairs to Council's Road Network be a primary focus of the initial draft of the Capital Works Program.
4. Budget Workshops be scheduled with all Councillors in the preparation of the draft 2025/26 budget which will include consideration of any recommended re-prioritisation of capital works projects listed in the current Delivery Program and Operational Plan.

CL25.22

### Options

1. Adopt the recommendations

Implications: Management would proceed to prepare the draft 2025/26 Budget guided by the strategies and parameters.

2. Amend the recommendations

Implications: Management would proceed to prepare the draft 2025/26 Budget guided by the amended strategies and parameters and/or report back to Council on the financial impacts of the amendments.

### Background and Supplementary information

#### Proposed Budget Strategies and Parameters

The adoption of the following principal budgeting strategies is proposed for the preparation of the draft 2025/26 Budget:

- a. The budget will not result in an unrestricted cash deficit
- b. Prioritise funding in the following order:
  - i. Provide sufficient funding for all continuing services
  - ii. Continue Council's commitment to asset renewal
  - iii. Continue a program of capital improvements to address historic budget shortfalls

- c. Maintain or improve Council's financial and asset management performance indicators reported in the annual financial statements
- d. Increase Council's working funds balance
- e. Minimise carry forwards through substantial completion and long-term planning of the capital works program

The following economic parameters are recommended for adoption.

### **General Rates Increase**

Independent Pricing and Regulatory Tribunal (IPART) has set the rate peg for the 2025-26 financial year using the new rate peg methodology. The rate peg applicable to Shoalhaven City Council for the 2025/26 year is 3.8%.

Council is in the process of submitting an application to IPART for a 12% (including rate peg) special rate variation. Council approved the application at the 17 December 2024 Ordinary Meeting. The application is due for submission to IPART by 3 February 2025. The outcome of IPART's decision will be known in May-June 2025.

### **Recommendation – Economic Parameter 1**

Rates are increased by 12% (including rate peg) should Council's SRV application be approved by IPART. If the application is unsuccessful, rates are increased by the 3.8% rate peg.

### **User Fees and Charges**

A recommendation from the AEC Financial Sustainability Review (recommendation 1.b) was to:

*“Review the pricing for fees and charges (outside of statutory fees set by the State Government) and ensure they reflect full cost price for services, as far as it is practical to do so, without impacting significantly on access to services by the community”.*

Given the increases in costs faced by Council, it is reasonable to increase user fees and charges by an amount more than the rate peg. In some instances, higher increases may be required. An assessment of impacts on utilisation and affordability will be assessed in setting the fee or charge.

### **Recommendation – Economic Parameter 2**

User fees and charges are increased by a minimum of 5%.

### **Employee Costs**

The Local Government (State) Award was negotiated prior to 30 June 2023. The Award increase for 2025/26 is 3%, plus eligible employees will be entitled to 0.5% of their salary (as at 30 June 2025) or \$1000 from the first full pay period from 1 July 2025, whichever is greater. Further, that the superannuation guarantee is due to increase from 11.5% to 12% on 1 July 2025.

### **Recommendation – Economic Parameter 3**

Salaries and wages are increased by 3%, plus bonus payable, as per the Local Government (State) Award.

### **Recommendation – Economic Parameter 4**

Superannuation guarantee is to be increased from 11.5% to 12% in line with legislated increases.

**Materials and Other Expenditure**

Annualised CPI, Road, and Heavy Construction indexes of 5% or more were common over the past three budget cycles (2022-23 to 2024-25), however more recently published indexes indicate the rate of cost increases in these areas is falling. A list of the relevant indexes and their annualised rates are shown below.

Annual rate to quarter	Sep-2023	Dec-2023	Mar-2024	Jun-2024	Sep-2024
Heavy and civil engineering construction Australia	3.50%	2.65%	3.74%	3.41%	2.95%
Road and bridge construction Australia	4.83%	3.55%	4.18%	4.01%	3.38%
Road and bridge construction New South Wales	5.25%	3.74%	5.08%	5.37%	4.34%
Other heavy and civil engineering construction Australia	3.19%	2.42%	3.59%	3.26%	2.88%
CPI	5.40%	4.10%	3.60%	3.80%	2.80%

The most recent CPI and construction indexes show rates below 3%, however the CPI figure is artificially low due to government electricity rebates that took effect in that quarter. Further to this, rates of inflation for the past three years generally exceeded the anticipated growth rates in costs put forward in the Council’s budgets, so it is likely historic shortfalls still exist. It is recommended that a 3% increase be applied to each Material and Other Expenditure item representing a value that is close to the current inflation rate as well as being the upper level of the Reserve Bank of Australia’s inflation target of 2-3%

**Recommendation – Economic Parameter 5**

Materials and other expenditures increased by 3%

**The Capital Budget**

**General Fund**

Improvements to Council’s capital works planning and delivery have been implemented over the past 18 months. These include the establishment of the Enterprise Project Management Office (ePMO), system improvements through Project Lifecycle Management (PLM) software, consolidation of project delivery teams through structural reform, and improved monitoring and reporting. These improvements resulted in a reduced capital works program being adopted for 2024/25, and a reduction in capital carry forwards/revotes from the 2023/24 year.

Council is working to continue to reduce the capital budget for 2025/26 to ensure:

- Projects committed can be delivered by the end of June 2025, reducing the amount of capital carry forwards, and
- Council acts responsibly and works within its current financial constraints
- Council does not take on any new debt which was not already factored into the Long Term Financial Plan

The 2025/26 capital program will allocate funding based on priorities. Capital works will be categorised into Categories 0, 1, 2 and 3. These are defined as follows:

- CAT0
  - There is a legal obligation to undertake the work or failure to undertake the work would result in an unacceptable exceedance of Council’s risk appetite
  - Project is required to meet minimum acceptable obligations for a critical service
- CAT1

CL25.22

- Failure to undertake project will result in significantly increased likelihood that minimum levels of service will be compromised, significant increase in operational costs and increased risk of loss of revenue
- CAT2
  - Failure to undertake project will likely increase operational costs and not arrest declining service levels
- CAT3
  - All other projects, including discretionary upgrades, proactive renewals and new assets

Information obtained through the recent SRV community engagement process identified that improvements to Council's road network continues to be the highest priority of the community. This is consistent with community satisfaction survey results, and previous SRV consultation processes.

Where possible repairs to Council's Road Network be a primary focus of the initial draft of the Capital Works Program. However, road related projects will be subject to the same project categorisation as all other capital works projects (as detailed above).

#### Recommendation – Economic Parameter 6

The capital works program is appropriately set in order to assist in the management of Council's financial sustainability challenges and to ensure there is no reduction in Council's unrestricted cash balance.

#### Recommendation – Economic Parameter 7

Consistent with Council's Long Term Financial Plan, no additional loan borrowing borrowings are to be taken out in FY 2025/26

#### **Additional Funding**

There are limited opportunities for Council to obtain other funding for its budget. In the context of the overall budget, it would be prudent for Council to consider internal borrowings, and asset rationalisation.

#### Recommendation – Economic Parameter 8

Should the need arise for additional borrowings, the following options will be considered first:

- Internal borrowing opportunities
- Asset rationalisation

#### **Councillor workshops**

Workshops will be held with all Councillors during the preparation of the draft operational and capital budgets including consideration of any recommended re-prioritisation of projects in the current Delivery Program and Operational Plan.

Workshops will be held throughout March 2025 in anticipation of presenting the draft budget to Council in late April/early May 2025.

#### **Internal Consultations**

Internal consultation has occurred with the Enterprise Project Management Office, Senior Leadership Team and Executive Leadership Team.

#### **External Consultations**

Nil.

CL25.22



**Community Consultations**

Nil.

**Policy and Statutory Implications**

Nil.

**Financial Implications**

Council is facing a difficult task in presenting a balanced Draft 2025/26 Budget. Whilst Council has endorsed an application for a Special Rate Variation for 12% (including rate peg), these funds are for the purpose of rebuilding council cash reserves, and investment in essential asset infrastructure renewals. The demand on the funds for essential asset repairs will significantly outweigh the funding available.

Maximising opportunities to increase income, in addition to general rates income, and managing inflationary impacts will assist in achieving the primary strategy of presenting a budget that does not result in an unrestricted cash deficit.

**Risk Implications**

Delays in approving budget strategies and economic parameters, or changes to the approved parameters after the fact, increases the risk that legislative timelines are not adhered to and may result in breaches of the Local Government Act 1993.

CL25.22

## **CL25.23 Update Report - Francis Ryan Reserve Amenities - Grant Funding**

**HPERM Ref:** D25/2292

**Department:** Technical Services

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

### **Purpose:**

The purpose of this report is to provide Council with an update on the representations made to the New South Wales Government, Stronger Country Communities Fund Round 4 (SCCF4), and options for the repurposing of an existing grant for an amenities building at Francis Ryan Reserve, in accordance with a related resolution (ref. MIN24.350).

### **Summary and Key Points for Consideration:**

At the Ordinary Council meeting held on 24 June 2024, Council considered an interim report in relation to a response to a Notice of Motion concerning Francis Ryan Reserve amenities grant funding (MIN24.350).

Consistent with the Council's resolution, staff have continued to liaise with the Grant Management Office to identify options to repurpose the funding.

This report provides the Council with an opportunity to endorse a variation request to the Grant Management Office to repurpose the funding allowing for upgrades to the existing Francis Ryan Reserve amenities.

### **Recommendation**

That Council:

1. Receive the *Update Report - Francis Ryan Reserve Amenities Grant Funding*, as an update on representations made to the Grant Management Office - New South Wales Government – Stronger Country Communities Fund Round 4, in accordance with MIN24.350.
2. Endorse the submission of a grant variation request to New South Wales Government – Stronger Country Communities Fund Round 4 to repurpose the existing funding commitment to provide for an upgrade of the current Francis Ryan Reserve Amenities.

### **Options**

1. Accept the recommendation as proposed.

Implications: Council Staff will make a grant variation request to New South Wales Government – Stronger Country Communities Fund Round 4 to repurpose the existing funding commitment which will provide for an upgrade of the current Francis Ryan Reserve Amenities. Any works delivered will need to be retained for a minimum period of 5 years from project completion.

2. Adopt an alternative recommendation, directing the CEO to not proceed with a variation request and make an application to terminate the funding deed.

CL25.23

Implications: Council may need to return the \$159,200 of funding already received from the grant program. Council's risk exposure to project cost escalations would be eliminated, however this option would not meet the expectations of the community.

3. Adopt an alternative recommendation, to be confirmed by Council.

Implications: To be confirmed, pending the outcome of Council's deliberations on the matter. Council would need to provide direction to the CEO via a revised recommendation

## **Background and Supplementary information**

### **Grant Funding**

On 21 September 2022, Council executed a funding deed to provide \$398,000 toward the replacement and upgrade of the amenities at Francis Ryan Reserve, Sanctuary Point of which Council has received the first instalment of \$159,000.

The deliverables of this funding included new changerooms and a new amenities building to be known as the Bob Proudfoot Pavilion.

At Ordinary Meeting 25 March 2024 Council made the following resolution.

#### **MIN24.142**

*That Council endorses placing the Bob Proudfoot Pavilion construction (unfunded \$1.4 million) on pause until the Council's financial position improves.*

An interim (update) report was considered at Council's Ordinary Meeting on 24 June 2024 on the representations made to the Stronger Country Communities Fund Round 4 (SCCF4) and options for the repurposing of an existing grant for projects connected with the Francis Ryan Reserve resulting in the following resolution:

#### **MIN24.350**

*That Council:*

1. *Receive the Interim Report - Response to Notice of Motion - Francis Ryan Amenities Grant Funding, as an update on representations made to the New South Wales Government – Stronger Country Communities Fund Round 4, in accordance with MIN24.316.*
2. *Direct the CEO (Director – City Services) to prepare a future report advising on the repurposing of grant funding from the New South Wales Government – Stronger Country Communities Fund Round 4, including options following discussions with the grant administrator.*

This interim report actions recommendation 2 of **MIN24.350** by providing an update on the representations made to the New South Wales Government Stronger Country Communities Fund Round 4 regarding the repurposing of the funding.

### **Grant Management Office Discussions**

Council staff have continued to liaise with the grant management office concerning the repurposing of the grant funding allocated to Francis Ryan Reserve amenities.

Two repurposing options had been further discussed which included;

*Option One: Upgrades of the Existing Amenities and Facilities*

*Option Two: Sub-surface Field Drainage*

The grant management office has indicated that it would be willing to consider a variation for *Option One: Upgrades of the Existing Amenities and Facilities* which Council believes still meets the key objective of the grant - *Development of new or upgrade of existing*

infrastructure to encourage female participation in sport, such as change rooms and amenities.

Further advice was provided that the grant management office was unlikely to approve a variation to repurpose the funding to provide for *Option Two - sub-surface field drainage*, as the scope did not align to the original intent of the approved grant scope which was to construct a new amenities building.

Based on this advice no further options other than Option One was considered viable for the purposes of a variation to rescope the project.

**Option One: Upgrades of the Existing Amenities and Facilities**

In consultation with the primary users of the amenities, the St Georges Basin Rugby League Club, project scoping was undertaken with feasibility investigations concluding that the grant funding available, together with \$70,000 Council received from an insurance claim related to the fire of the existing building in 2022, would provide for an upgrade to the existing building.

**Option Two: Sub-surface Field Drainage**

With the assistance of Council staff, a separate grant application has since been submitted by the Rugby League Club to provide for sub-surface drainage to the main field at Francis Ryan Reserve.

**Proposed Variation**

Details of the current grant scope and the proposed scope variation are identified in **Table 1** below.

**Table 1 - Current Grant Scope and the Proposed Scope Variation**

Current Scope	Proposed Scope Variation
<p>Francis Ryan Reserve, Sanctuary Point - Change Rooms/Amenities Building works to include:</p> <ul style="list-style-type: none"> <li>• Demolition of existing building</li> <li>• Site works</li> <li>• Construction of amenities building, which includes:               <ul style="list-style-type: none"> <li>○ Two change rooms that can be partitioned to create separate change rooms</li> <li>○ Public amenities including accessible amenities</li> <li>○ Kiosk</li> <li>○ Referee change room</li> <li>○ Communications Box</li> <li>○ Fitness space</li> <li>○ Storage</li> <li>○ Seating</li> <li>○ CCTV</li> <li>○ Covered Viewing area</li> <li>○ Site Clean up</li> </ul> </li> <li>• Site Visit to be completed by DPIRD Economic Development Manager at Completion</li> <li>• Evidence of funding acknowledgment required</li> </ul>	<p>Francis Ryan Reserve, Sanctuary Point - Change Rooms/Amenities Building works to include:</p> <ul style="list-style-type: none"> <li>• Building upgrades within the existing amenities/changerooms at Francis Ryan Reserve, which includes:               <ul style="list-style-type: none"> <li>○ Two change rooms that can be partitioned to create separate change rooms</li> <li>○ Upgrade to existing Public amenities</li> <li>○ Upgrade to existing Kiosk</li> <li>○ Upgraded shower facilities</li> <li>○ Referee change room</li> <li>○ Seating</li> <li>○ Covered viewing area retained</li> </ul> </li> <li>• Site Visit to be completed by DPIRD Economic Development Manager at Completion</li> <li>• Evidence of funding acknowledgment required</li> </ul>

CL25.23

The current program end date for SCCF4 projects identifies that all project works needing to be completed / finalised by 21 September 2026. A variation request would also be seeking an extension of time beyond the current approved date of 31 August 2024.

A condition of the grant is that Council is to maintain and not to demolish, eradicate, remove, dispose of or otherwise interfere with (and obtain agreement from each Approved Community Organisation to do the same) the infrastructure, facilities or improvements (“assets”) created by the project for 5 years after the completion of a project.

The replacement of the entire amenities building is currently being considered in Council’s 10 year plan however if the project is to proceed with the proposed variation, further reconsideration of funding the construction of the Bob Proudfoot Pavilion would need to target a period in the latter half of the 10 year plan.

### **External Consultations**

Council’s Project Delivery team have worked with both the senior and junior rugby league clubs utilising the venue to develop concept plans that would see significant upgrades to the amenities building.

Asset Planners have actively engaged with the local rugby league clubs to assist the preparation of a grant application by the club to provide for the installation of Sub-surface field drainage. Further assistance has also been provided to the clubs in their efforts to undertake fencing renewals at the Francis Ryan Reserve.

### **Financial Implications**

If a re-purposing variation is approved by the Grant Management Office the remaining funding to be received of \$238,800 will be split in equal second and third instalments of \$119,400, with the third instalment provided on project completion.

### **Risk Implications**

Council may be exposed to the following risks in relation to this project:

- If the funding body does not approve a repurposed variation request Council may need to return all, or part, of the \$159,000 in funding that Council has already received on signing of the grant deed.
- Construction cost escalations or latent conditions during construction works ( additional costs that were always in existence, but which are revealed on commencement) may increase the cost of any works to the existing building.

There is no further budget identified to fund any overspends on the project. Initial scoping of the achievable works for the available budget has included a 25% contingency to reflect the risks of working with the existing structure.

CL25.23

## CL25.24 Proposed Submission - Cultural State Environmental Planning Policy (Cultural SEPP)

**HPERM Ref:** D24/534685

**Department:** Strategic Planning

**Approver:** Bruce Gibbs, Acting Director - City Development

**Attachments:** 1. Draft Submission - Cultural State Environmental Planning Policy [↓](#)

### Purpose:

This report seeks Council's endorsement of a draft submission for provisions to the NSW Department of Planning, Housing and Infrastructure (DPHI) on proposed changes to the planning system to be implemented via a Cultural State Environmental Planning Policy (Cultural SEPP) that aims to support a more vibrant 24-hour economy.

### Summary and Key Points for Consideration:

- DPHI is seeking feedback on an [Explanation of Intended Effect](#) (EIE) for the SEPP that proposes changes to the planning system to support more creative, hospitality and cultural uses contributing to the 24-hour economy.
- The proposed planning rule changes relate to current planning pathways for entertainment uses, events, outdoor dining, food trucks, bicycle parking and minor internal alterations and change of use. Guidelines for late night hours of operation for food and drink premises and community events have also been prepared for comment.
- The aims of the proposed SEPP are supported 'in principle', however there are some recommended additional inclusions, matters of concern and aspects of the proposed changes that require consideration/clarification and a draft submission has been prepared by staff for Council's consideration and endorsement.

### Recommendation

That Council:

1. Endorse and finalise the draft Submission on the Explanation of Intended Effect (EIE) for a proposed Cultural State Environmental Planning Policy (Cultural SEPP) at **Attachment 1** and submit it to the NSW Department of Planning Housing and Infrastructure.
2. Receive a further report at the appropriate point on the progression or outcome of the proposed reforms.

### Options

1. As recommended.

Implications: This is the preferred option and will enable Council to finalise its submission on the proposed planning reforms. The aims of the SEPP are supported 'in principle'; however, the submission highlights a range of matters or concerns that require clarification before proposed changes are made to planning rules.

2. Make changes to the draft submission and submit it.

Implications: This will depend on the nature of any changes, noting that the due date for submissions is 7 February 2025.

3. Do not make a submission.

Implications: The opportunity to provide relevant feedback and advocate on this matter will not be taken. This is not the preferred option.

**Background and Supplementary information**

DPHI released an Explanation of Intended Effect (EIE) outlining proposed changes to the planning system aimed at creating a more vibrant 24-hour economy in NSW, while supporting businesses and communities. The SEPP proposes legislative changes to existing planning instruments and forms part of the NSW government’s [Vibrancy Reforms](#).

The draft legislation or policy instruments to enact the proposed changes have not been released for comment at this stage, and may not be.

The EIE exhibition period commenced on 15 November 2024 and concludes 7 February 2025. A draft submission has been prepared by Council staff (see **Attachment 1**) and will be finalised/submitted inclusive of any amendments made by Council.

*Draft Submission*

The relevant proposed changes in the EIE and the matters raised in the draft submission are summarised below:

Policy Proposal	Proposed change	Council staff response
<p><b>Current Planning Pathways</b></p>	<p>Expand non-refusal standards in Clause 5.20 <i>Standards that cannot be used to refuse consent—playing and performing music</i> of the Standard Instrument LEP to include unlicensed venues and entertainment uses other than live music (e.g. comedy / theatre).</p>	<p><u>Support</u> for proposed change as non-refusal standards apply only where the council is satisfied that noise can be managed and minimised to an acceptable level.</p>
	<p>Introduce new model conditions of consent for entertainment uses to provide more consistency and certainty.</p>	<p><u>Support in principle.</u> <u>Request clarification</u> - that capacity numbers will continue to be determined by Council. <u>Recommendation</u> - that acoustic treatment model condition be expanded and an Impact Management Plan model condition added.</p>
<p><b>Events</b></p>	<p>Allow more development through the Exempt and Complying Development Codes SEPP (Codes SEPP) by increasing the numerical standards for temporary structures (e.g. signs, booths, stages) used at events.</p>	<p><u>Recommendation</u> - DPHI seek the advice of accredited professionals to determine what (if any) increases to the current numerical standards might be appropriate. <u>Recommendation</u> – the Codes SEPP specify that isolated music and/or camping style events over flood or bushfire prone land, or that require</p>

CL25.24

		<p>emergency egress via flood or bushfire prone land, must be subject to a DA process.</p> <p><u>Recommendation</u> - that development standards in the Codes SEPP be expanded to minimise impacts to facilities during use.</p> <p><u>Recommendation</u> - that a definition of 'Community Events' be included in the Codes SEPP to aid clarity and certainty.</p>
	Support events at major precincts	Not applicable to Shoalhaven
	Vivid Sydney	Not applicable to Shoalhaven
	<p>Allow temporary extended trading hours for unlicensed businesses during special events (e.g. festivals, agricultural shows) in line with the current provisions for licenced venues.</p> <p>Amend the definition of 'special events' to include events of local significance.</p>	<p><u>Support proposed changes</u> to planning controls.</p> <p><u>Recommendation</u> - that Council is specified as the responsible authority for the nomination of events to be declared a special event of local significance and the applicable geographic area where the extended trading hours will apply for such events to ensure certainty and transparency for the community.</p>
	Support events in town halls and other Council facilities through amending planning or zoning controls.	<p>Key barriers to use of Councils town halls and other facilities noted including limitations due to heritage status of assets and availability of funding to undertake facility repair and upgrades.</p> <p><u>Recommendation</u> - that new planning mechanisms be developed and appropriate funding provided to address these barriers.</p>
<b>Outdoor dining and food trucks</b>	<p>Permit the following via an exempt development pathway through the Codes SEPP:</p> <ul style="list-style-type: none"> <li>• Low impact outdoor live performances at venues.</li> <li>• Outdoor dining patron increases.</li> </ul>	<p><u>Support in principle</u> subject to the following additional recommended requirements:</p> <ul style="list-style-type: none"> <li>• Better specification of what constitutes 'low impact'.</li> <li>• Require a new council planning approval where businesses are seeking to hold events outdoors frequently (and so attract more patrons).</li> <li>• Specify requirements for how outdoor patron capacities are calculated where not included in an existing consent.</li> </ul>
	Extend existing exempt development	<u>Support for the amendment</u> as it will

CL25.24



	<p>pathways for outdoor dining to farm gate premises.</p>	<p>make it easier for outdoor dining to take place at farm gate premises in line with other venues where dining takes place.</p> <p><b>Note:</b> Council previously raised concerns about the Agritourism Planning Reforms when they were first introduced.</p>
	<p>Restrict the operation of mobile food and drink outlets (MFDO's) in residential and conservation zones to a maximum of 30 days a year and investigate measures for food businesses using shipping containers.</p>	<p><u>Support</u> the proposed new development standard.</p> <p><u>Recommendation</u> that additional standards be developed to further minimise the impacts of MFDO's in residential and conservation zones, including restricting the use of ancillary structures (e.g. tables and chairs).</p> <p><u>Recommendation</u> that shipping containers used as a food and/or drink outlets should be subject to formal development approval as a building (food premise).</p> <p><b>Note:</b> The proposed provisions will not interfere/conflict with the application of Council's <a href="#">Management of Mobile Food Vending Vehicles on Council Owned or Managed Land</a> policy (2016).</p>
<p><b>Changes to the Business and Industrial Codes in the Codes SEPP</b></p>	<p>Allow a change of use and minor internal alterations in the SP4 Enterprise zone in line with the current provisions for business and industrial zones.</p>	<p>Shoalhaven does not currently contain any land zoned SP4.</p> <p><u>General support</u> for the amendment as it will facilitate the streamlining of minor development.</p>
	<p>Create an exempt development pathway so that all types of buildings can be retrofitted with bicycle parking without needing approval via a complying development or DA pathway.</p>	<p><u>General support</u> for new exempt development pathway in line with Council's priority to encourage and support active transport (as outlined in Council's current <a href="#">Pedestrian Mobility Access Plan</a> and <a href="#">Bike Plan</a> and <a href="#">Draft Active Transport Strategy</a>).</p> <p><u>Recommendation</u> that heritage buildings are excluded from the exempt pathway.</p>
<p><b>Guideline</b></p>	<p><b>Purpose</b></p>	<p><b>Council staff response</b></p>
<p><b>Guideline for Late Night Hours of Operation for Food</b></p>	<p>Assist consent authorities make decisions regarding new development or modification applications for the extended trading hours of a food and drink premises located more than 500 metres from</p>	<p>No feedback.</p>

CL25.24

<b>and Drink Premises</b>	homes (known as an 'extended trading hours application').	
<b>Guide to Planning Pathways for Community Events.</b>	Provide information about the planning pathways available for community events on public land or those that involve street closures.	<u>Recommendation</u> that the guide be updated to reflect requirements set out in Transport for NSW (TfNSW) Guide to Traffic and Transport Management for Special Events.

**Internal Consultations**

The draft Submission was prepared with the assistance of staff in the City Development and City Services Directorates.

**External Consultations**

No external organisations or experts have been consulted given that this is related to a matter being exhibited for comment by DPHI.

**Community Consultations**

Shoalhaven’s Business Chambers and recipients of the NSW Government’s [Uptown Grant Program](#) funding located within Shoalhaven were notified of the exhibition of the EIE and advised to direct any submissions and enquiries to DPHI.

**Policy Implications**

Should the proposed changes be implemented, amendments will be made to the Shoalhaven LEP 2014 (via the Cultural SEPP, no Planning Proposal will be required). Relevant Sections of Council and the community will need to be made aware of these changes to ensure adherence to any new standards.

**Financial Implications**

Should the proposed changes be made, there may be an additional resourcing burden for Council to monitor compliance for specific proposals, for example ensuring MFDOs are keeping to the proposed new cap of 30 days of operation per calendar year in residential and conservation zones and ensuring outdoor live music performances are meeting noise requirements.

**Risk Implications**

There is potential that future changes to current planning controls by DPHI via the Cultural SEPP could lead to confusion within the community who are accustomed to the current development standards and established procedures. This can be mitigated through ensuring any changes that come into effect are appropriately communicated by DPHI and Council to local stakeholders.

CL25.24



Bridge Rd, Nowra NSW 2541 | 02 4429 3111  
Deering St, Ulladulla NSW 2539 | 02 4429 8999

**Address all correspondence to**

The Chief Executive Officer, PO Box 42, Nowra NSW 2541 Australia  
council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)     

Council Reference: 31157E (D25/10871)  
07/02/2025

NSW Department of Planning, Housing and Infrastructure  
Locked Bag 5022,  
Parramatta NSW 2124

By email only: [legislativeupdates@planning.nsw.gov.au](mailto:legislativeupdates@planning.nsw.gov.au)

Dear Sir/Madam,

**Submission – Explanation of Intended Effect: Cultural State Environmental Planning Policy (Cultural SEPP)**

Council welcomes the opportunity to provide comment on this important matter and **supports** the principle aims of the changes proposed to be made through a future *Cultural State Environmental Planning Policy* (Cultural SEPP).

Considerable documentation was required to be reviewed for Council to provide a thorough and appropriate response to the proposals. As you can appreciate, the submission process takes time given the need to coordinate comments from multiple Council sections and for the submission to be considered by the elected Council through the formal reporting processes. Council therefore appreciates the extension of the original timeframes for submission from 13 December 2024 to 7 February 2025.

The following is Council's detailed feedback on the matters outlined in the exhibited Explanation of Intended Effect.

**Policy proposals – current planning pathways**

Non-refusal standards for entertainment

Council understands that *Clause 5.20 Standards that cannot be used to refuse consent – playing and performing music* of the Standard Instrument – Principal Local Environmental Plan currently sets out certain non-refusal standards for licensed premises.

As these non-refusal standards apply only where the council is satisfied that noise can be managed and minimised to an acceptable level, Council supports the proposal to

expand them to apply to unlicensed venues as well as other types of entertainment uses such as comedy and live theatre.

Conditions of consent for entertainment

Council supports the preparation of model conditions for entertainment uses to provide greater certainty and clarity for business owners and operators as well as the broader community.

The following feedback is provided on the draft model conditions detailed in the EIE:

<b>Draft Model Condition</b>	<b>Council Feedback</b>
Maximum capacity during ongoing use (total capacity, and indoor and outdoor areas) – so that premises can safely accommodate patrons, performers and staff	Council generally supports this draft model condition however would like to ensure that capacity numbers are left to Council to determine based on the specific circumstances of each venue / application. Council is best placed to make this determination through consideration of the various relevant interrelated factors including NCC requirements and noise and parking requirements.
Acoustic treatment – to provide effective strategies for sound management if entertainment is provided	Council recommends the expansion of this model condition to require licenced premises with amplified entertainment to maintain an operational Noise Limiter Device linked to any performance area to ensure that venue performance noise is kept within the noise criteria approved for the venue.
Additional recommended model condition – Impact Management Plan	<p>Council recommends the following additional model condition:</p> <p><b>Impact Management Plan</b>  <i>An Impact Management Plan (IMP) must be submitted to council for approval demonstrating how all potential social amenity impacts for the development will be managed. The IMP must include:</i></p> <ul style="list-style-type: none"> <li>• <i>The use of a logbook to detail:</i> <ul style="list-style-type: none"> <li>○ <i>manager on duty</i></li> <li>○ <i>the date/time, nature and venue response to all complaints received</i></li> <li>○ <i>the date/time and details of any site visit by police or ambulance related to the use of the venue</i></li> <li>○ <i>combined guest and patron numbers using the venue</i></li> </ul> </li> <li>• <i>The logbook is to be available for council staff to review on request during normal business hours.</i></li> </ul>

	<ul style="list-style-type: none"> <li>• <i>Nominate the responsible person for ensuring that the IMP is followed and provide late night complaint contact details for neighbours and patrons displayed in a prominent position visible and legible from outside the front entry foyer.</i></li> <li>• <i>Noise Management Policy for ensuring that the noise recommendations and conditions of this consent will be met.</i></li> <li>• <i>Induction information for guests on appropriate parking locations, the responsible use of the venue and consideration of surrounding residents when leaving the venue.</i></li> <li>• <i>Procedure for:</i> <ul style="list-style-type: none"> <li>○ <i>Controlling guest/patron numbers to the approved number</i></li> <li>○ <i>Addressing offensive behaviour of guests and the public</i></li> </ul> </li> </ul>
--	--

**Policy proposals – events**

Temporary structures for community events

Council understands that to support local events, provide clarity for event organisers and reduce red tape, it is proposed to allow more development through the Codes SEPP for temporary event signs, tents, marquees or booths, stages or platforms. It further understands that it is proposed to undertake this by investigating increases to the current numerical standards associated with these structures (e.g. maximum stage or platform floor area) that are required to be met to access an exempt development pathway.

Council recommends that the Department of Planning, Housing and Infrastructure seek the advice of accredited professionals to determine what (if any) increases to the current numerical standards might be appropriate. Basing any changes to the standards on advice from such professionals is particularly important from a safety assurance perspective.

Council does not support isolated music and/or camping style events over land that is flood prone or bushfire prone or that requires emergency egress via land that is flood prone or bushfire prone being subject to exempt or complying development pathways. It is essential that such events are the subject of a Development Application (DA) process that addresses all the relevant safety and amenity constraints and includes input from the NSW RFS, TfNSW and NSW Police where relevant. It is recommended that additional requirements to this effect be included in the Codes SEPP.

It is noted that the Codes SEPP includes requirements for the removal of any waste or recyclable materials likely to be generated by a community event or private function. However, there are currently no provisions to ensure broader impacts on the facility are minimised and for their return to the asset custodian in an acceptable state. Council

recommends the expansion of development standards in the Codes SEPP to include provisions that support the minimisation of impacts to the facilities during use, and for the rectification of impacts to the facilities resulting from its use.

It is also noted that the definition of 'Community Events' can be interpreted in different ways (e.g. solely community / not for profit group organised events or inclusive of commercial operator organised events that are 'open to the community'). As such a more specific definition is needed in the Codes SEPP to aid with clarity and certainty.

#### Supporting events at major precincts

Council understands that the proposed changes to planning controls for major events relate to locations that have the capacity to host events of a significant scale. As there are no locations within Shoalhaven that have such capacity, the proposed changes are not relevant.

#### Vivid Sydney

The proposed changes relating to Vivid Sydney would not apply to land within Shoalhaven and are therefore not relevant.

#### Temporary extended trading hours for unlicensed venues during special events

Council supports the proposed changes to planning controls to create a new exempt development pathway for unlicensed venues to have temporary extended trading hours for certain special events in line with the current provisions for licenced venues under *Subdivision 13 Trading hours—temporary extension for licenced premises* of the Codes SEPP.

The types of businesses that this pathway is most appropriate to be extended to are those that would support and contribute to activation and vibrancy such as food and drink premises, shops, kiosks, markets, artisan food and drink industries, creative industries amusement centres, community facilities and entertainment facilities.

Council understands that currently only events of regional, state or national significance can be declared special events. Council supports the proposed changes to allow events of local significance, such as festivals and agricultural shows, to be declared special events. It is requested that Council is specified as the responsible authority for the nomination of events to be declared a special event of local significance to ensure certainty and transparency for the community.

It is recommended that Council also be provided with powers to specify geographic areas or precincts where the temporary extended trading hours apply for each special event of local significance. This is to ensure the area is relevant to the event activity (the Shoalhaven LGA spans an area of approximately 4,561 square kilometres and includes 50 towns and villages), best supports vibrancy and activation and that there are no unintended impacts on the community, particularly in residential areas.

Cultural activation of town halls

*Heritage*

Many of Council's Town Halls and other facilities that can serve as locations for functions and local performances are historic, with many heritage listed. As such, these buildings are often unable to meet current building standards (e.g. with regards to accessibility) which restrict their use.

Large bonds are also often required for events in these facilities, due to potential damage to heritage floors and other infrastructure, making it difficult for community performances to cover the significant associated up-front costs.

Planning mechanisms and funding to better support the use of Councils heritage assets in this context would be valuable and appreciated.

*Facility repair and/or upgrades*

Use of Councils assets to support vibrancy and the nighttime economy is also being limited by Council's current financial position and associated significant backlog of facility repair and upgrade works.

The lack of available funding has led to some facilities operating at reduced maximum capacities, with an example being the Nowra School of Arts. This Council owned facility has the potential to host events of up to 400 people, however, is currently limited to a maximum of 200 people due to damaged floors which require funding to repair.

In addition, many venues do not currently have modernised Audio-Visual technology in the spaces to support community performances with funding required to undertake upgrades.

The provision of funding from the State government to address these issues would be of significant value to the Shoalhaven community.

**Policy proposals – outdoor dining and food trucks**

Providing outdoor music and outdoor dining using exempt development

*Outdoor live music and arts performances*

Council understands that it is proposed to remove the current restriction under *Subdivision 15AB Entertainment associated with existing premises* of the Codes SEPP which requires that to access the specified exempt development pathway, live music or arts performances must take place inside a building. It is noted that this would have the effect of enabling the performance of live music or arts outdoors in non-residential areas via an exempt development pathway, subject to them being 'low impact' and satisfying set criteria including not contravening any existing relevant consent conditions such as patron capacity, hours of operation, noise and car parking.

As there may be circumstances where existing relevant consent conditions relating to noise are insufficient to ensure impacts associated with outdoor performances are appropriately mitigated, it is recommended that additional requirements are included that aid in specifying what constitutes 'low impact' performances. This should include (but not be limited to):

- The exclusion of amplified outdoor live music and arts performances from the exemptions. These uses require the preparation of a noise impact report by a suitably qualified and experienced noise consultant to identify the background noise environment, the location and nature of sensitive receivers and calculation of noise models to estimate impact to those receivers based on specified assumptions of how the venue is proposed to operate. Assessment of such noise reports should remain with council under a DA process.
- Ensuring associated noise is not detectable within residential receivers' premises between 10pm and 7.00am.
- Requiring that no significant amenity impacts to residential receivers can be demonstrated for outdoor non amplified performances between 9.00am and 10.00pm.

In circumstances where a business wants to hold events outdoors frequently (and so attract more patrons), a new council planning approval should be required to make sure the premises is suitable, and neighbours are not unduly disturbed.

#### *Outdoor dining*

Council understands that it is also proposed to explore standards which would allow increased patron capacity for outdoor dining as exempt development. This is supported in principle however, as not all development consents specify the maximum indoor and outdoor patron capacity it is recommended that development standards for outdoor patron capacity be prescribed and calculated with consideration of the following at a minimum (this list is not exhaustive):

- Parking availability (as prescribed in Councils DCP, NB: Council's DCP G21 expects that all parking for commercial uses will be provided off street and not rely on street parking as a rule).
- Sanitary facilities (as prescribed under the NCC and Disability Discrimination Act (DDA)).
- Egress paths from the area (as prescribed under the NCC and DDA).
- Requirements for mechanical ventilation if an enclosed outdoor area (as prescribed under the NCC).

#### Outdoor dining at farm gate premises

Council supports the proposal to extend the existing outdoor dining exempt development pathway in the Codes SEPP to include farm gate premises and to permit outdoor dining on all land where agritourism is permitted. It is noted that farm gate premises operators will still need to comply with the agritourism development standards in the Codes SEPP.



Updated provisions for food trucks in residential and conservation zones

Council supports the proposed new standard for mobile food and drink outlets (MFDO) to operate on residential and conservation zoned land for a maximum of 30 days per calendar year.

It is noted that the current development standards in the Codes SEPP do not consider amenity impacts from MFDO's on adjoining residential properties regarding things like setbacks, noise or odour. To ensure these impacts are appropriately mitigated and minimised, Council would like to see the following further general development standards included for MFDO's on residential and conservation zoned land:

- Specify that the development is restricted wholly to the MFDO and must not include any ancillary structures, articles, or activities (e.g. awnings, parking spaces, advertising material, bunting/lighting, portable toilets, amplified music etc.).
- Restrict the use of tables and chairs to prevent the use from becoming a café or restaurant. It is understood the intent of the exemption under the Codes SEPP is for take away service, the addition of tables and chairs for dine-in eating and service can cause a significant impact on amenity.
- Require that when not in use and being 'stored' on residential or conservation zoned land, reasonable efforts are made to locate the MFDO to minimise impacts to the visual amenity of the streetscape.
- Require that the MFDO be entirely self-contained and not be connected to water/sewage services on the property.
- Require that wastewater captured by the self-contained MFDO be lawfully disposed of to the sewer.
- Require that the development must not result in any amenity impacts associated with noise, odour, antisocial behaviour etc.
- Apply the 30-day restricted period to properties situated immediately adjacent to residential and conservation zones.
- Require that any "registrable" MFDO is "currently registered and roadworthy".

To date, Council have not encountered any modified shipping containers operating as MFDO's. The view of Council is that the use of a shipping container as a food and/or drink outlet should be subject to formal development approval as a building (food premise).

**Policy proposals – updates to the Business and Industrial Codes**

Allowing change of use in SP4 Enterprise zones

It is understood that the intent of the SP4 – Enterprise zone is to support enterprise and productivity in unique areas that require tailored land use planning, like the 'regional enterprise zone' in the Activation Precincts SEPP.

Shoalhaven does not currently contain any land zoned SP4 – Enterprise. Notwithstanding, Council supports the proposal to apply change of use and internal alteration provisions in Part 5A of the Codes SEPP that permit changes of use and

minor internal alterations provided they do not increase the building's gross floor area, to land in the SP4 zone. These changes will support the streamlining of minor development in the SP4 zone in line with the business and industrial zones which currently operate under these provisions.

#### Bicycle rails and lockers

Encouraging and supporting active transport is a key strategic aim for Shoalhaven, as outlined in Council's current [Pedestrian Mobility Access Plan](#) and [Bike Plan](#) and [Draft Active Transport Strategy](#). Council is generally supportive of the creation of an exempt development pathway so that buildings can be retrofitted with bicycle parking without needing approval via a complying development or DA pathway, making it simpler for bicycle parking to be established within places people live, work and visit in line with this aim.

Council requests however that Heritage buildings be excluded from the proposed new provisions to ensure there is appropriate consideration of impacts by suitably qualified professionals.

#### **Guidelines**

##### Guideline for Late Night Hours of Operation for Food and Drink Premises

Council does not have any feedback on this guideline.

##### Guide to Planning Pathways for Community Events

Under Section 3.2 Local roads of the guideline (page 6), Council notes that it is stated that proposals for road closures on unclassified roads do not need to be submitted to the Local Traffic Committee (LTC). This appears to be in contradiction to advice provided by Transport for NSW (TfNSW) in their updated Guide to Traffic and Transport Management for Special Events. Page 19 of TfNSW's guide identifies Event Classes 1-3 as requiring LTC Involvement. Council notes that in previous versions of TfNSW's guide, this was not the case.

If you need further information about this matter, please contact Melissa Halloran, City Futures on (02) 4429 3557. Please quote Council's reference 31157E (D25/10871).

Yours faithfully

Gordon Clark  
**Section Manager – Strategic Planning**  
**Shoalhaven City Council**

## 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.