

## Ordinary Meeting

**Meeting Date:** Tuesday, 10 June, 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 - 27 May 2025

**6. Declaration of Interests**

**7. Presentation of Petitions**

**8. Mayoral Minute**

**9. Deputations and Presentations**

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Notices of Motion / Questions on Notice

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Nil

## CL25.178 Rescission Motion - CL25.164 Councillor Expenses and Facilities Policy - For Adoption

HPERM Ref: D25/236649

Submitted by: Cllr Denise Kemp  
Cllr Selena Clancy  
Cllr Luciano Casmiri

### Purpose / Summary

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

### Recommendation

That Council rescind the Motion relating to Item CL25.164 Councillor Expenses and Facilities Policy - for Adoption of the Council Meeting held on Tuesday 27 May 2025.

### Background

The following resolution was adopted at the Ordinary Meeting held Tuesday 27 May 2025 (MIN25.256):

*"That Council in accordance with Section 252 of the Local Government Act 1993, adopt the draft Councillor Expenses and Facilities Policy (Formerly known as "Council Members – Payment of Expenses and Provision of Facilities Policy") as publicly exhibited and attached. (Attachment 1) to commence from 1 July 2025, with the following amendment:*

- 1. That 'Meetings with ratepayers and residents' be removed from official business definitions under section 19 of the Policy."*

CL25.178

## **CL25.179 Notice of Motion - CL25.164 Councillor Expenses and Facilities Policy - For Adoption**

**HPERM Ref:** D25/236650

**Submitted by:** Cllr Denise Kemp  
Cllr Selena Clancy  
Cllr Luciano Casmiri

### **Purpose / Summary**

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

### **Recommendation**

That Council in accordance with Section 252 of the Local Government Act 1993, adopt the draft Councillor Expenses and Facilities Policy (Formerly known as "Council Members – Payment of Expenses and Provision of Facilities Policy") as publicly exhibited and attached. (Attachment 1) to commence from 1 July 2025.

### **Note by the CEO**

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

CL25.179

## **CL25.180 Notice of Motion - Proposed Variation to Shoalhaven DCP Chapter G8: Onsite Sewage Management for Tomerong Village**

**HPERM Ref:** D25/223032

**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 approve a general variation to the requirements of Chapter G8: Onsite Sewage Management in the Shoalhaven Development Control Plan (DCP) 2014 to allow pump out services to be provided (at developers expense) in appropriate circumstances for residential development or subdivisions at Tomerong (area zoned RU5 Village) for any development applications or similar received, acknowledging the planned delivery of a sewerage scheme for the village.

### **Background**

Residents in Tomerong say they are 'in limbo' for the next 3 years, unable to build additional dwellings such as granny flats on their block until 2028/2029 due to sewer upgrades scheduled to take place then, which will require premises within applicable proximity to undergo reticulated connection.

When the sewerage network was upgraded in Kangaroo Valley there was a special clause that any development that took place before the upgrade could be approved with a pump out system paid for by the developer (so that development was not halted altogether and rate payers did not foot the bill).

A similar special clause should also be considered for Tomerong to enable local residents to plan for their futures.

### **Note by the CEO**

Shoalhaven DCP 2014 Chapter G8: Onsite Sewage Management allows for new pumpout services on existing unsewered Residential or Commercially zoned land (existing means prior to 28 August 2007 when Shoalhaven Water's former Pumpout Policy was adopted). The DCP states that in villages identified for future reticulation services, pumpout services (at developers expense) may only be provided by a resolution of Council. As such a general resolution of this nature will provide that direction and provide efficiency by removing the need for staff to report to Council in response to each proposal.

CL25.180

## CL25.181 Notice of Motion - Shoalhaven Motorsports Complex

**HPERM Ref:** D25/245410

**Submitted by:** Cllr Peter Wilkins  
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 make provision in the Long Term Financial Plan for a Motorsports Complex and associated business enterprises to be constructed in the Shoalhaven.

### Background

Australia has a great history in Motorsports across all genres and demographics and currently boasts the leader in the F1 World Championship driver standings in Oscar Piastri. The Shoalhaven has long entertained the prospect of a Motorsports complex and extensive studies have already been undertaken. The project has been rejuvenated with the forming, as per the December 2024 Council resolution, of a Motorsports Complex working group. The group has already had several productive meetings and has enlisted political support and pledges to support the project. There will be further advances in the political arena. Private investors have already expressed a willingness to support the concept, and the anticipation is for more to join the fray. There is an aggressive timeline in play and the intention of this motion is to formalise the Motorsports Complex in the LTFP of the SCC.

### Note by the CEO

Council can incorporate actions into our Community Strategic Plan (CSP) and Delivery Program / Operational Plan to include the ongoing support for and regional need for a motorsports complex. This inclusion can be undertaken in future years of the CSP prior to its adoption for the 2025/26 year.

Council can make provision for future capital works as part of the Long-Term Financial Plan, based on costings and future projected spends for Council assets. With all Council projects at present, a business case will be required and the project (once scoped) be considered as part of Council project governance structure (ePMO and PMF).

It is recommended that should Council consider incorporation into the Long-Term Financial Plan, it be by way of intent to include in the 2026/27 year, pending the following clarifications:

- Scope of proposal for the complex including location, size/scale, approval requirements and operational requirements.
- Political and private investment support to quantify costs to Council (if any).
- Ongoing ownership and maintenance responsibilities.
- Identified funding sources.

CL25.181

## CL25.182 Report of the Financial Review Panel - 1 May 2025 & 20 May 2025

HPERM Ref: D25/243237

- Attachments:**
1. Minutes - Financial Review Panel 1 May 2025 [↓](#)
  2. Confidential Minutes Attachments - Financial Review Panel 1 May 2025 (Confidential - under separate cover)
  3. Minutes - Financial Review Panel 20 May 2025 [↓](#)
  4. Confidential Minutes Attachments - Financial Review Panel 20 May 2025 (Confidential - under separate cover)

### FR25.29 Additional Item - 2025/2026 DPOP & Budget - Compliance with Acts - Waste Management Strategy

#### Recommendation

That, as part of the 2025/2026 Delivery Program and Operational Plan, Council as recommended by the Financial Review Panel, direct the Acting CEO to ensure:

- Compliance with the provisions of the Local Government Act (1993) and the NSW Integrated Planning and Reporting Guidelines.
- Compliance with the Crown Land Management Act (2016).
- Includes an action to undertake a review of Council's Waste Management strategy.

CL25.182

## MINUTES OF THE FINANCIAL REVIEW PANEL

**Meeting Date:** Thursday, 1 May 2025  
**Location:** Jervis Bay Room, City Administrative Centre, Bridge Road, Nowra  
**Time:** 2.45pm

The following members were present:

Mayor Patricia White - Chairperson  
Clr Peter Wilkins  
Clr Jason Cox  
Clr Jemma Tribe  
Clr Karlee Dunn (Remotely)  
Mr Mark Crowther  
Mr Stuart Coughlan  
Mr Keith Brodie (Remotely) – Left 3:38pm

The following non-voting members were present:

Mr James Ruprai - Acting CEO  
Ms Katie Buckman - Director - City Performance  
Mr Matthew Badcock – Acting Chief Financial Officer

Others Present:

Clr Luciano Casmiri (Remotely)  
Clr Matthew Norris  
Clr Denise Kemp (Remotely)  
Clr Selena Clancy  
Clr Bob Proudfoot

Note: Quorum was reached at 2:45pm and the Committee proceeded to vote on item FR25.17 following informal discussion.

### REPORTS

**FR25.17 Post Event Report - Avalon Airshow and Promotion of the Albatross Aviation Technology Park**

**HPERM Ref:  
D25/143468**

#### **Recommendation (Item to be determined under delegated authority)**

That the Financial Review Panel receive this report for their information.

#### **RESOLVED (By consent)**

That the Financial Review Panel receive this report for their information.

CARRIED

#### Apologies / Leave of Absence

Apologies were received from Cllr Boyd, Peter Dun and Ian Foreman.

#### Confirmation of the Minutes

In relation to the Materials Recovery Facility review, the Committee requested that the final version of the expression of interest letter that went out for contractors be uploaded to the Committee SharePoint.

**RESOLVED** (By consent)

That the Minutes of the Financial Review Panel held on Tuesday 18 March 2025 be confirmed.

CARRIED

#### FR25.22 Additional Item - Property and Land Sales Presentation - Next Meeting

Mr Mark Crowther noted that following a recent discussion with Councils Strategic Property Manager, it would be beneficial to have a further presentation on Council property and land sales.

**RESOLVED** (By consent)

That the Financial Review Panel receive a further presentation on Council property and land sales at the next meeting.

CARRIED

#### Declaration of Interests

Nil

### GENERAL BUSINESS

#### FR25.18 Outstanding Requests for Information - Financial Review Panel

HPERM Ref:  
D25/138607

On 1 April 2025 staff received a list of all outstanding requests for Information as at 31 March 2025 from the Financial Review Panel members (Attachment 1), to discuss and determine responsible officers.

Ms Katie Buckman – Director City Performance, advised that all these items have been provided and closed out.

Mr Mark Crowther noted that some of the information provided isn't specifically what was requested by the Committee, and further information would be requested from staff.

#### FR25.19 Questions - Superannuation Guarantee Responsibilities

HPERM Ref:  
D25/151374

Ms Katie Buckman – Director City Performance provided answers to the following questions submitted by the Financial Review Panel members in relation to Superannuation:

1. Are all super contributions up to date?  
Yes, all super contributions are up to date, and are updated quarterly.
2. Has that amount been accrued?  
Yes, Councils system accrues super payable each week in accordance with salaries being

paid.

3. If contributions are not made by the due date(s), is interest added to the contributions made at the earning rates of the super funds?

If contributions weren't made by the due date, Council would be required to lodge with the ATO and receive the applicable penalties.

4. What is the name of the Council's default fund?

Active Super, previously known as Local Government Super.

In relation to the first question, Mr Mark Crowther queried why an amount owing of \$205,000 is shown on a ledger for superannuation as at December 2024.

**The question was taken on notice by Director City Performance.**

#### **FR25.20 Proposed Financial KPI's for Shoalhaven City Council**

**HPERM Ref:  
D25/155048**

Mr Stuart Coughlan addressed the Committee in relation to the attached paper on proposed financial KPI's for consideration. It was also advised that a revised paper was submitted, which has been attached to these minutes as a confidential attachment.

Mr Mathew Badcock proceeded to present to the Committee on proposed KPM's. The information presented is attached to these minutes as a confidential attachment.

Note: Quorum was lost, the time being 3:38pm. The Committee continued with informal discussions and received a presentation from Mr Mark Crowther regarding the 2026 DPOP Income Statements.

#### **FR25.21 Update - Workplace Change - Revenue Team**

**HPERM Ref:  
D25/127856**

*Note: This item will be deferred to the next meeting due to losing quorum.*

Quorum was lost and the meeting concluded, the time being 3:38pm

Mayor Patricia White  
CHAIRPERSON

### MINUTES OF THE FINANCIAL REVIEW PANEL

**Meeting Date:** Tuesday, 20 May 2025  
**Location:** Jervis Bay Room, City Administrative Centre, Bridge Road, Nowra  
**Time:** 3.05pm

The following members were present:

Clr Peter Wilkins - Chairperson  
Clr Jason Cox  
Clr Jemma Tribe  
Clr Karlee Dunn (Remotely) – Joined 3:11pm  
Mr Mark Crowther  
Mr Stuart Coughlan  
Mr Peter Dun  
Mr Ian (Sandy) Foreman  
Mr Keith Brodie

The following non-voting members were present:

Mr James Ruprai - Acting CEO  
Ms Katie Buckman - Director City Performance  
Mr Mathew Badcock – Acting Chief Financial Officer

Others Present:

Clr Bob Proudfoot  
Clr Selena Clancy (Remotely) – Left 4:25pm  
Clr Matthew Norris (Remotely)  
Clr Luciano Casmiri – Joined 3:21pm  
Ms Lauren Buckingham – Project Manager Financial Sustainability – Left 4:16pm  
Mr Joe O'Connor – Strategic Property Manager (Remotely) - Left 4:03pm

#### Apologies / Leave of Absence

An apology was received from Mayor Patricia White.

#### Confirmation of the Minutes

**RESOLVED** (By consent)

That the Minutes of the Financial Review Panel held on Thursday 01 May 2025 be confirmed, with the following notes in relation to this meeting:

- It was raised by Mr Crowther that he had queries on report *FR25.17 Post Event Report - Avalon Airshow and Promotion of the Albatross Aviation Technology Park* prior to quorum being achieved, and wished it to be noted that these were taken on notice by the Acting

CEO and answered.

- Mr Crowther requested that his query on report *FR25.19 Questions – Superannuation Guarantee Responsibilities* in regard to why an amount owing of over \$200,000 is shown on the ledgers for superannuation as at December 2024, **be included in the minutes for 1 May 2025 as taken on notice by Director City Performance.**

It was advised by Director City Performance that it is an old reconciling item that dates back to over 24 months ago which hasn't been cleared out, and is not an underpayment of superannuation.

**Mr Crowther asked that this be discussed at a later date.**

- Mr Coughlan noted in relation to discussion on the Materials Recovery Facility review, the Committee requested that the finale version of the expression of interest letter that went out for contractors be uploaded to the Committee SharePoint.
- Mr Coughlan noted that the Committee were informed that an update would be provided on the consultant's review in four to five weeks' time.

The Acting CEO advised that he and Director City Services met with the successful contractor on 5 May 2025, who have agreed to provide an update to Council and the Committee if required, within a five to six week period.

**Clr Wilkins asked that this update be provided to the Committee as soon as possible.**

- In relation to *FR25.18 – Outstanding Requests for Information - Financial Review Panel*, Mr Peter Dun requested that it be noted that the update to Policies & Procedures for debt recovery should not be considered as closed out, **and would like the inclusion of a list of ongoing actions.**

CARRIED

#### Declaration of Interests

Nil

### GENERAL BUSINESS

#### FR25.27 Additional Item - Presentation on 2026 DPOP Income Statements - Mark Crowther

Mr Mark Crowther presented to the Committee on the 2026 Delivery Plan & Operational Program (DPOP) income statements. The information presented is attached to these minutes.

The Committee noted that some of the matters raised during the presentation would be discussed at the Budget Workshop.

The Committee discussed the timeframe around the 2025/2026 Budget being reported to Council and the opportunity for the Financial Review Panel to make recommendations to Council on the Draft Budget. It was resolved to hold a Special Financial Review Panel meeting on 28 May 2025, following the Financial Review Panel Budget Workshop.

**RESOLVED** (By consent)

That the Financial Review Panel schedule a Special Formal meeting at the end of the Budget Workshop on 28 May 2025 to consider the 2025/2026 Budget.

CARRIED

**FR25.26 Additional Item - Update on Property & Land Sales**

Councils Strategic Property Manager provided a verbal update to the Committee on Council Property & Land Sales. The following was noted as part of the update:

- Council is on track with meeting the revised target of \$12.8 million.
- The property on Pleasant Way settled on 6 May 2025
- Two groups of settlement will be occurring in regard to Flinders Stage 11 Industrial land, one on 23 May 2025 and the other on 6 June 2025.
- An auction is scheduled for next week for lots in Callala Bay, Mollymook and Norfolk Avenue, Nowra.

The information presented is attached to these minutes as a confidential attachment.

**Mr Crowther queried whether alternative Property & Land sale plans should be considered and presented to the Committee, and asked this be taken as a question on notice.**

The Chief Financial Officer asked it to be noted that it was made very clear to the group through the Council Budget briefings the importance and precariousness of Councils land sale program and the impact those sales have on the prospective cash position of Council.

Director City Performance noted that there is no immediate risk for 30 June 2025 with the sale of Pleasant Way, noting that Council has the money in the bank needed to fund its Capital Program this year.

During the confirming of the minutes the Committee discussed and resolved to having an update on Council Property and Land Sales as an ongoing agenda item.

**RESOLVED** (By consent)

That the Financial Review Panel receive an update on Council Land & Property Sales as an ongoing agenda item.

CARRIED

**FR25.23 Update - Workplace Change - Revenue Team**

**HPERM Ref:**  
**D25/208774**

Director City Performance provided an update to the Committee regarding the status of the workplace change which is underway within the Revenue team, and advised that two position advertisements are due to go live shortly, and that they will be advertised for a two week period.

**FR25.24 Update - Review of Councils Grants Policy**

**HPERM Ref:**  
**D25/212955**

Director City Performance provided an update to the Committee regarding the review of Council's Grants Policy. **It was advised that this has been completed by the Economic Development team and that a copy of the review would be uploaded to the Committees SharePoint.**

**FR25.25 Bereavement Service Review**

**HPERM Ref:**  
**D25/212994**

Councils Project Manager - Financial Sustainability addressed the Committee in relation to the Bereavement Service Review being undertaken by Council. Attachments in the agenda were provided with this item.

Mr Crowther requested to meet with Councils Project Manager – Financial Sustainability to discuss the review further. **The CEO advised that it will be beneficial to have the Committees views on these matters, and that a meeting will be arranged.**

**It was further advised that documents on the financial modelling would be provided to**

**Committee members.**

**FR25.29 Additional Item - 2025/2026 DPOP & Budget - Compliance with Acts - Waste Management Strategy**

Mr Peter Dun noted the requirements of the Local Government Act and the NSW Integrated Planning and Reporting Guidelines.

Staff advised they are aware of this, and that it will be included as a post exhibition change when the DPOP comes back to Council for adoption in June.

**RECOMMENDATION** (By consent)

That, as part of the 2025/2026 Delivery Program and Operational Plan, Council direct the Acting CEO to ensure:

1. Compliance with the provisions of the Local Government Act (1993) and the NSW Integrated Planning and Reporting Guidelines.
2. Compliance with the Crown Land Management Act (2016).
3. Includes an action to undertake a review of Council's Waste Management strategy.

CARRIED

**FR25.30 Additional Item - Revised KPI's for Shoalhaven Council**

Mr Stuart Coughlan addressed the Committee in regard to the revised KPI's developed by the members (attached to these minutes as a confidential attachment), and proposed the following recommendation to Council:

That the 2025/2026 Delivery Program and Operational Plan be amended through the inclusion of the following Key Performance Measurement targets:

1. Unrestricted Current Ratio 1.5/1 by the end of 2026/27
2. Employee costs per capita \$825 by the end of 2025/26
3. Debt per rateable property \$2,350 by the end of 2027/28
4. Average Business rate \$4,000 by the end of 2027/28
5. Revotes as a % of capital spend 90% each financial year
6. Annual roads expenditure \$40m each financial year

Following discussion the CEO noted serious concern with adopting additional metrics which deviate, or add additional metrics, to those of the OLG. A similar view was expressed by ARIC members at their 7 May 2025 meeting.

The revised KPIs developed by the members were proposed and discussed, and it was agreed that a broader discussion should be held at the Budget Workshop scheduled for 28 May 2025.

There being no further business, the meeting concluded, the time being 5:08pm.

Clr Peter Wilkins  
CHAIRPERSON

## CL25.183 Report of the Financial Review Panel - 28 May 2025

HPERM Ref: D25/243980

Attachments: 1. Minutes - Special / Extra Financial Review Panel 28 May 2025 [↓](#)

### FR25.28 2025 / 2026 Budget Review

HPERM Ref:  
D25/227963

#### Recommendation

That, as recommended by the Financial Review Panel, the 2025/2026 Delivery Program and Operational Plan be amended through the inclusion of the following Key Performance Measurement targets:

1. Unrestricted Current Ratio 1.5/1 by the end of 2026/27.
2. Employee costs per capita to be a maximum of 20% higher than the average of other Group 5 Councils by the end of 2026/27.
3. Debt per rateable property \$2,350 by the end of 2027/28, being approx. a reduction of \$53 million from June 2024.
4. A review of the rating structure by the end of 2027/28.
5. Revotes as a % of capital spend 90% each financial year.

### FR25.31 Additional Item - Expenditure - Contractors and Full Time Staff - Quarterly report

#### Recommendation

That, as recommended by the Financial Review Panel, expenditure on:

1. The use of contractors & consultants being employed to undertake roles currently being provided by Council staff, and
2. The number of Budgeted Full Time Equivalent Staff employed versus the actual Full Time Equivalent staff be reported separately each quarter in the review of the budget.

### FR25.32 Additional Item - Bereavement Services - Project Income Statement - EOI for Sale

#### Recommendation

That, as recommended by the Financial Review Panel,

1. The sustainability review prepare a projected income statement and cash flow for bereavement services should there be a substantial decrease in throughput.
2. A draft EOI be prepared for the sale/lease of the Worrigea Crematorium / Chapel / Café.

CL25.183

## MINUTES OF THE SPECIAL FINANCIAL REVIEW PANEL

**Meeting Date:** Wednesday, 28 May 2025  
**Location:** Jervis Bay Room, City Administrative Centre, Bridge Road, Nowra  
**Time:** 12.12pm

The following members were present:

Clr Patricia White - Chairperson  
Clr Peter Wilkins  
Clr Jason Cox  
Clr Jemma Tribe  
Clr Karlee Dunn (Remotely)  
Mr Mark Crowther  
Mr Stuart Coughlan  
Mr Peter Dun

The following non-voting members were present:

Mr James Ruprai - Acting CEO  
Ms Katie Buckman - Director - City Performance  
Mr Mathew Badcock – Acting Chief Financial Officer

Others present:

Clr Ben Krikstolaitis  
Clr Selena Clancy  
Ms Thao Nguyen – Senior Financial Business Partner

### Apologies / Leave of Absence

Apologies were received Ian (Sandy) Foreman and Keith Brodie.

### Declaration of Interests

Nil

## GENERAL BUSINESS

### FR25.28 2025 / 2026 Budget Review

HPERM Ref:  
D25/227963

The Committee discussed the recommendation below to ensure it was appropriately worded prior to coming before Council.

Councils Finance Team provided an overview of the budget setting process, including the budget models used and the budget parameters previously endorsed by Council. Discussion was had on the draft 2025/2026 Delivery Program Operational Plan.

The CEO reiterated serious concern with adopting additional metrics which deviate, or add additional metrics, to those of the OLG, and noted that a similar view was expressed by ARIC members at their 7 May 2025 meeting.

#### RECOMMENDATION (By consent)

That the 2025/2026 Delivery Program and Operational Plan be amended through the inclusion of the following Key Performance Measurement targets:

1. Unrestricted Current Ratio 1.5/1 by the end of 2026/27
2. Employee costs per capita to be a maximum of 20% higher than the average of other Group 5 Councils by the end of 2026/27
3. Debt per rateable property \$2,350 by the end of 2027/28, being approx. a reduction of \$53 million from June 2024
4. A review of the rating structure by the end of 2027/28
5. Revotes as a % of capital spend 90% each financial year

AGAINST: Cllr Tribe

CARRIED

### FR25.31 Additional Item - Expenditure - Contractors and Full Time Staff - Quarterly report

Mr Peter Dun brought the below recommendation before the Committee requesting a quarterly report on the matter.

Staff noted that it is a large body of work to go through contractors & consultants being employed to undertake roles currently being provided by Council staff.

#### RECOMMENDATION (By consent)

That expenditure on:

1. The use of contractors & consultants being employed to undertake roles currently being provided by Council staff, and
2. The number of Budgeted Full Time Equivalent Staff employed versus the actual Full Time Equivalent staff be reported separately each quarter in the review of the budget

CARRIED

### FR25.32 Additional Item - Bereavement Services - Project Income Statement - EOI for Sale

Mr Mark Crowther brought the below recommendation before the Committee.

#### RECOMMENDATION (By consent)

That

1. The sustainability review prepare a projected income statement and cash flow for bereavement services should there be a substantial decrease in throughput.
2. A draft EOI be prepared for the sale/lease of the Worrigee Crematorium / Chapel / Café.

CARRIED

**FR25.33 Additional Item - General Requests - Community Survey, Land Sales Update & Shoalhaven Water Business Cases**

The Mayor requested the following items be noted in the minutes:

1. That the Community survey that was completed in January 2024 be circulated to all members of the Financial Review Panel and Councillors.
2. That the update on Council Property & Land sales at the next meeting include how much the properties have been sold for.
3. In relation to Shoalhaven Water, that the Financial Review Panel be provided with the business cases for the significant capital works projects planned for 2030 onwards, to provide feedback prior to the Budget coming before Council on 19 June 2025

There being no further business, the meeting concluded, the time being 1.16pm.

Mayor Patricia White  
CHAIRPERSON

## CL25.184 Local Government Remuneration Tribunal - Determination of Councillor and Mayoral Fees 2025/2026

**HPERM Ref:** D25/237820

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

**Attachments:**

1. Annual Report and Determination - Local Government Remuneration Tribunal - 2025 2026 (under separate cover) [↗](#)
2. Example Costings - 25/26 FY Councillor Fee Options - Annual Report of Remuneration Tribunal (under separate cover) [↗](#)

### Purpose:

The purpose for this report is to enable elected Councillors to note and consider the attached determination from the Local Government Remuneration Tribunal, and to adopt the fees payable to the Mayor and Councillors for the 2025/2026 financial year.

### Summary and Key Points for Consideration:

The Local Government Remuneration Tribunal released its annual determination report on Councillor and Mayoral fees on 17 April 2025 (**Attachment 1**). The Local Government Remuneration Tribunal has determined an increase of 3% to minimum and maximum Mayoral and Councillor fees for the 2025/2026 financial year, with effect from 1 July 2025.

Councils are to annually fix Councillor and Mayoral fees for financial year based on the Tribunal's Determination. The level of fees paid is set based on the category which is applied to the Council. If a Council does not fix a fee, the Council must pay the minimum fee determined by the Tribunal.

A range of options within the range that Council may consider are costed in **Attachment 2**.

### Recommendation

That Council:

1. Note the Local Government Remuneration Tribunal's Annual Report and Determination dated 17 April 2025.
2. Adjust the Councillor Fee payable to Councillors from 1 July 2025 to 30 June 2026 to specific amount between \$21,120 (minimum) and \$34,820 (maximum) and for the Mayoral Additional Fee between \$44,840 (minimum) and \$101,470 (maximum).
3. Determine that the additional Mayoral fee (in full, or in part), not be paid directly to the Deputy Mayor when the Deputy Mayor is required to act in the position of Mayor during periods of approved leave.

### Options

1. As Recommended

Implications: This will adjust the Fees for Councillors and Additional Mayoral Fee to a specific amount proposed by the elected Council which is within the permissible range determined by the remuneration tribunal for the 2025/2026 financial year and retain the

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provision of superannuation to Councillors. This allows the Council to adopt an amount considered appropriate given the current financial position of the Council.

2. As recommended with amendment to Part 3 of the Recommendation which allows the payment of a full or part of the Mayoral Fee to the Deputy Mayor.

Example wording for a resolution to bring this into effect may be worded as follows:

*“3. Pay [Insert relevant percentage] of the Additional Mayoral Fee to the Deputy Mayor when the Deputy Mayor is required to act in the position of Mayor during periods of approved leave of absence of a duration of 28 days or more.”*

Implications: During extended periods of absence (a timeframe which the Council can determine in the resolution) the Deputy Mayor will be paid the proportion of the Mayoral fee and in accordance with legislative provisions the fees paid to the Mayor during that period of time would be reduced by the equivalent amount.

3. An alternative recommendation

Implications: Not known. Any decision of the Council would be required to reflect the requirements outlined in the Local Government Act and Regulations and be within the range of payable payments outlined by the Local Government Remuneration Tribunal.

## Background and Supplementary information

### Councillors' Fees

Section 241 of the *Local Government Act 1993* (the Act) requires the Tribunal to determine each year the maximum and minimum amounts of annual fees payable during the following year to Mayors and Councillors. Section 248 and 249 of the Act require Councils to fix and pay an annual fee based on the Tribunal's determination.

The relevant provisions of the Act are outlined below:

#### **248 Fixing and payment of annual fees for councillors**

- (1) *A council must pay each councillor an annual fee.*
- (2) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (3) *The annual fee so fixed must be the same for each councillor.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

#### **249 Fixing and payment of annual fees for the mayor**

- (1) *A council must pay the mayor an annual fee.*
- (2) *The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
- (3) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
- (5) *A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.”*

Councils are to fix Councillor and Mayoral fees for financial year based on the Tribunal's Determination. The level of fees paid will depend on the category which is applied to the Council. If a Council does not fix a fee, the Council must pay the minimum fee determined by the Tribunal.

The Determination of the Tribunal is that Councils in the Regional Strategic Area Category may fix the 2025/2026 annual fee for Councillors between \$21,120 (minimum) and \$34,820 (maximum). The Mayoral Additional Fee has been set at between \$44,840 (minimum) and \$101,470 (maximum). These rates include the 3% increase determined by the Tribunal. Council may set any figure for the fees within this range.

The Councillor and Mayoral fee adoption is distinct and separate to the payment of expenses and provision of facilities to Councillors. The Mayoral Fee is an amount paid to the Mayor in addition to the Councillor Fee which is paid to all Councillors.

The Councillor and Mayoral Fees generally increase annually by CPI related amounts. In 2023 Shoalhaven City Council was re-categorised as a '*Regional Strategic Area*' which resulted in a marked increase of fees allowable to be paid for the 2023/2024 year onwards.

Historically, Council has paid the maximum fees permissible to be paid for the category, however citing the financial position of the Council, at the Ordinary Meeting held on 26 June 2024, Council resolved (MIN24.336) to retain the fees paid the previous year without increase:

- "1. Note the Local Government Remuneration Tribunal's Annual Report and Determination dated 29 April 2024.*
- 2. Retain the current rate fees resolved for the 2023/2024 financial year for its Mayoral and Councillor fees for the 2024/2025 financial year.*
- 3. Determine that the additional Mayoral fee (in full, or in part), not be paid directly to the Deputy Mayor when the Deputy Mayor is required to act in the position of Mayor during periods of approved leave."*

The setting of an appropriate level of fees within the permissible range is a matter for the Council to consider and determine.

### **Payment for the Deputy Mayor**

Section 249(5) of the Act allows Council to elect to pay the Deputy Mayor a fee when acting in the Office of the Mayor. The amount of the fee must be deducted from the Mayor's annual fee.

The matter of the Deputy Mayoral Fee is for consideration and determination by the Council. Suggested wording is provided as 'Option 2' in this report should the Council consider that such determination is required. It is recommended that such payment could be a matter that the Council may consider when an extended absence of the Mayor from Mayoral duties occurs. Any resolution in this regard should stipulate the percentage of the Mayor's allowance to be paid and the period of absence or circumstances in which that arrangement is to apply.

### **Superannuation for Councillors**

On 16 May 2021, legislation was passed in the NSW Parliament to introduce superannuation payments for Councillors in NSW. The [Local Government Amendment Act 2021](#) addressed a longstanding inequity in Local Government by providing Councils with the option to make superannuation payments to Mayors and Councillors in addition to their annual fees from July 2022. This decision was made after a lengthy campaign to acknowledge the contribution of Councillors.

The relevant amendment to the Act states:

*Section 254B Insert after section 254A—*

*254B Payment for superannuation contributions for councillors*

- 1) A Council may make a payment (a superannuation contribution payment) as a contribution to a superannuation account nominated by a Councillor, starting from the financial year commencing 1 July 2022.*
- 2) The amount of a superannuation contribution payment is the amount the Council would have been required to contribute under the Commonwealth Superannuation Legislation as superannuation if the Councillor were an employee of the Council.*
- 3) A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the Councillor.*
- 4) A Council is not permitted to make a superannuation contribution payment—*
  - a) unless the Council has previously passed a resolution at an open meeting to make superannuation contribution payments to its Councillors, or*
  - b) if the Councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates, or*
  - c) to the extent the Councillor has agreed in writing to forgo or reduce the payment.*
- 5) The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a Mayor or other Councillor.*
- 6) A person is not, for the purposes of any Act, taken to be an employee of a Council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.*
- 7) A superannuation contribution payment does not constitute salary for the purposes of any Act.*
- 8) Sections 248A and 254A apply in relation to a superannuation contribution payment in the same way as they apply in relation to an annual fee.*
- 9) In this section—*
  - Commonwealth superannuation legislation means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.*
  - Superannuation account means an account for superannuation or retirement benefits from a scheme or fund to which the Commonwealth Superannuation Legislation applies.*

The wording of the legislation sets out that the Council may elect to either provide a Superannuation Payment at the rate set out in the Superannuation Guarantee or not provide a superannuation payment. The superannuation payment is calculated on the Fees paid to Councillors (and for the Mayor the additional Mayoral Fee in addition to the Councillor Fee). Any amounts reimbursed to Councillors in the form of expense payments under the Council Members Payment of Expenses and Provision of Facilities Policy are not related to the superannuation calculation.

Council resolved at its Ordinary Meeting of 7 February 2022 (MIN22.270) to provide a Superannuation Payment to Councillors.

In accordance with the Superannuation Guarantee the rate of superannuation for the 2025/2026 Financial year will be 12%. It is considered that it is appropriate for Council to

maintain a Superannuation arrangement for Councillors, however the Council may resolve to not make superannuation contributions.

### Internal Consultations

Internal consultation is not required to occur in relation to the adoption of the fee amendment determination process, as it is based on a published report and the process undertaken by the Local Government Remuneration Tribunal.

### External Consultations

External consultation is not required to occur in relation to the adoption of the fee amendment determination process, as it is based on a published report and the process undertaken by the Tribunal.

### Community Consultations

Community consultation is not required to occur in relation to the adoption of the fee amendment determination process, as it is based on a published report and the process undertaken by the Tribunal.

### Policy and Statutory Implications

Section 241 of the *Local Government Act 1993* (the Act) requires the Tribunal to determine each year the maximum and minimum amounts of annual fees payable during the following year to Mayors and Councillors. Section 248 and 249 of the Act require Councils to fix and pay an annual fee based on the Tribunal's determination.

In accordance with the provisions of the Model Code of Conduct, Section 4.6 of the Council's [Code of Conduct](#) outlines that Councillors are not required to disclose the following interests related to this report:

*“j. an interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor)”*

### Financial Implications

**Current fees (2024/2025 FY)** paid to Shoalhaven City Councillors and Mayor. (Please note, Council resolved to retain the 2023/2024 fee rate for 2024/2025 (MIN24.336).

CATEGORY	Councillor Annual Fee	Mayor Additional Fee*
Regional Strategic Area	\$ 32,590	\$ 94,950

**Fees permissible for Shoalhaven City Councillors and Mayor - 2025/2026 financial year:**

2025/2026 Determination - Pursuant to Section 241 of Fees for Councillors and Mayors.

CATEGORY	Councillor Annual Fee		Mayor Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Regional Strategic Area	\$21,120	\$34,820	\$44,840	\$101,470

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\*This fee must be paid in addition to the fee paid to the Mayor as a Councillor/Member (s429 (2)).

By way of example, a range of options for the Council are costed in Attachment 2. The Council is only limited by the minimum and maximum for each fee type and may determine any figures within those ranges.

Any additional costs to the Council arising from the resolution of this matter will be identified and funded at each of the quarterly budget reviews in the 2025/2026 financial year.

### **Risk Implications**

If a Council does not fix a fee, the Council must pay the minimum fee determined by the Tribunal and should consider the implications of this for Councillor and Mayoral Fees payable for the 2025/2026 financial year.

## CL25.185 Development Application - MA24/1134 modification of SF5332 Lot 22 DP717323 Wells Place Shoalhaven Heads

**DA. No:** MA24/1134/4

**HPERM Ref:** D25/194843

**Department:** Development Services

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

**Attachments:**

1. s4.55 Planning Assessment - PAN427614 (under separate cover) [⇒](#)
2. Draft Determination - Consolidated Consent (under separate cover) [⇒](#)
3. Plans - N25577-04-05 - AMENDED Site Plan and Subdivision Plan (under separate cover) [⇒](#)
4. Plans - Concept Engineering Plans - N25577-401-403 (under separate cover) [⇒](#)

**Description of Development:** Proposed Modification of SF5332 - Amended Subdivision Plan

**Owner:** L E Leach

**Applicant:** Allen Price Pty Ltd

**Notification Dates:** 16 – 30 May 2024

**No. of Submissions:** 5 unique letters, and 37 signatures to a form letter

### Purpose / Reason for consideration by Council

Notice of motion by Mayor White - *That Council "Call In" MA2024/1134 relating to Lot 22, DP717323 be reported to Council for determination due to the public interest.*

Council resolved the above notice of motion on 3 June 2024 (MIN24.315).

### Recommendation

That Council determine the modification application by way of approval, and a consolidated consent including the approved modification be issued, as per Attachment 2.

### Options

1. Approve the application in accordance with the recommendation.

Implications: This would enable the development to proceed

2. Refuse the application

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.14(1) considerations. The applicant would be entitled to seek a review and/or pursue an appeal in the Land and Environment Court.

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### 3. Alternative Recommendation

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

### Location Map

The subject land is Lot 22 DP 717323. The land fronts both Shoalhaven Heads Road, and Wells Place.

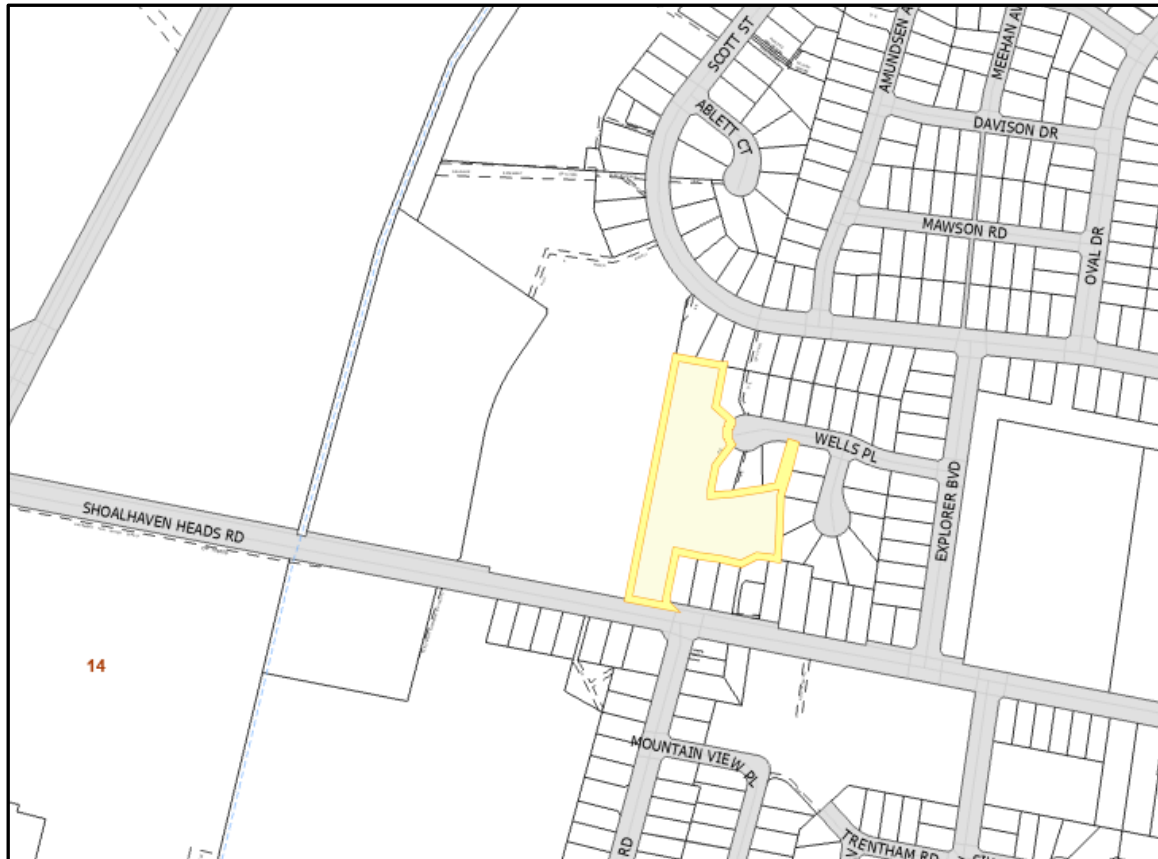


Figure 1 - Location of Subject Land

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Subject Land

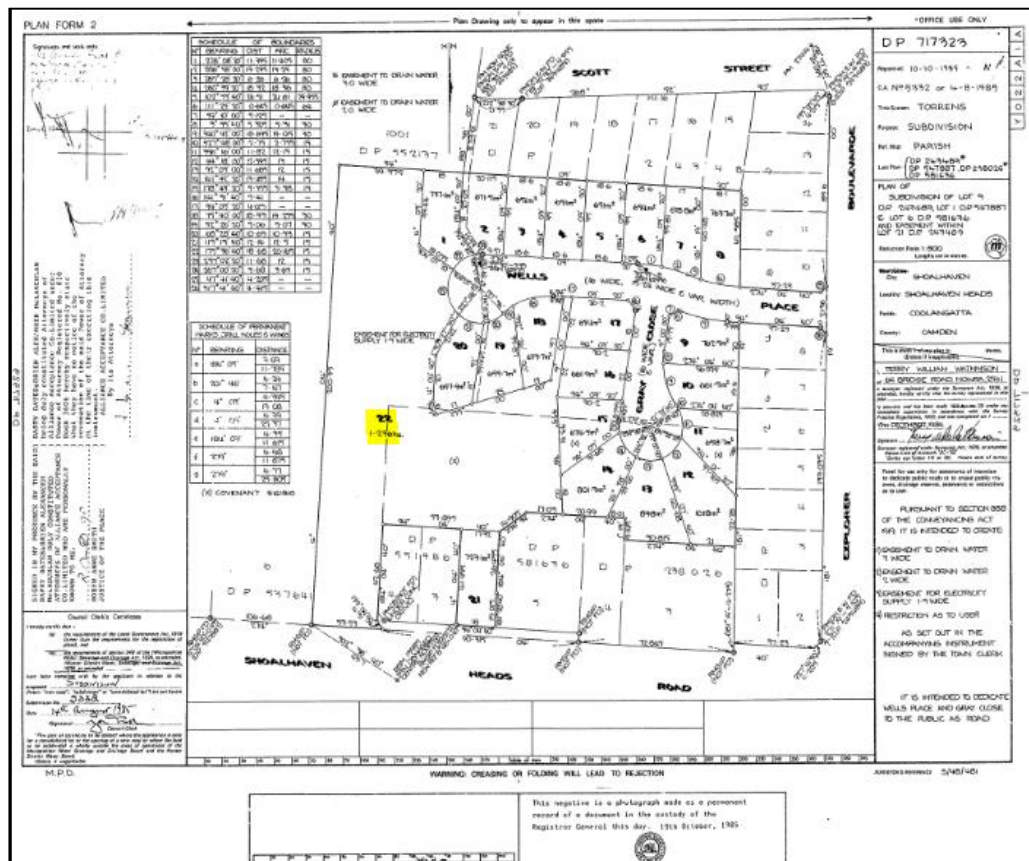


Figure 2 - Lot 22 DP717323

There is an existing caravan park immediately to the west, surrounding residential development, a petrol station to the south-west, the Shoalhaven Heads Bowling Club to the South-East and the Vic Zealand Memorial Reserve with sports fields to the east.

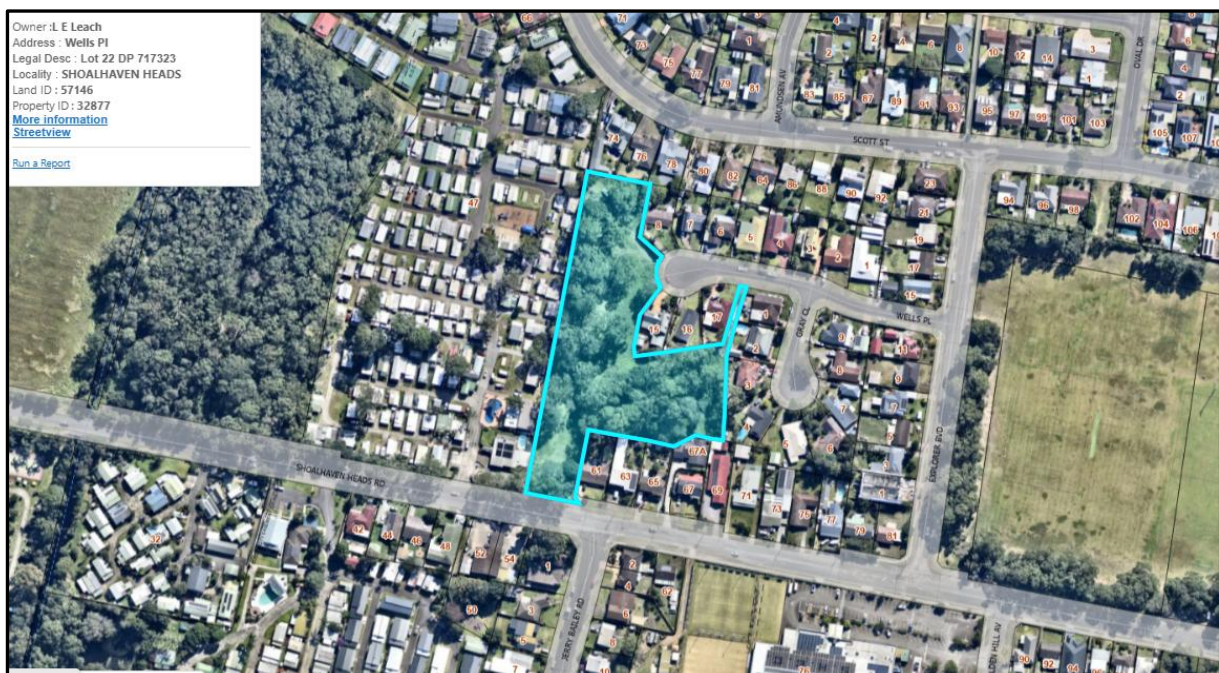


Figure 3 - Aerial image of subject land

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## Background

### Approval History

Development consent for SF5332 was issued on 13 July 1983, for the subdivision as shown on sketch plan dated 16.02/83 Ref no.83/9 showing 27 lots, as below. The original application was over Lot 1 DP547887, Lot 6 DP518639, Lot 9 DP243489. 21 lots have been registered to date. The remaining 6 lots have been held as one lot, Lot 22 DP 717323.

Creation of lot 27 as a public reserve, as shown on the approved plans was a condition of consent.

The remaining six lots, i.e. Stage 2 (i.e. Lots 22 – 27) is yet to be completed. This is the subject of the current modification application.



Figure 4 - Approved Lots subject to MA24/1134 (Note: other lots in this subdivision have already been created)

### Proposed Development

This application is to modify the approved proposed subdivision of Lot 22 DP717232. The lot layout is proposed to be amended, including relocation of proposed reserve from Wells Place to Shoalhaven Heads Road frontage.

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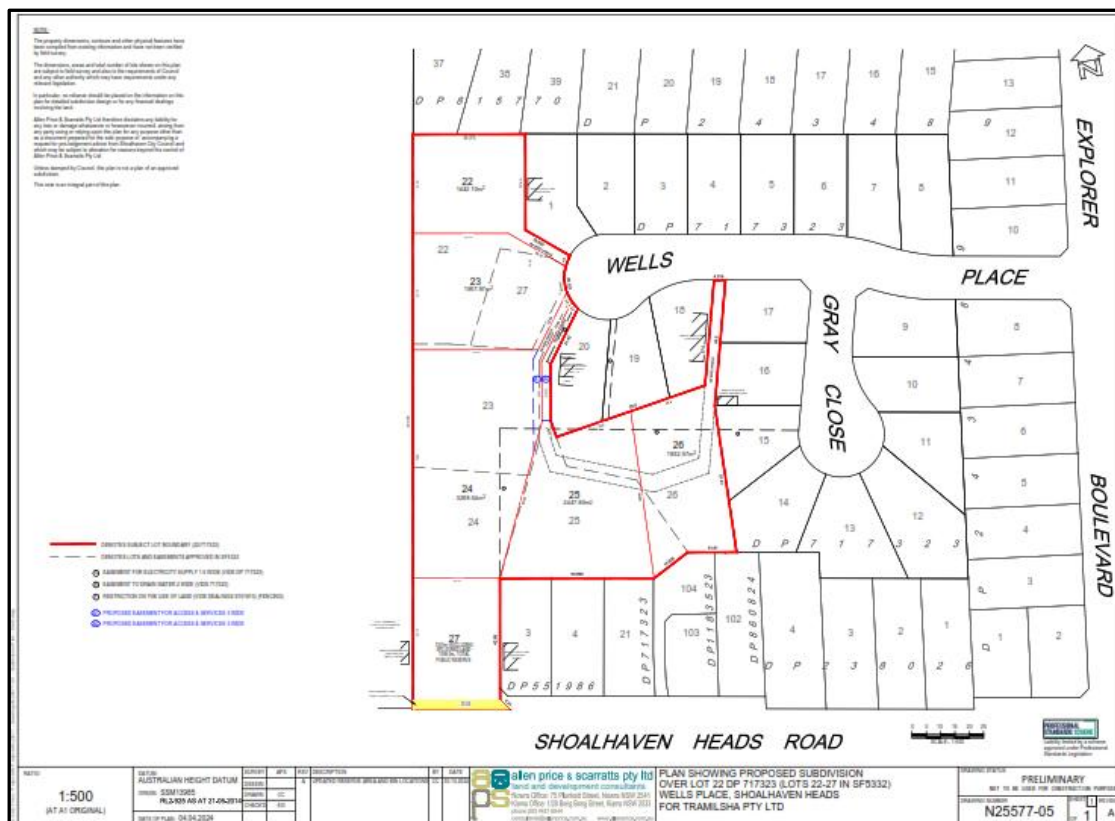


Figure 5 - proposed plan by Allen Price dated 15/11/2024

## Issues

### Environmental Planning Instrument

The proposed modification is such that when compared to the originally proposed development it will remain substantially the same.

Relevant provisions of State Environmental Planning Policies, LEP and DCP have been taken into consideration.

The modification application raises no additional matters of concern under any applicable planning instruments.

### Shoalhaven Local Environmental Plan (SLEP) 2014 – Clause 4.1(3) – Minimum Subdivision Lot Size

The subject land is predominantly zoned General Residential R1, with a small section zoned SP2 Infrastructure – Road adjacent to Shoalhaven Heads Road. The land is mapped with a minimum lot size of 500m<sup>2</sup>.

The approved lots, and the proposed lots will remain compliant with SLEP minimum lot size requirements. (Lot 22 = 1449.17m<sup>2</sup>, Lot 23 = 1970.25m<sup>2</sup>, Lot 24 = 3264.33m<sup>2</sup>, Lot 25 = 2442.55m<sup>2</sup>, Lot 26 = 1832.97m<sup>2</sup> and Lot 27 = total area of 1398.42m<sup>2</sup>).

### Shoalhaven Development Control Plan Chapter 1 CPTED (Crime Prevention Through Environmental Design)

The Crime Prevention Legislative Guidelines have been considered in the assessment of this application. Regard has also been given to the size, shape and location of the proposed reserve, zoning and proposed filling of the land.

The applicant and local community have expressed opposing opinions on this issue. The community have strongly expressed their desire for retention of the reserve in its current

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location, and the expectation of the subdivision being completed as approved. Whereas the applicant has provided their reasons and rationale for the proposed modification.

To assist with this assessment, other sections of Council have been consulted.

An impartial assessment, taking all information into account has been undertaken. refer to Attachment 2.

SDCP Chapter G11 – Subdivision Supporting Document 1: Subdivision Technical Guidelines Chapter 1: Introduction & how this plan works

Section 4 Minimum Land Requirements for Informal Active and Passive Recreation Areas/Public Reserves

A comparative summary of Minimum Land Requirements for Informal Active and Passive Recreation Areas/Public Reserves for proposed reserves was carried out as part of the Section 4.15 Assessment Report (refer Attachment 1).

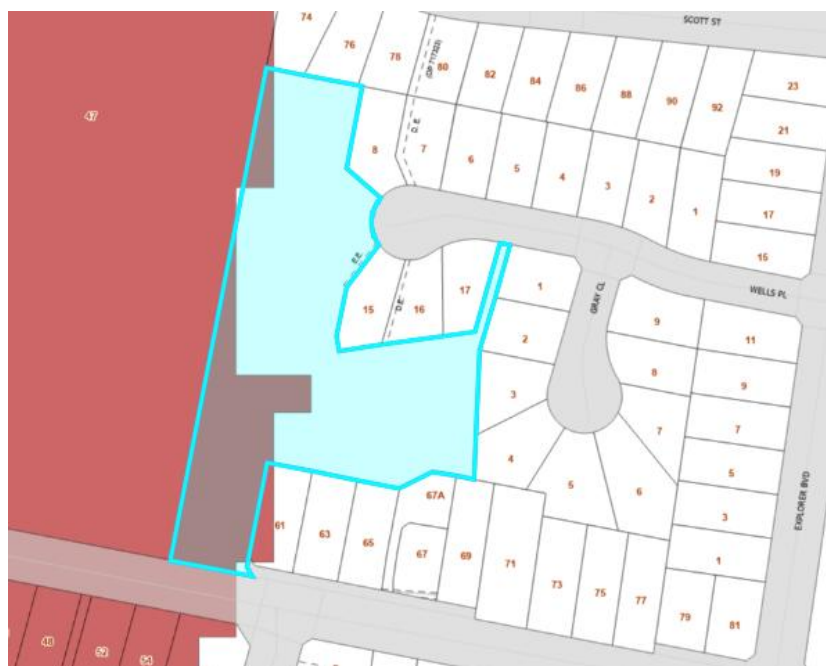
The following outcomes were reached:

- After considering all requirements, on balance, the proposed location of the reserve at Shoalhaven Heads Road is considered preferable to the Wells Place location, for the following reasons:
  - larger street frontage;
  - if location remains in Wells Place, it would be surrounded by 1.8m high fences – problematic for surveillance;
  - wider surveillance from the broader community – via Shoalhaven Heads Road;
  - little recreational value for either site, but potentially a better outcome if the trees on Shoalhaven Heads Rd frontage are retained;
  - practical solution for filling of land to ensure future residential development;
  - the proposed reserve location will provide inter-allotment drainage and drainage easements – serving proposed Lots 22, 23, 24, 25 & 26 and existing lot 19; and the land at the Shoalhaven Heads Rd location is flood prone, and therefore more suited for use as a reserve.

Impacts Upon the Surrounding Built Environment Considerations

Earthworks – Fill and Flooding

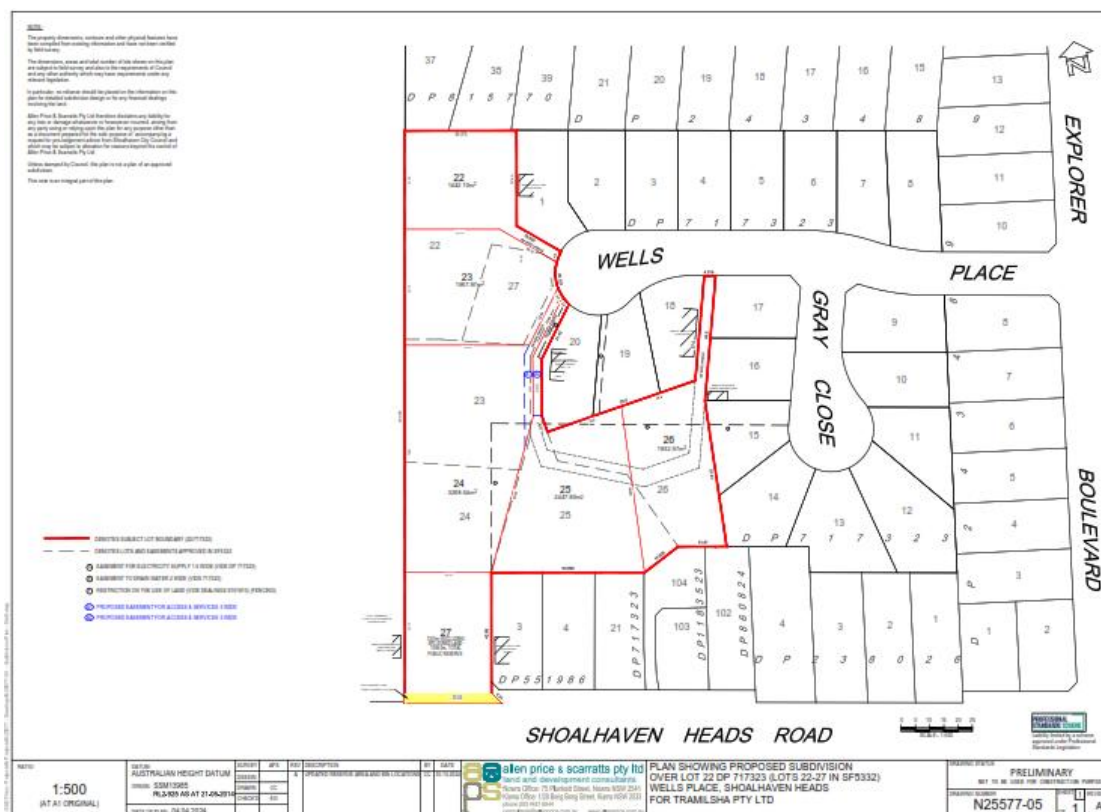
Condition 18 of the development consent currently requires fill to be placed over the entire western part of the site (i.e. across Lots 22, 23, and 24) – these lots are highlighted in the below excerpt of the current approved Subdivision Plan. The location of the approved fill also intersects with the part of the site mapped as being flood prone.



The proposed modifications would include relocation of the Public Reserve to the south-western front corner adjacent to Shoalhaven Heads Rd. Given the Public reserve, in its amended location, would not be required to be filled – this would result in a net lower amount

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of fill being placed across the western part of the land, within the parts of the site mapped as being flood prone – the location of which is highlighted in the below excerpt of the amended Subdivision Plan.



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The benefit of having less fill placed in the flood prone parts of the site is that the Public Reserve can be used for flood storage purposes in the event of a major flood, which would result in a lower level of flood afflux to the adjoining caravan park property, therefore resulting a net benefit to the surrounding built environment, as it relates to earthworks and flooding.

## Planning Assessment

The Modification Application MA24/1134 has been assessed under section 4.55 of the Environmental Planning and Assessment Act 1979. Please refer to Attachment 1.

This included notification of the application and consideration of submissions, please refer to 'community consultation' below.

## Policy Implications

### Council's Community Infrastructure Strategic Plan

The proposed reserve sits outside of Council's Community Infrastructure Strategic Plan. The approved reserve was a requirement from the original development consent.

### Applicant's Submission

The applicant has submitted a covering letter, revised plans including both subdivision layout and civil plans. Additional information and a response to the public submissions was provided November 2024.

Of key consideration is the applicant's response regarding desirability of the location of the public reserve –

*“While the need for a public reserve at all is questioned, the reserve forms a key component of the original approval and advice from Council is that it must remain part of the development to remain ‘substantially the same’.*

*It is noted that while the proposed reserve is flood affected, placing a public reserve rather than private residential homes within a flood prone area is a better planning outcome when the delivery of homes rather than additional public infrastructure is a key issue within this area.*

*It is not uncommon for public reserves to be inundated, and the public are unlikely to use the reserve when it is flooded. Careful design and choice of future embellishment or use of the reserve is up to Council’s discretion. Table 1 clearly outlines that the overall location of the reserve in this location, notwithstanding the flood affectation, is a superior outcome from a public perspective.”*

#### Comments

The applicant is seeking modification of the proposed lot design. The proposed development when compared to that as originally approved will remain substantially the same development.

#### **Internal Consultation**

Internal consultations have been undertaken as a part of the assessment process. Comments were sought from Property, GIS, Open Space & Recreation Planning, Development and Flood Engineers.

Overall, support for the proposed modification has been expressed, including relocation of proposed required reserve, particularly with regard to:

- Proposed minor filling
- Access
- Drainage
- Higher levels of access and natural surveillance

Refer to Assessment report for detail.

#### **External Consultation**

##### Endeavour Energy

No objections to proposal, standard conditions recommended.

#### **Community Consultation**

A number of public submissions were received in relation to Council’s notification of the development, including a total of 5 unique letters and 37 signatories to a form letter objecting to the development. Nil were in support of the development. The notification was made in accordance with Council’s Community Consultation Policy with letters being sent within a 60m buffer of the site.

The notification was for a 2-week period. A further submission was received outside of the notification period (Feb 2025) from the Shoalhaven Heads Community Forum. The Forum resolved to support the resident’s view.

Some of the concerns raised in submissions relate to future development of the proposed/ approved lots. This assessment as required, was confined to the application as submitted, the modification of an approved subdivision creating vacant lots.

The issues raised in submissions in response to the notification of this application have been considered, see Assessment Report. The main issue being the location of the approved/proposed public reserve.

### Reserve Location

Objection issues – The approved reserve location is preferred by those who made submissions for the following reasons:

- The reserve would be supervised by the residents of Wells Place
- Homes in the area purchased on the understanding of the location of the approved reserve.
- Consent issued in 1983 – over 40+ year old approval

Applicants position - The proposed reserve location is preferred by the applicant for a number of reasons including:

- Better natural surveillance, as Shoalhaven Heads Road is busier, more casual surveillance would be available
- *placing a public reserve rather than private residential homes within a flood prone area is a better planning outcome when the delivery of homes rather than additional public infrastructure is a key issue within this area.*
- *the frontage of the public reserve to Shoalhaven Heads Road is an improved outcome compared with the 12m frontage to Wells Place under the original approval*

### **Financial Implications**

Should the application be refused, there might be financial implications for Council to defend such a decision.

### **Legal Implications**

Refusal of the application for modification of SF5332 could result in an appeal to the LEC. Should that occur, Council would need to defend its decision in the LEC.

### **Summary and Conclusion**

Objections to the proposed modification and revised lot layout have been raised by local residents who want the reserve to be retained in the approved Wells Place location. Residents have expressed a strong expectation that the reserve should be provided as currently approved. However, the planning system does allow for modifications to developments to be lodged, assessed and where appropriate, approved.

In this instance, whilst the proposed reserve is contrary to Council's Community Infrastructure Strategic Plan the provision of a reserve is a requirement of the original development consent. This application is seeking reconsideration of the lot layout and reserve location.

As outlined by the applicant, *'the proposed modification aims to seek an improved outcome, with residential lots in accordance with the R1 General Residential zoning under SLEP 2014, and improved safety outcomes for the Public Reserve'*.

For the planning reasons outlined above, and whilst there have been multiple objections to the proposed modification, on balance (bearing in mind CPTED requirements, earthworks/flooding, and broader community public value), the proposal including relocation of proposed reserve is considered to be in the public interest and therefore can be supported.

## CL25.186 Development Application - DA25/1204 - 1 Greenwell Point Road Nowra - Lot 23 DP241510

**DA. No:** DA25/1204/4

**HPERM Ref:** D25/158054

**Department:** Development Services

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

**Attachments:**

1. 4.15 Assessment Report Point (under separate cover) ➡
2. Plans - Architectural (under separate cover) ➡
3. Clause 4.6 Variation (under separate cover) ➡
4. DRAFT Determination (under separate cover) ➡

**Description of Development:** Two (2) lot Torrens Title subdivision of existing dual occupancy (attached)

**Owner:** Hofz El Wedad Ali-Dib & Mahmoud Ali-Dib

**Applicant:** ApproveAll Town Planning Pty Ltd

**Notification Dates:** 12 March 2025 to 26 March 2025

**No. of Submissions:** Nil

### Purpose / Reason for consideration by Council

DA2025/1204 proposes a variation of 26.8% and 26.3% to the development standard set by Clause 4.1 (minimum subdivision lot size) of *Shoalhaven Local Environmental Plan 2014* (SLEP 2014).

The departure from the development standard is >10%, therefore the application and variation must be considered and determined by the Council.

### Recommendation

That Council confirm that it supports the Clause 4.6 variation of 26.8% for Lot A and 26.3% for Lot B, with respect to the lot size of the proposed subdivision and approve the Development Application DA2025/1204 for Torrens Title subdivision of existing and approved dual occupancy (attached) development at 1 Greenwell Point Road, Nowra – Lot 23 DP 241510, as detailed in the draft conditions of consent (Attachment 4) to this report.

### Options

1. Approve the application in accordance with the recommendation.

Implications: This would enable the development to proceed

2. Refuse the application

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.14(1) considerations. The applicant would be entitled to seek a review and/or pursue an appeal in the Land and Environment Court.

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### 3. Alternative Recommendation

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

#### Location Map

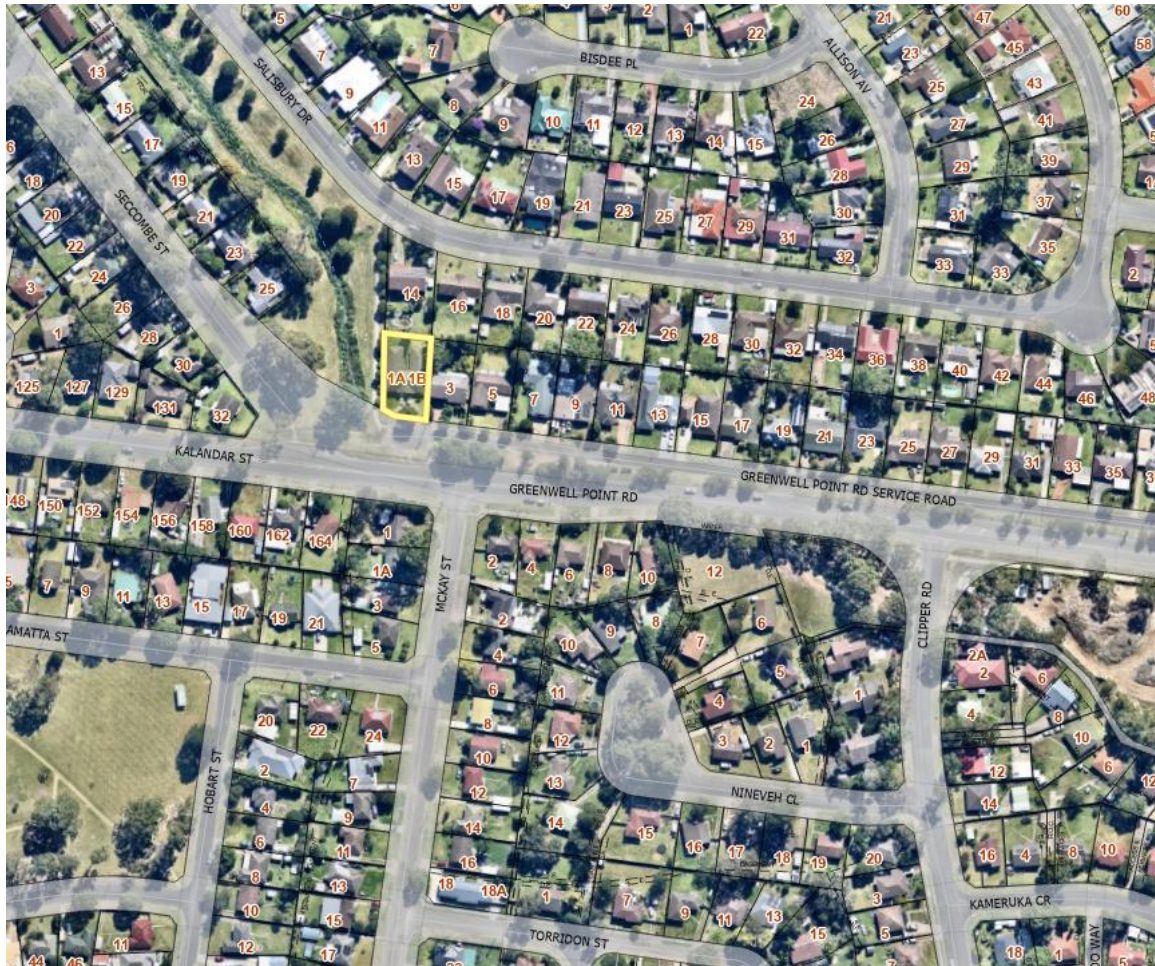


Figure 1: Location Map

#### Background

The proposed development is for a two (2) lot Torrens Title subdivision of an approved dual occupancy (attached) (DA02/2164).

DA02/2164 was approved by council on 11 June 2002 and pre-dates the operation of the current wording of Clause 4.1A in the SLEP 2014.

The proposed Torrens Title subdivision would result in the creation of two lots with the following lot areas:

- Proposed Lot A (1A Greenwell Point Rd, Nowra) – 365.676m<sup>2</sup> total site area
- Proposed Lot B (1B Greenwell Point Rd, Nowra) – 368.135m<sup>2</sup> total site area

The proposal is for subdivision only and therefore, the physical environment does not change from that approved by DA02/2164. Figure 2 shows the proposed subdivision layout.

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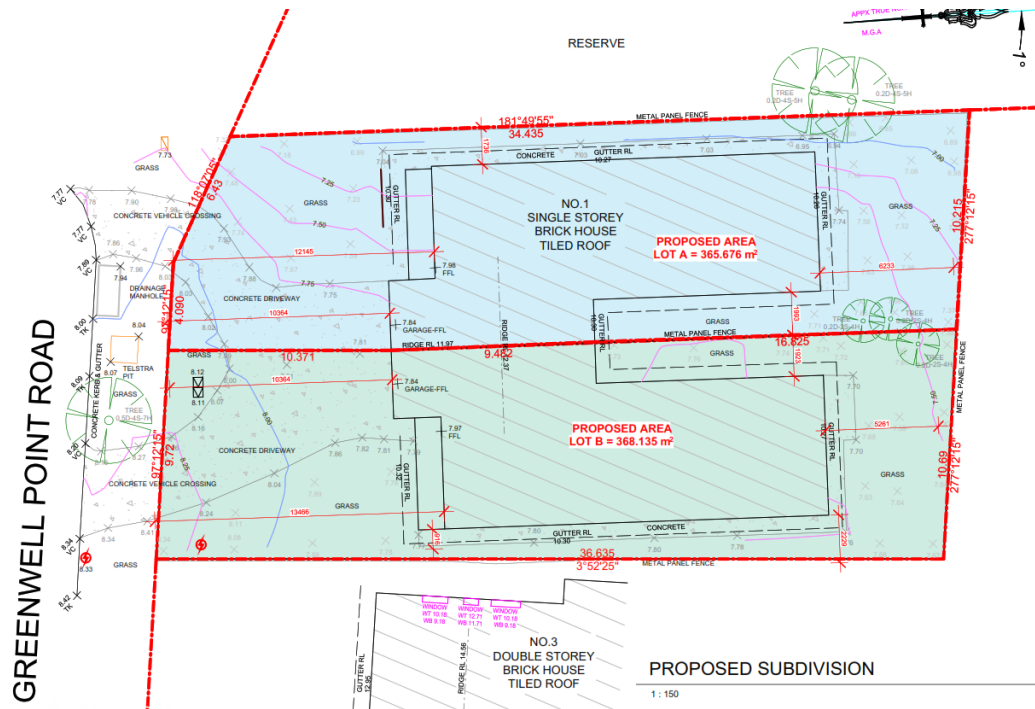


Figure 2: Proposed subdivision layout

The current Clause 4.1A (4) allows for the subdivision of a dual occupancy approved under that clause to be subdivided into lots of any size, enabling the resulting individual dwellings to those lots to have separate titles.

Given the approval of **DA02/2164** pre-dates amendment No.35 to SLEP 2014 (i.e. the date of operation of the current version of cl.4.1A), the Saving Provisions under 1.8A [subclause (2)] requires the application to be determined as if that Plan had not commenced and therefore the application does not benefit from Clause 4.1A [subclause (4)].

As such, the proposed subdivision is required to be undertaken pursuant to Clause 4.1 of SLEP 2014 where a minimum lot size of 500m<sup>2</sup> applies to the site.

Proposed Lot 1 and 2 have areas less than 500m<sup>2</sup> and therefore a variation to the minimum lot size development standard is required. Any determination of the Development Application must consider the requirements of Clause 4.6 – Exceptions to Development Standards of SLEP 2014.

It is noted that despite being technically non-compliant with the minimum lot size requirement under Clause 4.1, the proposed development remains consistent with the SLEP 2014.

The proposed subdivision has no impacts upon the surrounding locality above and beyond that already considered at dual occupancy stage. The subdivision essentially enables individual land titles to be created for the existing development.

Accordingly, under these circumstances, there is no utility in maintaining the minimum lot size development standard under Clause 4.1 in this case, as the respective subdivision for dual occupancy beneath the minimum lot size is now permitted under Clause 4.1A (4).

It is noted that Council has considered and approved previous similar proposals having regard to the subdivision of existing dual occupancies.

#### Subject Land

The development site comprises Lot 23 DP 241510, located at 1 Greenwell Point Rd, Nowra. The site has an area of 733.5m<sup>2</sup> and is regular in shape.

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### Site & Context

The site currently contains an approved dual occupancy (attached) and adjoins residential development to the north and east. The area to the west is mapped Council reserve. The locality is within the Zone R2 – Low Density Residential Zone under the (SLEP) 2014. (see Figure 3).



Figure 3: Zone Mapping – SLEP 2014

### **Issues – Clause 4.1 – Minimum Subdivision Lot Size of SLEP 2014**

The proposed subdivision results in two lots with the following site areas:

- Proposed Lot A – 365.676m<sup>2</sup> is 134.324m<sup>2</sup> under the minimum lot size requirement. This is representative of a departure to the development standard of 26.8%
- Proposed Lot B – 368.135m<sup>2</sup> is 131.865m<sup>2</sup> under the minimum lot size requirement. This is representative of a departure to the development standard of 26.3%.

### Applicant's Submission

The Applicant has provided the following commentary to address the objectives of Clause 4.1 'Minimum subdivision lot size' in the written request to vary the development standard. See Attachment 3:

**(a) to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,**

*The proposed subdivision into two Torrens title lots, 365.676 sqm and 368.135 sqm, is consistent with the existing subdivision pattern within the locality as seen in Figure 4 where the lot depth will remain consistent with the adjacent lots and surrounding area. The proposal seeks to formalise the existing dual occupancy (attached) development by creating separate*

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titles for each dwelling, which is in line with the existing built form and surrounding subdivision pattern.

Clause 4.1A of SLEP2014 specifically allows for the Torrens subdivision of certain medium density developments into lots of any size, provided that the dwellings were approved under that clause after 21 August 2020. While this particular development predates that provision, the principle behind it reinforces that lot sizes smaller than the standard minimum can be appropriate where they reflect the established character of the area. The proposal ensures compatibility with the prevailing subdivision pattern while providing improved land tenure outcomes.

**(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,**

The proposed subdivision is for an already established and functioning dual occupancy (attached) that was approved by Shoalhaven Council in 2002 (DA02/164). The subdivision will not result in new built form, overshadowing, privacy impacts or visual bulk beyond what currently exists. Therefore, there is no additional traffic, noise or servicing impacts that may arise.

**(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.**

Each proposed lot is capable to accommodate the existing dwellings in accordance with the relevant controls under Shoalhaven Development Control Plan 2014 (SDCP2014) Chapter 11.

The existing lot is over 19m wide and 35m deep, which exceed the minimum residential lot shape and dimensions for subdivision.

Clause 4.6 Exceptions to development standards

Under clause 4.6(3) of the Shoalhaven Local Environmental Plan (SLEP) 2014, development consent is not permitted to be granted for development that contravenes a development standard unless the consent authority is satisfied that:

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) as discussed below.

Compliance with Development Standard is Unnecessary or Unreasonable

Council staff concur with the rationale and clause 4.6 variation statement set out by the applicant, and strict compliance with the clause 4.1 minimum lot size development standard is considered unreasonable in this instance as it would be inconsistent with the form of development permitted under clause 4.1A if the dual occupancy was approved after 21 August 2020 under amendment no. 35 of SLEP 2014.

There is no utility in maintaining the minimum lot size development standard under cl. 4.1 in this case, as the respective subdivision for dual occupancy beneath the minimum lot size is now permitted under cl. 4.1A (4).

The proposal is not contrary to the objectives of the development standard and SLEP 2014, and objectives of the development standard are achieved notwithstanding noncompliance with the development standard in this instance.

### Sufficient Environmental Planning Grounds

Council staff concur with the rationale and clause 4.6 variation statement set out by the applicant that there are sufficient environmental planning grounds to justify the contravention to the subdivision minimum lot size development standard in this instance. The proposed subdivision promotes the orderly development of land and is consistent with the type of development that would be permitted under Amendment 35 of the Shoalhaven LEP 2014.

### Public Interest

#### Applicant's Submission

*The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment:

The development site is zoned R2 Low Density Residential. The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*
- *To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.*

The proposed development is not contrary to the zone objectives.

The objectives of SLEP 2014 clause 4.1 are:

- *to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,*
- *to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
- *to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

The proposal is consistent with the objectives of the R2 Low Density Residential zone and clause 4.1 of Shoalhaven LEP 2014. The proposed development is considered to be in the public interest.

### **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**

The application was referred to Council's GIS unit for street number allocation and Shoalhaven Water. No issues were identified as a result of the referrals.

**External Consultations**

NIL

**Community Consultations**

No public submissions were received in relation to Council's notification of the development.

The notification was made in accordance with Council's Community Consultation Policy with letters being sent within a twenty five (25)m buffer of the site.

**Financial Implications**

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

**Legal Implications**

Pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act), a decision of the Council may be subject to a section 8.2 review or an appeal to the Court against the determination under section 8.7 of the EP&A Act.

**Summary and Conclusion**

Having regard to the assessment and the matters described in 'Issues' above, the proposal is recommended for determination by way of approval.

A draft determination has been prepared and is located at Attachment **4** to this Report for consideration.

## CL25.187 Development Application - DA23/1474 - 5 Burr Ave Nowra - Lot 5 DP 32228

**DA. No:** DA23/1474/4

**HPERM Ref:** D25/205726

**Department:** Development Services

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

**Attachments:**

1. Draft Determination - Approval (under separate cover) [⇒](#)
2. Planning Report S4.15 Assessment (under separate cover) [⇒](#)
3. Plans - Architectural (under separate cover) [⇒](#)

**Description of Development:** Demolition of Existing Structures, Tree Removal, Construction of Multi-Dwelling Housing Development (4 Units) and Internal Driveway, and associated civil, site, and landscaping works

**Owner:** B D P Harrison & E Foley

**Applicant:** Duplex Building Design

**Notification Dates:** 1 to 29 August 2023

**No. of Submissions:** Nil

### Purpose / Reason for consideration by Council

Clause 4.6 Variation lodged under the Shoalhaven Local Environmental Plan (SLEP) 2014. Staff do not have delegation to determine a variation exceeding 10% of the principal standard

### Recommendation

That the Ordinary Council approves the Development Application (DA23/1474) lodged over No. 5 Burr Avenue, Nowra subject to the conditions of consent listed in the Draft Determination Notice listed at Attachment 1.

### Options

1. Approve the application in accordance with the recommendation.

Implications: This would enable the development to proceed

2. Refuse the application

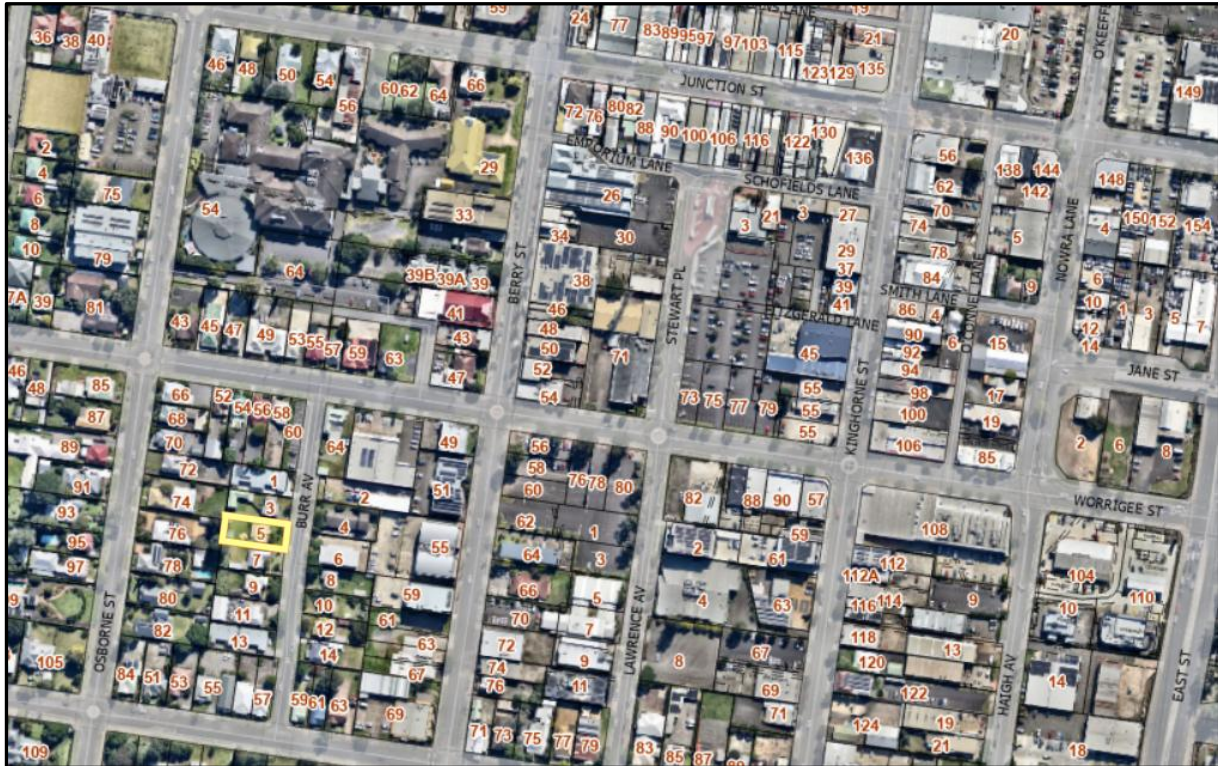
Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.14(1) considerations. The applicant would be entitled to seek a review and/or pursue an appeal in the Land and Environment Court.

3. Alternative Recommendation

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

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### Location Map



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### Background

#### Proposed Development

The proposal includes:

- Demolition of the existing single storey detached dwelling and associated outbuildings.
- Site preparation works including vegetation removal (one tree) and carrying out of cut and fill earthworks of up to 900mm cut and 900mm fill.
- Construction of a single storey multi dwelling housing development, resulting in 4 single bedroom units
- Four lot strata subdivision of the multi-dwelling housing development.
- Associated site works including construction of driveway and stormwater infrastructure construction and installation of landscaping.

#### Subject Land

The subject land is described as Lot 5 DP 32228 at No. 5 Burr Avenue Nowra and is depicted in Figure 1 above.

#### Site & Context

The site:

- Has a total area of 651.29m<sup>2</sup>.
- Is located within Zone MU1 – Mixed Use pursuant to the Shoalhaven Local Environmental Plan (SLEP) 2014.
- Achieves legal and practical access to Burr Avenue to the east.

- Is constructed with an existing detached dwelling within the central part of the site and a detached shed in the western rear part.
- Is serviced by reticulated sewer and water, accessed by mains within the Burr Avenue Road reserve.
- Has a topography which slopes from the western rear part from a high point to a low point in the eastern front part adjacent to Burr Avenue.
- Is located within an area constructed with:
  - Predominantly residential development on the western side of Burr Avenue, which includes a mix of detached residential and medium density residential development (including multi-dwelling housing developments located at No's 1 and 13 Burr Avenue).
  - A mix of commercial and residential development on the eastern side of Burr Avenue (including a large residential apartment block diagonally across from the site at 6 Burr Avenue).

## Issues

### Clause 4.6 – Variation Request (Variation to Clause 4.1A of the Shoalhaven Local Environmental Plan (SLEP) 2014)

This applicant (Duplex Building Design) has lodged a variation request in accordance with Clause 4.6 – Exceptions to Development Standards of the Shoalhaven Local Environmental Plan (SLEP) 2014.

The variation sought is to Clause 4.1A – Minimum lot sizes for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings of the SLEP 2014, and the following provides a description of the nature of the variation sought:

Clause 4.1A(2) states the following:

*(2) Development consent must not be granted to development on a lot in a zone shown in Column 2 of the Table to this subclause for a purpose shown in Column 1 of the Table opposite that zone, unless the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table.*

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<i>Multi dwelling housing</i>	<i>RU5 Village, R1 General Residential, R3 Medium Density Residential and MU1 Mixed Use</i>	<i>900 square metres</i>

The subject site measured by survey is 651.29m<sup>2</sup>. Given 900m<sup>2</sup> is required for a multi-dwelling housing development under Clause 4.1A, the site is 248.71m<sup>2</sup> short of the listed standard and therefore represents a **27.63% variation** to principal development standard reflected in Clause 4.1A of the SLEP 2014.

In accordance with Clause 4.6(3) of the SLEP 2014, development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated compliance with the following listed provisions described as (a) and (b) -

- a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

### Applicant's Submission – Compliance with Part (a)

The applicant has provided the below justification for compliance with subclause (a), being that compliance with the development standard is unreasonable or unnecessary in the circumstances:

The NSW Land and Environment Court in *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

Preston CJ identified five (5) ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary.  
planning grounds to justify contravening the development standard ..." [15]

The court provided the following five tests to be used as prompts to answer.

1. *The objectives of the standard are achieved notwithstanding noncompliance with the standard (First Way)*
2. *The underlying objective of purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way)*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way)*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way)*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

In this regard, this written request establishes and adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary because the objectives of the standard are achieved irrespective of the non-compliance and accordingly justifies the variation pursuant to the **First Way** outlined in *Wehbe*, as follows.

***Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard:***

Under SLEP 2014, Clause 4.1(A) has the following objectives in relation to the Minimum Lot Size development standard:

- a) *to achieve planned residential density in certain zones,*
- b) *to ensure that the area and dimensions of a lot are able to accommodate development that is consistent with the objectives and development controls for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings,*
- c) *to minimise any likely adverse impact of development on the amenity of neighbouring properties.*

### Achieving Planned Residential Density

The proposed development aligns with the planned residential density for the Nowra CBD South (C3) precinct, which encourages mixed-use development and increased density in Nowra CBD. The site's location on the fringe of the Nowra CBD, adjacent to another MUI Mixed Use zone, minimises potential impacts on residential areas. The purpose of the MUI zone is to provide a variety of land use types across the zoned area resulting in a mix of land residential densities, commercial and retail buildings that support the core commercial centre of Nowra CBD.

The subject site adjoins another site zoned MUI to the rear, which is used for commercial purposes. This minimises any impacts the sites density would have on an adjoining residential zone such as overshadowing or privacy impacts.

The additional dwellings contribute to the efficient redevelopment of the site, supporting the objective of achieving planned residential density in the MUI zone which aim to create a more vibrant city centre with active street frontages.

### Consistency with Zone Objectives

The development's design and layout are consistent with the objectives of the MUI zone, which promotes mixed-use development, increased density, and a vibrant, active streetscape. The proposal provides much-needed housing in the area, with an additional four dwellings, and contributes to the revitalisation of the precinct. Similar developments on the same street, with reduced lot sizes, demonstrate that this proposal is consistent with the established character of the area.

Despite the site having an area of 651.3m<sup>2</sup>, which falls below the 900m<sup>2</sup> minimum, the proposed development meets key development controls and demonstrates a well-considered layout consistent with other multi dwelling housing developments in the street. The design ensures compliance with essential elements such as:

- **Setbacks and Building Separation:** Adequate setbacks and building separation are maintained to respect surrounding properties.
- **Open Space:** The development provides functional and accessible open spaces that enhance the living environment for residents.
- **Efficient Site Layout:** The design integrates essential amenities and circulation pathways, optimising the available land to accommodate high-quality residential dwellings.

The proposal demonstrates that the site can comfortably accommodate multi-dwelling housing while adhering to key planning and design principles, thereby meeting the intent of the development control.

The proposed development incorporates design strategies to mitigate potential adverse impacts on neighbouring properties, ensuring compatibility with the surrounding urban environment:

- **Privacy:** The deliberate absence of windows on the rear (western) elevation above the ground floor prevents overlooking impacts, preserving the privacy of adjacent properties.
- **Built Form and Visual Impact:** The building massing has been carefully articulated to reduce visual dominance, with thoughtful design choices enhancing the streetscape and minimising bulk.

- **Landscaping:** High-quality landscaping integrates the development into its surroundings and provides visual buffers to adjacent properties, enhancing overall amenity.
- **Contextual Compatibility:** The street, block and broader MUI zoned area provide an eclectic mix of land uses that support the commercial core of Nowra CBD. Similar multi-dwelling housing developments have been constructed at 1 Burr Avenue and 13 Burr Avenue. Existing dwellings in the street may be developed in the future for different forms of development such as professional consulting rooms, and offices or for increased density residential development such as multi-dwelling housing and residential flat buildings. Dwellings and dual occupancies are not permitted in the MUI zone so the redevelopment of these dwellings is limited to existing use rights or permitted uses in the MUI zone. This proposal ensures long-term compatibility between the proposed development and the existing neighbourhood context.

Through these design responses, the development achieves the objectives of Clause 4.1(A) despite the reduced lot size. It provides much-needed housing within the Nowra CBD, aligns with Council's urban renewal targets, and maintains the amenity and character of the locality.

In our view, it is difficult for residential development in the MUI zone to comply with the minimum lot size requirement of 900m<sup>2</sup> for multi-dwelling housing. The pattern of development, objectives of the zone and permissible land uses, in an MUI zone mean that it is difficult to provide consolidated sites suitable for larger scale medium-high density housing. The proposed development is an efficient use of land providing additional housing required near the Nowra CBD to provide suitable housing that is in high demand, conveniently located and close to other services such as Nowra Public School, Shoalhaven Memorial Hospital and the offerings of the large regional centre in Nowra. A reduced minimum site area of multi-dwelling housing in the MUI zone should be considered for inclusion in Shoalhaven LEP 2014 or a site assessment be undertaken.

*Discussion – Council Response – Compliance with Part (a)*

Development Services, in its assessment of the applicant's justification as to whether compliance with the development standard is unreasonable or unnecessary in the circumstances, concurs with the applicant's reference to the Land and Environment Court case of *Four2Five Pty Ltd v Ashfield Council* [2015] and *Wehbe v Pittwater Council* [2007] NSWLEC827.

The five ways provided by Judge Preston CJ to establish that compliance with a development standard is unreasonable or unnecessary has established a baseline in development assessment to determine whether compliance with Clause 4.6(3a) has been met.

It is noted that the applicant has identified that the first of Preston CJ's five ways has been achieved – being that the objective of the standard are achieved, irrespective of the non-compliance with the standard.

Council agrees that the objectives of the standard are achieved, irrespective of the non-compliance and wishes to note the following:

- 1) *The objectives of this clause are as follows -*
  - a) *to achieve planned residential density in certain zones,*

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- b) to ensure that the area and dimensions of a lot are able to accommodate development that is consistent with the objectives and development controls for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings,*
- c) to minimise any likely adverse impact of development on the amenity of neighbouring properties.*

Council finds that the proposed development assists in achieving planned residential density, given:

- The proposed development assists in meeting the housing targets set for the Shoalhaven Region by the NSW State Government (4,900 new homes required to be constructed by 2029).
- The mixed-use zoning and location within close proximity to the CBD implies that properties within the zone are intended to provide a higher level of density, given its close proximity to commercial services, medical, and public transport opportunities.
- A planned residential density featuring medium density developments have already been achieved within the immediate locality – suggesting that the density proposed within the application represents the accepted standard for planned density.
- Constructed developments of a similar nature to that on the site include similar 4-unit multi-dwelling housing developments located at No's 1 and 13 Burr Avenue Nowra and a residential flat building located diagonally across the road at No. 6 Burr Avenue. The proposed development would foster this density which has already been established within the locality.
- The NSW Department of Planning have set new parameters (i.e. Low and Medium Rise Housing provisions within the Housing SEPP) with regard to planned density within close proximity (800m walking distance) to the E2 Commercial Core Zone for Nowra. This includes:
  - Permitting larger scale developments include multi-dwelling housing and residential flat buildings on properties within this distance to the CBD in Zones R1, R2, and R3.
  - The new standards include a non-discretionary development standard requiring a minimum lot size of 600m<sup>2</sup> for all multi-dwelling housing developments located within 800m of the CBD.
  - Whilst the site is not located within Zones R1, R2, and R3, it is located within 800m of the CBD and the development would be wholly consistent with the planned residential density imposed by the NSW Department of Planning for similar properties.

Council finds that the area and dimensions of the lot are able to accommodate development that is consistent with the objectives and development controls for multi dwelling housing given:

- An assessment of the development proposed has been carried out against the applicable controls within DCP Chapter G13 – Medium Density and Other Residential Development (see Appendix C below).
- It has been found that the development complies with all applicable built form controls including floor space ratio, setbacks, landscaping, private open space, and solar access.
- The development is considered to satisfy the objectives for the zone as it provides a development which is consistent with the emerging built form on the western side of Burr Avenue within a mixed-use context, noting that there are commercial developments located on the eastern side of Burr Avenue.

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Council finds that the proposed development minimises any likely adverse impact of development on the amenity of neighbouring properties.

- Sufficient setbacks are provided between buildings and that of side and rear boundaries.
- The development is considered to appropriately address privacy concerns by minimising the number of windows overlooking neighbouring properties on the first-floor level of the development.
- The development proposes only a part second storey to reduce the visual impact of the proposal on surrounding properties.
- Dwellings are located on the northern side of the allotment rather than the southern side. This eliminates potential for overshadowing and solar access impacts for the property to the south.

*Applicant's Submission – Compliance with Part (b)*

Environmental planning grounds are matters that relate to the subject matter, scope and purpose of the EP&A Act including the Act's objects (see Part A, Chapter 2.6 of [Guide to Varying Development Standards](#)). They must relate to the aspect of the proposed development that contravenes the development standard and not simply promote the benefits of the development as a whole. You must provide substantive justification as to why the contravening the development standard is acceptable

The development standard which is contravened as part of this development relates specifically to Clause 4.1A (minimum lot sizes for multi-dwelling housing, dual occupancies, eg.) of the Shoalhaven LEP. Clause 4.1A requires this specific development, being multi-dwelling housing, to exist only on lots which are at least 900m<sup>2</sup> in size. The proposed development contravenes this as the subject site is 651.3m<sup>2</sup> in area.

Reasoning behind such inflated lot size requirements for multi-dwelling housing could be understood as ensuring that each dwelling in the development has sufficient private outdoor space, privacy, and usable floor area. The proposed development consists of four (4) one-bedroom units which are each modest in size. Each dwelling is intended to be occupied by 1 single person or 1 couple only, opposed to typical multi-dwelling housing which generally provides a mix of one, two, and three bedroom units. Given that the proposed development, when assessed on merit, provides 4 reasonably sized dwellings with sufficient amenities, the contravention to the development standard is considered justifiable, as additional site area (as is required by Clause 4.1A) is considered to be unnecessary in these circumstances.

*Discussion – Council Response – Compliance with Part (b)*

The NSW Department of Planning, Industry, and Environment released a 'Guide to Varying Development Standards' document in November 2023. Section 2.6 of the document provides a description for 'environmental planning grounds', being as follows:

*The term 'environmental planning grounds', while not defined in the EP&A Act or the Standard Instrument – Principal Local Environmental Plan, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act.*

*The scope of environmental planning grounds is wide as exemplified by the court decisions in this area. Sufficient environmental planning grounds need to be established by the facts of the request. The request must justify the contravention of the development standard, not simply promote the benefits of the development.*

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*The grounds must:*

- *be sufficient to justify the contravention*
- *focus on the aspect of the development that contravenes the development standard, not the development as a whole*

*Environmental planning grounds may not be sufficient to justify the contravention of a development standard if the variation results in unsatisfactory planning outcomes*

The aspect of the proposal that contravenes the development standard is the minimum lot size of the development, with respect to the construction of multi-dwelling housing (i.e. requirement for 900m<sup>2</sup> for a multi-dwelling housing development). It is clear that the standard is concerned with managing the overall density of a development of this type.

When considering the nature of the standard, Council finds that there are sufficient environmental planning grounds to justify the contravention of the specific standard as:

- The development complies with applicable built form controls and standards relating specifically to density, irrespective of the non-compliance with Clause 4.1A.
- The development has been considered, as demonstrated above, to reflect the 'planned residential density' for the locality, given:
  - There are other developments with a similar planned density which have been approved in the surrounding locality including at No's 1, 6, and 13 Burr Avenue.
  - The NSW Department of Planning have set specific development standards which are non-discretionary, and which permit 600m<sup>2</sup> minimum lot size for lots within Zones R1, R2, and R3 which are further removed from the CBD area than the subject site.
  - Given the location of the site within a closer proximity to the CBD than properties zoned R1, R2, and R3, it is reasonable to expect that a similar density should apply to properties zoned MU1 – given the site is closer to public transport, medical facilities, and commercial opportunities than properties in such zonings.
- Development density on the site is the same as that which will be established on properties in Zones R21, R2, and R3 in the future and is reflective of the NSW Government's need for housing, as reflected in their housing targets.

### **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 2.

### **Community Consultations**

Nil public submissions were received in relation to Council's notification of the development conducted between 01 and 29 August 2023.

### **Financial Implications:**

There are potential cost implications for Council in the event of a refusal of the application by the SRPP. Such costs would be associated with defending an appeal in the Land and Environment Court, should the applicant utilise appeal rights afforded under the EP&A Act.

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**Legal Implications**

Pursuant to section 8.2 of the EP&A Act, a decision of the SRPP may be the subject of a review by the applicant in the event of approval or refusal. If such a review is ultimately pursued, the matter would be put to the SRPP for consideration.

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

**Summary and Conclusion**

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that the Development Application (DA23/1454) be approved subject to the conditions of consent recommended at Attachment 1.

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## CL25.188 Development Application - DA24/1145 - 39 Norfolk Avenue South Nowra - Lot 105 DP 1305372

**DA. No:** DA24/1145/4

**HPERM Ref:** D25/196906

**Department:** Development Services

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

**Attachments:**

1. Bushfire Assessment Report to be stamped (under separate cover) [⇒](#)
2. Architectural Plans to be Stamped (under separate cover) [⇒](#)
3. DRAFT Notice of Determination - Approval (under separate cover) [⇒](#)
4. Section 4.15 Assessment Report (under separate cover) [⇒](#)

**Description of Development:** Construction of a new industrial building for use as General Industry and associated site works and services.

**Owner:** Avesta Group Pty Ltd

**Applicant:** Allen Price Pty Ltd

**Notification Dates:** 9 May 2024 – 7 June 2024

**No. of Submissions:** Nil

### Purpose / Reason for consideration by Council

The proposed application includes a non-compliance with the eleven metre 'Height of building' development standard at clause 4.3 of Shoalhaven Local Environment Plan (SLEP) 2014. Given the extent of the variation is in excess of 10%, Council staff do not have delegation to determine the Application, and it must instead be determined by Council.

### Recommendation

That Development Application DA2024/1145 for Construction of a new industrial building for use as General Industry and associated site works and services be determined by way of approval subject to the recommended conditions of consent provided at Attachment 3.

### Options

1. Approve the application in accordance with the recommendation.

Implications: This would enable the development to proceed

2. Refuse the application.

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.14(1) considerations. The applicant would be entitled to seek a review and/or pursue an appeal in the Land and Environment Court.

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### 3. Alternative Recommendation

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

#### Location Map



*Figure 1: Location Map with subject site highlighted in blue.*

#### Background

The subject site comprises Lot 105 in DP 1305372 and is known as 39 Norfolk Avenue, South Nowra. The subject DA was lodged on 12 April 2024. The application is described as the construction of a new industrial building at 39 Norfolk Avenue, South Nowra. The subject site is zoned E4 General Industrial under the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

As the development comprises a capital investment value (CIV) of more than \$5 million and, at the time of DA lodgement, Council was the owner of the land on which the development is proposed; the application was identified as regionally significant development, with the Southern Regional Planning Panel as the determining authority in accordance with Section 2.19 and Schedule 6(3) of the State Environmental Planning Policy (Planning Systems) 2021. In addition, to address any potential conflict of interest, an independent planning consultant was engaged to assess the development application in accordance with Shoalhaven City Council policy, Dealing with Development Applications lodged by Council staff, Councillors, and Council.

The Southern Regional Planning Panel have since issued delegation to Council to determine the DA as the property has now transferred ownership from Council. As the development

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involves a variation to a development standard in excess of 10%, the DA is referred to a Council meeting for determination.

### Proposed Development

Consent is sought for the construction of an industrial warehouse building with an ancillary office component. The works specifically comprise:

Ground Floor:

- Warehouse (7,102m<sup>2</sup>)
- Warehouse lunch and amenities area (138m<sup>2</sup>)
- Storage (91m<sup>2</sup>)
- Office (703m<sup>2</sup>)
- Dispatch (59m<sup>2</sup>)
- Covered Courtyard Area

First Floor:

- Office (711m<sup>2</sup>)
- Dispatch (45m<sup>2</sup>)

The development proposes sixty-three (63) car parking spaces, nine (9) motorcycle spaces and six (6) bicycle spaces. Suitable vehicular access is proposed via the Norfolk Road frontage. Landscaping is proposed along the site's Norfolk Avenue frontage and within the carparking area and courtyard.

The development will expand the operations of the same company that occupies the site immediately to the west; being Lot 8 DP 1067883. The relationship between these separate sites is that this site (Lot 105) will provide storage for products manufactured on the adjacent Lot 81 DP 1067883.

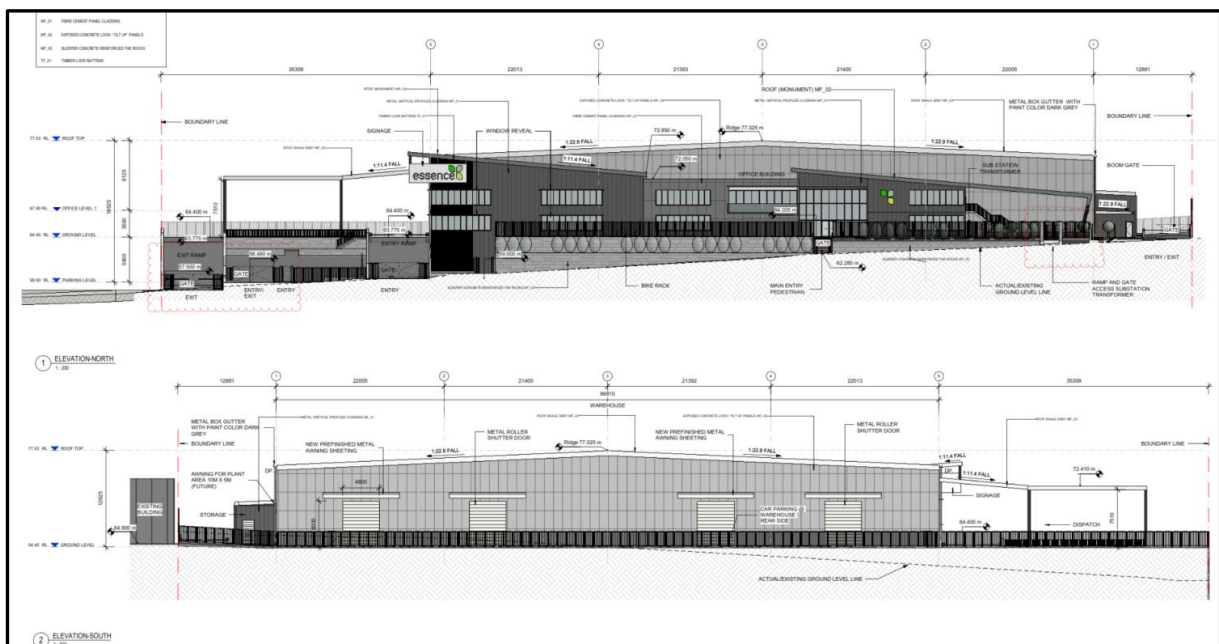


Figure 2: North and South Elevation Plans

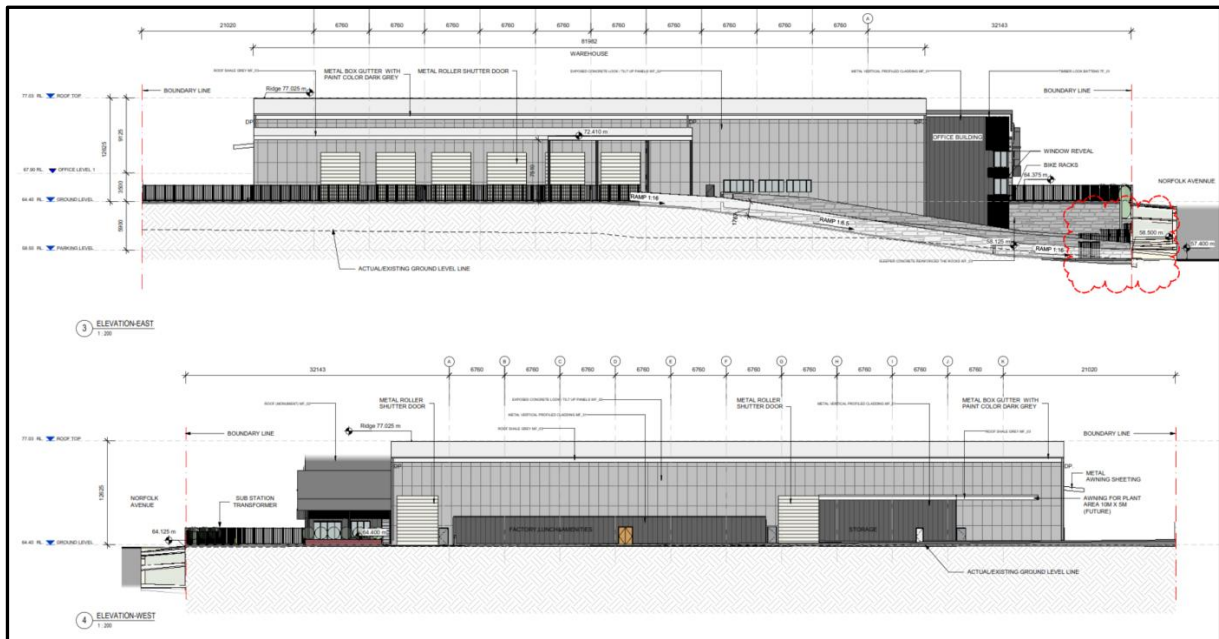


Figure 3: East and West Elevation Plans

### Subject Land

The subject site is located on the southern side of Norfolk Avenue. The site is legally described as Lot 105 DP 1305372 and addressed as 39 Norfolk Avenue, South Nowra.

### Site & Context

The site is a regular allotment with a site area of 16,300m<sup>2</sup>. The site has connections to reticulated water and sewer.

Surrounding land use/development consists of the following:

- **North** – JLH Plumbing and Gas – Contractors for civil works, road construction, marine and sporting infrastructure, Drainage, Plumbing, Environment
- **East** – Undeveloped land levelled for future E4 Industrial development.
- **South** – Large amounts of vegetation and unoccupied land zoned E4
- **West** – Essence Group – manufacturer of infant nutrition products, listed medicines and dietary supplements.

Under the provisions of Shoalhaven LEP 2014 the subject land is zoned E4 General Industrial.

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Figure 4: Zoning Map

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### History

DA2024/1145 was lodged on 12 April 2024 seeking consent for the construction of a new industrial building at 39 Norfolk Avenue, South Nowra.

The land the subject of this DA formed part of a staged industrial subdivision development, which was approved by Council on 14 August 2003 (SF9294). There have been multiple modifications approved since the original granting of consent. The most recent and most relevant to this DA is DS21/1442 which was approved by Council on 11 March 2022.

DS21/1442 amended the approved subdivision layout to create 56 industrial lots, including the lot the subject of this DA: Lot 105 as part of Stage 10. The subdivision has now been registered and the works the subject of this DA are proposed on Lot 105 in DP 1305372.

Consent is sought for the construction of an industrial warehouse building with an ancillary office component.

### **Issues**

#### Clause 4.3 Height of Building of Shoalhaven LEP 2014

The applicant proposes a contravention to the Maximum Height of Building (HOB) development standard that applies to the site, pursuant to clause 4.3 of the SLEP 2014. Specifically, clause 4.3(2A) states 'If the Height of Buildings Map does not show a maximum height for any land, the height of a building on the land is not to exceed eleven metres.

This clause restricts developments to a maximum HOB of 11m. The subject proposal has a building height of 14.418m, contravening the development standard by 3.418m or 31%.

In accordance with Clause 4.6(3), the applicant requests that the HOB development standard be contravened in this instance.

#### Applicant's Submission

The applicant's written request submits that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the departure from the control. Specifically, the applicant submits that:

*The height non-compliance with the 11-metre height control is suitable given the industrial location of the proposed development and it has occurred due to the sloping varied topography of the site. The proposed warehouse will maintain limited visibility from surrounding development and public domain spaces. The elements exceed the height control by 1.876m – 3.418m variation to the related Development Standard) and are positioned in an inconspicuous location which is generally not in the foreground of the public domain.*

*Notwithstanding the non-compliance with the maximum height of building development standard, this Clause 4.6 variation statement demonstrates that the justification for varying the development standard is well founded because:*

- The proposed variation of the development standard will not limit the potential for adjoining sites to be developed to their permitted capabilities in the future.*
- The proposed variation will have no effect on heritage matters.*
- The proposed building height variation will not generate any unacceptable adverse environmental impacts in respect of overshadowing, view loss or privacy impacts.*
- The proposal continues to satisfy the objectives of the relevant objectives of the building height control applying to the site.*
- The proposal serves the needs of Shoalhaven by providing employment opportunities.*

*The variation sought represents an appropriate degree of flexibility within the scope of Clause 4.6. The non-compliance achieves better outcomes for and from development. Therefore, this exemption to the development standard will not result in any adverse impacts to surrounding residents or workers.*

*The proposal is considered to have sufficient planning grounds to justify the contravening maximum height of building development standard in this case.*

#### Discussion

It is considered that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the SLEP 2014. Additionally, the development is considered to be in the public interest as it meets the relevant objectives of the E4 General Industrial zone and the objectives of Clause 4.3 of the SLEP 2014.

Pursuant to Clause 4.6(4) of the Shoalhaven LEP, the consent authority can be satisfied that:

- The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the LEP; and
- The development will be in the public interest because it is not consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is noted that Council may assume the concurrence of the Secretary pursuant to Planning Circular PS 20-002.

## Planning Assessment

The DA has been assessed under s4.15 of the Environmental Planning and Assessment Act 1979. The independent planning assessment report is included in Attachment 4.

## Internal Consultations

Development Engineer: Council's Engineer considered subdivision, drainage, civil and traffic matters. Conditions of consent were prepared and imposed within the draft determination.

Building Surveyor: Council's Building Surveyor has considered the development and conditions of consent have been recommended.

Shoalhaven Water: A condition of consent requiring a Water Development Notice to be obtained has been recommended.

## External Consultations

Endeavour Energy: The DA was referred to Endeavour Energy and conditions of consent have been recommended.

Transport for NSW: No objections were raised.

## Community Consultations

The application was publicly exhibited in accordance with the requirements of the Environmental Planning and Assessment Regulation 2021 (EP&A Regs) and Council's Community Consultation Policy from 9 May 2024 – 7 June 2024. No submissions were received.

## Financial Implications

There are potential cost implications if Council decide to refuse the application. Such costs would be associated with defending an appeal in the Land and Environment Court of NSW.

## Legal Implications

A section 8.2 review and/or appeal with the Land and Environment Court are possible if the application is refused.

## Summary and Conclusion

An independent planning assessment of DA2024/1145 has been carried out. The report notes the proposed development is generally consistent with the applicable State Environmental Planning Policies, provisions of Shoalhaven LEP 2014 and performance solutions of Shoalhaven DCP 2014. While the proposed development contravenes clause 4.3 Height of buildings of the SLEP 2014, the applicant's Clause 4.6 written request provides sufficient environmental planning grounds to justify the contravention. The independent assessment and Council staff's recommendation is that the application is considered capable of support as there are no substantial planning reasons to warrant refusal. Draft conditions of consent have been prepared, taking into account the recommendations from the independent planning assessment. Accordingly, it is recommended the development application is approved subject to the conditions in the draft consent (Refer to Attachment 3).

## CL25.189 Development Application - DA24/1044 - 43 Princes Highway ULLADULLA - Lot 13 Sec 12 DP 759018

**DA. No:** DA24/1044/4

**HPERM Ref:** D25/60175

**Department:** Development Services

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

**Attachments:**

1. Assessment Report S4.15 (under separate cover) [⇒](#)
2. C14.6 Variation Request (under separate cover) [⇒](#)
3. Plan of Proposed Subdivision (under separate cover) [⇒](#)
4. Draft Notice of Determination (under separate cover) [⇒](#)

**Description of Development:** Two lot Torrens Title subdivision

**Owner:** Brian John Azzopardi

**Applicant:** Brian Azzopardi

**Notification Dates:** 20/02/2024 - 05/03/2024

**No. of Submissions:** Nil

### Purpose / Reason for consideration by Council

DA2024/1044 proposes a variation of 25.62% to the development standard set by Clause 4.1 (minimum subdivision lot size) of Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

The departure from the development standard is >10%, therefore the application and variation must be considered and determined by the Council.

### Recommendation

That Development Application No. DA2024/1044 for Subdivision of 43 Princess Highway ULLADULLA - Lot 13 Sec 12 DP 759018 be determined by way of approval subject to the recommended conditions of consent provided at Attachment 4.

### Options

1. Approve the application in accordance with the independent recommendation.

Implications: This would enable the development to proceed.

2. Refuse the application.

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.14(1) considerations. The applicant would be entitled to seek a review and/or pursue an appeal in the Land and Environment Court.

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3. Alternative recommendation.

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

**Location Map**



*Figure 1: Aerial image of subject site.*



*Figure 2: General location with minimum lot size map ("1", min. 500m<sup>2</sup>).*

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## Background

### Subject Land and Site Context

The development site comprises Lot 13 Sec 12 DP 759018, located at 43 Princes Highway Ulladulla. The site has an area of 1,194.3m<sup>2</sup> and is slightly irregular in shape.

The site contains Auto & Marine Trimming upholstery business fronting St Vincent Street Ulladulla with attached dwelling with an additional access to Princes Highway and has approval for part of the building to be used as office space for Bella Coastal Property real estate. Site area west of the existing building is undeveloped apart from retaining walls and fences.

The site is located on the Southern side of the Princes Highway and is adjoined by a Telstra Office building to the West, a mix of residential and businesses across the highway to the North and opposite St Vincent Street to the East, with residential dwellings to the South. The site is approximately 900m North of the Ulladulla Post Office.

### Proposed Development

The proposal involves the Torrens Title subdivision of the subject site into 2 lots from the existing 1 with the entirety of the existing building and associated uses to remain on one of the proposed lots (Lot 1).

The proposed lots are as follows:

Proposed Lot 1 – 641.7m<sup>2</sup> excluding land zoned SP2 Road

Proposed Lot 2 – 371.9m<sup>2</sup> excluding land zoned SP2 Road

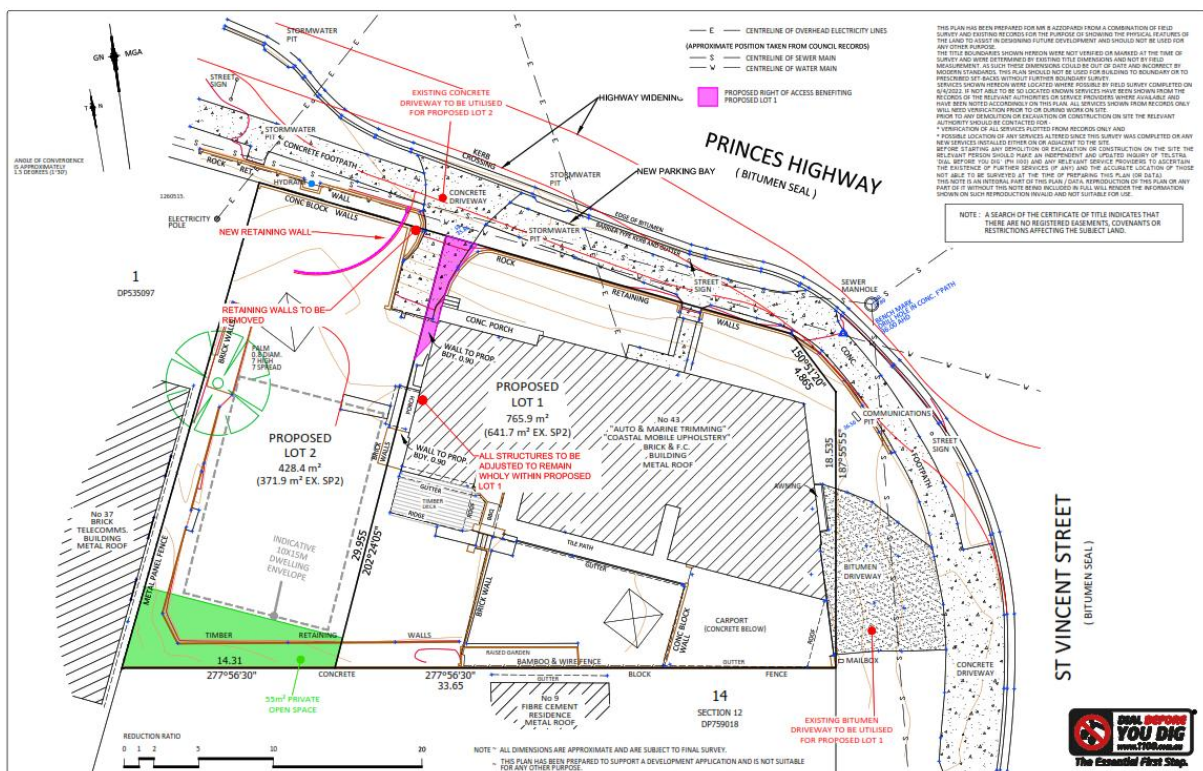


Figure 3: Plan of proposed subdivision depicting proposed lots 1 and 2.

Lot 1 is proposed to use the existing bitumen driveway for legal access to St Vincent Street to the East. Lot 2 is proposing to use the existing concrete crossover for legal access to the Princes Highway to the North, which will require removal of part of the existing front boundary wall and retaining wall in order to accommodate practical access to the site.

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## Issue

### Clause 4.1(3) – Minimum Subdivision Lot Size of the Shoalhaven Local Environmental Plan (SLEP) 2014

As a principal development standard, the size of any proposed lot on any land is to provide a minimum lot size in accordance with the Lot Size Map, with the subject site minimum area being 500m<sup>2</sup> in accordance with the R2 Zone.

The R2 zoned portion of proposed Lot 2 (pink hatching) is 371.9m<sup>2</sup> in size excluding land zoned for future road widening SP2 Road (yellow hatching), see figure 4.

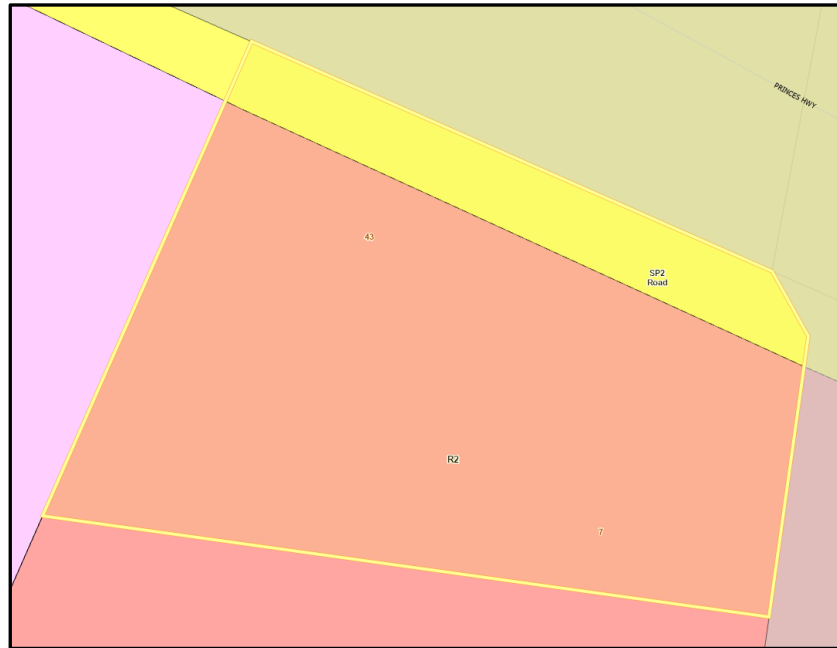


Figure 4: Subject site with the zoning layer enabled, showing SP2 Road in yellow and R2 in red.

Proposed lot 2 is 128.1m<sup>2</sup> below the minimum 500m<sup>2</sup> lot size development standard and as such has a 25.62% departure from the minimum required size - see figure 5.

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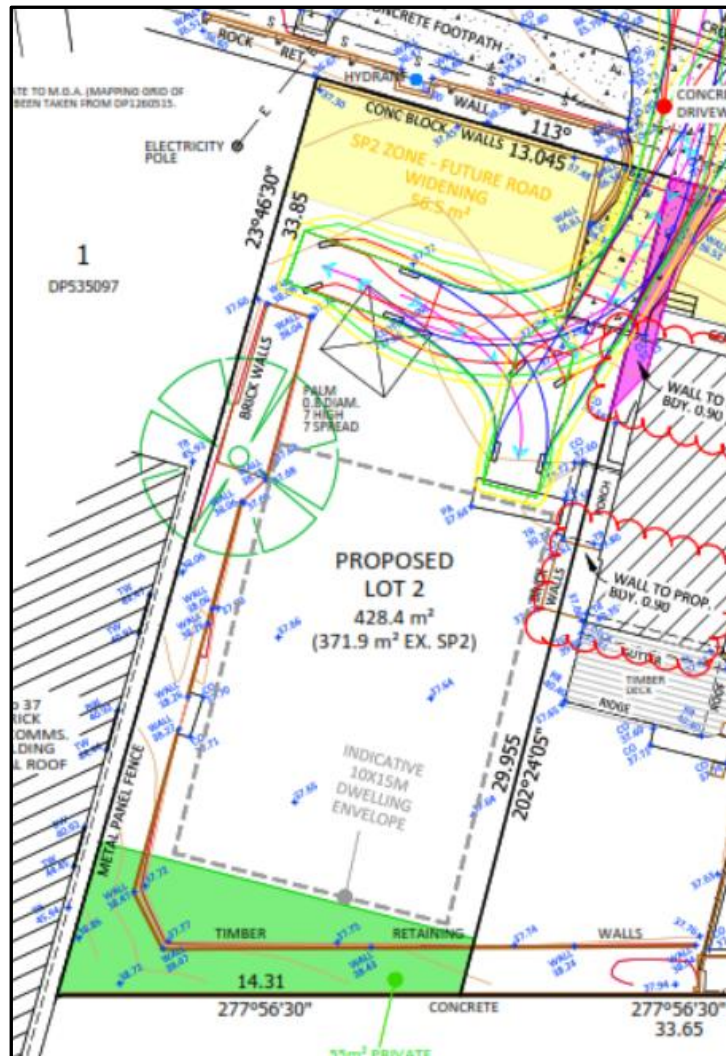


Figure 5: Proposed Lot 2 - 128.1m² below the minimum lot size of 500m².

Where there is a departure to a principal development standard, consent may still be issued for a proposal where a variation request is submitted and compliance with the requirements under Clause 4.6 of the SLEP 2014 is demonstrated.

In this instance, the applicant duly lodged a Clause 4.6 variation request to the principal lot area development standard - clause 4.1(3). A full detailed assessment of the applicant's Variation request under Clause 4.6 is provided in Council's Assessment Report found in Attachment 1.

As part of Council's detailed assessment, staff concluded that there are suitable environmental planning grounds to justify the contravention of the development standard and that compliance with the development standard is unreasonable or unnecessary in the circumstances and that the application be determined by way of approval.

#### Applicant's Submission

The Applicant has provided the following commentary to address the objectives of Clause 4.1 'Minimum subdivision lot size' in the written request to vary the development standard. See Attachment 2.

#### **Objective (a) – Subdivision pattern and character**

The characteristics of the subdivision pattern are influenced by a later rectilinear subdivision pattern being imposed over the historical curvilinear route of the Princes Highway. This has

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led to a great diversity in lot sizes and orientations in the locality. Lot sizes range from 1935 square metres (39 Princes Highway, consolidated from smaller lots to accommodate the large Telstra exchange building) to about 350 square metres (14 St Vincent Street).

Most existing lots in the locality conform to a more or less rectangular shape and with an absence of battle axe allotments. The effect of the proposed subdivision is to excise an area of vacant land from that part of the subject land containing the existing dwelling and its curtilage. The proposed vacant lot has a fully fenced and distinctly separate frontage to the proposed lot containing the existing dwelling, and an existing separate driveway access. The proposed subdivision incorporating a variation to the minimum subdivision lot size will not result in any physical changes as observed from the public domain.

The proposed variation is consistent with the diverse nature of the subdivision pattern and character existing in the area.

### **Objective (b) – Amenity of neighbouring properties**

With two road frontages, the subject land has only two neighbouring properties:

- 39 Princes Highway, a site of 1935 square metres that contains a large building used as Telstra's Ulladulla Exchange, together with ancillary parking and service area on the western side of that land.
- 9 St Vincent Street, a site of about 1000 square metres containing a single dwelling house.

Compared with a complying development, the proposed variation will not have any impact on the amenity of the neighbouring properties.

We would also point out that a complying lot (500 square metres minimum) would encroach by a number of metres onto the footprint of the existing dwelling located on the land. To achieve such a complying lot would result in the need to demolish a wing of the existing dwelling that currently contains part of the lounge room, a bedroom, walk in robe and ensuite. Compared with a complying proposal, the proposed variation will minimise loss of amenity to the existing dwelling.

### **Objective (c) – Accommodation of development consistent with relevant development controls**

The land is predominantly zoned R2 Low Density Residential, which is intended primarily to cater for low density residential development such as dwelling houses.

#### **Clause 4.6 Exceptions to development standards**

Under clause 4.6(3) of the Shoalhaven Local Environmental Plan (SLEP) 2014, development consent is not permitted to be granted for development that contravenes a development standard unless the consent authority is satisfied that:

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) as discussed below.

### **Compliance with Development Standard is Unnecessary or Unreasonable**

Council staff concur with the rationale and clause 4.6 variation statement set out by the applicant, and strict compliance with the clause 4.1 minimum lot size development standard is considered unreasonable in this instance as proposed lot (2) has been demonstrated to be

capable of accommodating a standard building envelope for a dwelling and all of its ancillary functions despite its non-conformance with the minimum subdivision lot size.

The proposal is not contrary to the objectives of the development standard and SLEP 2014, notwithstanding noncompliance with the development standard in this instance for the following reasons:

- The area follows a pattern of clusters of smaller lots and occasional large lot throughout with subdivision occurring off original lots through different LEP clauses throughout the years.
- In this instance the proposed lot 2 provides for the needs of a dwelling house, i.e. providing a building envelope and private open space, to demonstrate that a dwelling may be comfortably accommodated on the site despite not meeting the 500m<sup>2</sup> minimum set by clause 4.1.

#### Sufficient Environmental Planning Grounds

Applicant's justification of environmental planning grounds include:

- Compliance with the 500 square metre minimum lot size would substantially reduce the amenity and value of the existing dwelling and substantially increase the cost of undertaking the subdivision due to the costs of demolishing and making good the structure of the existing dwelling.
- The proposed vacant lot has been demonstrated to be capable of accommodating a dwelling and all of its ancillary functions despite its non-conformance with the minimum subdivision lot size development standard.
- Demolition of part of the existing dwelling would negate the embodied energy contained in the structure for no amenity, efficiency or environmental gains. Subdivision as proposed with a smaller lot size for the proposed vacant lot will provide an opportunity for an additional dwelling without significant loss of building fabric, embodied energy or amenity involved with the existing dwelling. In this way the proposal promotes the achievement of ecologically sustainable development outcomes.
- The proposed vacant lot has the benefit of an existing vehicle access driveway to the Princes Highway and takes in a level area that is ideal for construction of a new dwelling. The proposal therefore responds to the unique circumstances of the site in a way that a complying proposal could not.

Council staff concur with the environmental planning grounds and clause 4.6 variation statement set out by the applicant that there are sufficient environmental planning grounds to justify the contravention to the subdivision minimum lot size development standard for lot 2 in this instance.

The proposal if approved would create an additional smaller lot that could add diversity to the local housing stock and meet a growing need for smaller housing to satisfy the aging population in an area with high amenity (close to shops, schools, and natural environment).

#### Public Interest

##### Applicant's Submission

*Subdivision as proposed with a smaller lot size for the proposed vacant lot will provide an opportunity for an additional dwelling without significant loss of building fabric, embodied energy or amenity involved with the existing dwelling. In this way the proposal promotes the achievement of ecologically sustainable development outcomes.*

Comment:

The development site is zoned R2 Low Density Residential. The objectives of the R2 Low Density Residential zone is:

- *To provide for the housing needs of the community within a low-density residential environment*
- *To enable other land uses that provide facilities or services to meet the day-to-day needs of residents*
- *To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.*

The proposed development is not contrary to the zone objectives.

The objectives of SLEP 2014 clause 4.1 are:

- *to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,*
- *to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
- *to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

The proposal is consistent with the objectives of the R2 Low Density Residential zone and clause 4.1 of Shoalhaven LEP 2014. The proposed development is considered to be in the public interest.

### **Planning Assessment**

The DA has been assessed under s4.15(1) of the Environmental Planning and Assessment Act 1979 and the proposal has been deemed acceptable. Please refer to Attachment 1.

### **Internal Consultations**

The application was referred to Council's GIS unit for street number allocation and Shoalhaven Water. No issues were identified as a result of the referrals.

### **External Consultations**

The application was referred to Transport for NSW and Endeavour Energy. No objections raised and conditions provided.

### **Community Consultations**

Notification and advertisement was undertaken by Development Services in accordance with the Community Consultation Policy. In this regard, letters were sent out within a 25m buffer of the site, and the associated documents are viewable on DA Tracking.

Nil public submissions were received in relation to Council's notification and advertisement of the development.

**Financial Implications**

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

**Legal Implications**

Pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act), a decision of the Council may be subject to a section 8.2 review or an appeal to the Court against the determination under section 8.7 of the EP&A Act.

**Summary and Conclusion**

In summary, the proposal meets the relevant objectives of Cl. 4.1 of Council's Local Environmental Plan (SLEP 2014), Chapters G11 and G12 of Council's Development Control Plan (DCP) and demonstrates that the variation from the minimum lot size (500m<sup>2</sup>) for Lot 2 will not result in a detrimental impact upon the site, locality, natural environment or the public domain.

Strict compliance with the minimum lot area development standard for proposed Lot 2 is unreasonable and unnecessary in the circumstances of this case and the applicant has demonstrated suitable environmental planning grounds to justify the contravention of the development standard in this case.

It is recommended that DA2024/1044 for a two (2) lot Torrens subdivision be approved subject to recommended conditions of consent – refer Attachment 4.

## CL25.190 Update on two Planning Proposal (rezoning) matters at Callala Bay

**HPERM Ref:** D25/187448

**Department:** Strategic Planning  
**Approver:** Lindsay Usher, Acting Director - City Development

**Attachments:**

1. Callala Bay URA - NoM CL24.212 & MIN24.377 (under separate cover) [⇒](#)
2. Callala Bay URA - Planning Minister response 11/9/24 (under separate cover) [⇒](#)
3. Sealark Road PP - Rezoning Review submission, August 2023 (under separate cover) [⇒](#)
4. Sealark Road PP - Rezoning Review submission, March 2024 (under separate cover) [⇒](#)
5. Sealark Road PP - Gateway determination 24/3/2025 (under separate cover) [⇒](#)

### Purpose:

To provide an update on the following two Planning Proposals (PP's) at Callala Bay and clarify Council's position on each:

1. Halloran Trust Planning Proposal (Portal ref: <a href="#">PP-2022-406</a> )	
<b>Property Details</b>	Halloran Trust lands at Callala Bay, Wollumboola and Kinghorne
<b>Proponent</b>	Allen Price Pty Ltd
<b>Owner</b>	Sealark P/L (Halloran Trust)
<b>Status</b>	Concluded 11 October 2022 via Map Amendment No. 5 to Shoalhaven LEP 2014 – rezoning finalised.  Part 6 of the LEP to be satisfied before the mapped Urban Release Area (URA) can be developed. Biodiversity impacts must also be assessed under the NSW Biodiversity Conservation Act.
<b>Current resolution</b>	<a href="#">MIN24.377, 22 July 2024</a> (CL24.212):  Request that the NSW Government rezone the URA to C2 Environmental Conservation (from R1 General Residential).
2. Sealark Road Planning Proposal (Portal ref: <a href="#">PP-2021-4162</a> & <a href="#">RR-2023-10</a> )	
<b>Property Details</b>	Lot 5 DP 1225356, Sealark Road, Callala Bay
<b>Proponent</b>	PRM Architects
<b>Owner</b>	C Pintabona, A Pintabona, A Pintabona, G Pintabona, K A Sirolli, G Sirolli, F Angeloni
<b>Status</b>	Post Gateway (pre-exhibition) determination following a Rezoning Review conducted by the NSW Government's Southern Regional Planning Panel.
<b>Current resolution</b>	<a href="#">MIN23.106, 13 March 2023</a> (CL23.66):  Not support the proponent's PP application.

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## Summary and Key Points for Consideration:

### **Halloran Trust Planning Proposal (PP-2022-406) – Callala Bay URA**

- The PP was declared State and regionally significant on 13 December 2021 due to its environmental benefits, and the Planning Proposal Authority (PPA) role was reassigned from Council to the NSW Department of Planning and Environment (DPE) (now Department of Planning, Housing and Infrastructure – DPHI).
- On 11 October 2022, the Shoalhaven Local Environmental Plan (LEP) 2014 was amended (Map Amendment No. 5) concluding the PP process.
- Part 6 of the LEP must be satisfied before the URA that is zoned R1 General Residential can be subdivided for housing, namely:
  - Arrangements are in place to provide essential local infrastructure, including a Neighbourhood Safer Place (NSP) for Callala Bay. Potential NSP options will be separately reported to Council for initial consideration.
  - Development Control Plan (DCP) is prepared for the site. Note: this requirement can also be satisfied by a concept development application (section 4.23 of the NSW *Environmental Planning and Assessment Act, 1979*).
- The biodiversity impacts of the development of the proposed residential area must be assessed under the NSW *Biodiversity Conservation Act, 2016*, in accordance with the Biodiversity Assessment Methodology (BAM).
- The NSW Government declined Council's more recent resolved request to rezone the URA to *C2 Environmental Conservation*.
- If Council wishes to pursue its own PP to rezone the land to C2, staff resources (and possibly funding) will need to be allocated to this task, with an uncertain outcome.

### **Lot 5, DP 1225356, Sealark Road (PP-2021-4162)**

- It is understood that this PP will be publicly exhibited by DPHI in due course when the proponent has prepared the required Flood Impact Risk Assessment (FIRA).
- Council resolved to not support the proponents PP application in March 2023, but the Southern Regional Planning Panel (the Panel) subsequently conducted a Rezoning Review and concluded that it should progress.
- Further clarifying Council's position on this PP will assist staff in making a timely submission when this PP is ultimately exhibited, noting that it will only be exhibited for 20 working days.

## Recommendation

That Council:

1. Receive the NSW Planning Minister's letter declining to rezone the Halloran Trust's Urban Release Area (URA) at Callala Bay to environmental conservation for information.
2. Acknowledge that initiating a Council-led Planning Proposal seeking to now rezone the Callala Bay Urban Release Area (URA) to C2 Environmental Conservation would:
  - a. need to demonstrate strategic and site-specific merit, including any impact on Council's ability to meet the Government's housing targets
  - b. necessitate the allocation of staff resources and possibly funding

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- c. be unlikely to progress beyond the Gateway step, given the Minister's response noting that:
  - i. the NSW Government was aware of and considered the community's biodiversity concerns when it rezoned the land in 2022 as part of the broader PP for the Halloran Trust's land at Callala Bay, Wollumboola and Kinghorne
  - ii. under the 2024 National Housing Accord, the NSW Government has committed to the target of 377,000 new well-located homes across the state by 2029, including 4,900 in the Shoalhaven LGA
3. Not initiate a Planning Proposal given the above circumstances.
4. Authorise the Acting CEO to submit a written submission on the Planning Proposal for Lot 5 DP 1225356, Sealark Road, Callala Bay (upon exhibition), raising concerns about strategic and site merit and integrating relevant staff feedback on the supporting technical reports.

## Options

In respect of the **Callala Bay Urban Release Area (URA)**, either:

1. Council undertake the necessary steps to initiate a PP to rezone the area to C2. This is not recommended.

Implications: If Council initiates a PP, the process outlined in the NSW Local Environmental Plan Making Guideline will need to be followed. Resources would need to be allocated. This would involve preparing a scoping study supported by any necessary investigations, identifying alternative sites to offset the resulting loss of housing, and consulting with the relevant Government agencies. Noting the written advice received from the NSW Government already, the outcome in this regard may be difficult to justify and is uncertain.

OR

2. Not pursue a PP to rezone the URA to environmental conservation as recommended.

Implications: This would see the existing zones being retained. Biodiversity impacts associated with future development must be assessed under the 'avoid, minimise and offset' framework in the Biodiversity Conservation Act.

Part 6 of the Shoalhaven LEP 2014 must be satisfied before the land can be subdivided for housing, noting that a concept development application also appears to be an option. The local infrastructure required for the URA includes a Neighbourhood Safer Place (NSP) in Callala Bay. A report on the NSP options identified by the proponent will be provided for Council's specific consideration in the near future.

In respect of the PP for **Lot 5 DP 1225356, Sealark Road**, either:

1. Council make a submission opposing the PP (when exhibited) based on the strategic and site merit concerns outlined in this report, incorporating relevant staff feedback on the documentation when it becomes available. This is the recommended approach.

Implications: The Panel supported the PP on the basis that it will help to improve housing supply and that it will achieve an overall environmental benefit. The proposed residential development would require extensive earthworks and road construction, raising potential concerns about environmental impacts and affordability.

The land is not identified for investigation in the Council's adopted strategic planning documents, raising strategic merit and precedent concerns.

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The updated PP and supporting documentation, including the required Flood Impact Risk Assessment (FIRA) would be reviewed in consultation with Councils relevant technical staff and the feedback incorporated into the submission.

OR

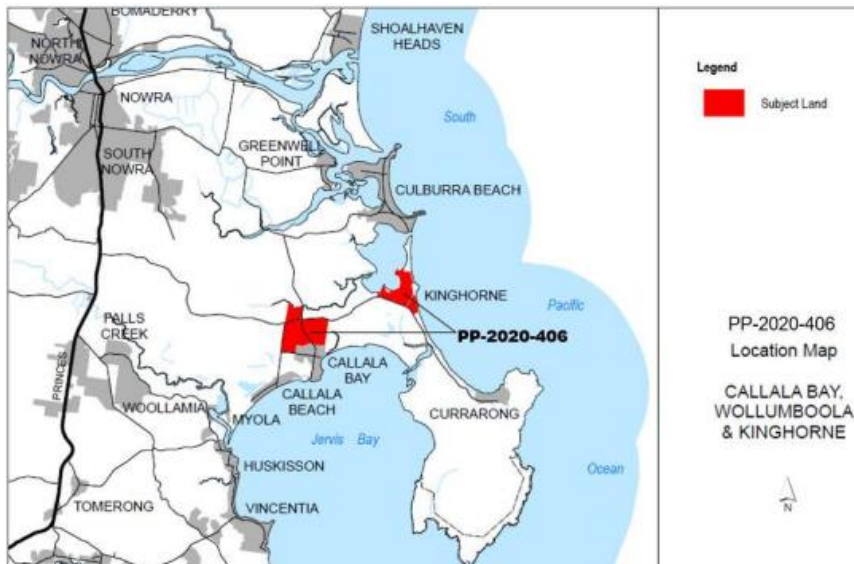
2. Make a submission supporting the PP (when exhibited) and include any site-specific concerns identified from a review of the technical documentation when available. This is not recommended.

Implications: Because the land is not an identified investigation area for residential use or growth, this option will potentially undermine the Council's adopted strategic planning documents when considering future proposals. This could encourage similar proposals elsewhere and draw staff resources away from strategic planning to support housing delivery in identified urban growth areas. Also, strategic and site merit are not completely separate; the land is not identified for investigation in Council's adopted planning strategies partly because of its attributes.

### Background and Supplementary information

#### 1. Halloran Trust Planning Proposal ([PP-2022-406](#)) – Callala Bay Urban Release Area (URA)

- The original PP sought to resolve the 'deferred' status of various areas of land owned by the Trust, allowing for a westwards expansion of the Callala Bay township (approx. 40 hectares), and also rezoning approximately 517 hectares in the Callala Bay, Wollumboola and Kinghorne localities to *C2 Environmental Conservation* to facilitate preservation of native bushland. The subject lands are shown in **Figure 1**.

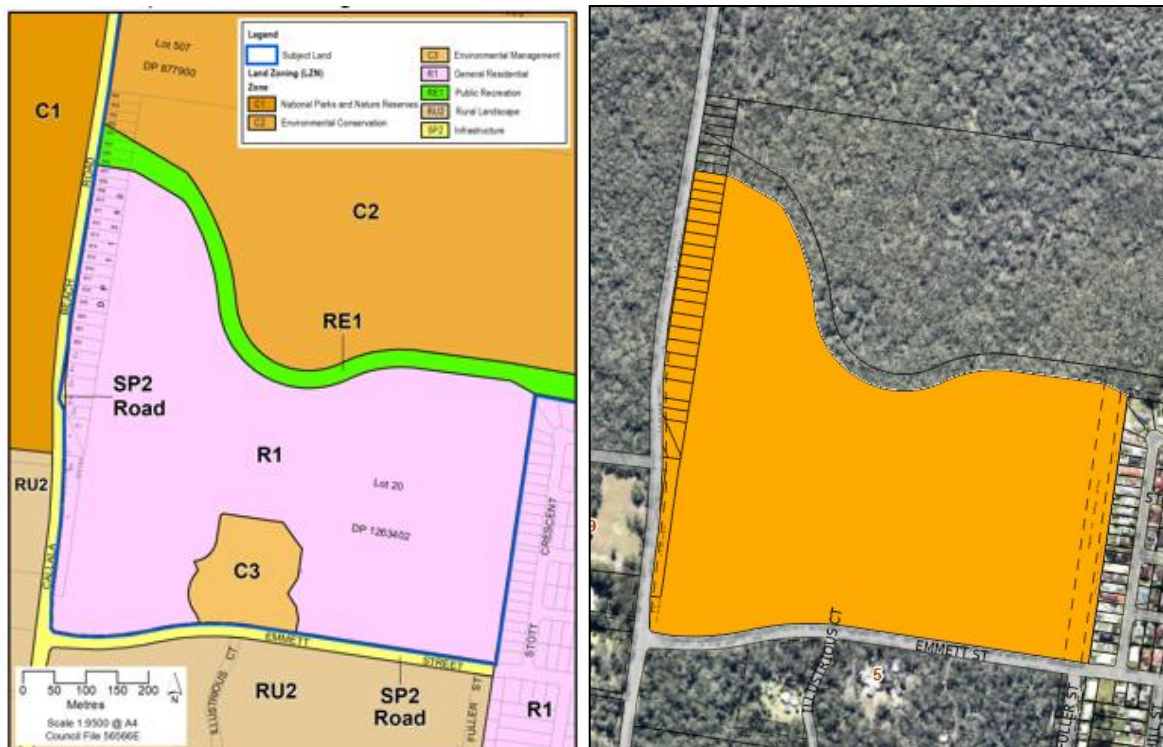


**Figure 1** – Subject land for Halloran Trust Planning Proposal (PP-2022-406)

- The land included hundreds of 'paper subdivision' lots, which were subdivided on paper in the 1920s by Henry Halloran but never physically developed nor serviced by infrastructure.
- The Jervis Bay Regional Environmental Plan 1996 (REP) initially identified 330 hectares of land at Callala Bay for investigation
- Following further analysis of the environmental constraints, this growth potential was reduced to 35 hectares in the Jervis Bay Settlement Strategy 2003 (JBSS).
- Investigations into the development potential of the land commenced in late 2014.

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- An overall PP for the Halloran Trust's land was split in two in late 2017: a new PP was created for the land at Callala, Wollumboola and Kinghorne. Note: The [original Halloran Trust PP](#) was amended to only cover the Culburra Beach locality (which includes the land where the Court-approved 'West Culburra mixed-use concept subdivision' is located) and was terminated by DPE in December 2020 as one of five 'legacy' PPs in Shoalhaven.
- On 13 December 2021, the then NSW Minister for Planning and Public Space and Transport and Roads, declared the PP as state and regionally significant due to '*potential environmental benefits of this proposal for both Lake Wollumboola and the Jervis Bay National Park*', and reassigned the Planning Proposal Authority (PPA) role to DPHI's predecessor, the NSW Department of Planning, Industry and Environment.
- The PP concluded on 11 October 2022 when the following changes were made to the Shoalhaven LEP 2014 via Map Amendment No. 5:
  - 517 hectares of land was rezoned to *C2 Environmental Conservation*.
  - Approximately 40 hectares between Callala Beach Road and the existing Callala Bay township was rezoned to a mix of *R1 General Residential*; *RE1 Public Recreation* (northern linear reserve) and *C3 Environmental Management* (bushland reserve) – see **Figure 2** (left)
  - The residential expansion area was also mapped as 'Urban Release Area' – (**Figure 2** - right) meaning [Part 6 Urban Release Areas](#) of the Shoalhaven LEP 2014 must be satisfied before any subdivision for housing occurs.



**Figure 2** – Current land use zoning (left) and the mapped Urban Release Area (URA) (right) overlaid onto aerial photograph

- Council had been the 'applicant' for the proponent's associated biodiversity certification application (under a savings provision in the NSW Biodiversity Conservation Act). On 22 May 2023, Council however resolved to *formally withdraw the Callala Bay Bio-certification application given the widespread community opposition to the potential development* (MIN23.250). As a result the application was withdrawn.

- On 22 July 2024, Council then resolved to request the NSW Government to take the necessary steps to rezone the area to C2 Environmental Conservation (MIN24.377) - the associated Notice of Motion and resulting resolution are provided in **Attachment 1**.
- Council wrote to the NSW Minister for Planning and Public Spaces, the Hon Paul Scully MP and the Secretary of the NSW Department of Planning, Housing and Infrastructure (DPHI) on 5 August 2024 to advise of the resolution and requested that the area be rezoned to C2. A copy of the letter to the Minister was also provided to the State Member for South Coast, Liza Butler MP, and the Federal Member for Gilmore, Fiona Phillips MP.
- The Minister responded in writing on 4 September 2024, acknowledging Council's resolution but declining the request. The Minister's letter is provided in **Attachment 2** and is summarised below:
  - The PP had an extended two-month public consultation period.
  - While there was opposition to the proposal, DPHI concluded that the benefits of the rezoning outweighed any negative impacts.
  - The benefits include the provision of 380 dwellings and the protection of 517 hectares of bushland that will eventually be transferred to the NPWS for inclusion in the Jervis Bay National Park.
  - Should Council wish to submit a PP to DPHI, it will need to demonstrate strategic and site merit, including Council's ability to meet the Government's housing targets and measures to offset the resulting loss of housing.
- Representations have subsequently been received from the Callala Bay Community Association and the Callala Matters community group seeking to clarify Council's position on the desired rezoning.

## 2. Lot 5, DP 1225356, Sealark Road - Planning Proposal ([PP-2021-4162](#))

- The subject land is shown below in **Figure 3**.



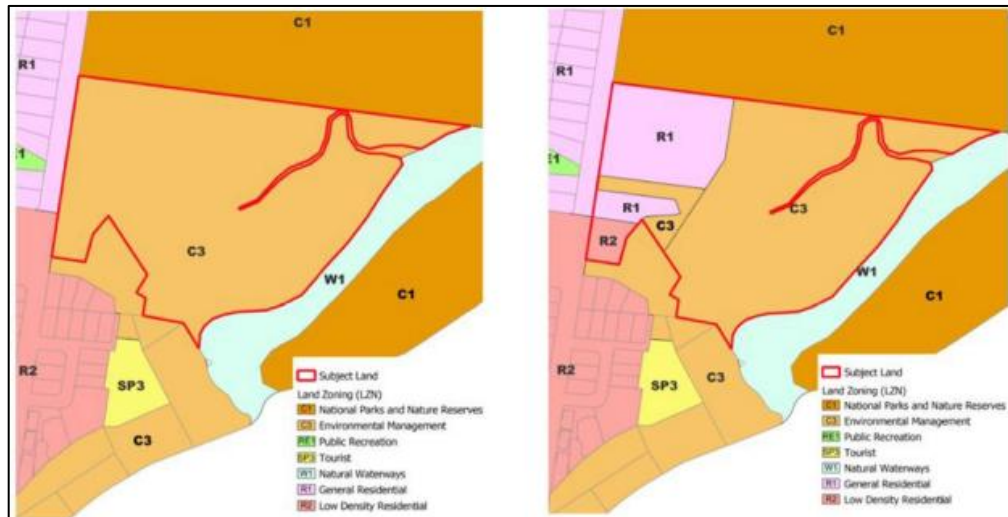
**Figure 3** - Lot 5, DP 1225356, Sealark Road overlaid onto aerial photo and 1 m contours

- A previous PP request to rezone part of the subject land to allow for residential development was supported by Council on 5 March 2019 ([MIN19.111](#)). *Note:* The staff report recommended that the PP not be supported, because it was inconsistent

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with the Jervis Bay Settlement Strategy (JBSS) and could set an undesirable precedent.

- After a series of delays in receiving the required consultancy reports from the proponent, DPE ultimately terminated the previous PP on 17 December 2021.
- Consistent with DPE's advice and Council's resolution of 5 March 2019, staff then updated the PP (PP045) and reported it to Council on 27 June 2022. Council resolved not to seek a new Gateway determination ([MIN22.412](#)) i.e. work ceased on the PP045.
- Council then considered a new PP application from the proponent on 13 March 2023. The submitted PP sought to rezone the land from *C3 Environmental Management* to a mix of *R1 General Residential* and *C2 Environmental Conservation*. Council resolved not to support the PP due to the lack of strategic justification ([MIN23.106](#))
- The proponent submitted a rezoning review ([RR-2023-10](#)) to DPHI on 23 April 2023, which the Southern Regional Planning Panel (the Panel) conducted.
- The Panel met with Council representatives and the proponent (separately) on 31 August 2023. Council staff provided a written submission that was consistent with the Council resolution not to support the PP ([MIN23.106](#)) – a copy of the submission is provided as **Attachment 3**.
- The Panel decided to:
  - support progression of the PP
  - require certain matters to be addressed by the proponent before the PP could be submitted for Gateway assessment
  - appoint itself as the PPA (per the Local Environmental Plan Making Guideline)
  - reject Council's argument that the PP lacks strategic merit, given that housing delivery is a priority across NSW.
- On 19 March 2024, the Panel met with Council and the proponent for a pre-Gateway briefing to consider whether the proponent's revised PP and additional information had addressed the Panel's conditions from 5 October 2023. A copy of a staff submission to the Panel dated 18 March 2024, is provided as **Attachment 4**. The Panel's record of decision noted there were some outstanding items.
- The proponent submitted further documentation in response to the DPHI Agile Planning team's request to address outstanding issues.
- The DPHI Agile Planning team submitted the updated PP to the DPHI Regional Office for Gateway assessment. The updated PP and supporting documents are available on the NSW Planning Portal ([link](#)).
- The current and proposed zoning maps are provided in **Figure 4** below.



**Figure 4** – Current zoning (left) and proposed zoning (right) – Source: [DPHI](#), 2024

- DPHI issued a favourable Gateway determination on 24 March 2024, allowing the PP to progress subject to the preparation of a Flood Impact Risk Assessment (FIRA) prior to public exhibition. The Gateway determination is provided in **Attachment 5**.
- The Gateway determination lists the Government agencies to be consulted. Apart from Shoalhaven Water, Council is not required to be formally consulted, meaning that Council will need to provide any required or necessary input during the formal public exhibition. *Note:* DPHI has sought input from Council staff during the rezoning review on various technical aspects.

### **Considerations for a potential Council submission on the Sealark Road PP**

#### Housing supply and affordability

- The PP states that *the proposed R2 zone, with an area of 3,632 m<sup>2</sup> is expected to yield approximately 10 single detached dwellings and potentially 2 dual occupancy dwellings i.e. 12 dwellings* in total.
- The proposed subdivision would however involve extensive cut-and-fill earthworks, the installation of a new drainage channel to replace two existing channels, and the construction of approximately 200 m of roads on the modified terrain. This raises concerns about the feasibility and the cost of any housing developed on the site.
- The land's proximity to the coast could mean more dwellings are used for Short Term Rental Accommodation (STRA) than is typical for Callala Bay.

#### Strategic merit

- The PP refers to a superseded Council resolution (MIN19.111 – resolution to support the original PP application) to demonstrate consistency with objective 18 (providing housing in the right locations) of the Illawarra Shoalhaven Regional Plan. However, MIN19.111 was superseded by MIN22.412 (to not seek a new Gateway determination), which was reaffirmed by MIN23.106 (not to support the current PP application).
- The subject land is not identified for investigation in any of the Council's adopted strategic planning documents: Jervis Bay Settlement Strategy (JBSS), Growth Management Strategy (GMS) or Council's Local Strategic Planning Statement (LSPS).
- The statement that the PP is consistent with the JBSS is not supported – see above.

- The eastern edge of Callala Bay is not identified as an urban expansion area and hence, the PP is arguably inconsistent with objective 18 of the Illawarra Shoalhaven Regional Plan.
- The PP states that it is inconsistent with s.9.1 Ministerial Direction 4.1 (flooding) but that this is justified because a flood study supports it. However, the flood study needs to be updated with the inclusion of a FIRA as required by the Gateway determination to ensure it meets current flood planning requirements.
- The proposal could potentially create an undesirable precedent noting the above comments in relation to the ISRP, JBSS and flooding.
- The land is already zoned C3 Environmental Management under the Shoalhaven LEP 2014, and the high value conservation land is arguably already protected under NSW biodiversity laws.
- DPHI's Gateway determination does not require a Voluntary Planning Agreement (VPA) or equivalent legal mechanism to be in place before the land is rezoned to guarantee that the residual C3 land is transferred to the NSW Environment Minister for addition to the NSW National Parks System.

#### Site merit issues

- Most of the proposed residential land was slashed over several years, but since this ceased in circa 2019, the bushland has regenerated significantly (as evidenced by aerial photos).
- While the land does not support threatened biodiversity, it has general biodiversity value and is largely weed-free. Wowly Creek is a sanctuary zone of the Jervis Bay Marine Park. The subject land buffers the Creek and associated wetlands from urban impacts. The land also has general scenic value.
- It is debatable whether transferring land that is already protected and environmentally zoned to NPWS would outweigh the impacts of developing one-third of the land, particularly given the extent of required site disturbance, earthworks and the associated erosion and sediment management risk for land that discharges directly into the Wowly Creek sanctuary zone of the Jervis Bay Marine Park.
- The PP claims that potential flooding and sedimentation changes could help protect Wowly Creek and the environment. This needs to be substantiated.
- The proponent's current Integrated Water Cycle Assessment (IWCA) has not been reviewed by Council's Floodplain Management Team. The previous IWCA had several inconsistencies with Council's Water Sensitive Urban Design (WSUD) requirements. The then proposed stormwater infrastructure would have been difficult and expensive to maintain, particularly in the context of Council's financial challenges.
- The IWCA needs to be updated with more appropriate design parameters to confirm that a neutral or beneficial effect (NorBE) can actually be achieved. For example, the proposed residential land was classified as 'rural residential' rather than 'forest'. The IWCA uses old aerial photography (e.g. prior to construction of homes at Monarch Place) at a time when the land was being slashed. Since that activity ceased, the native vegetation has regenerated. If a 'neutral or beneficial' effect cannot be actually achieved, the PP would result in long term adverse environmental and aesthetic impacts to Wowly Creek.
- The C3 Environmental Management zone proposed within the overall proposed R1-zoned area is potentially inconsistent with the proposal for an engineered drainage approach.

- The coloured shading depicting the extent of cut and fill has been removed from the proponent's IWCA (page 42).

### Internal Consultations

Internal staff were consulted over the course of these two PPs, including development services, environmental services, floodplain management, and Shoalhaven Water. Environmental Services and the Floodplain Management Team were consulted for preparing this report. Referrals have been sent to the relevant staff to obtain feedback on the Sealark Road PP documents.

### External Consultations

No agencies have been consulted in the preparation of this report.

The Planning Proposal Authority (PPA role) for the Halloran Trust PP was reassigned from Council to DPE in late 2021.

Similarly, Council is not the PPA for the current Sealark Road PP, but was for the 2019 version. When Council was the PPA for these two matters, the relevant Government agencies were consulted. DPHI has consulted with Council staff at certain points during the Rezoning Review for the Sealark Road PP.

### Community Consultations

The Halloran Trust Planning Proposal was publicly exhibited by DPE for two months in 2022. The Department's submissions report states that 1029 submissions were received, 1002 of which were objections (including 623 form letters), 14 were supportive, and 13 were not clearly for or against the proposal.

The Sealark Road Planning Proposal will be publicly exhibited by the Department for 20 working days from a future date when the required Flood Impact Risk Assessment (FIRA) has been prepared.

### Policy and Statutory Implications

Council's stance on these two planning matters could broadly impact on Council's adopted strategic planning framework, such as the JBSS, GMS, LSPS (including the strategic growth principles).

### Financial Implications

No budget is allocated for either of these projects.

As noted already, additional resources are likely to be required if Council wishes to prepare a Planning Proposal to rezone the URA to C2.

A submission on the Sealark Road PP would be resourced from within the existing City Development Directorate budget.

### Risk Implications

There is a significant risk that the NSW Government will not allow a PP seeking to rezone the URA to C2 to progress past the Gateway step, irrespective of the supporting work or justification prepared to support it.

## CL25.191 Report Back - Planning Proposal: Local Character (PP073) - Finalisation Options

**HPERM Ref:** D25/182369

**Department:** Strategic Planning

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

### Purpose:

The purpose of this report is to report this matter back for further consideration and to obtain a formal direction from Council regarding the finalisation of this Planning Proposal (PP).

### Summary and Key Points for Consideration:

- On 26 November 2024, Council considered a report (CL24.376) on Planning Proposal: Local Character (PP073) and initially resolved (MIN24.643) to adopt the PP as exhibited and proceed to finalisation.
- On 10 December 2024 Council rescinded the earlier finalisation resolution and ultimately resolved (MIN24.655) to pause the PP so Council could receive information on its background and status via a briefing.
- Council was subsequently briefed on the background, status and intended outcomes of the PP on 3 April 2025 and this matter is now presented for further consideration to determine a way forward.

### Recommendation

That Council:

1. Proceed to adopt Planning Proposal PP073 as exhibited, and using Council's delegation, forward to the NSW Parliamentary Counsel's Office to draft the resulting Amendment to Shoalhaven Local Environmental Plan (LEP) 2014 and proceed to finalisation.
2. Monitor the effectiveness and operation of the Amendment for a period of 12 months following commencement and if needed Council will receive a further report detailing any relevant outcomes and any resulting proposed adjustments to improve or clarify the operation of the new character aims and objectives in Shoalhaven LEP 2014.
3. Depending on the information gathered from Part 2 of this resolution, if needed consider any earlier adjustments that are required to improve, clarify or improve the operation of the provisions in the LEP if the need arises.
4. Consider as part of Councils Stage 2 work on a New Land Use Planning Scheme, subject to funding and resourcing, the preparation of new or revised character statements with the community for inclusion in the Shoalhaven Development Control Plan.
5. Advise key stakeholders, including Community Consultative Bodies and those who made a submission during the exhibition period, of this decision and when the Amendment is made effective.

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## Options

1. As recommended.

Implications: This is the preferred option as it will enable the PP to be finalised, and the relevant provisions included in Shoalhaven Local Environmental Plan (LEP) 2014 in a timely manner.

The impact of development on local character is a continuing community concern and this Amendment provides additional mechanisms to address and require due consideration of this key concern through the development assessment process.

This preferred option also enables staff to monitor the operation and effectiveness of the Amendment over a 12-month period and report back to Council on the findings, including any suggestions to improve the operation of the new character aims and objectives in the LEP if needed.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could further delay the consideration of impact on local character in Shoalhaven LEP 2014 or potentially require re-exhibition of the PP. Relevant options are discussed later in this report.

3. Not proceed with the planning proposal.

Implications: This is not the preferred option as the identified local character protection matters will remain unresolved. Consideration of local character is an ongoing community concern.

## Background

As part of Council's broader resolutions in 2022/2023 (MIN23.451 and MIN22.943) focussed on the preparation of a new land use planning scheme for the City, it was resolved to work to elevate the consideration of character via the staged approach to the new scheme as follows:

- Stage 1 work – add new aims and objectives related to Character in the LEP;
- Stage 2 work – further work on specific character statements and related provisions in the Development Control Plan (DCP);

This also included adopting by resolution (MIN23.451) the *Shoalhaven Character Assessment Report (RobertsDay 2020)* as 'interim' character statements to support the new planning controls for managing local character.

As a result Council resolved on 8 April 2024 (MIN24.176) to commence the Stage 1 work to prepare the PP to better address consideration of local character in Shoalhaven LEP 2014 as part of the development assessment process.

In simple terms, the PP seeks to:

- Add an additional overall aim into the LEP to ensure that the protection and enhancement of the unique local character and scenic landscapes of the localities within Shoalhaven is considered in the development assessment process.
- Include additional objectives into six land use zones in the LEP, where medium/high density housing development types (e.g., attached dwellings, dual occupancy, multi dwelling housing, residential flat buildings) are permissible with consent.

The PP received a favourable Gateway determination from the NSW Government in June 2024.

In accordance with the [Gateway determination](#) and Council resolution, [PP073 was publicly exhibited](#) from 26 June to 26 July 2024 - total of 13 submissions were received, with ten of these generally supportive of the proposed amendments. No changes were initially proposed to the scope of PP following public exhibition.

Council considered a [report](#) (Item CL24.376) on the exhibition outcomes/proposed finalisation of the PP on 26 November 2024 and it was initially resolved (MIN24.643) as follows to finalise the PP as exhibited:

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

Following consideration of a Recission Motion, Council ultimately resolved (MIN24.655) on 10 December 2024 to:

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

There was also a subsequent unsuccessful recission motion that sought reconsideration of the above resolution and Council dealt with this in January 2025. The consideration of the recission motions generated a level of community interest in this matter.

Council staff formally wrote to the NSW Department of Planning, Housing & Infrastructure (DPHI) on 19 February 2025 advising of the Council resolution and requesting an extension of time for the Gateway determination given that it was due to expire on 14 March 2025. On the 3 March 2025, DPHI provided a three month extension to the determination, requiring the PP process to be finalised by 18 July 2025.

The resolved briefing referred to in MIN24.655 subsequently took place on 3 April 2025. The briefing was attended by the majority of Councillors and covered/discussed the following:

- What is character and why is it important
- Recap on the Local Character PP
- How consideration of character can contribute to better places
- Character guidance in the LEP and DCP
- Case study example
- Options to move forward:

Finalise the current PP (and risks if it does not progress)

Alternative options:

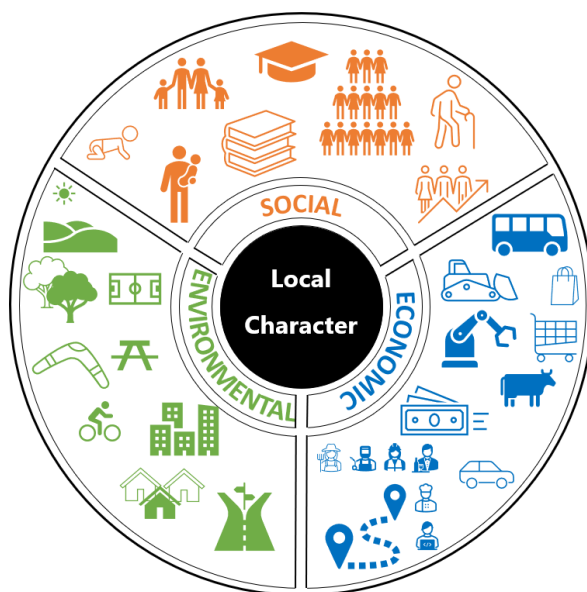
- Undertake LEP/DCP changes as part of Stage 2 work on the new scheme;

- Only progress character statements in the DCP; or
- Not progress any character work (LEP or DCP).

### Recap – What is Local Character?

Local character is what makes a place or area distinctive or unique. It is the combination of multiple factors, which relate to an area's history, built form, public and private spaces, community values, and how they connect to a place. It is influenced by social, economic, and environmental factors (see image below).

A Local Character Statement can pull together these factors to describe a locality and its character, both existing and desired, and help inform land use planning and development decisions.



**Local character - influenced by social, economic, and environmental factors**  
(Source: Cessnock City Council)

### The RobertsDay Report - Commentary

Given the focus placed on this Report, the following clarifying commentary is provided on it.

The [Shoalhaven Character Assessment Report \(RobertsDay 2020\)](#) (the Report) was initially finalised in early 2020 and later adopted by Council in 2023 as 'interim' character statements to help support the new planning controls for managing local character that were being considered, pending possible other more specific detailed work in this space (e.g. Character Statements in DCP).

In mid-2018, given some available budget, the then NSW Department of Planning & Environment (DPE) commissioned the initial preparation of the (draft) Report, with agreement, input and assistance from Council.

The Report was intended to be a 'quick' (given funding requirements/constraints) initial piece, professionally prepared by a suitably qualified consultant using an appropriate and consistent methodology to assist with early work/input on a possible new growth management strategy.

At the time the NSW Government was also considering greater planning controls related to character e.g. Character overlay in LEP's (did not proceed or eventuate). The Report could also have helped assist with responding to emerging exempt and complying development controls that were emerging at that time.

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The Report Identifies the existing and potential future character of settlements based on:

- Document review
- Desktop research
- Character audit

The Character audit considered:

- Natural environment and landscape
- Built form and land use
- Access and connectivity
- Services and amenity
- Activity and community

The draft Report was considered by Council in October 2018 and publicly exhibited in November/December 2018. Various community 'drop in' sessions were also held as part of the exhibition period. Councillors were briefed on the exhibition outcomes in May 2019.

The draft Report was then adjusted and updated following the public exhibition and finalised by the consultants in early 2020. At the time it was noted in advice to Councillors that:

*The report also provides information on the values of the built environment; a starting point for creating new development controls to:*

- *manage the NSW Government's expansion of the complying development code to include low-rise medium density residential development, and*
- *ensure new development contributes to the character of Shoalhaven's towns, villages and neighbourhoods.*

*The use of the detail in the report will be discussed with you as part of relevant Council projects moving forward*

As noted the report was subsequently formally adopted by Council in 2023 as 'interim' character statements to help support the desired new planning controls for managing local character, pending the possible development of more detailed and considered statements, noting a general community desire to see stronger controls associated with 'character'.

The Report could be used as a good basis for the development and delivery of 'character statements' for future inclusion in Council's DCP should Council believe these are needed. The statements will need to be appropriately prepared with professional assistance and detailed community input. This process would require a specific funding allocation and take time given the scale of the task and likely community interest/involvement. Various community groups in Shoalhaven have prepared or are preparing their own character statements and these could be considered as an input to any future process.

Some examples or background information on this type of process is available at the following links:

[Wollongong DCP Chapter – Character Statements](#)

[Northern Beaches Council – Pittwater 21 DCP](#)

[Cessnock City council – Villages Local Character Statements Project](#)

## Conclusion - Possible Next Steps

Following the briefing, Council now needs to formally consider and resolve its next steps in regard to the subject PP, these could include the following:

- Progress as previously resolved and finalise the current PP

This will enable greater and immediate consideration of character in the planning framework across the City and particularly in key zones.

It is noted that the PP proposed to start to elevate consideration of character through the addition of Aims and Objectives into the LEP. Whilst these are not prohibitions on development as such, given the concerns related to possible unintended outcomes that may emerge, Council could also within 12 months (or earlier if needed) consider adjusting the provisions to fine tune or clarify them if needed.

In the shorter term relevant information in the DCP and the *RobertsDay* Report will help support the provisions that will be added to the LEP. As part of the Stage 2 work on the new land use planning scheme, subject to funding and resourcing, Council can consider and deliver new or revised character statements prepared with the community for inclusion in the DCP, to replace the *RobertsDay* report.

- Not proceed with the PP and undertake further detailed work to include provisions in the LEP and DCP as part of the Stage 2 work on the new planning scheme.

This would potentially see a more comprehensive package of character related controls prepared and implemented in the planning and development space, with community input.

This will however take time and funding/resourcing. The completion of this work could be a number of years away and In the meantime community concerns regarding the impact of new development on character will remain/continue.

- Only progress the preparation of character statements and include in the DCP as part of the Stage 2 work on the new planning scheme.

As part of the Stage 2 work on the new land use planning scheme, subject to funding and resourcing, Council can consider and deliver new or revised character statements prepared with the community for inclusion in the DCP, to replace the *RobertsDay* report.

This approach will also take time and funding/resourcing. The completion of this work could also be a number of years away and in the meantime community concerns regarding the impact of new development on character will remain/continue. Additionally there will be no formal connection or line of sight from the LEP to the DCP and as such potential legal weight will be lost

- Discontinue the PP and not progress any additional character planning work.

This option is generally not supported as it would mean that no additional character considerations are included in Shoalhaven's planning framework. This is likely to be a concern to members of the community given the previous resolved positions of Council to work to elevate consideration of character in Councils key planning documents.

It is recommended that Council progress as previously resolved and finalise the current PP; monitor the outcomes arising from the changes to the LEP and consider adjustments as necessary; and as part of the Stage 2 work on the new land use planning scheme consider the delivery of new or revised character statements prepared with the community for inclusion in the DCP.

### Internal Consultations

Council's Development Services section were consulted and notified of the exhibition of the PP.

### External Consultations

The Gateway conditions did not require the PP to be specifically referred to any NSW Government agencies for review/comment.

### Community Consultations

The PP was publicly exhibited from 26 June to 26 July 2024 (inclusive). Key stakeholders, including Community Consultative Bodies (CCBs), were also directly notified in writing of the exhibition arrangements. A total of 13 submissions were received during the exhibition period. Ten of the submissions were generally supportive of the amendment and three were not supportive of the amendment. The exhibition outcomes were reported to Council on 26 November 2025.

### Policy and Statutory Implications

Finalising the PP will help initially ensure there is additional consideration of local character in the development assessment process, which is considered to be in the broader public interest.

As previously resolved by Council, further investigations into character at a local level may be undertaken as part of Stage 2 of the New Land Use Planning Scheme (consideration in DCP).

### Financial Implications

There are no immediate financial implications for Council. Any resolved finalisation of the LEP Amendment resulting from the PP will continue to be resourced from the existing Strategic Planning budget.

If another option is resolved, this is likely to require a specific funding allocation to enable it to progress (e.g. Preparation of character statements for inclusion in the DCP) and this should be the subject of a specific report back to Council if needed.

### Risk Implications

It is important to ensure that any change to the LEP is consistent with the [Illawarra-Shoalhaven Regional Plan](#), specifically that the proposed amendments will not impact upon the opportunity to provide additional diverse housing growth generally across Shoalhaven. However, the provision of higher density housing needs to be balanced with the consideration of the long-term liveability and sustainability of the communities in which it will be located.

The NSW Government's stage 2 amendments to the *State Environmental Planning Policy (Housing) 2021* as part of its 'Low and Mid-Rise Housing Policy' commenced on 28 February 2025. These reforms now permit and seek to increase the supply of the dual occupancy, terrace, townhouse and low and mid-rise apartment building typologies within a 800m walking distance from the Nowra Town Centre and the Bomaderry Railway station. The Amendment proposed by the PP seeks to ensure that future development intensification does not result in distinct localities no longer being discernible from each another and to retain a level of community connection to ensure that change is sustainable over the long term.

## CL25.192 Adoption of the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek Coastal Management Program

**HPERM Ref:** D25/73367

**Department:** Environmental Services

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

**Attachments:**

1. [Final Draft Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek Coastal Management Program](#)
2. [Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek Coastal Management Program - Public Exhibition Response to Submission Document](#)

### Purpose:

To present to Council the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek Coastal Management Program (CMP). The CMP is being presented to Council for adoption and subsequent certification by the relevant NSW Government Minister, following which the CMP will be submitted for gazettal.

### Summary and Key Points for Consideration:

The Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek CMP has been developed in accordance with the legislative requirements and framework developed under the *Coastal Management Act 2016* (NSW). The development of the CMP has followed the required staged process and has involved the consideration of historical studies, completion of additional technical studies, and extensive consultation with the community and key stakeholders. The CMP proposes a program of integrated management actions responding to identified risks and opportunities that are to be implemented over a 10-year management timeframe under several overarching strategies. There are 66 management actions to be delivered through the implementation stage of the CMP.

A Business Plan has been developed that outlines the key components of the funding strategy for the CMP. This includes the management actions to be implemented, the proposed cost of actions, proposed cost-sharing arrangements and potential funding mechanisms. Delivery of the CMP is estimated to cost \$17.8 million (2025 dollars) over 10 years, with approximately \$6 million of this funding proposed to be coming from Council.

Following the public exhibition of the CMP (17 February to 17 March 2025), the CMP was finalised and presented to the Central Coastal Management Program Advisory Committee who supported CMP being presented to Council for adoption, before being submitted to the relevant NSW Minister for certification, at which time Council can then gazette the CMP and commence its implementation.

### Recommendation

That Council:

1. Adopt the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek Coastal Management Program (CMP) and the CMP be submitted to the relevant NSW Government Minister for certification.

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2. Note the resourcing requirements encompassed by the plan and its actions (Stage 5 - implementation), with capital and operational allocations to be determined via budget processes, and the reliance on grant funding for delivery.

### Options

1. As recommended.

Implications: Council's adoption of the CMP will support the finalisation and certification of this document, and subsequent implementation by Council. This CMP provides an integrated and strategic approach to the management of the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek coastal zone consistent with the objectives of the *Coastal Management Act 2016* (NSW) and has integrated community feedback following substantial consultation. Once certified, Council can proceed with the implementation of the identified management actions to ensure the comprehensive, risk-based management and mitigation of coastal hazards within the CMP study area can occur to meet the needs of the community.

2. Not adopt, or, seek further modification to the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek CMP.

Implications: Additional modifications to the draft CMP, if significant, would require further public exhibition and reporting back to the Committee and Council. Under such a scenario, additional Council time and budget would be required for the project team to complete this work, which would delay the implementation of high priority management actions to address coastal hazards. This will also place further demands on community members who have already provided significant input into the development of this CMP. This project has been funded by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Coastal and Estuary Grants Program with one-third contribution by Council. Applications for additional funding and time would not be successful due to several variations already approved on this project and the projects being considered complete. Consequently, there is no scope or budget for further significant amendments to the CMP.

### Background and Supplementary information

In accordance with the *Coastal Management Act 2016* (NSW) (CM Act), local councils are to prepare CMPs to meet the objectives of the CM Act. The CMP covers the coastal zone of Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek – as legally defined in the CM Act and the *State Environmental Planning Policy (Resilience and Hazards) 2021* (RH SEPP). The Study Area for the purposes of the CMP extends from the lake and inlet entrances of Sussex Inlet, Swan Lake and Berrara Creek and extends westward to cover each estuary to the mapped Coastal Environment Area as prescribed by the RH SEPP.

The CMP has been developed in accordance with the CM Act and the staged process for developing and implementing a CMP, as detailed in the NSW Coastal Management Manual.

The stages completed to support this CMP include the preparation of:

- **Stage 1 – Shoalhaven Coastal Management Program Scoping Study:** This included a review of relevant background information, a first-pass risk assessment, a data gap analysis, and formulation of a plan for the development of the suite of CMPs covering the Shoalhaven's coastline and estuaries.
- **Stage 2 – Risks, Vulnerabilities and Opportunities:** This included a detailed assessment of the various threats and risks affecting the environmental, social,

cultural, and economic assets and values of Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek and resulted in the development of the following reports:

- *Foreshore Erosion Assessment Report*. This involved field-based risk assessment of erosion and foreshore issues affecting the estuary health of St Georges Basin, Sussex Inlet, Swan Lake and Berrara Creek.
- *Water Quality and Estuary Health Studies*. This study involved the assessment of existing water quality data for each estuary area to determine the current estuary health condition, assess water quality suitability for recreational activity, and assess the adequacy of Council's existing monitoring and reporting program.
- *Tidal and Coastal Inundation Study*. Involved the completion of a hydrodynamic modelling study to characterise key risks to infrastructure and the coastal environment area from inundation in the present day and in the future as a result of sea level rise and climate change.
- *Boating Study*. Provided an assessment of boating infrastructure within the CMP Study Area and included field inspections by coastal engineers and scientists from the Project Team, and targeted community and stakeholder engagement program directly relating to boating and navigation issues within the St Georges Basin and Sussex Inlet areas.
- *Swan Lake and Berrara Creek Entrance Management Review*. Involved a review of the existing Entrance Management Policy for Swan Lake and consideration of entrance management at Berrara Creek.
- *Stage 2 Detailed Risk Assessment*. Describes the range of, extent, and potential impact of threats posed by coastal hazards on the attributes, as well as providing initial consideration of potential mitigation options and actions.
- *St Georges Basin/Sussex Inlet, Swan Lake and Berrara Creek CMP Stage 2 Synthesis Report*. Provided a synthesis of relevant information on the health of the estuaries based on the Stage 2 studies, the Stage 1 Scoping Study, and any other prior plans/studies.
- **Stage 3 - Identify and Evaluate Options Summary Report**: This included stakeholder engagement and options analysis to identify and prioritise coastal management actions that can effectively address issues and risks, take advantage of new opportunities, and give effect to the objectives of the CM Act.
- **Stage 4 – Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek Coastal Management Program**: This included the preparation of a draft CMP for public exhibition and the finalisation of the CMP following the exhibition. This document outlines the identified management actions and business plan for their implementation over a 10-year period. It is this document that is being presented to Council for adoption.

The CMP comprises a program of integrated management actions that are intended to address key issues, and harness new opportunities for the management of the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek coastal zone. It outlines specific actions that are to be implemented over a forward 10-year management timeframe under several overarching categories for managing the coastal zone, which include:

- Cultural and Social Issues
- Ecological Environment
- Foreshore Erosion
- Inundation and Sea Level Rise

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- Navigation and Safety
- Water Quality

These overarching strategies are also supplemented by three Local Area Action Plans that detail management actions to be implemented at specific locations throughout the CMP Study Area. The Local Area Action Plans are as follows:

- St Georges Basin/Sussex Inlet
- Swan Lake
- Berrara Creek

This has resulted in the development of a total of 66 management actions to be delivered through Stage 5 (Implementation) of the CMP over the next 10-years.

A Business Plan has been developed which outlines the key components of the funding strategy for the CMP to implement the management actions, including the cost of proposed actions, proposed cost-sharing arrangements, and other potential funding mechanisms. Delivery of the CMP is estimated to cost \$17.8 million (2025 dollars) over 10 years, with approximately \$6 million of this funding proposed to be coming from Council.

Sustainable funding and financing arrangements for management actions will be established in consultation with key stakeholders. Funding for management actions may be gained from various sources, including competitive State and Federal Government grant programs and Council's internal funds.

The CMP document was presented to the Central CMP Advisory Committee to gain their support and endorsement before the CMP was presented to Council. The Committee meeting was held on 31 March 2025. At this meeting, all members carried the recommendation that the CMP be presented to Council for adoption, and subsequent submission to the relevant NSW Minister for certification.

The CMP is now being presented to Council to request their adoption. Following this, the CMP is required to be submitted to the relevant NSW Minister for certification before Council can gazette the CMP and then commence Stage 5 (Implementation).

### **Internal Consultations**

Throughout Stages 1-4 of the CMP development, internal consultation was carried out within Council. This included consultations across and within Council Directorates to obtain feedback on the existing coastal hazards, risks and opportunities within the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek coastal zone, as well as the development and implementation of proposed management actions. For actions that involve the construction of new or upgrade of existing Council assets, asset custodians were consulted to ensure integrated and consistent delivery of works across Council. Internal consultations will be ongoing throughout the implementation of the CMP.

### **External Consultations**

Throughout Stages 1-4 of the CMP development, external consultation was carried with a range of representatives from NSW State Government agencies and Non-Government Organisations. These included:

- NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW)
- NSW Department of Primary Industries and Regional Development (DPIRD) – Fisheries

- NSW Department of Planning, Housing and Infrastructure (DPHI) – Crown Lands and Planning
- Transport for NSW (TfNSW)
- National Parks and Wildlife Service (NPWS)
- State Emergency Services (SES)
- Local Land Services (LLS)
- Jerrinja Local Aboriginal Land Council (LALC)
- Jerrinja Tribal Group

Consultations were undertaken to obtain feedback on the existing coastal hazards, risks and opportunities within the CMP Study Area, as well as the development and implementation of proposed management actions. Through this process external entities provided information to support Council in developing a CMP that meets statutory obligations for the management of the coastal zone within the CMP Study Area. Following the completion of the CMP Public Exhibition Period, Council is sourcing letters of support from the relevant NSW State Government agencies listed as supporting agencies within the CMP. These letters are required for submission of the CMP for certification by the relevant NSW Minister. To date, all agencies have expressed in principle support for the CMP with letters of support follow.

The management actions within the CMP identify where these external entities have been identified as a 'supporting partner' in the implementation of the actions. Council will continue to engage with these entities throughout the implementation of the CMP and to ensure that the relevant legislation under each of their jurisdictional boundaries is appropriately complied with.

### Community Consultations

Stakeholder and community engagement has been implemented progressively through each stage of the CMP. The various engagements were coordinated and developed in line with CMP Engagement Guidelines developed by the NSW State Government (DCCEEW), the Shoalhaven City Council Community Engagement Strategy, and the use of the International Association for Public Participation (IAP2) guidelines. This included engagement with Traditional Owner Groups, local communities, and public authorities through a range of methods – including workshops, drop-in sessions, surveys, one-on-one meetings and interactive online map-based platforms. The draft CMP document outlines the community consultation process employed throughout the lifecycle of the CMP.

During the development of the CMP, the Council employed a diverse range of strategies to actively engage with the community. These methods have included the following:

- Social media posting and advertising
- Council's Community newsletter
- Community Information drop-in sessions and workshops
- Council media releases
- Installing signs in beach and foreshore areas (e.g. beach access tracks, watercraft facilities)
- Emails to a well-developed stakeholder list to provide project updates and promote upcoming engagement opportunities.
- Correspondence with Council's Community Consultative Bodies

- Email to subscribers of the *Get Involved* page
- Face-to-face meetings with our Indigenous stakeholders
- External Government workshops
- Internal Government workshops
- Radio advertising
- Newspaper advertising

As a result, Council has developed an extensive database of individuals interested in being engaged on the progression of the CMP through each stage of development, while also having had 139 members of the community subscribing to receive project updates on the project *Get Involved* webpage, and a further 170 subscribers for the broader Shoalhaven Coastal Management Programs *Get Involved* webpage.

To summarise the feedback received during Stages 2 and 3 of the development of the CMP a 'closing the loop' summary document was prepared at the completion of each stage and are available on the project *Get Involved* webpage (linked below). The intention of these summary documents was to provide responses to all submissions received on the risks, vulnerabilities and opportunities identified by the community for the CMP, as well as the potential management actions considered for the CMP. The document outlines how and where feedback had been considered in the process of developing of management actions as presented in the Stage 4 draft CMP document.

The draft CMP was on public exhibition from 17 February to 17 March 2025 to obtain final stakeholder feedback on the proposed management actions included in the draft CMP. Council is required under the CM Act to publicly exhibit the draft CMP for a period of at least 28 days, which was achieved as part of this public exhibition period. The public exhibition process involved:

- Provision of the document electronically on the Shoalhaven City Council *Get Involved* webpage for the project:  
<https://getinvolved.shoalhaven.nsw.gov.au/sussexinlet-stgeorgesbasin-berrara-swanlake-cmp> and the *Documents on Exhibition* section of the Council website.

Other engagement methods deployed during the Public Exhibition Period included *Get Involved* page posts and updates, distribution of physical printed flyers to local businesses and venues, and direct emails to Council community and stakeholder participation lists.

The following summarises the engagement achieved throughout the public exhibition process:

- 13 submissions on the draft CMP through the *Get Involved* page and via email.

Following the public exhibition period, the draft CMP has been updated based on the submissions received. A response to submissions (RTS) has also been prepared and is available as an appendix to the final CMP (Attachment 2 to this report) outlining how each submission has been considered in the finalisation of the CMP document.

The CMP document and RTS document were presented to the Central CMP Advisory Committee to gain their support and endorsement before the CMP was presented to Council. The Committee meeting was held on 31 March 2025. At this meeting, all members carried the recommendation that the CMP be presented to Council for adoption, and subsequent submission to the relevant NSW Minister for certification.

## Policy and Statutory Implications

The CMP has been prepared in accordance with the NSW Coastal Management Framework that is governed by the CM Act. Council has prepared the CMP giving regard to the relevant legislation, environmental planning instruments and statutory guidelines applicable to the coastal zone within the CMP Study Area. Furthermore, as part of the CMP development process, DCCEEW is required to confirm that the CMP satisfies the objectives of the CM Act and the mandatory requirements for a CMP as set out in the Coastal Management Manual. DCCEEW has indicated in principle support for the draft CMP and is currently reviewing the final CMP to confirm that it meets the objectives of the CM Act and mandatory requirements for a CMP.

The CMP has also been prepared considering existing Council Policies for the management of the foreshore and coastal environment including, but not limited to, Council's Tree Management Policy (Public Land) (POL21/51), Vegetation Vandalism Prevention Policy (POL22/24), and the Foreshore Reserves Policy (POL23/24). In addition, the CMP has been prepared giving consideration to Council's suite of CMPs, notably the certified and gazetted Shoalhaven Open Coast and Jervis Bay CMP, to ensure consistent management of the coastal zone throughout the Shoalhaven.

The CMP is considered a 'living document' that is to be reviewed and updated continually throughout its lifecycle. A strategic review of the CMP should occur at least once every ten years to assess the effectiveness of the CMP in achieving its objectives and to incorporate changes, considering new information, legislative and policy changes, and improved understanding of the local coastal and estuarine processes.

Following the certification of the CMP, existing resolutions from Council meetings relating to coastal management that have been actioned by Council will be superseded, with the CMP to become the overarching strategy for the management of the coastal zone within the Shoalhaven. As outlined above, the CMP has been developed considering Council's statutory obligations for coastal management as outlined with the CM Act, Council's existing policies relevant to the coastal environment, best practice coastal management as documented within State guidelines and literature, as well as the outcomes of extensive consultation with the community and NSW State Government agencies over the preceding years. Subsequently, it is considered the CMP should be the primary mechanism for Council to manage the coastal zone of Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek in an integrated and holistic way.

## Financial Implications

The CMP has been prepared by Council with funding assistance received from NSW DCCEEW through a Coast and Estuaries Grant. This grant funding has provided a two-thirds contribution from the NSW State Government for the completion of the CMP. Delivery of the CMP is estimated to cost \$17.8 million (2025) over 10 years, with approximately \$6 million of this funding to come from Council, which will be subject to inclusion in the long-term financial plan.

Following the certification of the CMP, Council will be eligible to apply for grant funding for the implementation of management actions through the DCCEEW Coastal and Estuary Implementation Stream Grants. This funding has been specifically created to provide a two-to-one funding ratio for actions within a certified CMP. This grant funding program is contestable, prioritised to Council applications with certified CMPs and subject to NSW State Government funding priorities and allocations. However, the availability of these funding opportunities provides a clear indication of the financial benefits a certified CMP provides to Council for the implementation of the management actions identified through the CMP. Without an adopted and certified CMP, Council's chances of receiving grant funding from NSW DCCEEW, as well as other State Government Agencies, are limited which will impact on Council's ability to deliver on identified high priority works.

In preparing the CMP, it has been recognised that for Council to implement and deliver the identified management actions, additional resourcing is likely. Management Action EW-C03 of the CMP has been developed to respond to this and set out for Council to “Establish one new Full Time Equivalent (FTE) Coast & Estuary Officer role within Council”. The Business Plan within the CMP has assigned this management action an expected cost of \$1.3 million over the 10-year lifecycle of the CMP to ensure that internal capability is maintained to oversee and carry out strategic actions. This operational funding (and any capital project allocations) will be decided on through standard budget processes, accounting for whole of organisational resourcing requirements and capability.

Staff resourcing and associated Council budgets for the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek CMP implementation is vital to ensure the delivery of Stage 5 in line with the business plan. This is paramount given the significant increase in workload requirements for Council staff. Furthermore, it must be acknowledged that current resources are working on the development of high priority estuary CMPs to meet stakeholder expectations. Adequate resourcing will enable continued development of all CMPs throughout the LGA and implementation of these actions.

## Risk Implications

### Consideration of Risk in the CMP process

A First Pass Risk Assessment was completed in the Stage 1 Scoping Study for the Shoalhaven CMPs. This provided a high-level assessment the various issues, vulnerabilities, and opportunities affecting the Sussex Inlet, St Georges Basin, Swan Lake and Berrara Creek coastal zone. The risk assessment was further refined in Stage 2 of the CMP and included an updated and detailed risk assessment of coastal hazards. This involved identifying and assessing risks and benefits to environmental, social, and economic values across each estuary, with the aim of informing the development of management options in Stages 3 and 4.

The risk-based framework applied in Stage 2 was consistent with those applied in Council’s existing coastal hazard risk assessment, and the CMP Stage 1 Scoping Study, as well as Council’s organisational Risk Management Framework. This risk assessment approach was also developed to be consistent with the following standards and guidelines:

- ISO 31000:2018 Risk management – Principles and guidelines, provides principles, framework, and a process for managing risk (International Standards Organisation, 2018).
- Part B of the NSW Coastal Management Manual (OEH, 2018).

The risk assessment considered and quantified a wide range of threats and the hazards they present for the relevant coastal management areas (as defined in the RH SEPP) within the coastal zone of each estuary. The potential impact of these threats was evaluated for several key interconnected risk assessment themes, comprising public safety, infrastructure, environmental, and public amenity. The indicative control measures identified against each risk were used as the basis for further prioritisation and refinement of management actions in Stage 3 of the CMP process.

As required by the CM Act, the key risks and threats have been considered over a range of timeframes, including the present day, as well as future planning horizons 20 years, 50 years, and 100 years – to account for future climate changes impacts, and the impacts of population growth and future development on the coastal zone.

Management actions included within the CMP reflect issues that have been assessed as being high risk either in the present day or under future planning horizons. Council’s development of the CMP and the relevant management actions have been guided by decisions made in ‘good faith’ as established under Section 733 of the *Local Government Act*

1993 to suitably address and mitigate identified risks and hazards. The CMP has incorporated the statutory objectives for the management of the coastal zone as reflected in the CM Act, and other supporting legislation and guidance as part of the NSW Coastal Management Framework. Subsequently, failure to implement the CMP in line with this statutory guidance may expose Council to liability by failing to act with reasonable care and due diligence to manage potential risks identified within the CMP. This may hinder defences available to Council under Section 733 of the *Local Government Act 1993* and Section 43A(3) of the *Civil Liability Act 2002*.

Risk of not adopting the recommendations of this report

Additional modifications to the draft CMP, if significant, would require further public exhibition of the draft document and reporting back to the Committee and Council. Under such a scenario, additional time and budget would be required for the Project Team to complete this work. This would delay the implementation of high priority management actions. This project has been funded by the NSW DCCEE Coastal and Estuary Grants Program with a two-thirds contribution by Council. Applications for additional funding and time to complete the CMP would not be successful due to several variations already approved on this project. Consequently, there is no scope or budget for further significant amendments to the CMP.

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## CL25.193 Adoption of the Lower Shoalhaven River Coastal Management Program

**HPERM Ref:** D25/74614

**Department:** Environmental Services

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

**Attachments:** 1. [Final Draft Lower Shoalhaven River Coastal Management Program](#)  
2. [Lower Shoalhaven River Coastal Management Program – Public Exhibition Response to Submissions Document](#)

### Purpose:

To present to Council the Lower Shoalhaven River Coastal Management Program (CMP). The CMP is being presented to Council for adoption and for subsequent CMP certification by the relevant NSW Government Minister, following which the CMP will be submitted for gazettal.

### Summary and Key Points for Consideration:

The Lower Shoalhaven River CMP has been developed in accordance with the legislative requirements and framework developed under the *Coastal Management Act 2016* (NSW). The development of the CMP has followed the required staged process and has involved the consideration of historical studies, completion of additional technical studies, and extensive consultation with the community and key stakeholders. The CMP comprises a program of integrated management actions responding to identified risks and opportunities that are to be implemented over a 10-year management timeframe under several overarching strategies. There are 60 management actions to be delivered through the implementation stage of the CMP.

A Business Plan has been developed that outlines the key components of the funding strategy for the CMP to implement the management actions, including the cost of proposed actions, proposed cost-sharing arrangements, and other potential funding mechanisms. Delivery of the CMP is estimated to cost \$24.64 million (2024 dollars) over 10 years, with approximately \$8 million of this funding proposed to be coming from Council.

Following the completion of the public exhibition of the CMP, 4 November 2024 to 10 February 2025, the CMP was finalised and presented to the Northern Coastal Management Program Advisory Committee to gain their support and endorsement before the CMP is presented to Council to request their adoption. This report is now being presented to Council for adoption of the final CMP. Following this, the CMP will be submitted to the relevant NSW Minister for certification at which time Council can then gazette the CMP and then commence implementation.

### Recommendation

That Council

1. Adopt the Lower Shoalhaven River Coastal Management Program (CMP) and the CMP be submitted to the relevant NSW Government Minister for certification.
2. Note the resourcing requirements encompassed by the plan and its actions (Stage 5 implementation), with capital and operational allocations to be determined via budget processes, and the reliance on grant funding for delivery.

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3. Note that the Northern CMP Advisory Committee have requested that Council consider, through the implementation of the Lower Shoalhaven River CMP, additional sites for water testing where available resources and funding can be identified.

### Options

1. As recommended.

Implications: Council's adoption of the CMP will support the finalisation and certification of this document, and subsequent implementation by Council. This CMP provides an integrated and strategic approach to the management of the Lower Shoalhaven River coastal zone consistent with the objectives of the *Coastal Management Act 2016* and has integrated community feedback following substantial consultation. Once certified, Council can proceed with the implementation of the identified management actions to ensure the comprehensive, risk-based management and mitigation of coastal hazards within the CMP Study Area can occur to meet the needs of the community.

2. Not adopt, or, seek further modification to the Lower Shoalhaven River CMP.

Implications: Additional modifications to the draft CMP, if significant, would require further public exhibition and reporting back to the Committee and Council. Under such a scenario, additional Council time and budget would be required for the project team to complete this work, which would delay the implementation of high priority management actions to address coastal hazards. This will also place further demands on community members who have already provided significant input into the development of this CMP. This project has been funded by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Coast and Estuary Grants Program with a one third contribution by Council. Applications for additional funding and time would not be successful due to several variations already approved on this project and the project now being considered complete. Consequently, there is no scope or budget for further significant amendments to the CMP.

### Background and Supplementary information

In accordance with the *Coastal Management Act 2016* (NSW) (CM Act), local councils are to prepare CMPs to meet the objectives of the CM Act. The CMP covers the coastal zone of Lower Shoalhaven River – as legally defined in the CM Act and the *State Environmental Planning Policy (Resilience and Hazards) 2021* (RH SEPP). The Study Area for the purposes of the Lower Shoalhaven CMP comprises the coastal zone within the lower catchment of the Shoalhaven and Crookhaven Rivers. It also includes the intermittently open entrance area at Shoalhaven Heads. The landward extent of the study area is defined by the coastal management areas mapped in the *State Environmental Planning Policy (Resilience and Hazards) 2021* (RH SEPP) that are within the catchment of the Shoalhaven River estuary. This includes Coomonderry Swamp, Saltwater Swamp and Brundee Swamp.

The Lower Shoalhaven CMP has been developed in accordance with the CM Act and the staged process for developing and implementing a CMP, as detailed in the NSW Coastal Management Manual. The stages completed to support this CMP include the preparation of:

- **Stage 1 – Shoalhaven Coastal Management Program Scoping Study:** This included a review of relevant background information, a first-pass risk assessment, a data gap analysis, and formulation of a plan for the development of the suite of CMPs covering the Shoalhaven's coastline and estuaries.
- **Stage 2 – Risks, Vulnerabilities and Opportunities:** This included a detailed assessment of the various threats and risks affecting the environmental, social, cultural,

and economic assets and values of the Lower Shoalhaven River and resulted in the development of the following reports:

- *Stage 2: Lower Shoalhaven River Tidal and Coastal Inundation, Morphological Changes to Berry's Canal, Groundwater and Acid Sulfate Soils Assessment.* An assessment of tidal and coastal inundation under several sea level rise scenarios with consideration of tidal and storm conditions, ground water levels and Acid Sulfate Soils. Morphological changes to Berry's Canal were also assessed.
- *Stage 2: Boating Study.* An analysis of current boat usage, a review of boating facilities, future demand estimates and potential management options.
- *Stage 2: Water Quality and Monitoring program assessment.* A review of water quality data to assess water quality issues and trends in the estuary and the adequacy of the existing monitoring and reporting program.
- *Stage 2: Urban Runoff Assessment and Treatment Options.* An analysis of
- urban stormwater catchments draining to the Lower Shoalhaven River was undertaken in Stage 2 to identify opportunities for stormwater management to reduce this threat to the estuary.
- *Stage 2: Bank and Riparian Condition Assessment.* Categorises and assesses the bank and riparian condition along the Lower Shoalhaven River, identifying potential erosion mechanisms and consideration of appropriate management recommendations.
- *Stage 2: Shoalhaven River Floodplain Prioritisation Study.* Prioritisation of management actions in the floodplain based on acid drainage risk, blackwater potential and sea level rise vulnerability.
- **Stage 3 – Lower Shoalhaven River CMP Stage 3 Report:** This included stakeholder engagement and options analysis to identify and prioritise coastal management actions that can effectively address issues and risks, take advantage of new opportunities, and give effect to the objectives of the CM Act.
- **Stage 4 – Lower Shoalhaven River Coastal Management Program:** This included the preparation of a draft CMP for public exhibition and the finalisation of the CMP following the exhibition. This document outlines the identified management actions and business plan for their implementation over a 10-year period. It is this document that is being presented to Council for adoption.

The CMP comprises a program of integrated management actions that are intended to address key issues, and harness new opportunities for the management of the Lower Shoalhaven River coastal zone. It outlines specific actions that are to be implemented over a 10-year management timeframe under several overarching strategies for managing the coastal zone, which include:

- Overarching Local Government Area (LGA) – Wide Management Actions
- Manage Foreshore Areas and Address Bank Erosion
- Improve Planning and Management Arrangements for the Lower Shoalhaven River Area
- Support Management of the Shoalhaven Heads Entrance
- Maintain and Improve Water Quality
- Protect and Rehabilitate Estuarine and Riparian Vegetation and Habitat
- Maintain and Improve Recreation and Amenity, and
- Support and Manage Boating and Waterway use.

This has resulted in the development of a total of 60 management actions to be delivered through Stage 5 (Implementation) of the CMP over the next 10-years. 55 of these actions are to be implemented by Council.

A Business Plan has been developed which outlines the key components of the funding strategy for the CMP to implement the management actions, including the cost of proposed actions, proposed cost-sharing arrangements, and other potential funding mechanisms. Delivery of the CMP is estimated to cost approximately \$24.64 million (2024 dollars) over 10 years, with approximately \$8 million of this funding proposed to be coming from Council.

Sustainable funding and financing arrangements for management actions will be established in consultation with key stakeholders. Funding for management actions may be gained from various sources, including competitive State and Federal Government grant programs and Council's internal funds.

The CMP was presented to the Northern CMP Advisory Committee on 17 March 2025 to gain their support and endorsement before the CMP was presented to Council. At the Committee meeting, consultants (Rhelm) presented a recap on the Lower Shoalhaven River CMP, the engagement undertaken and public exhibition. Key topics of concerns that were brought up during public exhibition, and were discussed in detail at the Committee meeting, included:

- Entrance management and flood mitigation
- Foreshore erosion and stabilisation
- Environmental protection and biodiversity
- Recreational Amenity and community access
- General plan comprehensiveness and clarity

At the meeting it was resolved that:

- The Committee endorse that the Lower Shoalhaven River Coastal Management Program (CMP) and report to Council for adoption and submission to the relevant NSW Minister for certification.
- Council consider, through the implementation of the Lower Shoalhaven River CMP, additional sites for water testing, where available resources and funding can be identified.

The CMP is now being presented to Council to request its adoption. Following this, the CMP is required to be submitted to the relevant NSW Minister for certification before Council can gazette the CMP and then commence implementation.

### Internal Consultations

Throughout Stages 1-4 of the CMP development, internal consultation was carried out within Council. This included consultations across and within Council Directorates to obtain feedback on the existing coastal hazards, risks and opportunities within the Lower Shoalhaven River coastal zone, as well as the development and implementation of proposed management actions. For actions that involve the construction of new or upgrade of existing Council assets, asset custodians were consulted to ensure integrated and consistent delivery of works across Council. Internal consultations will be ongoing throughout the implementation of the CMP.

## External Consultations

Throughout Stages 1-4 of the CMP development, external consultation was carried with a range of representatives from NSW State Government agencies, adjacent local councils and Non-Government Organisations. These included:

- NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW)
- NSW Department of Primary Industries and Regional Development (DPIRD) – Fisheries
- NSW Department of Planning, Housing and Infrastructure (DPHI) – Crown Lands and Planning
- Transport for NSW (TfNSW)
- National Parks and Wildlife Service (NPWS)
- State Emergency Services (SES)
- Local Land Services (LLS)
- Jerrinja Local Aboriginal Land Council (LALC)
- Jerrinja Tribal Group

Consultations were undertaken to obtain feedback on the existing coastal hazards, risks and opportunities within the Shoalhaven LGA, as well as the development and implementation of proposed management actions. Through this process, external entities provided information to support Council in developing a CMP that meets statutory obligations for the management of the coastal zone within the CMP Study Area. Following the completion of the CMP Public Exhibition Period, Council is currently seeking letters of support from the relevant NSW State Government agencies listed as supporting agencies within the CMP. These letters are required for submission of the CMP for certification by the relevant NSW Minister. To date, all agencies have expressed in principle support for the CMP.

The management actions within the CMP identify where these external entities have been identified as a 'Partner' or a 'Lead Agency' in the implementation of the management actions. Council will continue to engage with these entities throughout the implementation of the CMP and to ensure that the relevant legislation under each of their jurisdictional boundaries is appropriately complied with.

## Community Consultations

Stakeholder and community engagement has been implemented progressively through each stage of the CMP. The various engagements were coordinated and developed in line with CMP Engagement Guidelines developed by the NSW State Government (DCCEEW), the Shoalhaven City Council Community Engagement Strategy, and the use of the International Association for Public Participation (IAP2) guidelines. This included engagement with traditional owner groups, local communities, and public authorities through a range of methods – including workshops, drop-in sessions, surveys, one-on-one meetings and interactive online map-based platforms. The draft CMP document outlines the community consultation process employed throughout the lifecycle of the CMP.

During the development of the CMP, the Council employed a diverse range of strategies to actively engage with the community. These methods have included the following:

- Social media posting and advertising
- Council's Community newsletter
- Community Information drop-in sessions and workshops

- Council media releases
- Emails to a well-developed stakeholder list to provide project updates and promote upcoming engagement opportunities.
- Correspondence with Council's Community Consultative Bodies
- Email to subscribers of the *Get Involved* page
- Face-to-face meetings with our Indigenous stakeholders
- External Government workshops
- Internal Government workshops
- Radio advertising
- Newspaper advertising

As a result, Council has developed an extensive database of individuals interested in being engaged on the progression of the CMP through each stage of development, while also having had 158 members of the community subscribing to receive project updates on the project *Get Involved* webpage, and a further 170 subscribers for the broader Shoalhaven Coastal Management Programs *Get Involved* webpage.

To summarise the feedback received during Stages 2 and 3 of the development of the CMP a 'closing the loop' summary document was prepared and is available on the project *Get Involved* webpage (linked below). The intention of this summary document was to provide responses to all submissions received on the risks, vulnerabilities and opportunities identified by the community for the Lower Shoalhaven River CMP, as well as the potential management actions considered for the CMP. The document outlines how and where feedback had been considered in the development of management actions as presented in the Stage 4 draft CMP document.

The draft CMP was on public exhibition from 4 November 2024 to 10 February 2025 to obtain final stakeholder feedback on the proposed management actions included in the draft CMP. Council is required under the CM Act to publicly exhibit the draft CMP for a period of at least 28 days. The draft CMP was placed on public exhibition for a total of 99 calendar days in response to community requests. The public exhibition process involved:

- Provision of the document electronically on the Shoalhaven City Council *Get Involved* webpage for the project: <https://getinvolved.shoalhaven.nsw.gov.au/lower-shoalhaven-river-cmp> and the *Documents on Exhibition* section of the Council website.
- Two community information sessions, attended by the project team, were held on 20 and 21 November 2024 in Nowra and Shoalhaven Heads respectively. These sessions provided the community an opportunity to review, ask questions, and provide in-person feedback on the draft CMP.

Other engagement methods deployed during the Public Exhibition Period included, distribution of pamphlets, *Get Involved* page posts and updates, direct emails to Council community and stakeholder participation lists and the creation of an 'explainer video' summarising the CMP process and outcomes. As part of the public exhibition, Council also hosted a meeting for all CMP Advisory Committee Members on the 21 November 2024. This meeting provided CMP Advisory Committee Members the opportunity to discuss the draft CMP document with the project team and an opportunity to ask questions about this document before providing feedback.

The following summarises the engagement achieved throughout the public exhibition process:

- 50 online submissions on the draft CMP through the *Get Involved* page.

- 14 submissions on the draft CMP through emails or letters sent into Council
- 25 registered attendees at the community information sessions

Following the public exhibition period, the draft CMP has been updated based on the submissions received. A response to submissions (RTS) has also been prepared and is available as an appendix to the final CMP (Attachment 2 to this report) outlining how each submission has been considered in the finalisation of the CMP document.

The CMP document and RTS document were presented to the Northern CMP Advisory Committee to gain their support and endorsement before the CMP was presented to Council. The Committee meeting was held on 17 March 2025. At the meeting, the Committee supported the recommendation that the CMP be presented to Council for adoption, and subsequent submission to the relevant NSW Minister for certification.

### **Policy and Statutory Implications**

The CMP has been prepared in accordance with the NSW Coastal Management Framework that is governed by the CM Act. Council has prepared the CMP giving regard to the relevant legislation, environmental planning instruments and statutory guidelines applicable to the coastal zone within the CMP Study Area. Furthermore, as part of the CMP development process, DCCEEW is required to confirm that the CMP satisfies the objectives of the CM Act and the mandatory requirements for a CMP as set out in the Coastal Management Manual. DCCEEW has indicated in principle support for the draft CMP and is currently reviewing the final CMP to confirm that it meets the objectives of the CM Act and mandatory requirements for a CMP.

The CMP has also been prepared considering existing Council Policies for the management of the foreshore and coastal environment including, but not limited to, Council's Tree Management Policy (Public Land) (POL21/51), Vegetation Vandalism Prevention Policy (POL22/24), and the Foreshore Reserves Policy (POL19/76). In addition, the CMP has been prepared giving consideration to Council's suite of CMPs, notably the certified and gazetted Shoalhaven Open Coast and Jervis Bay CMP, to ensure consistent management of the coastal zone throughout the Shoalhaven.

The CMP is considered a 'living document' that is to be reviewed and updated continually throughout its lifecycle. A strategic review of the CMP should occur at least once every ten years to assess the effectiveness of the CMP in achieving its objectives and to incorporate changes, considering new information, legislative and policy changes, and improved understanding of the local coastal processes.

Following the certification of the CMP, existing resolutions from Council meetings relating to coastal management that have been actioned by Council will be superseded, with the CMP to become the overarching strategy for the management of the coastal zone within the Shoalhaven. As outlined above, the CMP has been developed considering Council's statutory obligations for coastal management as outlined with the CM Act, Council's existing policies relevant to the coastal environment, best practice coastal management as documented within State guidelines and literature, as well as the outcomes of extensive consultation with the community and NSW State Government agencies over the preceding years. Subsequently, it is considered the CMP should be the primary mechanism for Council to manage the coastal zone of Lower Shoalhaven River in an integrated and holistic way.

### **Financial Implications**

The CMP has been prepared by Council with funding assistance received from NSW DCCEEW through a Coast and Estuaries Grant. This grant funding has provided a fifty percent contribution from the NSW State Government for the completion of the CMP. Delivery of the CMP is estimated to cost approximately \$24.64 million (2024 dollars) over 10

years, with approximately \$8 million of this funding proposed to be coming from Council, which will be subject to inclusion in the long-term financial plan.

Following the certification of the CMP, Council will be eligible to apply for grant funding for the implementation of management actions through the DCCEE Coast and Estuaries Implementation Stream Grants. This funding has been specifically created to provide a two-to-one funding ratio for actions within a certified CMP. This grant funding program is contestable, prioritised to Council applications with certified CMPs and subject to NSW State Government funding priorities and allocations. However, the availability of these funding opportunities provides a clear indication of the financial benefits a certified CMP provides to Council for the implementation of the management actions identified through the CMP.

In preparing the CMP, it has been recognised that for Council to implement and deliver the identified management actions, additional resourcing is likely to be required. Management Action ECON\_05 of the CMP has been developed to respond to this and set out for Council to “Establish one new Full Time Equivalent (FTE) Coast & Estuary Officer role within Council”. The Business Plan within the CMP has assigned this management action an expected cost of \$1.3 million over the 10-year lifecycle of the CMP to ensure that internal capability is maintained to oversee and carry out strategic actions. This operational funding (and any capital project allocations) will be decided on through standard budget processes, accounting for whole of organisational resourcing requirements and capability.

Staff resourcing and associated Council budgets for the Lower Shoalhaven River CMP implementation is vital to ensure the delivery of Stage 5 in line with the business plan. This is paramount given the significant increase in workload requirements for Council staff. Furthermore, it must be acknowledged that current resources are working on the development of high priority estuary CMPs to meet stakeholder expectations. Adequate resourcing will enable the efficient and complementary implementation and continued development of all CMPs throughout the LGA.

## **Risk Implications**

### Consideration of Risk in the CMP process

A First Pass Risk Assessment was completed in the Stage 1 Scoping Study for the Shoalhaven CMPs. This provided a high-level assessment the various issues, vulnerabilities, and opportunities affecting the Lower Shoalhaven River coastal zone. The risk assessment was further refined in Stage 2 of the CMP and included an updated and detailed risk assessment of coastal hazards. This involved identifying and assessing risks and benefits to environmental, social, and economic values across the coastline, with the aim of informing the development of management options in Stages 3 and 4.

The risk-based framework applied in Stage 2 was consistent with those applied in Council's existing coastal hazard risk assessment, and the CMP Stage 1 Scoping Study, as well as Council's organisational Risk Management Framework. This risk assessment approach was also developed to be consistent with the following standards and guidelines:

- ISO 31000:2018 Risk management – Principles and guidelines, provides principles, framework, and a process for managing risk (International Standards Organisation, 2018).
- Part B of the NSW Coastal Management Manual (OEH, 2018).

The risk assessment considered and quantified a wide range of threats and the hazards they present for the relevant coastal management areas (as defined in the RH SEPP) within the coastal zone of each estuary. The potential impact of these threats was evaluated for several key interconnected risk assessment themes, comprising public safety, infrastructure, environmental, and public amenity. The indicative control measures identified against each

risk were used as the basis for further prioritisation and refinement of management actions in Stage 3 of the CMP process.

As required by the CM Act, the key risks and threats have been considered over a range of timeframes, including the present day, as well as future planning horizons 20 years, 50 years, and 100 years – to account for future climate changes impacts, and the impacts of population growth and future development on the coastal zone.

Management actions included within the CMP reflect issues that have been assessed as being high risk either in the present day or under future planning horizons. Council's development of the CMP and the relevant management actions have been guided by decisions made in 'good faith' as established under Section 733 of the *Local Government Act 1993* to suitably address and mitigate identified risks and hazards. The CMP has incorporated the statutory objectives for the management of the coastal zone as reflected in the CM Act, and other supporting legislation and guidance as part of the NSW Coastal Management Framework. Subsequently, failure to implement the CMP in line with this statutory guidance may expose Council to liability by failing to act with reasonable care and due diligence to proactively manage potential risks identified within the CMP. This may hinder defences available to Council under Section 733 of the *Local Government Act 1993* and Section 43A(3) of the *Civil Liability Act 2002*.

#### Risk of not adopting the recommendations of this report

Additional modifications to the draft CMP, if significant, would require further public exhibition of the draft document and reporting back to the Committee and Council. Under such a scenario, additional time and budget would be required for the project team to complete this work, which would delay the implementation of high priority management actions. This project has been funded by the NSW DCCEEW Coast and Estuary Grants Program with a fifty percent contribution by Council. Applications for additional funding and time would not be successful due to several variations already approved on this project and the projects being considered complete. Consequently, there is no scope or budget for further significant amendments to the CMP.

## CL25.194 Adoption of the Lake Conjola Coastal Management Program

**HPERM Ref:** D24/517449

**Department:** Environmental Services

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

**Attachments:**

1. [Final Draft Lake Conjola Coastal Management Program](#)
2. [Report - Lake Conjola Coastal Management Program - Public Exhibition Response to Submissions Document](#)

### Purpose:

To present to Council the Lake Conjola Coastal Management Program (CMP). The CMP is being presented to Council for adoption prior to certification by the relevant NSW Government Minister, following which the CMP will be submitted for gazettal.

### Summary and Key Points for Consideration:

The Lake Conjola CMP has been developed in accordance with the legislative requirements and framework developed under the *Coastal Management Act 2016*. The development of the CMP has followed the required staged process and has involved the consideration of historical studies, completion of additional technical studies, and extensive consultation with the community and key stakeholders. The CMP comprises a program of integrated management actions responding to identified risks and opportunities that are to be implemented over a 10-year management timeframe under several overarching strategies. There are 51 management actions to be delivered through implementation of the CMP.

A Business Plan has been developed that outlines the key components of the funding strategy for the CMP to implement the management actions, including the cost of proposed actions, proposed cost-sharing arrangements, and other potential funding mechanisms. Delivery of the CMP is estimated to cost \$12.2 million (2024 dollars) over 10 years, with approximately \$4 million of this funding proposed to be coming from Council.

Following the completion of the public exhibition (25 October to 25 November 2024), the CMP was finalised and presented to the Southern Coastal Management Program Advisory Committee to gain their support and endorsement before being presented to Council for adoption. Following this, the CMP is required to be submitted to the relevant NSW Minister for certification before Council can gazette the CMP and then commence Stage 5 (Implementation).

### Recommendation

That Council:

1. Adopt the Lake Conjola Coastal Management Program (CMP) and the CMP be submitted to the relevant NSW Government Minister for certification.
2. Note: Resourcing requirements, encompassed by the plan and its actions, are to be determined via budget processes and grant funding for delivery.

CL25.194

## Options

1. As recommended.

Implications: Council's adoption of the CMP will support the finalisation and certification of this document, and subsequent implementation by Council. This CMP provides an integrated and strategic approach to the management of the Lake Conjola coastal zone consistent with the objectives of the *Coastal Management Act 2016* and has integrated community feedback following substantial consultation. Once certified, Council can proceed with the implementation of the management actions to ensure the comprehensive, risk-based management and mitigation of coastal hazards within the CMP Study Area can meet the needs of the community.

2. Not adopt, or, seek further modification to the Lake Conjola CMP.

Implications: Additional modifications to the draft CMP, if significant, would require further public exhibition and reporting back to the Committee and Council. Under such a scenario, additional Council time and budget would be required for the project team to complete this work, which would delay the implementation of high priority management actions to address coastal hazards. This will also place further demands on community members who have already provided significant input into the development of this CMP. This project has been funded by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Coast and Estuary Grants Program with a fifty percent contribution by Council. Applications for additional funding and time would not be successful due to several variations already approved on this project and the projects being considered complete. Consequently, there is no scope or budget for further significant amendments to the CMP.

CL25.194

## Background and Supplementary information

In accordance with the *Coastal Management Act 2016* (CM Act), local councils are to prepare CMPs to meet the objectives of the CM Act. The CMP covers and applies to the coastal zone of Lake Conjola – as legally defined in the CM Act and the *State Environmental Planning Policy (Resilience and Hazards) 2021* (RH SEPP). The Study Area for the purposes of the Lake Conjola CMP extends from the entrance of the lake westward to the tidal limit and 500 metres beyond consistent with the mapped Coastal Environment Area as prescribed by the RH SEPP.

The Lake Conjola CMP has been developed in accordance with the CM Act and the staged process for developing and implementing a CMP, as detailed in the NSW Coastal Management Manual. The stages completed to support this CMP include the preparation of:

- **Stage 1 – Shoalhaven Coastal Management Program Scoping Study:** This included a review of relevant background information, a first-pass risk assessment, a data gap analysis, and formulation of a plan for the development of the suite of CMPs covering the Shoalhaven's coastline and estuaries.
- **Stage 2 – Risks, Vulnerabilities and Opportunities:** This included a detailed assessment of the various threats and risks affecting the environmental, social, cultural, and economic assets and values of Lake Conjola and resulted in the development of the following reports:
  - *Lake Conjola CMP Stage 2: Report A – Environmental, Social & Cultural Assets and Attributes.* Provides a review of the physical and social attributes and assets within the Lake Conjola catchment, as well as noting the various pieces of legislation that afford protection to these attributes.
  - *Lake Conjola CMP Stage 2: Report B – Threats and Risk Assessment.* Describes the range of, extent, and potential impact of threats posed by

coastal hazards on the attributes, as well as providing initial consideration of potential mitigation options and actions

- *Lake Conjola CMP Stage 2: Report C – Entrance Processes and Entrance Management Options.* Provides a review of coastal processes and entrance dynamics, past and current entrance management practices, as well as consideration of potential options for management of the entrance into the future.
- **Stage 3 – Lake Conjola CMP Stage 3: Identify and Evaluate Options Summary Report:** This included stakeholder engagement and options analysis to identify and prioritise coastal management actions that can effectively address issues and risks, take advantage of new opportunities, and give effect to the objectives of the CM Act.
- **Stage 4 – Lake Conjola Coastal Management Program:** This included the preparation of a draft CMP for public exhibition and the finalisation of the CMP following the exhibition. This document outlines the identified management actions and business plan for their implementation over a 10-year period. It is this document that is being presented to the Committee to support Council's adoption.

The CMP comprises a program of integrated management actions that are intended to address key issues, and harness new opportunities for the management of the Lake Conjola coastal zone. It outlines specific actions that are to be implemented over a 10-year management timeframe under several overarching strategies for managing the coastal zone, which include:

- Overarching Local Government Area (LGA) - Wide Management Actions
- Manage Foreshore Areas and Bank Erosion
- Improve Planning and Management Arrangements for the Lake Catchment Area
- Entrance Management Interventions
- Maintain and Improve Water Quality
- Protect and Rehabilitate Estuarine and Riparian Vegetation and Habitat
- Maintain and Improve Recreation and Amenity.

This has resulted in the development of a total of 51 management actions to be delivered through Stage 5 (Implementation) of the CMP over the next 10-years.

A Business Plan has been developed which outlines the key components of the funding strategy for the CMP to implement the management actions, including the cost of proposed actions, proposed cost-sharing arrangements, and other potential funding mechanisms. Delivery of the CMP is estimated to cost \$12.2 million (2024 dollars) over 10 years, with approximately \$4 million of this funding proposed to be coming from Council.

Sustainable funding and financing arrangements for management actions will be established in consultation with key stakeholders. Funding for management actions may be gained from various sources, including competitive State and Federal Government grant programs and Council's internal funds.

The CMP document was presented to the Southern CMP Advisory Committee to gain their support and endorsement before the CMP was presented to Council. The Committee meeting was held on 16 December 2024 and quorum was unable to be reached. As such the meeting was postponed until 15 January 2025.

At the Committee meeting held 15 January 2025, there were a number of detailed discussions regarding entrance management, particularly in relation to the potential role of dredging at the Lake Conjola entrance through the CMP and Entrance Management Policy (EMP). In response to discussions on dredging, Council staff provided additional text

proposed to be included in the Lake Conjola CMP. This additional text describes how Council will consider dredging outside of the CMP framework.

Following this meeting and the provision of the additional text, Council staff provided the Committee with further correspondence on 11 and 20 February 2025 regarding the proposed approach to entrance management within the CMP. An additional meeting was scheduled following this correspondence and held on 24 March 2025 where Council presented the revised approach for consideration of entrance management. The following approach was consequently adopted by Council:

- Lake Conjola CMP: Council sought endorsement from the Committee for the Lake Conjola CMP to be presented to Council for adoption. This includes amendments to the CMP to add the draft text regarding dredging which describes how Council will consider dredging outside of the CMP.
- Lake Conjola Entrance Management Policy: The EMP appendix has been removed (de-coupled) from the CMP, and the EMP itself will be separately reported to Council for endorsement. It is noted that the updated EMP provides Council with significantly improved options for entrance management for the purposes of flood mitigation, especially when utilised in collaboration with the proposed Lake Conjola Total Flood Warning System (TFWS).
- Lake Conjola entrance dredging: Council and the State Government will continue to monitor and explore opportunities for dredging separate to the Lake Conjola CMP.

The Committee supported these recommendations.

The CMP is now being presented to Council for adoption. Following this, the CMP is required to be submitted to the relevant NSW Minister for certification before Council can gazette the CMP and commence implementation.

### Internal Consultations

Throughout Stages 1-4 of the CMP development, internal consultation was carried out within Council. This included consultations across and within Council Directorates to obtain feedback on the existing coastal hazards, risks and opportunities within the Lake Conjola coastal zone, as well as the development and implementation of proposed management actions. For actions that involve the construction of new or upgrade of existing Council assets, asset custodians were consulted to ensure integrated and consistent delivery of works across Council. Internal consultations will be ongoing throughout the implementation of the CMP.

### External Consultations

Throughout Stages 1-4 of the CMP development, external consultation was carried with a range of representatives from NSW State Government agencies, adjacent local councils and Non-Government Organisations. These included:

- NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW)
- NSW Department of Primary Industries and Regional Development (DPIRD) – Fisheries
- NSW Department of Planning, Housing and Infrastructure (DPHI) – Crown Lands and Planning
- Transport for NSW (TfNSW)
- National Parks and Wildlife Service (NPWS)
- State Emergency Services (SES)

- Local Land Services (LLS)
- Jerrinja Local Aboriginal Land Council (LALC)
- Jerrinja Tribal Group

Consultations were undertaken to obtain feedback on the existing coastal hazards, risks and opportunities within the Shoalhaven LGA, as well as the development and implementation of proposed management actions. Through this process, external entities provided information to support Council in developing a CMP that meets statutory obligations for the management of the coastal zone within the CMP Study Area. Following the completion of the CMP Public Exhibition Period, Council is currently seeking letters of support from the relevant NSW State Government agencies listed as supporting agencies within the CMP. These letters are required for submission of the CMP for certification by the relevant NSW Minister. To date, all agencies have expressed in principle support for the CMP.

The management actions within the CMP identify where these external entities have been identified as a 'supporting partner' in the implementation of the management actions. Council will continue to engage with these entities throughout the implementation of the CMP and to ensure that the relevant legislation under each of their jurisdictional boundaries is appropriately complied with.

### Community Consultations

Stakeholder and community engagement has been implemented progressively through each stage of the CMP. The various engagements were coordinated and developed in line with CMP Engagement Guidelines developed by the NSW State Government (DCCEEW), the Shoalhaven City Council Community Engagement Strategy, and the use of the International Association for Public Participation (IAP2) guidelines. This included engagement with Traditional Owner Groups, local communities, and public authorities through a range of methods – including workshops, drop-in sessions, surveys, one-on-one meetings and interactive online map-based platforms. The draft CMP document outlines the community consultation process employed throughout the lifecycle of the CMP.

During the development of the CMP, the Council employed a diverse range of strategies to actively engage with the community. These methods have included the following:

- Social media posting and advertising
- Council's Community newsletter
- Community Information drop-in sessions and workshops
- Council media releases
- Installing signs in beach and foreshore areas (e.g. beach access tracks, watercraft facilities)
- Emails to a well developed stakeholder list to provide project updates and promote upcoming engagement opportunities.
- Correspondence with Council's Community Consultative Bodies
- Email to subscribers of the *Get Involved* page
- Face-to-face meetings with our Indigenous stakeholders
- External Government workshops
- Internal Government workshops
- Radio advertising

- Newspaper advertising

As a result, Council has developed an extensive database of individuals interested in being engaged on the progression of the CMP through each stage of development, while also having had 80 members of the community subscribing to receive project updates on the project *Get Involved* webpage, and a further 170 subscribers for the broader Shoalhaven Coastal Management Programs *Get Involved* webpage.

To summarise the feedback received during Stages 2 and 3 of the development of the CMP a 'closing the loop' summary document was prepared and is available on the project *Get Involved* webpage (linked below). The intention of this summary document was to provide responses to all submissions received on the risks, vulnerabilities and opportunities identified by the community for the Lake Conjola CMP, as well as the potential management actions considered for the CMP. The document outlines how and where feedback had been considered in the development of management actions as presented in the Stage 4 draft CMP document.

The draft CMP was on public exhibition from 25 October 2024 to 25 November 2024 to obtain final stakeholder feedback on the proposed management actions included in the draft CMP. Council is required under the CM Act to publicly exhibit the draft CMP for a period of at least 28 days. The draft CMP was placed on public exhibition for a total of 32 calendar days. The public exhibition process involved:

- Provision of the document electronically on the Shoalhaven City Council *Get Involved* webpage for the project: <https://getinvolved.shoalhaven.nsw.gov.au/lake-conjola-cmp> and the *Documents on Exhibition* section of the Council website.

Other engagement methods deployed during the Public Exhibition Period included *Get Involved* page posts and updates, direct emails to Council community and stakeholder participation lists, and Council attendance at the Lake Conjola Emergency Management Mini Expo hosted by the NSW Reconstruction Authority on 19 November 2024.

The following summarises the engagement achieved throughout the public exhibition process:

- 222 online submissions on the draft CMP through the *Get Involved* page.

Following the public exhibition period, the draft CMP was updated based on the submissions received. A response to submissions (RTS) was prepared and is available as an appendix to the final CMP (Attachment 2 to this report) outlining how each submission has been considered in the finalisation of the CMP document.

## Policy and Statutory Implications

The CMP has been prepared in accordance with the NSW Coastal Management Framework that is governed by the CM Act. Council has prepared the CMP giving regard to the relevant legislation, environmental planning instruments and statutory guidelines applicable to the coastal zone within the CMP Study Area. Furthermore, as part of the CMP development process, DCCEEW is required to confirm that the CMP satisfies the objectives of the CM Act and the mandatory requirements for a CMP as set out in the Coastal Management Manual. DCCEEW has indicated in principle support for the draft CMP and is currently reviewing the final CMP to confirm that it meets the objectives of the CM Act and mandatory requirements for a CMP.

The CMP has also been prepared considering existing Council Policies for the management of the foreshore and coastal environment including, but not limited to, Council's Tree Management Policy (Public Land) (POL21/51), Vegetation Vandalism Prevention Policy (POL22/24), and the Foreshore Reserves Policy (POL23/24). In addition, the CMP has been prepared giving consideration to Council's suite of CMPs, notably the certified and gazetted

Shoalhaven Open Coast and Jervis Bay CMP, to ensure consistent management of the coastal zone throughout the Shoalhaven.

The CMP is considered a ‘living document’ that is to be reviewed and updated continually throughout its lifecycle. A strategic review of the CMP should occur at least once every ten years to assess the effectiveness of the CMP in achieving its objectives and to incorporate changes, considering new information, legislative and policy changes, and improved understanding of the local coastal processes.

Following the certification of the CMP, existing resolutions from Council meetings relating to coastal management that have been actioned by Council will be superseded, with the CMP to become the overarching strategy for the management of the coastal zone within the Shoalhaven. As outlined above, the CMP has been developed considering Council’s statutory obligations for coastal management as outlined with the CM Act, Council’s existing policies relevant to the coastal environment, best practice coastal management as documented within State guidelines and literature, as well as the outcomes of extensive consultation with the community and NSW State Government agencies over the preceding years. Subsequently, it is considered the CMP should be the primary mechanism for Council to manage the coastal zone of Lake Conjola in an integrated and holistic way.

With the EMP being removed from the CMP, these documents can be appropriately considered separately by Council.

### Financial Implications

The CMP has been prepared by Council with funding assistance received from NSW DCCEEW through a Coast and Estuaries Grant. This grant funding has provided a fifty percent contribution from the NSW State Government for the completion of the CMP. Delivery of the CMP is estimated to cost \$12.2 million (2024) over 10 years, with approximately \$4 million of this funding to come from Council, which will be subject to inclusion in the long-term financial plan.

Following the certification of the CMP, Council will be eligible to apply for grant funding for the implementation of management actions through the DCCEEW Coast and Estuaries Implementation Stream Grants. This funding has been specifically created to provide a two-to-one funding ratio for actions within a certified CMP. This grant funding program is contestable, prioritised to Council applications with certified CMPs and subject to NSW State Government funding priorities and allocations. However, the availability of these funding opportunities provides a clear indication of the financial benefits a certified CMP provides to Council for the implementation of the management actions identified through the CMP. Without an adopted and certified CMP, Council’s chances of receiving grant funding from NSW DCCEEW, as well as other State Government Agencies, are limited which will impact on Council’s ability to deliver on identified high priority works.

In preparing the CMP, it has been recognised that for Council to implement and deliver the identified management actions, additional resourcing is likely to be required. Management Action LG2 of the CMP has been developed to respond to this and set outs for Council to “Establish one new Full Time Equivalent (FTE) Coast & Estuary Officer role within Council”. The Business Plan within the CMP has assigned this management action an expected cost of \$1.3 million over the 10-year lifecycle of the CMP to ensure that internal capability is maintained to oversee and carry out strategic actions. This operational funding (and any capital project allocations) will be decided on through standard budget processes, accounting for whole of organisational resourcing requirements and capability.

Staff resourcing and associated Council budgets for the Lake Conjola CMP implementation is vital to ensure the delivery of Stage 5 in line with the business plan. This is paramount given the significant increase in workload requirements for Council staff. Furthermore, it must be acknowledged that current resources are working on the development of high priority

estuary CMPs to meet stakeholder expectations. Adequate resourcing will enable the efficient and complementary implementation and continued development of all CMPs throughout the LGA.

## Risk Implications

### Consideration of Risk in the CMP process

A First Pass Risk Assessment was completed in the Stage 1 Scoping Study for the Shoalhaven CMPs. This provided a high-level assessment the various issues, vulnerabilities, and opportunities affecting the Lake Conjola coastal zone. The risk assessment was further refined in Stage 2 of the CMP and included an updated and detailed risk assessment of coastal hazards. This involved identifying and assessing risks and benefits to environmental, social, and economic values across the coastline, with the aim of informing the development of management options in Stages 3 and 4.

The risk-based framework applied in Stage 2 involved the completion of a two-step methodology including:

- **Qualitative Threat-Based Risk Assessment**
  - An **outcome**-based approach that reflects the interests of the community and agencies and enables consideration of catchment wide issues that may impact on many assets and attributes.
- **Quantitative Asset-Based Risk Assessment**
  - An **output**-based approach that reflects the interests of Council asset managers and enables consideration of factors impacting on each asset so that accurate forward planning for asset improvement / renewal / removal can be undertaken.

The risk-based framework applied in Stage 2 was consistent with those applied in Council's existing coastal hazard risk assessment, and the CMP Stage 1 Scoping Study, as well as Council's organisational Risk Management Framework. This risk assessment approach was also developed to be consistent with the following standards and guidelines:

- ISO 31000:2018 Risk management – Principles and guidelines, provides principles, framework, and a process for managing risk (International Standards Organisation, 2018).
- Part B of the NSW Coastal Management Manual (OEH, 2018).

The risk assessment considered and quantified a wide range of threats and the hazards they present for the relevant coastal management areas (as defined in the RH SEPP) within the coastal zone of each estuary. The potential impact of these threats was evaluated for several key interconnected risk assessment themes, comprising public safety, infrastructure, environmental, and public amenity. The indicative control measures identified against each risk were used as the basis for further prioritisation and refinement of management actions in Stage 3 of the CMP process.

As required by the CM Act, the key risks and threats have been considered over a range of timeframes, including the present day, as well as future planning horizons 20 years, 50 years, and 100 years – to account for future climate changes impacts, and the impacts of population growth and future development on the coastal zone.

Management actions included within the CMP reflect issues that have been assessed as being high risk either in the present day or under future planning horizons. Council's development of the CMP and the relevant management actions have been guided by decisions made in 'good faith' as established under Section 733 of the *Local Government Act 1993* to suitably address and mitigate identified risks and hazards. The CMP has

incorporated the statutory objectives for the management of the coastal zone as reflected in the CM Act, and other supporting legislation and guidance as part of the NSW Coastal Management Framework. Subsequently, failure to implement the CMP in line with this statutory guidance may expose Council to liability by failing to act with reasonable care and due diligence to proactively manage potential risks identified within the CMP. This may hinder defences available to Council under Section 733 of the *Local Government Act 1993* and Section 43A(3) of the *Civil Liability Act 2002*.

Risk of not adopting the recommendations of this report

Additional modifications to the draft CMP, if significant, would require further public exhibition of the draft document and reporting back to the Committee and Council. Under such a scenario, additional time and budget would be required for the project team to complete this work, which would delay the implementation of high priority management actions. This project has been funded by the NSW DCCEEW Coast and Estuary Grants Program with a fifty percent contribution by Council. Applications for additional funding and time would not be successful due to several variations already approved on this project and the projects being considered complete. Consequently, there is no scope or budget for further significant amendments to the CMP.

## 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.