

## Ordinary Meeting

**Meeting Date:** Tuesday, 15 April, 2025  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 5.30pm

### Membership (Quorum – 7)

#### 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 Gillian 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 - 25 March 2025

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Mayoral Minute

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Notices of Motion / Questions on Notice

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CCL25.9	Proposed Works in Kind Agreement Negotiations - Associated with Subdivision at St Georges Basin (SF9847)

*Local Government Act - Section 10A(2)(g) - Advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

*There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings or prejudice the fair trial of any person, the impartial adjudication of any case or a person's right to procedural fairness.*

- CCL25.10 Proposed Works in Kind Agreement Negotiations - Associated with Subdivision at 70 Hillcrest Avenue, South Nowra (SF10525)

*Local Government Act - Section 10A(2)(g) - Advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

*There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings or prejudice the fair trial of any person, the impartial adjudication of any case or a person's right to procedural fairness.*

- CCL25.11 Tenders - Design & Manufacture Electrical Control Panels (3 year contract)

*Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

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

## **MM25.6      Mayoral Minute - Condolence Motion - Geoffrey Starkey**

**HPERM Ref:**      D25/149935

### **Recommendation**

That Council notes the passing of Mr Geoffrey Starkey, acknowledges his significant contribution to the Shoalhaven community and expresses condolences to his wife Nicole and their extended family.

### **Details**

It is with great sadness that we acknowledge the passing of well-known and respected local legend Mr Geoff Starkey, life member of the Mollymook Surf Club and former staff member of Shoalhaven City Council.

Over the last 50 years Geoff dedicated countless hours to the Mollymook Surf Club, he held many positions including president, secretary, and chief training officer to support the club and its members leaving behind him an incredible legacy and a remarkable impact.

He played a pivotal role in securing sponsorship for the Mollymook Surf Club and was integral in progressing the club's development and growth.

Geoff was a truly kind and sincere man who had a lifelong passion for surf lifesaving which all started in 1971 at South Maroubra where he earned his bronze medallion.

A true gentleman, Geoff was loved by many and will be fondly remembered for his humility, kindness, and generosity.

On behalf of Shoalhaven City councillors, I extend my sincere condolences to Geoff's wife Nicole and their extended family.

MM25.6

## **CL25.97 Notice of Motion - Health & Safety Hazards - 146 The Wool Road St Georges Basin**

**HPERM Ref:** D25/134576

**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 Acting CEO as a matter of urgency, to commence all necessary steps to remove both the obvious health hazards and significant fire risks at the house and yard at 146 The Wool Road, St Georges Basin.

### **Background**

According to an adjacent neighbour, as well as other residents in the immediate precinct, the property in question has been vacated for some time. For quite a period of time now, nearby residents have been reluctant to complain about the serious health and safety situation that has evolved, as they felt that this may be interpreted as being offensive. However, the current dangers that now present themselves are so significant, that a swift and effective solution is required.

### **Note by the CEO**

Council has powers under the Local Government Act to require properties to be maintained for the preservation of public health & safety and neighbourhood amenity.

However, council must firstly serve a Notice of Intent upon the owner, before issuing an Order to remedy a situation within a given time. If the owner does not comply with the Order Council may then carry out the terms of that Order. If the owner refuses entry to do this, a warrant to carry out the terms of the Order needs to be applied for through the local court.

There is no budget to carry out such work, however the costs associated with carrying out the terms of the Order may be recovered from the owner through invoicing & debt recover processes if required.

CL25.97

## **CL25.98 Notice of Motion - Safe Pedestrian Access - 4 Clifton Street Sanctuary Point**

**HPERM Ref:** D25/134655

**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 Acting CEO as a matter of urgency, to take all reasonable steps to restore safe pedestrian access to the nature-strip at the front of the property at 4 Clifton Street, Sanctuary Point.

### **Background**

The resident at the said property, has taken it upon himself to excavate and re-shape the entire footpath area outside of his residence, and in all probability with great pride. A potential and a most likely un-intended consequence for pedestrians, according to the large number of complainants, has now arisen. Pedestrians, including school kids, now walk out onto the road into the face of on-coming traffic, which presents a real danger to them. A sensible solution needs to be found without delay.

### **Note by the CEO**

Council has directed the property owner to stop all works beyond their boundary. Following an assessment by staff, it is estimated that repairing the road reserve will cost approximately \$15,000, with the potential to rise to \$22,000 if stormwater infrastructure repairs are necessary. Should the Council proceed with these repairs, the associated costs may be recouped through legal processes, which could incur additional expenses.

CL25.98

## **CL25.99 Notice of Motion - AEC Fleet & Plant Service Review - Fuel Card Restrictions**

**HPERM Ref:** D25/137947

**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

1. Direct the A/CEO to undertake the following (in line with the AEC Fleet & Plant Service Review Report of June 2024 pertaining to P.89) to review as below:
  - a. Consider an immediate reduction of the \$3000 monthly fuel allowance limit on Fuel cards and that the issuer adhere to the strict use of the fuel card. To follow processes for fraud reduction and ensuring fiscal responsibility through use of fuel cards issued by Council so that they cannot be used for refuelling of a different asset by appropriately capturing fuel usage through logging Vehicle plate and odometer at time of purchase.
  - b. Request a redacted (non-identifiable) report be compiled on the top 20 monthly fuel card utilisers to compare mileage versus fuel spend for any discrepancies including interstate.
  - c. Implement an audit (external independent) of all fuel card purchases over the last 2 years.
2. Receive a report to a future meeting following items a, b & c above.

CL25.99



## **CL25.100 Notice of Motion - Review and Cost Controls of Media Spend**

**HPERM Ref:** D25/138003

**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**

Through the Acting CEO a report be compiled on the annual print media spend breaking down specific mediums and including public notices to confirm in 2025 and whether this is still a regulatory requirement and if so, what are those specific categories/classifications.

### **Background**

Financial sustainability and cost reductions as a best practice of improvement and utilising Councils WebCentric approach to directly informing ratepayers.

CL25.100

## CL25.101 Notice of Motion - Applications for Affordable Housing

HPERM Ref: D25/139024

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 Acting CEO

1. Advise Council of the ways Council can improve its procedures and processes in approving applications for affordable housing.
2. Report back to Council by the 31 May 2025 on the progress made and recommendations for Council's consideration.

### Background

Affordable housing is housing that is available for rent at a lower price than usual market rent. It is for households with a lower income. Households are better placed to afford other living costs if their rents are at a lower price than market rent. The NSW Government has indicated that affordable housing typically costs less than 30% of a family's gross income. It is developed with some assistance from government, including through funding and planning incentives. It includes various property types and sizes including single or multibedroom units, houses and studios. There is a difference between affordable housing and social housing. The NSW Government on their website have described the difference between social and affordable housing as – Affordable Housing

- For very low to moderate income earners
- Managed by community housing providers, similar to private rentals
- Rent is discounted or based on income and regular eligibility reviews are conducted
- Households do not have to be eligible for social housing
- Vacancies advertised on community housing provider websites or real estate websites Social housing
- Long-term housing for very low-income households with significant needs
- Includes public, community and Aboriginal housing
- Designed for people who cannot meet their needs in the private rental market
- Must apply and be eligible to go on the waiting list In the past 18 months, the cost-of-living pressures on people with low incomes have made it far more difficult to find affordable housing.

Rents have substantially increased, and the supply of affordable rentals has dropped. Council has a moral obligation to address and streamline its processes to ensure that there are no impediments for developers to supply affordable housing in the Shoalhaven. Areas of land could be set aside for the construction of rental accommodation that will assist low-

CL25.101

income workers to afford affordable housing. Affordable housing offers stability and reduces financial risk to low-income earners in the

**Note by the CEO**

Council has and continues to be actively involved in a range of matters involving Affordable Housing. As a result, Council is recognised a regional local government leader in the affordable housing space.

Council's updated Shoalhaven Affordable Housing Strategy estimates the communities need for affordable housing, identifies key challenges to the supply of affordable housing, and sets out the work Council can do to contribute to increasing the supply of affordable housing and improve housing affordability more generally.

In October 2024, Council resolved to create an Affordable Housing Action Taskforce (a formal Committee of Council) to collaborate and drive the implementation of the Strategy ([link to Committee webpage](#)). Expression of interest to join the Taskforce have just been sent to interested community members, industry experts, Community Housing Providers operating in Shoalhaven, and relevant NSW Government Agencies. All Councillors can also participate in Taskforce Meetings. The expression of interest process closes at the end of April 2025, and it is anticipated the Taskforce will be established and hold its first meeting before the middle of the year.

## CL25.102 Notice of Motion - Investigate Parallel Parking Nowra CBD

**HPERM Ref:** D25/141196

**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:

1. Request that the Acting CEO advise if there has been any research undertaken previously by Council or prepare an updated report on the viability of and review of Parallel parking versus Angle parking.
2. The report to include the road paint marking cost per metre to mark vehicles spaces on the existing Parallel parking available in the CBD.

### Background

A drive into Nowra CBD looking for a parking space is often met with frustration as many people have issue with spatial judgement and will often take up 2 car spaces instead of just one. Nowra has a lot of Parallel Street parking outside of the Perpendicular style found in Carparks. Parallel parking is commonly used on narrow streets and requires parking parallel to the curb. Angle parking is used in parking lots and streets with sufficient space, where cars are parked at an angle to the curb. Angle parking gives increased Parking Space with the main advantage is that it allows for more parking spaces compared to parallel parking. By positioning vehicles at an angle, more cars can be accommodated in the same area, leading to more efficient utilisation of space.

### Note by the CEO

The road reserves in the Nowra CBD are constrained by their relatively narrow width (20m) which precludes the introduction of angled parking, unless the roads were to be transformed to one-way roads, not recommended due to adverse traffic impacts and impacts on town centre serviceability.

The 'most recent' study (Nowra CBD Parking Study 2015 - still current due to the forward forecasts modelled) also doesn't support one way streets in Nowra as a means of providing additional parking. Extracts from the 2015 Parking Study - It is understood Council are considering one-way streets as a means of providing more parking, this is not recommended given traffic model forecasts, the problems one way streets generate, and the very limited parking benefits. In all cases testing concluded that these arrangements should not be progressed due to accessibility issues and adverse traffic impacts.

Whilst this has been examined on numerous occasions since the earlier removal of the Princes Highway from the Nowra town centre. It is also relevant that the recently adopted Active Transport Strategy suggests that in the longer term, if there is any consideration to a change of use of road reserve space in the Nowra CBD, it should be for active transport solutions, not more parking. To achieve this, the Strategy envisages more parking to be

CL25.102

provided around the Nowra CBD periphery (including the proposed multistorey car park at the Berry/Worrigee site).

The few examples city wide where there is angled parking in 20m road reserves is typically contained to parking and access streets, not busy CBD streets, and is typically only on one side of the road. Other locations like Huskisson and Ulladulla have angled parking due to the much wider 30m road reserves in those locations.

## CL25.103 Notice of Motion - Display and Disposal of Federal Election Material

HPERM Ref: D25/141839

Submitted by: Cllr Ben Krikstolaitis

### Purpose / Summary

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

### Recommendation

That Council:

1. Advise Federal Campaign teams and the Residents of the Shoalhaven:
  - a. Of the State Environment Plan, Local Environment Plan and Development Control Plan rules that apply to the location and erection of corflutes during the election period, including placement of election promotional material on Council managed land.
  - b. That Council owned buildings used as polling places should not have election material attached directly to them, that is, no plastic bunting, corflutes or other bunting to be attached.
2. Organise a drop-off point for used election corflutes at specific waste disposal sites for collection by a suitable corflute recycling company and advise residents of the arrangements.

### Background

At every election, corflutes are erected all over the Shoalhaven. Currently corflutes are nailed onto trees and hammered on stakes in nature strips and verges even attached to barriers in the middle of roads, all of which is illegal. This is mainly due to lack of awareness of the rules governing the placement of election signs.

Also, if ground rules are established in relation to the display of these items on Council property early in the election period, campaign teams will understand their responsibilities, and the amount of waste generated by the election process will be minimised. In addition, this will reduce the workload of Rangers and council staff in dealing with complaints. Issuing clear advice and explanation of the relevant rules will go some way to resolving these issues.

Also, by providing and promoting a simple process for recycling of the used corflutes will facilitate timely removal and disposal of the corflutes in an environmentally safe way. Corflutes, at the end of each election, are often disposed of incorrectly. With Shoalhaven Council's excellent reputation in waste management and recycling, it is in line with our policies to recycle these items instead of them ending up in landfill.

### Note by the CEO

Council's compliance section has sent written correspondence to four (4) candidates informing them of the requirements and exemptions offered for the display of election signage in NSW.

CL25.103

Election signage for all levels of government leading into elections (federal, state and local) are covered by NSW and Council planning requirements, noting that State Policy offers exemptions for election signage in certain circumstances for a time period leading up to election day.

## CL25.104 Question on Notice - Shoalhaven Family Day Care - Educators Transition

HPERM Ref: D25/147506

Submitted by: Cllr Jemma Tribe

### Question

Given that Council resolved the following on March 11, 2025:

*MOTION (RESOLVED) (Cllr Clancy / Cllr Kemp) - MIN25.95*

*That:*

- 1. Council transition Shoalhaven Family Day Care administration to suitable and agreed available not for profit or independent providers on or before 1 January 2026 or at a suitable date*
- 2. For accounting efficiencies it is prudent that the administrative functions of Shoalhaven Family Day Care transitions occur on or before 1 January 2026 or at a suitable date*
- 3. Along with Council, a representative from Shoalhaven Family Day Care be included in the consultation of available not for profit or independent providers*

*For: Cllr White, Cllr Clancy, Cllr Kemp, Cllr Casmiri, Cllr Dunn, Cllr Cox, Cllr Wilkins, Cllr Proudfoot and Cllr Norris*

*Against: Cllr Tribe, Cllr Boyd, Cllr Johnston and Cllr Krikstolaitis*

### Why are educators now being told they must be transitioned by June 30, 2025?

One educator has already ceased operating. My concern is that others will also find this undue pressure too challenging. Putting added stress on families, businesses and the broader community with childcare waiting lists already overloaded.

### Response

Council's resolution relates to the administrative functions of Shoalhaven Family Day Care transition occurring on or before 1 January 2026 or at a suitable date. The administration and legislative actions relating to the transition of the service and Councils ceasing to be involved in the service will take months to complete, including archiving of records and handing back of the license. Working to transition educators to a new service provider by the 30 June 2025 is an internal timeline aimed at minimising disruption and to provide Council the time to finalise the administrative and HR considerations associated with Councils transition from the service and finalisation of administrative functions.

CL25.104



## CL25.105 Notice of Motion - Soft Plastics Recycling Collection Day

HPERM Ref: D25/147969

Submitted by: Cllr Jemma Tribe

### Purpose / Summary

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

### Recommendation

That Council instructs the Acting CEO to:

1. Promote the success of the Soft Plastics Recycling Collection Day and thank staff / the community for their support on the day.
2. Hold another Soft Plastics Recycling Collection Day at Nowra/Ulladulla Depots in the near future.
3. When a date is found, promote widely to the community to continue the strong participation and assist with diverting soft plastics away from landfill/waterways.
4. Consider charging a flat fee for soft plastic drop offs or include a donation box on the day.

### Background

Council ran a 'Soft Plastics Recycling' collection day at West Nowra and Ulladulla Waste Depots on February 12, 2025.

According to staff, most of the customers that came in for the Soft Plastic Recycling collection events had been stockpiling the soft plastic waste at home for a long time, so they bought in bulk loads.

Contamination was almost 0%, which is very encouraging.

Staff had lots of questions and compliments from the customers for having the service, hoping that it would continue.

Manual labour hours associated with the events were said to be minimal. Staff set 'bulka bags' (1m<sup>3</sup>) on a stand and were able to change them out as they became full.

During the event we collected 17 x 1m<sup>3</sup> bulka bags at **West Nowra** and an additional 3 x 1m<sup>3</sup> bulka bags at **Ulladulla**.

### That is a huge amount of soft plastic diverted from landfill!

This was part of a trial that was also undertaken in Wollongong, Shellharbour and Kiama. Their collection events in those locations attracted 1,366 attendees with 2400kg of soft plastics (1.8 kg per person which indicates again that people had been stockpiling).

While Woolworths have recommenced Soft Plastic collections at a number of stores, no Shoalhaven stores are included:

<https://www.woolworths.com.au/shop/discover/sustainability/recycling/soft-plastic>

CL25.105

Given the gap and the obvious enthusiasm for this service - as well as positive environmental outcomes, it is recommended that further collection days be considered in the future until a National Scheme is rolled out again.

## **CL25.106 Notice of Motion - Report on Status of Notice of Motions**

**HPERM Ref:** D25/150656

**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 staff provide regular updates on the current status of notices of motion, as well as any particular issues that may have arisen during their progression to finalisation.

### **Background**

Councillors, with the best of intentions and on behalf of their community, present notices of motion to their fellow Councillors, seek support and when successful await for council staff to enact the intentions of the motions. It is therefore prudent, as a means of effective communication, for staff to publicly report on the progress of each individual notice of motion.

CL25.106

## **CL25.107 Report of the Shoalhaven Heads Estuary Taskforce - 12 March 2025**

HPERM Ref: D25/122424

### **SH25.3 Additional Item - Water NSW - Write to Gareth Ward**

#### **Recommendation**

That Council, as recommended by the Shoalhaven Heads Estuary Taskforce, request that staff to write to Gareth Ward MP regarding Water NSW's responsibilities for their environmental impact downstream of the dam.

### **SH25.4 Additional Item - Entrance Management Plan - Extend Review Period**

#### **Recommendation**

That Council, as recommended by the Shoalhaven Heads Estuary Taskforce, extend the review of the Entrance Management Plan until 26 May 2025.

CL25.107

## CL25.108 Audit, Risk and Improvement Committee (ARIC) Annual Report - 2024

**HPERM Ref:** D25/76888

**Department:** Office of the CEO  
**Approver:** James Ruprai, Acting CEO

**Attachments:** 1. ARIC Annual Report 2024 [↓](#)

### Purpose:

The purpose of this report is to provide Council with the 2024 Audit, Risk and Improvement Committee (ARIC) annual report.

### Summary and Key Points for Consideration:

The ARIC communication guidelines established in the ARIC Terms of Reference and the Guidelines for Risk Management and Internal Audit 2023 for Local Government in NSW require that the ARIC provides an annual report on its activities to Council.

The ARIC Chair in consultation with the independent committee members has prepared the annual report which provides a summary of the operations of the ARIC in accordance with the adopted ARIC Terms of Reference.

### Recommendation

That Council receive and note the 2024 ARIC annual report.

### Options

1. Council receive and note the 2024 ARIC Annual Report.
2. Council provide an alternative recommendation.

### Background and Supplementary information

Council's Audit, Risk and Improvement Committee's (ARIC) objective is to provide independent advice and assistance to Council on risk management, internal control, governance and external accountability responsibilities.

As per the ARIC's communication guidelines established in its Terms of Reference and the requirements of the Guidelines for Risk Management and Internal Audit 2023 for Local Government in NSW, the Chair of the ARIC reports to Council annually on the key issues and activities considered.

The Chair of the ARIC has tabled this Annual Report to provide an overview of the key issues that the ARIC has dealt with in 2024. The Chair of the ARIC, Ms Donna Rygate, will present the 2024 ARIC Annual Report at the Council meeting.

The 2024 ARIC Annual Report is attached for information and consideration by Council.

CL25.108

**Internal Consultations**

The 2024 ARIC Annual Report was tabled at the 19 February 2025 ARIC meeting.

**External Consultations**

Not applicable.

**Policy and Statutory Implications**

The ARIC Terms of Reference require the Committee to provide an annual assessment to the Council each year on the Committee's work.

Local Government (General) Amendment (Audit, Risk and Improvement Committees) Regulation 2023 requires each Council to appoint an Audit, Risk and Improvement Committee that comprises of an independent chairperson and at least two independent members effective 01 July 2024.

**Financial Implications**

Not applicable.

**Risk Implications**


Commencing 2024/25, the Chief Executive Officer will be required under the Local Government Regulation to attest each year in the Council's annual report whether the Council has complied with the requirements prescribed under the Regulation to its Audit, Risk and Improvement Committee.

**Annual attestation requirement 6:**

*Audit, risk and improvement committee provides the governing body with an annual assessment each year, and a strategic assessment each council term of the matters listed in section 428A of the Local Government Act 1993 reviewed during that term (Core requirement 1 of the Office of Local Government's Guidelines for Risk Management and Internal Audit for Local Government in NSW 2023).*

Shoalhaven  
City Council

# Audit, Risk and Improvement Committee Annual Report 2024

 Artie Smith Oval

CL25.108 - Attachment 1



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All Council's Corporate Planning documents can be sourced from [shoalhaven.nsw.gov.au](https://shoalhaven.nsw.gov.au) Published by Shoalhaven City Council 2024

ARIC members as  
at 30 June 2024



## ≡ 1.0 | Introduction

On behalf of the Audit, Risk and Improvement Committee (ARIC or Committee), I would like to present the ARIC report for Shoalhaven City Council (SCC) for the period January 2024 to December 2024.

The ARIC continues to make progress in discharging its responsibilities as set out in its Terms of Reference.

Key achievements during this reporting period include:

- Providing independent advice on the adequacy of Council's risk management framework, internal audit, external audit and scrutiny of Council's financial performance, including receiving reports on Council's initiatives and plans to improve its financial situation.
- Effectively contributing to the governance of the organisation through consideration of matters presented to the Committee such as project updates, cybersecurity risks, compliance register and other reports.
- Successful implementation of the changes resulting from the Local Government (General) Amendment (Audit, Risk and Improvement Committees) Regulation 2023.

The ARIC includes a balance of professional skills, knowledge and technical experience. The Committee members bring significant experience across the local government, state government and commercial sectors which has been very valuable in the effective functioning of the ARIC.

I would like to express my appreciation to the other members of the Committee, our former ARIC Chair who finished his term on 30 June 2024, our councillor observers and former councillor members for their participation, diligence, professionalism and contributions throughout 2024.


Thank you to the Council staff for the work they perform in providing support to the Committee.

The Committee looks forward to continuing to contribute to the governance and risk processes of Council into the future.

**Donna Rygate**

**Chair, Shoalhaven City Council Audit, Risk and Improvement Committee**

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## ≡ 2.0 | Council's Audit, Risk and Improvement *Committee*

Council has established an ARIC in accordance with the current Local Government Act requirements. The ARIC's objective is to provide independent assistance and advice to SCC on risk management, control, governance and external accountability responsibilities.

The ARIC is governed by its Terms of Reference (Charter).

The Committee appreciates the full cooperation of the Chief Executive Officer and the staff to fulfill its mandate.

### 2024 Audit, Risk and Improvement Committee participation

January 2024 till December 2024 ARIC Participation		
Name	Role	Meetings attended/ Meetings entitled
<b>Current Members</b>		
Donna Rygate	Independent ARIC Chair	6/6
John Gordon	Independent member	6/6
Deborah Goodyer	Independent member	4/4
Clr Gillian Boyd	Non-voting Councillor observer	6/6
*Clr Natalee Johnston	Alternate non-voting Councillor observer	2/2
<b>Former Members</b>		
Peter McLean	Former Independent ARIC Chair	2/2
Clr Patricia White	Former Councillor member	2/2
Clr Evan Christen	Former Councillor member	0/2
*Clr Matthew Norris	Former Alternate Councillor member	2/2

\* Alternate, not required to attend all meetings.

The Chief Executive Officer, Director City Performance, Director City Services, Director City Development, Director City Lifestyles, Director City Futures, Executive Manager – Shoalhaven Water, Chief Internal Auditor, Audit & Assurance Officer, Chief Financial Officer, Manager Business Assurance & Risk, Lead – Enterprise Risk Management, Chief Information Officer and representatives from the Audit Office of NSW attend the ARIC meetings as observers.

## ≡ 3.0 | ARIC Report Card 2024

ARIC Annual Report 2024

ARIC Terms of Reference	Compliance (✓ / ✗)	
<b>Composition of ARIC Committee</b>	3 voting independent members 1 councillor non-voting observer with an alternate available	✓
<b>Committee Meetings</b>	4 formal meetings 2 meetings with the external auditor	✓
<b>Meeting Quorum</b>	Quorum maintained at each committee meeting.	✓
<b>Internal Audit</b>	Internal audit plan approved and progress received, internal audit reports endorsed and progress on agreed management actions (tasks) communicated quarterly.	✓
<b>External Audit</b>	Received external audit plan, reviewed financial statements, considered management letter of representation and final management letter discussed. Met the external auditor independently.	✓
<b>Enterprise Risk Management (ERM)</b>	Update on ERM framework, strategic risks and risk appetite statement received.	✓
<b>Internal Controls</b>	Internal audit reports received. Significant governance related matters notified. Major project related risks notified.	✓
<b>Legislative Compliance</b>	Update on legislative compliance register received.	✓
<b>Fraud &amp; Corruption</b>	Fraud & corruption risks addressed through the risk register and internal audits.	✓
<b>Improvement</b>	Received update on the service review and business improvement program development and completed service review reports.	✓

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## ≡ 4.0 | Key items *considered*

The ARIC was updated and considered the following key issues during the reporting period:

### 4.1 Internal Audits 2024

Council has a co-sourced internal audit function with the majority of the audits performed internally. The following internal audit reports were tabled at ARIC:

- Enterprise Project Management Office (ePMO) Needs Analysis
- Plans of Management on Crown Lands
- Payroll
- Inspection, Testing and Monitoring
- Internal Assessment – ICAC's guide on Assessing Corruption Control Maturity
- Management Committees
- Drives Compliance Audit
- Quarterly Compliance Audits

The ARIC endorsed and received progress updates on the internal audit plan. It monitored the Quarterly progress updates on agreed management actions resulting from audits. 'In Camera' sessions were held with the Internal Audit team.

### 4.2 External Audit

The Audit Office of NSW is the External Auditor for Council under the Local Government Act 1993. ARIC reviewed the Annual Engagement Plan and Final Management Letter with a view to ensuring corrective action was planned and implemented as necessary. 'In Camera' sessions were held with the External Auditors.

### 4.3 Financial Management

#### 4.3.1 Financial Sustainability Project

The ARIC was provided with progress updates on the Financial Sustainability project work and the actions taken and planned by Council to improve the financial position of Council.

The ARIC has continuously reminded the Council of its responsibilities on Financial Sustainability and urged it to take necessary action. The ARIC is committed to providing ongoing support to management and the Council in this regard.

#### 4.3.2 Grants Spent in Advance

The ARIC received updates on Council's cash flow position as a result of funds spent in advance on grant funded projects and prepayments.

#### 4.3.3 Quarterly Performance & Budget reports

ARIC considered the Quarterly Performance & Budget reports.

#### 4.3.4 Annual Financial Statements

ARIC provided feedback on the annual financial statements for completeness and consistency within the Committee's knowledge of operations and application of accounting policies and principles. The action plan to address the Audit Office Management letter issues was monitored. The management representation letter was also reviewed by ARIC.

### 4.4 Cyber Security

Cyber security updates remained a top priority for ARIC. The ARIC received updates on Council's cyber security arrangements in line with Council's endorsed Cyber Security Strategy and Policy.

### 4.5 Legislative Compliance Register & GIPA Statistics

Updates on the development of Council's Legislative Compliance Register, Breach Register and Delegations Register were provided. The annual GIPA statistics were also provided to ARIC. Updates on reports to/ from oversight agencies and related matters were also provided to ARIC.

### 4.6 Enterprise Risk Management (ERM)

Updates on the Enterprise Risk register were provided at each meeting. Feedback on the risk management policy risk appetite statement was obtained. An update on the annual insurance renewal program was also provided.

### 4.7 Service Review Program and Business Improvement Review Program

The progress on the service review program and Business Improvement Program for Council was reported at each ARIC meeting. The ARIC received the following service review reports:

- Plant & Fleet
- Worker's Compensation
- Holiday Haven
- Visitor Information





ARIC Annual Report 2024

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#### 4.8 Capital Projects at Significant Milestones

The ARIC received updates on the following key capital projects:

- Materials Recovery Facility
- Moss Vale Road (MVR) project
- Sanctuary Point Library project
- Far North Collector Road D&C
- Bay & Basin Leisure Centre refurbishment
- Bomaderry Basketball stadium redevelopment
- Shoalhaven Community and Recreation Precinct (SCaRP)
- Attended facility tours of Shoalhaven Water South Nowra depot and Artie Smith Oval

#### 4.9 Miscellaneous

The ARIC was provided with updates on other issues that were considered as key risks to Council's operations including:

- Council's participation in the Joint Select Committee review of the NSW Reconstruction Authority (RA) Act 2022
- Enterprise Project Management Office and Project Lifecycle Management (PLM) Systems
- Disaster Recovery
- Asbestos Management
- NSW Flood planning legislation and relevant guidelines and Floodplain Management program

- NSW Government Ministerial Orders of Expectations
- Coastal Management Program
- Inquest Action Plan – Coroners Finding – Fatal Dog Attack
- PFAS in water source and biosolids management
- Compliance activities for Dams Safety Management Act 2015
- Update on the monitoring of purchase orders raised after the invoice date



## ☰ 5.0 | Conclusion

The Audit, Risk and Improvement Committee has been successful in performing its role in the period January 2024 to December 2024 and looks forward to continuing to contribute to improving the performance of Council in the year ahead.



ARC Annual Report 2024

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📷 Kangaroo Valley

CL25.108 - Attachment 1



Address all correspondence to:  
The Chief Executive Officer  
PO Box 42, Nowra NSW 2541  
[shoalhaven.nsw.gov.au/contact](http://shoalhaven.nsw.gov.au/contact)  
1300 293 111

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au) f @ in v

## CL25.109 Policy on Related Party Disclosure

**HPERM Ref:** D25/76847

**Department:** Finance

**Approver:** Katie Buckman, Director - City Performance

**Attachments:** 1. Policy on Related Party Disclosure (under separate cover) [⇒](#)

### Purpose:

The Policy on Related Party Disclosure is presented for adoption.

### Summary and Key Points for Consideration:

Council's Policy on Related Party Disclosure was last reviewed on 1 August 2022 and is scheduled for review.

### Recommendation

That Council adopt the Policy on Related Party Disclosure.

### Options

1. Adopt the recommendation

Implications: This Policy ensures Council complies with the requirements of *AASB 124 Related Party Disclosures*.

2. No adopt the recommendation

Implications: Council can request further details, seek further community input or make other changes.

### Background and Supplementary information

The Australian Accounting Standards Board determined that from 1 July 2016, *AASB 124 Related Party Disclosures* will apply to not-for-profits public sector entities whereby related party transactions with Key Management Personnel, their close families, and council-related entities, will need to be identified and may need to be disclosed in the financial statements.

Council's Policy on Related Party Disclosure (the Policy) was last reviewed on 1 August 2022 and is scheduled for review.

To streamline the Related Party Disclosures process, minimise administrative burden and maintain the accuracy of information, the following change is recommended to section 4.1.2 on the Policy.

Key Management Personnel currently includes:

- The Mayor
- Councillors
- The Chief Executive Officer
- Directors



- Any person who fills an above role in an 'acting' capacity

It is recommended that Key Management Personnel be amended to include:

- The Mayor
- Councillors
- The Chief Executive Officer
- Directors
- Any person who fills an above role in an 'acting' capacity for a consecutive period of at least three months

The updated Policy (including the recommended change) was presented to the Audit, Risk and Improvement Committee at their meeting on 19 February 2025 and was endorsed by the Committee.

### **Internal Consultations**

Governance

### **External Consultations**

Office of Local Government

Audit, Risk and Improvement Committee

### **Community Consultations**

Nil

### **Policy and Statutory Implications**

The Policy has been reviewed, and a minor change is recommended.

### **Financial Implications**

Nil

### **Risk Implications**

The Policy has been developed to assist Council comply with its disclosure and reporting obligations under *AASB 124 Related Party Disclosures*.

CL25.109

## CL25.110 Policy - Induction and Ongoing Professional Development for Mayors and Councillors

**HPERM Ref:** D25/41753

**Department:** Business Assurance & Risk  
**Approver:** Katie Buckman, Director - City Performance

**Attachments:** 1. Draft Policy with Track Changes - Induction and Ongoing Professional Development for Mayors and Councillors (under separate cover)

### Purpose:

This policy is required to be adopted by the Council within the four-year term of a newly elected Council. It is beneficial to review and adopt it at the beginning of the term so that the Policy is set for the majority of the Council term.

### Summary and Key Points for Consideration:

The report seeks the adoption of the draft Induction and Ongoing Professional Development for Mayors and Councillors Policy which is based on the OLG Model Guidelines for Induction and Ongoing Professional Development for Mayors and Councillors. There are minimal administrative and template changes proposed in the draft Policy.

### Recommendation

That Council adopt the Induction and Ongoing Professional Development for Mayors and Councillors Policy with minor administrative changes as provided in attachment 1.

### Options

1. Adopt the recommendation as written.

Implications: Only minor administrative changes proposed to the Policy and Council rescind previous council resolutions regarding additional training to be included in the mandatory induction program.

2. Not adopt the recommendation.

Implications: Council can request further details, seek further community input, or make other changes. Should the Council wish to retain additional training as outlined in recommendation 2, the removal of that part of the recommendation prior to resolution will retain it in the suite of training.

### Background and Supplementary information

The attached draft Policy (**Attachment 1**) is based on the OLG Model Guidelines for Induction and Ongoing Professional Development for Mayors and Councillors.

There are only minor administrative changes recommended to be made on this policy, which are updates to legislation title and additional information in the policy under 'Risk Assessment', which reflects the inclusion of a new heading in the standard Council Policy template.

This Policy was first adopted by Council on 29 June 2021, and formed the basis of the candidate sessions, councillor onboarding and induction, and professional development program which has been provided to date to this Council elected in September 2024.

To date the following Induction Sessions and training forming the Induction Program has been provided to Councillors and the Mayor since the declaration of the new Council:

- Induction Session by Global Leadership
- Induction Session with LGNSW
- Induction Session - Finance
- Induction Council Meeting
- Induction Session - Councillor Record Keeping Requirements
- Induction Session - Resources & Support provided to Councillors & Councillor Access to & Use of Information
- Induction Session - Reconciliation Action Plan
- Induction Session - Councillor WH&S Compliance Obligations
- Induction Session - Audit, Risk & Improvement Committee Introduction
- Induction Session - Tour of SW Facilities Treatment Plant, Depot and Induction for SW
- Induction Session - Land Use Planning - Decision Making in the DA Space
- Induction Session - Development Contributions
- Induction Session - ICAC Councillors Session
- Induction Session - Enterprise Risk Management Framework & Insurance
- Induction Session - Emergency Management & response (Natural Disaster – Plan, Prepare, Respond, Recover)
- Induction Session - Demographic information and online dashboards
- Induction Session - Code of Conduct Training

The following Induction Sessions presenting key information were pre-recorded presentations and uploaded to the Councillor Portal for the Councillors immediate review upon election to Office:

- City Development Induction
- City Services Induction
- City Lifestyles Induction
- City Futures Induction
- Shoalhaven Water Induction
- Asset Management Planning and Implementation Induction
- Integrated Planning and Reporting Induction
- Use of Social Media and How to Speak Appropriately and Effectively Induction

All Councillors including the Mayor were registered for the ['Hit the Ground Running 2024/25'](#) webinars hosted by the Office of Local Government (OLG) and these webinar sessions and presentations are also being uploaded to the Councillor Portal for those who are unable to join the live webinars online.

Councillors will shortly embark on their assessment processes for the delivery of additional training and development to meet their personal needs via the Ongoing Professional Development Plan as outlined in the policy.

Once the Induction Sessions are complete, staff will commence working with Councillors to identify personalised supplementary development programs outlined in this Policy.

The current Council Members – Payment of Expenses and Provision of Facilities Policy outlines the total amount per Councillor for Training and Development (section 12.6).

#### *12.6 – Training and Development*

*The limit payable under this clause for course fees shall be \$4,000 each financial year per Councillor. This limit may be carried forward, with the total amount accumulated for each Councillor not exceeding \$16,000 over a four-year term.*

A revised version of that Policy is currently on public exhibition.

### **Internal Consultations**

There have been no internal consultations in relation to the Policy as there is only minor administrative changes in relation to an update of legislation details and template changes made and no further changes have been proposed to the Policy.

There have been internal consultations with the Acting CEO, Executive Leadership team, Business Assurance and Risk Manager and Governance Coordinator on the delivery of induction sessions to Councillors.

### **External Consultations**

There have been no external consultations as there is only minor administrative changes in relation to an update of legislation details and template changes made and no further changes have been proposed to the Policy.

Upon the finalisation of the Policy and the Induction, Councillors will receive a self-assessment tool to assist with creating their individual ongoing professional development plans.

### **Community Consultations**

There is no requirement for public exhibition of this Policy given only administrative changes to legislative details and no further changes have been identified. However, Council may choose to do so, should they consider any additional changes of significance.

### **Policy and Statutory Implications**

This Policy has been established giving consideration to the NSW Office of Local Government's Councillor Induction and Professional Development Guidelines 2018 (the Guidelines) issued under section 23A of the Act and to meet the induction training and professional development obligations for the mayor and councillors outlined in the Local Government (General) Regulation 2021 (the Regulation). This Policy is recommended to be reaffirmed with minor administrative amendments.

### **Financial Implications**

An annual budget allocation is provided to support the induction and professional development activities undertaken by the Mayor and Councillors.

The expenditure is monitored. The expenditure is recorded in Councils Annual Report each year.

### **Risk Implications**

~~Should Council resolve not to rescind previous resolutions with respect to mandated induction training, this can impact the adopted budget.~~

Council is required to provide Councillors with training and development to support their fulfillment of obligations and the important elected roles that they hold.

## CL25.111 Draft Code of Meeting Practice - Public Exhibition

**HPERM Ref:** D25/55413

**Department:** Business Assurance & Risk  
**Approver:** Katie Buckman, Director - City Performance

**Attachments:** 1. Draft Code of Meeting Practice (under separate cover) ➡

### Purpose:

To provide a Draft Code of Meeting Practice (**Attachment 1**) to be endorsed for public exhibition.

### Summary and Key Points for Consideration:

Council is required to review its Code of Meeting Practice within 12 months after an Ordinary Election under Section 360 of the Local Government Act, 1993.

The Council last adopted a Code of Meeting Practice (COMP) on 27 June 2022 ([Code of Meeting Practice – amended on 27 June 2022](#)). As required under the Local Government Act the current code was based on the Model Code of Meeting Practice and the then Council adopted practices from options within the Model Code with amendments considered appropriate by the then Council.

The Council has recently resolved to consider amendments to the Code of Meeting Practice with respect to the use of mobile telephones and laptops in the chambers. Tuesday 21 January 2025 ([MIN25.10](#)) as follows:

*That Council formally direct the CEO 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, Councillor's 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.*

On 18 February 2025, Council also considered a report outlining the submission of proposed changes to the Model Code of Meeting Practice proposed by the Minister for Local Government. It is not known what components of the Model Code may ultimately change and the timing of the release of the final model given legislative change may also be required. For this reason, the changes to the COMP are proposed now. Further changes can be considered by Council once an amended Model Code of Meeting Practice is released.

A Workshop with Councillors was held on 20 February 2025 to discuss the practices.

The following amendments have been made to the draft Code of Meeting Practice document (attachment 1):

- Part 1 of the draft Code – Rising to Speak – removed due to this no longer being required under the legislation
- Part 3 of the draft Code - Pre-Meeting Briefing Sessions – additions to the provisions of joining via audio visual link
- Part 4 of the draft Code – Deputations – addition of requiring presentations in advance

CL25.111

- **Part 15** of the draft Code - Use of Mobile Phones and Laptops – additions in line with the resolution of Council regarding mobile phone and laptop use.

### Recommendation

That:

1. In accordance with Section 361 of the Local Government Act, the draft Code of Meeting Practice be placed on public exhibition to obtain community feedback for the minimum of 28 days and invite submissions for a period of at least 42 days.
2. A report be provided for consideration at an Ordinary Meeting of the Council at the completion of the exhibition period, outlining the submissions received and providing a final draft Code of Meeting Practice for adoption by the Council.

### Options

1. As recommended.

Implications: The draft Code will be placed on exhibition as required by the Local Government Act and will be reported back to the Council for adoption.

2. Council amend the draft Code prior to exhibition for example for the purpose of establishing a separate Public Forum on the Monday prior to the meeting.

Implications: Any amendments must not contain provisions that are inconsistent with the mandatory provisions of the Model Code of Meeting Practice.

3. Council defers the exhibition of the draft Code.

Implications: Under the Act, Council must adopt a Code of Meeting Practice that incorporates the mandatory provisions of the Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) prescribed by the Regulation within 12 months of the election. Before adopting a Code of Meeting Practice, Council must prepare a draft code and exhibit it for at least 28 days and invite submissions for a period of at least 42 days.

### Background and Supplementary information

On 17 December 2024, the Office of Local Government (OLG) released [Circular No. 23-24 Consultation on reforms to council meeting practices](#).

A Workshop with Councillors was held on 20 February 2025. During this Workshop, a discussion was held in relation to all provisions within the [Model Code of Meeting Practice](#) and additional matters that are contained in Council's current Code. These reforms have not been formally finalised or adopted at this time and therefore due to the legislated timeframe required to adopt the Code of Meeting Practice (by 3 October 2025) these are not being considered further at this time.

The draft Code provided (**Attachment 1**) to the report is provided in 'Mark Up' mode based upon the Model Code and informed by the Workshop. Content that has been removed is presented in a 'strikethrough' format.

#### The Draft Code in Comparison to the Current Code of Meeting Practice:

- **Part 1 of the draft Code – Rising to Speak**

The reference to 'rising to speak' is no longer required under legislation and has been removed from the draft Code.

- **Part 3 of the draft Code - Pre-Meeting Briefing Sessions**

CL25.111

A councillor must give their full attention to the business and proceedings of the briefing when attending a briefing by audio-visual link. The councillor's camera must be on at all times during the briefing except as may be otherwise provided for under this code.

Councillors attending a briefing by audio-visual link must ensure that no other person is within sight or hearing of the briefing at any time noting, that the meeting is closed to the public.

- **Part 4 of the draft Code – Deputations**

Approved speakers at the public forum are to register with the Council any written, visual or audio material to be presented in support of their address to the Council at the public forum, and to identify any equipment needs no later than 12.00pm on the day of the meeting. The Chief Executive Officer or their delegate may refuse to allow such material to be presented.

- **Part 15 of the draft Code - Use of Mobile Phones and Laptops**

That Council formally direct the CEO 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, Councillor's 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.

Timeframe for adoption of the Code of Meeting Practice:

Date	Action
15 April 2025	Report to Council seeking endorsement for public exhibition
21 April 2025 26 May 2025	Public exhibition of draft Code and community comment (Required 42 days)
17 June 2025	Report to Council following exhibition – Policy adoption

Until Council adopts a new Code of Meeting Practice, its existing Code of Meeting Practice will remain in force. If Council fails to adopt a new Code of Meeting Practice by that date, any provisions of the Council's adopted Code that are inconsistent with the mandatory provisions of the Model Code prescribed under the Regulation will automatically cease to have any effect to the extent that they are inconsistent with the mandatory provisions of the Model Code.

It is worth noting, the Model Code of Meeting Practice outlines a range of Non-Mandatory provisions with respect to Public Forums (or deputations). These provisions are of distinct difference to the current provisions and practice of Council with respect to Deputations. They are based on a firm point outlined in the Model Code that states:

*"Note: Public forums should not be held as part of a Council or Committee meeting. Council or Committee Meetings should be reserved for decision-making by the Council or Committee of Council."*

Our Council currently holds the Deputations within the Ordinary Meeting, however, Council could consider holding a Public Forum for this purpose on the Monday prior to the meeting.

### Internal Consultations

Internal consultation has occurred with the Executive Leadership Team and during the Councillor Workshop mentioned above.

CL25.111



### External Consultations

The Model Code of Meeting Practice is released by the Office of Local Government (OLG). Council have made a submission with respect to the proposed changes to the model Code on 28 February 2025 following Council's endorsement 18 February 2025 ([MIN25.43](#)).

### Community Consultations

Prior to adopting the attached draft Code of Meeting Practice, under section 361 of the Local Government Act, Councils are required to publicly exhibit the draft Code for at least 28 days and provide members of the community at least 42 days in which to comment on the draft Code.

### Policy and Statutory Implications

The provisions within the Code of Meeting Practice are related to the Code of Conduct, in particular in relation to conduct at meetings and conflict of interest management. The Code of Conduct and Code of Conduct Procedures were adopted by Council on 25 February 2025 ([MIN25.83](#))

### Financial Implications

Should Council consider changing the manner in which it considers deputations or includes additional requirements with respect the provision of technical or administrative reports to Council meetings, this may result in changes to budget.

### Risk Implications

Council is required to review its Code of Meeting Practice within 12 months after an Ordinary Election under Section 360 of the Local Government Act, 1993.

If Council fails to adopt a new Code of Meeting Practice by that date, any provisions of the Council's adopted Code that are inconsistent with the mandatory provisions of the Model Code prescribed under the Regulation will automatically cease to have any effect to the extent that they are inconsistent with the mandatory provisions of the Model Code.

CL25.111

## CL25.112 Tender - Provision of Professional Beach Patrol / Lifeguarding Services - Shoalhaven Beaches - 2025/26 to 2029/30

**HPERM Ref:** D25/103875

**Department:** Shoalhaven Swim Sport Fitness

**Approver:** Kevin Norwood, Acting Director - City Services

### Purpose

The reason for this report is to inform Council of the tender outcome for Provision of Professional Beach Patrol / Lifeguarding Services – Shoalhaven Beaches – 2025/26 to 2029/30.

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

### Summary and Key Points for Consideration

Council invited tenders for the provision of Professional Beach Patrol / Lifeguarding Services at eight core Shoalhaven beaches, from 2025 / 26 to 2029 / 30, inclusive.

### Recommendation

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

### Options

1. Accept the recommendation.

Implications: Consider a separate confidential report on the matter.

2. Council makes a different resolution.

Implications: This is not recommended as an extensive evaluation process has been undertaken by the Tender Evaluation Panel in accordance with the Tender Evaluation Plan.

### Background and Supplementary Information

#### Project Description

Shoalhaven City Council takes beach safety and community wellbeing extremely seriously. Although not a legislative obligation, Council has striven to take guidance in all areas of water safety from The Department of Local Government - Practice Note 15 since its inception.

CL25.112

The Department of Local Government - Practice Note 15 – Water Safety (CI 3.1) states that Councils have two broad water safety functions under the Local Government Act:

- Performance of regulatory activities
- Provision of services under S24 of the Local Government Act such as:
  - Aquatic recreation facilities
  - Beach life saving services – performed by:
    - Council employees
    - Volunteer surf lifesaving clubs
    - Organisations providing contracted lifesaving services
    - OR a combination of the above

CI 3.1 also highlights that:

*“Where service activities are delegated, it is strongly recommended that councils have formal written service agreements in place with service providers to document agreed responsibilities.”*

Council invited tenders for the Provision of Professional Beach Patrol / Lifeguarding Services at Shoalhaven beaches for the next five summer seasons, commencing 2025 / 26 to 2029 / 30, inclusive.

Beach Patrol / Lifeguarding Services to be provided at the following core beach locations:

- a. Shoalhaven Heads Beach - Six days per week - excluding Sundays and Public Holidays - Monday to Saturday. Commencement of NSW Summer Vacation in December to conclusion of same.
- b. Crookhaven Heads Beach - Seven days per week including Public Holidays – Monday to Sunday. Commencement of NSW Summer Vacation in December to conclusion of same.
- c. Tilbury Cove (Ocean Street) - Seven days per week including Public Holidays – Monday to Sunday. Commencement of NSW Summer Vacation in December to conclusion of same.
- d. Warrain Beach - Five days per week excluding Public Holidays – Monday to Friday. Commencement of NSW Summer Vacation in December to conclusion of same.
- e. Sussex Inlet / North Cudmirrah - Seven days per week including Public Holidays – Monday to Sunday. Commencement of NSW Summer Vacation in December to conclusion of same.
- f. Narrawallee Beach - Five days per week excluding Public Holidays – Monday to Friday. Commencement of NSW Summer Vacation in December to conclusion of same.
- g. North Mollymook Beach - Five days per week excluding Public Holidays – Monday to Friday. Commencement of NSW Summer Vacation in December to conclusion of same.
- h. South Mollymook Beach – Five days per week excluding Public Holidays – Monday to Friday. Commencing first Monday in December to last Friday in February.

The procurement method for the tender was chosen to be Lump Sum Public Request for Tender wherein pricing was based on cost per location and a single stage open tender was released on the TenderLink portal, consistent with Council’s Procurement Procedure.

## Tendering

Council called tenders for the Provision of Professional Beach Patrol / Lifeguarding Services – Shoalhaven Beaches – 2025 / 26 to 2029 / 30 on 17 December 2024, which closed at 10:00 am on 6 February 2025. One tender was received at the time of closing.

Tenders were received from the following:

Tenderer	Location
Surf Life Saving Services (SLSS) Pty Ltd trading as the <b>Australian Lifeguard Service (ALS)</b>	3 Narabang Way, Belrose, NSW 2085

Details relating the evaluation of the tenders are contained in the confidential report.

## Policy Implications

The tender process has followed the requirements under the provisions of the *Local Government Act 1993*.

## Financial Implications

Sufficient funds have been allocated in the Professional Beach Patrol / Lifeguarding Services - 2025 / 2026 to 2029 / 2030 budget for financial year 2025 / 26. Funding is available to cover the tender amount including other project costs.

Further details relating to financial implications are contained in the confidential report.

## Risk Implications

Details relating to the risk implications are contained in the confidential report.

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## CL25.113 Sale of 21 Norfolk Ave, South Nowra

**HPERM Ref:** D25/76964

**Department:** Buildings & Property Services

**Approver:** Kevin Norwood, Acting Director - City Services

**Attachments:** 1. Valuation Report (Confidential - under separate cover)

### Purpose:

This report seeks Council's resolution to sell its operational land at 21 Norfolk Ave, South Nowra.

### Summary and Key Points for Consideration:

- The current lessee of 21 Norfolk Ave, South Nowra has provided Council written notice to terminate their lease agreement, ending on 21 March 2025.
- The building and land no longer hold a strategic purpose for ownership by Council.
- This report seeks a resolution to sell the operational land for no less than an independent market valuation via auction and for those funds to pay down Council's debt.

### Recommendation

That Council:

1. Commence the sale process for 21 Norfolk Ave, South Nowra (Lot 77 DP 1032397) for no less than an independent market valuation.
2. Authorise the Chief Executive Officer with delegated authority to complete negotiations for settlement including acceptance of offer for purchase in accordance with the market value assessment determined by independent certified valuer.
3. Appoint a selling agent to act for Council in the disposal of 21 Norfolk Ave, South Nowra (Lot 77 DP 1032397) by competitive process.
4. Endorse the costs incurred with sale of the land comprising legal, conveyancing, valuation and survey expenses be funded from the sale proceeds.
5. 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. That Council sell 21 Norfolk Ave, South Nowra (Lot 77 DP 1032397) for no less than an independent market valuation. This is the preferred option.

Implications: The land will be sold, with sale proceeds to assist with Council's Financial Sustainability objectives.

2. That Council does not sell 21 Norfolk Ave, South Nowra (Lot 77 DP 1032397) at the present time and the site is marketed for lease via an open market competitive tender.

Implications: The property will be leased by way of a competitive tender, with the income from the lease contributing to the general fund.

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## Background and Supplementary information

The property 21 Norfolk Ave, South Nowra is situated on the western side of Norfolk Avenue, between Tom Thumb Avenue and Investigator Street, within the Flinders Industrial Estate at South Nowra, approximately five kilometres south from the Nowra central business district. Surrounding development is predominately light industrial in nature and includes small warehouses, workshops, and factories. There is undeveloped timbered land to the rear in the ownership of Shoalhaven Council. The property has good access to major arterial roads including the A1/Princes Highway which is 3.0km to the east of the subject property.

The site comprises a regular shaped internal allotment of 5,970 sqm zoned E4 (General Industrial), with a gradual slope down to the rear of the site. The property is developed with a brick office and amenities of 128 sqm, a part brick and metal clad workshop of 305 sqm with an attached truck wash bay of 70 sqm. The site is fenced with a hardstand yard area.

Around 1993 Council developed the land and building as part of a commercial arrangement with a waste contractor for the purpose of facilitating their operations. When this commercial arrangement ceased, the building and land was leased by Council, being surplus to its operational requirements. For the past few decades, the property has been leased to several different tenants.

Most recently Council leased the property to *Productivity Bootcamp* who undertook training in construction skills. However, in February 2025 they provided Council one month's written notice to terminate their lease agreement on 21 of March 2025.



Image 1 – Subject Property, 21 Norfolk Ave South Nowra

## Highest and Best Use

A valuation report has been included as a **confidential attachment** under section 10a(2)(d)(i) of the Local Government Act - Commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it. This valuation report provides information on the assessed valuation, market rent and yield of the property. While the recently expired lease to *Productivity Bootcamp* was provided on a

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peppercorn basis, the achievable market rent still represents an under yielding asset. This is also despite the limited competitive properties on the market.

Having regard to the property type, size, age and location it is envisaged selling the property would be better aligned to Council's financial sustainability measures than seeking a further lease on the property. This view has been assessed based upon the on-going maintenance, asset management and risk of on-going income from an industrial property.

Notwithstanding, the site utilisation is 8.4% and the property has a range of features that would be attractive to future owners, investors or tenants.

### Internal Consultations

A request for comments was circulated to Council staff for comment on the subject property, this included Directors, Sections Managers, asset custodians and strategic planners. Comments received only related to planning considerations and the building's annual fire statement recertification.

The planning feedback confirmed the following about the subject site:

- Contamination – The site is mapped on the Potentially Contaminated Land Register with the following description being provided in GIS – *Council's records indicate that this land may have above ground Diesel storage tank/s & Bowser/Diesel Spill and may therefore have implications for development on this land. Further enquiries should therefore be undertaken by any prospective purchaser. Refer to Council. (90/3034)*

It is likely any future development on the site involving any redevelopment or excavation will need to be provided with a Preliminary Site Investigation (PSI) as a minimum.

- Approval was given as part of the determination of Development Application No. DA20/2293 for change of use of the premises to an 'Industrial Training Facility'. However, Council's records indicate that this consent has not been acted upon, has not obtained substantial commencement, and therefore no Occupation Certificate (OC) issued for use for this purpose. The consent does not lapse until 21 December 2025 this year – however until the OC has been obtained – the premises is not able to be used for this purpose.
- The site is mapped as being bushfire prone and any future purchaser should consider the requirements of the Planning for Bushfire Protection 2019 should they wish to redevelop the site.

The building's Annual Fire Safety Statement has been submitted to Council and to Fire and Rescue NSW for review and approval in March 2025.

### External Consultations

A sales' appraisal on the subject property has been received from a local real estate agent who provided feedback on the proposed sale's price and rental return. These were generally in line with the opinion of the independent valuation – contained within **Attachment 1**, which has been made confidential under *section 10a(2)(d)(i) of the Local Government Act - Commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.*

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**Community Consultations**

No community consultation is proposed given the location and limited community use of the site. Further, as the land has operational classification with an appropriate zoning, no other consultation is required to sell the property under the Local Government Act.

**Policy and Statutory Implications**

Council's property sales' activities are managed within legislative parameters and as such there are no implications to existing policies.

Section 377 of the Local Government Act 1993 requires all sales and acquisitions of Council land can only be facilitated through a resolution of Council.

**Financial Implications**

Subject to resolution of Council the land is proposed for sale within the current 2025 financial year and will contribute to the budgeted target required for Council's ongoing sustainability measures.

**Risk Implications**

O'Connor, Marsden and Associates have been appointed as a probity advisor to support and review the sales' strategy process. This is an ongoing appointment for the sale of Council properties.

While there is risk in the sale or lease of any property, these risks have been mitigated through consultation with internal and external stakeholders, as well as consideration of the current market environment. A real estate panel has been appointed in supporting Council to facilitate the sale of this property. Further, the preparation of the contract of sale and conveyancing will be facilitated by Council's external lawyer. This ensures that an "arm's length" approach is taken in the sale transaction to ensure best governance is provided in the sale.

The sale of this property is considered low risk.



## **CL25.114 Sanctuary Point Library - Update Report 3 (Feasibility Study & Cost Estimates)**

**HPERM Ref:** D25/39778

**Department:** Technical Services

**Approver:** Kevin Norwood, Acting Director - City Services

**Attachments:**

1. Close Out and Rescoping - Status Update (under separate cover) ➡
2. Feasibility Study - Overview (under separate cover) ➡
3. Project Programme (under separate cover) ➡
4. Project Location: background information (under separate cover) ➡
5. Alternative Location (under separate cover) ➡
6. Locational Matrix Calculator (under separate cover) ➡
7. Feasibility Study - Architectural Design Services - REPORT (under separate cover) ➡
8. Feasibility Study - Architectural Design Services - PLANS (under separate cover) ➡

### **Purpose**

The purpose of this report is to provide an update on the progress of work related to planning a new library in Sanctuary Point, in accordance with [MIN24.241](#), [MIN24.404](#), and [MIN24.577](#).

This report includes information about a completed Feasibility Study, cost estimates, site selection considerations, and next steps.

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

After plans for a larger-scale library were paused in March 2024, principal architects for the project, Brewster Hjorth Architects, were tasked with the redesign that takes inspiration from Warilla Library. The outcome of this work is introduced in **Attachment 2** and presented in detail in **Attachment 7 & 8**.

The scaled down project - from a two-storey landmark building to a single-storey pavilion – will still meet residents' needs and provide certainty for the community and funding partners.

A Feasibility Study has been completed based on Warilla Library, and other comparable contemporary libraries, and confirms a new library can be delivered in accordance with the redefined scope-of-works and preliminary project budget.

The project will deliver **109** carparking spaces, representing a net gain (of 2 spaces) relative to current conditions. 14 carparking spaces are required to be delivered to service the new library, with the remaining 95 spaces available to service the Sanctuary Point village centre and Francis Ryan Reserve across two locations: 1) streetside parking directly adjacent to Kerry Street, and; 2) a refurbished 'upper carpark' situated between the new library and sports fields at Francis Ryan Reserve) – ref. p. 65, Attachment 7.

The estimated cost of delivering the redesigned Sanctuary Point Library in 2029, including projected cost escalations, is \$14.9 million. This includes the cost of the library building and the upper car park next to the sports field.

The design will require further development, and the community will be kept informed throughout future stages.

It is possible the library could be delivered by the end of 2029 if the rescoped project described in this report is supported by Council.

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Additional investigations were undertaken by the project team to clarify options related to the project location, in accordance with part 3 of [MIN24.577](#). Upon completion of this work, it has been determined that the project's current location (at the corner of Paradise Beach Road and Kerry Street) remains the recommended location for a new library in Sanctuary Point. Further information about the outcomes of these investigations, and justification for this recommendation, is presented in this report.

#### Background for proposed recommendation

- A larger library on a grander scale is unrealistic under Council's Financial Sustainability Plan.
- Given Council's budget constraints the recommendation outlined within this report will provide certainty to all stakeholders, including funding partners.
- The feasibility report has been modelled on a \$14.9 million limit, making this scope a realistic and viable option.
- The location (corner of Paradise Beach Road and Kerry Street) has already been scoped and is considered more suitable than Francis Ryan Reserve. This location will enhance the Sanctuary Point village centre and increase connectivity between shops, retail and library.
- This proposal represents the fastest way to deliver a new library after many years of delays (not back to the drawing board).
- Further delays will adversely impact the Sanctuary Point community who have outgrown their existing library.
- While modest, the new design is attractive, welcoming and contemporary, with good functionality for a wide cross-section of the community.
- The Warilla Library prototype is tried and tested and is a success story for Shellharbour Council.

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#### **Recommendation**

That Council:

1. Receive the **Sanctuary Point Library - Project Update 3** report for information as an update on:
  - a. Close-out and rescoping processes as outlined in **Attachment 1**.
  - b. Outcomes of a *Feasibility Study* as presented in **Attachment 2 and Attachment 7 & 8**.
  - c. Project location, noting the recommendation to retain (reconfirm) a new library be constructed at the corner of Paradise Beach Road and Kerry Street, Sanctuary Point, as outlined in **Attachment 5 & 6**.
  - d. Project programme (timelines) as outlined in **Attachment 3**.
2. In accordance with the *Local Government Act 1993*, delegate authority to the Acting CEO (Director - City Services) to commence negotiations with grant funding partners to align the rescope project with revised grant funding deeds, with a view to capping Council's co-contribution to the project at no more than half (50%) of the cost of delivery.
3. Direct the CEO (Director – City Services) to further examine financial considerations related to delivery of a new library in Sanctuary Point and submit a development application, as illustrated in **Attachment 7 & 8**, by completing the following activities utilising funds allocated to the Sanctuary Point Library project in the Section 7.11 reserve:

- a. A Business case, in accordance with [MIN24.44](#), and Expenditure review, in accordance with the Office of Local Government's [Capital Expenditure Guidelines \(December 2010\)](#), and;
  - b. Documentation as required to submit a development application.
4. Direct the CEO (Director – City Services) to provide a future report upon completion of part 2 of this resolution (once development consent has been received) to enable Council to make a determination about next steps for this project.

## Options

1. Adopt the recommendation, as presented.

Implications: City Services staff will undertake work tasks as necessary to complete: 1) a business case and capital expenditure review; 2) design documentation and technical reports as required to submit a development application; and 3) submit a development application (for referral to the Southern Regional Planning Panel).

These activities will be completed using funding allocated to the Sanctuary Point Library project in the Section 7.11 reserve. This means there will be no impact to General Fund reserves as a result of progressing these activities.

The Council will receive a further update report upon completion of these activities.

2. Adopt an alternative recommendation with a direction to undertake a full Feasibility Study investigation (equivalent to that presented in this report) for delivery of a combined library + sporting amenities facility at Site B (adjacent to playing fields at Francis Ryan Reserve) (ref. proposed alternative recommendation provided below).

*That Council:*

1. *Receive the Sanctuary Point Library - Project Update 3 report for information as an update on:*
  - a. *Close-out and rescoping processes as outlined in Attachment 1.*
  - b. *Outcomes of feasibility investigations as outlined in Attachment 2 and Attachment 7.*
  - c. *Project programme (timelines) as outlined in Attachment 3.*
2. *Direct the CEO (Director – City Services) to undertake a Feasibility Study, utilising funds allocated to the Sanctuary Point Library project in the Section 7.11 reserve, for a new library + sporting amenities to be delivered adjacent to playing fields at Francis Ryan Reserve (Lot 4 DP 806393).*
3. *Provide a future report upon completion of Part 2 to enable Council to make a determination about next steps.*

Implications: City Services staff will undertake work tasks as necessary to complete a new Feasibility Study for delivery of a combined library + sporting amenities facility adjacent to Frances Ryan Reserve.

Budget for expenditure will be sourced from the Section 7.11 reserve (no impact to General Fund reserve).

Risks associated with this option include:

- *Funding Dependencies:* Additional funds would be required to complete an additional feasibility study.
- *Project Delays & Cost Increases:* Delays would be incurred and additional funding would be required to deliver a project of this nature.

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- *Planning Disadvantages:* Lack of street frontage and visibility at the Francis Ryan location would negatively impact compliance with State Library of NSW guidelines.
  - *Economic and Social Impact:* The absence of street frontage at the Francis Ryan location is expected to compromise potential economic development and placemaking opportunities relative to a more prominent location such as the Kerry St location.
3. Adopt an alternative recommendation, as determined by the Council.

Implications: Unknown. The Council would need to provide further direction to the CEO in relation to progression of any works associated with the Sanctuary Point Library project.

## Background and Supplementary information

### Recap - Project History

Options for delivery of a new library in Sanctuary Point have been under active investigation by Shoalhaven City Council since 2018, with various solutions presented to the Council for consideration, including:

1. Delivering combined library and community centre facilities alongside upgraded aquatic centre facilities in a new 'community & aquatic hub' at the location of the Bay & Basin Leisure Centre, Vincentia (discontinued 2017);
2. Delivering a new library combined with new clubhouse and sports amenities in a 2-storey hub located directly adjacent to playing fields at Francis Ryan Reserve (discontinued 2020).
3. Delivering a 2-storey flagship library at the corner of Paradise Beach Road and Kerry Street, Sanctuary Point, to catalyse future redevelopment of the Sanctuary Point activity centre (discontinued 2024);
4. Delivering a single-storey library based on precedent projects (such as the Warilla Library in Shellharbour) at the corner of Paradise Beach Road and Kerry Street, in line with efforts to improve Council's financial circumstances (current project).

Further information about the sequencing of decisions related to selecting a location for this project is presented in **Attachment 4**.

### Recent Reporting (related to 4 above)

At the Ordinary Council Meeting held on **6 May 2024**, Council passed a motion to reaffirm its commitment to: 1) deliver a new library in Sanctuary Point; 2) revise the project scope for the library based on precedent projects (such as Warilla Library in Shellharbour) to ensure the project can be delivered in accordance with efforts to improve Shoalhaven City Council's financial circumstances; and 3) to receive regular updates on progression of this work (ref. [MIN24.241](#)).

Accordingly, work is substantially progressed to close out the previous Sanctuary Point Library project and to rescope a new project at the corner of Paradise Beach Road and Kerry Street in Sanctuary Point (the subject site).

This is the third update report provided to the Council in relation to this matter.

*Update Report 1* was considered by the Council at the ordinary council meeting held on **29 July 2024**. The purpose of that report was related to: 1) close out procedures for the previous (discontinued) project; and 2) procurement procedures related to the direct

appointment of a Project Architect to deliver a Feasibility Study for the re-scoped project (ref. [MIN24.404](#)).

*Update Report 2* was considered by the Council at the ordinary council meeting held on **28 October 2024**. The purpose of that report was to provide: 1) further updates related to close out procedures for the previous (discontinued) project, 2) an update about feasibility investigations completed to date; 3) an anticipated project programme (timeline) and; 4) a preliminary project budget for the Council's consideration.

During the Council's deliberation of this report, it was determined that reconsideration should be given to the location in Francis Ryan Reserve (ref. [MIN24.577](#)).

MIN24.577 reads:

*That Council:*

1. *Receive the Sanctuary Point Library - Project Update 2 report for information as an update on:*
  - a. *Close-out and rescoping processes as outlined in Attachment 1;*
  - b. *Feasibility investigations as outlined in Attachment 2;*
  - c. *Project programme (timelines) as outlined in Attachment 3;*
  - d. *Preliminary cost estimates as outlined in Financial Implications.*
2. *Direct the CEO (Director – City Lifestyles) to provide a further update report for Council's consideration upon completion of feasibility investigations, to enabling the Council to confirm:*
  - a. *Budget;*
  - b. *Scope-of-Works;*
  - c. *Delivery Timelines;*
  - d. *Funding Solution.*
3. *Reconsider the Francis Ryan Oval as the location for the Sanctuary Point Library in conjunction with amenities.*

#### Progress Update

##### *Close Out and Rescoping*

Workstreams are currently organised into two processes running concurrently:

1. Close-out of the original capital works project (now discontinued), which is approximately **90%** complete.
2. Rescoping of a new capital works project, which is approximately **75%** complete.

For further details about progression of related activities are provided in **Attachment 1**.

##### *Feasibility Study - Outcomes*

A Feasibility Study has been completed and includes the outcomes of concept design investigations, planning analysis, site analysis, cost analyses, and other material. The outcome of this work confirms the project can be delivered at the subject site in line with the project budget.

The new Sanctuary Point Library is proposed to be built on the corner of Kerry Street and Paradise Beach Road (Site A), a prominent location in the village centre and an easy walk to the shops and cafes. Other features of the new library include:

- Ability to house a collection of 15,000 items
- An increase in floor space from 141 sqm to approximately 775 sqm + courtyard

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- A children's library and youth area
- Bookable spaces
- Sheltered courtyard
- Entry lounge and help desk with overview of facility
- Improved parking
- Enhanced connectivity between Paradise Beach Road and Kerry Street retail precincts
- A forecourt and library entrance on Kerry Street
- Public art

For further details, refer to **Attachment 2** and **Attachment 7 & 8**.

#### Alternative Location

In accordance with part 3 of MIN24.557, investigations were undertaken to reassess the suitability of Francis Ryan Reserve (Site B) as the location for a new library in Sanctuary Point in conjunction with clubhouse and sports amenities.

Advice provided to the Council at the Strategy & Assets Committee meeting on 21 January 2020 with regards to location criteria (ref. [SA20.5 District Library at Sanctuary Point - Update on site options, MIN20.33](#)) is considered to remain relevant and applicable.

Further information is provided in **Attachment 5** and **Attachment 6**.

There are several key risks that will apply should the Council change the location of the subject site for this project, from Site A to Site B, including: dependencies; delays; site planning and urban design considerations; statutory management constraints; and non-compliance with relevant guidelines for the development of public libraries.

Further information related to risks associated with moving the project to an alternative location (from Site A to Site B) are outlined in the Risk Implications chapter of this report.

#### *Conclusion*

As documented in Attachment 5 and 6, Site B performs poorly when assessed against relevant locational criteria outlined by the State Library of NSW, particularly for: 1) visibility; 2) street frontage; and 3) outdoor space.

#### Site B:

- is only partially visible (at a distance) from Paradise Beach Road, is not visible from Kerry Street, and is only partially visible (obscured by buffer tree planting and vegetation) from Centaur Avenue (a local residential street), so scores 1 (out of 3) for this criteria;
- does not enjoy street frontage, so scores 0 (out of a possible 1.5) for this criteria;
- is spatially constrained (between operational land currently occupied by a carpark and community land occupied by sports fields) and therefore provides limited opportunity for outdoor space and/or programmed library space at ground level – meaning a structure at this location would likely need to incorporate underground / ground-level carparking and at least one additional programmed storey to accommodate sufficient gross floor area for parking, library space, and sporting amenities (within the available footprint at this location), all of which is anticipated to significantly increase build costs (beyond the available budget) – so scores 1 (out of 3) for this criteria;
- is Community Land categorised 'Sportsground' and is therefore subject to management constraints, in accordance with the *Local Government Act 1993*, which



requires that it be managed and developed ... *to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games;*

- is subject to additional planning constraints, including bushfire and biodiversity overlays that do not apply to Site A.

Furthermore, moving the project from Site A to Site B would:

- necessitate securing additional funding (to cover the cost of delivering the increased scope);
- create delays while necessary feasibility investigations are undertaken;
- require Council to write off expenditure incurred to date in accordance with MIN24.577 and other related Council decisions.

Retaining Site A as the subject site is recommended to ensure the timely and cost-effective delivery of this project in line with relevant guidelines.

The corner of Paradise Beach Road and Kerry Street maximises physical accessibility, visibility, potential for community and economic impact, while also aligning with relevant guidelines, best-practice urban design principles, and statutory management requirements.

Providing certainty to key stakeholders, including grant funding partners, and the general public, is considered necessary at this stage of the project. It is therefore recommended project planning be progressed for delivery of a new library (as presented in the Feasibility Study described at **Attachment 2** and **Attachment 7 & 8**) at the corner of Paradise Beach Road and Kerry Street.

Site A is therefore considered the preferred location for a new library in Sanctuary Point.

#### Next Steps

Should the Council adopt the recommendations of this report, the project team will give effect to the tasks outlined in Table 1.

Table 1 below identifies which tasks will be undertaken concurrently and which tasks require a decision of the Council prior to proceeding to the next:

**Table 1: Tasks & Milestones**

No.	Task	Decision Point Upon Completion (defer / proceed), requiring the Council's endorsement (Y/N)
0	<b>Feasibility Study</b> (incl. <i>Update Report 3 – this report</i> )	Y – proceed to 1 & 2 or defer
1	<b>Stakeholder Engagement</b> (incl. provision of regular updates to community re. progression of project)	N
2a	<b>Design Development</b> (incl. detailed design, technical reports, preparation and submission of development application documentation)	Y – proceed to 3 or defer
2b	<b>Business Case and Capital Expenditure Review</b>	
2c	<b>Development Consent</b>	
3	<b>Funding Solution</b>	Y – proceed to 4 & 5 or defer

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No.	Task	Decision Point Upon Completion (defer / proceed), requiring the Council's endorsement (Y/N)
0	<b>Feasibility Study</b> (incl. <i>Update Report 3 – this report</i> )	Y – proceed to 1 & 2 or defer
4	<b>Construction Documentation</b>	N
5	<b>Tender</b>	Y – proceed to 6 or defer
6	<b>Construction</b>	N

A detailed project programme is provided at **Attachment 3**.

### Internal Consultations

Work associated with the contents of this report is being led by City Services (Technical Services) and has included coordination with the following teams:

- City Performance (Finance);
- City Development (Library Services);
- City Services (Building Services, Building & Landscape Design).

### External Consultations

#### Public Works Advisory

The contract with Public Works Advisory (PWA) for project management services related to the previous library project has been terminated. Both PWA and the Council have settled all obligations as per the contract terms. Written confirmation has been obtained from PWA acknowledging termination of this contract. Additionally, all communications and documents related to the termination process have been recorded, and the GIPA Contract Disclosure Class 2 – Register has been updated accordingly.

#### Grant Funding Bodies

Coordination has been undertaken with both the Department of Infrastructure and the State Library of NSW regarding the *Priority Community Infrastructure Program* (PCIP) grant and the *Public Library Infrastructure Grant* (PLIG) grant, respectively. Further information in relation to grant funds allocated to this project is presented in the Financial Implications chapter of [CL24.225 Sanctuary Point Library – Project Update 1](#), presented at the Ordinary Council Meeting held on 29 July 2024.

Key matters to note include:

- On 20 February 2025, staff informed grant funding bodies of the progress of Feasibility Study and Update Report 3 (this report). The grant bodies will receive a copy of these documents once they are made publicly available.
- Further negotiations are required with grant funding bodies regarding funding agreements, pending the Council's decision in relation to the recommendation outlined within this report.

#### Public Artists

During the original design phase, First Nations artists contributed creative outputs for landscaping and building elements. The importance of these contributions is acknowledged and every effort will be made to carry these outputs forward into the current project.

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Specifically, Artist Tracy van Oploo's designs for metal sun shading panels for the previous project are being considered for incorporation into the proposed timber batten facade design for the current project. The project team plans to engage with Tracy to develop this idea further in the next design phase.

The contributions of other First Nations artists who have worked on the themes of SKY and SEA will be recognised. Future engagement through an artist curator will ensure that the cultural narrative is comprehensive and inclusive, reflecting the diverse artistic expressions of the First Nations community.

### Community Consultations

Direct community consultation has not been undertaken in relation to the contents of this report. Outputs discussed within this report have been informed by the outcomes of community consultation activities undertaken as part of the design development phases for the previous project (directly transferrable).

It is foreshadowed that further community engagement (in the form of regular updates) will be necessary as project maturity develops.

The community will be informed of the outcomes of the Feasibility Study through this report and other channels including Council's website and local media channels.

Key messaging for these updates is presented below:

- *The redesign gives certainty to the Sanctuary Point community who could see a new district library realised by 2029.*
- *The new design could proudly serve the Bay and Basin community and be delivered within Council's restricted budget.*
- *The Sanctuary Point and Bay & Basin communities have well and truly outgrown their current building and are desperate for a new facility that will see them into the future.*
- *The Warilla Library is tried and tested - a vibrant community hub that works well for Shellharbour residents, so it makes good financial sense to use this as a foundation rather than go back to the drawing board.*
- *This library is more than bricks and mortar, it plays a critical role in social support and educational resources.*
- *While modest, the new design is attractive, welcoming and contemporary with good functionality for a cross-section of the community.*

### Policy and Statutory Implications

The content of this report (and recommendation) has been prepared in accordance with relevant legislation and Council policies, including the:

- *Local Government Act 1993 (NSW)*
- *Environmental Planning and Assessment Act 1979 (NSW)*
- *Libraries Act 1939 (NSW)*
- *Government Information (Public Access) Act 2009 (NSW)*
- *Risk Management Policy (Shoalhaven City Council)*

### Financial Implications

#### Project Budget

Preliminary project budgets for capital works and operations were reported to Council at the Ordinary Council Meeting held on 28 October 2024 (ref. [CL24.303 Sanctuary Point Library - Project Update 2, Attachment 4](#)).

The preliminary cost estimate for capital works is reproduced below in Table 2.

**Table 2: Preliminary Cost Estimate – Capital Works**

Description	Cost (m)
Construction	\$7.65
Civils	\$1.34
Sub Total	\$8.99
Professional Fees - Design & Project Management (15%)	\$1.35
Contingency & Escalation (35%)	\$3.15
Sub Total	\$13.49
Expenditure to Date (discontinued scope-of-works)	\$1.41
TOTAL	\$14.9

#### Cost Estimates: Feasibility Study

Two cost estimates have been prepared to enable the Council to assess the financial implications of this project.

#### Cost Estimate 1

Cost Estimate 1 (ref. Table 3) was prepared by Blue Stone Management (on behalf of the Project Architects) as part of the scope-of-works for the Feasibility Study discussed in this report.

**Table 3: Preliminary Cost Estimate – Capital Works  
(prepared by: Blue Stone Management)**

Description	Cost (m)
Construction	6,984,086
Civils	1,687,521
Sub Total	8,671,607
Professional Fees - Design & Project Management (15%)	1,587,424
Contingency & Escalation (35%)	3,128,247
Sub Total	4,715,671
Expenditure to Date (discontinued scope-of-works)	1,410,000
TOTAL	14,797,279

#### Cost Estimate 2

Cost Estimate 2 (ref. Table 4) was procured directly on behalf of Council, and is prepared by Hanna Newman Pty Ltd.

Cost Estimate 2 is considered an independent estimate, and was procured to provide increased certainty to the Council with respect to capital works costs.

**Table 4: Preliminary Cost Estimate – Capital Works  
(prepared by: Hanna Newman Pty Ltd)**

Description	Cost (m)
Construction	6,924,215
Civils	1,613,030
Sub Total	8,537,245
Professional Fees - Design & Project Management (15%)	1,621,000
Contingency & Escalation (35%)	3,188,000
Sub Total	4,809,000

Description	Cost (m)
Expenditure to Date (discontinued scope-of-works)	1,410,000
TOTAL	14,756,245

#### Expenditure to Date

Expenditure to date for the previous project was reported to the Council in **Update Report 1** (ref. [CL24.225 Sanctuary Point Library - Project Update #1](#)) and **Update Report 2** ([CL24.303 Sanctuary Point Library - Project Update 2](#)).

As at March 2025, total expenditure on the current Sanctuary Point Library project is:

**\$200,198**

#### Cost Estimate: development application documentation

The estimated cost of preparing documentation (design development and technical reports) required to submit a development application is:

**\$430,000**

#### Cost Estimate: business case

The estimated cost of preparing a business case is:

**\$55,000 to \$75,000**

#### Cost Estimate: additional Feasibility Study (library + sports amenities at Francis Ryan Reserve)

The estimated cost of preparing an additional Feasibility Study (equivalent to Attachment 7 & 8) for a library + sports amenities facility located adjacent to Francis Ryan Reserve is:

**\$150,000 to \$250,000**

#### Funding (Long Term Financial Plan)

In accordance with [MIN23.581](#), **\$14M** in borrowings is included in the *Long Term Financial Plan* (LTFP, adopted by Council on: 17 December 2024, ref. [MIN24.690](#)) in the 2027 financial year. Repayments are scheduled to commence in the 2028 financial year (and are accounted for in the LTFP).

Additionally, this funding solution was incorporated into Council's LTFP to ensure obligations under current grant funding arrangements can be met by Council until such time as a revised project scope and budget is determined.

It should be noted that, as at 30 June 2024, Council had consolidated borrowings of \$193m and has commenced a program of land sales (and other measures under the Sustainable Financial Futures Plan) in order to obtain liquid funds to reduce debt. Substantial borrowings for the Sanctuary Point Library, while incorporated into the LTFP, are counterproductive in relation to Council's goal to reduce debt.

Therefore, with a view to retaining \$7.5M in grant funded contributions and capping Council's co-contribution to deliver the Sanctuary Point Library project at no more than half (50%) of the cost of delivery, it is proposed that delegation be provided to the Acting CEO (Director – City Services) to commence negotiations with grant funding bodies to align the rescope project with revised grant funding deeds, and/or to seek alternative grant funding opportunities. Accordingly, it is expected a corresponding reduction in borrowings accounted for in the LTFP will be achieved; further strengthening efforts to improve Council's financial position.

CL25.114

## Risk Implications

Risk assessments of key components of the project have been undertaken in accordance with Shoalhaven City Council's enterprise Risk Management Policy.

It is anticipated the risk profile of this project will be negatively impacted should the Council determine to move the subject site for this project from Site A to Site B. The risks associated with such a decision can be summarised as follows: 1) funding dependencies (category: financial); 2) delays (category: financial, infrastructure, reputation); 3) statutory planning disadvantages (category: financial, infrastructure), and; 4) economic and social impact (category: reputation).

Further information about these risks is provided below and in the *Alternative Location* sub-section of the *Background and Supplementary Information* chapter of this report and Attachment 5.

### Risks Associated with Frances Ryan Reserve Location

#### *Funding Dependencies*

A consolidated library + sports amenities project will require a revised funding model. Moving to the Francis Ryan location would necessitate securing additional funds for both projects.

#### *Project Delays*

Relocating the library to the Francis Ryan location would result in significant delays. All planning work undertaken to date would be rendered obsolete, incurring extra costs and writing off resources already invested in the current site.

#### *Planning Disadvantages*

The Francis Ryan location has several key planning disadvantages, including the lack of street frontage and visibility. These factors will negatively impact the library's ability to comply with the State Library of NSW's guidelines, making it less suitable as a location for a new library.

#### *Economic and Social Impact*

The Kerry St location offers better economic development and placemaking opportunities. It provides street frontage, which can help meet economic development objectives and create a landmark building for the precinct. The Francis Ryan location may not offer the same economic and town planning benefits.

### Financial and Operational

Financial and operational risks will be further detailed in a detailed business case and capital expenditure review, to be considered by Council at a later date.

## CL25.115 Petition - Ulladulla Leisure Centre - Operating Hours Extension Request

HPERM Ref: D25/123742

Department: Shoalhaven Swim Sport Fitness

Approver: Kevin Norwood, Acting Director - City Services

### Purpose:

Council to consider the petition presented by residents requesting the reversal of the operating hours changes adopted by Council on 29 July, 2024 ([MIN24.392](#)) to close the Ulladulla Leisure Centre on Sundays for the winter period (April to September).

This report to Council has been prepared in accordance with the *Petitions to Council Policy*.

### Summary and Key Points for Consideration:

Council has been presented with a petition, signed by 706 residents which reads:

**Subject:** *Closure of Ulladulla Leisure Centre Pool from April to September. The pool is well patronised on Sundays during winter. It fosters the health and wellbeing of families, elderly and disabled residents who cannot always access the pool during the week.*

**Action/Outcome requested:** *To continue current hours of opening on Sundays, April to September, 8pm to 12pm, for the benefit of our growing community.*

### Recommendation

That Council

1. Acknowledge the receipt of the petition.
2. Continue with the adopted winter schedule as per MIN24.392 (closed on Sundays for the duration of April to September 2025) with a view of maintaining financial sustainability.

### Options

1. Council note the recommendation.

#### Implications:

The Ulladulla Leisure Centre indoor pools will close on Sundays from April through to September. Noting that the 24-hour gym operations are not impacted by MIN24.392.

2. Agree with the petitioners and revert to standard operating hours.

#### Implications:

Any increase in operating hours will directly impact the overall budget. Extending the Centre's hours will require additional staffing, utilities and cleaning which will lead to significant incremental costs that the current budget cannot support. Should Council accede to the request of the 706 petitioners it is not unreasonable to assume that further requests will be presented to Council for additional facilities to be considered.

CL25.115

## Background and Supplementary Information

On 29 July, 2024 Council was presented with Financial Sustainability Monthly Report [CL24.215](#).

CL24.215 informed Council of the following information in relation to Ulladulla Leisure Centre that contributed to the total annual operational savings on aquatic facilities of **\$246,850**.

<b>Ulladulla Leisure Centre</b>	<i>Close on Sundays for 6 months only between April and September.</i>
<b>Saving per annum</b>	\$8,750
<b>Approved</b>	Yes

*During impact assessment, staff determined that weekend patronage at the Ulladulla Leisure Centre was high, so ideas to reduce opening hours on the Saturday and close for the full year on the Sunday were not endorsed at this time. Review of patronage indicated that closure for the 6 months between April – September would have less impact and was supported as the preferred option.*

*The Ulladulla Leisure Centre has 24-hour access to the gym and fitness facilities for members and the proposed changes would not impact these users of the gym facility.*

Council resolved the following in relation to CL24.215 ([MIN24.392](#)).

*That Council receive the financial sustainability monthly report for the period of June-July 2024 for information and note the changes to Council facility operating hours which have been approved by the Executive Management Team for implementation.*

While the petition demonstrates strong community support for extending the Centre's hours, the additional costs incurred by extending operation to cover Sundays during the winter months are unlikely to be offset by increased attendance. Council staff are working to ensure that all financial decisions are aligned with long term financial sustainability and extending operating hours will not be financially viable at this time.

## Internal Consultations

Reduced operating hours for a range of facilities were noted in the report to Council CL24.215 which acknowledged the changes to facility operating hours approved by the Executive Leadership Team. This included the Ulladulla Leisure Centre.

## External Consultations

No external consultations were undertaken for this report.

## Community Consultations

No community consultation was undertaken following the submission of the petition.

## Policy Implications

This report to Council has been prepared in accordance with the *Petitions to Council Policy*.

## Financial Implications

It is anticipated that with the reduced hours at the Ulladulla Leisure Centre between April to September 2025, Council is projected to save a total of \$8,750 per annum.

CL25.115



The original forecasted savings for aquatic facilities was **\$246,850**. This has since decreased to \$175,600 with Council resolving to reopen 3 village pools (Kangaroo Valley, Berry and Greenwell Point).

### **Risk Implications**

Any increase in operating hours will directly impact the overall budget. Extending the Centre's hours will require additional staffing, utilities and cleaning which will lead to significant incremental costs that the current budget cannot support. Should Council accede to the request of the 706 petitioners it is not unreasonable to assume that further requests will be presented to Council for additional facilities to be considered.

There will be a negative effect on the budget considering the aforementioned factors and may affect other areas by reducing services to meet the financial obligations of the request.

## CL25.116 Proposed Works in Kind Agreement Negotiations - Associated with Subdivision at St Georges Basin (SF9847)

**HPERM Ref:** D25/2737

**Department:** Strategic Planning

**Approver:** Lindsay Usher, Acting Director - City Development

### Purpose:

This matter is being reported to Council to obtain a resolved in relation to a proposed Works in Kind Agreement (WIKa) associated with a subdivision at St Georges Basin (SF9847), for which negotiations have been underway since 2021 and are not resolved.

Following a Notice of Motion on 11 March 2025, Council resolved (MIN25.98) to receive a detailed report on this matter at the first Ordinary Meeting in April 2025 (this meeting).

In accordance with Section 10A(2)(g) of the *Local Government Act 1993*, some information should remain confidential: *“Advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege”*.

This information will be considered under a separate confidential report, which includes a range of related attachments.

### Summary and Key Points for Consideration:

This report relates to the WIKa negotiations associated with development application SF9847, an 11 lot subdivision at St Georges Basin, that was favourably determined in July 2008. Negotiations regarding a proposed WIKa have been underway since 2021 and have effectively stalled, with land valuation remaining the key contention.

This matter was previously considered by Council on 12 August 2024 and it was resolved to ‘defer’ it to a briefing of the new Council; and receive a report back following the briefing (MIN24.435).

The resolved briefing was held on 12 December 2024 and included presentations from Council staff and the developer.

The developer later presented legal advice to Council on 30 January 2025 and a final offer to progress the negotiations on 26 February 2025. Further details on these are contained in the confidential report.

The confidential report recommends a way forward for Councils consideration that can resolve the land matter, whilst ensuring the process finalisation is in the best public interest and in the context of the current financial sustainability considerations.

### Recommendation

That Council consider a confidential report on this matter pursuant to section 10A(2)(g) of the *Local government Act 1993*.

### Options

1. As recommended in the confidential report.

CL25.116

Implications: Details of the implications are outlined in the confidential report, however there are a range of financial risk and public interest considerations.

2. Adopt an alternative recommendation.

Implications: Details of adopting an alternative recommendation are outlined in the confidential report.

### **Background and Supplementary information**

On 14 August 2007, development consent (SF9847) was granted for the subdivision of three existing lots (Lot 68 & 69 DP 25550 and Lot 4 DP 785956 into eleven (11) lots including a public reserve, at the Old Wool Road, St Georges Basin.

Council received a letter of offer for a proposed WIKA associated with the subdivision in August 2021. The offer proposed a range of drainage works, construction of part of what is now Crowea Road and dedication of land for the associated road reserve (and payment of land value).

There are two Shoalhaven Contributions Plan (CP) 2019 projects that directly relate to the proposed works in-kind:

- [Contributions Project 03ROAD2023](#) - requires the provision of a new access road (now known as Crowea Road) and traffic facilities which will connect Anson Street to Island Point Road. The project will ultimately help facilitate the planned/envisaged development of the St Georges Basin Village Centre.
- [Contributions Project 03DRAI3001](#) - facilitates the provision of an integrated drainage network connected to Council's existing system to minimise overflow and environmental impacts in the broader drainage catchment.

It is noted that the developer has already constructed the road and drainage infrastructure elements at their own risk, without a signed agreement in place.

#### **Recent Background**

Negotiations regarding this proposed WIKA have been underway since 2021 and have effectively stalled, with land valuation (for the road) remaining the key contention.

In an attempt to draw the protracted negotiations to a close, a final statement of what Council staff were willing to accept was presented to the developer in July 2024. At the time of writing, the developer has not accepted the terms of Council's final statement.

Councillors received a briefing on the matter on 12 December 2024, which included a presentation from the developer. The legal advice referred to in the developer's presentation was shared with Council on 30 January 2025.

The developer has made a number of further offers since July 2024, including a final offer to progress the negotiations on 26 February 2025.

#### **Summary of Key Matters**

The crux of this matter relates to 'fair value' for the land, the expectation of Council to contribute to the works value and the likely or potential impact of these outcomes (if agreed) on the public interest, particularly at a time when Council is focussed on managing its financial sustainability.

The confidential report recommends a way forward that can finalise negotiations, resolve the land matter, whilst still ensuring the best public interest outcome. This recommendation is based on a legal peer review and consideration of a range of financial matters.

Further details are outlined in the confidential report.

**Internal and External Consultations**

Internal consultation has been undertaken with the following Council stakeholders through the process to date: City Services, Development Services and Finance.

No external consultation with state agencies or the like is required due to the nature of the negotiations to date. However, the developer was provided the opportunity to present their position to Councillors at the briefing on 12 December 2024.

**Community Consultations**

Due to the nature of the proposed WKA to date, no community consultation has been required/undertaken.

Depending on the approach taken by Council there is likely to be a requirement of a formal public notification in accordance with the *Environmental Planning and Assessment Act 1979* and associated regulations.

**Policy and Statutory Implications**

Details of the policy and statutory implications are outlined in the confidential report.

**Financial and Risk Implications**

The potential financial and risk implications are potentially significant, as outlined in the confidential report.

CL25.116

## CL25.117 Proposed Works in Kind Agreement Negotiations - Associated with Subdivision at 70 Hillcrest Avenue, South Nowra (SF10525)

**HPERM Ref:** D25/8233

**Department:** Strategic Planning

**Approver:** Lindsay Usher, Acting Director - City Development

### Purpose:

The purpose of this report is to update the Council in relation to a proposed Works in Kind Agreement (WIKA) associated with a subdivision at 70 Hillcrest Avenue, South Nowra (SF10525), for which negotiations have been underway since 2020 and are not resolved.

Following a Notice of Motion on 11 March 2025, Council resolved (MIN25.98) to receive a detailed report on this matter at the first Ordinary Meeting in April 2025 (this meeting).

In accordance with Section 10A(2)(g) of the *Local Government Act 1993*, some information should remain confidential: *“Advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege”*.

This information will be considered under a separate confidential report, which includes a range of related attachments.

### Summary and Key Points for Consideration:

This report relates to the WIKA negotiations associated with development application SF10525, a 63 lot residential subdivision at 70 Hillcrest Avenue, South Nowra, that was favourably determined in February 2020. Negotiations regarding a proposed WIKA have been underway since 2020 and have effectively stalled, with land valuation and works value remaining the key contentions.

This matter was previously considered by Council on 12 August 2024 and it was resolved to ‘defer’ it to a briefing of the new Council; and receive a report back following the briefing (MIN24.435).

The resolved briefing was held on 12 December 2024 and included presentations from Council staff and the developer.

The developer presented a further offer to progress the negotiations on 26 March 2025. Further details on the offer is contained in the confidential report.

### Recommendation

That Council consider a confidential report on this matter pursuant to section 10A(2)(g) of the *Local Government Act 1993*.

### Options

1. As recommended in the confidential report.

Implications: Details of the implications are outlined in the confidential report, however there are a range of financial risk and public interest considerations.

CL25.117

2. Adopt an alternative recommendation.

Implications: Details of adopting an alternative recommendation are outlined in the confidential report.

### **Background and Supplementary information**

On 14 February 2020, development consent (SF10525) was granted for a 63-lot residential subdivision at Lot 2 DP 610984; 70 Hillcrest Avenue, South Nowra.

It is noted that the developer has already constructed the road and drainage infrastructure elements at their own risk, without a signed agreement in place.

#### Recent Background

Negotiations regarding this proposed WIKA have been underway since 2020 and have effectively stalled, with both land valuation and works costs remaining the key contention.

In an attempt to draw the protracted negotiations to a close, a final statement of what Council staff were willing to accept was presented to the developer in July 2024.

The developer has made a number of further offers since July 2024, including a further offer to progress the negotiations on 26 March 2025.

#### Summary of Key Matters

The crux of this matter relates to 'fair value' for the land, the expectation of Council to contribute to the works value and the likely or potential impact of these outcomes (if agreed) on the public interest, particularly at a time when Council is focussed on managing its financial sustainability.

The confidential report recommends a way forward that can finalise negotiations, resolve the land matter, whilst still ensuring the best public interest outcome. This recommendation is based on the legal peer review relating to the similar proposed WIKA at St Georges Basin (also being considered at this meeting) and consideration of a range of financial matters.

Further details are outlined in the confidential report.

### **Internal and External Consultations**

Internal consultation has been undertaken with the following Council stakeholders through the process to date: City Services, Shoalhaven Water, Development Services and Finance.

No external consultation with state agencies or the like is required due to the nature of the negotiations to date. However, the developer was provided the opportunity to present their position to Councillors at the briefing on 12 December 2024.

### **Community Consultations**

Due to the nature of the proposed WIKA to date, no community consultation has been required/undertaken.

Depending on the approach taken by Council there is likely to be a requirement of a formal public notification in accordance with the *Environmental Planning and Assessment Act 1979* and associated regulations.

Input and feedback has also been received from the developer through the process to date.

### **Policy and Statutory Implications**

Details of the policy and statutory implications are outlined in the confidential report.

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**Financial and Risk Implications**

The potential financial and risk implications in this matter are outlined in the confidential report.

CL25.117



## CL25.118 Development Application – DA23/1825 - 1 Wharf Road SHOALHAVEN HEADS - Lot 2 DP 701597

**DA. No:** DA23/1825/4

**HPERM Ref:** D25/140487

**Department:** Development Services

**Approver:** Lindsay Usher, Acting Director - City Development

**Attachments:**

1. s4.15 Assessment Report (under separate cover) [⇒](#)
2. Independent Flood Assessment - Rhelm Pty Ltd - RL-01-2225-02 (under separate cover) [⇒](#)
3. Notification Plans (under separate cover) [⇒](#)
4. Revised - Flood Risk Management Report (under separate cover) [⇒](#)
5. Report - Flood Impact Assessment (under separate cover) [⇒](#)
6. Report - Flood Evacuation Plan (under separate cover) [⇒](#)
7. DRAFT - Determination - Refusal (under separate cover) [⇒](#)
8. DRAFT - Determination - Approval (under separate cover) [⇒](#)

**Description of Development:** Construction of two-storey dwelling house

**Owner:** Stephen William McCarthy

**Applicant:** Stephen William McCarthy

**Notification Dates:** 24 October 2023 – 9 November 2023

**No. of Submissions:** Nil

### Purpose / Reason for consideration by Council

The Development Application was called in for determination on public interest grounds (MIN25.8).

### Recommendation

That Council refuse the Development Application (DA23/1825) for construction of a two-storey dwelling house at 1 Wharf Road SHOALHAVEN HEADS – Lot 2 DP 701597 for the reasons outlined in this report. The reasons for refusal are replicated in the draft refusal notice of determination (Attachment 7).

### Options

1. That Council refuse the Development Application (DA23/1825) as per the recommendation as printed for the reasons outlined in this report.

Implications: The applicant has already lodged an appeal on 14 March 2025 with the NSW Land and Environment Court (LEC) on the grounds of deemed refusal.

2. That Council approve the Development Application (DA23/1825) subject to the draft conditions of consent (**Attachment 8**) to this report

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Implications: The Development Application would be approved subject to conditions of consent.

Section 733 of the Local Government Act 1993 provides that a Council does not incur any liability with anything done, including the granting or refusal of consent to a development application with respect to flood liable land, **so long as it has been done in good faith** by the Council in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding.

If Council either inadvertently or intentionally fails to apply the relevant jurisdictional requirements of the legislation, including clause 5.21 of Shoalhaven LEP 2014 which relates to flood planning and flood liable land, Council may void the protections afforded by section 733 of the Local Government Act 1993 and be exposed to future claims.

3. Adopt an alternative recommendation.

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

**Location Map**

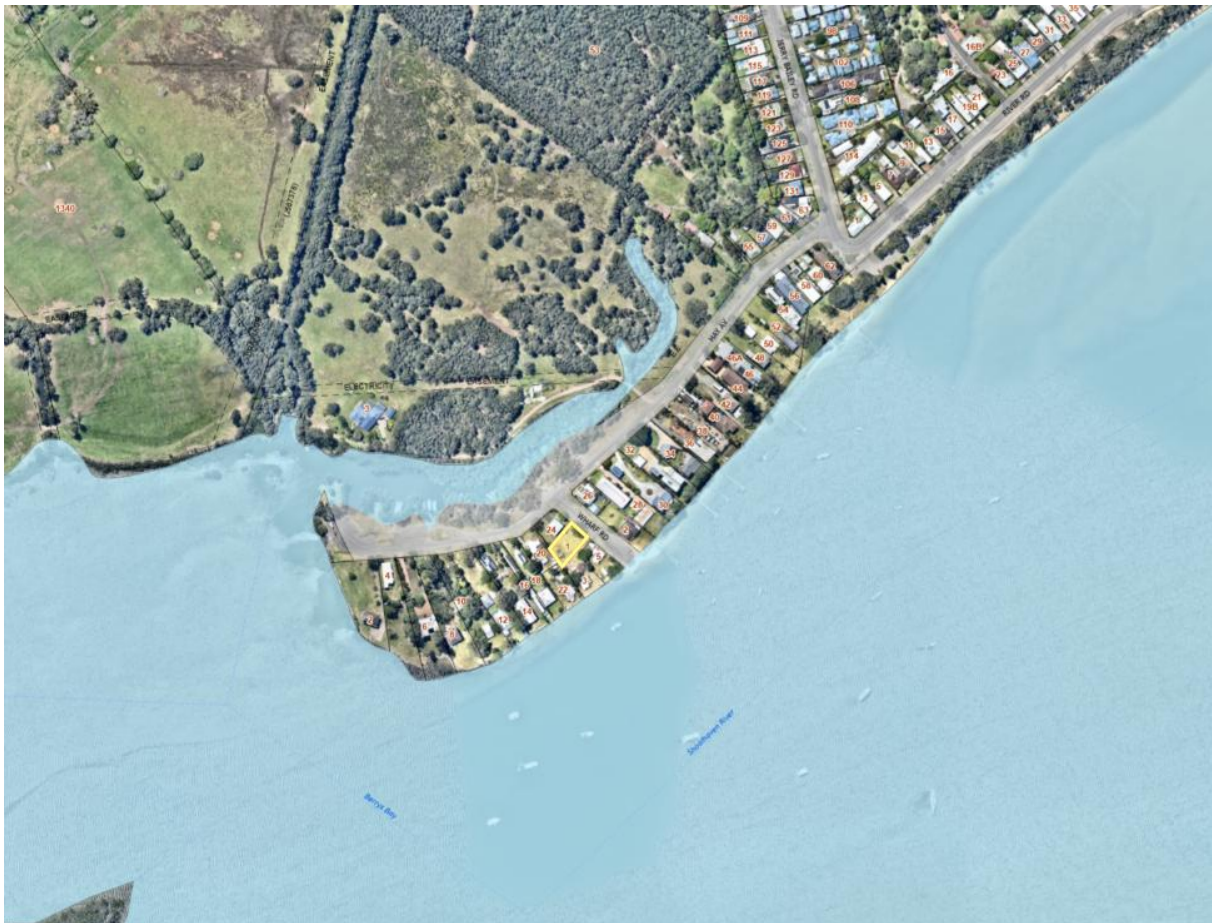


Figure 1: Aerial imagery of location of subject site (highlighted by yellow polygon)

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Figure 2: Aerial imagery of subject site (highlighted by yellow polygon)

## Background

### Proposed Development

DA23/1825 proposes construction of a two-storey dwelling house on a currently vacant lot of land.

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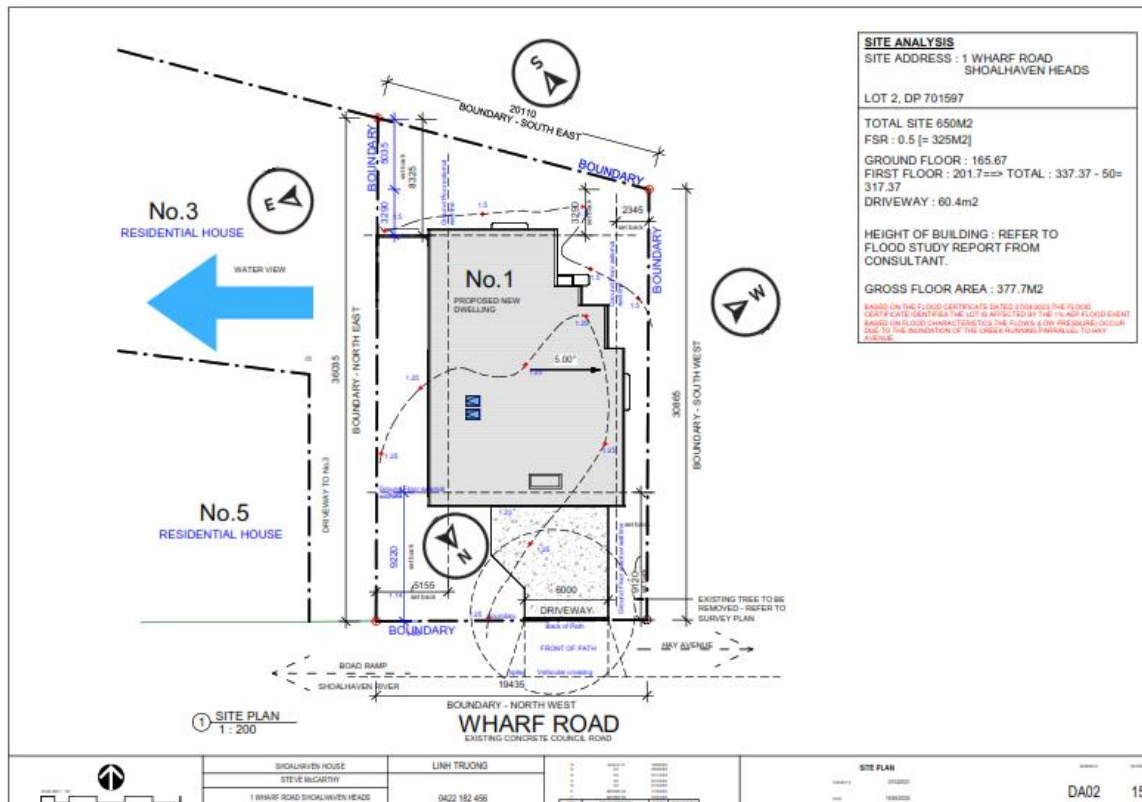


Figure 3: Proposed Site Plan

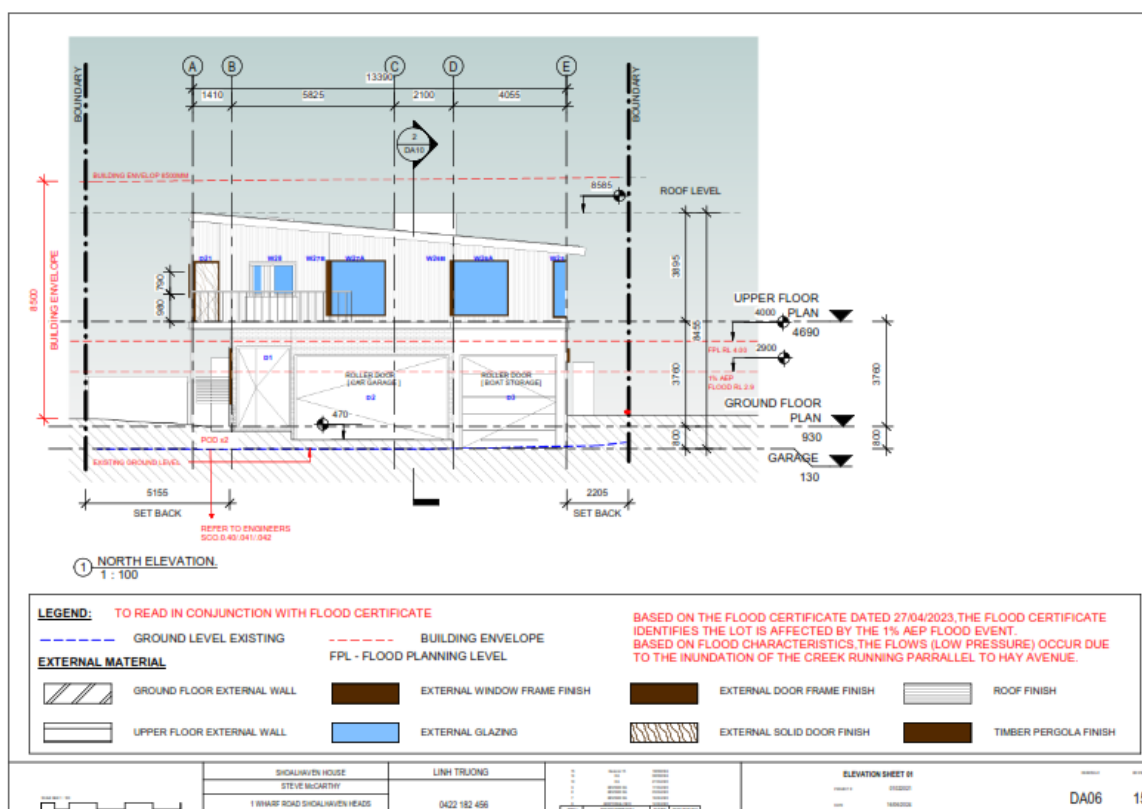


Figure 4: Proposed North Elevation

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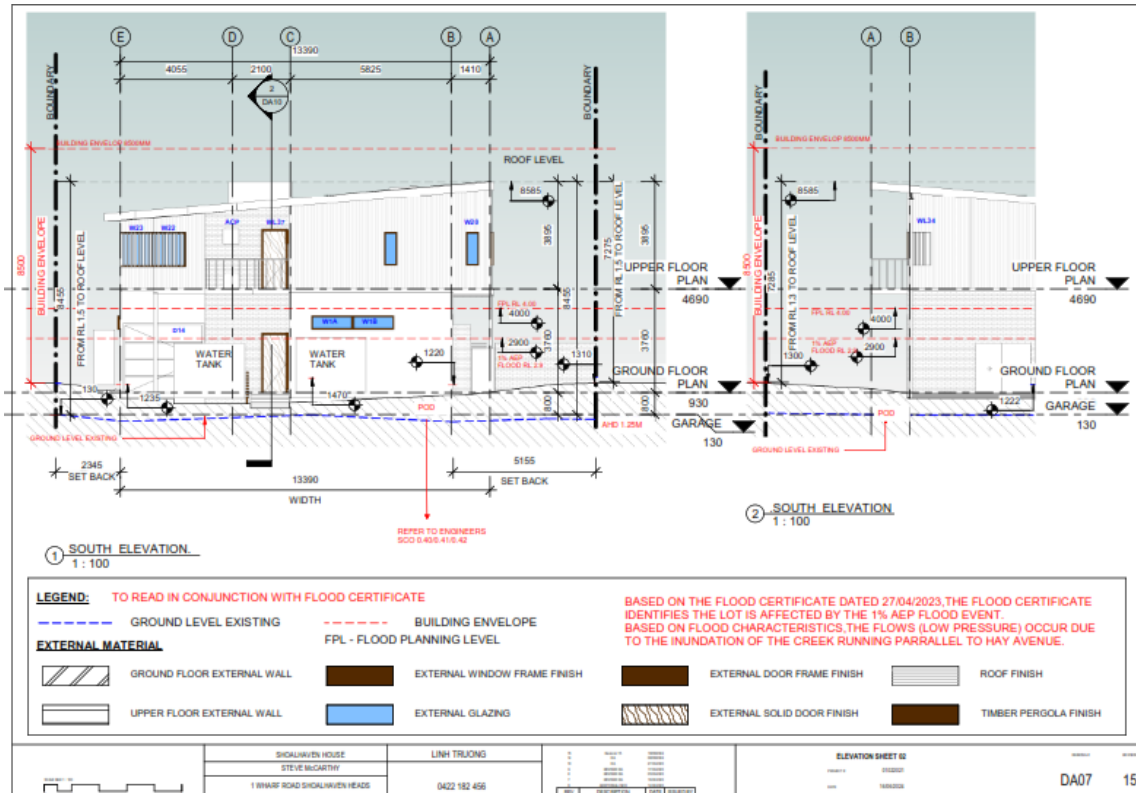


Figure 5: Proposed South Elevation

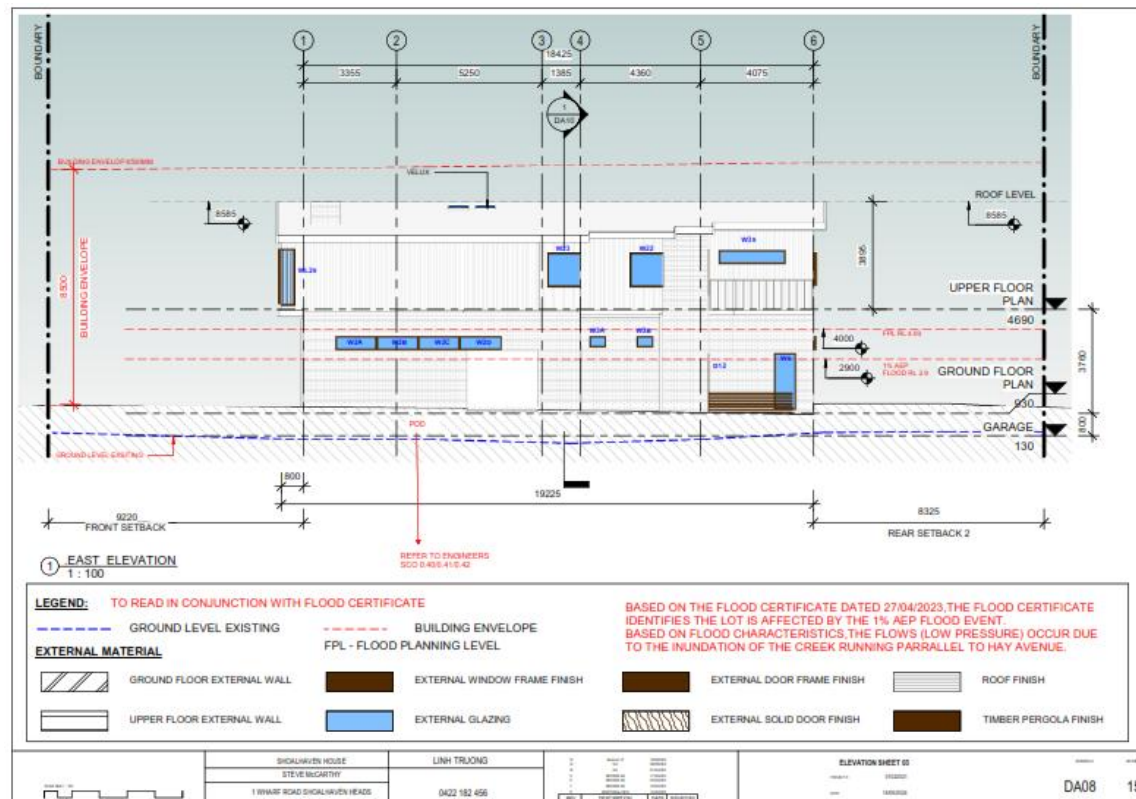


Figure 6: Proposed East Elevation

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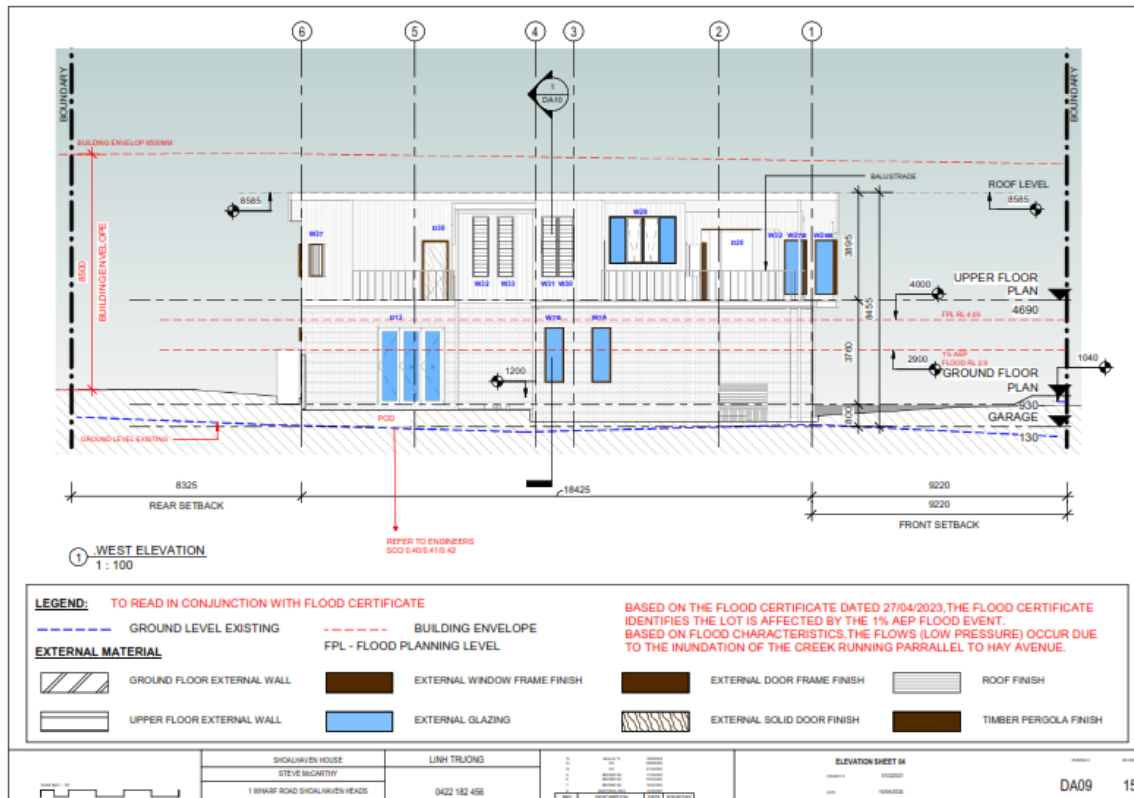


Figure 7: Proposed West Elevation

### Subject Land

The subject land is located at 1 Wharf Road Shoalhaven Heads - Lot 2 DP 701597.

The subject site has a frontage to Wharf Road and is located on a peninsula which is accessed via Hay Avenue. The Shoalhaven River is to the south and west, and part of the river runs parallel on the northern side of Hay Avenue.

The site is rectangular in shape and has a total area of 650m<sup>2</sup>. The survey, which accompanies the DA, identifies existing site levels of between 1.4m - 1.74m AHD with the majority of the site set at 1.5m AHD or below.

### Site & Context

The site is zoned R2 Low Density Residential and is adjoined by low density residential development to the north, south, east and west. The Wharf Road boat ramp at the terminus of Wharf Road is to the east of the site.

The site is classified as High Hazard Floodway hazard/ hydraulic category. The Lower Shoalhaven River Flood Study (2022) classified the property as having a hazard category H5 in the 1% Average Exceedance Probability (1% AEP) and hazard category H6 in the Probable Maximum Flood (PMF) in accordance with the Australian Institute of Disaster Resilience (AIDR) guidelines. A 1% AEP flood (means there's a 1 in 100 chance, or 1% chance, that a flood of that size or larger will occur in any given year). The PMF is the estimated largest flood that could possibly occur in an area and is a very rare event.

The AIDR guidelines identify that in the H5 hazard category sites are “Unsafe for vehicles and people. All building types vulnerable to structural damage. Some less robust building types vulnerable to failure”, and in the H6 hazard category sites are “Unsafe for vehicles and people. All building types considered vulnerable to failure.”

The 2050 Flood Planning Level (FPL) for the property is 4.0m AHD. The proposed dwelling site risk categories are represented by the green dots on the below diagram.

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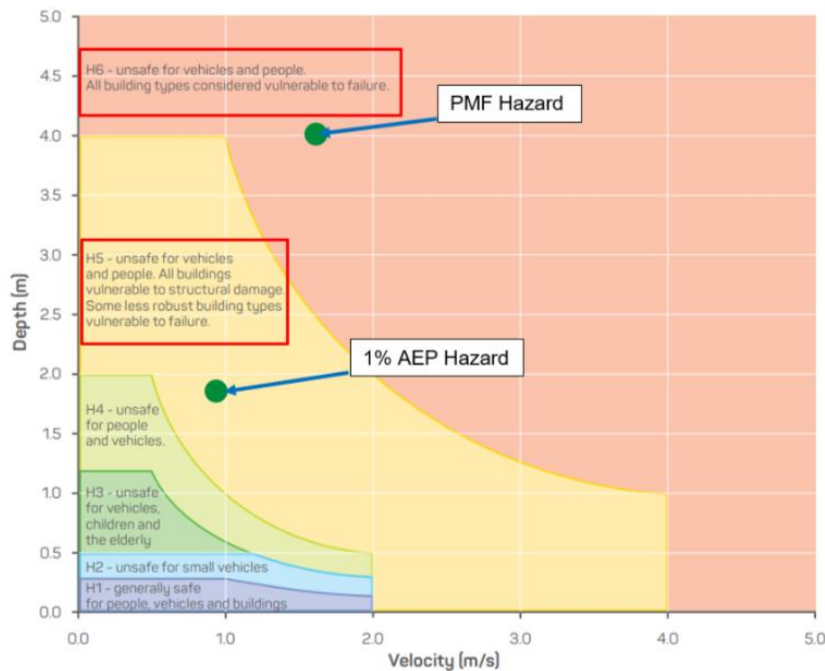


Figure 6: General flood hazard vulnerability curves

Figure 8: Extract from the AIDR Guidelines – Flood Hazard showing general flood hazard vulnerability curves H1 through H6

Hazard Vulnerability Classification	Description
H1	Generally safe for vehicles, people and buildings.
H2	Unsafe for small vehicles.
H3	Unsafe for vehicles, children and the elderly.
H4	Unsafe for vehicles and people.
H5	Unsafe for vehicles and people. All building types vulnerable to structural damage. Some less robust building types vulnerable to failure.
H6	Unsafe for vehicles and people. All building types considered vulnerable to failure.

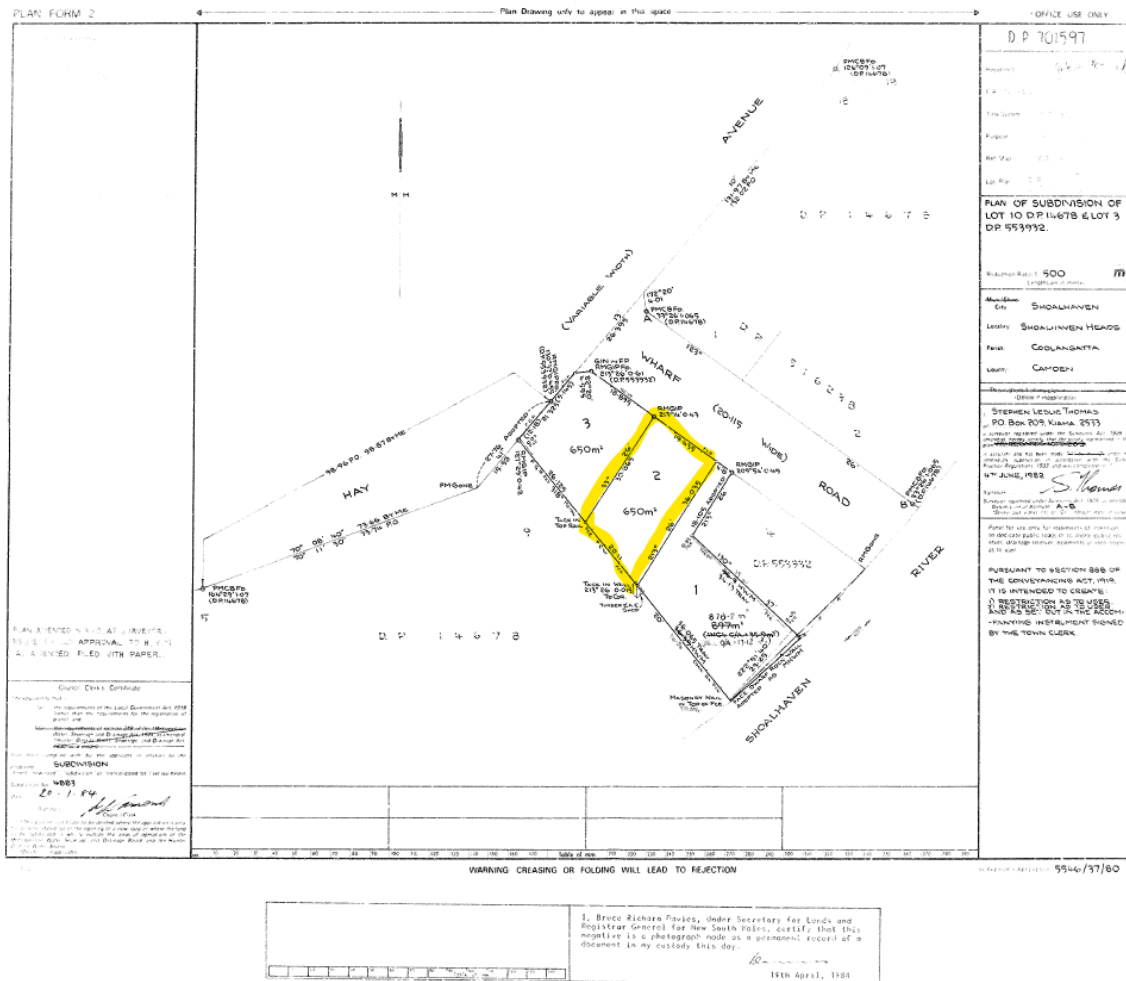
Figure 9: Extract from AIDR Guidelines – Flood Hazard noting flood hazard vulnerability thresholds

### History

The surrounding area along Wharf Road and Hay Avenue contains low density residential development and has historically been redeveloped replacing older dwellings with newer dwellings.

Lot 2 DP701597 (the subject lot) was created in 1984 following the subdivision of Lot 11 in DP7851. The original lots of land along Hay Avenue and Wharf Road were created in 1926 in DP 7851.

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Figure 10: Extract from Deposited Plan DP 701597 noting subject site (highlighted in yellow)



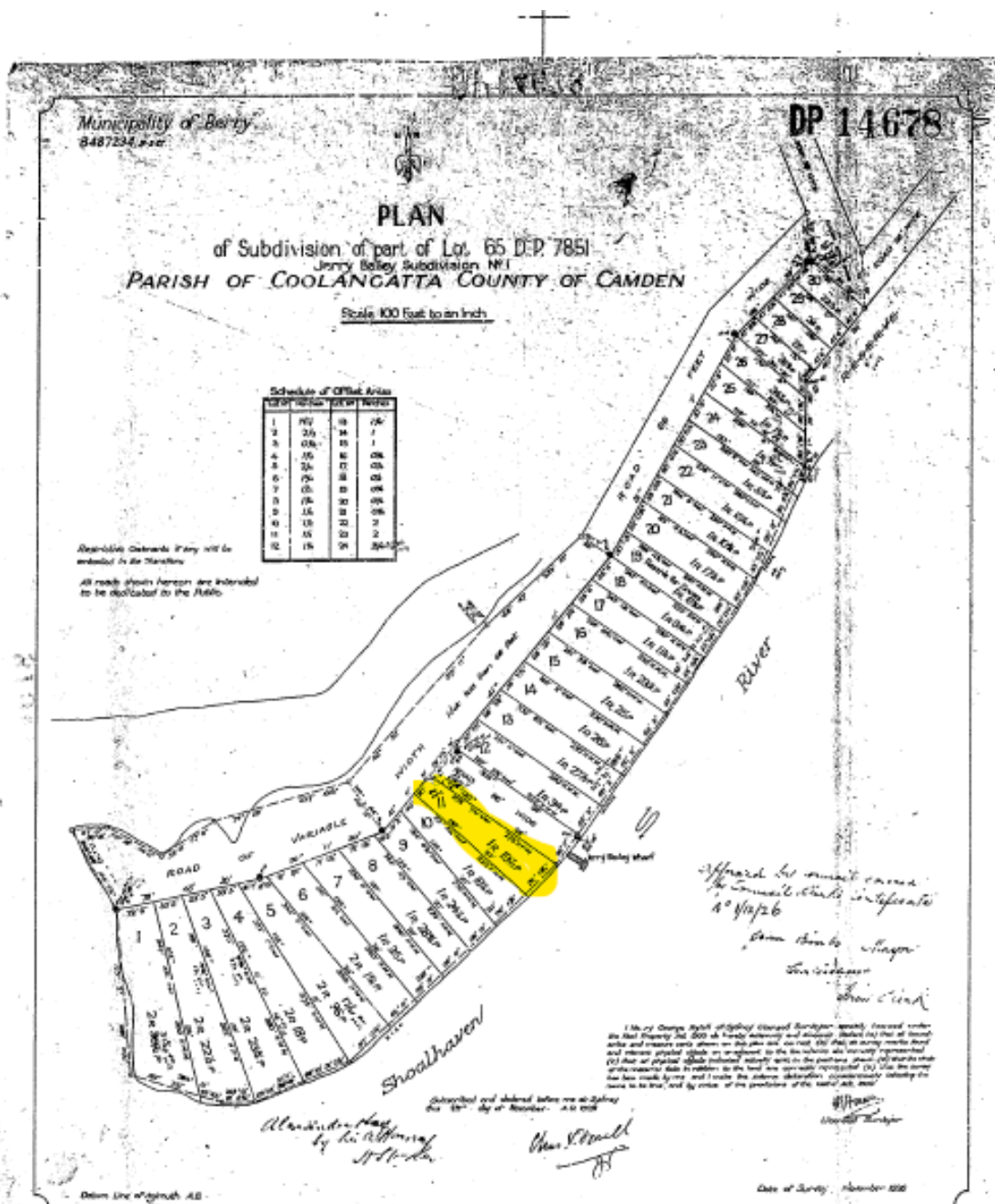


Figure 11: Extract from Deposited Plan DP 7851 noting Lot 11 (highlighted in yellow)

The subject site is currently vacant and does not benefit from any existing use rights under the Environmental Planning and Assessment Act 1979.

Flooding legislation, guidance and required considerations has evolved over time with more rigorous flooding requirements and guidance being developed from the 2022 NSW Flood Inquiry which followed the series of catastrophic flood events that occurred in northern NSW. A summary of pertinent changes to flood legislation, advice and guidance is detailed below:

Date	Event
2017	<p>Australian Disaster Resilience Handbook – Flood Hazard guidelines released by the Australian Institute for Disaster Resilience (AIDR).</p> <p>The guidelines provide guidance for calculating flood hazard vulnerability and flood considerations.</p>

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14/7/2021	<p>Planning Circular – PS21-006 – Considering flooding in land use planning: guidance and statutory requirements issued by NSW Government.</p> <p>PS21-006 replaces PS07-003 and establishes more than the 1% AEP, including PMF flood events should be considered in making land use planning decisions.</p>
14/7/2021	<p>Clause 5.21 – Flood Planning of Shoalhaven LEP 2014 commenced.</p> <p>Clause 7.3 – Flood Planning of Shoalhaven LEP 2014 repealed.</p> <p>The commencement of clause 5.21 which is a compulsory requirements set by NSW Government in the Standard Instrument and repeal of clause 7.3 which was a local requirement, removed the provision to only consider flooding impacts up to the Flood Planning Level (FPL) (i.e. 1% AEP + additional 500mm freeboard) and instead requires that Council's consider the full flood impact from all flood impacts including PMF events.</p>
July 2022	<p>NSW Flood Inquiry undertaken and report published.</p> <p>The Report found that regulators need to take a more proactive, risk-based approach to flooding in planning decisions, including greater consideration of climate change.</p> <p>The Report Informed Ministerial Direction 4.1 and Planning Circular PS24-001</p>
20/2/2023	<p>Commencement of Ministerial Direction 4.1 which identifies that planning proposals must be consistent with NSW Flood Prone Land Policy, Floodplain Development Manual 2005, Considering Flooding in Land Use Planning Guideline 2021 and any adopted flood study / floodplain risk management plan.</p> <p>This Ministerial Direction relates to planning proposals and provides an approach in line with other amendments to flood considerations.</p>
June 2023	<p>Flood Risk Management Toolkit released by NSW Government.</p> <p>The Toolkit provides extra technical advice and guidance in additional to the Flood Risk Management Manual to support Council's in understanding and managing flood risks under the Flood Risk Management Framework.</p>
June 2023	<p>Flood Risk Management Manual (2023) published by NSW Government.</p> <p>The Manual emphasises a risk-based approach to flood planning is required and identifies that the indemnity offered by section 733 of the Local Government Act 1993 is limited. And that a Council or statutory body may not be indemnified in respect of advice, or a thing done or not done, despite being in accordance with this manual, if it is not done in good faith.</p>
June 2023	<p>Flood Impact and Risk Assessment Guideline LU01 published by NSW Government.</p> <p>The Guideline emphasises a risk-based approach to flood planning is required with reference to Australian Disaster Resilience Handbook for best practice and provides a pathway for applicants to assess Flood Impacts and Risk of a proposed development and should propose mitigation measures to manage that risk to an acceptable level in accordance with best practice. The Guideline ensures that when Council makes decisions relating to flood liable land it does so in accordance with the Manual.</p>
10/11/2023	<p>Clause 5.21 – Flood planning of Shoalhaven LEP 2014 amended to correct minor administrative error in reference to the "<i>Flood Risk Management Manual means the Flood Risk Management Manual, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023</i>".</p>

	<p>Clause 5.22 – Special Flood Considerations of Shoalhaven LEP 2014 applying to land between the flood planning area and the probable maximum flood.</p> <p><i>Note: There are no savings provisions for this administrative amendment to clause 5.21.</i></p>
1/3/2024	<p>Planning Circular – PS24-001 – Update on addressing flood risk planning decisions issued by NSW Government.</p> <p>PS24-001 outlines and confirms flood planning assessments and is supplementary to PS21-006.</p> <p>The Planning Circular outlines that a flood risk profile-based assessment for 10% AEP, 5%AEP, 1%AEP, 0.5% AEP, 0.2% AEP and PMF events should be considered in making planning decisions</p>
January 2025	<p>Shelter-In-Place Guideline for Flash Flooding issued by NSW Government.</p> <p>The Guideline provides advice and guidance for the use of shelter-in-place (SIP) which is the internal movement of a building's occupant to an area within the building above the probable maximum flood (PMF). The Guideline establishes considerations for when SIP may be an appropriate emergency management strategy for sites.</p>

Flooding of the area and the subject site has occurred over time with the Shoalhaven Heads gauge recording 48 times between 1991 – 2024 in which a flood level of 1.2m AHD had been met or exceeded (refer to Figure 3 in the Independent Review by Rhelm Pty Ltd). This is lower than the 1.5mAHD average natural ground level of the site.

The trigger point for evacuation of the site as proposed in this development application is 1.2m AHD which indicates that the trigger level for evacuation would occur on a regular basis. There is no current warning system in place to achieve notification to evacuate, nor has a suitable system been proposed by the applicant.

Further, as reported in the Lower Shoalhaven River Flood Study prepared by Cardno in 2022, the following flood events were recorded at the Shoalhaven Heads Gauge (being the nearest gauge to the application site):

Table 3-4 Recorded Levels (m AHD) of Recent Flooding of the Lower Shoalhaven River

Event	Recorded Level (mAHD) at Gauge Location				
	Grassy Gully II Gauge 215216	Grady's Caravan Park MHL Gauge 215430	Nowra Bridge MHL Gauge 215411	Terara MHL Gauge 215420	Shoalhaven Heads MHL Gauge 215470
March 1978	n/a	n/a	5.25	3.6	2.1
June 2013	17.22	11.35	3.76	3.48	2.26
August 2015	17.63	11.94	3.97	3.54	2.22
June 2016	8.68*	10.96	3.4	3.1	2.0
February 2020	9.43*	12.08	3.6	3.4	1.9
August 2020	17.90	13.57	4.17	3.89	1.97

\* Quality of data during this event is unclear. Possible instrument failure

Figure 12: Extract from Lower Shoalhaven River Flood Study 2022 (Cardno)

The subject land and the road network along Hay Avenue and Wharf Road would have been submerged in these flood events and it is also noted that in flood dominant periods, it is possible that evacuation of the site (when a level of 1.2m AHD is reached at the Shoalhaven Heads Gauge as proposed by this application) could be expected to occur more regularly than once a year on average, despite the lowest point for Hay Avenue being 1.37mAHD, and the natural ground level of the site being on average 1.5m AHD.

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The last recorded 1% AEP flood events for the Lower Shoalhaven River occurred in 1925 and 1916.

## Issues

### Flooding

Development assessment must consider clause 5.21 – Flood Planning of Shoalhaven LEP 2014 and Chapter G9 of Shoalhaven DCP 2014 with regard to the flooding considerations relevant to this proposal.

### Applicant's Submission

The Applicant has provided a Flood Risk Management Plan (**Attachment 5**), Flood Impact Assessment (**Attachment 6**) and Flood Evacuation Plan (**Attachment 7**) to support the proposed development.

### Discussion

Clause 5.21 of Shoalhaven LEP 2014 contains two jurisdictional requirements being subclause (2) which specifies that Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- a) is compatible with the flood function and behaviour on the land, and
- b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.

Secondly, the consent authority must take into consideration the matters set out in subclause (3):

- a) the impact of the development on projected changes to flood behaviour as a result of climate change,
- b) the intended design and scale of buildings resulting from the development,
- c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
- d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

As noted below in the Internal Consultations and External Consultations sections of this Report and also in the Section 4.15 Assessment Report (**Attachment 1**), Council assessment staff have considered the requirements of clause 5.21 of Shoalhaven LEP 2014 and Chapter G9 of Shoalhaven DCP 2014.

The evacuation trigger is proposed at 1.2m AHD and, although the lowest point in the evacuation route is 1.37m AHD, the trigger would be set off by minor events, causing regular evacuation which would be impractical. The H1 hazard category is considered safe for evacuation which equates to 300mm over the road with velocity up to 1m/s and therefore the safe evacuation level for Wharf Road is 1.67m AHD, although the SES don't consider any

water over the road safe. There is no flood depth marker or BOM warning system available for Shoalhaven Heads. The only BOM warnings are for Nowra and Terrara.

Council assessment staff are not satisfied that the development application has demonstrated compliance with the flood requirements and that the proposed development is compatible with the flood hazard applicable to the land.

Furthermore, consideration has been given to the Department of Planning, Housing and Infrastructure's *Shelter-in-Place Guideline for Flash Flooding* which provides guidance for Shelter-in-Place (SIP) provisions for flash flooding. Flash flooding means flooding that occurs within 6 hours of the precipitating weather event and often involves rapid water level changes and flood water velocity and is different to long duration flooding which generally occurs and is sustained over a longer time period. The application site does not meet the definition for flash flooding as flooding events would typically take much longer to arrive (for example, 18 hours or more depending on the type of precipitation). The site is also exposed to H6 hazard and High Hazard Floodway conditions in a PMF event, which is not recommended for safe shelter. Furthermore, the flooding duration would be greater than the recommended acceptable maximum shelter in place of 12 hours (being for a period of between 24 – 72 hours). As such, a Shelter-In-Place strategy should not be considered for the site as this could result in a significant risk to life.

The applicant has been requested to provide a robust quantitative assessment to demonstrate that a practical and reasonable early evacuation can occur to demonstrate compliance with Clause 5.21 of the SLEP 2014. As discussed, the applicant's Evacuation Management Plan is lacking in a number of areas including the methodology of warning residents of when to evacuate the property noting that this could occur on average annually with the 1.2m AHD level indicated. Council assessment staff recommend that DA23/1825 is not supported without a more reliable and practical solution being proposed.

An independent review of the proposed development and flood risk was undertaken by Rhelm Pty Ltd (**Attachment 2**) who similarly concluded that the proposed development is not compatible with the flood function or flood characteristics of the land and the development application has not demonstrated compliance with clause 5.21 of Shoalhaven LEP 2014.

#### Extent of Earthworks

Clause 7.2 – Earthworks of Shoalhaven LEP 2014 requires that before granting of consent, the consent authority must consider the following matters:

- a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- b) the effect of the development on the likely future use or redevelopment of the land,
- c) the quality of the fill or the soil to be excavated, or both,
- d) the effect of the development on the existing and likely amenity of adjoining properties,
- e) the source of any fill material and the destination of any excavated material,
- f) the likelihood of disturbing relics,
- g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

#### Applicant's Submission

The application has been supported by a Survey Plan which shows 200mm of filling proposed within the site. However, the elevation plans appear to show upwards of 800mm of fill above the existing ground line.

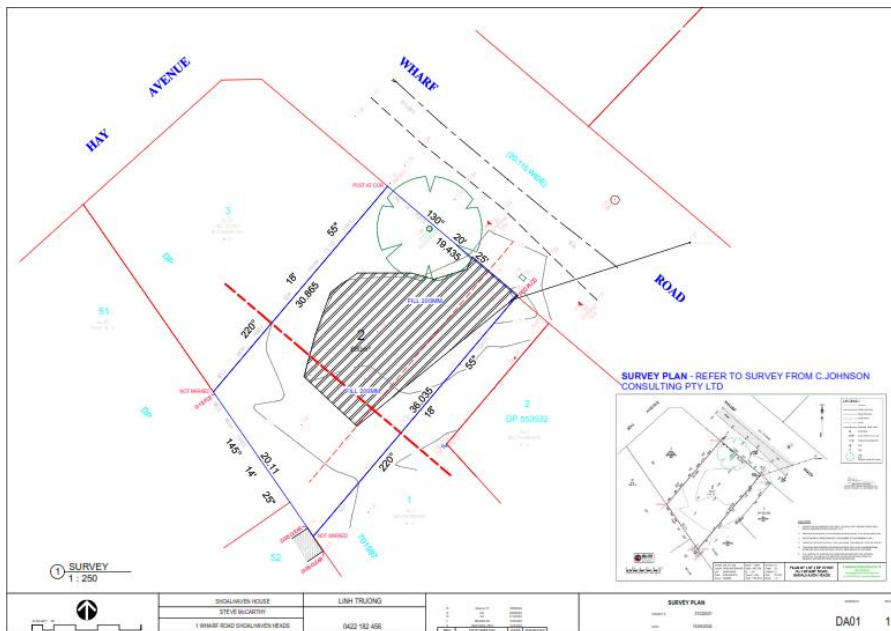


Figure 13: Plan showing proposed filling across site

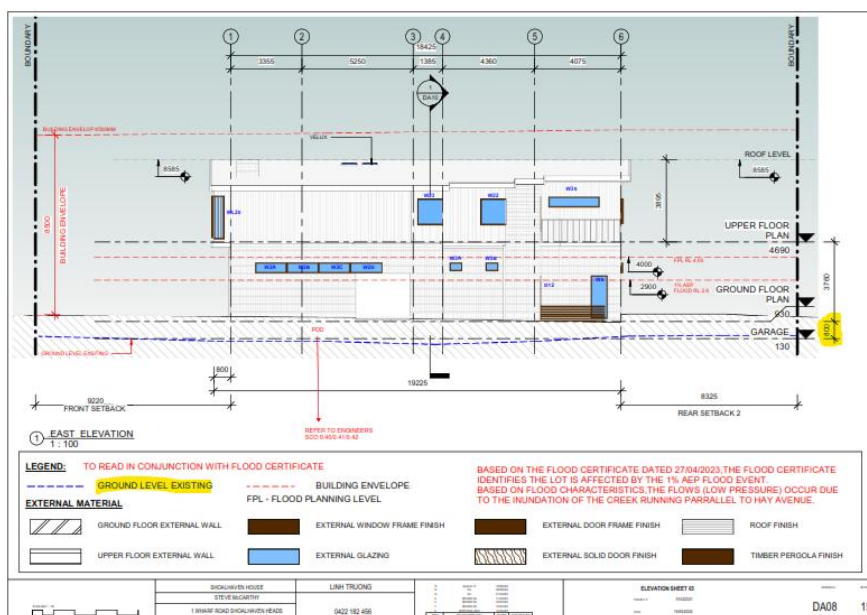


Figure 14: Proposed eastern elevation noting 800mm of fill proposed (ground level existing and relevant fill notation highlighted in yellow)

### Discussion

Due to the discrepancies between the plans, the extent of filling is unknown. There is inadequate and insufficient information provided to enable Council to consider the requirements of clause 7.2. The applicant has chosen not to provide documentation to clarify the discrepancy despite this information being formally requested.

### Planning Assessment

The DA has been (or will be) assessed under s4.15 of the Environmental Planning and Assessment Act 1979. Please refer to **Attachment 1**.

### Internal Consultations

#### Floodplain Management Team Comments

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Council's Floodplain Management Team provided advice and referral comments with regard to this application.

The Floodplain Management Team recommend that DA23/1825 be refused as the proposal does not comply with clause 5.21 of Shoalhaven LEP 2014. Specifically:

- **The application has not demonstrated that the proposal is compatible with the flood function and behaviour of the land.**

The Flood Risk Management Manual (2023) and Council's DCP Chapter G9 both identifies High Hazard Floodway areas as unsuitable for residential development.

- **The application has not demonstrated that the proposal will not adversely affect flood behaviour in a way that results in detrimental increased in the potential flood affectation of other development or properties.**

Floodways are important to convey floodwaters through the floodplain and partial blockage of these areas through development can cause a significant redistribution of flood flow, thus adversely impacting flood behaviour. "No adverse impacts" would need to be quantitatively demonstrated through flood modelling.

The information provided has not demonstrated that the proposed development will not adversely impact flood behaviour in a way that results in detrimental increased in the potential flood affects of other development or properties.

- **The application has not demonstrated that the proposal will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.**

The applicant has not demonstrated that efficient evacuation from the site can be achieved, using the SES Timeline Evacuation Model. The Flood Evacuation Plan nominates a trigger level of 1.2m AHD in the Shoalhaven River for evacuation. No specific location in the river has been nominated to monitor this level. It is noted that the Shoalhaven River frequently reaches a level of 1.2m AHD at Shoalhaven Heads without a flood occurring. As such, it is not considered a suitable long-term strategy to demonstrate safe occupation and efficient evacuation as residents are unlikely to evacuate when the river reaches this level.

The Lower Shoalhaven River Flood Study (2022) classified the property as having a hazard category H5 in accordance with the Australian Institute of Disaster Resilience (AIDR). The H5 category is "*unsafe for vehicles and people, and all buildings are vulnerable to structural damage*". Additionally, during a PMF event, the property would be considered having a hazard category H6 in accordance with AIDR, corresponding to an area "*unsafe for vehicles and people, with all building types considered vulnerable to failure*". It is as such unsafe for residents to remain on site as the building may fail during large flood events.

Based on the provided information, Council is not satisfied that the proposed development will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.

- **The application has not demonstrated that the proposal incorporates appropriate measures to manage risk to life in the event of a flood.**

the Australian Institute of Disaster Resilience (AIDR) guidelines which identifies that "...all buildings are vulnerable to structural damage" for H5 hazard and "...all building types considered vulnerable to failure" during for H6 hazard categories. The subject site is identified within the H5 hazard category during the 1%AEP and H6 during the PMF.

The submitted Flood Evacuation Plan proposes early evacuation from the site to protect life in the event of a flood. As noted above, this plan does not satisfactorily demonstrate compliance with Clause 5.21 of the SLEP 2014 as no quantitative assessment has been undertaken to demonstrate that a practical and reasonable early evacuation can occur.

Based on the provided information, Council is not satisfied that the proposed development has incorporated appropriate measures to manage the risk to life in the event of a flood.

The Floodplain Management Team's referral comments also note that the proposal is inconsistent with the flood provisions set out in Shoalhaven DCP 2014.

#### Discussion

As above, Council's Floodplain Management Team are not satisfied that the proposed development complies with Clause 5.21 of the SLEP 2014 or DCP Chapter G9: Development on Flood Prone Land. These referral comments recommend that DA23/1825 should be refused.

### **External Consultations**

#### Independent Review of Flood Risk by Rhelm Pty Ltd Comments

Council engaged Rhelm Pty Ltd to undertake an independent review of the flood related aspects of the development application.

The independent review concluded that the proposed development is not compatible with the flood function or flood characteristics of the land, and that the application has not demonstrated that risk to life and property associated with flooding can be managed appropriately or meet the objectives of clause 5.21 of Shoalhaven LEP 2014.

The independent review concurred with Council's Floodplain Management Team's advice and in addition raised concerns with the following:

- **Impractical evacuation arrangements to manage risk to life.**

The Review noted that the area surrounding the site and the road to access flood free land is all low lying and access to and from the site is controlled by the level of the existing low point in the road of 1.37m AHD. The application sets a trigger level for evacuation at 1.2m AHD and the review noted that this trigger level is very low and is regularly exceeded. In flood dominant periods, it is possible that evacuation of the site could be expected more regularly. This was not considered an effective strategy to mitigate risk to life.

- **Prolonged duration of inundation**

The Review noted that when flooding does occur, the site will be affected by prolonged periods of inundation – residents/occupants of the site will need to evacuate for periods of 1 – 3 days. Damage to the elements below the flood level may be observed and may need replacement.

- **External services delaying flood recovery**

The Review noted that services to the property including electricity, water, sewer and communications may be disconnected/inoperable during a flood event. Services may not be able to be reconnected for up to 7-10 days after a flood event.

- **Absence of flood compatible materials below the flood planning level**

The Review noted that the architectural plans submitted with the application do not propose the use of suitable flood compatible materials for the flood affected portion of the dwelling i.e. plasterboard, brick veneer, timber doors, windows. This is not

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consistent with the Shoalhaven DCP 2014 requirements requiring flood compatible materials to be utilised to minimise flood impacts and property damage.

- **Financial burden of the ongoing cost to residents/occupants of the dwelling**

The Review noted that even if the dwelling was constructed from flood compatible materials, there would be an ongoing exposure to flooding with respect to contents damage of all items in the ground flood level. All contents would be damaged in the 10% AEP flood event and all larger flood events. Damage would also be expected to plant and other items on the ground flood including lift operating systems, hot water systems, rainwater tanks.

- **Risk of environmental damage**

The Review noted that the storage of hazardous materials such as fuel, household chemicals in the ground floor or at ground level which is typical in boat storage and workshop areas could present a potential pollution issue during flood events which could be detrimental to nearby oyster leases on an incoming tide.

- **Absence of evaluation of the structural stability**

The Review noted that flood loads on the walls of the building do not appear to have been appropriately considered in the application. The application has not demonstrated or provided a practical solution to manage the risk of structural failure of the building.

#### Discussion

As above, the independent review by Rhelm Pty Ltd concludes that the proposed development is not compatible with the flood function or flood characteristics of the land and the development application has not demonstrated compliance with clause 5.21 of Shoalhaven LEP 2014.

The Review also noted some potential alternatives which if the applicant were to overcome issues around evacuation and risk to life could be explored including an elevated dwelling set on piers that are demonstrated to be able to withstand flood forces and prolonged immersion.

This was discussed with the applicant and his legal counsel who were provided with a copy of the Rhelm report. No amendments to the building design have subsequently been proposed and on 12/2/2025, the Applicant confirmed through the NSW Planning Portal that no further information or revised building design would be provided.

#### **Community Consultations**

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. No submissions were received by Council during the notification period.

#### **Financial Implications**

##### Financial Implications Arising from Refusal Decision

The applicant lodged an appeal on 14 March 2025 with the NSW Land and Environment Court (LEC) on the grounds of deemed refusal. There are significant costs associated with defending a refusal.

##### Potential Financial Implications Arising from Approval Decision

There are potential cost implications for Council in the event of an approval of the application. If the Council were to grant consent to the DA and either inadvertently or intentionally fail to take into account the jurisdictional requirements at clause 5.21:

- a) Council may incur liability and not benefit from protections and indemnity afforded by section 733 of the Local Government Act 1993 if an aggrieved party was also able to establish some form of harm and causation; and
- b) it would be open for a third party to challenge the validity of the consent in the Land and Environment Court by way of proceedings pursuant to section 9.45 of the Environmental Planning and Assessment Act 1979. Council may incur costs associated with defending third party appeal in the Land and Environment Court of NSW.

## Legal Implications

### Section 733 Local Government Act 1993

Section 733 of the Local Government Act 1993 provides that a Council does not incur any liability with anything done, including the granting or refusal of consent to a development application with respect to flood liable land, so long as it has been done **in good faith** by the Council in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding.

Clause 5.21 Flood Planning of Shoalhaven LEP 2014 is a jurisdictional requirement and must be appropriately considered by Council.

If Council were to grant consent to the DA and either inadvertently or intentionally fail to take into account the jurisdictional requirements at clause 5.21, Council may incur liability, as set out above, if an aggrieved party was also able to establish some form of harm and causation. It would also be open for a third party to challenge the validity of the consent in the Land and Environment Court by way of proceedings pursuant to section 9.45 of the Environmental Planning and Assessment Act 1979.

## Summary and Conclusion

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979.

The application has not demonstrated there is suitable flood evacuation methodology from the development site or that the building has been designed to withstand flood forces as required by clause 5.21 of Shoalhaven LEP 2014 or incorporate flood compatible materials and design as required by Shoalhaven DCP 2014.

Following flood advice from Council's Floodplain Management Team and the independent flood review by Rhelm Pty Ltd, the issues were discussed with the applicant/landowner. The matters outstanding with suggestion to move forward were further documented and sent to the applicant in December 2024 which the applicant chose not to respond to.

Notwithstanding the flood evacuation issues for the site, alternative building design options as detailed in the independent flood review have not been pursued by the applicant. The applicant has confirmed that the no further information or amended building design will be provided.

Based upon the recommendations of the s4.15 Assessment Report (**Attachment 1**), Development Application No. DA23/1856 is recommended for refusal for the following reasons:

Reasons for Refusal	
1)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is non-compliant with the Jurisdictional requirements set out in clause 5.21 of the Shoalhaven LEP 2014 and are inconsistent with the clause

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	objectives.
2)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is non-compliant with the Jurisdictional requirements set out in clause 5.22 of the Shoalhaven LEP 2014 and inconsistent with the clause objectives.
3)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not been supported by sufficient information detailing extent of earthworks to enable Council to consider the Jurisdictional requirements of clause 7.2 Shoalhaven LEP 2014.
4)	Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application has not demonstrated suitable vehicle access to the property during flood events or other adequate arrangements. The proposal does not comply with the development Jurisdictional requirements set out in clause 7.11 Shoalhaven LEP 2014
5)	Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the application has not been supported by sufficient information detailing extent of earthworks to enable Council to consider the relevant controls set out in Section 5.2 of Chapter G12 Shoalhaven DCP 2014.
6)	Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development may have an adverse likely social and economic impact as a result of flooding impacts.
7)	Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed use.
8)	Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the above matters to address the relevant provisions of Environmental Planning and Assessment Act, 1979, the granting of development consent is not considered to be in the public interest.

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## CL25.119 Advisory Committee Review - Update

**HPERM Ref:** D25/55403

**Department:** Business Assurance & Risk

**Approver:** Lindsay Usher, Acting Director - City Development

**Attachments:**

1. Homelessness Advisory Committee - Change Proposal (under separate cover) [⇒](#)
2. Shoalhaven Economic Growth Advocacy Group - Change Proposal (under separate cover) [⇒](#)
3. Shoalhaven Sports Board - Change Proposal (under separate cover) [⇒](#)
4. Arts Advisory Committee - Change Proposal (under separate cover) [⇒](#)

### Purpose:

To provide Council with an update of the Committee Review process to date and determine matters still outstanding.

### Summary and Key Points for Consideration:

To provide council with the change proposals as resolved by Council on 28 October 2024 ([MIN24.529](#)) to review the Advisory Committees, noting that these change proposals have been reported to Executive Leadership and endorsed.

4. *Notes the re-establishment of the following Committees will be subject to separate report/s to the Council for consideration of arrangements for the future:*
  - a. *Arts Advisory Committee (Previously Shoalhaven Arts Board) (2123E)*
  - b. *Homelessness Advisory Committee (55584E)*
  - c. *Nowra CBD Revitalisation Strategy Committee (50242E)*
  - d. *Shoalhaven Economic Growth Advocacy Group (SEGA) (70630E)*
  - e. *Shoalhaven Sports Board (1223E)*

### Recommendation

That Council:

1. Accept the proposals and feedback provided, and disband the following committees:
  - a. Homelessness Advisory Committee (HAC) (Attachment 1)
  - b. Shoalhaven Economic Growth Advocacy Group (SEGA) (Attachment 2)
  - c. Shoalhaven Sports Board (SSB) (Attachment 3)
  - d. Arts Advisory Committee (AAC) (Attachment 4)
2. The members of the above committees be notified and thanked for their contributions to the Committee and Shoalhaven.
3. All operations, including any financial decisions of the Nowra CBD Revitalisation Strategy Committee including promotions will remain on hold until such time as a change proposal is provided to the Executive Leadership Team (ELT) and then Council for consideration.

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## Options

1. As recommended

Implications: A reduction in costs associated with the administration, preparation of agenda, attendance by staff and Councillors at meetings and actioning the requests of committees. These costs vary dependent upon the operations of each Committee and the frequency of meetings.

2. Adopt an alternate recommendation

Implications: Unknown

## Background and Supplementary information

Council at its meeting on 28 October 2024, resolved to conduct a review of a number of Advisory Committees.

The Business Assurance & Risk Department along with key personnel has been tasked with coordination of a review of Council Advisory Committees.

The review comprised of the following steps:

1. A survey of Section Managers was conducted in July 2024 and sought feedback on the operations of the Committees. The results of this survey and feedback from the CEO and Directors were the basis on which Committees were included in the Council report to the 28 October Council Meeting ([CL24.289- MIN24.529](#)).
- a. A Further report to Council outlining outcomes of the review and proposing change (**refer Table 1 below**)
2. In September 2024 meetings were held with the respective managers (and Directors) to discuss the process, alternative mechanisms for the work completed by those Committees which were not to be immediately reappointed, and templates were shared with those teams to facilitate the finalisation of the reports outlining the proposals for change, which includes but is not limited to the following key points:
  - a. Background and History
  - b. Purpose and Functions of the Committee
  - c. Observations of the operation of the Committee
  - d. How could Council undertake the operations of this Committee in another manner?
  - e. Proposed approach
  - f. Risks & Opportunities for change
3. Reports are to be provided to Council for their consideration and adoption of the proposal for change.

**Table 1**

Committee	Current Directorate
Homelessness Advisory Committee – <b>See Attachment 1 for Change Proposal</b>	Development Services
Shoalhaven Economic Growth Advocacy Group (SEGA)– <b>See Attachment 2 for Change Proposal</b>	Development Services
Shoalhaven Sports Board– <b>See Attachment 3 for Change</b>	City Services

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Proposal	
Arts Advisory Committee – <b>See Attachment 4 for Change Proposal</b>	Development Services
Nowra CBD Revitalisation Strategy Committee – (No change proposal has been completed at this time )	Development Services

The operation of Committees by the Council requires the commitment to provide resources to support, administer and deliver recommendations via an advisory body consultation.

Key tasks which are resourced by the Council to facilitate these committees include the following

- Management of Membership and liaison with members and stakeholders
- Meeting organisation
- Report writing and review by Senior Officers (On average 3 hours each, for reports which are not complex in nature)
- Agenda publication and distribution
- Conduct of meetings, including the attendance by Council staff (average of three to four staff per meeting) and Councillors
- Minuting and recording and relevant approvals
- Implementation of decisions.

Each of the attached change proposals outline the data relevant to that Committee with respect to:

- Number of Meetings per year
- Number of Reports
- Workshops conducted
- Number of times Quorum was lost or not reached which meant that the committee could not conclude its business
- Number of reports that were listed on the Agenda which provided information only and did not seek advice from the Committee.

### Internal Consultations

The relevant operational areas responsible for the listed committees have completed the review process. Consultation has occurred with the Executive Leadership Team.

### External Consultations

No meetings have been held for these committee for a period of up to nine (9) months. The status of each Committee needs to be determined by the Council to allow for consultation with stakeholders and action on the direction to be taken on each function in the future.

### Community Consultations

Members of the Committee were advised of the previous resolution by council to place these committee operations on hold for subsequent review and will be notified of the outcome of the Council resolution.

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### **Policy and Statutory Implications**

Committee members are obliged to adhere to the Code of Conduct, Code of Meeting Practice and other legislation and Council Policy applicable to Committee operations and activities.

There are no legislative provisions requiring the Council to have established committees with respect to the advisory committees subject to the report.

Council may have procedures and policies in place in relation to dealing with specific functions of the Council via a Committee process. These matters are addressed in the attachments.

### **Financial Implications**

There are costs to Council with respect to the administration, preparation of agenda, attendance by staff and Councillors at meetings and actioning the requests of committees. These costs vary dependent upon the operations of each Committee and the frequency of meetings.

Depending on the individual functions in question, a decision of the Council to remove a Committee may result in budget diversion by delivery in another form. Each proposal in the attachment seeks to support the subject functions of the council in an efficient and effective manner.

### **Risk Implications**

Each change proposal addresses the risks and opportunities for change.

All decisions of the Council with respect to issues of delivery of functions, community engagement and governance have potential for reputational risks for Council. Council is guided by the Guiding Principles for Councils and Principles of Sound Financial Management under Chapter 3 of the Local Government Act, 1993.

## CL25.120 Tenders - Design & Manufacture Electrical Control Panels (3 year contract)

**HPERM Ref:** D25/144169

**Department:** Water Operations & Maintenance

**Approver:** Brenden Logue, Acting Director - Shoalhaven Water

### Purpose:

To inform Council of the tender process for the Design & Manufacture Electrical Control Panels (3 Year Contract).

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

### Summary and Key Points for Consideration:

Council resolution is required to determine the tender process for the design & manufacture of electrical control panels (3 year contract).

### Recommendation

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

### Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the tender evaluation plan

### Background and Supplementary information

#### Project Description

This contract is to engage a single supplier of custom electrical control panels for a period of three years. Over this period Council intends on procuring up to 24 panels to meet the scheduled end-of-life replacement program for sewage pumping station electrical control panels and the replacement of electrical control panels at the Bamarang Water Treatment Plant.

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### Tendering

Council called tenders for Design & Manufacture Electrical Control Panels (3 Year Contract) on 6 February 2025 which closed at 10:00 am on 7 March 2025. Five tenders were received at the time of closing. Tenders were received from the following:

<b>Tenderer</b>	<b>Location</b>
Aquatec Maxon Pty Ltd (MPA Engineering Pty Ltd)	117 Toongarra Rd Wulkuraka, QLD 4305
Kerfoot Pty Ltd	1/30 Foundry Road, Seven Hills NSW 2147
Mick Portelli (Strathbrook Electrical Services Pty Ltd)	9-10 Durian Place, Wetherill Park NSW 2164
SAFEgroup Automation Pty Ltd	4 Kings Rd, New Lamberton, NSW 2305
The Trustee for S Weeks Family Trust T/A Metroid Electrical Products	244 Woodward Rd Golden Square VIC 3555

Details relating the evaluation of the tenders are contained in the confidential report.

### **Internal Consultations**

Internal teams and managers were consulted to provide technical expertise for the tender process, project background information, budgeting and portfolio insights.

### **External Consultations**

No external consultations required. Internal teams have sufficient experience and knowledge of the works.

### **Community Consultations**

No community consultation is required. The design and manufacture of the electrical panels is undertaken externally at the contractor's workshop.

### **Policy Implications**

Sustainability and Climate Policy (POL22/177) – the principles of sustainability and Ecologically Sustainable Development have been applied to the specification of the new electrical control panels.

### **Financial Implications:**

Sufficient funds have been allocated in the Design and Manufacture Electrical Control Panel (3 Year Contract) budget for the 2024/25, and ongoing financial years. Funding is available to cover the tender amount including other project costs.

### **Risk Implications**

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

CL25.120

## 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.