

Ordinary Meeting

Meeting Date: Tuesday, 29 January, 2019
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.00pm

Membership (Quorum - 7)
All Councillors

Please note: The proceedings of this meeting (including presentations, deputations and debate) will be webcast and may be recorded and broadcast 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.

Agenda

1. **Acknowledgement of Traditional Custodians**
2. **Opening Prayer**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
 - Ordinary Meeting - 18 December 2018
6. **Declarations of Interest**
7. **Presentation of Petitions**
8. **Mayoral Minute**
9. **Deputations and Presentations**
10. **Notices of Motion / Questions on Notice**

Notices of Motion / Questions on Notice

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CCL19.1 Milestone 6 Final Offer - REMS 1B - WP2.1: Transfer Main from
Bomaderry to Nowra

Local Government Act - Section 10A(2)(c) - Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

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

CL19.1 Notice of Motion - Collaboration with Corrective Services NSW Community Corrections Agency

HPERM Ref: D19/4377

Submitted by: Cllr Nina Digiglio

Purpose / Summary

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

Recommendation

That a report be provided to Council on additional operational areas in which Council, as a community service work partner, can work with Corrective Services NSW Community Corrections Agency to provide opportunities for offenders to contribute to improving assets in the community, as well as providing effective cost savings to Council.

Background

Offenders undertake community service work as part of their sentence: it is unpaid and does not replace the work of paid employees.

Several Councils across NSW have signed up, with offenders undertaking graffiti removal and grounds maintenance.

Community Corrections can allocate offenders to service ongoing projects or seasonal work, such as large-scale rubbish collection before a community event.

It is noted that Council currently provides community service work opportunities in some tasks related to roadside maintenance. The report is requested to provide information to Council as to other tasks that could be undertaken under community service, particularly in the area of asset maintenance.

CL19.1

CL19.2 Rescission Motion - CL18.351 Notice of Motion - DE18.76 - Amendment - Shoalhaven Development Control Plan 2014 - Medium Density 'Housekeeping' Amendments

HPERM Ref: D18/444172

Submitted by: Clr Kaye Gartner
 Clr Nina Digiglio
 Clr John Levett

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 CL18.351 of the Council Meeting held on Tuesday 18 December 2018.

Background

The following resolution (MIN18.993) was adopted at the Council Meeting held Tuesday 18 December 2018.

That Council

1. Retain A6.2 as originally adopted and instead amend A6.4 as follows:

*The landscaping provided at **A6.1, A6.2 and A6.3** excludes any ~~encroachments (i.e. any part of a building or structure), hardstand areas and any~~ areas used for storage, clothes drying, and water tanks.*

2. **(as per staff recommendation):** Amend P1.1 as follows:

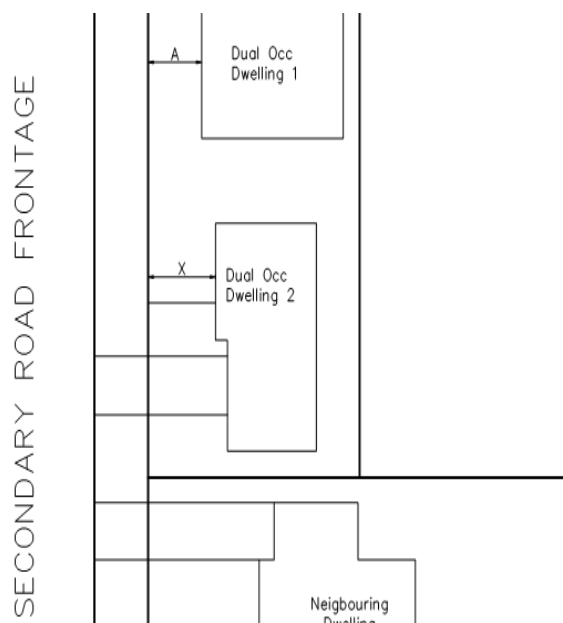
To promote good built form outcomes and the efficient utilisation of land, lot consolidation/ amalgamation avoids the isolation of smaller lots that would prevent future medium density development on those lots.

This performance criteria only relates to:

- • Dual occupancies in the R3 Medium Density Residential zone.
 - • Multi dwelling housing in any zone.
 - • Multi dwelling housing (terraces) in any zone.
 - • A manor house in any zone.
3. **Recommendation (as per staff recommendation):** Delete P28.1 and P28.2. The performance criteria do not add any additional value to the assessment of an application beyond what is already covered in effective P28.3 and P28.4.
 4. **Recommendation:** Table 2 and Figure 3 of Chapter G13 of the Shoalhaven DCP 2014 be amended as follows:

CL19.2

<i>Front Setback</i>	<i>Front Setback Secondary Road</i>	<i>Side Setback</i>	<i>Side Setback Secondary Road</i>	<i>Rear Setback</i>	<i>Rear / Side Setback to Foreshore reserve</i>
<p><i>Lots under 600m²:</i></p> <ul style="list-style-type: none"> 5m to walls of dwellings & 4m to verandahs, patios and awnings. <p><i>Lots over 600m²:</i></p> <ul style="list-style-type: none"> 6m to walls of dwellings & 5m to verandahs, patios and awnings. <p><i>Lots over 900m²:</i></p> <ul style="list-style-type: none"> 7.5m to walls of dwellings & 6.5m to verandahs, patios and awnings. <p><i>For any of the above setback requirements, reduced setbacks may be approved where the prevailing street character permits and the future desired character of the area is not prejudiced. The suitability of reduced setbacks must be demonstrated through addressing the relevant objectives and performance criteria of the DCP in support of the application.</i></p>	<p>Detached Dual Occupancy: Average of the setbacks of the front and adjacent dwelling or 5m, whichever is the lesser. Refer to figure 3 below.</p> <p>Attached Dual Occupancy Dwelling: 3m to the wall of the dwelling & 5.5m to garage.</p>	<p>900mm for single storey structures</p> <p>1.2m for any two storey component / structures</p>	<p>3m</p>	<p>Attached Dual Occupancies & side by side: 3m (average)</p> <p>Detached Dual Occupancies (one behind the other): 3m (average) for rear of the rear dwelling.</p> <p><i>Note: No rear setback applies for front dwelling (i.e. dwelling closest to the street).</i></p>	<p>7.5m</p>



5. Recommendation: Amend A20.1 to read:

In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided encouraged per dwelling:

CL19.2

- 1 bed: 6m³.
- 2 bed: 8m³.
- 3+ bed: 10m³.

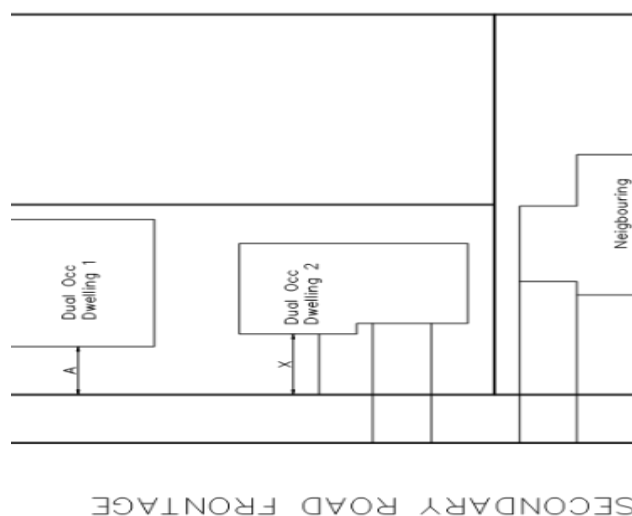
6. **Recommendation:** A20.2 of Chapter G13 of the Shoalhaven DCP 2014 be deleted.
7. **Recommendation:** The General Manager prepare a draft amendment to Chapter G13 of the Shoalhaven DCP 2014 as follows:
 - a. Table 2 and Figure 3 of Chapter G13 of the Shoalhaven DCP 2014 be updated as follows:

Replacement Table 2 – Chapter 13

<i>Front Setback</i>	<i>Front Setback Secondary Road</i>	<i>Side Setback</i>	<i>Side Setback Secondary Road</i>	<i>Rear Setback</i>	<i>Rear / Side Setback to Foreshore reserve</i>
<p><i>Lots under 600m²:</i></p> <ul style="list-style-type: none"> • 5m to walls of dwellings & 4m to verandahs, patios and awnings. <p><i>Lots over 600m²:</i></p> <ul style="list-style-type: none"> • 6m to walls of dwellings & 5m to verandahs, patios and awnings. <p><i>Lots over 900m²:</i></p> <ul style="list-style-type: none"> • 7.5m to walls of dwellings & 6.5m to verandahs, patios and awnings. <p><i>For any of the above setback requirements, reduced setbacks may be approved where the prevailing street character permits and the future desired character of the area is not prejudiced. The suitability of reduced setbacks must be demonstrated through addressing the relevant objectives and performance criteria of the DCP in support of the application.</i></p>	<p><i>Detached Dual Occupancy:</i> Average of the setbacks of the front and adjacent dwelling or 5m, whichever is the lesser. Refer to figure 3 below.</p> <p><i>Attached Dual Occupancy Dwelling:</i> 3m to the wall of the dwelling & 5.5m to garage.</p>	<p>900mm for single storey structures</p> <p>1.2m for any two storey component / structures</p>	3m	<p><i>Attached Dual Occupancies & side by side:</i> 3m (average)</p> <p><i>Detached Dual Occupancies (one behind the other):</i></p> <p>3m (average) for rear of the rear dwelling.</p> <p><i>Note: No rear setback applies for front dwelling (i.e. dwelling closest to the street).</i></p>	7.5m

Replacement Figure 3 – Chapter 13

CL19.2



- b. A20.2 of Chapter G13 of the Shoalhaven DCP 2014 be deleted.
8. **Recommendation:** The draft DCP amendment be place on public exhibition.
9. **Recommendation:** Following public exhibition, a further report be prepared for Council's consideration detailing the results of any submissions and for finalisation.

Note by the Acting General Manager

The following is a replication of the information provided in the Note by the General Manager provided in response to the Notice of Motion submitted to the Ordinary Meeting on 18 December 2018.

It is noted that the matters presented in this further Notice of Motion related to the medium density Chapter of the DCP are effectively those (highlight added below) referred to in part 2 of the resolution from the Development Committee dated 5 December 2018 (MIN18.945):

2. Consider any other amendments relevant to the Chapter G13 as the matters arise prior to part 3 of this recommendation, **including relevant requested amendments from development industry representatives and others as required.**

The full motion carried unanimously on 5 December was:

That Council:

1. Commence preparation of an amendment to Chapter G13: Medium Density and Other Residential of Shoalhaven Development Control Plan (DCP) 2014 consistent with Table 1 in this report and progress the amendment as part of the next appropriate housekeeping amendment to the DCP.
2. Consider any other amendments relevant to the Chapter G13 as the matters arise prior to part 3 of this recommendation, including relevant requested amendments from development industry representatives and others as required.
3. Receive a further report on this matter as part of the relevant housekeeping amendment before proceeding to public exhibition.

FOR: Clr Findley, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Aldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

In some quarters the Notice of Motion could be viewed as a rescission motion to alter the previous decision and hence require three signatures to properly consider the matter - Therefore, it is **RECOMMENDED** that Council resolve to note the Notice of Motion for information and refer the matters to Council staff to consider in accordance with the Resolution of the Development Committee as referenced above.

The Industry represent one part of Shoalhaven's community and further investigation is required to ensure that the proposed amendments are in the broader public interest.

In this regard it is noted that the new Chapter G13 has only been in place for less than 2 months and at the time of writing, only six (6) development applications have been lodged under the new provisions with none of these determined as yet. A housekeeping amendment to this DCP Chapter should be timed appropriately to ensure that staff, industry and other users have spent time working with the recently adopted document so meaningful feedback can be obtained as to effectiveness of the provisions in it.

However, if Council wishes to consider the Notice of Motion in detail, each of the proposed recommendations put for in the Notice of Motion are discussed below. This includes staff commentary on the implications of the proposed changes.

CL19.2

Recommendation	Discussion and Implications
<p>1 Retain A6.2 as originally adopted and instead amend A6.4 as follows:</p> <p>The landscaping provided at A6.1, A6.2 and A6.3 excludes any encroachments (i.e. any part of a building or structure), hardstand areas and any areas used for storage, clothes drying, and water tanks.</p>	<p>Landscaping (defined as landscaped area) in the state-wide Standard Instrument LEP, means part of a site used for growing <u>plants</u>, <u>grasses</u> and <u>trees</u>, but <u>does not</u> include any building, <u>structure</u> or <u>hard paved area</u>.</p> <p>Including buildings, structures and hardstand areas in the landscaped area defeats the purpose of 'landscaping'.</p> <p>This amendment could mean that instead of providing up to 30% landscaping on a site (current acceptable solutions A6.1 and A6.2 combined), only 10% may be realised.</p> <p>This is substantially below comparable industry standards, for example:</p> <ul style="list-style-type: none"> • Wollongong – 30% • Kiama – 25% required as landscaped deep soil zone. • Eurobodalla – 35% (20% for R3 zoned land). <p>This has the potential to lead to undesirable outcomes and quality of life outcomes for future residents.</p>

2	<p>(as per staff recommendation): Amend P1.1 as follows:</p> <p><i>To promote good built form outcomes and the efficient utilisation of land, lot consolidation / amalgamation avoids the isolation of smaller lots that would prevent future medium density development on those lots.</i></p> <p>This performance criteria only relates to:</p> <ul style="list-style-type: none"> • Dual occupancies in the R3 Medium Density Residential zone. • Multi dwelling housing in any zone. • Multi dwelling housing (terraces) in any zone. • A manor house in any zone. 	<p>Clarity is needed in regard to this item.</p> <p>This is the proposed acceptable solution as resolved (MIN18.945):</p> <p>P1.1 To promote good built form outcomes and the efficient utilisation of land, lot consolidation / amalgamation avoids the isolation of smaller lots that would prevent future medium density development on those lots.</p> <p>The following 4 dot points were intended to be a note for the reader of the Council report to explain when the performance criteria would apply:</p> <ul style="list-style-type: none"> • Dual occupancies in the R3 Medium Density Residential zone. • Multi dwelling housing in any zone. • Multi dwelling housing (terraces) in any zone. • A manor house in any zone. <p>To be clear, the 4 dot points should not form part of the performance criteria.</p> <p>Existing acceptable solutions A1.3 and A1.4 already provide clarity in this regard.</p>
3	<p>Recommendation (as per staff recommendation): Delete P28.1 and P28.2. The performance criteria do not add any additional value to the assessment of an application beyond what is already covered in effective P28.3 and P28.4.</p>	<p>Supported - this is as resolved (MIN18.945).</p>
4	<p>Recommendation: Table 2 and Figure 3 of Chapter G13 of the Shoalhaven DCP 2014 be amended as follows:</p>	<p>The amendments proposed to Table 2 and Figure 3 require further consideration. The main areas of concern are addressed below:</p> <p>Removal of ‘category of land column’</p> <p>The categories of land clearly identify areas with prevailing characteristics based on age / subdivision etc. Removal of this classification system creates uncertainty and there are concerns that in making the provision generic, it may erode the existing setback pattern and in some areas character, despite the proposed exception.</p> <p>Front setbacks based on size of the lot</p> <p>The intent of the current setback provisions is to reinforce a consistent setback based on whether the area is categorised as infill, or a</p>

	<p>newer subdivision.</p> <p>The proposed amendments may result in staggered front setbacks resulting in an inconsistent setback pattern despite the proposed exception. This look is generally eclectic and does not result in good built form or streetscape outcomes.</p> <p>In relation to the note, it does not appear that consideration has been given to increasing the required setback. In some areas, a setback on a lot between 600-899m² will be greater than 6m (for example existing infill areas with prevailing setback of 7.5m).</p> <p>The proposed setbacks are based on lots under 600m², lots over 600m² and lots over 900m². It could be interpreted that a lot of 900m² could apply a 6m front setback as technically it is greater than 600m² in area. This is confusing and will be tested at some point.</p> <p>Substantial amendment of Figure 3</p> <p>Council staff have received a positive feedback from users of Chapter G13 who appreciate the additional guidance provided by Figure 3. Further, Figure 3 is a very effective tool for Council staff during the assessment process and also when assisting the community with enquiries.</p> <p>The effective Figure 3 clearly demonstrates the different configurations of dual occupancy development and which setbacks should be applied. This is directly relevant to both the effective Table 2 and the proposed Table 2. For example, it is helpful to show visually the difference between side setback on the secondary road frontage, and the primary setback on the secondary road frontage. Council staff are often asked this question and the figure assists in this regard.</p> <p>Proposed Figure 3 does not clearly show how the average setback should be calculated.</p> <p>No differentiation for battle-axe lots</p> <p>The reason for the removal of a front setback provision for a dual occupancy on a battle-axe lot is not clear.</p> <p>It is generally acknowledged that a battle-axe lot is surrounded by multiple lots and has different amenity considerations than that of a standard lot with a direct road frontage. The effective 3m setback seeks to maintain amenity for these blocks which do not benefit from the public open space (such as the nature strip)</p>
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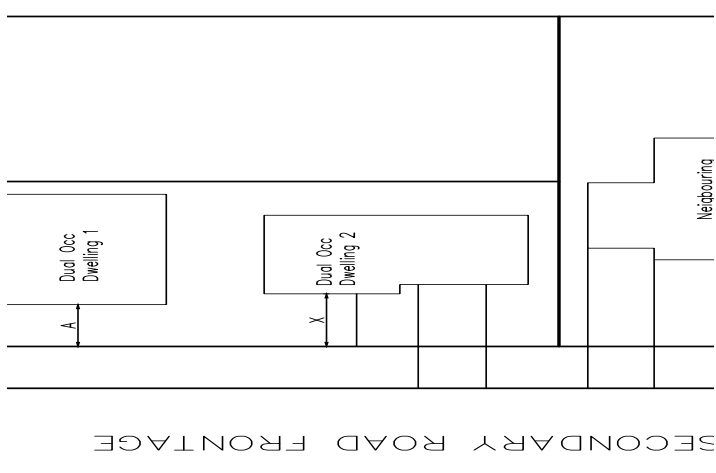
	<p>that houses fronting onto a road benefit from. This is particularly important as a development on the front lot could be built quite close to the rear boundary.</p> <p>Without specifying a front setback, there is no insight into Council's intent in this regard. What distance should an applicant apply? Building Code of Australia requirements? The front setback requirements in column 1 of proposed Table 2?</p> <p>Clarification of these points and setting a new or retaining the existing standard will assist in this regard.</p> <p>Side setback</p> <p>The effective side setbacks were established to provide greater consideration of bulk, scale and massing and as per related performance criteria P5.5 and P5.6 as follows:</p> <p>P5.5 Setbacks are progressively increased to reduce bulk and overshadowing while maintaining adequate daylight and sunlight.</p> <p>P5.6 Adequate levels of light and ventilation to adjoining buildings, landscaping, services and infrastructure are protected.</p> <p>The approach has been changed to an approach based on the number of storeys of a structure, which isn't necessarily a bad approach, however it does represent a decrease in setbacks from 1.2-2m to 0.9-1.2m. It is questioned whether matters such as overshadowing, daylight access, sunlight access, ventilation and landscaping can be satisfactorily addressed.</p> <p>It is also not clear whether a two-storey dwelling applies a 900mm setback at the ground level and 1.2m setback at the first storey, or if a 1.2m setback should be applied to both storeys.</p> <p>Clarification is required.</p> <p>Rear setback</p> <p>The differentiation for rear setbacks is confusing and unnecessary. It would be more appropriate to state that the rear setback is 3m (as per effective and proposed provisions) with a note stating that "no rear setback applies to a detached dwelling addressing the primary road frontage".</p> <p>Removal of notes below table</p>
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CL19.2

<p>Whilst some regular users may find the notes unnecessary, feedback received to date indicates that the notes are helpful to a wider range of users.</p> <p>Notes 3 is a good example. The proposed front setback (secondary road) for an attached dual occupancy dwelling is 3m to the wall of the dwelling. With the proposed removal of the notes associated with the table, there does not appear to be any setback requirement for a verandah, awning or patio which is not desirable.</p> <p>The notes, as relevant following future changes, should be retained.</p> <p>Removal of advisory information in row header and terminology generally</p> <p>The italicised wording in the row header of the effective Table 2 provides assistance to the reader. The omission of this information may lead to issues of interpretation. For example, the side setback not only applies to a side setback without a road frontage, it also applies to a public reserve which may be a point of contention. This clarifying information has been within SDCP and former DCP 57 since 2010, with positive feedback received.</p>					
Front Setback	Front Setback Secondary Road	Side Setback	Side Setback Secondary Road	Rear Setback	Rear / Side Setback to Foreshore reserve
<p>Lots under 600m²:</p> <ul style="list-style-type: none"> 5m to walls of dwellings & 4m to verandahs, patios and awnings. <p>Lots over 600m²:</p> <ul style="list-style-type: none"> 6m to walls of dwellings & 5m to verandahs 	<p>Detached Dual Occupancy:</p> <p>Average of the setbacks of the front and adjacent dwelling or 5m, whichever is the lesser. Refer to figure 3 below.</p> <p>Attached Dual Occupancy Dwelling:</p>	<p>900mm for single storey structures</p> <p>1.2m for any two storey component / structures</p>	3m	<p>Attached Dual Occupancies & side by side:</p> <p>3m (average)</p> <p>Detached Dual Occupancies (one behind the other):</p> <p>3m (average) for rear of the rear dwelling.</p>	7.5m

	<p>, patios and awnings.</p> <p>Lots over 900m²:</p> <ul style="list-style-type: none"> • 7.5m to walls of dwellings & 6.5m to verandahs, patios and awnings. <p>For any of the above setback requirements, reduced setbacks may be approved where the prevailing street character permits and the future desired character of the area is not prejudiced. The suitability of reduced setbacks must be demonstrated through addressing the relevant objectives and performance criteria of the DCP in support of the application.</p>	<p>3m to the wall of the dwelling & 5.5m to garage.</p>			<p>Note: No rear setback applies for front dwelling (i.e. dwelling closest to the street).</p>	
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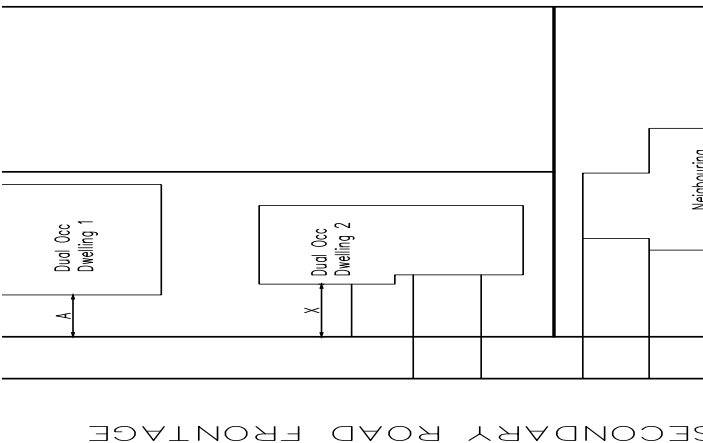
CL19.2

		
5	<p>Recommendation: Amend A20.1 to read:</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided encouraged per dwelling:</p> <ul style="list-style-type: none">• 1 bed: 6m³.• 2 bed: 8m³.• 3+ bed: 10m³.	<p>This weakens the provision significantly.</p> <p>Given a choice, it is unlikely that an applicant will provide appropriate levels of storage.</p> <p>These provisions were taken from the Low Rise Medium Density Design Guide which supports the Low Rise Medium Density Housing Code within the Codes SEPP. The Guide acknowledges that storage enhances amenity and should be an important component of dwelling design.</p>
6	<p>Recommendation: A20.2 of Chapter G13 of the Shoalhaven DCP 2014 be deleted.</p>	<p>The point of this provision is to ensure that the storage space is not pushed into the garage.</p> <p>Often garages are filled up with ‘stuff’ and instead of parking resident vehicles in the garage, they are parked in the front of the garages, in the designated visitor spaces or on the street. Resident vehicles should be parked in the spaces approved, so as to avoid congestion and safety concerns within a complex, as well as a reduction in visitor parking spaces, impacts upon the verge or reduction in on street parking.</p>
7	<p>Recommendation: The General Manager prepare a draft amendment to Chapter G13 of the Shoalhaven DCP 2014 as follows:</p> <p>a) Table 2 and Figure 3 of Chapter G13 of the Shoalhaven DCP 2014 be amended as follows:</p>	<p>This recommendation is a duplication of point 4 above.</p> <p>Comments are the same as at point 4.</p>

Replacement Table 2 – Chapter 13

Front Setback	Front Setback Secondary Road	Side Setback	Side Setback Secondary Road	Rear Setback	Rear / Side Setback to Foreshore reserve
<p>Lots under 600m²:</p> <ul style="list-style-type: none"> 5m to walls of dwellings & 4m to verandahs, patios and awnings. <p>Lots over 600m²:</p> <ul style="list-style-type: none"> 6m to walls of dwellings & 5m to verandahs, patios and awnings. <p>Lots over 900m²:</p> <ul style="list-style-type: none"> 7.5m to walls of dwellings & 6.5m to verandahs, patios and awnings. <p>For any of the above setback requirements, reduced setbacks may be approved where the prevailing street character permits and</p>	<p>Detached Dual Occupancy:</p> <p>Average of the setbacks of the front and adjacent dwelling or 5m, whichever is the lesser.</p> <p>Refer to figure 3 below.</p> <p>Attached Dual Occupancy Dwelling:</p> <p>3m to the wall of the dwelling & 5.5m to garage.</p>	<p>900mm for single storey structures</p> <p>1.2m for any two storey component / structures</p>	3m	<p>Attached Dual Occupancies & side by side:</p> <p>3m (average)</p> <p>Detached Dual Occupancies (one behind the other):</p> <p>3m (average) for rear of the rear dwelling.</p> <p>Note: No rear setback applies for front dwelling (i.e. dwelling closest to the street).</p>	7.5m

CL19.2

	<p>the future desired character of the area is not prejudiced. The suitability of reduced setbacks must be demonstrated through addressing the relevant objectives and performance criteria of the DCP in support of the application.</p>					
<p><u>Replacement Figure 3 – Chapter 13</u></p> <div><p>The diagram illustrates a residential lot layout. A horizontal line at the bottom is labeled 'SECONDARY ROAD FRONTAGE'. Above this line, two rectangular building footprints are shown, labeled 'Dual Occ Dwelling 1' and 'Dual Occ Dwelling 2'. The setback of 'Dual Occ Dwelling 1' from the road frontage is marked with a vertical line and labeled 'A'. The setback of 'Dual Occ Dwelling 2' from the road frontage is marked with a vertical line and labeled 'X'. To the right of the dwellings, a vertical line separates the lot from a 'Neighbouring' area, which is shown with a stepped boundary line.</p></div>						
8	<p>Recommendation: The draft DCP amendment be place on public exhibition.</p>	<p>As this amendment is considered to be housekeeping in nature, it would be ‘best practice’ to consider any other amendments relevant to the Chapter G13 as they arise and report back to Council with a copy of the wholistic draft chapter, prior to proceeding to public exhibition.</p> <p>This is important as part 2 of the resolution (MIN18.945) was amended to potentially include input from other stakeholders (e.g. Inclusion and Access Advisory Committee, other users), not just the industry comment included in this Notice of Motion.</p> <p>Further, this recommendation seems to imply the amendment is urgent and should be considered independently. It is envisaged that</p>				

CL19.2

		<p>the resolved amendment to Chapter G13 would form part of the next relevant housekeeping amendment to enable staff, industry and other users to spend time working with the document so meaningful feedback can be obtained as to effectiveness of the provisions within.</p> <p>As mentioned earlier, the new Chapter G13 has only been in place for less than 2 months and at the time of writing, only six (6) development applications have been lodged under the new provisions.</p> <p>The intention should be specifically identified for the purpose of the Strategic Planning Works Program and its priority identified.</p>
9	<p>Recommendation: Following public exhibition, a further report be prepared for Council's consideration detailing the results of any submissions and for finalisation.</p>	<p>Supported - this is standard practice.</p>

CL19.3 Notice of Motion - CL18.351 (DE18.76) - Amendment - Shoalhaven Development Control Plan 2014 - Medium Density 'Housekeeping' Amendments

HPERM Ref: D18/444189

Submitted by: Cllr John Levett

Purpose / Summary

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

Recommendation

That Council receive CL18.351 for information.

Note by the General Manager

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

CL19.3

CL19.4 Notice of Motion - Truck Stop - Lions Park - Burrill Lake

HPERM Ref: D19/10139

Submitted by: Cllr Bob Proudfoot

Purpose / Summary

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

Recommendation

That Council write to the R.M.S regarding the designated truck-stop at Lion's Park, Burrill Lake, requesting the following:

1. More effective communication with truck drivers and transport companies occur regarding the location of the truck-stop.
2. More effective signage be installed on the southern end of the new Burrill Lake Bridge indicating the left turn to the truck-stop.
3. The section of Dolphin Point Road from The Princes Highway to Link Road adjacent to Lion's Park be upgraded to clearly indicate the truck parking bays on the southern end as distinct from the park users section on the northern end.
4. The section of road reserve on the left hand side of the Princes Highway (heading south on the highway) from Link Road, at the rear of neighbouring properties (Wuru Drive) for a distance of approximately 400 metres, not be used as a truck rest-stop and appropriate signage be installed.

CL19.4

CL19.5 Notice of Motion - Shell Service Station - Wandandian - Road repairs

HPERM Ref: D19/10148

Submitted by: Cllr Bob Proudfoot

Purpose / Summary

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

Recommendation

That Council write to the R.M.S regarding the entrance to the Shell Service Station, Wandandian, requesting that urgent repair work to the road shoulders both approaching the service station and at the entrances be undertaken.

CL19.5

CL19.6 Notice of Motion - Various Issues - Sanctuary Point & St Georges Basin

HPERM Ref: D19/11691

Submitted by: Cllr Bob Proudfoot

Purpose / Summary

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

Recommendation

That:

1. The thirteen point notice of motion regarding matters at Sanctuary Point, which was previously passed by Council, be acted on as a matter of urgency and as a matter of good faith.
2. A report come to Council as to why no action has occurred to date.

Note by the General Manager

A report in response to MIN18.198 is being prepared for submission to the Strategy & Assets Committee 12 February 2019.

MIN18.198

That following a meeting with several concerned community members, that the ensuing list of requests be given serious consideration for inclusion in future budgets, work's programmes and funding applications. Staff would need to provide their professional input and report back to Council with a realistic way forward:

1. *Traffic calming measures on Larmer Avenue, Sanctuary Point on the approach to Cockrow Creek bridge where the 70 km/hr becomes 50 km/hr, be installed. Local residents are adamant that motor vehicles, garbage trucks and delivery wagons are travelling across the bridge at speeds in excess of 80 km/hr, with noise levels being intolerable and the risk of accidents high.*
2. *Urgent road maintenance works be carried out on The Park Drive at, Sanctuary Point at various locations, but in particular from Larmer Avenue to Boronia Avenue and to Boronia Avenue itself.*
3. *A roundabout be constructed at the corner of Sanctuary Point Road and Larmer Avenue/ Paradise Beach Road, Sanctuary Point.*
4. *Acknowledge and promote Palm Beach as the iconic beach that it is, and support this acknowledgement with enlightened expenditure on infrastructure.*
5. *Upgrading of the Basin Walking track through Sanctuary Point, as proposed in 2015.*
6. *Provision of at least 3 new barbeque shelters where users can also enjoy their meals under cover, similar to the way that it occurs in other locations such as Mollymook, Plantation Point and Sussex Inlet, and who knows how many other locations within the Shoalhaven.*

7. *Removal of the dangerous, sharp and pointy, introduced grasses around the trees and seating areas throughout Ray Brooks Reserve, Paradise Beach and other St George's Basin public foreshore reserves.*
8. *Reconsideration of the dangerous stairs, recently constructed from Ray Brooks Reserve to the 5 star, "By the Beach B and B," with only a one-sided handrail, with a long drop to the bottom. Modification at the top also needs attention.*
9. *Removal of the large sand and wrack piles from alongside of the toilet block together with the large piles of mulch.*
10. *A serious review of the deterioration of the ageing ramp from Greville Avenue to the bottom of Ray Brooks Reserve.*
11. *The construction of a boardwalk to allow a safe continuation of the Basin Walking track around it's original course at the base of the cliff beneath and around Red-head Point, as properly shown on Google Earth. This would make it available for everyone to complete their walk or ride in safety, including the disabled, mothers with prams, mothers with children, children on bikes, older citizens requiring a level platform to walk on, sports' enthusiasts, as well as the future influx of tourists.*
12. *A safety audit regarding the impact of foreshore vegetation on the capacity of parents and carers to adequately supervise young children whilst they swim at beaches such as Palm and Paradise Beaches, Sanctuary Point.*
13. *The following works at Tahnee Street, Sanctuary Point be given urgent attention:*
 - a. *Replacement of damaged kerb near the junction with Nadine Street (already scheduled) be progressed in conjunction with a minor road widening at that point.*
 - b. *The provision of speed humps be given a high priority in future works programmes.*
 - c. *Concrete trucks, delivery wagons and trade trucks be directed, by signage, to by-pass Tahnee Street and use Kean Street, further South.*

CL19.7 Notice of Motion - Support to Callala Beach CCB - Toilet Block

HPERM Ref: D18/441303

Submitted by: Cllr Mitchell Pakes
Cllr Patricia White
Cllr Greg Watson

Purpose / Summary

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

Recommendation

That Council allocate \$2,940 from the budget quarterly review to complete the upgrades to the Callala Beach road toilet block.

Background

The Callala Beach CCB undertook a project to provide and install a wonderful piece of artwork for on the Callala Beach Road toilet block for the community to enjoy while passing. Council did agree to cover the costs of a cover to protect the artwork. This has yet to happen.

Note by the General Manager

Council resolved on 24 October 2017 (MIN17.922) to *"Provide \$25,000 to the Callala Beach Progress Association for the completion of the Callala Beach to Myola share pathway prior to Christmas 2017."*

Whilst a funding request letter from the Progress Association dated 12 October 2017 referenced both the shared pathway and the mural artwork project, the Notice of Motion adopted via MIN17.922 related to the shared pathway only.

CL19.7

CL19.8 Notice of Motion - Parking at Holiday Haven Culburra Beach

HPERM Ref: D19/21540

Submitted by: Cllr Mitchell Pakes

Purpose / Summary

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

Recommendation

That Council investigate possible other parking arrangements over the peak holiday periods.

Background

Over the peak holiday periods visitors of the Holiday Haven Culburra Beach have no other option than to park along Prince Edward Ave, Culburra Beach.

As per the photos attached this is causing a very dangerous situation. The southern end of Prince Edward Ave is narrow with no shoulders and with cars parking along the road way reduces the traffic to one way.

To add to the problem the Crookhaven Heads boat ramp is located south of the Holiday Park.

On one inspection I undertook I recorded 98 cars most of which were parked in a dangerous position.



CL19.8

CL19.9 Notice of Motion - Vegetation Damage (Mia Way) Culburra Beach

HPERM Ref: D19/21472

Submitted by: Cllr Mitchell Pakes

Purpose / Summary

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

Recommendation

That

1. Council to brief councillors on any investigations past or ongoing in regard to the vegetation damage that has occurred at the Mia Way Location, Culburra Beach.
2. Any findings from investigations be reported to council.
3. Brief councillors on any works the Mia Way bush care group has undertaken to restore the damaged vegetation.
4. The installation of vegetation vandalism signs be delayed until after councillors are briefed.

Note by the Acting General Manager

The recently reported vandalism is currently under investigation and staff will provide a full report as requested.

CL19.9

CL19.10 Question on Notice - SA17.296 Collingwood Beach Dune Vegetation Management Plan

HPERM Ref: D19/21418

Submitted by: Cllr Kaye Gartner

Question

At the Strategy and Assets Committee meeting on Tuesday 21 November 2017, Council resolved item SA17.296, Collingwood Beach Dune Vegetation Management Plan.

Along with a commitment to the Dune Vegetation Management Plan, this resolution states:

- 2.b.iii Identifies location for 1 viewing platforms in accordance with MHL's report;
- 2.d All existing signs regarding tree vandalism will be removed from Collingwood Beach and a new signage program developed in the new Tree Vandalism policy.
- 4. Develop a robust Shoalhaven Tree Vandalism policy to be rolled out across the Shoalhaven. In the interim Council immediately adopt the anti-vandalism strategy as outlined in this report be adopted and implemented to mitigate against continuing vandalism.

It is now January, 2019. The Dune Vegetation Management Plan trial sites were implemented in August and September 2018, including the removal of existing signs identifying tree vandalism along Collingwood Beach.

Can the Acting General Manager please inform Council:

- 1. When the viewing platforms will be in situ?
- 2. When the 'robust' Shoalhaven Tree Vandalism Policy will be presented to Council?
- 3. When the new signage program, developed within the Tree Vandalism policy, will be implemented?

Response from Director Planning & Development

The signage referenced above has been removed.

The location for the viewing platform has been agreed and works for completion have been programmed. It is hoped to complete works by April this year; however this is still subject to confirmation.

The draft Shoalhaven Tree Vandalism Policy has been drafted and is currently being reviewed internally by Staff. This will be reported to Council in the near future and include commentary on signage.

CL19.10

CL19.11 Report of the Shoalhaven Traffic Committee - 15 January 2019

HPERM Ref: D19/18477

Attachments: 1. TC19.2 [↓](#)
2. TC19.3 [↓](#)
3. TC19.4 [↓](#)
4. TC19.5 [↓](#)

The Shoalhaven Traffic Committee is a technical review committee not a committee of Council under the Local Government Act, 1993.

The Roads and Maritime Services has delegated certain powers to Council under the Transport Administration Act 1988 (Section 50). A condition of this delegation is that Council must take into account the Traffic Committee recommendations.

IMPORTANT NOTE:

Council cannot amend a Traffic Committee recommendation. The Council can only:

- 1. Adopt the Traffic Committee recommendation;*
- 2. Not Adopt the Traffic Committee recommendation; or*
- 3. Request the Traffic Committee reconsider the issue.*

Other issues can be raised as Additional Business at the Ordinary Meeting.

The full guide to the delegation to Council's for the regulation of traffic can be viewed at: [RMS Website](#)

TC19.2 Proposed Signage & Line Marking - 300B & 310 Millbank Road, Worrigea (PN 3524)

HPERM Ref: D19/8479

Recommendation

That the General Manager (Director Assets and Works) be advised that the Shoalhaven Traffic Committee has no objection to the proposed regulatory signage and line marking for the proposed intersection treatment and bus bay on Millbank Road for the residential subdivision at 300B and 310 Millbank Road, Worrigea, subject to:

1. the provision of guide posts in accordance with standards at both ends of the works in Millbank Road (where the proposed works transitions back to the existing road formation) and also along Millbank Road (eastern side) along the full extent of the proposed works; and
2. extending the proposed C1 line marking (replacing the proposed E1) on the northbound approach to the proposed intersection.
3. replacing the proposed C1 line marking along the proposed bus bay with E1 line marking.

CL19.11

TC19.3 Installation of No Stopping Zone - Prince Edward Avenue Culburra Beach (PN 3526)**HPERM Ref:
D19/8554****Recommendation**

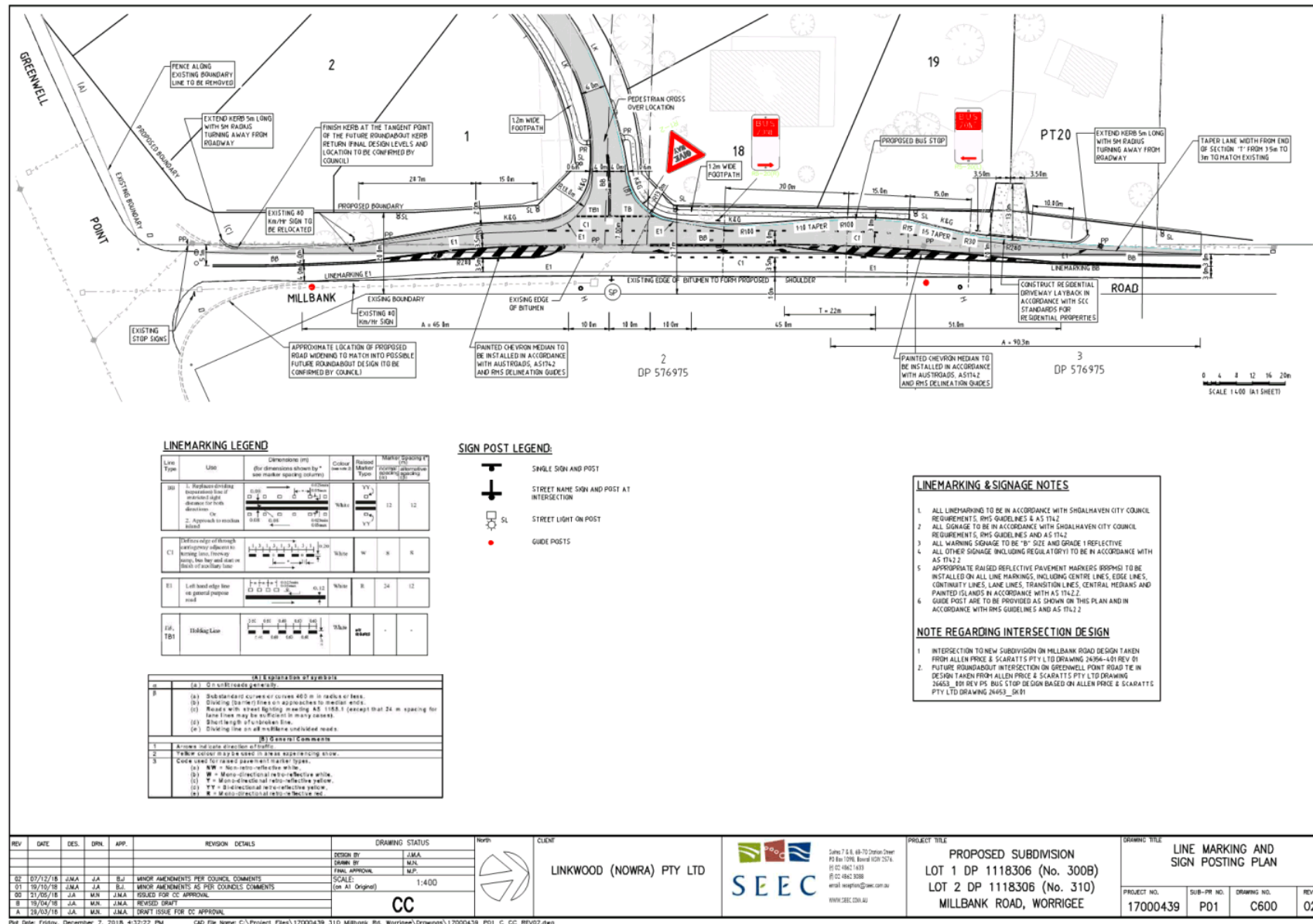
That the General Manager (Director Assets and Works) be requested to arrange for the installation of a No Stopping zone 20 metres either side of the Holiday Haven Tourist Park access on Prince Edward Avenue, Culburra Beach, as detailed in the attached plan.

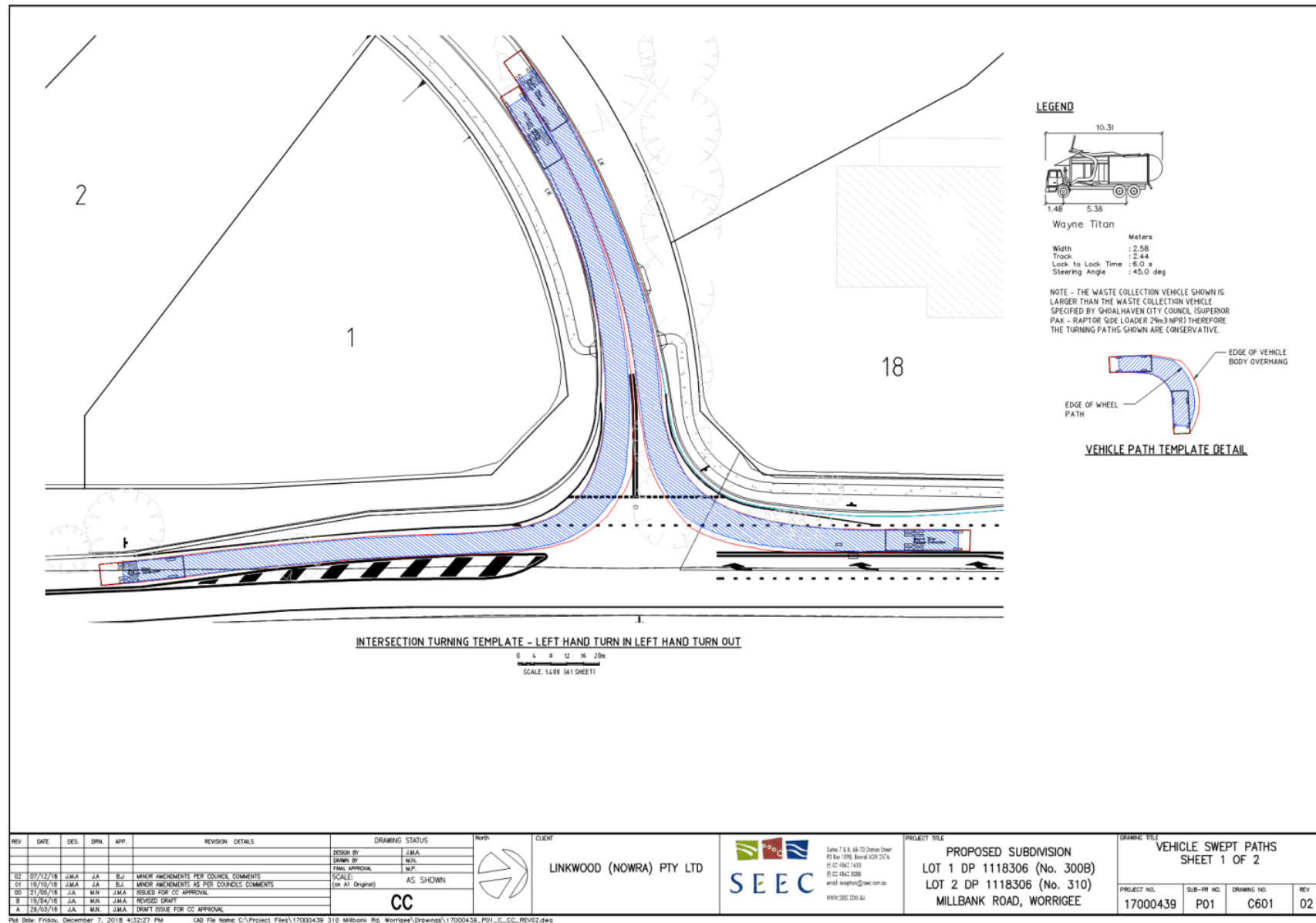
TC19.4 No Right Turn Removed - Queen St & Prince Alfred St Berry (PN 3529)**HPERM Ref:
D19/8643****Recommendation**

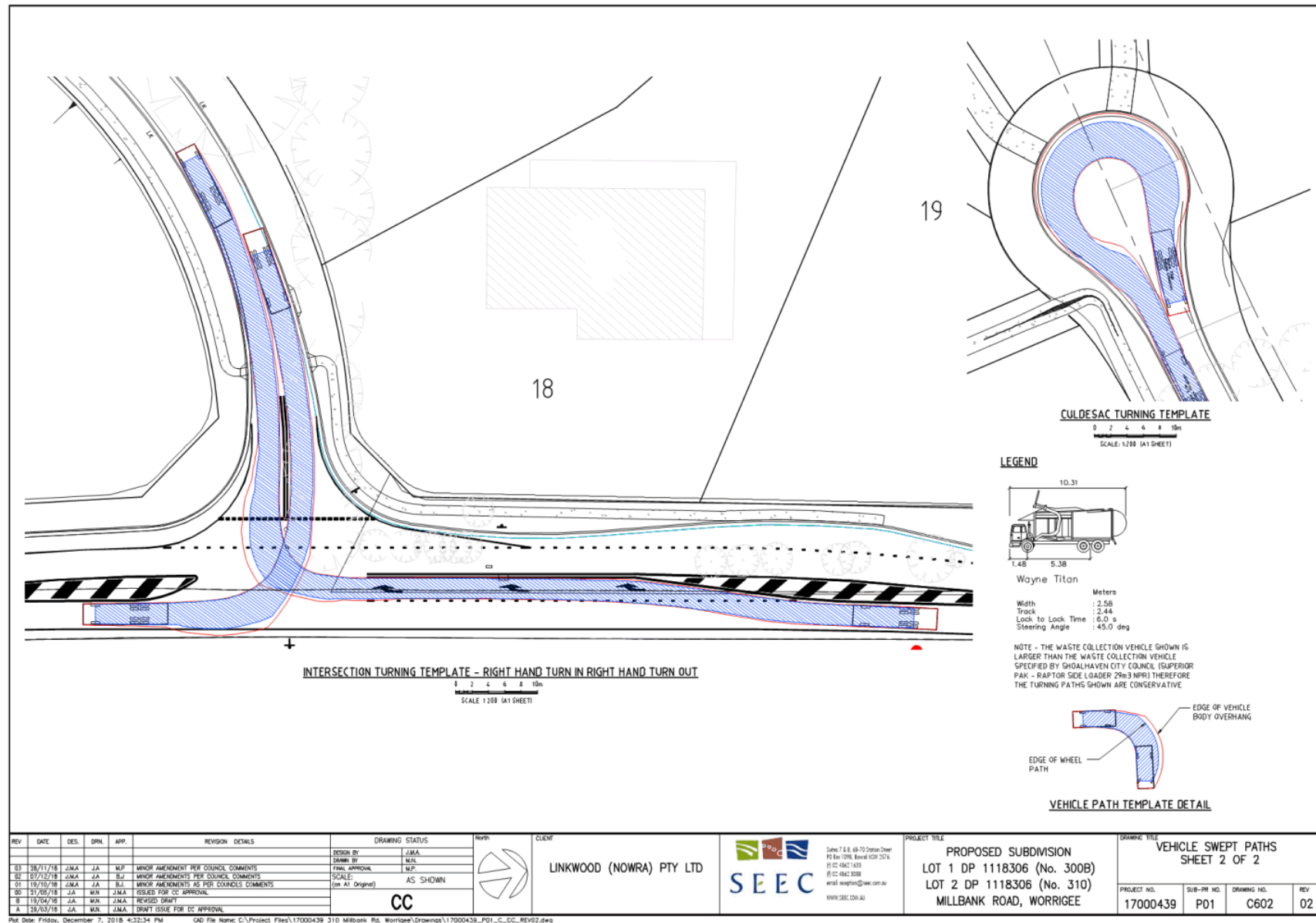
That the General Manager (Director Assets and Works) be requested to arrange for the removal of the 'No Right Turn' signage at the intersection of Queen Street and Prince Alfred Street, Berry, as detailed in the attached plan.

TC19.5 No Stopping Zone - Bayview Ave, Hyams Beach (PN 3530)**HPERM Ref:
D19/8683****Recommendation**

That the General Manager (Director Assets and Works) be advised the Shoalhaven Traffic Committee has no objection to the recently installed 15m long 'No Stopping' zone between 10 and 12 Bayview Avenue, Hyams Beach.











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**Proposed removal of "No Right Turn" signs
Queen Street, Prince Alfred Street intersection, Berry**



CL19.12 Report of the Strategy & Assets Committee - 22 January 2019

HPERM Ref: D19/22268

SA19.2 Ratepayer Advance Kerb & Gutter Construction

HPERM Ref:
D18/433030

Recommendation

That:

1. Council enter into a Ratepayers Advance Agreement, executed under the Seal of Council, with:
 - a. R J & M L Speer of 32 Ridgeland Drive, Sanctuary Point NSW 2540 in respect of Kerb and Gutter construction to the value of \$7,330.44 (advance) of which \$1,798.32 (excluding GST) is the contribution, \$5,532.12 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$6,915.15.
 - b. R J & M L Speer of 34 Ridgeland Drive, Sanctuary Point NSW 2540 in respect of Kerb and Gutter construction to the value of \$7,330.44 (advance) of which \$1,798.32 (excluding GST) is the contribution, \$5,532.12 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$6,915.15.
 - c. D L Mood of 43 Basin View Parade, Basin View (same as postal address) in respect of Kerb and Gutter construction to the value of \$7,330.44 (advance) of which \$1,798.32 (excluding GST) is the contribution, \$5,532.12 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$6,915.15.
 - d. C J Hobbs of 45 Basin View Parade, Basin View in respect of Kerb and Gutter construction to the value of \$7,330.44 (advance) of which \$1,798.32 (excluding GST) is the contribution, \$5,532.12 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$6,915.15.
 - e. The Roman Catholic Church of St Michaels Parish, 25 St George Avenue, Vincentia in respect of Kerb and Gutter construction to the value of \$6,001.00 (advance) of which \$1,921.00 (excluding GST) is the contribution, \$4,080.00 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$5,100.00.
 - f. Rennie Marceline D'Souza, 27 St George Avenue, Vincentia NSW 2540 in respect of Kerb and Gutter construction to the value of \$6,071.60 (advance) of which \$1,943.60 (excluding GST) is the contribution, \$4,128.00 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$5,160.00.
 - g. Marcela Evangeline Biguzas & Moses Raudino, 29 St George Avenue, Vincentia NSW 2540 in respect of Kerb and Gutter construction to the value of \$7,413.00 (advance) of which \$2,373.00 is the contribution, \$5,040.00 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$6,300.00.
2. The Common Seal of Council of the City of Shoalhaven be affixed to any documentation required to be sealed, otherwise the General Manager be authorised to sign any documentation necessary to give effect to the resolution.

CL19.12

**SA19.3 Classification of Land - Lot 1 DP 1245988 - 4
Kardella Ave Nowra****HPERM Ref:
D18/424564****Recommendation**

That Council resolve to classify the land described as Lot 1 DP1245988 at 4 Kardella Avenue Nowra as Operational Land.

**SA19.4 Land Classification Lots 1452 & 1452 DP1231370
Vincentia****HPERM Ref:
D18/433112****Recommendation**

That Council resolve to classify the land described as Lot 1451 DP1231370 Horizon Crescent Vincentia & Lot 1452 DP1231370 Halloran Street Vincentia DP 1231370 as Community Land with a sub-category of General Community Use.

**SA19.5 Acquisition of Water & Sewer Easement at Lot 76 DP
755907 - 66 Wrights Beach Road, Bream Beach****HPERM Ref:
D18/433480****Recommendation**

That Council resolve:

1. To compulsorily acquire the following easement for Council infrastructure over Crown land Lot 76 DP 755907, subject to resolving Native Title interests, at compensation determined by the Valuer General:
 - a. An Easement for Water Supply and Sewerage variable width, shown in yellow and marked 'E' on the attached plan.
2. To pay compensation and costs associated with the acquisition from Shoalhaven Water's Sewer and Water Funds. Compensation determined by the Valuer General to be in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991.
3. That the necessary application be made to the Minister for Local Government and the Governor. The acquisition is to be carried out under the Local Government Act 1993.
4. That the Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed.

CL19.13 Kangaroo Valley Netball Court - Relocation and Upgrade of Infrastructure

HPERM Ref: D18/396060

Group: Finance Corporate & Community Services Group
Section: Recreation Community & Culture

Attachments: 1. Lighting Design Notes [↓](#)

Purpose / Summary

To seek funding of \$37,411 for the replacement and installation of infrastructure at Kangaroo Valley Netball Court, including provision of an allowance for removal of existing infrastructure if required.

Recommendation

That Council

1. Allocate \$37,411 for the rectification works to Kangaroo Valley Netball Court;
2. Staff arrange for the erection of fencing on boundaries shared with private landowner;
3. Staff continue to seek contribution towards the fencing costs from neighbouring landowner;
4. Staff lodge *Application to Modify Development Consent* for the floodlight infrastructure, and install new floodlighting upon consent;
5. Staff arrange for removal of existing floodlight infrastructure if requested and approved by neighbouring landowner.

Options

1. Council accept the recommendation as written and allocate the funding to progress.
Implications: This will ensure that Council is providing lighting and fencing infrastructure on its land to the appropriate standard and allow for the netball courts to be used at night.
2. Installation of fencing be delayed pending legislated contribution of funds from neighbouring landowner.
Implications: There is a high risk that netballs will leave the public land and roll onto the private land adjacent to the netball court, particularly on southern boundary. Members of the public may be unaware that the land adjacent to the netball court is private land and inadvertently trespass in order to recover netballs. Liability for members of the public in this circumstance falls to the landowner, placing a high level of responsibility on that entity.
3. Relocate existing floodlights at the fence-line.
Implications: This is a less safe-option. No *Application to Modify Development Consent* is required as the existing Development Consent approves placement of the poles mid-way along the sideline at the boundary. However, only a very small clearance buffers the

CL19.13

court from the boundary at the north and south sidelines. This places the poles within 1.5m of play at the sidelines.

Australian standards recommend a 3.05m buffer between the court and other infrastructure. Although the fence will also fall close to the court sidelines, this is constructed of lighter and thinner materials than the floodlight poles, which minimises effects of impact by players.

A safer option is the new, recommended lighting design, that situates the floodlights at the ends of the court so that more clearance protects players from impact with the floodlight poles.

4. Staff arrange for removal of existing floodlight infrastructure, if requested and approved by neighbouring landowner.

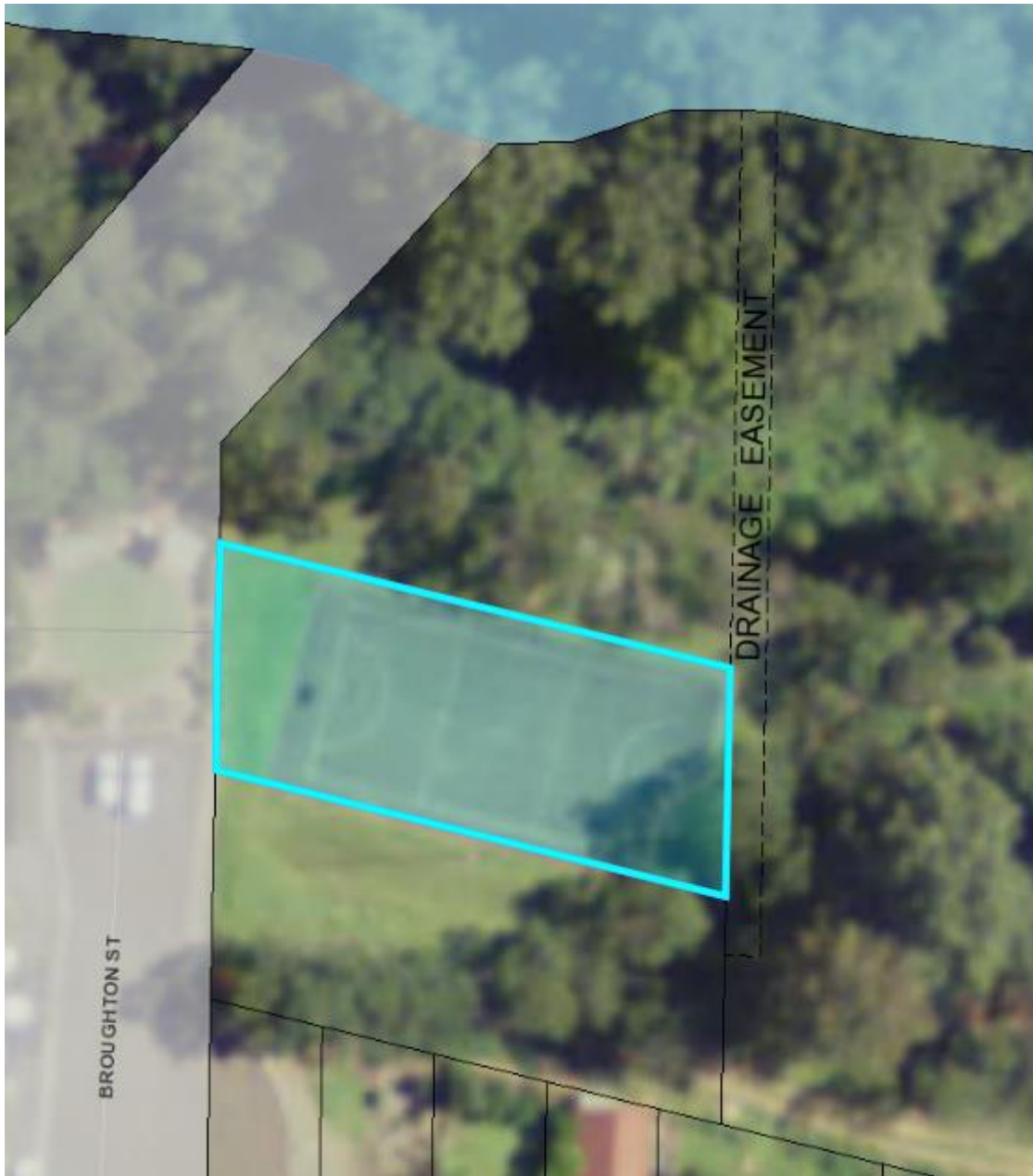
Implications: This is not a legal requirement and the option may add time to the delivery of the project. Funding to undertake the works is estimated to be \$5,000 and has been identified in this funding request. However this option does not address the requirement for floodlighting and fencing at the netball court.

5. Staff do not arrange for removal of existing floodlight infrastructure from private land, and this be left to the landowner who owns the infrastructure as it is a fixture located on his land.

Implications: This will not have an impact on Council's works program or funding, as this will not require any input from Council. However this option does not address the requirement for floodlighting and fencing at the netball court.

Background

Council has been made aware of an encroachment issue with Council infrastructure on private land. Land ownership of the private land adjoining Kangaroo Valley Netball Court has recently changed hands. The new owner has brought to Council's attention that the floodlighting infrastructure at the courts is located on their adjoining private property.



Council netball court identified in blue

CL19.13

Floodlights

Council obtained a Development Consent (DA) in 2004 for the construction of the netball courts and floodlighting. The DA identified that the floodlights should be constructed at the boundary of Council land, however installation occurred on the private land adjoining Council's facility.

Staff have requested access to remove the existing infrastructure and relocate it onto the public land. This request was denied by the landowner. The power supply was disconnected at the request of the landowner in August 2018. The lights are currently not operational. The Kangaroo Valley Netball Club has temporarily moved their summer competition games from 6, 7 and 8pm to 5, 6 and 7pm pending reconnection of floodlighting at the court.

When the construction error was initially identified, staff obtained quotations to move the floodlights onto the public land. This intention was deferred when the private landowner declined to provide access to enable this to occur.

Staff commissioned a new floodlighting lighting design and quotation to Australian Standards, with very tight spill control requirements on the boundaries to ensure minimal spill onto private land. The quotes received for installation of same lux lighting levels on the court are affected by the spill constraints but remain compliant with Australian Standards. The following quote includes installation and requires a lead-time of approximately 10 weeks from receipt of the order for delivery of new lighting poles.

New Poles	\$16,750 + GST
IWE-PL16F-1000 – Shielded x 2	\$ 4,920 + GST
Freight	<u>\$ 113 + GST</u>
Total	\$21,783 + GST

Council has also obtained a quotation for the relocation of the existing poles, installation of new LED globes and remove old footings is \$12,500 + GST This was obtained prior to the land owner's decision to not allow Council access to their land.

As the boundary of the land aligns almost exactly with the bitumen area of the court, it is possible that further excavation works will be required to trench cabling for the new electrical infrastructure. A 10% contingency amount of \$2,946 + GST is therefore added to the total funding request in this report to cover this.

If the landowner requests Council to remove the existing infrastructure and if Council resolves to do so, the cost is estimated to be \$5,000 for the removal of the existing poles and lights. These funds have been incorporated into the requested funding.

Fencing

In discussion with the landowner it was further identified that it is preferable that fencing be constructed to demarcate the boundary between public and private lands and prevent access to the private land. As there is a very small buffer zone between the netball facility and private land this fence should ideally be constructed to a height to contain balls within the public space. Staff have obtained quotes to remove the existing northern fence and install a 2.1 metre high chainmesh fence along the northern, eastern and southern boundaries. The lowest quote received was **\$7,682 + GST**.

Under the dividing fences Act it is a requirement that neighbouring landowners meet 50% of the costs of fencing to adjoining boundaries. The neighbouring property is a rural allotment, and the 50% contribution amount would apply to fencing appropriate to the rural context. Staff have obtained a quotation to install 5 strand barbed wire fence (rural fencing), including strainer assemblies and tractor floats, for \$3,720 + GST. 50% of this cost = \$1,860 + GST. This amount can be requested from the adjacent landowner as a contribution to the works.

Total Funding Required for relocation and upgrade works without input from adjoining land owner.

\$21,783 + GST	floodlights
<u>\$ 7,682 + GST</u>	fencing
\$29,465 + GST	total
<u>\$ 2,946 + GST</u>	contingency
\$ 5,000 + GST	Removal of existing infrastructure on neighbouring property
\$37,411 + GST	FUNDING REQUEST

This amount could be reduced by \$1,860.00 if the adjoining land owner contributes 50% of rural fencing costs.

Community Engagement

The netball court is used twice-weekly for a local netball competition, with 3 games running up to 9pm over the summer season. The club has requested to keep floodlighting available for these games.

In the past the community has used the private land to the south of the court for spectating. The general perception was that this was public land. Council has informed the club of the boundary, and the club has been requested to use the public land and not to trespass upon the adjacent private land.

Council have informed the parks maintenance crews of the error in land ownership and, on the owner's request, they have been advised to cease mowing and maintenance activities on the adjoining land owner's property.

Financial Implications

A new budget allocation of \$37,411 + GST is sought to undertake this works which will address and resolve this situation. The Community and Recreation Unit budget has no available funding as monies are being used to co-fund a number of successful grant funding applications, meeting grant funding criteria obligations. As this work is urgent and allocation of funding by Council will expedite these works.

Ongoing maintenance of the infrastructure will be met utilising the existing active recreation operational budget.

The new floodlighting infrastructure will reduce operational and maintenance expenses, as the new LED technology has lower maintenance and power consumption costs.

Maintenance costs for the fencing are expected to be minimal and will be addressed through the existing active recreation operational budget.

Lighting Design Notes:

Client Requirements:

- AS 2560.1-2002 Sports Lighting - General Principles
- AS 2560.2.4-1986 Sports Lighting - Specific Applications
Lighting For Outdoor Netball/Basketball.

Pole Mounting Height

- 2 poles at 16m.

Lux & Uniformity Requirement

- Over 50 Lux

Maintenance Factor

- The maintenance factor of 0.88 has been chosen in accordance with table 4.1 from AS2560.1-2002.

Court Dimensions

- Standard basketball court layout 15.25 x 30.5m.

Obtrusive Light

- This simulation **DOES NOT** comply with standard AS 4282-1997 Control of the obtrusive effects of outdoor lighting.
- 2 spill boundaries were identified, North and South
- A 10m vertical calculation grid was used starting from 1.5m above ground level. Each lux spill calculation point is 2m apart.
- Maximum vertical lux must not exceed 10 Lux as indicated on Table 2.1 of standard AS4282.

Luminous Intensity

- This simulation **DOES NOT** comply with standard AS 4282-1997 Control of the obtrusive effects of outdoor lighting on luminous intensity.
- Maximum luminous intensity must not exceed 2500cd as indicated on Table 2.2 of standard AS4282.

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	U-1	U-2
PPA	Illuminanc	Lux	63.09	69.5	52.3	0.83	0.75
NorthSpill Cd Seg1	Obtrusive	N.A.	16584	37527	153	0.01	0.00
SouthSpill Cd Seg1	Obtrusive	N.A.	16097	37962	114	0.01	0.00
NorthSpill Ill Seg1	Obtrusive	Lux	26.83	74.3	0.2	0.01	0.00
SouthSpill Ill Seg1	Obtrusive	Lux	26.45	76.0	0.2	0.01	0.00

Preliminary Design Only.
Subject to site verification of boundaries, pole positions and heights.
Aiming details and instructions will be supplied after this confirmation.
NOT FOR CONSTRUCTION

Luminaire Schedule			
Qty	Label	LLF	Description
2	IWE-PL6K-480-110Standard-	0.880	IWE-PL6K-480-110Standard-Citizen-Shielde

Lighting Design Prediction

Site - Kangaroo Valley Basketball

Rev	Description	Designer	Date	Rev	Description	Designer	Date
1	Submitted for review/approval	M.A	28.06.2018				

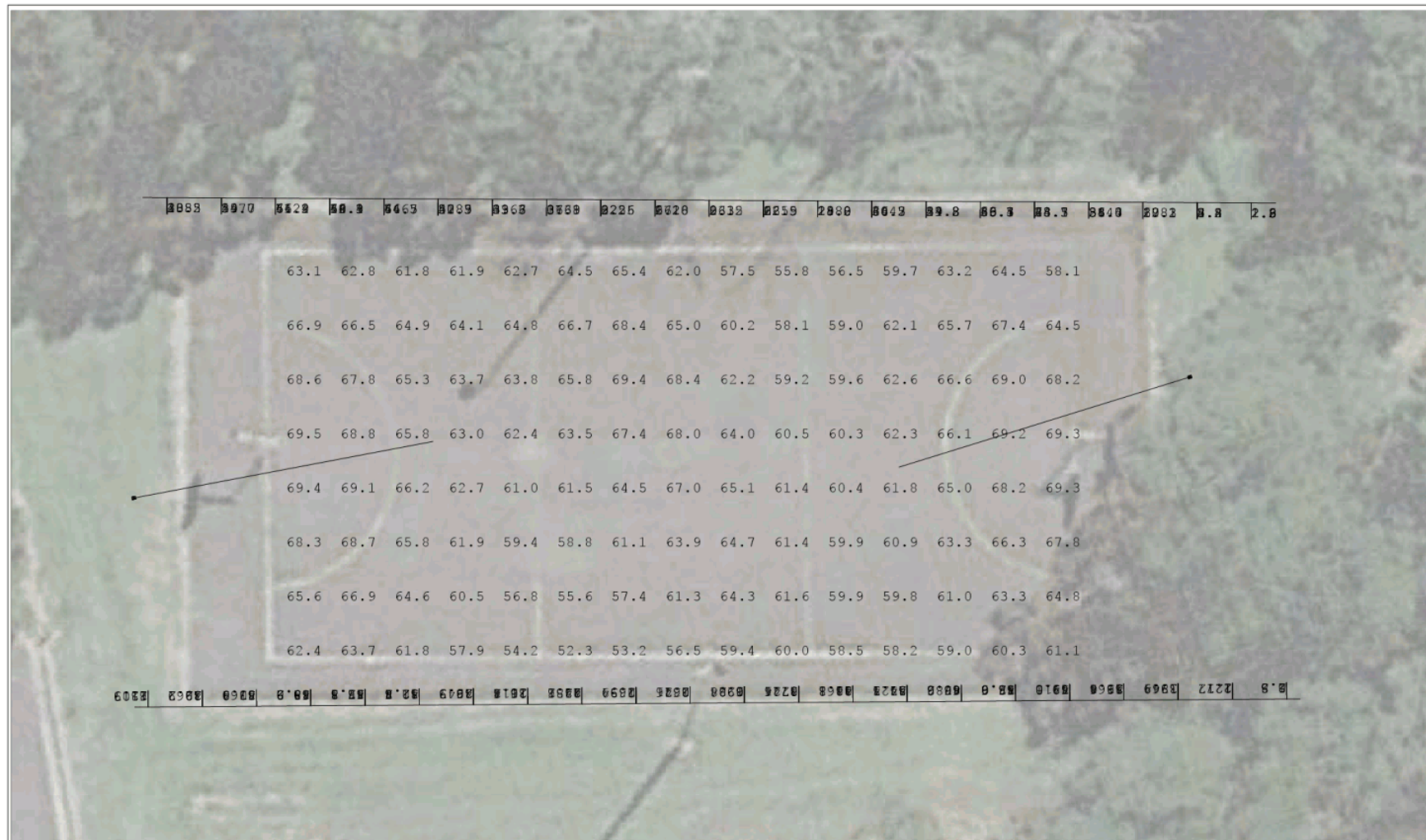
This design calculation is based upon specified parameters supplied by the client, and other design inputs assumed by us, as detailed in this document.

In practice, the accuracy of the values may differ due to environmental variations such as actual luminaire positioning, surface reflectance, supply voltage, local luminaire ambient temperature, obstacles, etc. These results are also subject to normally accepted photometric tolerances and calculation program uncertainties.

IWE provides this calculation "as is" without any representation or warranty of any kind.

The Company shall be under no liability to the Customer for failure to attain such performance figures unless the performance of the Goods supplied is specifically guaranteed in writing, and any such written guarantee shall be subject to recognised manufacturing variations and tolerances applicable to goods





Lighting Design Prediction

Site - Kangaroo Valley Basketball

Rev	Description	Designer	Date	Rev	Description	Designer	Date
1	Submitted for review/approval	M.A	28.06.2018				

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CL19.14 Acceptance of Grant Funding - Gordon Darling Foundation - Domestic Travel Grant

HPERM Ref: D19/7417

Group: Finance Corporate & Community Services Group
Section: Recreation Community & Culture

Purpose / Summary

To seek Council's approval to accept \$3,300 (incl GST) from the Gordon Darling Foundation as part of their Domestic Travel Grant program

Recommendation

That Council:

1. Accept the grant funding of \$3,300 (incl GST) for the Domestic Travel Grant, with the monies being used for staff related expenses in the development and promotion of Shoalhaven Regional Gallery
2. Write to Gordon Darling Foundation to thank them for the grant.

Options

1. Council accept the grant of \$3,300 awarded to Shoalhaven Regional Gallery for the Domestic Travel Grant

Implications: The grant will pay for a staff member to travel to Alice Springs and present a paper at the Museums Galleries Australia National Conference and for a staff member to undertake travel related to the curation and development of Shoalhaven Regional Gallery's summer exhibition.

2. Council do not accept the funding and provide an alternate direction to staff.

Implications: The travel costs for staff will have to be found in our operating budget and will limit opportunities for staff to continue to work with galleries interstate and promote the work of Shoalhaven Regional Gallery.

Background

The Gordon Darling Domestic Travel Grants have been operating since 2001 to support public art institutions with staff travel. The grants are awarded through recommendations by the Board and the Director of State and National Art Galleries. In 2019 Shoalhaven Regional Gallery was one of three public art institutions in NSW to be recommended for the grant. Provision of the grant is subject to approval by the Foundation of the proposed travel program, with travel having a specific focus and a clear benefit to both the institution on the staff member.

Shoalhaven Regional Gallery intends to use the money to support two different staff projects.

- 1) \$1,500 (ex GST) will go towards the cost of travel and associated conference fees for Fiona McFadyen (Public Programs Officer) to present a paper at the Museums Galleries Australia national conference held in Alice Springs in May 2019. Fiona will be presenting on the *Moonmilk* exhibition held at Shoalhaven Regional Gallery in 2018 and the community engagement process delivered by the artist and the gallery

in developing this interactive sound artwork. The paper will focus on the challenges of engaging a community with a project that was a modern art form not previously exhibited at the gallery.

The costs for this are as follows:

- Conference registration - \$790
- Flights to Alice Springs (return) – up to \$900
- Conference Accommodation (5 nights) – up to \$700

- 2) \$1,500 (ex GST) will be spent on travel and accommodation related to the development of the 2019/2020 summer exhibition. This exhibition will be curated by Bridget Macleod and will feature the work of two Australian photographers with international practices. In developing this exhibition interstate travel will be required to negotiate with commercial galleries representing the artists; this will include sourcing records and contacting collectors who hold specific works of art, viewing artworks held in gallery stock rooms and speaking with other regional galleries to borrow works from their collections.

By using the grant funds for these projects Shoalhaven Regional Gallery will be able to extend its reach and partnerships with other cultural institutions across Australia and continue to grow our programming and community engagement locally.

Community Engagement

The opportunities provided by this grant will have several flow-on benefits for the Shoalhaven community. The presentation of a paper at the national conference will continue to raise awareness of Shoalhaven Regional Gallery and the work we do with cultural institutions across Australia, as well as providing an opportunity for staff to learn from presentations by Australian and international leaders in the field. The conference provides significant networking opportunities with both regional and state institutions and presents ideas and events that can be adapted for the Shoalhaven community.

The exhibition program at Shoalhaven Regional Gallery has made major gains over the past few years, particularly with the summer exhibition where a travelling show or self-curated exhibition highlights significant Australian artists. The development of the 2019/2020 summer show continues this trend by working with two major Australian photographers and juxtaposing their works as part of a new curatorial proposition. The exhibition will not only bring the works to Shoalhaven audiences but will also encourage visitors from outside the region to visit the gallery. The summer exhibition will have a range of associated community programs, including our Summer Sessions, School Holiday workshops and other events, all of which will provide opportunities for different ages to engage with the exhibition and the artists.

Financial Implications

The grant funding will be used to offset the costs associated with the activities, ensuring that Shoalhaven Regional Gallery is able to undertake these programs with minimal impact on our operating budget. The costs not covered by the grant will be covered by our annual operating expenses.

CL19.15 Regional Growth Environment and Tourism Fund - Shoalhaven Sustainable Tourism Infrastructure Package

HPERM Ref: D19/19610

Group: Finance Corporate & Community Services Group
Section: Tourism

Purpose / Summary

To advise Council on the details and progress of an Expression of Interest submitted under the State Government's Regional Growth Environment and Tourism Fund Round 2.

Recommendation

That Council:

1. Note the Expression of Interest submitted for the *Shoalhaven Sustainable Tourism Infrastructure Package* under the State Government's Regional Growth Environment and Tourism Fund Round 2 for information.
2. Endorse the action taken by staff in preparing a Detailed Application for submission by 1 February 2019 for the *Shoalhaven Sustainable Tourism Infrastructure Package* at a project cost of \$6.88M.
3. Commit \$1.5M over the period 2018/19 to 2020/21 as its co-contribution towards the *Shoalhaven Sustainable Tourism Infrastructure Package* should the application be successful to be funded in future years Capital Works Programs.
4. Receive a further report on the progress of Council's Detailed Application as information is received.

Options

1. As recommended

Implications: Nil

2. Adopt an alternative recommendation

Implications: Due to the application due date of 1 February 2019 an alternative recommendation may impact on the successful submission.

Background

In September 2018 Council staff submitted an Expression of Interest (EOI) to Round Two, Stream One of the State Government's Regional Growth – Environment and Tourism Fund (RGETF) for a suite of projects collectively titled the "Shoalhaven Sustainable Tourism Infrastructure Package".

Submission under the Fund allowed for large scale projects with a minimum grant request of \$5 million for regionally iconic tourism activation projects with an applicant co-contribution greater than 25%.

The decision to submit the EOI at short notice arose after significant and ongoing feedback regarding the need for improved tourism infrastructure in several locations throughout the

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region and this grant program being a great opportunity to fast track a suite of projects that would enhance the visitor experience and local amenity at various locations in the Shoalhaven.

The total estimated cost of the package of proposed works in the submission was \$6.88M – and in order to give Council's EOI a better chance to progress, a 30% co-contribution of \$1.58M was nominated – noting that this includes an \$80,000 contribution from the Ulladulla Local Aboriginal Land Council.

We were informed on 16 November 2018 that Council's EOI had been shortlisted to proceed to Detailed Application and staff are now working on the detailed submission which is due on 1 February 2019.

The Shoalhaven Sustainable Tourism Infrastructure Package is a showcase of the iconic coastline of the Shoalhaven. It promotes sustainable nature-based, cultural and accessible tourism through a series of foreshore walks and other projects across the local government area. These projects highlight a range of natural areas, enabling the sustained growth of tourism in the area through a diversified offering that actively manages existing tourism hot-spots, while encouraging visitors to explore new opportunities.

The project focuses on three key areas – nature-based attractions, Indigenous heritage and equal access opportunities – all of which are recognised as being foundations for attracting and integrating tourism to the area in a way that is both respectful and engaging to a wide audience.

In undertaking the project there are a number of key projects that will be delivered including (from north to south):

- **Deliverable 1 (D1)** – Vincentia / Plantation Point Inclusive Beach Access Project – The Plantation Point area is a popular beach access location on the shores of Jervis Bay. The project is located on the Barfleur Beach side of the Point, which is home to the Vincentia Sailing Club and a beach which is known for its gentle and protected access point. The facilities will enable equitable access for all and be a key inclusive tourism drawcard for the area. Funding has been received for part of these works, though the remaining elements as set out in the project costs at Appendix C are identified for implementation of the entire project. The works include:
 - Beach access ramps down to the beach (funding already available)
 - General amenities including disability access facilities (partial funding available)
 - Adult lift and change amenities facility
 - New accessible pathways between change facilities, parking and beach access ramps
 - New accessibility compliant car parking spaces
- **Deliverable 2 (D2)** – Sanctuary Point / Palm Beach – A waterfront public open space in one of the most popular fishing and boating destinations on the NSW South Coast – St Georges Basin. The project will provide upgraded equal access from the amenities (disabled compliant) to the car parking area, beach and open spaces areas, where a loop pathway and new accessible BBQ and picnic shelter facilities are to be provided. The works will include:
 - BBQ and shelters in two locations
 - New accessible pathways and loop between carpark, open space, beach and amenities
 - New access pathway from Palm Beach up to the adjoining Greville Avenue and through to other shared paths and to Bherwerre Wetlands (see further below)

- Upgrades around the existing compliant amenities building
- Carpark improvements
- **Deliverable 3 (D3)** – Basin Walking Track – This project will see the upgrade of the existing basic track to a regional level raised boardwalk / waterfront walkway connecting the western end of the existing Basin Walking Track to Palm Beach and beyond to the Bherwerre Wetland walks, and further again to the shared pathways that connect on to the Round the (Jervis) Bay walk further north. The paths would generally be, or be near to, disability compliant standards wherever possible, again focusing on nature-based attractions with high levels of accessibility. Works would include:
 - A mixture of gravel and raised boardwalk style trails traversing low-lying areas around St Georges Basin waterbody
 - A new shared pathway to link Palm Beach to the Bay and Basin Shared Path network via the Bherwerre Wetland
- **Deliverable 4 (D4)** – Bherwerre Wetland – The Bherwerre Wetland area connects to the Basin Walking Track and shared path which in turn connects Jervis Bay and Sanctuary Point / St Georges Basin. The grant works would facilitate the construction of the hard infrastructure whilst not jeopardising the site as a future biodiversity stewardship and offset site in the future. The area contains a number of vegetation types and is ideal for nature-based activities including bird watching, bush walking and environmental education. Part of the project will provide disability compliant parking and pathways around the eastern portion of the site. Works will include:
 - A mixture of gravel and raised boardwalk style trails, including fully accessible component
 - New disabled compliant parking spaces connecting to the accessible pathway on the eastern edge of the wetland
 - Viewing and rest areas with seating and interpretative information
- **Deliverable 5 (D5)** – Hyams Beach – As a high-profile tourism hotspot, the Hyams Beach project will provide a range of infrastructure works to support a more sustainable level of visitation to what has become one of the most iconic destinations on the NSW South Coast – famed for the “whitest sand in the world”. Project works will include a range of accessibility improvements, including all-access amenities, pathways and viewing opportunities. Works will include:
 - Carpark redesign and re-surfacing (partly funded)
 - Road widening and design to incorporate peak season one-way traffic flow system
 - Footpaths and pedestrian access into existing open space / parklands
 - Playground improvements and provision of new accessible BBQs and shelters
 - Provision of a new amenities block at Chinaman’s Beach
 - Additional funding for the Seamans Beach amenities extension (partly funded)
 - New beach access stairs and paths
 - Additional car and parallel parking areas
- **Deliverable 6 (D6)** – Ulladulla Headland / Warden Head walking trails – To be undertaken in conjunction with the Ulladulla Local Aboriginal Land Council (ULALC) and incorporating the Coomee Nulunga Cultural Trail, the project will support Indigenous tourism opportunities and incorporate the local Aboriginal community’s

guided tours. The project includes provision of comprehensive improvements to both the North Head Walking Trail and to the Warden Head on the southern headland – with existing pathways and recently constructed links being used to provide access between the two. Both projects will seek to improve accessibility through re-surfacing and other improvements, with "One Track for All" being upgraded with a view to increasing accessibility and compliance with disability standards wherever possible. The works will include:

- Replacement of the Bunaan sculpture (current commission by the ULALC as in-kind contribution to the project)
- New boardwalks and track improvements in areas of Coomee Nulunga Cultural Trail
- Viewing area and interpretative signage on both headlands
- Resurfacing and trail improvements to the North Head Walking Trail
- **Deliverable 7 (D7)** – Murramarang Coastal Walk – Which will see the substantial expansion of the Murramarang Coastal Walk, which has received partial funding via National Parks and Wildlife Service within the existing national park areas, particularly the Murramarang National Park. The project is a significant opportunity for the southern Shoalhaven area, with links provided from the north and to the south to extend the walk from Narrawallee / Mollymook through to Merry Beach / Kioloa – a total distance of approximately 45km. The proposed works include:
 - New or upgraded beach access points
 - A section of new track construction
 - Directional bollards and interpretative signage

There is no doubt that the proposed infrastructure works will have the consequence of growing, diversifying and sustaining growth in the visitor economy of the Shoalhaven and South Coast areas through highlighting areas of nature-based, cultural and accessible tourism opportunity.

Community Engagement

Several of the suggested projects have been subject to community engagement in various forms. All projects are well supported based on letters of support received ahead of application submission. The application also has project management and approval costs included as a component of the application.

Financial Implications

If the application is successful Council's co-contribution of \$1.5M will need to be included in the Capital Works Program budgets over the period 2019/20 to 2021/22. These considerations can form part of the upcoming budget deliberations and the review of Council's long-term financial plan.

Costs associated with developing the EOI and detailed submission are approximately \$34,500, this will be sourced from existing budgets.

Risk Implications

With each project, there are specific risks associated with approvals (shovel readiness), project scheduling, contractor availability but these have been identified and articulated at the application stage. The inability to provide matching funds is a critical risk.

CL19.16 Investment Report - December 2018

HPERM Ref: D19/11131

Group: Finance Corporate & Community Services Group
Section: Finance

Attachments: 1. December 2018 Investment Report (under separate cover) [📄](#)

Purpose / Summary

In accordance with section 625 of the Local Government Act 1993 and Clause 212 of the Local Government (General) Regulation, a written report is provided to Council setting out the details of all money it has invested.

Recommendation

That the report of the General Manager (Finance, Corporate & Community Services Group) on the Record of Investments for the period to 31 December 2018 be received for information.

Options

1. The report on the Record of Investments for the period to 31 December 2018 be received for information.

Implications: Nil

2. Further information regarding the Record of Investments for the period to 31 December 2018 be requested.

Implications: Nil

3. The report of the Record of Investments for the period to 31 December 2018 be received for information with any changes requested for the Record of Investments to be reflected in the report for the period to 31 January 2019.

Implications: Nil

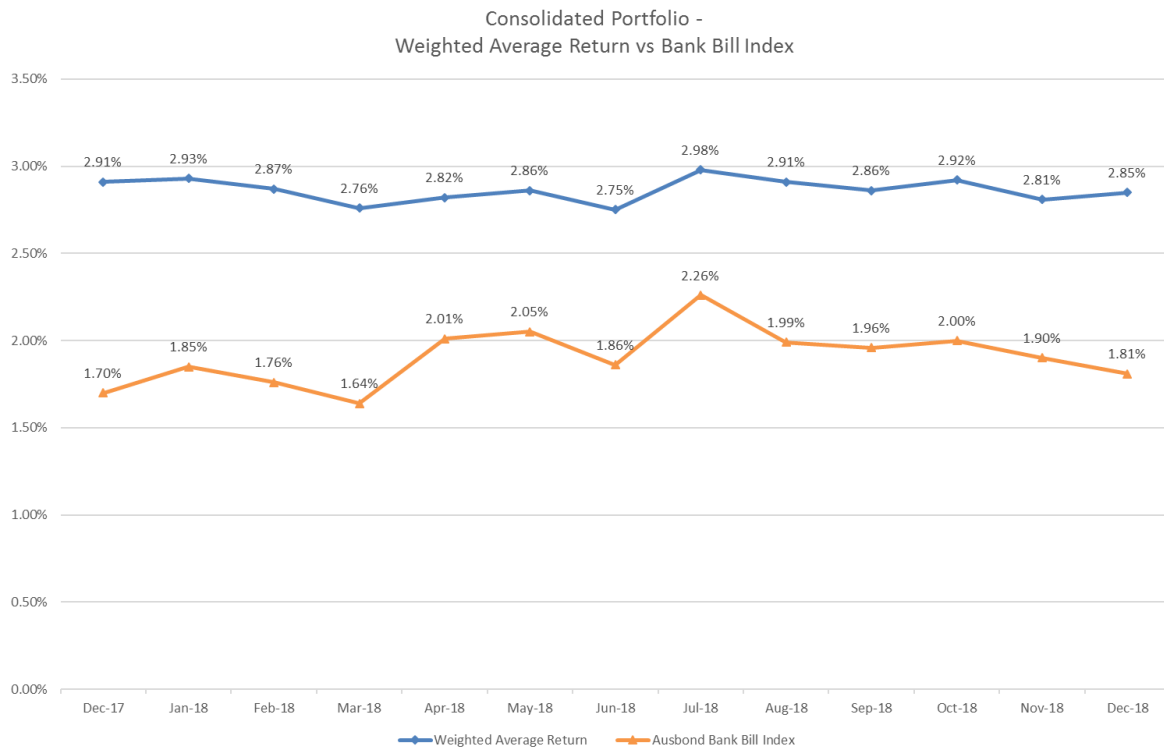
Background

Please refer to the attached monthly report provided by Council's Investment Advisor, CPG Research and Advisory Pty Ltd.

Council's investment portfolio returned a strong 2.85% for the month of December 2018, exceeding the benchmark AusBond Bank Bill Index (1.81% pa) by 104bp.

The following graph demonstrates the performance of Council's investment portfolio against the benchmark on a rolling twelve (12) months basis. As can be seen, performance has consistently exceeded benchmark.

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The interest earned to the month of December was \$3,109,768; 77.32% of the full year budget. Spending against loan funds for the REMS 1B project is on track but slightly behind estimated project cash flows, resulting in continued higher than expected interest earnings. General Fund interest is higher due to more cash being on hand than predicted; however, future returns are expected to slow during the year as capital expenditure progresses and higher earning investments mature.

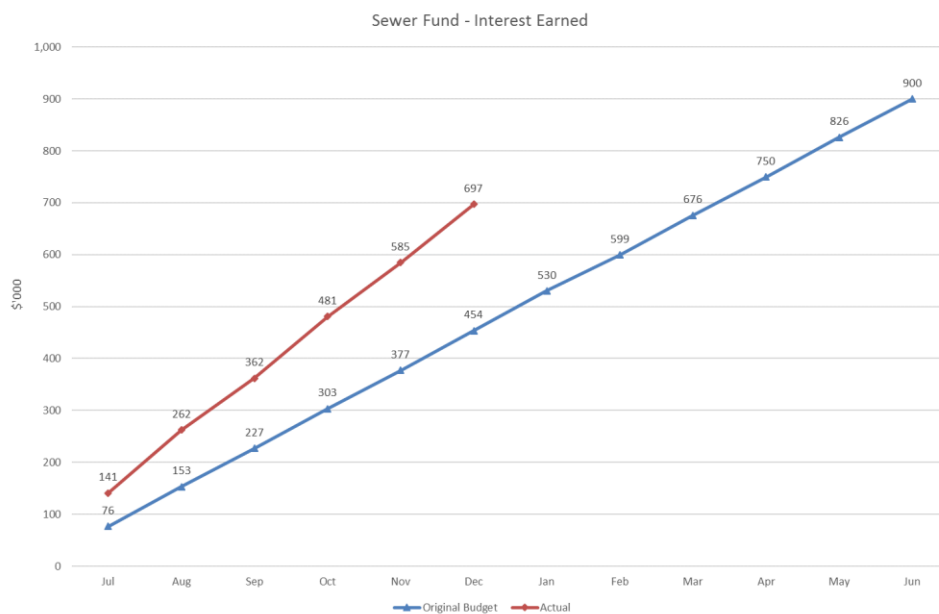
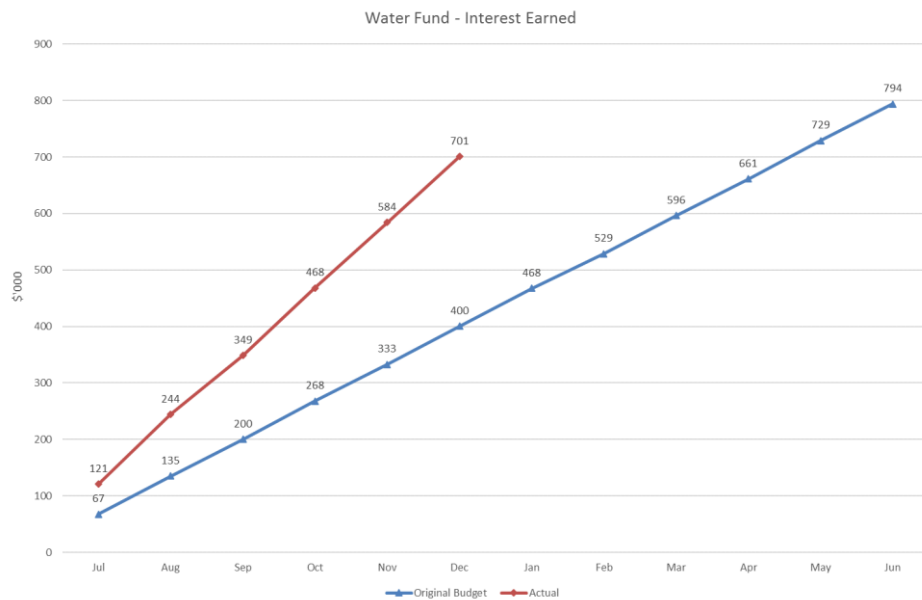
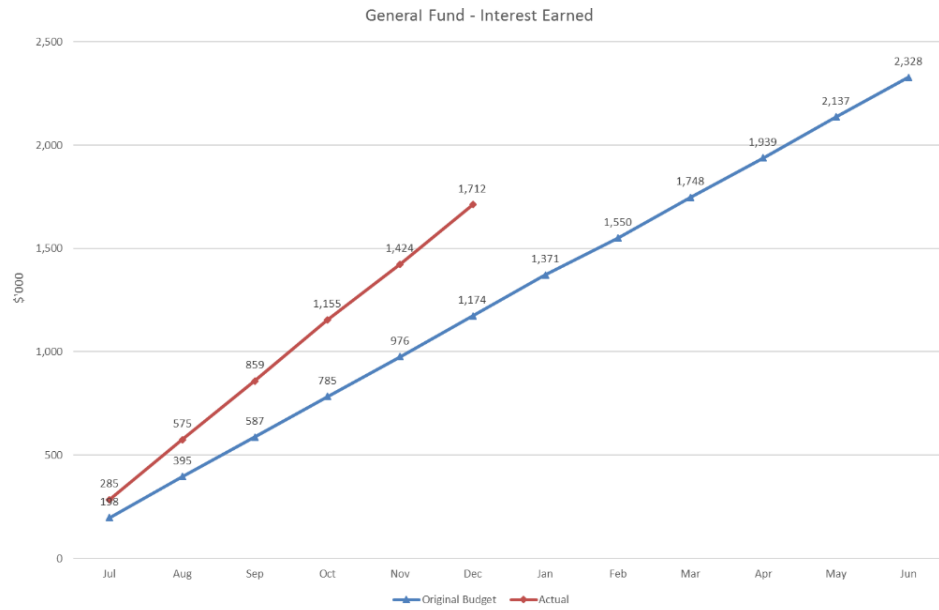
Details of a potential budget adjustment for interest on investments will be considered at the December quarterly budget review.

Fund	Budget	Actual	%
General	\$2,328,000	\$1,711,931	73.54%
Water	\$794,000	\$700,717	88.25%
Sewer	\$900,000	\$697,120	77.46%
Total	\$4,022,000	\$3,109,768	77.32%

The interest earned for the month of December was \$517,426, which was \$175,832 above budget.

Fund	Monthly Budget	Actual	Difference
General	\$197,721	\$288,422	\$90,701
Water	\$67,436	\$116,531	\$49,096
Sewer	\$76,438	\$112,473	\$36,035
Total	\$341,595	\$517,426	\$175,832

The graphs below illustrate the cumulative interest earned for the year for each fund against budget.



RECORD OF INVESTMENTS Cash and Investment Balances

	December 2018	November 2018
Cash And Investments Held		
Cash at Bank - Transactional Account	\$6,501,803	\$10,819,221
Cash at Bank - Trust Fund	\$0	\$0
Cash on Hand	\$67,790	\$41,590
Other Cash and Investments	\$199,044,447	\$205,993,004
	\$205,614,040	\$216,853,816
 Fair Value Adjustment	 \$126,221	 \$181,342
Bank Reconciliation	-\$74,363	\$392,413
	\$51,858	\$573,755
 Book Value of Cash and Investments	 \$205,665,898	 \$217,427,570
 Less Cash & Investments Held In Relation To Restricted Assets		
Employee Leave Entitlements	\$8,136,913	\$8,136,913
Land Decontamination	\$1,191,387	\$1,249,983
Critical Asset Compliance	\$2,113,031	\$2,148,334
North Nowra Link Road	\$459,592	\$461,013
Other Internal Reserves	\$7,047,191	\$6,856,024
Section 7.11 Matching Funds	\$314,490	\$314,490
Strategic Projects General	\$109,722	\$495,756
Industrial Land Development Reserve	\$6,677,502	\$7,133,298
Plant Replacement	\$2,520,897	\$2,186,830
Financial Assistance Grant	\$3,108,733	\$3,108,733
S7.11 Recoupment	\$1,313,207	\$1,596,075
Commitment To Capital Works	\$3,325,260	\$3,646,661
Property Reserve	\$212,756	\$228,570
Total Internally Restricted	\$36,530,681	\$37,562,679
 Loans - General Fund	 \$5,418,112	 \$5,803,873
Self Insurance Liability	\$1,587,155	\$1,546,684
Grant reserve	\$7,735,630	\$6,990,820
Section 7.11	\$32,126,443	\$32,179,109
Storm Water Levy	\$1,047,834	\$960,499
Trust - Mayors Relief Fund	\$86,665	\$86,386
Trust - General Trust	\$4,205,536	\$4,289,719
Waste Disposal	\$8,443,879	\$8,482,297
Sewer Fund	\$49,905,479	\$52,218,251
Sewer Plant Fund	\$2,379,314	\$2,267,391
Section 64 Water	\$18,708,265	\$18,704,215
Water Fund	\$25,633,715	\$24,545,431
Water Communication Towers	\$1,356,436	\$1,360,053
Water Plant Fund	\$2,372,643	\$2,254,424
Total Externally Restricted	\$161,007,107	\$161,689,152
 Total Restricted	 \$197,537,788	 \$199,251,831
 Unrestricted Cash And Investments		
General Fund	\$8,128,110	\$18,175,739

CL19.16

The table below lists the major movements:

Total Cash and Investments	-\$11,761,672	
Grant Reserve	+\$744,810	Receipt of grant income in advance of expenditure
Sewer Fund	-\$2,312,771	Expenditure on projects and loan repayments
Water Fund	+\$1,088,284	Normal operating cycle
Unrestricted General Fund	-\$10,047,629	Not a rates instalment month, expenditure on projects and loan repayments were made in December

Financial Implications

It is important for Council to be informed about its investments on a regular basis. Revenue from interests forms a vital part of Council's revenue stream.

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulations 2005 and Council's Investments Policy number POL18/57.



Michael Pennisi
Chief Financial Officer

CL19.16

CL19.17 Amendment to the election provisions of the Local Government (General) Regulation 2005

HPERM Ref: D19/17777

Group: Finance Corporate & Community Services Group
Section: Human Resources, Governance & Customer Service

Attachments: 1. OLG Circular 18-47 - Amendments to the Electoral Provisions of the Local Government (General) Regulation 2005 [↓](#)

Purpose / Summary

To inform Councillors of recent amendments to the election provisions of the Local Government (General) Regulation 2005.

Recommendation

That the report on the Amendments to the Election provisions of the Local Government (General) Regulation 2005 be noted.

Options

1. That the report be noted (as recommended).
2. That Council make an alternate resolution.

Background

On 19 December 2018, Council received Office of Local Government Circular No 18-47 on the Amendments to the Election provisions of the Local Government (General) Regulation 2005. The Circular has been provided as Attachment 1 to this report.

The amendments to the Regulation are the result of the making of the Local Government (General) Amendment (Elections) Regulation 2018 on 14 December 2018.

The Circular states that the amendments give effect to the Government's response to the recommendations of the Joint Standing Committee on Electoral Matters (JSECM) in relation to preference counting in local government elections by:

- Introducing the weighted inclusive Gregory method of preference allocation with respect to council elections using the proportional voting system (JSECM recommendations 1 and 2)
- Removing the cap of four digits for a decimal fraction when calculating transfer values (JSECM recommendation 10) and
- Removing the option for candidates to pay for a recount (recommendation JSECM 8)
- Giving effect to the 2014 amendments to the Local Government Act 1993 that gave councils the option of holding a countback election to fill casual vacancies in the first 18 months of their terms instead of holding a costly by-election and prescribe the administrative requirements for countback elections

- Prescribing the administrative requirements for universal postal voting elections (currently, only the City of Sydney has the option of holding elections exclusively by postal voting because of its high number of non-residential electors who, unlike other council elections, are required to vote at council elections)
- Updating other provisions of the Regulation to align with contemporary electoral practice as prescribed with respect to State elections under the Electoral Act 2017 and to make a number of other amendments that are consequential to that Act and the Electoral Funding Act 2018
- Making other minor changes to improve the efficiency of the administration of council elections.

There were 10 recommendations made by the Joint Standing Committee. Further information about the Standing Committee and its recommendations can be viewed at <https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=181#tab-inquiries>.

These electoral amendments will apply at the next Local Government Election held for the Shoalhaven City Council, which is currently scheduled for 12 September 2020.

Use of Exclusive Postal Voting is only available to the City of Sydney.

Count-back provisions will not be in place until after the September 2020 election. To utilise those provisions at the first meeting following that ordinary election, the Council must resolve that any future such casual vacancy is to be filled by a countback.

Council will be presented with further reports with respect to arrangements for the 2020 Local Government Elections in March 2019.



Office of
Local Government

Circular to Councils

Circular Details	Circular No 18-47 / 19 December 2018 / A632441
Previous Circular	18-43 <i>Council decisions on the administration of the September 2020 elections</i>
Who should read this	Councillors / General Managers / Council governance staff
Contact	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Information

Amendments to the election provisions of the Local Government (General) Regulation 2005

What's new or changing

- Amendments have been made to the *Local Government (General) Regulation 2005* (the Regulation) to:
 - give effect to the Government's response to the recommendations of the Joint Standing Committee on Electoral Matters (JSCEM) in relation to preference counting in local government elections by:
 - introducing the weighted inclusive Gregory method of preference allocation with respect to council elections using the proportional voting system (recommendations 1 and 2)
 - removing the cap of four digits for a decimal fraction when calculating transfer values (recommendation 10) and
 - removing the option for candidates to pay for a recount (recommendation 8)
 - give effect to the 2014 amendments to the *Local Government Act 1993* that gave councils the option of holding a countback election to fill casual vacancies in the first 18 months of their terms instead of holding a costly by-election and prescribe the administrative requirements for countback elections
 - prescribe the administrative requirements for universal postal voting elections (currently, only the City of Sydney has the option of holding elections exclusively by postal voting because of its high number of non-residential electors who, unlike other council elections, are required to vote at council elections)
 - update other provisions of the Regulation to align with contemporary electoral practice as prescribed with respect to State elections under the *Electoral Act 2017* and to make a number of other amendments that are consequential to that Act and the *Electoral Funding Act 2018*
 - make other minor changes to improve the efficiency of the administration of council elections.

What this will mean for your council

- The amendments make the counting of votes at council elections fairer and more accurate and transparent by removing the random sampling method of preference allocation and replacing it with a fractional transfer system known as the weighted inclusive Gregory method. In a fractional transfer system, all ballot papers of the elected candidate are used to distribute the surplus. The ballot papers are distributed at a reduced rate by applying a transfer value.
- The new counting rules take effect on 11 September 2020, immediately before the next ordinary council elections.

- The prescription of the weighted inclusive Gregory method and the removal of the cap of four digits for a decimal fraction when calculating transfer values mean that it will no longer be possible to use manual counts for council elections.
- The prescription of the weighted inclusive Gregory method also means that the count will now be reproducible on a recount making countback elections possible.
- Following the September 2020 ordinary council elections, councils will be able to fill casual vacancies in civic office that arise in the first 18 months following the election by a countback election, saving councils the cost of a by-election. In the last 18 months of councils' terms, they retain the option of applying to the Minister for Local Government to dispense with a by-election.
- Countback elections are not available for elections using the optional preferential voting system (including the election of a popularly elected mayor).
- To exercise the option of filling casual vacancies in the first 18 months using a countback election, councils must resolve at their first meeting following the ordinary election to fill vacancies using countback elections. OLG will provide further guidance on this closer to the relevant time.

Key points

- A number of other amendments have been made to align the electoral provisions of the Regulation with the *Electoral Act 2017* thereby reflecting the more contemporary electoral practices that apply at State elections. Key amendments include:
 - allowing the election manager to appoint centralised ballot counting centres to improve the efficiency of the administration of elections and reduce costs
 - allowing polling places for multiple wards or areas (thereby allowing, for example, voting in the Sydney CBD for other council areas). This is in addition to the existing requirement for polling places in each area and ward.
 - removing the requirement for the returning officer's office to be a polling place (reflecting the fact that these are also used to warehouse electoral materials and are often located in industrial areas)
 - allowing the early opening of postal ballot envelopes in the presence of scrutineers (but not early counting) so as to speed up the count on election night (this is consistent with the practice at State elections)
 - allowing candidates' nominations and the payment of deposits to be made electronically
 - allowing the election manager to provide candidates' statistical information sheets directly to OLG (rather than via councils' general managers) to improve the efficiency and speed of OLG's post-election research used to inform its strategies to promote greater diversity in candidates standing at the next council elections.

Where to go for further information

- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au.

Tim Hurst
Chief Executive

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CL19.18 Commencement of the new Model Code of Meeting Practice for Local Councils

HPERM Ref: D19/18445

Group: Finance Corporate & Community Services Group
Section: Human Resources, Governance & Customer Service

Attachments:

1. OLG Circular 18-45 - Commencement of the new Model Code of Meeting Practice [↓](#)
2. OLG Circular 18-45 Attachment - Frequently Asked Questions - pdf [↓](#)
3. Model Code of Meeting Practice for Local Councils in NSW 2018 (under separate cover) [⇒](#)

Purpose / Summary

To inform Councillors of the commencement of the Model Code of Meeting Practice and steps to be taken by the Council in response.

Recommendation

That

1. The Report on the commencement of the new Model Code of Meeting Practice for Local Councils be noted.
2. A workshop of Councillors and Senior Staff be held to discuss the non-mandatory provisions of the Model Code of Meeting Practice prior to consideration of a revised draft Shoalhaven City Council Code of Meeting Practice based on the Model.

Options

1. As recommended

Implications: Councillors are informed of the commencement of the Code and the transitional provisions. Detailed discussion of the non-mandatory provision will take place at a Councillor workshop prior to a Draft Code being provided to the Council.

2. Alternate recommendation

Implications: Not known.

Background

On 14 December 2018, the Office of Local Government released Circular No. 18-45 - Commencement of the new Model Code of Meeting Practice for Local Councils in NSW. The Circular and its attached Frequently Asked Questions document are provided as Attachments 1 and 2 to this report.

The Model Code of Meeting Practice is provided as Attachment 3 to this report.

The Model Meeting Code has two elements:

- It contains mandatory provisions (indicated in black font) that reflect the existing meetings provisions of the Act and update and enhance the meeting provisions

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previously prescribed under the Regulation to reflect contemporary meeting practice by councils.

- It contains non-mandatory provisions (indicated in red font) that cover areas of meetings practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as being best practice for the relevant area of practice.

The Model Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in the document in blue font.

Action required by the Council

The specific requirements of the Code of Meeting Practice are as follows:

- Councils are required to adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code prescribed by the Regulation. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.
- A council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.
- Councils and committees of councils of which all the members are councillors must conduct their meetings in accordance with the code of meeting practice adopted by the council.
- Before adopting a new code of meeting practice, under section 361 of the LGA, councils are still required to exhibit a draft of the Code of Meeting Practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code. This requirement does not apply to joint organisations.

To facilitate full consideration and discussion of the Model Code of Meeting Practice and in particular the non-mandatory provisions suggested in the Model, a workshop of Councillors and Senior Staff is recommended. The outcome of this workshop will inform the Council's Draft Code. It is proposed that this workshop will be held in February 2019 to allow sufficient time for preparation of a new Draft Code for presentation to Council, the requisite public consultation on the draft and then final adoption by the end of May 2019.

Councillors were provided a summary of areas of significant changes brought by the Model Code in report SA18.268 considered at the [Strategy and Assets Committee on 11 December 2018](#).

Transitional Provisions

Until a council adopts a new code of meeting practice, its existing Code of Meeting Practice will remain in force up until six months from the date on which the new Model Meeting Code was prescribed, (**14 December 2018 – 14 June 2019**). If a council fails to adopt a new Code of Meeting Practice within this period, under transitional provisions contained in the Regulation and the LGA, any provision of the council's adopted meeting code that is inconsistent with a mandatory provision of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that it is inconsistent with the mandatory provision of the Model Code.

Irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils (but not joint organisations) will be required to webcast meetings of the council and committees of which all members are councillors from **14**

December 2019. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council's website.

Community Engagement

Before adopting a new code of meeting practice, under Section 361 of the LGA, councils are still required to exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code.

Policy Implications

The Council's current [Code of Meeting Practice \(POL18.51\)](#) remains in force until the Council has adopted a new Code of Meeting Practice with exception of any provisions that are inconsistent with the Model Code.



Office of
Local Government

Circular to Councils

Circular Details	Circular No 18-45 / 18 December 2018 / A621294
Previous Circular	18-35 <i>The new Model Code of Meeting Practice for Local Councils</i>
Who should read this	Mayors / Councillors / General Managers / Joint Organisation Executive Officers / Council governance staff
Contact	Council Governance Team – (02) 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Commencement of the new Model Code of Meeting Practice for Local Councils in NSW

What's new or changing

- Amendments made to the *Local Government Act 1993* (LGA) in August 2016 by the *Local Government Amendment (Governance and Planning) Act 2016* (the Phase 1 amendments) provide for a model code of meeting practice (Model Meeting Code) to be prescribed by the Regulation.
- Following an extensive consultation process, a Model Meeting Code has been prescribed under the *Local Government (General) Regulation 2005* (the Regulation) and the existing meetings provisions of the Regulation have been repealed. The new Model Meeting Code is available on OLG's website.
- The Model Meeting Code has two elements:
 - It contains mandatory provisions (**indicated in black font**) that reflect the existing meetings provisions of the Act and update and enhance the meetings provisions previously prescribed under the Regulation to reflect contemporary meetings practice by councils.
 - It contains non-mandatory provisions (**indicated in red font**) that cover areas of meetings practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as being best practice for the relevant area of practice.
- The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are **indicated in blue font**. References to councils below also include references to joint organisations and county council unless otherwise specified.

What this will mean for your council

- Councils are required to adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code prescribed by the Regulation. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.
- A council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.
- Councils and committees of councils of which all the members are councillors must conduct their meetings in accordance with the code of meeting practice adopted by the council.

Key points

- Under the transitional provisions of the LGA, councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code no later than 12 months after the next ordinary elections.
- Until a council adopts a new code of meeting practice, its existing code of meeting practice will remain in force up until six months from the date on which the new Model Meeting Code was prescribed, (**14 December 2018 – 14 June 2019**). If a council fails to adopt a new code of meeting practice within this period, under transitional provisions contained in the Regulation and the LGA, any provision of the council's adopted meeting code that is inconsistent with a mandatory provision of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that it is inconsistent with the mandatory provision of the Model Meeting Code.
- Irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils (but not joint organisations) will be required to webcast meetings of the council and committees of which all members are councillors from **14 December 2019**. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council's website.
- Before adopting a new code of meeting practice, under section 361 of the LGA, councils are still required to exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code. This requirement does not apply to joint organisations.
- In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".
- In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

Where to go for further information

- Further information is provided in the FAQ attached to this circular.
- The new Model Meeting Code is available on OLG's website at www.olg.nsw.gov.au.
- OLG will be providing further guidance and assistance to councils to support implementation of the new Model Meeting Code during the six month transitional timeframe.
- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au.

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FREQUENTLY ASKED QUESTIONS

How is the Model Meeting Code prescribed?

Amendments made to section 360 of the LGA by the Phase 1 amendments provide as follows:

- The regulations may prescribe a model code of meeting practice for the conduct of meetings of councils and committees of councils of which all the members are councillors.
- The model meeting code may contain both mandatory and non-mandatory provisions.
- A council must, not later than 12 months after an ordinary election of councillors, adopt a code of meeting practice that incorporates the mandatory provisions of the model meeting code prescribed by the regulations. The adopted code may also incorporate the non-mandatory provisions and other provisions.
- A code adopted or amended by a council must not contain provisions that are inconsistent with the mandatory provisions.
- A council and a committee of a council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.

Councils continue to be required to consult with their communities prior to adopting a code of meeting practice (see section 361).

What is the status of the meetings provisions of the Regulation?

These have now been repealed and the prescription of meeting rules will now be done through the Model Code of Meeting Practice that is prescribed under the Regulation from time to time.

Why has a Model Meeting Code been prescribed?

Previously there was not a uniform set of meeting rules for councils beyond those prescribed under the LGA and the Regulation. In developing the Model Meeting Code, OLG identified significant variability in meeting practices and rules across councils. OLG's review of councils' codes of meeting practice noted the following:

- while there are a number of areas of commonality between councils in meetings practice there is significant variability in how this is prescribed in their codes of meeting practice
- a number of councils' codes of meeting practice contain provisions that are inconsistent with the LGA and the Regulation
- there is significant variation in the quality of the drafting of councils' codes of meeting practice
- a number of councils' codes of meeting practice appear to lose sight of the fact that the primary purpose of meetings is to make decisions and contained practices that are not consistent with the efficient conduct of meetings or effective and informed decision-making.

What outcomes does the new Model Meeting Code seek to achieve?

The Model Meeting Code has been designed to achieve a range of outcomes, including:

- promoting, as the principal object of meetings, the making of decisions by the governing bodies of councils that are in the best interests of the council and the community as a whole

- promoting more accessible, orderly, effective and efficient meetings and to provide councils with the tools to achieve these outcomes
- prescribing principles to inform the way in which meetings are conducted and to prescribe meeting rules that are consistent with these principles
- codifying areas of common practice across councils in a way that is clear, efficient, leads to better informed and more effective decision making and that is consistent with the requirements of the LGA
- promoting greater consistency between councils across the State in key areas of meetings practice without losing the ability to allow some variation in practice to meet local needs or expectations
- allowing greater flexibility in the conduct of meetings to accommodate a range of potential scenarios that were not addressed by the previous prescribed meeting rules
- simplifying the language used to make the prescribed meeting rules more accessible and easier to understand
- modernising the rules to accommodate current and emerging technologies (e.g. electronic notice, electronic voting systems and webcasting).

How was the Model Meeting Code developed?

OLG has consulted extensively in developing the new Model Meeting Code. There have been two rounds of public consultation:

- in late 2016, OLG invited submissions on how the meeting rules prescribed by the Regulation could be improved and any additional areas of meeting practice that should be prescribed
- based on the feedback received from the first round of consultation, a consultation draft of the proposed new Model Meeting Code was developed and issued for comment.

The final version of the Model Meeting Code has been informed by the comment received in response to the consultation draft.

What are the key changes made by the Model Meeting Code?

The Model Meeting Code contains the following new elements:

- new meetings principles
- optional rules for pre-meeting councillor briefings
- optional rules for public forums
- a new requirement for meetings to be webcast
- new rules limiting the use of mayoral minutes without notice to cases of urgency
- optional rules requiring a staff report for motions seeking decisions that do not align with councils' integrated planning and reporting (IP&R) objectives
- optional rules allowing multiple items to be adopted in a block
- optional rules allowing rescission motions to be dealt with at the same meeting in cases of urgency and allowing matters to be recommitted to correct an error
- optional rules placing time limits on meetings.

Are councils required to adopt the non-mandatory provisions of the Model Meeting Code?

No. The non-mandatory provisions are indicated in **red font** in the Model Meeting Code. The non-mandatory provisions cover areas of practice that are common to most councils but where there may be a need for some variation in practice between

councils. These are designed to set a benchmark for what OLG considers to be best practice for these areas of practice.

While councils may incorporate these into their adopted codes of meeting practice, they are not required to do so. Councils may also adopt these in an amended form.

Are joint organisations and county councils required to adopt codes of meeting practice based on the mandatory provisions of the Model Meeting Code?

Yes. There are some provisions of the Model Meeting Code that are specific to meetings of boards of joint organisations and reflect the unique needs and operating environment of joint organisations. These are indicated in **blue font**. In adopting the Model Meeting Code, joint organisations should also adapt it to substitute the terms “board” for “council”, “chairperson” for “mayor”, “voting representative” for “councillor” and “executive officer” for “general manager”.

In adopting the Model Meeting Code, county councils should adapt it to substitute the term “chairperson” for “mayor” and “member” for “councillor”.

When must councils adopt a new code of meeting practice based on the Model Meeting Code?

Under the transitional provisions of the LGA, councils **must**, adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code no later than 12 months after the next ordinary elections. However, for the reasons set out below, councils **should** adopt a new code of meeting practice based on the Model Meeting Code as soon as possible.

Until a council adopts a new code of meeting practice, its existing code of meeting practice will remain in force up until six months from the date on which the new Model Meeting Code was prescribed, (**14 December 2018 – 14 June 2019**). If a council fails to adopt a new code of meeting practice within this period, under transitional provisions contained in the Regulation and the LGA, any provision of the council’s adopted code that is inconsistent with a mandatory provision of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that it is inconsistent with the mandatory provision of the Model Meeting Code.

Irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils (but not joint organisations) will be required to webcast meetings of the council and committees of which all members are councillors from **14 December 2019**. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council’s website.

Do councils still need to consult with their communities when adopting a new code of meeting practice based on the Model Meeting Code?

Yes. Before adopting a new code of meeting practice, under section 361 of the LGA, councils are still required to exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code. This requirement does not apply to joint organisations.

Are councils required to adopt the provisions of the Model Meeting Code relating to public forums?

No. These have not been made mandatory in recognition of the fact that there will be a need for some variation in practice to suit local needs. Councils are able to adopt them, adapt or supplement them to meet local need, or to adopt their own provisions governing public forums. However, OLG would strongly recommend that councils make provision in their codes of meeting practice for some form of public access or input into council decision making.

The provisions governing public forums contained in the Model Meeting Code reflect what OLG sees to be best practice and have been informed by the following considerations:

- Councils should have a comprehensive community engagement strategy in place to ensure that the views of affected persons and (where relevant) the community as a whole are considered in council decision making. This will soon be a statutory requirement. Public forums at council meetings are not an appropriate substitute for effective community consultation and councils need to be mindful that the views expressed at public forums will not necessarily be representative of the views of other affected parties or the broader community.
- Public forums should operate as an input into council decision-making at meetings. This means that they should be focussed on the matters under consideration at a council meeting and not permit free ranging discussion of other matters that are not being dealt with at the meeting.
- In the interests of ensuring informed decision making, there should be a gap between the public forum and the meeting to allow councillors the time to properly consider matters raised at the public forum and, if necessary, to seek further input and guidance from staff before being required to make a decision on those matters.
- Council meetings should operate as a forum for debate and decision making by the community's elected representatives. Public forums should not operate in a way that displaces this as the principal purpose of council meetings nor operate as a platform for others to participate in debate with elected officials on matters under consideration at a meeting.
- Participation in a public forum is a privilege not a right. It should be within the discretion of a council to withdraw this privilege where a person fails to respect meeting rules or engages in disorderly conduct.

Why has the webcasting of meetings been made mandatory?

The Model Meeting Code provides that all meetings of councils and committees whose membership comprises only of councillors should be webcast to increase the transparency of council decision making and to allow access to those who may not be physically able to attend meetings.

However, following concerns raised by councils in response to the consultation draft of the Model Meeting Code, councils have been provided with an extended transitional period in which to implement the new requirements

Irrespective of whether they have adopted a code of meeting practice based on the Model Meeting Code, all councils will be required to webcast meetings of the council and committees whose membership comprises only of councillors from **14 December 2019**.

This gives councils 12 months in which to make the necessary arrangements to webcast their meetings. The requirement to webcast meetings may be met simply by posting an audio or video recording of the meeting on the council's website meaning that all councils, irrespective of their size, resources and location will be able to comply.

Joint organisations are not required to webcast board meetings.

Where can I get a Word© version of the Model Meeting Code?

If you require a Word© version of the Model Meeting Code, please contact OLG's Council Governance Team.

CL19.19 Commencement of the New Model Code of Conduct for Local Councils in NSW and Procedures

HPERM Ref: D19/20844

Group: Finance Corporate & Community Services Group
Section: Human Resources, Governance & Customer Service

Attachments:

1. OLG Circular 18-44 - Commencement of the new Model Code of Conduct for Local Councils in NSW and Procedures [↓](#)
2. 2018 Model Code of Conduct (under separate cover) [↗](#)
3. 2018 Procedures - Model Code of Conduct (under separate cover) [↗](#)

Purpose / Summary

To inform Councillors of the newly prescribed 2018 Code of Conduct and Procedures and outline the steps to be taken by the Council.

Recommendation

That Council

1. Note the commencement of the new Model Code of Conduct and Procedures as outlined in the report.
2. Hold a Councillor Workshop to discuss the Model Code of Conduct and Procedures.

Options

1. As recommended

Implications: Councillors are informed of the commencement of the Code and the transitional provisions. Detailed discussion of the documents will take place at a Councillor workshop to inform Draft Documents to be provided to the Council for adoption.

2. Council adopt the Model Code of Conduct and Procedures provided as Attachments 2 and 3 to the report.

Implications: The Model Code and Procedures will be adopted as the current policies of the Council effective from the resolution. Training will be provided to Councillors, Staff and Committee members. Any suggested amendments or additions can be reported to the Council for consideration at a later time.

Background

On 14 December 2018, the Office of Local Government (OLG) released Circular No. 18-44 – Commencement of the new Model Code of Conduct for Local Councils in NSW and Procedures. The Circular and its attached Frequently Asked Questions document are provided as **Attachment 1** to this report.

The Model Code of Conduct is provided as **Attachment 2** to this report.

The Procedures for the Model Code of Conduct are provided as **Attachment 3** to the report.

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Councillors were previously provided a briefing of the Consultative Drafts of the Code of Conduct and Procedures and resolved to make a submission with respect to the Draft documents in December 2017 (MIN17.1032)

Councillors were also provided copies of the Version of the Model Code of Conduct released by the Minister for Local Government on 5 September 2018. The commenced Model Code aligns with that released by the Minister with the exception of the previous Clause 8.21 regarding Social Media which was removed.

Summary of Differences between the 2018 Model Code of Conduct and the 2013 Model Code of Conduct

Part	Existing Code	New Code
General Conduct	Contained broad “principles-based” rules governing general conduct (but prescriptive rules governing binding caucus votes which have been retained in the new Code)	Shift from broad principles-based approach to prescription of standards of general conduct to a more prescriptive approach. New, clearer rules governing: <ul style="list-style-type: none"> • harassment and discrimination • bullying • work health and safety • land use planning, development assessment and other regulatory functions • behavioural standards in meetings
Pecuniary interests	Standards relating to the disclosure of pecuniary interests and the management of pecuniary conflicts of interest were prescribed under the Local Government Act (LGA) and Regulation.	Yet to commence 2016 amendments to the LGA have seen the prescription of these rules moved to the Model Code of Conduct so that all ethical standards are now prescribed from the same source. The provisions now contained in the Model Code are largely the same as those that were previously contained in the LGA and Regulation. Key changes include: <ul style="list-style-type: none"> • Council officials will now be obliged to update their publicly accessible returns of interests within 3 months of becoming aware of new interests (previously new returns only had to be submitted annually) • Councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of one
Non-pecuniary conflicts of interest	Contains broad principles-based rules governing disclosure and management of non-pecuniary conflicts of interests	As with the general conduct provisions, these rules have been rewritten to make them more prescriptive. The Model Code still distinguishes between “significant non-pecuniary conflicts of interest” (Council officials must have no involvement in matters in which they

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		have a significant non-pecuniary conflict of interest) and “less than significant non-pecuniary conflicts of interest” (Council officials must disclose these but may still participate in decision making). However, the rules governing what constitutes a significant non-pecuniary conflict of interest have been made more prescriptive and much clearer.
Gifts and benefits	Contained a mixture of broad principles and strict rules governing when it is not appropriate to accept gifts or personal benefits. Gifts of more than token value must not be accepted but does not place a monetary value on these. There is no requirement to report the acceptance of a gift, unless it is of more than token value.	<p>Rules governing gifts and benefits are now much more prescriptive:</p> <ul style="list-style-type: none"> • There is a clearer definition of what is a gift or benefit • There is a monetary value of \$50 placed on gifts being more than token value • There is a prohibition on the acceptance of multiple gifts of under \$50 from the same person over a 12 month period where their aggregated value exceeds \$50 • The rules extend to gifts received by persons personally associated with the Council official • All gifts must be reported regardless of value
Relationships between Council officials	Contains prescriptive rules governing relationships and interactions between Councillors and staff	These are largely unchanged but have been updated to reflect the new roles of Mayor, Councillors and General Managers legislated in the 2016 amendments to the LGA
Access to information and Council resources	Contains prescriptive rules governing access to information, use of Council resources and information technology	<p>These are largely unchanged but have been supplemented with new rules:</p> <ul style="list-style-type: none"> • Councillors are precluded from requesting information about matters they have a conflict of interest in unless the information is otherwise publicly available • There are new rules governing the use of social media – this should not be used for engaging in offensive, humiliating or threatening behaviour, making misleading or deceptive claims, breaching privacy or disclosing confidential information • There are new rules governing Council record keeping which in effect, embed the requirements of the State Records Act into the Mode Code

Maintenance of the integrity of the Code of Conduct	Contains rules relating to the misuse of the Code, taking reprisal action, disclosing confidential information about Code of Conduct investigations etc.	The language in these has been slightly modified to address issues arising from previous OLG investigations and NCAT matters
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Action required to be taken by the Council

1. Determination of the form/s of Code of Conduct

Council will need to determine if it will adopt one (1) Code of Conduct that applies to Council Officials or three (3) separate Codes of Conduct for Councillors, Staff and Committee Members. The OLG has provided separate versions of the Model Code to be utilised if this is the preferred approach – they can be found on [the OLG Website](#).

The benefits and detriments of each of these approaches will be discussed in the proposed Councillor Workshop on this matter.

2. Adoption of a Code of Conduct and Procedures

Councils have six (6) months from the date of prescription (14 December 2018 to 14 June 2019) to adopt a Code of Conduct and Procedures based on the prescribed Model Code of Conduct and Procedures.

The transitional arrangements for the new Model Code of Conduct and Procedures are set out below.

If a Council fails to adopt a new Code of Conduct and Procedures based on the new Model Code of Conduct and Procedures within six (6) months of their prescription, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of a Council's adopted Code of Conduct and Procedures that are inconsistent with those contained in the Model Code of Conduct and Procedures through the operation of Sections 440(4) and 440AA(4) of the Local Government Act 1993 (unless the inconsistent provisions of a Council's adopted Code of Conduct are more onerous than those contained in the Model Code of Conduct).

In adopting a new Code of Conduct and Procedures, Councils may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. Council may also impose more onerous requirements under their adopted Codes of Conduct than those prescribed under the Model Code of Conduct. However, Councils must not dilute the standards prescribed under the Model Code of Conduct in their adopted Codes of Conduct.

3. Informing Conduct Reviewers of New Provisions

Council's Complaints Coordinator is required to bring the circular and the attached FAQ to the attention of their Council's conduct reviewers. The Complaints Coordinator must also inform conduct reviewers when the Council has adopted a new Code of Conduct and Procedures and provide copies.

Council's current panel of conduct reviewers will be informed of the changes in writing.

4. Reviewing Conduct Reviewing existing panels of Conduct Reviewers

The Circular advises that councils should review their existing panels of conduct reviewers and determine to appoint a new panel using the expression of interest process prescribed under the Procedures if they have not done so in the past four years. As Council last appointed a Conduct Panel in August 2017 (MIN17.740), there is no requirement to appoint a panel at this time; however in adopting new Procedures, Council may wish to consider arrangements with

respect to joint panels or delegation of the tasks assigned to the General Manager as permitted in the new Procedures.

The consideration of these provisions will be outlined in the Councillor Workshop on this matter and in a further report to Council.

Transitional Provisions

Council's existing adopted Code of Conduct and Procedures will remain in force until such time as Council adopt a new Code of Conduct and Procedures based on the Model Code of Conduct and Procedures prescribed under the Regulation.

Code of Conduct complaints must be assessed against the standards prescribed under the version of the Council's Code of Conduct that was in force at the time the conduct the subject of the complaint is alleged to have occurred.

Code of Conduct complaints must be dealt with in accordance with the version of the Council's Procedures that were in force at the time the complaint was made.

Community Engagement

Unlike the Code of Meeting Practice, there is no requirement for exhibition of the Draft Model Code of Conduct or Procedures prior to adoption by the Council.

The Adopted Code of Conduct and Procedures are made publicly available on the Council's website.

Policy Implications

The provisions of the Code of Conduct impact upon other policies of the Council. Once Council adopts a new Code of Conduct, review of other related policy will be required.



Office of
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Circular to Councils

Circular Details	Circular No 18-44 / 18 December 2018 / A621282
Previous Circular	<i>18-24 Status of the new Model Code of Conduct for Local Councils in NSW and Procedures</i>
Who should read this	Mayors / Councillors / General Managers / Joint Organisation Executive Officers / Complaints Coordinators / Conduct Reviewers
Contact	Council Governance Team – (02) 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Commencement of the new Model Code of Conduct for Local Councils in NSW and Procedures

What's new or changing

- The new 2018 *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct) and *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* (Procedures) have now been prescribed under the *Local Government (General) Regulation 2005*. The new prescribed Model Code of Conduct and Procedures are available on OLG's website.
- Provisions governing the use of social media (clause 8.21) in the previously released version of the Model Code of Conduct issued on 5 September 2018 have been removed. However, it remains open to councils to adopt this provision as a supplementary provision of their code of conduct, should they choose to do so.

What this will mean for your council

- Councils have six months from the date of prescription, (**14 December 2018 – 14 June 2019**) to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures. The transitional arrangements for the new Model Code of Conduct and Procedures are set out below.
- Councils' complaints coordinators should bring this circular and the attached FAQ to the attention of their council's conduct reviewers. Complaints coordinators should also inform conduct reviewers when the council has adopted a new code of conduct and procedures and provide copies.
- Councils should review their existing panels of conduct reviewers and determine to appoint a new panel using the expression of interest process prescribed under the Procedures if they have not done so in the past four years. Councils may appoint shared panels with other councils including through a joint organisation or another regional body associated with the councils.

Key points

- Councils' existing adopted codes of conduct and procedures will remain in force until such time as councils adopt a new code of conduct and procedures

based on the Model Code of Conduct and Procedures prescribed under the Regulation.

- If a council fails to adopt a new code of conduct and procedures based on the new Model Code of Conduct and Procedures within six months of their prescription, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of a council's adopted code of conduct and procedures that are inconsistent with those contained in the Model Code of Conduct and Procedures through the operation of sections 440(4) and 440AA(4) of the *Local Government Act 1993* (unless the inconsistent provisions of a council's adopted code of conduct are more onerous than those contained in the Model Code of Conduct).
- In adopting a new code of conduct and procedures, councils may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. Councils may also impose more onerous requirements under their adopted codes of conduct than those prescribed under the Model Code of Conduct. However, councils must not dilute the standards prescribed under the Model Code of Conduct in their adopted codes of conduct.
- Some councils indicated in their feedback on the consultation draft of the Model Code of Conduct a preference for adopting separate codes of conduct for councillors, staff and delegates and committee members instead of a single code of conduct that applies to all council officials. To assist councils to do this, OLG has prepared bespoke versions of the Model Code of Conduct for councillors, staff and delegates and committee members for adoption, instead of a single code of conduct, should councils wish to do so.
- Code of conduct complaints must be assessed against the standards prescribed under the version of the council's code of conduct that was in force at the time the conduct the subject of the complaint is alleged to have occurred.
- Code of conduct complaints must be dealt with in accordance with the version of the council's procedures that were in force at the time the complaint was made.

Where to go for further information

- Further information is provided in the FAQ attached to this circular.
- The new Model Code of Conduct and Procedures and other associated documents are available on OLG's website at www.olg.nsw.gov.au.
- OLG will be providing further guidance and assistance to councils to support implementation of the new Model Code of Conduct and Procedures during the six month transitional timeframe.
- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au.



Tim Hurst
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FREQUENTLY ASKED QUESTIONS

What is the purpose of the Model Code of Conduct?

The *Model Code of Conduct for Local Councils in NSW* prescribes the minimum ethical and behavioural standards all council officials in NSW are required to comply with. In doing so it seeks to:

- prescribe uniform minimum ethical and behavioural standards for all councils in NSW
- provide clear guidance to council officials on the minimum ethical and behavioural standards expected of them as council officials
- provide clear guidance to local communities on the minimum ethical and behavioural standards they can expect of the council officials who serve them
- promote transparency and accountability
- promote community confidence in the integrity of the decisions councils make and the functions they exercise on behalf of their local communities, and
- promote community confidence in the institution of local government.

How is the Model Code of Conduct prescribed?

The Model Code of Conduct is prescribed under section 440 of the *Local Government Act 1993* (LGA) and the *Local Government (General) Regulation 2005* (the Regulation).

Under section 440 of the LGA, each council is required to adopt a code of conduct based on the Model Code of Conduct prescribed under the Regulation. Councils may enhance or strengthen the standards prescribed under the Model Code of Conduct in their adopted codes of conduct to make them more onerous. Councils may also supplement the provisions contained in the Model Code of Conduct with additional provisions in their adopted codes of conduct.

However, councils cannot dilute or weaken the standards prescribed in the Model Code of Conduct in their adopted codes of conduct. Provisions contained in a council's adopted code of conduct that are less onerous than those prescribed under the Model Code of Conduct will be invalid and the equivalent provisions of the Model Code of Conduct will override them through the operation of section 440 of the LGA.

How are the Procedures prescribed?

The *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* are prescribed under section 440AA of the LGA and the Regulation. Under section 440AA, each council is required to adopt procedures for the administration of their adopted code of conduct based on the Model Procedures prescribed under the LGA and Regulation. Councils' adopted procedures may contain provisions that supplement the Model Procedures, but a council's adopted procedure has no effect to the extent that it is inconsistent with the Model Procedures prescribed under the Regulation.

Are joint organisations and county councils required to adopt the Model Code of Conduct and Procedures?

Yes.

Who does the Model Code of Conduct apply to?

Section 440 of the LGA specifies the classes of council officials that a Model Code of Conduct prescribed under the Regulation may apply to. Under section 440, a Model Code of Conduct may be prescribed that applies to councillors, members of staff of councils and delegates of councils. For this reason, the Model Code of Conduct prescribed under the Regulation only applies to councillors, council staff and delegates of councils (including members of committees that are delegates of councils). These are all defined as “council officials” for the purposes of the Model Code of Conduct and the Procedures.

Section 440 also allows regulations to be made to apply the provisions of the Model Code of Conduct relating to the disclosure of pecuniary interests to members of a committee of a council (including the Audit, Risk and Improvement Committee) and advisers to councils. A regulation has been made to give effect to this and the new Model Code of Conduct contains provisions prescribing the obligations of committee members and advisers to councils in relation to the disclosure of pecuniary interests.

What is the regulatory scope of the Model Code of Conduct?

The Model Code of Conduct applies to any conduct by a “council official” that is connected with their role as a council official or the exercise of their functions as a council official.

It is the personal responsibility of all council officials to ensure that their conduct complies with the ethical and behavioural standards prescribed under the Model Code of Conduct. This applies to both the exercise by council officials of their functions as a council official and any conduct (including in a private capacity) that is connected with their role as a council official.

Can councils adopt separate codes of conduct for councillors, staff and delegates and committee members?

Yes. Some councils indicated in their feedback on the consultation draft of the Model Code of Conduct, a preference for adopting separate codes of conduct for councillors, staff and delegates and committee members instead of a single code of conduct applying to all council officials.

There is nothing to prevent councils from doing so, provided that the adopted codes of conduct, taken together as a package, reflect all the provisions contained in the prescribed Model Code of Conduct and are consistent with it. To assist councils to do this, OLG has prepared bespoke versions of the Model Code of Conduct for councillors, staff and delegates and committee members for adoption instead of a single code of conduct for councils wishing to do this.

Can a council extend the application of its adopted code of conduct to persons other than councillors, council staff and delegates of council?

Yes. There is nothing under the LGA to prevent a council, when adopting a code of conduct based on the Model Code of Conduct, to extend its application to persons other than councillors, council staff and delegates of council.

In adopting a code of conduct based on the Model Code of Conduct, councils may amend the provisions of the Model Code of Conduct and the associated Procedures to extend their application to contractors, community members of wholly advisory committees and/or volunteers. In doing so, to be effective, councils will also need to

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make it a condition of a contractor's engagement or volunteer's or advisory committee member's appointment that they comply with the council's adopted code of conduct.

How many iterations of the Model Code of Conduct and Procedures have there been?

The Model Code of Conduct has been reviewed every four years to address new and emerging issues and to reflect shifting community standards and expectations. The 2018 version of the Model Code of Conduct is the fourth iteration. The first iteration of the Model Code of Conduct was prescribed in January 2005 in support of amendments to the LGA that required the adoption of a code of conduct based on a prescribed Model Code of Conduct. Before this, councils were free to adopt their own codes of conduct with the result that ethical standards varied from council to council.

The 2018 version of the Procedures is the second iteration. The first iteration of the Procedures was prescribed in March 2013 in support of amendments to the LGA that required the adoption of procedures for the administration of council's adopted codes of conduct based on a prescribed Model Procedure.

Why was the new Model Code of Conduct developed?

The new 2018 version of the Model Code of Conduct gives effect to a key reform made by amendments passed by the NSW Parliament to consolidate the prescription of all ethical standards for local government into a single statutory instrument. Previously, ethical standards were prescribed from three sources, the pecuniary interest provisions of the LGA and the Regulation and the Model Code of Conduct.

Consolidating all ethical standards into a single instrument will:

- result in a better understanding of, and compliance, with ethical standards - council officials will no longer need to be familiar with their obligations prescribed from three separate statutory sources, the LGA, the Regulation and the Model Code of Conduct
- allow pecuniary interest breaches by councillors to be treated as "misconduct", meaning that minor breaches can be dealt with by the Chief Executive of OLG as an alternative to referral to the NSW Civil and Administrative Tribunal (NCAT) and suspensions for pecuniary interest breaches will be counted towards disqualification for the purposes of the "three strikes" automatic disqualification
- allow greater flexibility and efficiency in updating the standards to address emerging issues – amendments will now be able to be made by way of a Regulation amendment.

How were the new Model Code of Conduct and Procedures developed?

Moving the pecuniary interest provisions to the Model Code of Conduct necessitated a rewrite of the Model Code of Conduct. As part of this process, it was decided to also undertake a comprehensive review of the existing provisions of the Model Code of Conduct (as part of the regular four-year review cycle) and the Procedures.

In undertaking the review, OLG consulted extensively with councils and other stakeholders. In developing the new Model Code of Conduct and Procedures, there have been two rounds of public consultation:

- in late 2016, submissions were invited suggesting changes and improvements to the existing Model Code of Conduct and Procedures

- based on the feedback received from the first round of consultation, consultation drafts of the proposed new Model Code of Conduct and Procedures were developed and issued for comment.

The final versions of the 2018 Model Code of Conduct and Procedures have been informed by the comment received in response to the consultation drafts.

What changes have been made in the 2018 version of the Model Code of Conduct?

The most obvious change is that the pecuniary interest provisions previously contained in the LGA and Regulation have now been included in the Model Code of Conduct.

One of the recurrent themes of the feedback received in the first round of consultation on the new Model Code of Conduct was that the “principles-based” approach to prescribing ethical and behavioural standards in the previous version of the Model Code of Conduct resulted in some of the prescribed standards being too vague, meaning that the ethical and behavioural standards expected of council officials were unclear and that almost anything could potentially constitute a breach of a council’s code of conduct. In response to this, the Model Code of Conduct has been substantially redrafted to be more prescriptive and to more clearly identify the behaviours that it seeks to deter.

Other key changes include:

- new standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records
- new rules governing the acceptance of gifts including mandatory reporting
- a new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them
- councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of a property developer.

What changes have been made to the previously approved version of the Model Code of Conduct posted on OLG’s website on 5 September 2018?

Provisions governing the use of social media (clause 8.21) in the previously released version of the Model Code issued on 5 September 2018 have been removed. However, it remains open to councils to adopt this provision as a supplementary provision of their code of conduct, should they choose to do so. Should councils require further assistance in relation to this, they may contact OLG’s Council Governance Team.

What changes have been made in the 2018 version of the Procedures?

In response to feedback, changes have been made to the Procedures to address the following issues:

- the role of the general manager in the receipt and initial management of code of conduct complaints about councillors
- the ability of complainants, who are unhappy with decisions of the council, to misuse councils’ codes of conduct by repackaging routine complaints as “code of conduct complaints”

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- the lack of recourse against members of the public who inappropriately disclose information about complaints they have made under a council's code of conduct.

These changes are outlined below:

How can councils outsource and centralise the management of complaints about councillors through regional arrangements under the new Procedures?

The new Procedures have sought to address concerns about the role of the general manager in the receipt and initial management of code of conduct complaints about councillors by giving general managers (and mayors in the case of complaints about the general manager) the flexibility to delegate their functions under the Procedures to another member of staff or a person external to the council.

The new Procedures have also been designed to allow councils to centralise the management of code of conduct complaints through a joint organisation, a regional organisation of councils or another shared arrangement should they choose to do so. This could be done, for example, through the establishment of a broader internal ombudsman function in a joint organisation or regional organisation of councils or through another shared arrangement to service member councils.

In particular:

- councils are able to establish and maintain regional panels of conduct reviewers through a joint or regional organisation of councils or another shared arrangement
- a staff member of a joint or regional organisation of councils or another member council can (in consultation with and through the executive officer of the joint organisation or general manager of the employer council) be appointed by general managers of member councils as the complaints coordinator for all member councils
- general managers and mayors of member councils can (in consultation with and through the executive officer of the joint organisation or general manager of the employer council) delegate their complaints management functions under the Procedures to a joint organisation or regional organisation of councils or to a staff member of another member council
- councils' internal ombudsman may, with the approval of OLG, be appointed to a panel of conduct reviewers allowing them to exercise the functions of a conduct reviewer, subject to their being able to meet the qualification criteria for conduct reviewers and being able to demonstrate to OLG's satisfaction a requisite degree of independence from member councils.

This offers a number potential benefits:

- centralisation of these functions through a joint organisation, a regional organisation of councils or another shared arrangement has the potential to deliver efficiencies and economies of scale and allows the development of a body of expertise within the region in the management of code of conduct complaints
- it allows general managers and mayors to divest themselves of the sometimes onerous responsibilities associated with code of conduct complaints management, allowing them to focus on their core responsibilities
- it allows all code of conduct complaints about mayors, councillors and general managers to be managed independently of the councils they relate to.

How do the new Procedures address misuse of councils' codes of conduct?

The purpose of a council's code of conduct is to prescribe the ethical and behavioural standards council officials are expected to comply with. The purpose of the Procedures is to support the enforcement of those standards. Consistent with this, councils' codes of conduct should not be used to deal with routine complaints.

The definition of a "code of conduct complaint" under the new Procedures has been tightened up to address the potential for misuse of councils' codes of conduct to re-litigate council decisions a person may disagree with or to re-prosecute complaints that have previously been addressed under councils' routine complaints management processes.

To be a code of conduct complaint, a complaint must show or tend to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct. Complaints that do not meet this definition of a "code of conduct complaint" must not be dealt with under the Procedures and are to be dealt with under councils' routine complaints management processes.

The new Procedures make it clear that the following are not code of conduct complaints:

- complaints about the standard or level of service provided by a council or a council official
- complaints that relate solely to the merits of a decision made by a council or a council official or the exercise of a discretion by a council or a council official
- complaints about the policies or procedures of a council
- complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.

What recourse do the new Procedures provide against persons who inappropriately disclose information about code of complaints they have made?

Allegations of breaches of a council's code of conduct must not be made publicly and information about code of conduct complaints and the consideration of code of conduct complaints is not to be publicly disclosed. This is to ensure the allegations are dealt with appropriately and fairly in accordance with the prescribed Procedures for the management of code of conduct complaints.

While council officials disclosing this information may face disciplinary action, under the previous Procedures there was no recourse against members of the public who did so. Under the new Procedures, where members of the public publicly disclose information about a code of conduct complaint they have made, general managers can determine, with OLG's consent, that the complainant is to receive no further information about their complaint and any future code of conduct complaints they make (subject to the requirements of the *Government Information (Public Access) Act 2009*).

When must councils adopt a new code of conduct and procedures based on the new prescribed Model Code of Conduct and Procedures?

Councils have six months from the date of prescription, (**14 December 2018 – 14 June 2019**) to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures.

What are the transitional arrangements for the new Model Code of Conduct and Procedures?

The following transitional arrangements apply to the new Model Code of Conduct and Procedures:

- Councils' existing adopted codes of conduct and procedures will remain in force until such time as councils adopt a new code of conduct and procedures based on the Model Code of Conduct and Procedures prescribed under the Regulation.
- If a council fails to adopt a new code of conduct and procedures based on the new Model Code of Conduct and Procedures within six months of their prescription, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of a council's adopted code of conduct and procedures that are inconsistent with those contained in the Model Code of Conduct and Procedures through the operation of sections 440(4) and 440AA(4) of the LGA (unless the inconsistent provisions of a council's adopted code of conduct are more onerous than those contained in the Model Code of Conduct).
- In adopting a new code of conduct and procedures, councils may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. Councils may also impose more onerous requirements under their adopted codes of conduct than those prescribed under the Model Code of Conduct. However, councils must not dilute the standards prescribed under the Model Code of Conduct in their adopted codes of conduct.
- Code of conduct complaints must be assessed against the standards prescribed under the version of the council's code of conduct that was in force at the time the conduct the subject of the complaint is alleged to have occurred.
- Code of conduct complaints must be dealt with in accordance with the version of the council's procedures that was in force at the time the complaint was made.

Where can I get Word© versions of the new Model Code of Conduct and Procedures?

If you require a Word© version of the new Model Code of Conduct or Procedures, please contact OLG's Council Governance Team.

CL19.20 New Shoalhaven River Bridge at Nowra

HPERM Ref: D19/20580

Group: Assets & Works Group
Section: Business & Property

Attachments: 1. Email advice from RMS dated 19 December 2018 [↓](#)
2. Submission to RMS dated 27 September 2018 [↓](#)

Purpose / Summary

This report provides Council with current information in relation to some important aspects of the new Shoalhaven River bridge project.

Recommendation

That:

1. A further report be submitted to Council in relation to the relocation of parking, public toilets and the Rotary monument near the bridge in Illaroo Road and on the relocation, replacement or demolition of the Captain Cook Memorial which is currently located in Moorhouse Park.
2. Council advise RMS that Council does not support any proposal to use Harry Sawkins Park as a car park but otherwise has no objection to the proposed amendments to the areas required for acquisition and leasing as set out in Attachment 1.
3. Council advise RMS that all landscape design work in relation to the Nowra entry, Moorhouse Park and Paringa Park is to be carried out by Council in consultation with RMS at RMS's cost.

Options

1. Adopt the recommendation.

Implications: Council takes the opportunity to consider current advice in relation to the Nowra Bridge project and make further representations to RMS in relation to outstanding issues.

2. Call for a further report on the Nowra Bridge project.

Implications: The preparation of a further report will delay the provision of advice to RMS.

Background

Council has previously received deputations from RMS (Roads and Maritime Services) personnel and considered reports by Council staff on the new Nowra Bridge project, the last of which was a report to Strategy & Assets Committee on 18 September 2018.

Following the September meeting, a comprehensive submission on the bridge project on behalf of Council was forwarded to RMS (see Attachment 2) with copies provided to Gareth Ward and Shelley Hancock in their capacities as Member for Kiama and Member for South Coast respectively.

Most of the issues raised in the submission to RMS are still under consideration and are not dealt with in this report.

The proposed bridge project will require acquisition or leasing by RMS of a number of Council owned properties and it has generally been agreed that valuations can be commissioned so that negotiations can be conducted in order to reach agreement on compensation matters as required by the Land Acquisition (Just Terms Compensation) Act 1991.

However, there are a number of other outstanding issues which are the subject of ongoing discussions and a meeting to discuss these issues was held with RMS on 14 December 2018. It is acknowledged that there may be additional unresolved issues arising out of negotiations on matters of compensation and these matters will be the subject of further reports to Council in due course. In the interim, the issues discussed at the December meeting are detailed hereunder:

<i>Public Toilets at Rotary Park</i>	
<ul style="list-style-type: none"> RMS was advised that public toilet needs to be removed or relocated in close proximity to current location; and RMS advised that if toilet needs to be relocated, it prefers Council completes the works and RMS reimburse Council's costs due to Council having the expertise in building public toilets to Council's specifications (emphasis added). 	
<i>Captain Cook Memorial</i>	
<ul style="list-style-type: none"> RMS advised that Captain Cook Memorial is directly impacted and needs to be demolished or relocated; REF has assessed the impact of demolishing the structure; Council to review demolition of the memorial internally and advise any concerns; RMS continuing to assess feasibility of relocation, however it was agreed that this is unlikely due to type of structure; Report to Council is necessary to consider the future of the memorial. Demolition is not preferred from Council's perspective due to its heritage significance (emphasis added). 	
<i>Public Playground at Moorhouse Park</i>	
<ul style="list-style-type: none"> Relocation of the play equipment would need to be new equipment to meet current standards. RMS to compensate Council for relocation/replacement (emphasis added). 	
<i>Rotary Park Sign/Structure/Monument</i>	
<ul style="list-style-type: none"> Rotary Park sign will be impacted by Illaroo Rd realignment; and RMS advised that it can discuss relocation directly with Rotary; Council requested to be involved in those discussions (following the December meeting, Council staff commenced discussions with Rotary concerning the need to relocate the monument). 	
<i>Pedestrian Restraint Fencing at Rotary Park</i>	
<ul style="list-style-type: none"> Fencing at Rotary Park will be impacted by Illaroo Rd realignment and bridge works; and All agreed that fencing can be replaced with standard RMS pedestrian fencing (at RMS's cost). 	
<i>Nowra Sign and Landscaping at Bridge Road</i>	
<ul style="list-style-type: none"> RMS advised that there would be a period where the Nowra Sign would be removed for construction. The new Nowra Sign design would be completed as part of the 	

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<p>Design and Construct contractor's scope;</p> <ul style="list-style-type: none"> • RMS advised that Council would be consulted regarding Urban Design and Landscaping through concept and detailed design; • Council to review current Urban Design/Landscape plan and advise any comments and considerations to be included within the Design and Construct requirements. The Landscape Character and Visual Impact Assessment (LCVIA) for the REF is available for download (RMS website); and • Scope needs to address place-making and could include signage on both sides of the highway near the Bridge Road intersection.
<p>Permission to Distribute Council flood model</p>
<ul style="list-style-type: none"> • RMS requested advice on who can provide approval to distribute flood model to tenderers; and • Council advised that its Manager Assets will discuss with internal sections for approval.
<p>Ancillary Sites and alternative parking locations</p>
<p><u>Council land north of Shoalhaven Entertainment Centre</u></p> <ul style="list-style-type: none"> • Council advised that its position has not changed on this site – RMS must submit request formally to Council if site as per REF is to be considered; • RMS proposes to modify the ancillary site to take less of the carpark and more of the area east of the carpark. RMS to provide proposal for Council to review; • RMS advised that this proposed ancillary site is the only area that is flood immune during a 1 in 20 rainfall event and critical for storage of materials to reduce traffic and congestion around Bridge Road intersection; and • RMS nominated an area south of the Council administration building, adjacent to the existing carpark in Harry Sawkins Park, which could potentially be used to offset the impact to parking. It's estimated this area could provide between 100 and 200 parking spaces during construction. <p><u>Other Council land and private blocks south of Aquatic Park</u></p> <ul style="list-style-type: none"> • RMS has begun investigating use of these sites. Flood immunity is problematic for ancillary site use but offset carparking may be an option. <p><u>River Hotel</u></p> <ul style="list-style-type: none"> • RMS has advised it has commenced discussion with property owners. <p><u>Gasworks block</u></p> <ul style="list-style-type: none"> • Council indicated that the area of the Gasworks carpark has low current patronage and may be a suitable area. RMS to investigate use of this site. <p><u>Grey's Beach</u></p> <ul style="list-style-type: none"> • Council has advised that this area is under a lot of stress during holiday periods and requested that RMS Design and Construct contractor provide a management plan for this precinct for Council approval. RMS to confirm that this can be incorporated.
<p>Gateway Park</p>
<ul style="list-style-type: none"> • Discussion around proposed new local road and impact on current designs undertaken. No actions arising.

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The minutes of the December meeting were circulated internally for comment. The following is a summary of the responses received:

❖ **Captain Cook Bicentennial Memorial**

Should be referred to Council's Heritage Advisor for comment;

Interpretation information should form part of an overall interpretation strategy;

Community consultation should be undertaken by RMS and direct consultation with Shoalhaven Historical Society; and

Archival recording should be undertaken in accordance with OEH guidelines.

Summary: Report to Council required.

❖ **Landscape Plan**

Limited detail is provided on the existing mature vegetation to be retained. There are a number of Jacaranda trees located in the riverfront precinct which are quite large, and several other Jacaranda trees are located in the main streets of Nowra as well as significant Jacaranda trees located at Meroogal House (State Heritage listed property). The Jacarandas and other mature trees should be retained where possible and/or considered in the plant list for new plantings.

In general terms, there are a number of opportunities for Council staff to have an involvement in the design of landscaping including but not limited to a new "entry to Nowra" landscaping project, e.g. Moorhouse Park, Paringa Park, in addition to the Nowra entry.

Summary: There is a preference for all landscape design work to be carried out by Council at RMS's cost.

❖ **The draft Nowra Riverfront Leisure and Entertainment Precinct Strategic Direction and Planning Controls.**

Exhibited in April 2018 and adopted by Council in September 2018 (with some changes to reflect the Bridge Design stage and flooding);

RMS should align any character assessment or urban design plans with Council's adopted Riverfront Precinct Report and proposed Planning Controls to encourage revitalisation of the riverfront in accordance with its objectives, actions and design elements and outcomes;

The principles and strategic directions outlined in the report include possible land swaps between Council owned open space that is currently the site of the Captain Cook Memorial with private owned land that is located on the river Lot 1 DP 624434, 1 Scenic Drive so that Council has the ability to expand the size of the open space next to the river. Given that this property appears to be heavily impacted by the Nowra Bridge Project and likely acquired by RMS – RMS should discuss the possibility of additional or residue land adjoining the river being provided to Council for additional public open space.

❖ **Alternative location for temporary car park.**

The proposed temporary car park in Harry Sawkins is strongly opposed. This is an unsuitable location as it will have negative impacts on amenity in the Council building precinct. There are limited areas of public open space in and around Nowra CBD. The proposal appears to require the removal of a number of mature trees that provide shade and amenity.

There are contamination issues within Harry Sawkins Park – disturbing the surface should only be considered after further assessment has been undertaken.

Private vacant land on Bridge Road should be considered as an alternate temporary car park location.

Proposed amendments to areas to be acquired or leased by RMS.

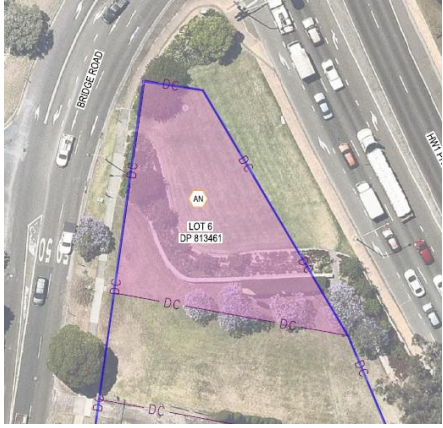



RMS has amended plans for acquisition and leasing of Council owned land as a result of Council's insistence that car parking north of the Entertainment Centre and the Council administration building be not alienated even if only for the duration of the construction period associated with the new bridge project.

It is acknowledged that the current RMS proposals do rely on securing access to Harry Sawkins Park for overflow parking and if that site is not available, RMS may choose to make further changes to the latest plans which have been submitted for consideration by Council.

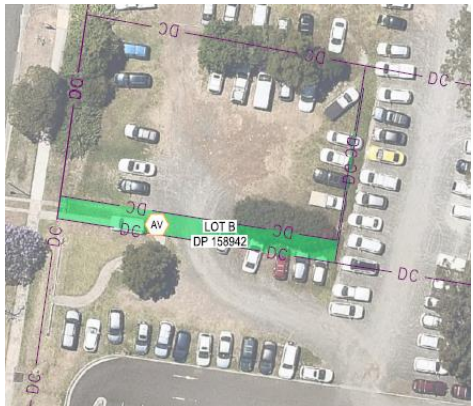
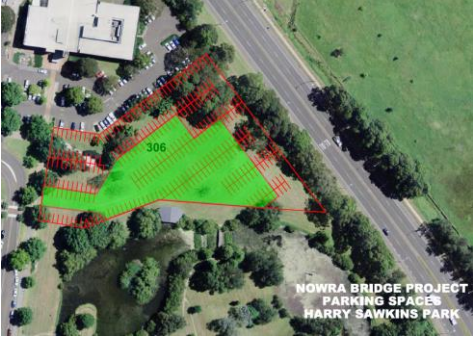
The amendments which are not opposed are shown on the following plans. The use of Harry Sawkins Park for car parking is not supported.

General

The discussion in this report relates only to the issues discussed at the December meeting. It is acknowledged that there are other outstanding issues which are the subject of ongoing discussion and negotiation with RMS and which will be the subject of further reports to Council in due course. These matters include, but are not restricted to, the payment of compensation for land to be acquired and leased as well as the loss of amenity and infrastructure arising from the alienation of land required for the bridge project including the bridge approaches.

1.		Land shown by pink tint is to be acquired by RMS (no change).
2.		Land shown by pink tint is to be acquired by RMS and the land shown by green tint is to be leased by RMS (no change).
3.		Land shown by pink tint is to be acquired by RMS and the land shown by green tint is to be leased by RMS (no change).
4.		Land shown by pink tint is to be acquired by RMS and the land shown by green tint within the blue edged area is to be leased by RMS.

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5.		Land shown by green tint is no longer required.
6.		Land shown by green tint is no longer required.
7.		Proposed use of part of Harry Sawkins Park for car park as requested by RMS

Attachment 1:**EMAIL CORRESPONDENCE – RMS to COUNCIL – NOWRA BRIDGE CONSTRUCTION CONTRACT REQUIREMENT.**

Note: The figures indicated in the email have been reproduced in the report to the Council Meeting on 29 January 2019.

From: MCCLURE Daniel – RMS

To: Michael Harben – SHOALHAVEN CITY COUNCIL

Subject: RE: 20181214 - DRAFT Minutes - SCC Meeting to discuss construction contract requirements

Hi Michael,

Further to the email below, please see the attached figure indicating the potential number of car spaces that could be temporarily provided in Harry Sawkins Park during construction of the Nowra Bridge project. The additional car spaces would offset the potential impacts to parking north of the entertainment centre and are based on the Australian Standards width of 2.6m.

The green shaded area shows that potential spaces that could be provided with minimal impact to existing vegetation and infrastructure. This area could potentially provide between 100 and 150 spaces during construction, depending on the final configuration.

Also shown is the number of potential spaces available if vegetation was cleared, which is not Roads and Maritime's preference. The area could potentially provide up to about 306 spaces if the entire site was utilised.

This figure is provided for initial comment and further consultation with the project team to understand the opportunities and constraints of this area.

Also, attached is an indicative mark-up of the property plans north of the Entertainment Centre showing the potential changes to the lease and acquisition areas as requested below. The blue outline shape indicates the amended ancillary area. The pink (acquisition) and green (lease) areas within the blue border would not change and still be required. The pink and green areas outside the blue border would no longer be required for the project. This would mean potentially no or reduced impact to:

- Lot A DP158942 (not required)
- Lot B DP158942 (not required)
- Lot 5 DP1112482 (reduced)

The amendment would increase impacts to:

- Lot 1 DP1162777
- Lot 51 DP209295

I hope this helps. I'll finalise the meeting minutes today or tomorrow.

Thanks,
Dan.



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

Address all correspondence to
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Council Reference: 58939E (D18/337014)

Roads and Maritime Service
Nowra Bridge Project
PO Box 477
WOLLONGONG NSW 2520

By email only: NowraBridgeProject@rms.nsw.gov.au

Submission – Environmental Assessment and Concept Design for the Nowra Bridge Project

I refer to the Review of Environmental Factors (REF) and Concept Design material for the Nowra Bridge Project which is currently on public exhibition and thank RMS for the opportunity provided to Council to make a submission on the exhibited material including the concept design.

This matter was considered by Council's Strategy and Assets Committee on 18 September 2018 when it was resolved under delegation (MIN18.704 SA18.223) that Council make the following submission to RMS:

"Council acknowledges the consultation undertaken to date and that a number of issues have been appropriately considered by RMS. The following issues have been identified as significant and outstanding from Council's review of the exhibition material.

Outstanding Issues:

- Council is adamant that its preferred option is for grade separated intersections and does not support at grade treatments. The at grade proposal can only be supported on the proviso that the Government brings forward the planning and construction of the western bypass of Nowra-Bomaderry for the medium term.
- Significant traffic impacts are highly likely following the construction of the Nowra Bridge project. Contrary to Review of Environmental Factors and Concept Design considerations, Council is of the opinion that traffic congestion issues WILL be exacerbated by the proposed merging of three lanes to two, particularly in times of higher seasonal traffic demand. Council reiterates that the Nowra Bridge project, in conjunction with the Berry to Bomaderry upgrade and continued background traffic growth, will bring forward the need to extend three lanes of traffic in each direction continuous through Bomaderry and South Nowra.

- Council reiterates its willingness to work closely with RMS' urban design consultants to ensure integration between the Nowra bridge project and the river foreshore masterplan.
- Changes at the intersection of Bridge Road and Scenic Drive present an opportunity to incorporate a pedestrian refuge on Bridge Road (immediately south of Scenic Drive) within the current proposed painted median, without impacting two lanes of southbound traffic. This addition should be included to improve vehicular and pedestrian safety on Bridge Road.
- Council is of the opinion that Scenic Drive should be permanently closed to Bridge Road. The restrictions proposed at Scenic Drive will result in unacceptable traffic impacts at the Bridge Road/Hyam Street intersection.
- The Bridge Road/Hyam Street intersection will require traffic signals up front to address pedestrian and vehicular safety in this location. Additionally, traffic signals will be required to manage high volume traffic experienced in peak periods at this location.
- Council does not accept the parking impacts proposed in the civic precinct (particularly land to the north of the Shoalhaven Entertainment Centre) which provides significant overflow parking relief for the Council administration building and entertainment centre precincts. A replacement 120 space (minimum) car park needs to be provided within reasonable walking distance of and with safe pedestrian linkages back to the civic precinct. Council suggests this needs to be provided on land between Scenic Drive and Hyam Street, with a road link between Scenic Drive and Hyam Street and safe and efficient pedestrian access back to the traffic signals required at the intersection of Bridge Road and Hyam Street.
- Traffic signals will be required up front at the intersection of Illaroo Road and Fairway Drive (access to Greys Beach and the Nowra Golf Club) to address pedestrian and vehicular safety for the proposed intensified use of this intersection (proposed for access to the Greys Beach foreshore during the construction phase).
- The proposed "free left slip lane" out of Illaroo Road (for movements West to North out of Illaroo Road on to the Highway) will cause safety and efficiency issues due to the high volume of weave movements between Illaroo Road and Bolong Road. This lane should be signalled with a "left turn on red after stopping" arrangement as currently exists).
- All slip lanes in the concept design are of inadequate width. The network is highly vulnerable to breakdowns and accidents, especially in the vicinity of the river (lane weaving, multiple lanes, multiple exit and entry points in this location particularly). All slip lanes should be designed to an adequate width to accommodate such events in line with best practice standards).
- Council does not accept the amended proposal of "left in/left out" at the proposed new connection to Lyrebird Drive. This will have an unacceptable impact on residents and businesses of Pleasant Way, Wharf Road, Hawthorn Avenue, Riverview Road, Elia Avenue, Lyrebird Drive, and Ferry Lane. This will also negatively impact the residents and Nowra High School Community on Moss Street. The situation proposed by the concept design will create unacceptable travel times and resulting delays for vehicular traffic in these locations. Additionally, safety, noise and amenity will be unduly impacted by the amended proposal. Council strongly advocates for the previously

proposed traffic signals at the new junction to be reinstated, noting RMS previously documented that the proposed new signals would not adversely impact traffic flows on the Highway, compared to current conditions.

- In addition to the related comments above, pedestrian and cyclist considerations will need to be more thoroughly examined once more detail is released (the current concept plans do not allow the proposed pedestrian and cyclist links to be interrogated in detail), however, to the degree the concept design can be interrogated the following is identified:
 - The proposed Princes Highway upgrade does not cater for an efficient pedestrian/cyclist link from the old bridge into Nowra which is a significant omission. Council's objective is to improve this link and better integrating east-west in the foreshore precinct and northern fringe of the Nowra CBD. This land is already somewhat disconnected and the proposed new bridge will exacerbate this.
 - A pedestrian/cyclist "overpass" must be provided to connect the Pleasant Way precinct to the civic precinct to improve pedestrian/cyclist accessibility over the proposed wider Princes Highway and minimise the number of times pedestrians/cyclists have to interrupt traffic when crossing the Princes Highway. The existing crossing is highly utilised and will intensify when the old bridge is transformed into a higher order pedestrian and cyclist link.
 - The concept design illustrates a duplication of a pedestrian/cyclist path in the Scenic Drive precinct (at the bend).
- The exhibition material identifies noise and vibration impacts and potential amelioration measures. Council requires further detail to adequately consider this aspect of the proposal. In particular, Council should be consulted in the design and location of any sound barriers and any other measures of this nature. Concern is raised in relation to the impacts such measures will have on visual amenity and heritage items.

Impact to Council Owned and Managed Land and Assets

The exhibited material identifies that there will be significant impact on a number of Council owned and managed lands and assets, including during the construction phase and at the completion of the works. Compensation and/or replacement of infrastructure is a high priority and must be genuinely considered by RMS in consultation with Council.

Moorhouse Park

The works involve significant impact (loss) to the existing heritage listed Bicentennial Memorial (Floodboat Shelter), access to the foreshore area from the western side of the highway and significant impact (loss) to the existing playground along the foreshore. It is noted that part of Moorhouse Park along the foreshore area will be part of a potential ancillary site. This detail needs to be provided to ascertain the full extent of the impact.

In relation to the Bicentennial Memorial, Council encourages dialogue with RMS for the relocation of the structure as suggested in Appendix F (Non-Aboriginal Statement of Heritage Impact) of the exhibited material. Other locations for the siting of the memorial should be assessed in relation to heritage impact. Consideration of a new site for the Bicentennial Memorial must be undertaken in consultation with Council and must ensure that it remains within the riverfront area to ensure the intrinsic relationship with the

Shoalhaven River continues. The relocation of the memorial must be fully funded by RMS.

Appendix I (Socio-economic Impact Assessment) of the exhibited material indicates that impact will only be incurred during construction on the Council owned section of land, with permanent occupation of the Crown Land portion of Moorhouse Park by the Nowra Bridge. A correction needs to be made in this study as Lot 1 DP 1127316 within Moorhouse Park is Council owned land and in part will be permanently occupied by the Nowra Bridge. Appendix I also incorrectly refers to the Bicentennial Memorial as being removed for restoration, this should refer to the flood boat which is also of heritage significance. The Bicentennial Memorial remains in place at the current Moorhouse Park location and will need to be relocated as a result of the works. The error within the report will need to be amended.

The concept plan of the Nowra Bridge indicates pedestrian access to the foreshore from the western side of the Highway. Access must be accessible and must also consider improving accessibility, comfort and safety of the underpass through to Mavromattes Reserve. This will be particularly important noting Council's preference to close Scenic Drive from Bridge Road in accordance with the Nowra Riverfront Leisure and Entertainment Precinct package.

The loss of the playground and park area needs to be addressed to ensure that loss to social infrastructure as a result of the bridge project is managed. RMS must ensure that suitable replacements or monetary compensation is provided to Council to ensure that this infrastructure can be replaced in the fullness of time.

Greys Beach including North Nowra Rotary Park

The works involve impact to the use of Greys Beach for parking, passive recreation and access to the boat ramp as a result of the site being utilised for a potential ancillary site and launching area. It is acknowledged that the proposed lease indicates that the boat ramp is not included in the lease area but will be utilised for the storage of plant and material, launching of construction barges and transfer of plant and materials during the construction of the Nowra Bridge. North Nowra Rotary Park is significantly impacted by the acquisition of land required for the northbound landing of the bridge and the widening of Illaroo Road.

Greys Beach has been recently master planned and some works undertaken on the boat ramps, access ways and car parking. The area is highly utilised, particularly from September through to May by watercraft users. Appendix I of the exhibited material indicates that Greys Beach will be affected by a temporary lease of part of the land, construction of a temporary jetty and associated exclusion zone. The lease / works will have significant impact on users of this area; specifically the reduced navigable water area of the Shoalhaven River will impact non-motorised sporting groups which practice and race in this location. In addition, the Study indicates that during the construction of the Nowra Bridge (i.e. such as during craning new sections of the bridge into place), marine vessels will be restricted and, in these events, community and river users would be notified in advance. This will also impact users of Paringa Park in the same regard. The Study indicates that there would be an overall high impact. RMS must consider potential replacement infrastructure to minimise impact to watercraft users during construction of the Nowra Bridge. In addition, RMS must ensure that Greys Beach is returned to its original or improved condition once construction is complete. Council would encourage dialogue with RMS to ensure that the needs of the user groups are met as part of the finishing of the site after the project is complete.

North Nowra Rotary Park will largely be affected as a result of the works associated with the Nowra Bridge. The existing amenities building, car park and paths will be absorbed as a result of the bridge landing, realignment of the intersection and widening of Illaroo Road. Appendix I of the exhibited material indicates that the remaining area of the park will be returned to public use with relocated parking area and shared park. As it has been noted that it does not appear that the amenities building will be replaced as part of the reopening of the park, Council requests that a new amenities building is included in the reopened park to compensate for the loss of open space and associated social impact. If an amenities building within the park is not deemed necessary, Council will liaise with RMS to determine a suitable replacement location.

Former Nowra Sailing Club and Wharf

The works will require maritime activity periodically from Nowra Wharf which will have a minor impact. It is unclear how periodic this will be or the timeframe in which the Nowra Wharf could be used for maritime activity such as the launching of construction barges and transfer of plant and material.

Similar to Greys Beach, the wharf and boat ramp may be closed to marine vessels during certain construction activities. There will be some impact in these situations where the restriction of the use of the wharf and boat ramp impacts practice and race use by water sport groups and users. RMS must provide suitable replacement infrastructure to minimise impact to watercraft users during construction of the Nowra Bridge

Paringa Park

The works will restrict navigable water area of the Shoalhaven River which is utilised by non-motorised sporting groups. The direct impact of the works to Paringa Park are considered minor as it is not associated with any lease or land acquisition, however the reduction of the navigable water area could have significant impacts for Shoalhaven River user groups. Indirect impacts will occur as a result of the significant impacts to Greys Beach during the construction of the Nowra Bridge.

As per recommendations made for Greys Beach, RMS must consider potential replacement infrastructure to minimise impact to watercraft users during construction of the Nowra Bridge. Council is open to liaising with the affected groups and RMS regarding a suitable solution to this impact.

Gateway Park

Council has been preparing a master plan for Gateway Park over a number of years with significant investment made in preparing technical investigations such as flood constraints. The project is currently on hold to ensure that it accurately reflects the Nowra Bridge Project acquisition and construction works. Monetary compensation to Council may be appropriate in the event that the impacts of the Bridge Project require the work already undertaken to be significantly revised.

The landscaping of the closed section of the southbound carriageway of Princes Highway directly adjacent to Gateway Park must consider the impact to Gateway Park from an access and visual impact perspective. Council would encourage dialogue with RMS in relation to the design of the local road, and the landscaping of the closed section of the Highway.

Southern Shoalhaven River Foreshore East and West (Scenic Drive and Mavromattes Reserve)

The works will impact the amenity of the foreshore area during construction which will result in reduced access/use of the public open space. The foreshore area generally will also be impacted at the old Nowra Sailing Club site as detailed above.

During construction of the Nowra Bridge, it is expected that the amenity of the foreshore area will be impacted. There are no suggested management actions to minimise this impact. An opportunity exists to thoughtfully consider integration of the Heritage Bridge with Mavromattes Reserve to ensure the future of the bridge as a public open space is accessible, well utilised, and connects with the foreshore area. It is acknowledged that Section 6.4.1 and 6.7.2 of Appendix I of the exhibited materials addresses this opportunity. This is an important aspect of the proposal to ensure that the impact endured during the construction of the bridge is alleviated by an improved community and social outcome once the project is complete. Council would encourage dialogue with RMS to continue to discuss this opportunity.

Nowra Aquatic Park

The works will result in reduced accessibility to the Aquatic Park from the Highway and operational impacts (amenity, noise, vibration and acoustic) associated with the ancillary site located on the adjacent Riverhaven Motel site.

An opportunity exists to reduce this impact by establishing a new local road off Hyams Street in accordance with planning for the Nowra Riverfront Leisure and Entertainment Precinct. The concept prepared by RMS retains Scenic Drive in its current location with limited access, left in and left out only. The new local road would provide improved and safe access to the foreshore area to the west of the Highway. As mentioned previously, RMS should consider constructing a car park to the rear of the Aquatic Park for use during construction and consider dedicating the infrastructure to Council once the construction is complete. This car park will need to be in addition to the 120-spaces to be replaced as a result of the impact to the triangle site north of Shoalhaven Entertainment Centre.

Harry Sawkins Park

The works will impact the park as a result of the realignment and widening of the Princes Highway. The acquisition and realignment / widening of the Princes Highway will result in a reduced overall area, removal of the significant native trees which provide visual buffer and improved amenity and encroachment into the existing skate park on the southern side of Harry Sawkins Park.

Appendix I of the exhibited material does not address any management of impacts on Harry Sawkins Park. Appendix G (Urban Design and Landscape Character and Visual Impact Assessment) identifies that the length of Harry Sawkins Park will be heavily landscaped with native vegetation to compensate for the loss of the existing significant vegetation. Reducing the width of the southern landscaping buffer may need to be considered in order to reduce the impact on the existing skate park. Any installation of native trees should involve trees of a considerable size in order to maintain some level of visual buffer and amenity within Harry Sawkins Park. Council would encourage dialogue with RMS to continue to discuss the detailed design of this section of the project. Any potential damage or loss to this infrastructure must be suitably addressed and replaced by RMS in consultation with Council.

Community Infrastructure Strategic Plan

Any infrastructure provided as a result of the impact to Council owned and managed assets will need to be effected in consultation with Council and in accordance with Council's adopted Community Infrastructure Strategic Plan.

It is noted that Appendix I (Socio-economic Impact Assessment) does not relate to Council's Community Infrastructure Strategic Plan as the relevant guiding document to social infrastructure but it does relate to the rescinded Public Open Space Plan. The study will need to be revised to ensure that it addresses Council's adopted strategy.

Comments from Individual Council Groups/Staff

The following comments are provided from specific staff or sections of Council and complement and add to the points raised above. They have been included separately as they in part refer to issues relating to specific and direct consultation between these sections and RMS or agents of RMS.

Business and Property Manager

In a letter dated 15 August 2018 the RMS advised Council about acquisitions of Council owned land as well as proposals to occupy various parcels of Council owned land during the construction phase of the Nowra Bridge project.

It is noted that RMS staff have indicated (verbally) a willingness to consider alternative proposals for various parcels of land currently identified for acquisition. Council strongly requests that these discussions remain open to determine a resolution suitable to both Council and RMS.

The proposed acquisition to allow widening on the western side of the Princes Highway threatens to impinge on the amenity of the Council administration building. Council requests detail from RMS about proposed noise abatement treatments and a commitment which ensures that there is no loss of amenity during the construction phase and thereafter.

It is reiterated that there are various Council assets in the land proposed to be acquired and negotiations must be undertaken to appropriately protect, relocate or compensate for the loss of these assets and the reduced access to these assets during construction and thereafter.

Strategic Planning

Nowra Riverfront Precinct Master Planning Project and Heritage Truss Bridge

The riverfront precinct covers land to the east and west of the Highway as shown in the Figure 1 below.



Figure 1 - Nowra Riverfront precinct area – outlined in red

The impacts discussed in the main body of this submission will have significant implications for this precinct and further consultation between Council and RMS is required to mitigate these impacts. It is of particular relevance that proposed land acquisition within the precinct will result in significant loss of development potential. RMS must provide adequate compensation for the loss of this land. Additionally and/or alternatively, Council encourages dialogue with the RMS to explore development options of this land that better align with Council objectives for the Riverfront Precinct than are currently proposed by RMS.

The existing bridge to the east is an important heritage item to the community. It is supported that this is retained, however adequate provision needs to be made to ensure connection to the Riverfront Precinct and safe, accessible and convenient movement both across the bridge and on each side of the bridge.

Council supports the need for an Interpretation Strategy for the Bridge. Council identifies the opportunity and importance of infrastructure and interpretive information about the bridge and the other heritage items in the area.

If the bridge is to be dedicated to Council, adequate monetary contribution should be provided by RMS to ensure Council can appropriately maintain the heritage bridge into the future. Council encourages dialogue and commitment to this matter.

Civic Precinct

The New Bridge Project will significantly impact the norther portion of the Civic Precinct and Hotel site (i.e. Council Administration Building, Shoalhaven Entertainment Centre, Harry Sawkins Park and surrounding car parking areas). The site is considered a key location for future development to provide a defined gateway to Nowra. There will be significant impacts on the development potential of this site and the future of this site will need to be reviewed RMS must be open to the mitigation of the potential negative impacts on the development potential of this site.

Economic Development Manager

RMS should consider the gifting to Council of any residual assets resulting from the construction of the Nowra Bridge Project, particularly those assets that could enhance some of Council's longer-term projects:

- *Barge loading facilities; and*
- *Car park to the rear of Nowra Aquatic Park which may be used during construction and retained in perpetuity by Council as a new car park for the Aquatic Park.*

Finally, please note that the Strategy and Assets Committee, under delegation from Council, made specific reference to two additional issues and has asked that RMS be requested to consider these in addition to the foregoing:

- *the removal of the traffic lights at the intersection with the Riverview Road precinct;*
- *the need to continue planning for the Western Bypass of Nowra."*

Thank you again for the opportunity to provide this submission on the Review of Environmental Factors and Concept Design exhibition material for the Nowra Bridge Project. A timely response in relation to the matters raised in the submission will be much appreciated. It is reiterated that Council encourages close, ongoing dialogue and collaboration in the progression of the Nowra Bridge Project to adequately address Council's concerns and the appropriate mitigation and amelioration of all potential impacts of the project.

If you need further information about this matter, please do not hesitate to contact me on (02) 4429 3416. Please quote Council's reference 58939E (D18/337014).

Yours faithfully



Michael Harben
Business & Property Manager

27/09/2018

CL19.21 Development Application No.18/1284 – 39 Schofields Lane, Berry – Lot 6 DP 1188080

DA. No: DA18/1284/4

HPERM Ref: D19/7539

Group: Planning Environment & Development Group
Section: Development Services

Attachments:

1. Development Consent - Andersons Lane, BERRY - Lot 6 - DP 1188080 [↓](#)
2. Planning Report – S4.15 Assessment Andersons Lane, BERRY - Lot 6 DP 1188080 (under separate cover) [⇒](#)
3. Plans - DA18/1284 - Berry Riding Club - Andersons Lane, Berry [↓](#)

Description of Development: Consent is being sought for a temporary administration office and storage facility ancillary to the Shoalhaven Equestrian Centre of Excellence

Owner: Shoalhaven City Council

Applicant: Judy Sweeney - Berry Riding Club Inc

Notification Dates: Between 20 March 2018 and 04 April 2018

No. of Submissions: 1 in objection
Nil in support

Purpose / Reason for consideration by Council

The development application is being reported to the Council for its consideration and determination in accordance with the requirements of section 47E (Development on Community Land) of the *Local Government Act 1993* (LG Act). Under section 47E, Council cannot delegate its powers of determination to staff to consent to the carrying out of development on community land.

Recommendation

That Council determine Development Application No.18/1284, being for a temporary administration office and storage facility, by way of approval subject to conditions as contained in Attachment 1.

Options

1. Approve the Development Application (DA) in accordance with the recommendation.

Implications: Approving the DA will provide a temporary administration office and storage area in support of stage 1 of the Shoalhaven Equestrian Centre of Excellence.

2. Refuse the DA.

Implications: The applicant would have the ability to request a review of any refusal by Council and / or pursue an appeal through the NSW Land and Environment Court (L&EC).

CL19.21

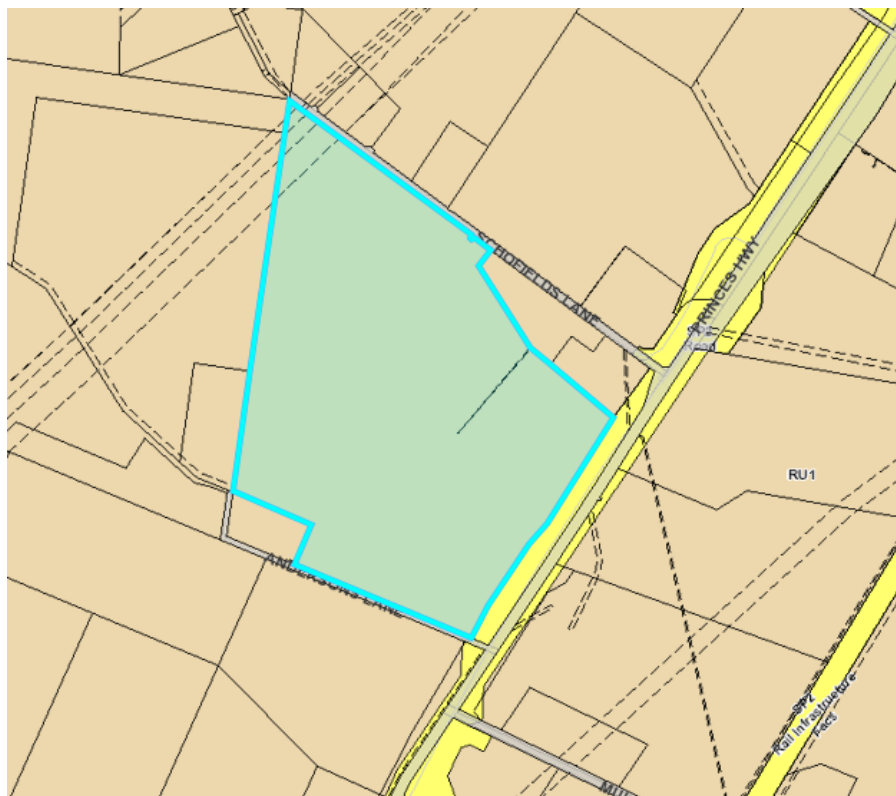
3. Alternative recommendation.

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

Location Map



Zoning Map



CL19.21

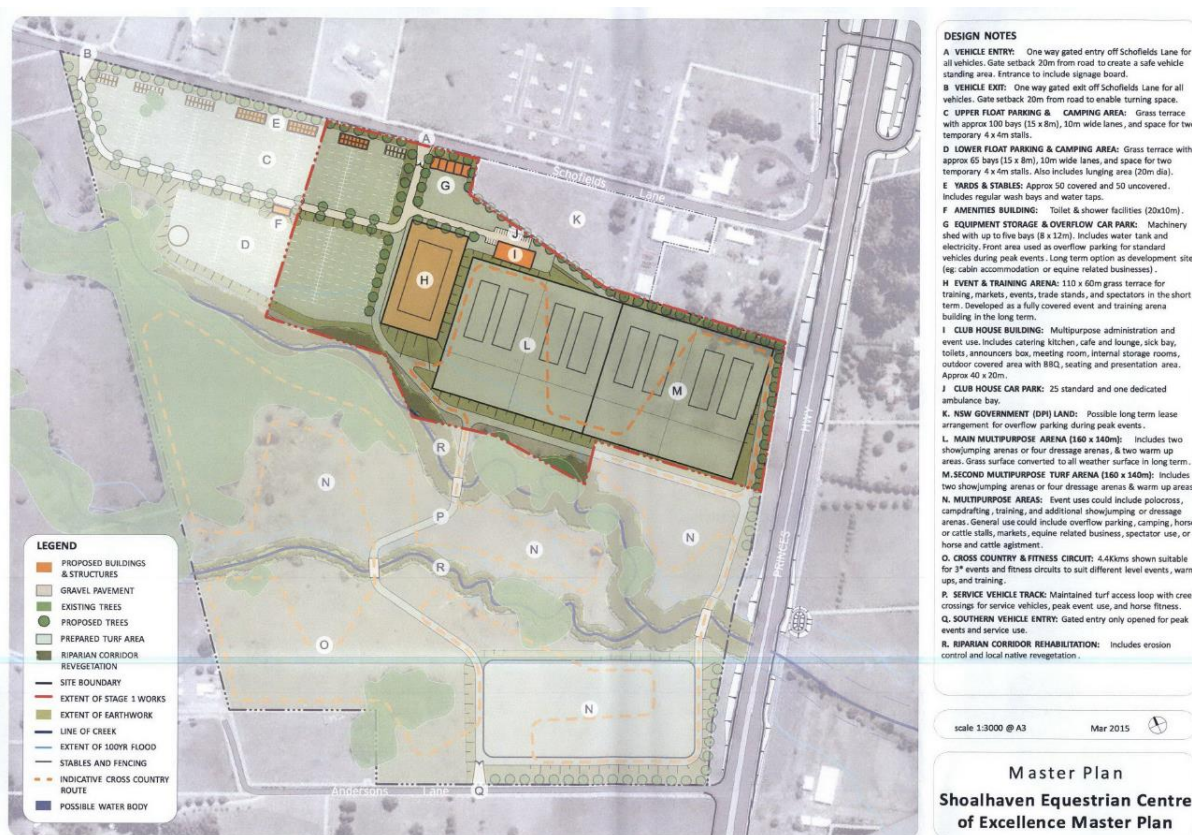
Background

Council on 21 July 2015 endorsed the 'Shoalhaven Equestrian Centre of Excellence Masterplan' for the site which provides a starting point for the future development of the site.

Stage one works for the Shoalhaven Equestrian Centre of Excellence have been completed which was approved by Council under Development Application No.16/1203. This included the construction of two riding areas, a spectator area, storage shed, onsite car parking and temporary toilet facilities.

As this development application relates to land that has been classified as community land under the LG Act and as the proposed development does not meet the exemptions in subsection 47E(2) of the LG Act, Council has no power to delegate authority to determine the development application.

Shoalhaven Equestrian Centre of Excellence Master Plan



Proposed Development

The applicant described the application as follows in the statement of environmental effects:

The proposed development is to seek approval for a temporary administration office and storage facility on Lot 6 DP 1188080 (Andersons Lane). The temporary facility involves conversion of a previously used tourist cabin for this purpose and it is anticipated that this facility will be used for a period of 5 years and be occupied on average around 12 hrs per week. It is hoped that after 5 years a permanent facility will be provided as identified in the master plan for the site.

As mentioned above, Shoalhaven City Council has recently completed the stage one works of the Shoalhaven Equestrian Centre of Excellence and further future stages are proposed. Through establishing use of the site, the Berry Riding Club is working with the Council to deliver elements of the master plan (shown below and can be viewed in more detail at:

<http://doc.shoalhaven.nsw.gov.au/Displaydoc.aspx?Record=D15/224866>).

CL19.21

Recognising that development of the site is occurring in a staged approach, as an interim and ancillary use of the site, the Berry Riding Club requires onsite use of a temporary administration office and storage facility to adequately operate. At events, competitors are required to report to the administrative office on arrival in order to collect time sheets, armbands / back numbers, pay fees, view results, etc. Therefore, this proposed development is consistent with the intended approved use of the site.

Refer to Attachment 3 for a copy of the development application plans.

Subject Land

The subject site is known as Lot 6 DP 1188080 and is situated between Andersons and Schofields Lanes at Berry. Stage one works for the Shoalhaven Equestrian Centre of Excellence have been completed comprising the construction of two riding areas, spectator area, storage shed, onsite car parking and temporary toilet facilities.

The site has an area of 35.6 hectares with a pocket of Blue Gum forest vegetation located centrally on its western boundary and extending eastward along the two (2) unnamed watercourses that traverse the centre of the site.

Surrounding development consists primarily of rural and rural-residential land uses, senior's housing developments and the Berry Community Church. The Princes Highway adjoins the south eastern boundary of the subject site.

Planning Assessment

The Development Application (DA) has been assessed under s4.15 of the Environmental Planning and Assessment Act 1979 (EPA Act). Please refer to Attachment 2.

Policy Implications

Shoalhaven Development Control Plan 2014

Issue: Chapter G8: Onsite Sewage Management

This chapter applies to the development noting that a sewage management system includes grey water systems. Basic water services will involve connection to mains water supply for limited use only in the small kitchenette area of the facility with waste water to be collected in a 10,000l tank adjacent the building. Waste water collected in the tank will then be pumped out when the onsite temporary toilets are serviced. It is also noted that the development proposes a temporary accessible facility required to service the building.

Part 5.3 of the Chapter outlines that pump out services are made available in towns and villages in Shoalhaven where reticulated sewerage services are not available. The subject site is not currently connected to reticulated sewerage services. Regarding the service being requested and the matters for consideration within the chapter the following is noted:

- The site is zoned RU1 Primary Production under the Shoalhaven Local Environmental Plan (SLEP) 2014. There is an existing approval over a portion of the site for an equestrian centre, being stage 1 of the development. Portable amenities have been provided for this stage of the development and will be the subject of a pump out arrangement.
- The subject site is not part of a new subdivision or new rezoning. Furthermore, the proposal is not a multi dwelling housing development.
- The proposal is for a temporary facility involving the conversion of a previously used tourist cabin for the purpose of a temporary administration office and storage facility. It is envisaged that the structure will be utilised for a period of 5 years at which time a permanent facility will be provided in accordance with the adopted master plan for the

site. A condition of consent is to be imposed requiring the removal of the structures at the end of the five (5) year period.

- Council's Environmental Health Officer has reviewed the proposal and has raised no objection to the proposed arrangement. A condition of consent is recommended: *'The grey water generated by the kitchen and the portable amenities must be managed so as not to cause the pollution of land or waters in accordance with the Protection of the Environment Operations Act 1997'.*

In this instance, given the temporary nature of the structure and the existing portable amenities that service the first stage of the equestrian centre, it is considered that the proposed pump out arrangement is worthy of Council's support.

Consultation and Community Engagement:

One (1) public submission was received in relation to Council's notification of the development, objecting to the development. Nil submissions were received in support of the development. The notification was made in accordance with Council's Community Consultation Policy with letters being sent within a 100m buffer of the site. The notification was for a two (2) week period.

Key issues raised in the submission largely relate to compliance with conditions of the development consent for DA16/1203, which approved stage 1 of the development. The issues raised are summarised and addressed in the s4.15 of the EPA Act, refer to Attachment 2.

Financial Implications:

Should the application be determined by way of approval, there is the possibility of action in the L&EC by the objector. Accordingly, there would be costs associated with such action.

Summary and Conclusion

The proposed development has been assessed in accordance with section 4.15 of the EPA Act. The proposal is consistent with SLEP 2014 with particular regard for the objectives of the zone. It will provide a temporary structure to benefit the operation of the approved Shoalhaven Equestrian Centre of Excellence. The proposal is considered supportable and approval is recommended. Conditions of approval have been prepared and are provided in Attachment 1 to this report.



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Address all correspondence to
The General Manager, PO Box 42, Nowra NSW 2541 Australia
DX5323 Nowra Fax 02 4422 1816

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT**
Environmental Planning and Assessment Act, 1979
DA18/1284

TO:

Berry Riding Club Inc
C/- Mrs Judy Sweeney
445 Coolangatta Road
BERRY NSW 2535

being the applicant(s) for DA18/1284 relating to:

39 Schofields Lane, BERRY – Lot 6 – DP 1188080

APPROVED USE AND OR DEVELOPMENT:

Temporary Administration Office and Storage Facility

DETERMINATION DATE: TBA

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: TBA

CONSENT TO LAPSE ON: TBA

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:



Development Consent - Page 2 of 9 - DA18/1284

PART A
CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF
THE PROPOSED DEVELOPMENT

1. **General**

This consent relates to a **Temporary Administration Office and Storage Facility** as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.

STAMPED DOCUMENTS/PLANS	REF/SHEET NO.	PREPARED BY	DATED
Site Plan & Site Analysis	Job No.nest1631, Sheet 2 of 4	Nest Residential Design	22/10/2018
Site Plan Detail	Job No.nest1631, Sheet 3 of 4	Nest Residential Design	22/10/2018
Elevations, Floor Plan and Sections	Job No.nest1631, Sheet 4 of 4	Nest Residential Design	22/10/2018
Waste Management Plan	Ref: N27352	Allen Price & Scarratts Pty Ltd	January 2018

Notes:

- *Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under Section 4.55 of the Act, or a fresh development application. No works, other than those approved under this consent, must be carried out without the prior approval of Council.*

2. The approved development must not be occupied or the use must not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with Council (i.e. a security).

3. **Limited Consent**

This Development Consent is issued on the basis that the administration office and storage facility and accessible amenities are temporary in nature. In this regard, the structures, including any footings / foundations, must be removed from the site five (5) years as measured from the date of determination of this consent.

4. **Occupation Certificate**

An **Occupation Certificate** must be issued by the Principal Certifying Authority (PCA) before any of the approved development can be used or occupied.

Development Consent - Page 3 of 9 - DA18/1284

PART B
CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE

5. ***Principal Certifying Authority, Construction Certificate and Notice of Commencement***

The following must be undertaken prior to the commencement of any construction works:

- a) A Principal Certifying Authority (PCA) must be appointed,
- b) A Construction Certificate must be obtained from either Council or an accredited certifier,
- c) Notice must be given to Council at least two (2) days prior to the commencement of any works, and
- d) Council must be advised in writing of the name and 24hr contact number of the designated person/company nominated by the developer or their agent to be responsible for construction of all engineering works including erosion and sediment control measures and their maintenance.

6. ***Builders' Toilet***

Before commencing building operations, a builder's water closet accommodation must be provided to Council's satisfaction.

A chemical toilet may be used on the site or alternatively the site may be provided with temporary closet accommodation connected to Council's sewer where sewer is available and operational. Under no circumstances will pit toilets or similar be accepted by Council.

7. ***Existing services/damage to public assets (Dilapidation Report)***

Prior to the commencement of any work(s) associated with this development, the person benefitting from this consent must check that the proposed works are not affected by any Council, electricity, telecommunications, gas or other services. All services, existing and proposed, above or below ground are to be shown accurately on the engineering plans including longitudinal sections with clearances to proposed infrastructure clearly labelled. Any required alterations to services as a consequence of undertaking works under this consent or any repair to services will be at the expense of the person benefitting from this consent; and

8. ***Erosion and Sediment Control***

All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur.

In particular, a silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). The fence must be regularly inspected and cleaned out and/or repaired as necessary and all collected silt must be disposed of to the satisfaction of the Principal Certifying Authority (PCA).

All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.

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All the above requirements must be to the satisfaction of the PCA. Reference/Guidance should be made to the 'Blue Book' – Managing Urban Stormwater – Soils and Construction (as amended and updated).

9. ***Sign – Supervisor Contact Details***

A sign must be erected in a prominent position on any site where any building work is being carried out:

- a) Showing the name, address and telephone number of the PCA for the work;
- b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) Stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work is being carried out.

10. ***Public Safety and Protection of Public Property***

The building site/area where works are being undertaken is to be fenced (in accordance with Safework NSW (formerly WorkCover) requirements), prior to the commencement of works, suitable for keeping members of the public and unauthorised people out.

PART C
CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION
CERTIFICATE CAN BE ISSUED

11. ***Revised Plans***

Prior to the issue of a Construction Certificate, revised plans must be submitted displaying compliance with the following:

- a) Access for people with disabilities must be provided to the building in conformity with Part D3 of the Building Code of Australia and the requirements of AS1428.1-2009; and
- b) Demonstrate how the accessible car parking space meets the minimum size requirements of AS2890.6-2009.

12. ***Accessible Amenities - Screening***

The accessible amenities must be appropriately screened from public places and adjoining properties. Details of the screening must be provided with an application for a Construction Certificate for approval by Council.

13. ***Local Government Act 1993 – Section 68 Approval***

Approval for water, sewer and drainage works must be obtained under Section 68 of the *Local Government Act 1993* prior to the issue of a Construction Certificate.

14. ***Stormwater***

Stormwater runoff from the building must be disposed of via an absorption / distribution trench designed by a qualified licenced plumber. Details of the proposed onsite disposal

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must be approved by the Principal Certifying Authority with the Construction Certificate application, displaying compliance with the following:

- a) Any absorption system must be a minimum distance of 3m to any building on the lot or adjacent lots; and
- b) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2015 Plumbing and Drainage – Stormwater Drainage.

PART D
CONDITIONS RELATING TO THE APPROVED WORK AND SITE
MANAGEMENT

15. Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Note: *This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.*

16. Heritage

Should any historical relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act 1977*.

- 17.** Should any Aboriginal relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*.

18. Accessible Amenities and Grey Water

The grey water generated by the kitchen and the portable amenities must be managed so as not to cause the pollution of land or waters in accordance with the *Protection of the Environment Operations Act 1997*.

19. Waste Minimisation and Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility. No waste must be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Compliance with the WMMP must be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

Note: *"Waste" has the same meaning as the definition of "Waste" in the Protection of the Environment Operations Act 1997.*

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20. **Work Hours and Noise**

The following must be complied with during demolition and construction works:

- a) To limit the impact of the development on adjoining owners, all demolition and construction work must be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 3.00pm Saturdays. No work is to take place on Sundays or Public Holidays unless otherwise approved by Council in writing; and
- b) The noise from all activities associated with the demolition works and construction of the approved development must comply with the guidelines as outlined in the NSW Environment Protection Authority's *Environmental Noise Control Manual* (Chapter 171). The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

PART E

**CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION
CERTIFICATE CAN BE ISSUED**

21. **Damage to public assets**

Prior to the issue of an Occupation Certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity, which has been damaged as a result of construction works, is to be repaired by the person benefitting from this consent and to the satisfaction of Council.

22. **Fire Safety**

The owner is to supply Council with a Final Safety Certificate for the fire safety measures specified in the Fire Safety Schedule. The fire safety measures must be implemented or installed in the building prior to its occupation. The building must not be occupied without a final Fire Safety Certificate being issued and a Final or Interim Occupation Certificate being issued.

PART F

**CONDITIONS THAT RELATE TO THE ONGOING MANAGEMENT OF THE
APPROVED DEVELOPMENT**

23. **Fire Safety – Annual Statement**

At least once in every twelve month period an annual Fire Safety Statement is to be submitted to Council and to the Fire Commissioner of the NSW Fire and Rescue, Fire Safety Division in relation to the fire safety measures listed in the Fire Safety Schedule.

24. **Hours of Operation**

The use of the approved development is restricted to those hours approved under the development consent for Development Application No.16/1203.

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25. Site Maintenance

The owner or operator must at all times be responsible for on-going site management and maintenance in accordance with the following:

- a) Must not impact upon the amenity of any adjoining property or tenancy by reason of the emission of noise, dust, fumes, odour, vibration, electrical interference or otherwise;
- b) Loading and unloading in relation to the use of the premises must occur in the designated loading areas;
- c) Maintenance of vehicular movement areas including driveways, carparking, manoeuvring areas, line marking, pedestrian facilities, lighting, to the standard specified by this consent;
- d) Ongoing waste and recycling is to be managed in accordance with the approved Waste Management Plan (Operational). Waste bins are not to be stored within the loading area/space that is visible from a public place;
- e) Maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan;
- f) Maintenance of buildings, fencing, signage/markings to the standards specified in this consent; and
- g) The removal of all graffiti within a maximum of 14 days of being notified by Council.

26. Noise

The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the *Protection of the Environment Operations Act 1997* (NSW).

PART G
STATEMENT OF REASONS

Reasons for Approval

- 1. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, notably the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).
- 2. The proposed development is, subject to the recommended conditions, consistent with the objectives of the Shoalhaven Development Control Plan 2014 (SDCP 2014).
- 3. The proposed development is considered to be suitable for the site.
- 4. The proposed development, subject to the recommended conditions will not result in unacceptable adverse impacts on the natural and built environments.
- 5. Any issues raised in submissions have been considered in the assessment of the application and where appropriate, conditions have been included in the determination.

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Conditions of consent have been imposed to:

2. Ensure the proposed development:
 - a) achieves the objects of the *Environmental Planning and Assessment Act, 1979*;
 - b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
3. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure that all traffic, carparking and access requirements arising from the development are addressed.
7. Ensure the development does not conflict with the public interest.

PART H
ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

Development Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request must be made **within three (3) months** of the date of the receipt of the determination to allow Council time to undertake the review within the prescribed period of six (6) months and be accompanied by the prescribed fee.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within 6 months after the applicant has been notified of the decision.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within 28 days after the date the objector is notified of the decision.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within **twelve (12) months** of the date of determination.

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PART I

GENERAL ADVICE TO APPLICANT

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) Act 2009* (GIPAA).

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

Disclaimer – Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

Inspections

If Council is the appointed Principal Certifier for this project, a minimum twenty-four (24) hours notice must be given to Council to make an inspection of the work.

nestResidentialDesign
architectural plans

T: 4423 6461 M: 0402 567 751 www.nestrd.com.au

GENERAL NOTES:

- Use figured dimensions only.
Do not scale drawings.
- Dimensions indicated with asterisks are to be confirmed on site by builder.
- Builder is to check all dimensions on site prior to commencement of construction.
- Dimensions shown to boundary's are approximate only.
- Proposed additions are to be constructed to comply with bushfire attack level as per AS1959 - 2009.
Builder to confirm level of bushfire attack category as per development consent prior to commencement of construction.
- Concrete slabs / footings to be as per specification if suitable for site classification. If site classification is not suitable for specification, concrete slabs / footings to be designed & detailed by structural engineer.
Builder is to check site classification prior to commencement of construction.
- Provide adequate tie downs & bracing to suit wind load classification.
- Provide adequate flashings to suit additions.
- Provide adequate termite protection.
- Stormwater drainage to be directed to suit site conditions.
- Gutters & Downpipes to comply with BCA part 3.5.2.4 and AS / NZS 3500.3 & AS NZS 3500.5.
- Design & Plans are not to be copied in any way without written permission from Nest Residential Design.

TEMPORARY ADMINISTRATION & OFFICE STORAGE FACILITY

FOR BERRY RIDING CLUB

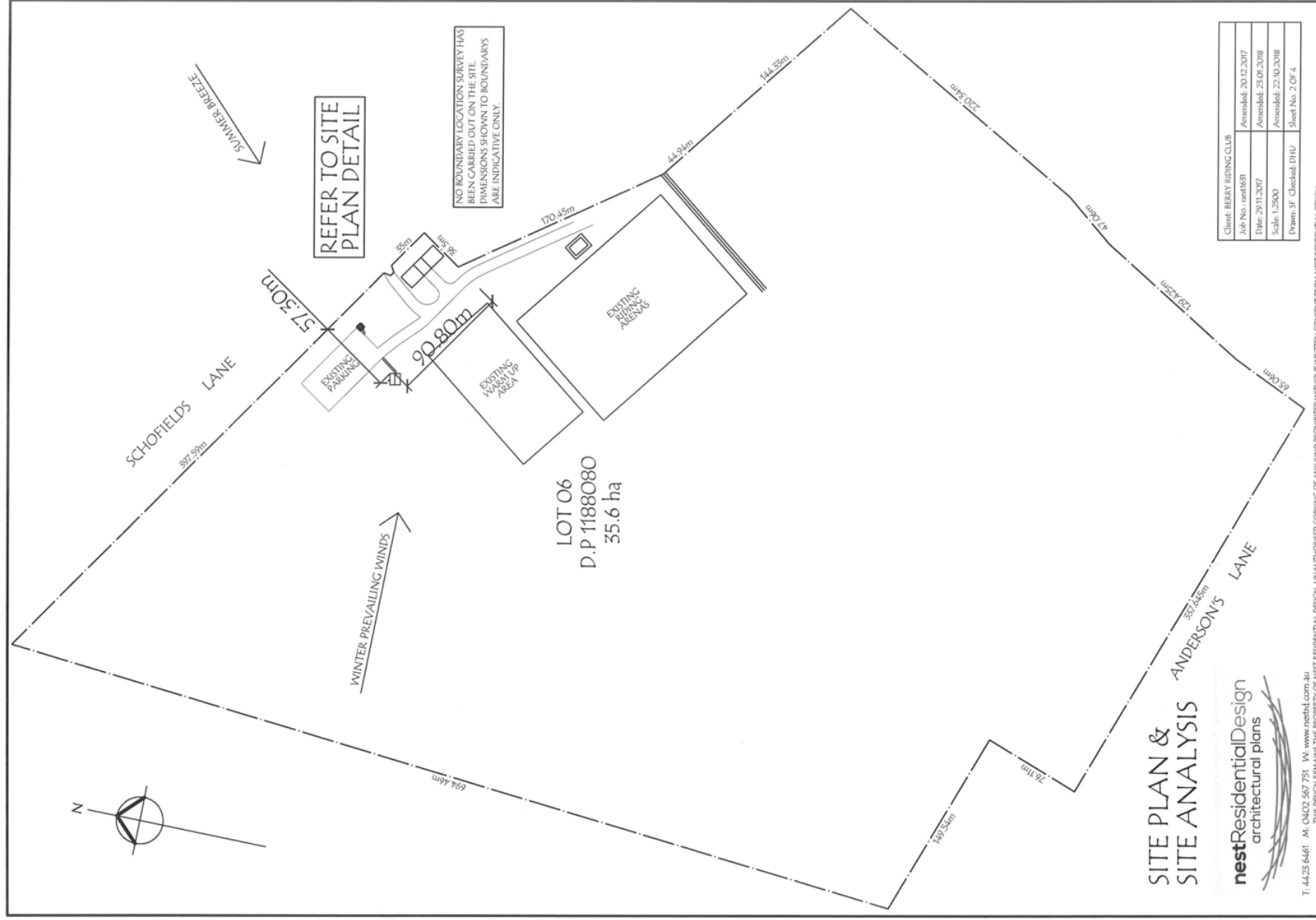
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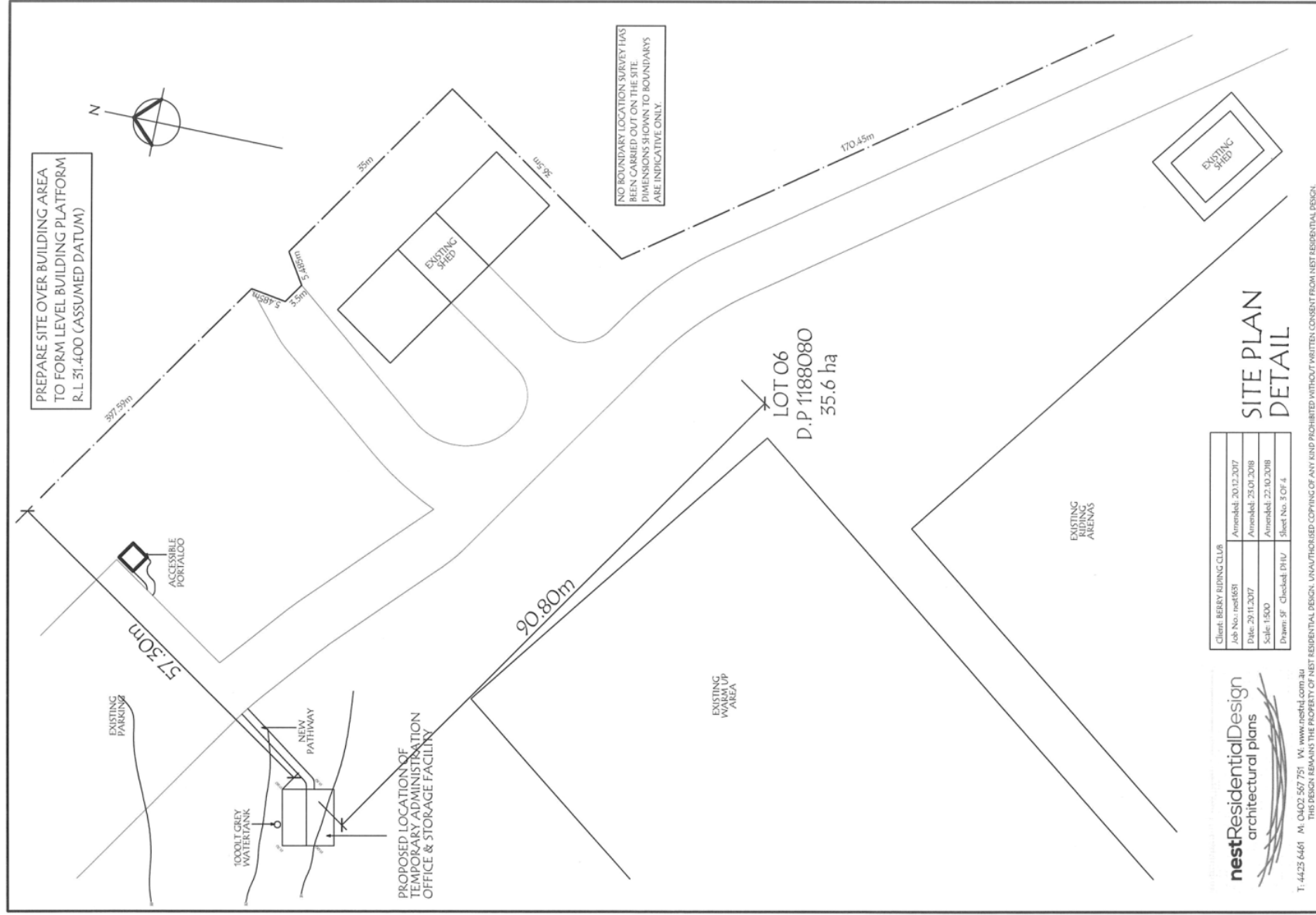
BERRY NSW 2535

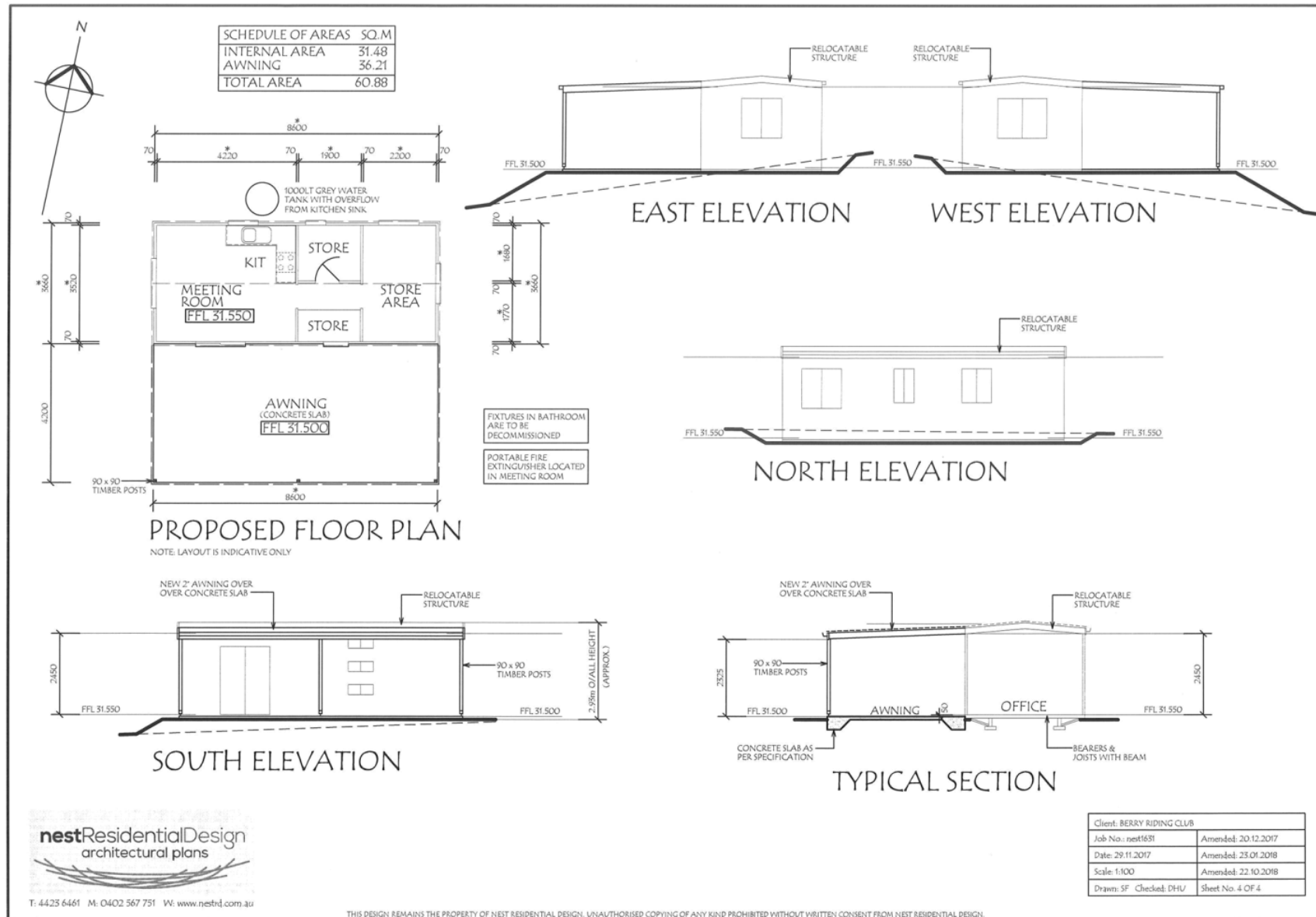
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FOR: BERRY RIDING CLUB

Plans by: NEST RESIDENTIAL DESIGN		P.O Box 902 Nowra 2541	T: 4423 6461	M: 0402 567 751
Job No: nest1631	Date: 29.11.2017	Drawn By: SF	Checked: DHU	
Amended: 20.12.2017	Amended: 23.01.2018	Amended: 22.10.2018	Scale: AS SHOWN	
Amended:	Amended:	Amended:	Sheet No. 1 OF 4	







CL19.22 Variations to Development Standards - Fourth Quarter Report 2018

HPERM Ref: D19/18405

Group: Planning Environment & Development Group
Section: Development Services

Purpose / Summary

Council is required to consider variations to development standards (contained in an environmental planning instrument such as the Shoalhaven Local Environmental Plan) which exceed 10%, with lesser variations able to be dealt with by staff, under delegation.

Council is also required to report the variations to the full Council and thereafter the Department of Planning and Environment.

Recommendation

That Council receive this report for information and forward a copy of this report and attachment table to the Department of Planning and Environment in accordance with the requirements specified in *Circular PS18-003 Variations to development standards*.

Options

1. Receive the report for information and forward the report to the Department.

Implications: Council will be complying with the reporting provisions as detailed in *Circular PS18-003 Variations to development standards*.

2. Resolve an alternative and provide details to staff.

Implications: Depending on what is resolved, the Council would need to ensure compliance observing that the Department undertakes periodic audits.

Background

Function of SEPP 1 and clause 4.6 Shoalhaven Local Environment Plan (SLEP)

SEPP 1 and clause 4.6 SLEP allow flexibility in the application of development standards by allowing the consideration of development proposals that meet the objective of a development standard but not its stated value.

SEPP 1 and clause 4.6 permit an applicant to object to development standards on the grounds that they are unreasonable, unnecessary or would result in poor planning outcomes.

When the consent authority is satisfied the objection under SEPP 1 or clause 4.6 is well founded it may, with the concurrence of the Secretary of the Department of Planning and Environment, grant consent to that Development Application (DA) notwithstanding the subject development standard.

The Secretary of the Department of Planning & Environment has delegated to councils assumed concurrence to use SEPP 1 or clause 4.6 in respect of most types of development.

CL19.22

Monitoring of council use of SEPP 1 and clause 4.6

Councils are required to monitor their use of the Secretary's assumed concurrence under SEPP 1 and clause 4.6 and report to the Department of Planning and Environment on that usage on a quarterly basis. The Department has been systematically monitoring council quarterly SEPP 1 and clause 4.6 returns since June 2008.

Monitoring and auditing councils' use of SEPP 1 and clause 4.6 enables the Department to check whether councils are keeping accurate records of the use of SEPP 1 and clause 4.6, to assess whether any particular development standards are being regularly varied by a council and may require review, and to detect anomalies (e.g. exceeding of delegations) if they are occurring.

Planning Circular *PS18-003 Variations to development standards*, dated 21 February 2018

The Circular states:

- *"Applications for variations to development standards cannot be considered without a written application objecting to the applicable development standard and addressing the matters required to be addressed in the relevant instrument."*
- *A publicly available online register is to be established, and its currency maintained, of all variations to development standards approved by council or its delegates. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation."*
- *A report of all variations approved, either by council or its delegates, must be submitted to developmentstandards@planning.nsw.gov.au within 4 weeks of the end of each quarter (i.e. March, June, September and December). Such report must be on the form provided by the Department."*
- *A report of all variations approved under delegation by staff must be provided to a full council meeting at least once each quarter."*

The Circular concludes:

- *"The Department will continue to carry out random audits to ensure the above monitoring and reporting measures are complied with. The Department and the NSW Independent Commission Against Corruption will continue to review and refine the audit strategy."*
- *"Should ongoing non-compliance be identified with one or more consent authorities, the Secretary will consider revoking the notice allowing concurrence to be assumed, either generally for a consent authority or for a specific type of development."*

Conclusion

Upon receipt of this report, the report and table will be provided to the Department.

The table has been published on Council's website. As there was only one variation in the last quarter details are provided below:

Variations – 4th Quarter, 2018

Council DA reference number	Lot number	DP number	Street number	Street name	Suburb /Town	Postcode	Description	Development standard to be varied e.g SLEP 2014 - Clause 4.3 - height	Extent of variation (expressed as a percentage %)	Delegation, Council or other	Date DA determined dd/mm/yyyy
SF10667	193	25099	146	Elizabeth Drive	Vincentia	2540	14: Other	Clause 4.1 (3)	3.62%	Staff by Delegation	26/11/2018

CL19.22

CL19.23 Milestone 6 Final Offer - REMS 1B - WP2.1 Transfer Main from Bomaderry to Nowra

HPERM Ref: D19/23021

Group: Shoalhaven Water Group
Section: Water Asset Planning & Development

Purpose / Summary

To inform Council of the outcomes of the negotiation process for REMS 1B Transfer Main from Bomaderry to Nowra

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

This report is submitted directly to the Ordinary Council Meeting pursuant to Clause 3 of Council's "Acceptance of Tenders – Reports to Council" Policy.

Recommendation

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

Options

1. Consider the separate confidential report as recommended

2. Council amend the recommendation and consider in open Council

Implications: Council may diminish the competitive commercial value of the Offer received or prejudice the contractor's legitimate interests if these matters are discussed non-confidentially.

3. Council amend the recommendation

Implications: Depending on the amended resolution Council may not be able to deliberate on the process for the REMS 1B Milestone 6 Offer while giving consideration to all available information.

Background

Following the resolution of the Strategy and Assets Committee Meeting, 15 May 2018 (under delegation) staff have proceeded to negotiate with the contractor on the Milestone 6 component of the REMS 1B contract. Council is now requested to consider a separate Confidential Report outlining the Contractor's "Final Offer" in relation to these works, comprising approximately 3km of pipeline construction by Horizontal Directional Drilling (HDD) and trenching methods.

CL19.23

LOCAL GOVERNMENT AMENDMENT (GOVERNANCE & PLANNING) ACT 2016

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.