

## Ordinary Meeting

**Meeting Date:** Tuesday, 28 May, 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 - 30 April 2019

### 6. Declarations of Interest

### 7. Call Over of the Business Paper

### 8. Presentation of Petitions

### 9. Mayoral Minute

#### Mayoral Minute

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#### Committee Reports

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*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.*

#### CSA19.4 Proposed Acquisition of Open Space Land identified in the Moss Vale Road South Urban Release Area

*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.*

CSA19.5 Shoalhaven Affordable Housing Strategy -  
Property Acquisition Matters

*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.*

Reports

CCL19.9 Tenders - Management & Operation - Holiday Haven Bendalong

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

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

CCL19.10 Tenders - Management & Operation - Holiday Haven Lake Conjola

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

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

CCL19.11 Tenders - Shoalhaven Water Pump Procurement

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

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

*person's legitimate business, commercial, professional or financial interests.*

## MM19.9 Mayoral Minute - Trial Change of Arrangements for Public Access (Deputations)

HPERM Ref: D19/148106

### Recommendation

That:

1. The Draft Shoalhaven Code of Meeting Practice be adopted with the following amendments:
  - a. The provisions in the Draft at Part 4 'Deputations' be replaced with those outlined in the Model Code of Meeting Practice at Part 4 'Public Access' to give effect to a change to the deputation process which provides for Public Access sessions that:
    - i. Are held separately to Committee and Ordinary Meetings
    - ii. Are held from 3pm - 4.30pm prior to the main meetings.
    - iii. Limits the opportunity to make deputation by individuals at both Committee and Council Meetings on the same item.
2. The amended Code of Meeting Practice be adopted without further public advertisement given the changes reflect the best practice outlined in the Model Code of Meeting Practice, do not amend mandatory provisions and are not substantial as they bring the Model Provisions into effect.
3. A report be provided by the General Manager to the 'Call' meeting of the Council held in September 2019, outlining the impact of the amendments for further consideration of the Council to the most effective process for Deputations or Public Access.
4. The General Manager communicate the changes to the community.
5. The Order of Business be amended to reflect the amendments.

### Details

At the April Ordinary deputations lasted for over 1.5 hours from the start of the meeting, meaning that the agenda was not commenced until almost 7pm. The meeting had to be adjourned and due to the nature of adjourned meetings a number of Councillors were unable to attend.

The trend in deputations to Ordinary meeting in particular is an increasing one and it is fantastic that the community are interested to express the opinions and give advice through this form of public access.

I understand that in moving Public Access to a 3pm time slot that a number of Councillors will be disenfranchised from this part of the meeting, however, it is worse that decision makers in effect, miss out on making decisions due to the length of time required to get through the business that results in an adjourned meeting.

The provisions recommended reflect those outlined in the [Model Code of Meeting Practice](#) released by the Office of Local Government in December 2019.

The Office of Local Government provided commentary on those provisions are as follows in the [Frequently Asked Questions](#) attached to Circular 18-45 on the commencement of the Model Code.

*“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.”*

Undertaking a trial will give Council the opportunity to see how such a public access system works and how efficient or not it is. This format of public access is deployed by Kiama Council and from feedback works well for all involved.

#### **Note by the General Manager**

The agenda of this meeting also includes another report on the adoption of the Code of Meeting Practice. That item would be best considered in conjunction with the Mayoral Minute.

## CL19.127 Rescission Motion - CL19.123 Outcome of Industry Forum - Design Review Panel for Shoalhaven

**HPERM Ref:** D19/151158

**Submitted by:** Cllr Greg Watson  
Cllr Mitchell Pakes  
Cllr Mark Kitchener

### 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 CL19.123 of the Council Meeting held on Tuesday 30 April 2019 (reconvened Thursday 2 May 2019).

### Background

The following resolution was adopted (MIN19.274) at the Ordinary Meeting Tuesday 30 April 2019 (reconvened Thursday 2 May 2019).

*That Council*

- 1. Note the outcomes of the industry forum / information session held on Monday 1 April 2019.*
- 2. Proceed to trial the use of the Wollongong Design Review Panel for all SEPP 65 developments (residential flat buildings, shop top housing or mixed-use development that is 3 or more storeys and contains at least 4 or more dwellings) and other self-nominated developments for a 12-month period commencing 1 July 2019.*
- 3. Notify development industry representatives of the proposed trial commencing 1 July 2019 for 12 months.*
- 4. Receive a subsequent report towards the end of the 12-month trial period for Council to evaluate the success of the trial and options for a future Regional Design Review Panel.*
- 5. Apply a 50% discount to the existing fee of \$3,000 per meeting for the Design Review Panel during the 12-month trial period and allocate a budget for this in the 2019/2020 Council budget.*
- 6. In addition to the Design Review Panel, Council staff investigate the option of a pre-lodgement design advisory service for certain scale developments and possible cost recovery options.*

CL19.127



## **CL19.128 Notice of Motion - CL19.123 Outcome of Industry Forum - Design Review Panel for Shoalhaven**

**HPERM Ref:** D19/151211

**Submitted by:** Cllr Greg Watson  
Cllr Mitchell Pakes  
Cllr Mark Kitchener

### **Purpose / Summary**

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

### **Recommendation**

That

1. Council note the outcomes of the industry forum / information session held on Monday 1 April 2019.
2. Council commence a formal tender/EOI process for a new Shoalhaven Design Advisory Service.
3. The Design Advisory Service be established for not less than 12 months to:
  - a. Provide pre-DA design advice in a small workshop format to applicants;
  - b. Attend pre-DA meetings if deemed necessary by Council staff or if requested by an applicant;
  - c. Receive referrals from development services on planning applications where there are concerns and/or considerations relating to architecture / urban design.
4. The Design Advisory Service be offered to applicants on the following basis:
  - a. Fees for the use of the pre-DA services (pre-DA meetings and pre-DA workshops) are paid for by applicants;
  - b. The Design Advisory Service is accessed on a voluntary basis by applicants.
5. Following completion of the tender/EOI process for the Design Advisory Service, a further report be prepared for Council's consideration outlining:
  - a. Selected urban design consultants proposed to be contracted;
  - b. A proposed fee structure for the provision of pre-DA Advisory services

### **Note by the General Manager**

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

CL19.128

## CL19.129 Notice of Motion - Support to Creative Company

**HPERM Ref:** D19/156728

**Submitted by:** Cllr Mitchell Pakes

**Attachments:** 1. Creative Company Information Sheet [↓](#)

### Purpose / Summary

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

### Recommendation

That Council

1. Congratulate Creative Company on the amazing work being undertaken in the community.
2. Provide \$400.00 from the unallocated donations fund to assist with registering as an incorporation and other required registrations.

### Background

Attached is information relating to Creative Company.

### Note by the General Manager

The 2018/19 Unallocated Donation budget has been expended, it is recommended that any donation be forward funded from the 2019/20 Unallocated Donations budget.

CL19.129



## Aim and Rationale

Currently in Nowra, the opportunity for those with a mental health diagnosis to access a creative recovery outlet are limited. What is proposed is that enough funds be raised to hire out a space for twelve months and for the fit-out of a small café, performance space and drop-in centre. This café space will provide a home to creative arts expression from books to art to live music and open mic events. It is hoped that with the facilitation of creative arts that existing stigma may be challenged in an inclusive space that can be taken up and celebrated by all.

## Project Description

Much work has been done around recovery-based practices in mental health care. Recovery practices are often seen to be holistic, involving individual's physical, mental/emotional, social and spiritual needs. Often, what is neglected from this list though, is creativity. It is seen as a project to engage consumers, to keep them busy. What is missing is the idea of "art for art's sake".

It is not however, to simply provide for those with mental health needs this centre is being proposed. The World Health Organisation states that two thirds of those suffering from mental health disorders will not reach out for help. WHO goes on to say that "Stigma, discrimination and neglect, prevent care and treatment from reaching people with mental disorders" (WHO, 2001) The provision of the café "Creating Company" is also about promoting mental wellbeing through creativity. Mental wellbeing affects us all and it is hoped that in providing an avenue to discuss mental health in a creative, novel space in Nowra, those accessing the café will not consider it as a "mental health space" but rather a creative space that also targets mental health wellbeing. In this way, it will be an innovative café in Nowra, rather than simply a social inclusion project.

## Where we are and where we want to be

We have formed a committee and have ratified a constitution. We are currently working towards becoming a small non-for-profit organisation. We intend to access mental health, community and creative arts funding enough to cover the first twelve months rent on our proposed site and enough to cover the fit out and set up for the space. The Personnel Group will provide support to staff our café with members of the community whom due to mental health reasons may not have been able to secure or maintain a job. We will partner with The Dish and the Spoon to set up the café and establish operations procedures. We will be working with Wellways and Aftercare to get the word out about an inclusive space opening in Nowra that is open to all. We have set an opening date tentatively as the 1.10.19.

## How you can help

If you, or any of your members are interested in this project, you can find our Facebook page here: [www.facebook.com/nowracc](http://www.facebook.com/nowracc) and attached to this is our blog: <https://creativecompany87505456.wordpress.com/blog/>.

We are currently looking for:

1. NGOs, businesses and consumers willing to participate in the management committee. It will require a commitment to attend meetings once a month and possibly some time in between in helping with the set-up of the organisation.
2. People willing to collaborate and volunteer their time to help run the creative expressions workshops be it art workshops, creative writing workshops, theatre games workshops etc.
3. General members to share in the vibrant and healing journeys that creative expression can lead us on.

We are also seeking funding, grants and sponsorship. We have absolutely no capital to start with and administration start-up costs are estimated between \$500-\$1000. If you can be of assistance, please also be in touch! This is not a space to encourage a "mental health culture" rather a space where people can discover how engaging with creative desires, needs and goals, can liberate them, be it momentarily or ongoing. We will have mental health peer workers onsite at all times to be able to facilitate a recovery focus for those who do live with a mental illness however the space is to encourage distraction and disengagement from the mental health mindset and replace it with something that is deeply connected to the core of our beings – creativity.

## CL19.130 Notice of Motion - Voluntary Compensatory Tree Planting Policy - Proposal

HPERM Ref: D19/156877

Submitted by: Cllr Bob Proudfoot

### Purpose / Summary

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

### Recommendation

That Council staff work with the building and development industry in an endeavour to establish a voluntary compensatory tree planting policy. The meaningful negotiations would include, but not be restricted to, the following:

1. Pre-clearing tree audit.
2. A commitment to a one- for- one replacement of trees whose height is greater than an agreed height.
3. Careful selection of replacement sites such as council reserves and private land whose owners have indicated a desire to participate in the programme.
4. An acknowledgement of the "45 degree rule" and the respect of neighbouring properties regarding future overshadowing at the planting sites could be factored into the discussion.
5. Publicising the initiative giving praise to the industry as to the way that they optimistically committed to the voluntary code.

### Note by the General Manager

Staff would welcome the opportunity to provide a briefing brief/report back to Councillors regarding work carried out to date in regard to Tree/canopy management and compensatory planting. There are a number of associated issues which present options in a response, including administration and long term management, legal obligations of compensatory sites, and how will the "voluntary" nature be administered if conditions relating to plantings are placed in Development Consent documents.

It is suggested therefore that Council consider referring this to a Councillors briefing in the first instance or alternatively, amending the NOM to request a report back to Council addressing the matters raised in this Note by the General Manager.

CL19.130

## **CL19.131 Notice of Motion - Collingwood Beach Dunecare Group - Formation**

**HPERM Ref:** D19/157267

**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 staff take all necessary steps required to form a Collingwood Beach Dunecare Group for the Susan Street to Moona Creek section of the dunes. A particular focus on the recruitment of nearby residents would be absolutely essential, with other residents being most welcome to apply.

### **Note by the General Manager**

The Plantation Point Bushcare group currently work in this area, including works on the dune. Information can be distributed to local residents regarding membership of this group.

CL19.131

## CL19.132 Notice of Motion - Mobile Food Vans

**HPERM Ref:** D19/166142

**Submitted by:** Cllr Patricia White

### **Purpose / Summary**

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

### **Recommendation**

That Council prepare a report on Council's current management of Mobile Food Vans in the Shoalhaven LGA both on private and public land. Such report to include: -

1. Approvals issued in the last 2 years in accordance with the State Government guidelines for Mobile Food Vans on both private and public land.
2. Non-Compliance issues & complaints reported in the last 12 months including safety issues, property site issues, access issues, signage etc.
3. Consideration to a review of current policies.

### **Background**

Over recent months Councillors have received many complaints in relation to Mobile Food Vans in areas of Milton, Bawley Point and Callala to name a few. Complaints have also been raised at a State level.

Issues and concerns raised include safety, access, and approvals on both public and private land, non-compliant operators have been questioned.

Safety issues raised involve power leads running across driveways and access areas which is a major WHS issues concerning to residents. Mobile Vans are in carparks and members of the community have concerns with vehicle access, pedestrians, patrons of the food operator and lack of parking. Signage and table & chairs causing issues on public footpaths.

Council has a current policy regarding Food Vans on public land and concerns have also been raised that operators are non-compliant with this policy.

CL19.132

## CL19.133 Notice of Motion - Shoalhaven Heads Pump Track

**HPERM Ref:** D19/167188

**Submitted by:** Cllr John Wells

### Purpose / Summary

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

### Recommendation

That Council give in-principle approval to bringing forward the sealing of the Shoalhaven Heads pump track.

### Background

As Councillors are aware the new Shoalhaven Heads bicycle pump track is to be officially opened on 16 June 2019. This community planned, constructed and largely funded project is a significant recreational asset which, when aggregated with the swimming pool, skate park, learn to ride and play facilities make the Jerry Bailey Oval area a major recreational/leisure asset.

The original planning for the pump track intended for the track to be sealed some 6 to 9 months after opening. This would mean applying a weather proof seal sometime during the first quarter of 2020. A recent trial opening/test ride showed however that the facility had a sensational reaction from those who trialled it - they were ecstatic, and this bodes well for the asset being a significant attractant for children & youth with consequential benefits to visitation to the township.

The Pump Track Organising Committee has therefore requested Council support to bring forward the sealing of the track, which will stimulate higher usage sooner and reduce dust, noise and maintenance. It is not expected that Council will contribute to the cost of sealing - the project has local supporters who will provide the funding SUBJECT TO Council giving its formal support to the sealing project.

Staff advise that, because the project approval related to a gravel track with sealing anticipated some time off, that Council will have to undertake another Review of Environmental Factors and Native Title Assessment prior to undertaking the sealing. Subject to the outcomes of those pieces of work, a Development Application may or may not be required.

My view is that as the asset is an existing piece of usable infrastructure, its enhancement by sealing the track may be covered by the SEPP Infrastructure - but staff will no doubt clarify these matters. Be that as it may, I consider the community's request to be reasonable and as it requires no vote of funds, should be supported and processes executed in a reasonable time - say three months (Sept-Oct 2019) thus making the sealed surface available for enjoyment during the peak holiday season.

Finally, should a Development Application be required I seek Council's indulgence to waive any associated fees for this community driven project.



**Note by the General Manager**

The current status of the Pump Track is a construction site, and Council have informed the Community Forum that it should not be used until it is officially completed (with the exception of track testing by designers inducted into the site). The Community Forum have indicated that the track is scheduled to be formally opened as an unsealed facility on Sunday 16 June 2019.

Initial community consultation for this project had mixed reactions. With this in mind, Council staff have requested that the Pump Track Sub Committee follow their initial timeline, as submitted in their activation strategy and evaluation criteria. "If the pump track receives an average "Good" rating over a 6-month period, the community shall begin to advocate to have the track sealed." This would require the Pump Track to be opened to the community as an unsealed facility, so that it can be used and evaluated by residents and visitors.

Given the past level of community interest, and the significant changes to the initial scope, it is recommended by staff that community consultation be undertaken before sealing the track. This could be completed at the same time as the necessary site investigations. Council staff have had no written information to date from community about sealing the track or details on the commitment of funding.

Assuming relevant information can be supplied quickly, a realistic time frame for completion of consultation and relevant approvals is in keeping with the suggested timeline in the background information for completion and opening September – October 2019 (assuming no impediments arise).

To further stream line the approval process, Council could consider recommending that if no significant negative feedback is received from community consultation, approval can be given without reporting back to Council. This would reduce total approval time by 4-6 weeks.

In this regard Council may wish to consider adding a further recommendation as follows:

*'Approval be given to seal the Shoalhaven Head Pump Track without a further report to Council subject to no significant negative feedback through the community consultation process'*

If Council and the Forum awaits approval to have the facility sealed prior to opening, the facility will remain fenced off as a construction site during the approval process. Council staff have established a productive working relationship with the Community Forum and are available to work with them through this next stage should it proceed.

## CL19.134 Notice of Motion - Millards Creek, Ulladulla - Gross Pollutant Traps

**HPERM Ref:** D19/167725

**Submitted by:** Cllr Kaye Gartner

**Attachments:** 1. Millards Creek Report (under separate cover) [📄](#)

### Purpose / Summary

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

### Recommendation

That Council receive a report on the feasibility of installing gross pollutant traps on the tributaries of Millards Creek in Ulladulla to further ensure its water quality and the quality of outflow to Ulladulla Harbour.

### Background

Research projects by Ulladulla High School Geography students have identified the importance of a clean, bio-diverse and healthy streambed for Millards Creek, Ulladulla.

This Creek drains the entire township, and feeds into Ulladulla Harbour. It drains urban areas; it drains the vicinity of the meatworks; it receives stormwater from roadways; it can get clogged by domestic rubbish, commercial rubbish and leaf litter.

Gross pollutant traps inhibit waste material. The traps collect the material and allow Council to remove it for proper disposal. The result is a clean, free flowing stream, supporting aquatic life and the free drainage of the township.

For further information, see the attached report from Ulladulla High School senior student Takesa Frank.

CL19.134

## CL19.135 Report of the Strategy & Assets Committee - 14 May 2019

HPERM Ref: D19/162419

### SA19.53 March 2019 Quarterly Budget Review

HPERM Ref:  
D19/135573

#### Recommendation

That Council

1. Receive the March Quarterly Budget Review for information
2. Adopt the adjustments, as outlined in the March Quarterly Budget Review document
3. Adopt the projects that are being reforecast to the 2019/20 Draft Budget and accept them as a submission to the 2019/20 Draft Budget.

### SA19.54 Jervis Bay Maritime Museum - Long Term Management Agreement

HPERM Ref:  
D18/223744

#### Recommendation

That Council

1. Revoke the Section 355 Management Committee status of the Lady Denman Heritage Museum Management Committee;
2. Enter into a management agreement with the Lady Denman Heritage Complex Huskisson Incorporated ABN 84 292 148 464 for a term of 20 years plus extensions with a commencing annual management fee of \$268,000 with annual 2% or CPI increases, whichever is the greater;
3. Note the inclusion of additional funding in the draft 2019/20 budget;
4. Authorise the General Manager to sign all documentation required to give effect to this resolution and to affix the Common Seal of the Council of the City of Shoalhaven to all documentation required to be sealed.

### SA19.55 One-off Crown land vesting application - Formalisation of main access to Integrated Emergency Management Centre (IEMC) and Nowra Racing Complex

HPERM Ref:  
D19/107320

#### Recommendation

That Council submit a one-off vesting application to the NSW Department of Industry – Lands, seeking proposed Lot 5 in subdivision SF 10607 be vested to Council.

CL19.135

**SA19.56 Acquisition of Lot 86 DP 29970, Unnamed Road  
Nowra Hill for the Western Bypass Corridor****HPERM Ref:  
D19/66301****Recommendation**

That Council:

1. Purchase, by agreement, Lot 86 Unnamed Road Nowra Hill being Lot 86 DP 29970 from Joseph Charles Holmes, Shirley May Holmes & Darren Charles Holmes, for thirty thousand dollars (\$30,000) excluding GST;
2. Delegate authority to the General Manager to adjust the purchase price, if necessary, in accordance with settlement figures determined by Council's solicitor;
3. Fund all costs associated with the purchase including reasonable conveyancing costs for the Vendor, from the Property Reserve;
4. Grant authority to affix the Common Seal of the Council to any documents required to be sealed and that the General Manager be authorised to sign any documents necessary to give effect to this resolution; and
5. Classify the property purchased as 'Operational' Land in accordance with Section 31(2) of the Local Government Act 1993.

**SA19.59 Notification to Minister for Lands & Forestry of  
appointed Council Native Title Manager****HPERM Ref:  
D19/130925****Recommendation**

That Council confirm the engagement of the Manager, Property Unit as Shoalhaven City Council's Native Title Manager and advise the Minister for Lands and Forestry as required by Section 8.8 Crown Lands Management Act 2016.

**SA19.62 Refund Request - Fee Waiver - Shoalhaven  
Neighbourhood Services Inc - DA17/1741 and  
CD18/1535****HPERM Ref:  
D19/114241****Recommendation**

That Council:

1. Reimburse Shoalhaven Neighbourhood Services Inc \$2,555.95 (GST Incl.) being Development Application (DA) fees and Complying Development (CD) fees in relation to DA17/1741 and CD18/1535.
2. Fund the reimbursement from the Unallocated Donations budget.

**SA19.65 Acquisition of Easement - Sewer Purposes - South  
Nowra****HPERM Ref:  
D19/98505****Recommendation**

That:

1. Council acquire an Easement to Drain Sewage variable width over part of Lot 1 DP 553175 Old Southern Road South Nowra marked (E) on the attached draft survey plan.

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2. Council pay compensation of thirty-six thousand dollars (\$36,000) and reasonable legal costs associated with the acquisition in accordance with the provision of the Land Acquisition (Just Terms Compensation) Act 1991, from Shoalhaven Water's Sewer Fund.
3. The Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed.

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## **CL19.136 Report of the Shoalhaven Tourism Advisory Group - 6 May 2019**

**HPERM Ref:** D19/158260

**TA19.19 River Festival Committee Update**

**HPERM Ref:**  
**D19/107123**

### **Recommendation**

That:

1. The Shoalhaven Tourism Advisory Group receive the report for information.
2. Council officially appoint members, as detailed below, to the River Festival Committee:
  - a. Paul Greene, Chair
  - b. David Fleeting, Deputy Chair and Marina
  - c. Karina Whipp, Secretary
  - d. Gary Wells, Treasurer
  - e. Lynn Locke, Event Ambassador
  - f. Greg Stephenson, Sponsorship
  - g. Michelle Machonachie, Fundraising
  - h. Marla Guppy, Art Zone
  - i. Ian Reid, Multimedia
  - j. Mark Emerton, Traffic Management
  - k. Greg McLeod, Sound
  - l. Dawn Hawkins

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## CL19.137 Report of the Inclusion & Access Advisory Group - 6 May 2019

HPERM Ref: D19/166002

### IA19.22 National Disability Strategy - Federal Government Review

HPERM Ref:  
D19/144598

#### Recommendation

That:

1. The Inclusion and Access Advisory Group (IAAG) recommend that Council authorise the Travel and associated costs for a Council Staff member, members of the IAAG and available Councillors to attend the National Disability Strategy Workshop at Campbelltown.
2. Council include the information relating to the National Disability Strategy Review on Council's Website and Facebook Page and also distribute the information through the Community Development Networks.

#### Note by the General Manager:

The date for the Workshop is Wednesday 5 June 2019 from 10am to 1.30pm. Expected costs are of an in-kind nature with staff time and transport in Council vehicles and there is no direct cost for attendance at the workshop.

An EOI would be put to the Group for interested members to attend with a maximum of 3 attending.

### IA19.21 Ulladulla Subway and Services NSW accessible parking investigation

HPERM Ref:  
D19/102914

#### Recommendation

That:

1. The report on the Ulladulla Subway and Services NSW accessible parking investigation be received for information.
2. Council write a letter the State Government (Service NSW, who are the tenants) advising that the ramp does not meet the standard and that Council is seeking their assistance to provide a disabled car park in front of the Service NSW noting that Council has approved for the access space to be provided at the front of Service NSW however the Landlord has refused.

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## CL19.138 Report of the Youth Advisory Committee - 8 May 2019

HPERM Ref: D19/165621

Attachments: 1. Youth Advisory Committee Action Plan [↓](#)

### YA19.4 Youth Advisory Committee Action Plan

HPERM Ref:  
D19/115113

#### Recommendation

That:

1. The Youth Advisory Committee endorse the Youth Advisory Committee Action Plan 2019/20, and
2. Council formally adopt the plan.

#### Note by the General Manager:

*The Youth Advisory Committee Action Plan 2019/20 is attached for the consideration of Council*

### YA19.5 Improving Nowra CBD for Young People

HPERM Ref:  
D19/115774

#### Recommendation

That:

1. The Youth Advisory Committee receive the report for information.
2. Council approve carrying forward any remaining balance from the \$4,000 in the 2018/19 Youth Advisory Committee budget (job number 13845) to the 2019/2020 FY to facilitate the community engagement and consultation with young people in the Shoalhaven, and, if successful;
3. The Youth Advisory Committee agree to design and implement a community engagement plan that seeks to clarify issues raised by young people regarding the Nowra CBD and identify what the social and physical needs of young people are within precinct.
4. The Youth Advisory Committee report back to Council the key findings and possible actions at the conclusion of the community engagement and consultation with young people.
5. This item be included on the agenda for each Youth Advisory Committee meeting until completed.

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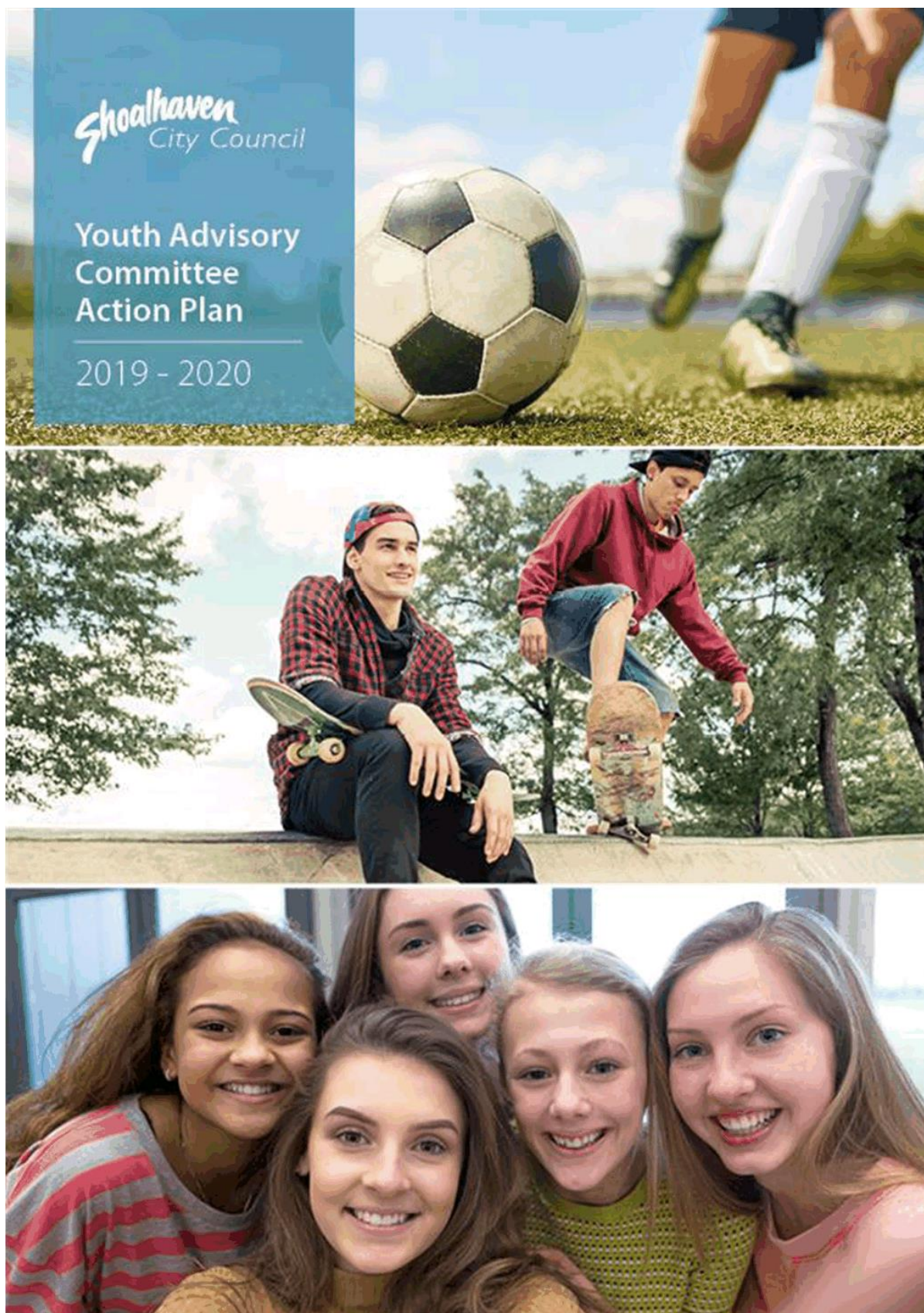
**YA19.8 New Item - Bus Overcrowding and Safety****Recommendation**

That Council make a representation on behalf of the Youth Advisory Committee to the State Member regarding bus capacity and overcrowding.

*Note by the General Manager:*

*This recommendation arises from a concern raised at the meeting without prior notice – it related to overcrowding on school buses that operate from Nowra to the Bay and Basin, Sussex Inlet and Milton areas, and the safety of school students who are having to stand.*

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# Statement

Shoalhaven City Council has a Youth Advisory Committee whose objective is to represent the interests and views of young people to Council and the Community.


## Purpose

- To provide an opportunity for young people to discuss issues of concern to young people
- To provide a mechanism for young people to make representations to organisations and various spheres of Government requesting appropriate action to improve facilities and services available to young people
- To create greater awareness and appreciation within the general community of the needs and talents of young people
- To provide a mechanism for young people to address youth issues themselves

 <p>PEOPLE</p> 	<p>KEY THEME &amp; PRIORITY 1:</p> <p><b>Resilient, safe and inclusive communities</b></p> <ul style="list-style-type: none"> <li>1.1 Build inclusive, safe and connected communities</li> <li>1.2 Activate communities through arts, culture and events</li> <li>1.3 Support active, healthy livable communities</li> </ul>
 <p>PLACE</p> 	<p>KEY THEME &amp; PRIORITY 2:</p> <p><b>Sustainable, liveable environments</b></p> <ul style="list-style-type: none"> <li>2.1 Improve and maintain road and transport infrastructure</li> <li>2.2 Plan and manage appropriate and sustainable development</li> <li>2.3 Protect and showcase the natural environment</li> </ul>
 <p>ECONOMY</p> 	<p>KEY THEME &amp; PRIORITY 3:</p> <p><b>Prosperous Communities</b></p> <ul style="list-style-type: none"> <li>3.1 Maintain and grow a robust economy with vibrant towns and villages</li> </ul>
 <p>LEADERSHIP</p> 	<p>KEY THEME &amp; PRIORITY 4:</p> <p><b>Responsible Governance</b></p> <ul style="list-style-type: none"> <li>4.1 Deliver reliable services</li> <li>4.2 Provide advocacy and transparent leadership through effective government and administration</li> <li>4.3 Inform and engage with the community about the decisions that affect their lives</li> </ul>

CSP THEME	CSP PRIORITY	ACTION	OUTCOME & KPI	TIMEFRAME
<b>1. Resilient, safe and inclusive communities</b>  	1.1 Build inclusive, safe and connected communities	<ul style="list-style-type: none"> <li>Promote Youth Advisory Committee through school media platforms</li> <li>Youth Advisory Committee Planning Day</li> <li>Network and Liaise on behalf of Youth Advisory Committee</li> <li>Support DIAP</li> <li>Actions from Youth Advisory Committee Planning Day Consultation 2018 be considered in the proposed Council Health &amp; Wellbeing Action Plan</li> </ul>	<b>OUTCOME</b> The needs of young people in the Shoalhaven LGA are communicated to Council.  <b>KPI</b> <ul style="list-style-type: none"> <li>Increasing trend in the number of instances that the YAC is promoted at schools.</li> <li>Diversity of young people attending and participating in Youth Planning Day</li> <li>Increasing trend in the number of initiatives raised by Youth Advisory Committee members</li> <li>Incorporation of actions in Council's Health and Wellbeing Plan.</li> </ul>	Ongoing
	1.2 Activate communities through arts, culture and events	<ul style="list-style-type: none"> <li>Celebrate the diversity of young people and the contributions that they make to community by supporting annual Youth Week celebrations and International Youth Day Awards</li> </ul>	<b>OUTCOME</b> Contributions that young people make to the community are celebrated widely though out the Shoalhaven LGA during Youth Week.  <b>KPI</b> <ul style="list-style-type: none"> <li>Increasing trend in the number of community and Council events that are held during Youth Week.</li> </ul>	Ongoing



			<ul style="list-style-type: none"> <li>- Increasing trend in the total number of participants attending Council facilitated Youth Week events.</li> <li>- Number of attendees at the International Youth Day Awards and number of positive media articles promoting the contributions that young people make to the general community.</li> </ul>	
<b>2. Sustainable, liveable environments</b>  	2.2 Plan and manage appropriate and sustainable development	<ul style="list-style-type: none"> <li>• Consult &amp; advise across Council departments, local services and government departments to ensure the needs and issues of youth are incorporated into planning of public space, facilities and service provision</li> </ul>	<b>OUTCOME</b> The needs of young people are taken into account by Council and other relevant agencies when planning public infrastructure provision  <b>KPI</b> <ul style="list-style-type: none"> <li>- Increasing trend in the number of reports provided to YAC by relevant Council departments.</li> <li>- Number of submissions made by Youth Council regarding the needs and issues of young people to relevant government agencies and bodies.</li> </ul>	Ongoing

	2.3 Protect and showcase the natural environment	<ul style="list-style-type: none"> <li>Support School National Tree Planting Day</li> </ul>	<p><b>OUTCOME</b> Increased focus on the importance of our Natural Environment and in particular the important role that Trees play in protecting and enhancing our environment.</p> <p><b>KPI</b> Increase in the number of people participating in National Tree Planting Day</p>	Annually
<p><b>3. Prosperous Communities</b></p> 	3.1 Maintain and grow a robust economy with vibrant towns and villages	<ul style="list-style-type: none"> <li>Continue Youth Advisory Committee small youth community development grants from YAC budget</li> </ul>	<p><b>OUTCOME</b> Support provided to facilitate youth led economic development projects that focus on social enterprise.</p> <p><b>KPI</b> Number of new initiatives that are supported via the Youth Advisory Committee operational budget.</p>	Annually
	4.1 Provide advocacy and transparent leadership through effective government and administration	<ul style="list-style-type: none"> <li>Continue Youth Advisory Committees and support member attendance where possible</li> </ul>	<p><b>OUTCOME</b> Youth needs are considered &amp; valued by council.</p> <p><b>KPI</b> Annual review of TOR and consideration of structure to support attendance</p>	Ongoing
	4.3 Inform and engage with the community about the decisions that affect their lives	<ul style="list-style-type: none"> <li>Encourage and invite Councillor's and Council staff to attend YAC meetings to engage and talk with youth</li> </ul>	<p><b>OUTCOME</b> Council staff and representatives build relationships and rapport with young people and committee</p> <p><b>KPI</b></p>	Ongoing

			<p>Number of councilor attendance at meetings.</p> <p>Number of staff presentations or consultation on council matters with committee</p>	
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## CL19.139 Report of the Shoalhaven Traffic Committee - 14 May 2019

HPERM Ref: D19/159046

- Attachments:**
1. PN3531 Plan - TC19.21 (under separate cover) [📄](#)
  2. PN3540 Plan - TC19.22 (under separate cover) [📄](#)
  3. PN3541 Plan - TC19.23 (under separate cover) [📄](#)
  4. PN3544 Plan - TC19.24 (under separate cover) [📄](#)
  5. PN3545 Plan - TC19.25 (under separate cover) [📄](#)

*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](#)*

**TC19.21 Isa Rd WORRIGEE - Lot 2 DP 1130415 -New Commercial - construct neighbourhood shopping village (PN 3531)**

**HPERM Ref: D19/147452**

### Recommendation

That the General Manager (Director Assets and Works) be advised that the Shoalhaven Traffic Committee has no objection to the proposed works on Isa Road as part of the Worrigee Shopping Complex (DA16/2477) subject to:

1. Provision of additional W5-22 warning signage on new poles
2. Provision of Offset Clearances for swept paths
3. Provision of a modification of the draw in and draw out lengths of bus bays to be in accordance with the relevant standards and guides
4. Modification of driveways to ensure swept paths are wholly within associated lane
5. Changing 'BB1' notation to 'BB' throughout plans
6. Provision of signage and linemarking for internal plans

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**TC19.22 Give Way Signage- Line Marking- Patonga Street  
Nowra (PN 3540)**

**HPERM Ref:  
D19/147816**

**Recommendation**

That the General Manager (Director Assets and Works) be requested to arrange for the installation of Give Way signage and line marking on the intersection of Patonga Street and Jindalee Crescent, Nowra, as detailed in the attached plan.

**TC19.23 Apex Park Berry - Accessible Amenities - Line  
marking and Signage (PN 3541)**

**HPERM Ref:  
D19/147947**

**Recommendation**

That the General Manager (Director Assets and Works) be advised that the Shoalhaven Traffic Committee has no objection to the proposed signage and line marking works for the installation of a 45° angle accessible parking space on Prince Alfred Street in front of the proposed amenities building, as detailed in the attached plan.

**TC19.24 Bunnings Group Ltd - 145 & 159 South Nowra - Lot  
A DP 403839 (PN 3544)**

**HPERM Ref:  
D19/148068**

**Recommendation**

That the General Manager (Director Assets and Works) be advised that the Shoalhaven Traffic Committee has no objection to the signage and line marking plan for 145~159 Princes Highway – Lot A DP403839, as per the attached plan, subject to:

1. Providing signage indicating the parking space on 80219043 – CL – 3003 is 'Reverse Parking Only'
2. Modifying kerb alignment in DR 04 to ensure that exit manoeuvres for trucks are contained wholly within respective lanes
3. Displaying swept paths for car park access left turn into DR 04
4. Providing clarification to manoeuvrability in blind aisle in CL – 1701, providing dimensions to spaces
5. Modifying R5-400 signage in CL – 1703 to be dual direction
6. Clarifying whether R5-400 terminating signage is to be installed south of DR 04
7. Clarifying width of street parking on the Reserve Road
8. Consideration being given to the installation of concrete median with associated R2-3 'Keep Left' signage at the security gate on exit
9. Modifying plans to ensure BAR is compliant with AustRoads standards

**TC19.25 Bus Zone Relocation - 82 Greenwell Point Rad -  
Greenwell Point (PN 3545)**

**HPERM Ref:  
D19/148099**

**Recommendation**

That the General Manager (Director Assets and Works) be requested to arrange for the relocation of the existing bus zone from the frontage of 92 Greenwell Point Road to 82 Greenwell Point road including the installation of signage, as detailed in the attached plan.

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## CL19.140 Code of Meeting Practice - Adoption and Summary of Submissions

**HPERM Ref:** D19/149783

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

**Attachments:** 1. Draft Code of Meeting Practice (POL19/27) (under separate cover) [↗](#)

### Purpose / Summary

To adopt the Draft Code of Meeting Practice that was placed on Public Exhibition and to report on the submissions received.

### Recommendation

That Council

1. Note the details of the submissions received during the public exhibition period as outlined in the report
2. Adopt the Draft Code of Meeting Practice provided as attached to the Report.

### Options

1. As Recommended

Implications: Council is required by the OLG to adopt a Model Code of Meeting Practice by 14 June 2019.

2. Amendments be made to the Code of Meeting Practice prior to adoption.

Implications: In accordance with the provisions of Section 362 of the Local Government Act, further amendments must be publicly advertised if they make substantial change or propose to amend mandatory provisions of the Model Code. Any resolution to amend the Code must also include direction as to advertisement of the proposed changes to the Code.

### Background

At the Council Meeting held on 12 March 2019, Council considered a report outlining the Draft Code of Meeting Practice and resolved (MIN19.184)

*“That*

1. *In accordance with Section 361 of the Local Government Act, the Draft Code of Meeting Practice be placed on public exhibition to obtain community feedback, with an amendment to the Note after Clause 5.17 on page 15 as follows:*

*Note: Clause 15.14 authorises chairpersons to expel persons other than councillors from a council or committee meeting.*

2. *A report be provided at the completion of the exhibition period, outlining the submissions received and providing a Final Draft Code of Meeting Practice for adoption by the Council prior to 14 June 2019.”*

As outlined in the previous report to the Council, the Draft Code reflects the outcome of a Councillors Workshop on the Code of Meeting Practice which was held on 21 February 2019.

As prescribed by the Office of Local Government, Council is required to adopt the Code by 14 June 2019, being (6) six months since the commencement of the Model Code.

In accordance with the requirements and resolution of the Council, the Draft Code of Meeting Practice was placed on public exhibition for 42 days being from 9 April 2019 to 21 May 2019

#### Submissions:

During the submission process, the Draft Policy was viewed 70 times. The Draft Code of Meeting Practice together with the Draft Code of Conduct were also included in the 2 May 2019 edition of the Council's Newsletter and 44 of the 2,300 subscribers (0.2%) clicked on the link to view the Codes.

Two (2) submissions were received from members of public with respect to the Draft Model Code and are provided below:

Submissions
It is important to have a robust Model Code of Meeting Practice so that the disgusting, disrespectful and bullying behaviour that some Councillors regularly display can be stopped.
I commend Council in the development of this Code of Conduct and trust that it will be endorsed and applied effectively.

Both comments reflect the desire to ensure appropriate behaviour at Council meetings, one (1) indicating that observed conduct is not satisfactory. Although the submissions do not identify any amendments to be made to the Draft Code, the Council needs to remain mindful that the Meetings are now publicly accessible via webcasting and that strict adherence to the Code of Meeting Practice and the Code of Conduct is required.

In this context, there are several non-mandatory provisions of the Model Code which the Council has indicated they do not wish to include in the Draft, and these may need to be revisited in the future to ensure Shoalhaven City Council Meetings are aligning with best practice. Examples include: Limits to Mayoral Minutes and Notices of Motion for expenditure of funds where the works and services requested are not included in the Council's current Operational Plan; Deputations vs. Public Access Meetings; Pre- Meeting Briefing Sessions; and the Order of Business.

By way of reminder, there are several key changes between the Council's Current Code and the Draft Code of Meeting Practice. They can be summarised as follows:

- Clauses 3.29 and 9.5 – A Motion of dissent cannot be moved against a ruling of the Chairperson on whether a matter is of great urgency under cl.3.27(b) or under cl.9.3(b).
- Clause 9.9 – A Mayoral Minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity.

Note: This will require Mayoral Minutes to be included and distributed with the business paper unless it is a new matter of such urgency it requires consideration and a decision before the next scheduled Ordinary Meeting.

- Clause 10.24 – Despite clause 10.22 (which entitles a councillor to speak for no longer than 5 minutes), the council may resolve to shorten the duration of speeches to expedite the consideration of business at the meeting.
- Clause 15.3 – Points of Order – A point of order must be taken immediately it is raised. The Chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this Code they believe has been breached.

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Note: This implies that councillors will need to be conversant with the Code in detail to be able to quote relevant provisions. Also note the difference between “Points of Order” and “Questions on Order”.

- Clauses 18.2 and 18.3 – If the business of the Council does not conclude by 9pm a resolution may be passed to extend the meeting. If the meeting remains unfinished at 10pm the Chairperson must either defer all remaining items for consideration at the next meeting or adjourn to another meeting (at time and date fixed by the Chairperson).

## Community Engagement

Submissions from the public were called via Council’s ‘Get Involved’ page which was for the prescribed period from 9 April 2019 until 21 May 2019.

## Policy Implications

Advertisement and adoption of the Code of Meeting Practice is required to be in accordance with the relevant provisions of the Local Government Act provided below:

Section 361 and 362 of the Local Government Act 1993 states:

### **361 Preparation, public notice and exhibition of draft code**

- (1) *Before adopting a code of meeting practice, a council must prepare a draft code.*
- (2) *The council must give public notice of the draft code after it is prepared.*
- (3) *The period of public exhibition must not be less than 28 days.*
- (4) *The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.*
- (5) *The council must publicly exhibit the draft code in accordance with its notice.*

### **362 Adoption of draft code**

- (1) *After considering all submissions received by it concerning the draft code, the council may decide:*
  - a. *to amend those provisions of its draft mandatory code that are non-mandatory provisions, or*
  - b. *to adopt the draft code as its code of meeting practice.*
- (2) *If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.*

If the Council does not adopt a new Code of Meeting Practice by 14 June 2019, any provisions of the council’s adopted meeting code that are inconsistent with the mandatory provisions of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that they are inconsistent with the mandatory provisions of the Model Meeting Code.

## CL19.141 Code of Conduct and Procedures - Adoption

**HPERM Ref:** D19/149833

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

**Attachments:** 1. Draft Code of Conduct (POL18/24) (under separate cover) [↗](#)  
2. Draft Code of Conduct Procedures (POL18/25) (under separate cover) [↗](#)

### Purpose / Summary

1. To adopt the Draft Code of Conduct that was placed on Public Exhibition and to report on the submissions received.
2. To adopt the Model Code of Conduct Procedures.

### Recommendation

That Council

1. Note the details of the submissions received during the public exhibition period of the Draft Code of Conduct as outlined in the Report
2. Adopt the Draft Code of Conduct (POL18.24) as attached to the Report
3. Adopt the Draft Procedures for the Administration of the Code of Conduct (POL18/25) as attached to the Report.

### Options

3. As Recommended
4. That amendments be made to either the Code of Conduct or the Procedures before adoption.

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

### Background

At the Council Meeting held on 26 March 2019, Council considered a report outlining the Draft Code of Conduct and resolved (MIN19.185)

*“That*

1. *The Draft Code of Conduct (**Attachment 1**) be placed on public exhibition for a period of 28 days to obtain community feedback.*
2. *A report be provided at the completion of the exhibition period, outlining the submissions received and a Final Draft Code of Conduct and Procedures for adoption by the Council by 14 June 2019.”*

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As outlined in the previous report to the Council, the Draft Code of Conduct and Procedures reflect the outcome of a Councillors Workshop on the Model Code of Conduct and the Procedures which was held on 21 February 2019.

As prescribed by the Office of Local Government, Council is required to adopt a Code of Conduct and Procedures by 14 June 2019, being (6) six months since the commencement of the Model Code.

In accordance with the requirements and resolution of the Council, the Draft Code of Conduct was placed on public exhibition from 9 April 2019 to 9 May 2019.

#### Code of Conduct - Submissions:

During the submission process, the Draft Code of Conduct and Procedures on the 'Get Involved' webpage was visited 105 times by 97 different people. The Draft Code of Conduct together with the Draft Code of Meeting Practice were also included in the 2 May 2019 edition of the Council's Newsletter and 44 of the 2,300 subscribers (0.2%) clicked on the link to view the Codes.

The Draft Code of Conduct was placed on Public exhibition from 9 April to and open to submissions until 9 May 2019. A total of five (5) submissions were received.

Three (3) submissions were received from members of public with respect to the Draft Code and are provided below in Table (1)

**TABLE 1**

Submission Comment
I have read with interest the general conduct rules and applaud them. Who will make sure that the behaviour of Councillors follow these rules?
I appreciate that Council is reviewing the Code of Conduct. My overarching comment is that my observation, when attending Council meetings, is the notable lack of respect and decorum in meetings and lack of respect shown to the Mayor. I am saddened by this and no Code of Conduct will help unless every Councillor takes responsibility for his/her behaviour. You represent our citizens and we deserve to see better behaviour from our leaders.
I commend Council in the development of this Code of Conduct and trust that it will be endorsed and applied effectively. I am particularly glad to see the section on Public Comment in going some way to curbing improper use of Media outlets as a tactical device during discussion and debate of issues. Also, the clauses dealing with bullying; now becoming well established in the workplace more widely it is essential that the same rules apply to Councillors when engaged in meeting debates. Holding public office does not exclude the application of decency and courtesy, or endorse pomposity and grandstanding, all too evident at meetings of late.

In summary the submissions made comment commending the Code with respect to

- management of the conduct of Council Officials, particularly in relation to conduct during meetings
- the provisions with respect to public comment

and sought advice on how Councillors will be held accountable to the Code. These comments did not identify or suggest amendments.

A further two (2) submissions were received which made enquiries on the content of the new Code. Those submissions and responding comments are outlined in Table 2 below:

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**TABLE 2**

Submission	Responding Comment
<p>Do Sections 3.23-3.27 apply to a Council official giving evidence in a court situation? I think it would be inappropriate if it could be applied. For example:</p> <ol style="list-style-type: none"> <li>1. A Council officer must be able to give expert evidence without being bound to Council's adopted position in accordance with the rules of the court</li> <li>2. A Council officer must be able to give truthful evidence of events, even if the evidence will adversely affect Council's reputation.</li> </ol> <p>I recommend some additional text to explicitly exclude evidence given in court this from the definition of "public comment".</p>	<p>It is not considered that providing evidence to a court or tribunal would meet the definition of public comment. The law requires the provision of truthful evidence in all such situations and this is supported by Sections 3.1 and 3.2 of the Code.</p> <p><b>It is not considered that an additional provision as suggested is required.</b></p>
<p>See below a few items that may not be in the code of conduct, I assume they are obviously in a different form</p> <ul style="list-style-type: none"> <li>• Obligations of staff 6.3 The General Manager is responsible for the efficient and effective operation of Council's organisation and for ensuring the implementation of the decisions of Council without delay.</li> <li>• 6.4 Members of staff of Council must: <ol style="list-style-type: none"> <li>a. give their attention to the business of Council while on duty</li> <li>b. ensure that their work is carried out efficiently, economically and effectively</li> <li>c. carry out lawful directions given by any person having authority to give such directions</li> <li>d. give effect to the lawful decisions, policies, and procedures of Council, whether or not the staff member agrees with or approves of them</li> <li>e. ensure that any participation in political activities outside the service of Council does not conflict with the performance of their official duties.</li> </ol> </li> <li>• Obligations during meetings 6.5 You must act in accordance with Council's Code of Meeting Practice and the Local Government (General) Regulation 2005 during Council and committee meetings. 6.6 You must show respect to the chair, other Council officials and any members of the public present during Council and committee meetings or other formal proceedings of Council.</li> </ul>	<ul style="list-style-type: none"> <li>• The previous Section 6.3 is covered by the new provision at 7.4 in the Draft Code</li> <li>• The previous Section 6.3 is covered by the new provision at 7.4 in the Draft Code</li> <li>• The obligations in relation to meetings are now covered at Sections 3.19 to 3.22 in the Draft Code. The new Model Code has replaced obligations for 'Respect' with more defined behaviours such as bullying, disruptive behaviour and disorder. The meeting behaviour provisions have been removed from the Code of Meeting Practice and the Code of Conduct outlines the obligations for Council officials during meetings.</li> </ul>

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No amendments are proposed to the Draft Code or Procedures in response to the submissions.

#### Procedures for the Administration of the Code of Conduct

The Procedures recommended to be adopted by the Council reflect the Model Code of Conduct Procedures without amendment.

There are two (2) administrative appointments related to the adoption of the procedures:

1. *The Establishment of a panel of Conduct Reviewers*  
In accordance with Clause 3.1 to 3.9 of the Procedures the council must appoint a conduct review panel every four (4) years. The Council appointed the current panel on 22 August 2017. A further Expression of Interest process for a Conduct Review Panel will be undertaken prior to the expiration of the four (4) year period (i.e. before 22 August 2021) or should it be identified a new panel is required in the interim.
2. *The Appointment of a Complaints Coordinator*  
In accordance with Clause 3.17 of the Procedures the General Manager is required to appoint a Complaints Coordinator. Since the commencement of the last Model Code in 2013, the Public Officer has been appointed as the Council's Complaints Coordinator.

#### **Community Engagement**

The Draft Code of Conduct which includes amendments to the Model Code was placed on Public Exhibition via Council's 'Get Involved' page from 9 April 2019 until 9 May 2019.

The Draft Procedures recommended to be adopted by the Council reflect the Model Code of Conduct Procedures without amendment.

#### **Policy Implications**

Adoption of the Code of Conduct and Procedures are required to be in accordance with the relevant provisions of the Local Government Act provided below:

##### **"440 Codes of conduct**

- (1) *The regulations may prescribe a model **code of conduct** (the **model code**) applicable to councillors, members of staff of councils and delegates of councils.*
- (2) *The regulations may provide that the provisions of the model code relating to the disclosure of pecuniary interests are also to apply to the following persons:*
  - (a) *a member of a committee of a council (including the Audit, Risk and Improvement Committee),*
  - (b) *an adviser to a council.*
- (3) *A council must adopt a **code of conduct** (the **adopted code**) that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code.*
- (4) *A council's adopted code has no effect to the extent that it is inconsistent with the model code as in force for the time being.*
- (5) *Councillors, members of staff and delegates of a council must comply with the applicable provisions of:*
  - (a) *the council's adopted code, except to the extent of any inconsistency with the model code as in force for the time being, and*
  - (b) *the model code as in force for the time being, to the extent that:*
    - (i) *the council has not adopted a **code of conduct**, or*
    - (ii) *the adopted code is inconsistent with the model code, or*
    - (iii) *the model code contains provisions or requirements not included in the adopted code.*

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- (6) *A provision of a council's adopted code is not inconsistent with the model code merely because the provision makes a requirement of the model code more onerous for persons required to observe the requirement.*
- (7) *A council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.*
- (8) *(Repealed)*
- (9) *This section applies to an administrator of a council (other than an administrator appointed by the Minister for Primary Industries under section 66) in the same way as it applies to a councillor."*

**"440AA Administration of code of conduct**

- (1) *The regulations may prescribe a procedure (the **model procedure**) for administering the model code.*
- (2) *The model procedure is to set out the procedures for dealing with alleged contraventions of the model code.*
- (3) *A council must adopt a procedure (the **adopted procedure**) that incorporates the provisions of the model procedure. The adopted procedure may include provisions that supplement the model procedure.*
- (4) *A council's adopted procedure has no effect to the extent that it is inconsistent with the model procedure as in force for the time being.*
- (5) *Councillors, members of staff and delegates of a council must comply with the applicable provisions of:*
  - (a) *the council's adopted procedure, except to the extent of any inconsistency with the model procedure as in force for the time being, and*
  - (b) *the model procedure as in force for the time being, to the extent that:*
    - (i) *the council has not adopted the model procedure, or*
    - (ii) *the adopted procedure is inconsistent with the model procedure, or*
    - (iii) *the model procedure contains provisions or requirements not included in the adopted procedure.*
- (6) *This section applies to an administrator of a council (other than an administrator appointed by the Minister for Primary Industries under section 66) in the same way as it applies to a councillor."*

If a council fails to adopt a new code of conduct and procedures based on the new Model Code of Conduct and Procedures by 14 June 2019, 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 (unless the inconsistent provisions of a council's adopted code of conduct are more onerous than those contained in the Model Code of Conduct).

Following the adoption of the Code of Conduct a review will be undertaken of related policies of the Council to ensure that there is consistency in the standards applied.

**Risk Implications**

The new obligations created by the adoption of the Code of Conduct will require an intensive training and education program specialised for Councillors, Staff, Committee Members and Contractors. This program of education will be undertaken throughout the remaining months of 2019 and be incorporated in future induction training packages.

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## CL19.142 Investment Report - April 2019

**HPERM Ref:** D19/164568

**Group:** Finance Corporate & Community Services Group  
**Section:** Finance

**Attachments:** 1. April Monthly Investment Report - Shoalhaven City Council (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 30 April 2019 be received for information.

### Options

1. The report on the Record of Investments for the period to 30 April 2019 be received for information.

Implications: Nil

2. Further information regarding the Record of Investments for the period to 30 April 2019 be requested.

Implications: Nil

3. The report of the Record of Investments for the period to 30 April 2019 be received for information with any changes requested for the Record of Investments to be reflected in the report for the period to 31 May 2019.

Implications: Nil

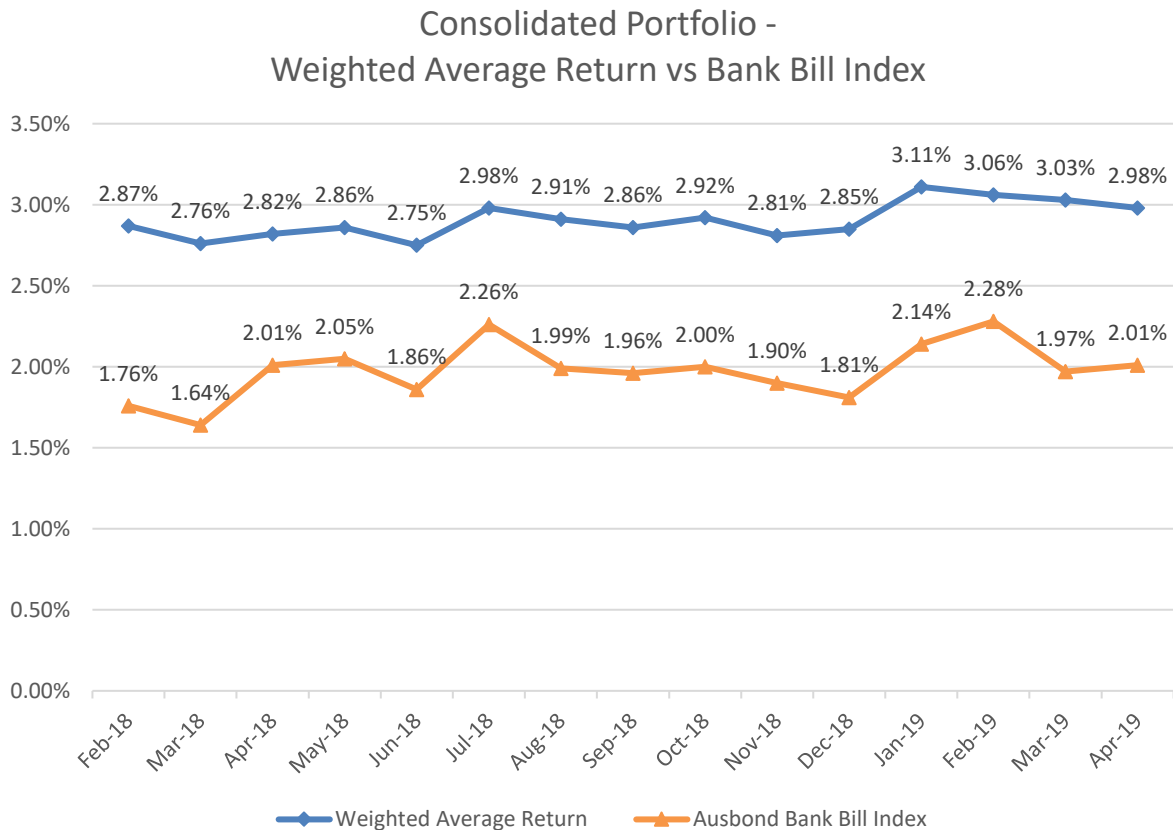
### Background

Please refer to the attached monthly report provided by Council's Investment Advisor, CPG Research and Advisory Pty Ltd. As previously noted in the March Report, the investment advisors again have specifically commented on issues relating to Council's inability to increase investments with non-fossil fuel institutions. A Councillor Briefing with CPG is scheduled for 20 June to explore these issues in more detail.

Council's investment portfolio returned a strong 2.98% for the month of April 2019, exceeding the benchmark AusBond Bank Bill Index (2.01% pa) by 97 basis points (0.97%).

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



The interest earned to the month of April was \$5,177,657; 90.01% of the current full year budget.

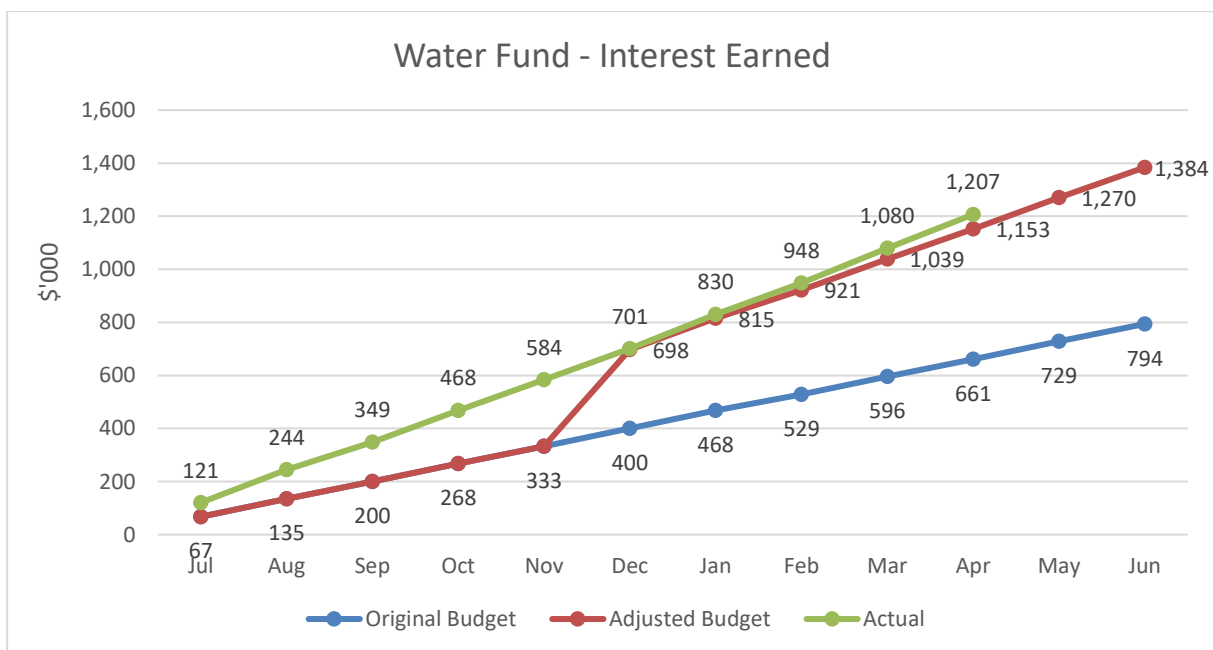
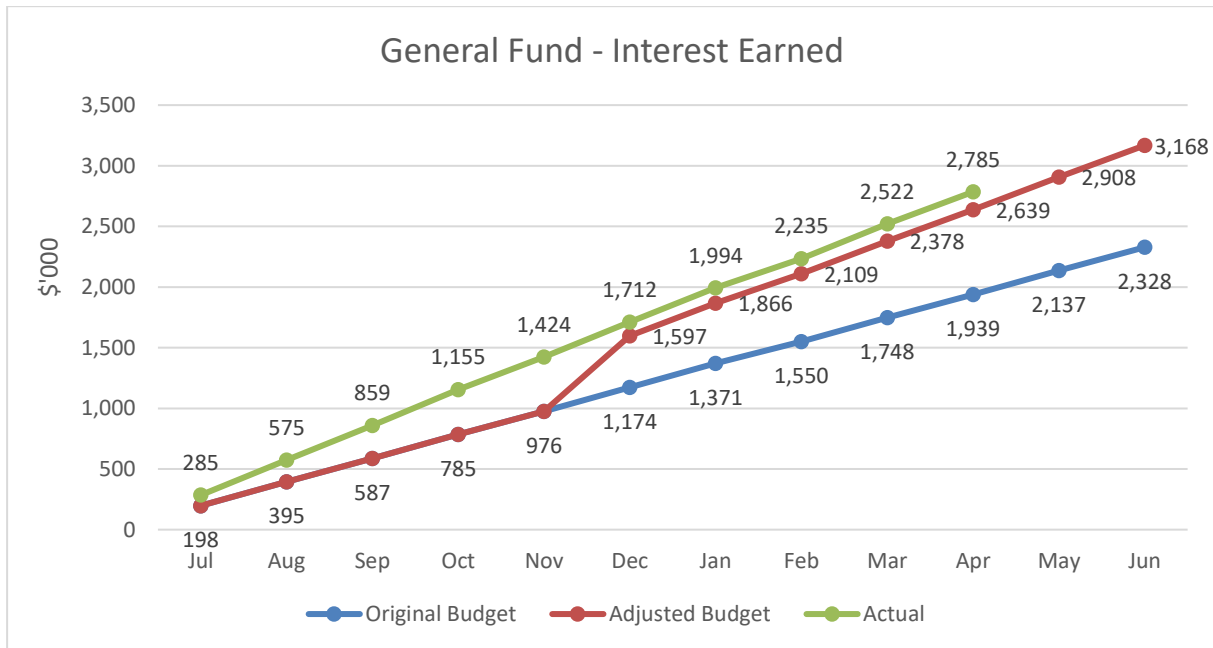
Fund	Original Budget	Actual	%	Revised Budget	Revised %
General	\$2,328,000	\$2,784,844	119.62%	\$3,168,000	87.91%
Water	\$794,000	\$1,206,703	151.98%	\$1,384,000	87.19%
Sewer	\$900,000	\$1,186,109	131.79%	\$1,200,000	98.84%
<b>Total</b>	<b>\$4,022,000</b>	<b>\$5,177,657</b>	<b>128.73%</b>	<b>\$5,752,000</b>	<b>90.01%</b>

The interest earned for the month of April was \$503,062; which was \$30,295 above the current budget.

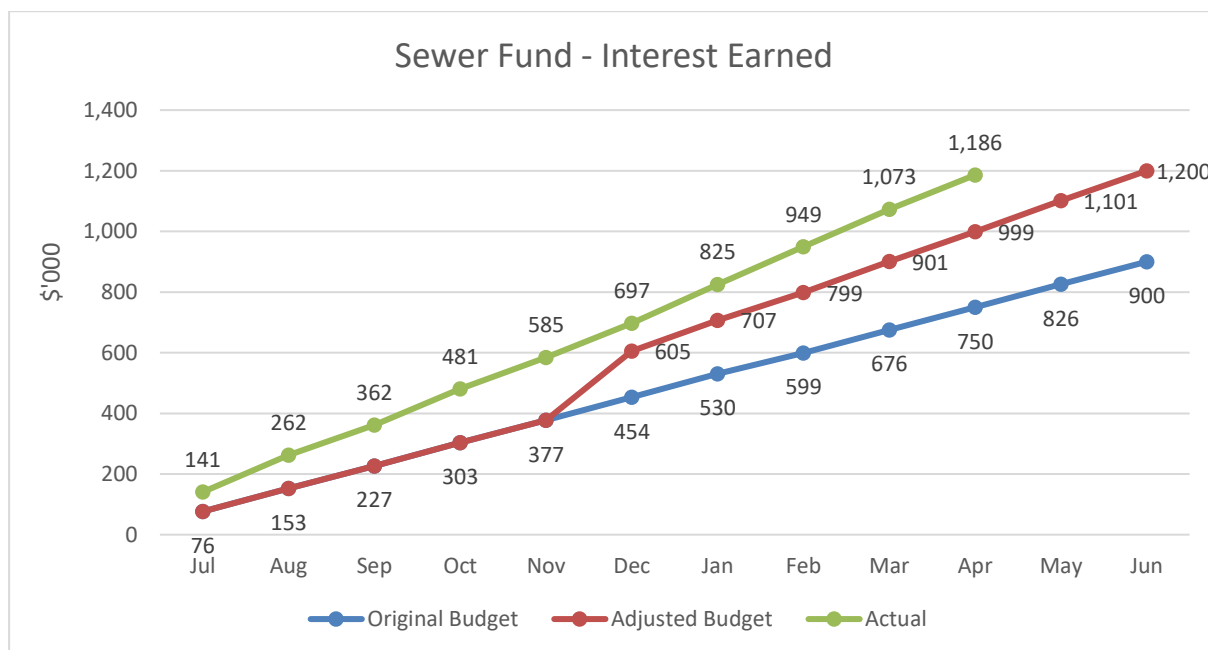
Fund	Original Monthly Budget	Actual	Difference	Revised Budget	Revised Difference
General	\$191,342	\$263,322	\$71,979	\$260,384	\$2,938
Water	\$65,260	\$126,620	\$61,360	\$113,753	\$12,867
Sewer	\$73,973	\$113,120	\$39,147	\$98,630.14	\$14,490
<b>Total</b>	<b>\$330,575</b>	<b>\$503,062</b>	<b>\$172,486</b>	<b>\$472,767</b>	<b>\$30,295</b>

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The graphs below illustrate the cumulative interest earned for the year for each Fund against original and adjusted budgets.



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## RECORD OF INVESTMENTS Cash and Investment Balances

	April 2019	March 2019
<b>Cash And Investments Held</b>		
Cash at Bank - Transactional Account	\$7,620,749	\$4,315,882
Cash at Bank - Trust Fund	\$0	\$0
Cash on Hand	\$32,590	\$38,940
Other Cash and Investments	\$195,190,753	\$200,111,917
	<b>\$202,844,092</b>	<b>\$204,466,738</b>
 Fair Value Adjustment	 \$262,062	 \$262,062
Bank Reconciliation	-\$488,787	-\$371,259
	-\$226,725	-\$109,197
 <b>Book Value of Cash and Investments</b>	 <b>\$202,617,367</b>	 <b>\$204,357,541</b>
 <b>Less Cash &amp; Investments Held In Relation To Restricted Assets</b>		
Employee Leave Entitlements	\$8,136,913	\$8,136,913
Land Decontamination	\$1,088,774	\$1,090,193
Critical Asset Compliance	\$2,025,422	\$2,032,029
North Nowra Link Road	\$457,199	\$457,228
Other Internal Reserves	\$8,228,003	\$8,705,532
Section 7.11 Matching Funds	\$311,169	\$311,169
Industrial Land Development Reserve	\$6,388,100	\$6,481,785
Plant Replacement	\$2,574,444	\$2,808,332
Financial Assistance Grant	\$1,554,366	\$1,554,366
S7.11 Recoupment	\$1,876,048	\$1,877,282
Commitment To Capital Works	\$2,749,211	\$2,770,316
Property Reserve	\$621,980	\$639,921
<b>Total Internally Restricted</b>	<b>\$36,011,628</b>	<b>\$36,865,067</b>
 Loans - General Fund	 \$4,295,300	 \$4,411,972
Self Insurance Liability	\$1,256,688	\$1,313,081
Grant reserve	\$9,644,093	\$9,495,955
Section 7.11	\$32,696,128	\$32,565,165
Storm Water Levy	\$1,194,011	\$1,248,277
Trust - Mayors Relief Fund	\$86,702	\$86,693
Trust - General Trust	\$3,801,038	\$3,852,907
Waste Disposal	\$6,722,101	\$7,309,873
Sewer Fund	\$48,453,361	\$46,999,142
Sewer Plant Fund	\$2,721,531	\$2,637,473
Section 64 Water	\$18,964,888	\$18,890,053
Water Fund	\$27,423,568	\$26,750,272
Water Communication Towers	\$1,883,975	\$1,794,990
Water Plant Fund	\$2,842,472	\$2,776,851
<b>Total Externally Restricted</b>	<b>\$161,985,858</b>	<b>\$160,132,704</b>
 <b>Total Restricted</b>	 <b>\$197,963,058</b>	 <b>\$196,997,771</b>
 <b>Unrestricted Cash And Investments</b>		
General Fund	\$4,654,309	\$7,359,770

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The below table lists the major movements:

Total Cash and Investments	-\$1,740,174	
Water Fund	\$673,296	Normal operating cycle
Waste Disposal	-\$587,772	April was not a rates instalment month
Sewer Fund	\$1,454,219	Expenditure on REMS1B has slowed
Unrestricted General Fund	-\$2,705,461	April was not a rates instalment month

### Financial Implications

It is important for Council to be informed about its investments on a regular basis. Revenue from interest 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

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## CL19.143 TC19.20 - Proposed Line Marking - The Lake Circuit Culburra Beach

HPERM Ref: D19/162230

**Group:** Assets & Works Group  
**Section:** Technical Services

### Purpose / Summary

The report is submitted received for information.

### Recommendation

That Council note that the Shoalhaven Traffic Committee has no objection to the proposed line marking works on The Lake Circuit, Culburra Beach from CH0 to 1.065km.

### Options

1. That Council accepts the line marking on the Lake Circuit Culburra Beach

Implications: The line marking is in relation to the proposed rehabilitation works along the Lake Circuit and there is no danger of it being affected.

### Background

At the Ordinary Council Meeting 29 April 2019 the following was resolved in relation to Item TC19.20:

*That this item Proposed Line Marking - The Lake Circuit Culburra Beach be deferred pending the investigation from the General Manager (Director, Assets & Works).*

Advice has been received that this line marking is in relation to the proposed rehabilitation works along The Lake Circuit and thus the line marking work is not in danger of being “ripped up” as was the concern.

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## CL19.144 Tenders - Management and Operation - Holiday Haven Bendalong

**HPERM Ref:** D19/154070

**Group:** Assets & Works Group  
**Section:** Business & Property

### Purpose / Summary

To inform Council of the tender process for Management and Operation – Holiday Haven Bendalong.

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. Accept the recommendation as presented.

Implications: Consider a separate confidential report on the matter.

2. Defer a determination/decision on the matter pending discussion at a Councillor briefing.

Implications: This is not recommended as an extensive tender evaluation has been undertaken.

### Details

Tenders for the management and operation of Holiday Haven Bendalong were advertised 6 April 2019; closing on 30 April 2019.

At the closing date, seven (7) tenders had been received and were then assessed; the outcome of the evaluation is in the confidential report.

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### Tenders Received

Tenders were received from the following:

<b>Tenderer</b>	<b>Location</b>
Lidia & Brendon Hill	Vincentia
(Balfawk Pty Ltd) Keith Balmer & Sharon Fawkes	Culburra Beach
Gary Henderson	East Gippsland
(Denrick Pty Ltd) Ken and Debra Nicholls	Sussex Inlet
Luke and Rhyannan Austin	Ulladulla
(1953 Pty Ltd) Gordon & Julie Steele	Cowra
Paul Windshuttle Lawns & Gardens	Ulladulla

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

### **Community Engagement:**

The tender process for the appointment of a management contractor to Council's Holiday Haven Park at Bandalong has been followed within the requirements of the provisions of the Local Government Act.

### **Financial Implications:**

Financial aspects of the management contracts for Council's commercially operated Holiday Parks are a balance between sufficient funds for the contractor to provide a prudent level of staffing and equipment to effectively operate these complex properties, and the need for Council to obtain the best value for money. Holiday Haven considers the cost of operating these properties carefully in order to maintain an adequate business benefit to Council and a return to the Contractor that ensures the properties are operated and maintained for Council to the required industry standards.

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## CL19.145 Tenders - Management and Operation - Holiday Haven Lake Conjola

**HPERM Ref:** D19/155537

**Group:** Assets & Works Group  
**Section:** Business & Property

### Purpose / Summary

To inform Council of the tender process for Management and Operation – Holiday Haven Lake Conjola.

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. Accept the recommendation as presented.

Implications: Consider a separate confidential report on the matter.

2. Defer a determination/decision on the matter pending discussion at a Councillor briefing.

Implications: This is not recommended as an extensive tender evaluation has been undertaken.

### Details

Tenders for the management and operation of Holiday Haven Lake Conjola were advertised 6 April 2019; closing on 30 April 2019.

At the closing date, four (4) tenders had been received and were then assessed; the outcome of the evaluation is in the confidential report.

CL19.145

Tenders Received

Tenders were received from the following:

<b>Tenderer</b>	<b>Location</b>
Lidia & Brendon Hill	Vincentia
A.N MacDougall Pty Ltd	Lake Conjola
Gordon & Julie Steele	Cowra
Paul Windshuttle	Ulladulla

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

**Community Engagement:**

The tender process for the appointment of a management contractor to Council's Holiday Haven Park at Lake Conjola has been followed within the requirements of the provisions of the Local Government Act.

**Financial Implications:**

Financial aspects of the management contracts for Council's commercially operated Holiday Parks are a balance between sufficient funds for the contractor to provide a prudent level of staffing and equipment to effectively operate these complex properties, and the need for Council to obtain the best value for money. Holiday Haven considers the cost of operating these properties carefully in order to maintain an adequate business benefit to Council and a return to the Contractor that ensures the properties are operated and maintained for Council to the required industry standards.

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## CL19.146 Development Options DA17/2435 - Removal of St Georges Basin Service Lane

HPERM Ref: D19/152666

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

### Purpose / Summary

This matter is reported direct to the Council meeting given that the Development & Environment Committee resolved on 7 May 2019 that it was a matter of urgency.

This report outlines the possible development options at 148 Island Point Road, St Georges Basin, for the applicant of Development Consent No. DA17/2435 arising from the resolution to delete the proposed service lane from the Shoalhaven Development Control Plan (DCP) 2014 and the related project from the Shoalhaven Contribution Plan (CP) 2019.

### Recommendation

That Council:

1. Receive this report for information;
2. Consider future applications by the applicant of Development Consent No. DA17/2435 for 'deferral' of contributions for the project 03ROAD2113 St Georges Basin Service Lane if received; and
3. Advise the applicant of Council's resolution and continue to provide advice to the applicant, as required, regarding the development of the property 148 Island Point Road, St Georges Basin.

### Options

1. Adopt the Recommendation  
Implications: No implications.
2. Adopt an Alternate Recommendation  
Implications: Depending on the alternate recommendation, there may be financial and policy implications for Council that have not been considered or addressed.

### Summary

Council resolved at its Development & Environment Committee held on 7 May 2019 to:

1. *Commence the necessary steps to remove the proposed service lane from the Shoalhaven Development Control Plan 2014 and Shoalhaven Contributions Plan 2019 and allow front access from Island Point Road to the four (4) relevant properties, excluding Lot 45 DP 25550 where vehicle access from Island Point Road would not be practical.*
2. *Request a further urgent report on the options arising from this decision on the possible development of 148 Island Point Road St Georges Basin that is the subject of a recent development approval (DA17/2435).*

Consistent with Part 1 of the resolution, Council's Strategic Planning team will prepare the necessary amendments to delete the proposed service lane from the DCP and CP and to allow front access from Island Point Road to the four (4) relevant properties, excluding Lot 45 DP 25550 where vehicle access direct from Island Point Road would not be practical.

This report specifically addresses Part 2 of the resolution. There are a number of development options that are available to the applicant following Council's resolution and these are outlined below.

### Development Options

- i. Action the current development consent and defer contributions.

This would require an application to modify the consent as a result of Council's decision to delete the service lane from the DCP and CP. As the amendment to these plans has not yet been drafted and advanced, it is recommended that if the applicant pursues this option, at least an application be made to 'defer' the contributions payable for the project that is proposed to be deleted. Payment of appropriate application fees would also be required for the application to modify.

Implications: This will permit the development to proceed in its current approved form should the deferment of the contributions be agreed to.

- ii. Modify the approved development as a result of Council's decision.

This would also require an application to modify the consent along with payment of appropriate application fees, depending on the nature of development propose.

Again, if the applicant pursues this option before the CP is formally amended and the project removed, then an application to 'defer' the contributions payable for the project that is to be deleted will also be needed

Implications: This would result in the applicant needing to reconsider the design of the proposal. The relevant provisions of section 4.55, *Environmental Planning and Assessment Act 1979*, would need to be adequately addressed with any application, particularly to ensure Council is satisfied that the development is substantially the same as the development for which consent was originally granted.

- iii. Submit a completely new development application for a proposed development to Council along with payment of appropriate application fees.

Again, if the applicant pursues this option before the CP is formally amended and the project removed, then an application to 'defer' the contributions payable for the project that is to be deleted will also be needed

Implications: This would result in the applicant reconsidering the design of the proposal and submitting a new application. The relevant provisions of section 4.15, *Environmental Planning and Assessment Act 1979*, would need to be adequately addressed with any application. The consistency of the proposed development with the LEP and remaining provisions in the DCP would need to be assessed

### Conclusion

As detailed above, there are a number of options available to the applicant of DA17/2435 for the development of 148 Island Point Road, St Georges Basin. In regard to assessment, there would be little difference between options 2 and 3, depending on the nature of the modifications made.

Council staff will continue to work on the necessary amendments to the DCP and CP to delete the proposed service lane. Further, staff will continue to liaise with, and provide assistance to the applicant to resolve identified issues.

## CL19.147 RD18/1007 – 315 Princes Highway Bomaderry – Lot 2 DP 777260

**DA. No:** RD18/1007/4

**HPERM Ref:** D19/157226

**Group:** Planning Environment & Development Group  
**Section:** Development Services

**Attachments:**

1. Determination of Development Application - Refusal [↓](#)
2. Site Plan [↓](#)
3. Landscape Plan [↓](#)
4. Aerial Perspective [↓](#)
5. Assessment Report (under separate cover) [⇒](#)
6. Water Quality Report (under separate cover) [⇒](#)
7. Amended Landscaping Plan - Review of Determination [↓](#)
8. Acoustic Report (under separate cover) [⇒](#)
9. Draft Conditions (under separate cover) [⇒](#)

**Description of Development:** Demolition of existing structures and construction of a staged multi-dwelling housing development comprising 40 dwellings.

**Owner:** Sabra Company Pty Ltd  
**Applicant:** Sabra Company Pty Ltd

**Notification Dates:** 12 March 2019 to 27 March 2019

**No. of Submissions:** Two (2) in objection

### Purpose / Reason for consideration by Council

In accordance with Section 8.3(4)(b) of the *Environmental Planning and Assessment Act 1979* (the Act), a Review of Determination Application lodged in accordance with section 8.2 of the Act is to be conducted by another delegate of Council who is not subordinate to the delegate who made the determination or decision. A determination of such review must be made within 6 months of the original determination date.

As the initial Development Application (DA) was determined by way of Refusal by Council's Acting Group Director – Planning, Environment & Development Group, the subject application was to be determined by the Development and Environment Committee.

On 7 May 2019 the Development and Environment Committee Meeting resolved:

*That Council defer the determination of this matter to allow the applicant to provide the information required with an addendum report to be submitted to the Council meeting on 28 May 2019.*

This is the addendum report as per the resolution of 7 May 2019.

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## Recommendation

That Council:

1. Reaffirm the determination (refusal) of DA18/1000, dated 30 November 2018, for the demolition of existing structures and construction of a staged multi-dwelling housing development comprising 40 dwellings at Lot 2 DP 777260, 315 Princes Highway, Bomaderry.
2. Reissue the determination notice removing Reason for Refusal No. 1 as Endeavour Energy has conditionally supported the proposal.

## Options

1. Reaffirm the decision to refuse the application in accordance with the recommendation of this report.

Implications: This would result in the determination remaining in place. An appeal with the Land and Environment Court is possible in the event of a refusal of the application. There is no ability for further review (section 8.2(3)).

2. Support the development

Implications: Council could choose, following the consideration of the section 8.2 application, to support and ultimately approve the development application if it considers that the provisions of section 4.15(1) have been satisfactorily addressed. Council would need to provide reasons for supporting the development. Draft conditions of consent have been prepared in the event that Council chooses to support the development (refer attachments).

3. In considering this report and supporting information, Council may choose to express general support for the proposed development and, having regard to the legislative timeframes associated with the Review process (which is nearly complete), invite the applicant to submit a new development application, particularly addressing the issues of noise attenuation within residential units (Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007), increase in landscaping and reduction of impact on adjoining development and acceptable stormwater disposal concept.

Implications: This option would need to be adopted in conjunction with option 1, due to legislative timeframes for the review; it would also provide a general direction for the applicant to achieve a modified proposal, addressing amenity issues.

## Background

### Division 8.2 Reviews, Environmental Planning and Assessment Act 1979

An application lodged under section 8.2 of the Act allows an applicant to request a consent authority to review a determination or decision which they made. After conducting its review, the relevant consent authority (in this instance Council) may reaffirm or change its determination or decision.

### Proposed Development

The applicant sought approval as part of the Development Application (DA18/1000) to develop the site by undertaking the following works:

- **Demolition** – Demolition of existing structures including a disused commercial building (southern part) and concrete slab (northern part).

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- **Staged Multi-Dwelling Development** – Construction of a multi-dwelling housing development consisting of a total of 40 x 3-bedroom, two storey dwellings together with an internal road network, visitor car parking areas, and landscaping/open space.

A Site Plan depicting the layout of the proposed development is provided at **Attachment 2**. The Assessment Report of DA18/1000 is provided at **Attachment 5**.

### Subject Land

The development site is described as Lot 2 in DP 777260 and is located at No. 315 Princes Highway Bomaderry. **Figure 1 – Location Map** (see below) depicts the property and its location with respect to the surrounding locality.

**Figure 1 – Location Map**



### Site & Context

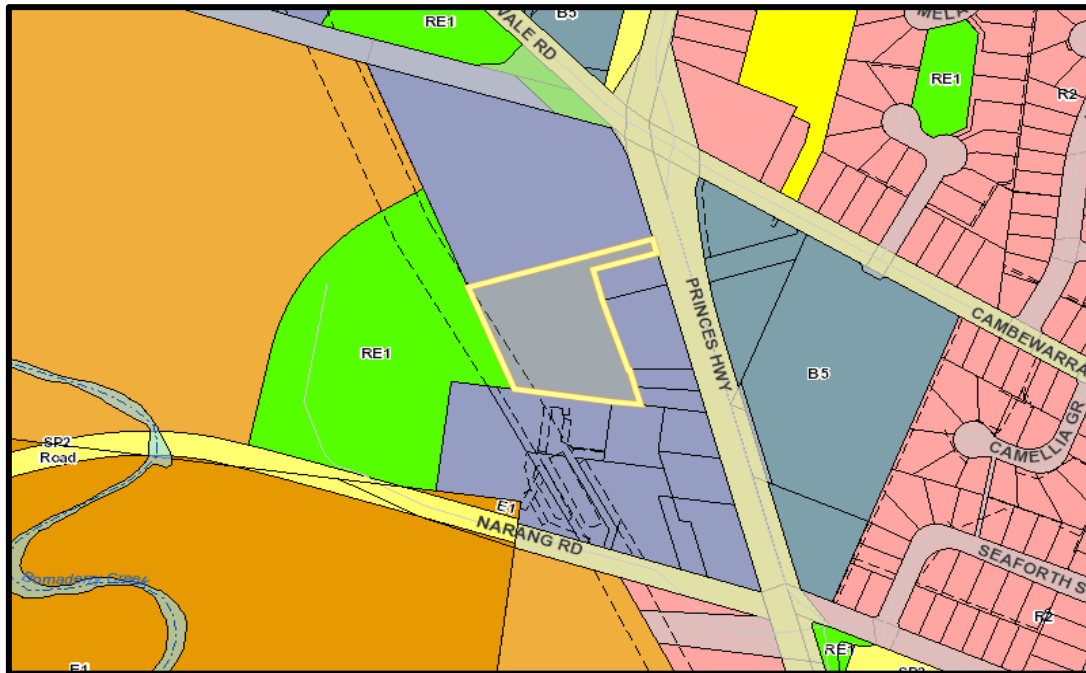
The following provides a description of the property and its context with respect to neighbouring and surrounding development sites:

- Contains an existing disused industrial building in the southern part and disused concrete pad in the northern part with the remainder of the site being vacant;
- Has a minor slope downwards from a high point adjacent to Princes Highway towards a low point at the western rear boundary;
- Is a battle-axe lot where the sole point of vehicular access is obtained via the access handle to the Princes Highway;
- Is zoned B4 Mixed Use subject to the Shoalhaven Local Environmental Plan (SLEP) 2014 (refer **Figure 2 – Zoning Extract** below);
- Is surrounded by a mix of uses including Council-owned land occupied by tennis courts to the west, an existing building used for indoor recreation purposes to the south, an existing commercial building occupied by several tenants to the north, and a mixture of existing detached residential development and tourist and visitor accommodation to the east; and

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- The site is located within close vicinity to the location of the approved Aldi Supermarket (Lot 54 DP 747129 Narang Road, Bomaderry) and Woolworths Supermarket (320 Princes Highway, Bomaderry).

**Figure 2 – Zoning Extract**



### History

A detailed history of the proposal was previously provided in the 7 May Report and is detailed in the attached Assessment Report.

### **Issues**

#### Review of Determination

**Reason for Refusal No. 1 – Non-Compliance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007**

Following lodgement of the s8.2 Review of Determination Application, Council conducted a further external referral with Endeavour Energy on 3 March 2019 who provided the following pertinent comments:

*Since Endeavour Energy's submission made to Council on 5 February 2018 the applicant has been in contact with Endeavour Energy's Easements Officer, Jennie Saban, who has provided the following advice regarding progress in resolving the easement management issues related to the Development Application:*

- 27 February 2019. Email to Council copied to Sabra Company advising that:  
*After careful review, Endeavour Energy will give conditional approval for the DA18/1000 with the following requirements to be confirmed at construction certificate phrase:*
  1. That low voltage service conductor running parallel to the side boundary will be placed underground.
  2. A report is provided by an electrical engineer/ASP that the earthing of any structures (e.g.; drainage pits etc.) complies with Australian/New Zealand Standards As/NZS 3000:2018.

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- 25 March 2019. Email received from the Director of AA Power Engineering, Ali Alaouie, including the attached earthing design. The email indicates 'Please note this earthing is to comply with AS3000 and a certificate is to be provided by the electrician at the end of the job'. The applicant has advised Endeavour Energy that no parts whatsoever of the proposed dwellings / town houses will encroach the easement area for the 33 kV high voltage overhead power lines.
- Based on the foregoing and the further recommendations and comments Endeavour Energy's submission made to Council on 5 February 2018, Endeavour Energy has no objection to the Development Application.

Based upon the above advice provided by Endeavour Energy and the requirement of Clause 45 of the ISEPP to 'take into consideration any response to the notice that is received within 21 days after the notice is given', it is considered that the applicant has now demonstrated compliance with Clause 45 of the ISEPP.

Conclusion: Reason for Refusal No. 1 should be removed from the determination notice, if the recommendation to reaffirm the refusal determination is adopted.

**Reason for Refusal No. 2 – Non-Compliance with Clause 102 of State Environmental Planning Policy (Infrastructure) 2007**

Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007 provides that this section is applicable to land in or adjacent to the road corridor for a freeway, tollway or transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

- (a) residential accommodation,
- (b) a place of public worship,
- (c) a hospital,
- (d) an educational establishment or centre-based child care facility.

It was noted by the assessment officer that the proposed development is for residential accommodation (being a multi-dwelling housing development) and has direct frontage to a freeway with a traffic volume of more than 20,000 vehicles.

In accordance with clause 102(2), the Director-General has issued guidelines (*Development near Rail Corridors and Busy Roads – Interim Guideline 2008*) for noise attenuation for suitable indoor noise levels for residential developments with open windows allowing natural ventilation of indoor areas being:

- (a) in any bedroom in the residential accommodation—45 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—50 dB(A) at any time.

In accordance with Clause 102(3), a consent authority is not permitted to grant consent to a development unless it is satisfied that appropriate measures would be undertaken to ensure the following noise levels are achieved for residential developments (closed windows);

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Given the high traffic volume of the Princes Highway and sensitive nature of the proposed land use, the development has the potential to be adversely affected by traffic noise. It was noted in the initial assessment of the DA that the applicant had not addressed how the development would comply with the requirements of Clause 102.

In response to the resolution of the Development and Environment Committee Meeting on 7 May 2019, the applicant provided an Acoustical Report prepared by Koikas Acoustics Pty Ltd (dated 13 May 2019).

The Acoustical Report made the following conclusions;

- *The townhouses can be sufficiently insulated against existing external sources of noise (Scenario 1) in the area such as road traffic through the use of standard building materials. No additional acoustic attenuation measures are required. In this case, road traffic noise levels are not significant and naturally ventilated rooms are expected to achieve the 'open windows' noise criteria described in this report.*
- *Based on the results of the analysis in noise model scenario 2, the future project road traffic noise level with inclusion of the townhouse development is found to be  $L_{Aeq,1hr}$  44dB and therefore comply with the Road Noise Policy. No additional acoustic attenuation measures are required.*

The Acoustical Report was reviewed by Council's Environmental Services which made the following comments regarding the Report as part of a referral response;

*The consultant has concluded that the building as proposed will not require any additional treatment to meet the planning noise levels as required by the ISEPP.*

*The acoustical assessment shows anticipated noise levels to be 53 – 57 dbA at the closest buildings to the highway on the ground floor and 57 – 59 dbA to the first floor.*

*The ISEPP requires noise levels to be below 45dbA in bedrooms with the windows open and 35 dbA with windows closed.*

*Further discussion with the acoustic consultant has confirmed that the development will meet the noise requirements of the ISEPP.*

As provided in the above referral response from Council's Environmental Services, Council is now satisfied that the development, and in particular the dwellings located closest to the Princes Highway, would achieve compliance with the noise levels required in accordance with clause 102 of the ISEPP.

Should Council choose to approve the proposed development, it is recommended that a condition be imposed that details of any noise attenuation measures proposed to be installed to permit compliance be required to be detailed at Construction Certificate stage.

Conclusion: Reason for Refusal No. 2 should be removed from the determination notice, if the recommendation to reaffirm the refusal determination is adopted.

***Reason for Refusal No. 3 – Non-Compliance with the objectives for the B4 Mixed Use Zone under the Shoalhaven Local Environmental Plan (SLEP) 2014.***

In the assessment of the initial Development Application, the assessment officer identified that insufficient consideration was given to the impact of the development on the amenity of adjoining properties and the treatment of common boundaries. Further, whilst the residential development is in an accessible location, it was identified that the proposal would have the potential to result in land use conflicts, which reinforces the need for retention of amenity levels within the site. The assessment officer therefore determined that the proposal does not satisfy the objectives of Zone B4.

The zone objectives are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

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The applicant provides within the Review of Determination Application that *'the proposed residential land use is considered to be compatible with the surrounding land uses'*. However, it is noted that no further reasoning was provided as to why/how the proposal would be compatible with the surrounding land uses. It is also noted that no further consideration was given to the treatment of common boundaries as a measure to reduce amenity impacts upon sensitive land uses within the locality and enhance the amenity of proposed residents.

No changes have been proposed to the design of the development, including the number of proposed dwellings, the layout, or positioning of perimeter roads with respect to the property boundaries. In this regard it is assessed that the proposal still does not provide for a mixture of compatible land uses where *suitable* business, office, residential, retail, and other development are integrated.

Given the vastly differing nature of land uses bordering the site, it is assessed that the interface between neighbouring land uses needs to be further addressed through increased separation and/or buffering through landscaping, to maintain suitable levels of visual and acoustic amenity within the locality. It is considered that the current proposal would result in a reduction in acoustic and visual amenity for residents of the site as well as for occupants of neighbouring properties and is therefore not considered to be compatible or suitable in its current form.

Conclusion: Reason for Refusal No. 3 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 4 –** *Insufficient information submitted to demonstrate compliance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014.*

As part of the initial Development Application, the applicant submitted a Concept Stormwater Drainage Plan detailing how stormwater would be disposed from the impervious surface areas associated with the development. As per the submitted plan, a series of pits and pipes were proposed to collect runoff throughout the development, discharging to an on-site detention tank in the north-western corner of the site via a gross pollutant trap.

Overflow drainage from the detention tank was then proposed to be discharged via a pipe over the adjoining Council reserve, discharging to an existing Council stormwater main.

As part of Council's response to the submitted concept plan, the applicant was advised of the following issues relating to the submitted drainage design (following a review of the proposal by Council's Development Engineer):

*Consideration should be given to the layout of the line, which includes several changes of direction (some up to 90 degrees). As per Council's engineering design specifications, pits are required at all changes of direction. A drainage long section plan should be provided to assess the suitability of the proposal, taking into account the effect of the deflections in the line.*

*The capacity of the existing pit and outlet pipe on the south-western corner of the tennis courts is also unknown. It appears that (at least a proportion of) the drainage from the tennis courts enters this pit.*

It was noted by the assessment officer that Council's Development Engineer was generally satisfied with the proposal, subject to the submission of amended drainage concept plans and consideration given to assessing pollutant loads from the development, and the provision of calculations to ensure that Council's stormwater main has the capacity to cater for the additional loads produced by the proposed development.

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A further information request was sent to the applicant seeking to address the matters raised by the Development Engineer; however, further design detail to the satisfaction of the Development Engineer was not provided.

The assessment officer therefore determined that insufficient information was submitted to permit compliance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014.

As part of their Review of Determination Application, the applicant provided the following documentation to assist in satisfying the concerns raised by the Development Engineer:

- Amended Stormwater Drainage Concept Plans depicting pits at each change of direction;
- Drainage long section plan and associated velocity/flow calculations;
- Plans for a proposed stormwater drainage easement through the Council reserve area; and
- Water Quality Report identifying pre-and post-development flow calculations (**Attachment 6**).

Whilst the applicant has submitted amended drainage documentation addressing the Development Engineer's concerns, specific reference is made to the submitted Water Quality Report which provides the following:

- The post-developed site would increase the pollutant load (TSS volume) from the predeveloped state from 27.447kg to 40.478kg which represents a 47.5% per annum increase. The report further states that, with the inclusion of turf cell paving, the pollutant load would be reduced to below the pre-developed levels.

Council's Development Engineer's advice regarding the turf cell pavement is noted, in particular the following comments:

*Evidence provided by the applicant supports Council's initial view that the proposed paving is not suitable for the proposed purpose, i.e. as a high use circulation roadway within a medium density development. It is more suitable as a parking bay, i.e. where a vehicle is likely to park and remain all day, rather than a roadway which is subject to traffic. This is a situation that will see the surface subject to potentially hundreds of vehicle movements each day. Regardless of the strength of the product, this is a level of traffic that will lead to the turf wearing out.*

Given the above comments, it is assessed that whilst pollutants may be reduced initially, given the likelihood that the turf and turf cell would wear out, it is likely that pollutant loads would increase to above the pre-developed levels.

As such the concerns raised by the Development Engineer remain outstanding and Council's position that insufficient information has been submitted to demonstrate compliance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014 has not changed.

Conclusion: Reason for Refusal No. 4 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 5** – *The development in its current form does not satisfy the objectives and performance criteria of chapter G3: Landscaping Design Guidelines of Shoalhaven Development Control Plan 2014.*

As part of the assessment of the initial DA, the assessment officer noted the following with regard to deficiencies with the submitted Landscape Plan:

- *The development is well set back from the Princes Hwy with only the access handle providing an interface with the streetscape. However, with regard to the adjoining development it is noted that only a minor landscaping buffer is proposed as a transition between adjoining developments. Along the eastern boundary there*

is an approximate 1m landscaping strip with mainly shrubs proposed and one tree. Further to the south, where the development adjoins dwelling houses, this increases to allow for more substantial plantings.

- Along the southern and western boundaries there is largely no landscape buffer, excepting the corners of the site. Although it is noted that there is commercial development to the south and a Council public reserve to the west (buffered by an electricity easement). Along the northern boundary there is an approximate 0.55m landscape buffer, which is an insufficient width for substantial plantings. This does increase along the access handle.

Further to the above comments regarding the submitted Landscape Plan, it was also noted by the assessment officer that, under Chapter G14 of the SDCP 2014, 35% of the site must be landscaped.

In October 2018 Chapters G13 – Dual Occupancy Development and G14 – Other Residential Development were combined into one Chapter being G13 – Medium Density and Other Residential Development.

While Chapter G13 does not apply in this instance, as the application was lodged prior to its adoption, it is worth noting that it would require 10% of the site to be high quality landscaping and a further 20% of the site to be landscaped. While this additional 20% may include areas such as decks, terraces, swimming pools and other recreation areas/structures it does not include driveways or parking spaces. It was estimated that only 19% of the site was proposed to be landscaped when not including 'turf-cell' paved driveway and parking spaces given their intended use fundamentally conflicts with the functioning of landscaped areas.

Going to the point made by the applicant about the role of a Development Control Plan (DCP), it is acknowledged that a DCP is a document providing guidance for developers and Council and that there are options to conform to acceptable solutions or satisfy performance solutions and ability to assess development with some flexibility. In this instance the applicant has not offered any solution as to how internal and external amenity levels will meet acceptable standards, as such, observing the number of units, building footprint and concentration of development, the original assessment not supporting the design remains relevant.

**Figure 3 – Landscape Plan extract**



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As part of the Review of Determination Application, the applicant submitted an updated Landscape Plan (**Attachment 7**). However, it was noted that minimal changes were made to the landscape design. It is therefore assessed that the amended Landscape Plan still does not satisfactorily address the objectives and performance criteria of Chapter G3: Landscaping Design Guidelines of Shoalhaven Development Control Plan 2014.

Conclusion: Reason for Refusal No. 5 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 6** – *The development in its current form does not satisfy the objectives and performance criteria of chapter G14: Other Residential Accommodation of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.22 Scale and Site Density.*

As part of the assessment of the initial Development Application, the assessment officer found that the proposed floor space ratio for the development would be 0.46:1, which represents a 31% variation to Acceptable Solution A4.1 of Chapter G14 of the SDCP 2014 which states a maximum floor space ratio of 0.35:1. This equates to a numerical departure of 1,258m<sup>2</sup>.

In the response to Reason for Refusal No. 6, the applicant provides the following:

*While the height of the proposed development has been capped at two storeys to be more in keeping with the existing surrounding built form, in terms of density, it is more akin to a residential flat building that could otherwise be built with consent on the site. However, for the purpose of categorising the proposed development under the LEP land use table, the development is referred to as a multi-dwelling housing development.*

Council disagrees with the statement that the development is more akin to a residential flat building than a multi-dwelling housing development. For the purpose of the assessment, the SLEP 2014 defines a multi-dwelling housing development as ‘3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building’ and a residential flat building as ‘a building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing’.

As per the above comments, the definitions for multi-dwelling housing and a residential flat building are not interchangeable. They are completely different developments and separately and distinctly characterised (legally defined in planning definitions).

It is assessed that the proposal is a multi-dwelling housing development given there are more than three dwellings, all of which are accessed at ground level whereas the development could not be accurately described as a single building which contains dwellings where such dwellings are not necessarily accessed at ground level.

Whilst there may be capacity to consider a higher density, this should not be at the expense of future residential amenity of the intended occupants.

To clarify concerns regarding the assessment framework, the characterisation of a development informs the assessment. By way of example if a development is characterised as a residential flat building and meets the criteria specified in the State’s Policy pertaining to the design quality of residential flat buildings, the development is assessed under that Policy and associated guidelines. If the development is a multi-unit development, classed as local development, it is assessed under the ‘local’ planning controls, which in this instance are embedded in Council’s adopted Development Control Plan.

It is noted that no alteration has been made to the design of the development since determined or following consideration by Council on 7 May 2019. The site coverage and the proposed site coverage remains 0.46:1, which is a 31% departure from the stated acceptable solution. It is therefore assessed that the development as proposed does not satisfactorily address the objectives or performance criteria of chapter G14: Other Residential

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Accommodation of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.22 Scale and Site Density.

Conclusion: Reason for Refusal No. 6 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 7** – *The development in its current form does not satisfy the objectives and performance criteria of Chapter G21: Car Parking and Traffic of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.7 Landscape Design and 5.9 Construction Requirements.*

In their response to Reason for Refusal No. 7, the applicant provides the following:

*The internal circulation design provisions including aisle widths, bay dimensions will accord with the requirements of AS2890.1 & 6. There will be a two-way circulation arrangement with quite satisfactory provision for turning and manoeuvring.*

The reasons given by the assessment officer for the refusal of the Development Application are due to non-compliance with Section 5.7 – Landscape Design and Section 5.9 – Construction Requirements.

The following comments are provided with regard to the proposal's non-compliance with these sections:

#### Section 5.7

The amended Landscape Plan submitted by the applicant maintains a nominal setback of 1.0m to the eastern side boundary and 0.55m to the northern side boundary. However, no buffer has been provided to either the southern or western boundaries. It is further noted that there is a general lack of landscaping throughout the development – reference is also made in this regard to the aforementioned variation proposed to the general landscaping requirements of the development.

#### Section 5.9

The applicant has maintained their proposal for the use of turf cell paving throughout the development which does not meet the general design and construction standard for a medium density residential development specified within A13.4 – Chapter G21 of the SDCP 2014. The aforementioned comments provided by the Development Engineer are noted where it was identified that the evidence provided by the applicant supports Council's initial view that the proposed paving is not suitable for the proposed purpose.

Given that no alterations have been made to the proposal which would enable compliance Sections 5.7 and/or 5.9, the reason for refusal remains valid.

Conclusion: Reason for Refusal No. 7 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 8** – *The development in its current form does not satisfactorily demonstrate there will not be significant adverse amenity affects upon adjoining properties or upon future residents.*

The applicant identifies in their response to Reason for Refusal No. 8 that:

*'the proposed development will not have an unreasonable impact on the adjoining properties in terms of aural and visual privacy, overshadowing, traffic and parking etc' and further that 'the relationship and separation between the proposed development and the adjoining residential properties is such that appropriate visual and acoustic privacy will be maintained'.*

No evidentiary proof has been provided by the applicant that the proposal would not have an unreasonable impact upon the amenity of neighbouring properties, as it relates to visual amenity, acoustic amenity, and traffic.

To the contrary, it is noted that submissions have been received either from neighbours or by representatives acting on behalf of neighbours, formally objecting to the development on amenity grounds.

It is considered that the proposal would have an unreasonable impact on the adjoining properties in terms of aural and visual privacy, overshadowing, traffic and parking due to the following reasons;

- No interface (i.e. such as landscaping) separating the proposal and the adjoining uses being tourist and visitor accommodation, residences, indoor recreation facility, open space, and commercial premises.
- No landscaping or buffer between the perimeter road and the southern and western side boundaries and the minimal landscaping and buffer to the eastern and northern side boundaries.
- Forty proposed dwellings would result in a large number of traffic movements per day along the perimeter road and would result in impacts associated with acoustic amenity.
- Lack of landscaping or separation along boundaries would provide reduced visual and acoustic privacy for guests of neighbouring motor inns and residences.

It is further noted that no redesign of the development has been undertaken from the original proposal.

It is therefore considered that the proposal does not satisfactorily demonstrate that there will not be significant adverse amenity affects upon neighbouring and surrounding properties.

Conclusion: Reason for Refusal No. 8 should be retained within the determination notice issued to the applicant.

***Reason for Refusal No. 9 – The information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed development.***

As part of the assessment of the initial Development Application, the assessment officer noted that the site would not be suitable for the proposed multi-dwelling housing development for the following reasons:

- *It will result in poor amenity for adjoining properties.*
- *It will result in inadequate amenity for the future residents of the development.*
- *There has been insufficient consideration of the interface with adjoining properties and land uses and will likely result in land use conflicts.*
- *The development in its current format is an overdevelopment of the site.*

As part of their Review of Determination Application, the applicant provided that the site would be suitable for the proposed development for the following reasons:

- *The site is zoned to accommodate this type and form of development;*
- *The nature and form of the proposed development is generally consistent with the development controls which apply to the site;*
- *The scale and nature of the development is compatible with existing and anticipated future development in the locality;*

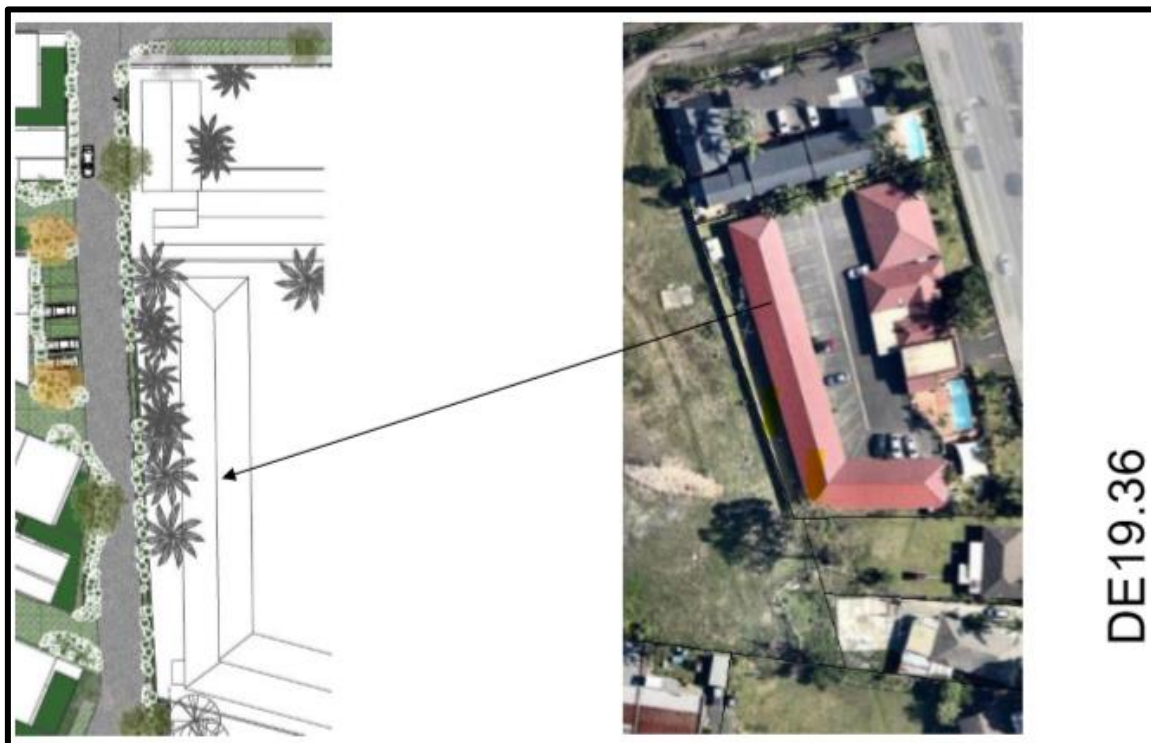
- *The size and dimensions of the land are suitable for the scale of the proposed development;*
- *The site will have access to all utility services to accommodate the demand generated by the proposed development;*
- *The proposed development is unlikely to result in any adverse traffic impacts; and*
- *The proposed development will not result in any unacceptable or material environmental impacts in relation to adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation.*

It is agreed that the site is suitably zoned, is of a configuration that could accommodate multi dwelling development however the review of the determination found that the proposed development would not provide a quality residential development with respect to amenity for occupants. In particular it is found that the current format provides for a substantial development footprint (31% variation to site coverage requirement and a 46% variation to landscaping requirement).

The extent of the development on the site means that there is significant site coverage to the detriment of amenity. There is insufficient separation between the development and land uses on neighbouring sites. An example of the insufficient separation is the lack of landscaping buffer provided between the development and surrounding land uses, particularly as it pertains to the perimeter road.

Conclusion: Reason for Refusal No. 9 should be retained within the determination notice issued to the applicant.

**Figure 4 – Landscape Plan extract showing perimeter road relative to boundary and adjoining motel development**



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**Reason for Refusal No. 10** – *Having regard to variations to planning controls and inconsistency with objectives, the granting of development consent is not considered to be in the public interest.*

As part of their assessment of the initial DA, the assessment officer noted that the development would not be within the public interest for the following reasons:

*There has been insufficient consideration of the amenity afforded to future residents of the development. Similarly, there has been insufficient consideration of the impacts upon adjoining properties and how the development is compatible with the future desired character of the area.*

As part of their Review of Determination Application, the applicant provided that the development would be within the public interest, with the following response being provided:

*The proposed development represents the orderly, economic use and development of the subject land, and the proposed density is well within the environmental capacity of the site. The development proposed under this application is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms of creating additional resident population that will in turn support local businesses and services. The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.*

Whilst it is acknowledged that an increased resident population would potentially provide an economic benefit to local businesses within the locality, it is considered that the proposed density is of major concern. The scale of development reflected by the density and site cover is likely to result in impacts upon both residents within the locality and residents/guests of surrounding developments due to the limited setback and buffering/separation between structures and in particular the limited separation between neighbouring properties and the perimeter road.

It is considered that, whilst the design of each individual dwelling is sound, the design is not responsive in terms of its relationship with adjoining developments for the aforementioned reasons. Further, the overall design presents significant environmental concerns, particularly in regard to the use of “turf cell” to reduce stormwater pollutant loads and the ongoing viability of this product for shared vehicle/pedestrian areas

Additionally, whilst the development will provide a type of housing in addition to conventional single dwellings, there is no variety in housing form or choice within the proposed complex. The design is relatively homogenous in architecture and internal layout with all being 3 bedrooms.

**Conclusion:** Reason for Refusal No. 10 should be retained within the determination notice issued to the applicant.

### **Planning Assessment**

The DA has been assessed under s4.15 (as at the time of assessment) of the Act. This ‘assessment’ is a formal review under the relevant provisions of the Act, having specific regard to the reason for the refusal.

### **Consultation and Community Engagement**

Community consultation was detailed in the May Report.

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**Financial Implications**

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

**Legal Implications**

An appeal with the Land and Environment Court is possible in the event of a refusal of the application.

**Summary and Conclusion**

To summarise, the key issues concerning the proposal remain the same with the original application excepting concerns by Endeavour Energy and noise impacts from the Princes Highway.

The request to formally review the application DA18/1000 has been undertaken in accordance with Division 8.2 (Reviews) under the Act, also having regard to relevant provisions of section 4.15 (Evaluation). As such, it is recommended that the refusal be reaffirmed. If Council is inclined to support the recommendation for refusal, it is recommended that the Determination is reissued removing the first and second reasons for refusal.

If however Council is inclined to support the proposal, a draft determination is attached.

It is recommended that any determination to approve the development includes conditions to address the potential noise impacts from the Princes Highway on the residents, and that paving is required to be used in place of the proposed permeable turf paving on the basis that it will be more practical and maintainable in the long term. The change in paving type would also require a revised stormwater and landscape plan addressing issues outlined in the report.



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

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 DEVELOPMENT  
APPLICATION  
BY WAY OF REFUSAL**  
Environmental Planning and Assessment Act, 1979  
DA18/1000

**TO:**

Sabra Company Pty Ltd  
PO Box 240  
HURSTVILLE NSW 2220

being the applicant(s) for DA18/1000 relating to:

315 Princes Hwy, BOMADERRY - Lot 2 - DP 777260

**REFUSED USE AND OR DEVELOPMENT:**

Demolition of existing structures and construction of a staged Multi Dwelling Housing development comprising 40 dwellings

**DETERMINATION DATE:**

30 November 2018

**REFUSAL DATE:**

30 November 2018

Pursuant to Section 4.18 of the Act, notice is hereby given that the above application has been determined by **REFUSAL** for the reasons as outlined in Part A:

CL19.147 - Attachment 1



**Determination by way of Refusal - Page 2 of 3 - DA18/1000**

**PART A  
REASONS FOR REFUSAL**

1. The information submitted with the development application does not satisfactorily demonstrate that the development addresses the matters for consideration under Clause 45 of the State Environmental Planning Policy (Infrastructure) 2007. (Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*)
2. The information submitted with the development application does not satisfactorily demonstrate that the development addresses the matters for consideration under Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007. (Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*)
3. The information submitted with the development application does not satisfy the objectives of the B4 Mixed Use zone, which Council must have regard for under Clause 2.3(2) of the *Shoalhaven Local Environmental Plan 2014*. (Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*)
4. Insufficient information has been submitted to demonstrate compliance with the requirements of chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014, particularly as it relates to the design of the drainage system. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
5. The development in its current form does not satisfy the objectives and performance criteria of chapter G3: Landscaping Design Guidelines of Shoalhaven Development Control Plan 2014. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
6. The development in its current form does not satisfy the objectives and performance criteria of chapter G14: Other Residential Accommodation of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.22 Scale and Site Density. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
7. The development in its current form does not satisfy the objectives and performance criteria of chapter G21: Car Parking and Traffic of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.7 Landscape Design and 5.9 Construction Requirements. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
8. The information submitted with the development application does not satisfactorily demonstrate that there will not be significant adverse amenity affects upon adjoining properties or upon the future residents of the development. (Section 4.15(1)(b) of *Environmental Planning and Assessment Act, 1979*)
9. The information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed development. (Section 4.15(1)(c) of *Environmental Planning and Assessment Act, 1979*)
10. Having regard to the variations to planning controls within the Shoalhaven Development Control Plan 2014 and the inconsistency with the objectives of the zone under *Shoalhaven Local Environmental Plan 2014*, the granting of development consent is not considered to be in the public interest. (Section 4.15(1)(e) of *Environmental Planning and Assessment Act, 1979*)

Determination by way of Refusal - Page 3 of 3 - DA18/1000

**PART B**  
**ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL**

***Determination under Environmental Planning and Assessment Act, 1979***

*Under Division 8.2 – Reviews of the Environmental Planning and Assessment Act, 1979 an applicant may request the council to review its determination except where it relates to a Complying Development Certificate, Designated Development or Crown development. 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.*

*Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act, 1979 confer 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 Environmental Planning and Assessment Act 1979 by an objector may be made only within 28 days after the date the objector is notified of the decision.*

**PART C**  
**GENERAL ADVICE TO APPLICANT**

***Privacy Notification***

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

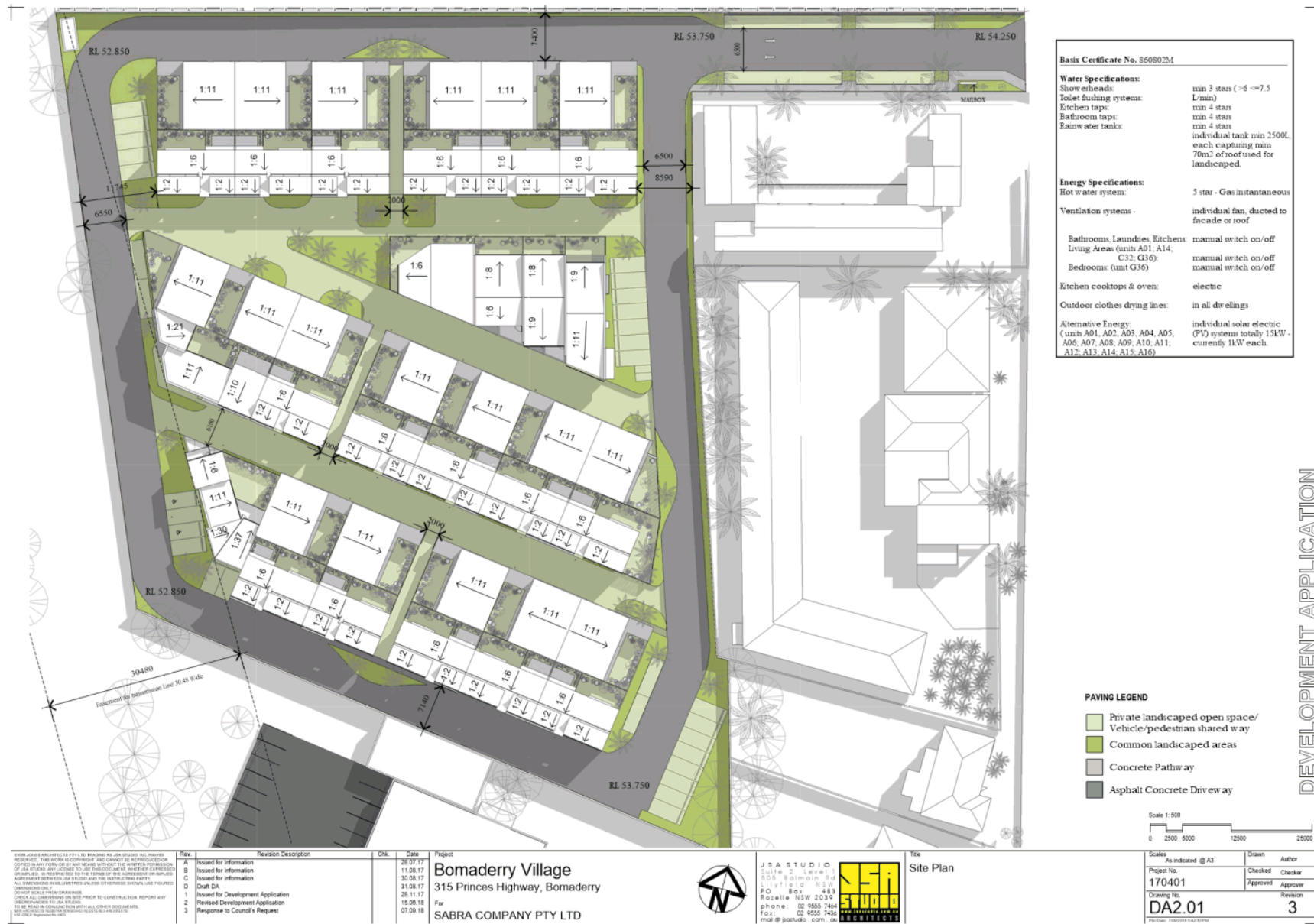
**SIGNED** on behalf of Shoalhaven City Council:

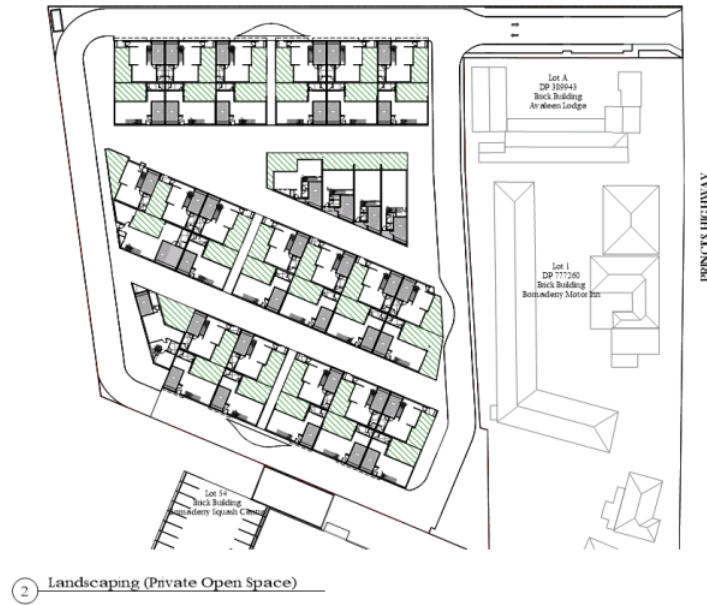
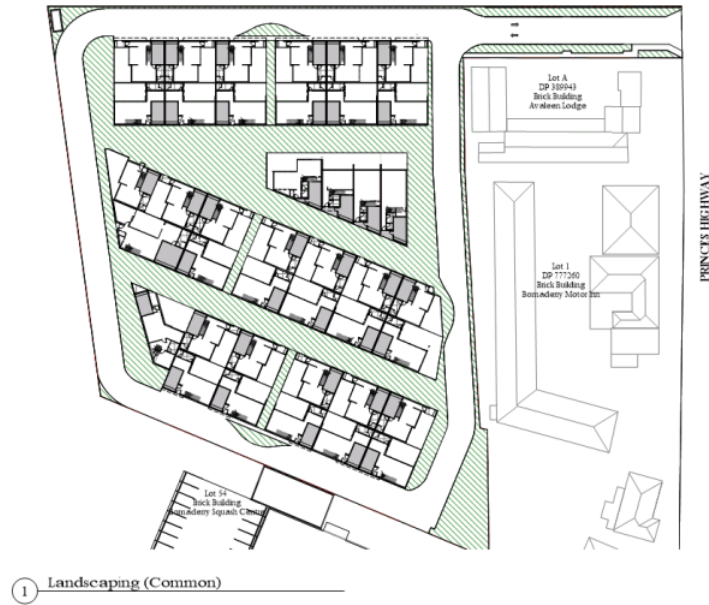
*Gordon Clark.*

Name **Gordon Clark**  
**Acting Group Director**  
**Planning, Environment & Development Group**

CL19.147 - Attachment 1







SITE AREA (m <sup>2</sup> )	10933.3 m <sup>2</sup>
REQUIRED LANDSCAPED AREA (m <sup>2</sup> )	3826.6 m <sup>2</sup> (35%)

PROPOSED	
COMMON (m <sup>2</sup> )	3052.6 m <sup>2</sup>
PRIVATE OPEN SPACE (m <sup>2</sup> )	1280.6 m <sup>2</sup>
TOTAL LANDSCAPED AREA (m <sup>2</sup> )	4333.2 m <sup>2</sup> (39%)



<p>SHOALHAVEN ARCHITECTS PTY LTD TRADING AS JSA STUDIO, ALL RIGHTS RESERVED. THIS WORK IS COPYRIGHTED AND CANNOT BE REPRODUCED OR COPIED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN PERMISSION OF JSA STUDIO. ANY UNLAWFUL USE OF THIS DOCUMENT, WHETHER EXPRESS OR IMPLIED, IS PROHIBITED TO THE EXTENT OF THE APPLICABLE LAW. ALL INFORMATION IS PROVIDED AS IS AND WITHOUT WARRANTY OF ANY KIND. ALL INFORMATION IS PROVIDED AS IS AND WITHOUT WARRANTY OF ANY KIND. ALL INFORMATION IS PROVIDED AS IS AND WITHOUT WARRANTY OF ANY KIND.</p>	<p>Rev</p>	<p>Revision Description</p>	<p>CHK</p>	<p>DATE</p>	<p>Project</p>	<p>315 Princes Highway, Bomaderry</p>	<p>For</p>	<p>SABRA COMPANY PTY LTD</p>	<p>JSA STUDIO</p>	<p>315 Princes Highway, Bomaderry</p>	<p>Site Landscaping</p>	<p>Scale: As indicated @ A3</p>	<p>Project No.</p>	<p>170401</p>	<p>Checked</p>	<p>Author</p>	<p>DA2.07</p>	<p>1</p>
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① Aerial Perspective 1

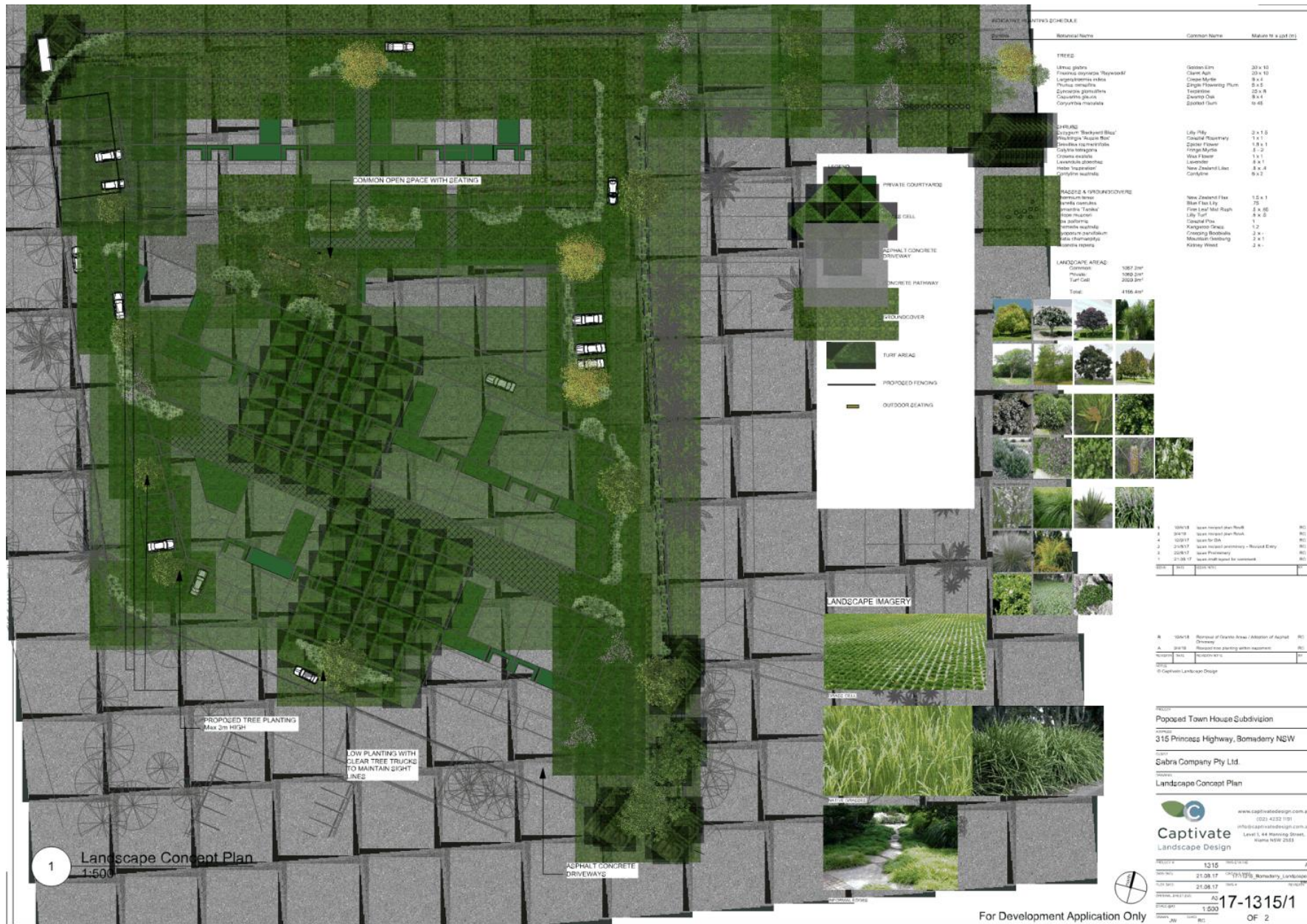


2 Aerial Perspective 2

## DEVELOPMENT APPLICATION

Rev.	Revision Description	Chk.	Date	Project	Title	Scale	Drawn	Author
A	Issued for Information		28.11.17	<b>Bomaderry Village</b>  <b>315 Princes Highway, Bomaderry</b>  For <b>SABRA COMPANY PTY LTD</b>	<b>3D Aerial Views</b>	@ A3  Project No. <b>170401</b>  Drawing No. <b>DA7.01</b>	Checked Approved	Checker Approver
B	Issued for Information		11.08.17					
C	Draft A		31.07.17					
D	Issued for Development Application		28.11.17					
E	Revised Development Application Response to Council's Request		07.09.18					





## CL19.148 Petition - Reinstatement - Sustainable Futures Committee - Natural Resource & Floodplain Management Committee

**HPERM Ref:** D19/125154

**Group:** Planning Environment & Development Group  
**Section:** Environmental Services

**Attachments:** 1. Petition - Reinstatement of the Sustainable Futures and Natural Resources & Floodplain Management Committees (councillors information folder) [↗](#)

### Purpose / Summary

To report on a public petition for the reinstatement of the Shoalhaven City Council's Sustainable Futures Committee and Natural Resource Floodplain Management Committee.

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

That Council

1. Acknowledge and receive the petition to reinstate the Sustainable Futures & Natural Resources and Floodplain Management Committees, and
2. Reaffirm Council's commitment to protecting our natural environment and engagement with the community on such issues.

### Options

1. Adopt the recommendation.

Implications: Affirmation of Councils previously resolved position and acknowledgement of the petition

2. Propose an alternative and provide further direction to staff.

Implications: Unknown

### Background

At Council's Ordinary Meeting of 26 February 2019 a petition of 1,207 signatures was presented to Council which stated:

*We below strongly urge the Shoalhaven City Council to commit to protecting our natural environment, and reinstate the Sustainable Future Committee and the Natural Resource and Floodplain Management Committee*

As per Council minute MIN11.667,

- a) *That when a petition containing 500 or more signatures is presented to Council that the subject matter of the petition trigger a report from the General Manager to the next Ordinary Meeting of Council.*

CL19.148

In relation to the Shoalhaven Natural Resources and Floodplain Management Committee the following resolution was passed at the Council Ordinary meeting of 30 April 2019 (MIN19.254).

*That Council*

1. *Note the following recommendations for information.*
  - a. *Note that the Floodplain Development Manual requires a committee; however, the Coastal Management Act does not require a formal committee that requires community engagement for the development of coastal management programs.*
  - b. *Adopt an alternative model for floodplain risk management, comprising three (3) Advisory Committees – North, Central and South – that would report to Council.*
  - c. *Establish an interim Shoalhaven Coast and Estuary Committee initially comprising Councillors, staff and government agency representatives until such time as the Coastal Management scoping study is completed.*
  - d. *Conduct focus group workshops to obtain community input during the preparation of the citywide Coastal Management Plan Scoping Study, and review the model for the group after the CMP Scoping Study is complete.*
  - e. *Ensure the Shoalhaven Heads Estuary Taskforce will continue independently on the same basis as at present, and be encouraged to participate in delivery of the new model.*
  - f. *Initiate a strong communication program to explain how Council is now working in accordance with the Floodplain Development Manual and the new Coastal Management Act.*
2. *Staff provide a report to the Ordinary Meeting outlining the legislative requirements and the reasons for a proposed alternative model for coastal and estuary issues.*
3. *Invite OEH and other relevant government agencies to a Councillor Briefing to explain the planning processes for flood risk management and the Coastal Management Framework Community Engagement.*

The above resolution will insure that Council meets its statutory obligations under the NSW Coastal Management Act 2016 and the NSW Coastal Management Manual as well as the requirements of the NSW Floodplain Development Manual 2005.

Item 1.c. above proposes to establish an interim Coast and Estuary Committee for the preparation of the scoping study relating to the Coastal Management Plan (CMP) with an intent to review at the completion of that task.

Council has resolved to receive updates on sustainability actions through the Development & Environment Committee (MIN18.964). Further, the schedule of functions (Min18.996) for the Development and Environment Committee includes;

- i. *The preparation, adoption, and review of policies and strategies of the Council in respect to sustainability matters related to climate change, biodiversity, waste, water, energy, transport, and sustainable purchasing*

### **Community Engagement**

A Councillor Briefing is scheduled for 30 May 2019, in which officers from NSW Office of Environment and Heritage will give presentations on the requirements of both the NSW Floodplain Development Manual 2005 and the NSW Coastal Management Act 2016 and Coastal Manual.

CL19.148

**Policy Implications**

There are legislative requirements within the NSW Floodplain Development Manual 2005 to have an advisory committee established to guide Floodplain Risk Management Plans.



## CL19.149 Sustainable Energy Policy

**HPERM Ref:** D19/148148

**Group:** Shoalhaven Water Group

**Attachments:**

1. Submission Summary -draft Sustainable Energy Policy names removed (under separate cover) [⇒](#)
2. Original submissions - Sustainable Energy Policy (Confidential - councillors information folder)
3. Draft Sustainable Energy Policy - tracked changes after Public Exhibition [↓](#)

### Purpose / Summary

To provide an overview of submissions received during the public exhibition and a revised Draft Sustainable Energy Policy for adoption.

### Recommendation

That Council

1. Note the details of the submissions received during the public exhibition period as outlined in the report.
2. Adopt the revised Draft Sustainable Energy Policy provided as an attachment to the report.

### Options

1. As recommended.

Implications: The new Sustainable Energy Policy will provide a driver for future investment in energy efficiency, renewable energy and emissions reduction for Council's operations. The Policy aligns well with the themes and priorities of Council's Integrated Strategic Plan 2018, as well as pledges made under the Cities Power Partnership. It also addresses Council's role in encouraging community renewable energy uptake to ensure future access to affordable, reliable, sustainable and modern energy.

2. The policy is adopted with further amendments.

Implications: Not known

3. Not adopt the Policy at this time.

Implications: Should the Council not adopt a new policy at this time, there is no current alternative policy, objectives or targets to drive investment and effort in future operational and community energy initiatives.

### Background

At the Ordinary Meeting of Council held on 13 November 2018, Council resolved (MIN18.902) that:

CL19.149



*“Council’s Energy Management Coordinator liaise with the General Manager and Directors with a view to formulating a draft Sustainable Energy Policy for consideration by the February 2019 Strategy and Assets Committee meeting if possible.”*

At the Meeting of the Development & Environment Committee held on 5 March 2019, Council considered a report outlining the Draft Sustainable Energy Policy and resolved (MIN19.118):

*“That the draft Sustainable Energy Policy (attached) be placed on public exhibition for 28 days and a further report be provided to Council on the results of that exhibition.”*

The draft Sustainable Energy Policy was exhibited from 22 March to 18 April 2019. Forty two (42) submissions were received from a range of community individuals and groups, all in support of the Policy.

#### Submissions:

A table summarising the submissions received during the exhibition period has been provided as **Attachment 1** (Under Separate Cover) to this report, with the original copies of the submissions provided for Councillors as **Attachment 2** (Councillor’s Information Folder).

In summary, the submissions cover the following main points:

- *Comments about the targets not being stringent enough*

Some of the submissions suggested that the targets set were not stringent enough to mitigate climate change impacts. They encourage Council to strive for greater reductions in greenhouse gas emissions and more renewable energy generation within shorter timeframes.

Response: The draft Policy includes long-term targets but also interim targets to ensure that progress is made in a timely, environmentally and economically responsible manner. The emissions targets set are science-based and consistent with national and state targets. The proposed renewable energy targets are considered acceptable from Council’s current position. **Therefore no changes were made to the draft Policy targets and timeframes.**

- *Comments about the wording of the policy, e.g. economically feasible*

Some of the submissions queried the terminology used in the Policy and offered rewording to better capture and define the meaning. The term ‘economically feasible’ was one such word queried by some members of the public.

Response: It is agreed that better terminology could be used, particularly if this adds clarity to the community. It is suggested that this statement should be amended in the revised Policy as follows:

- Revised Policy wording changed (changes in bold) to ‘**At all times, Council will seek the most effective and economic means to achieve its emission reduction targets from all sources**, including investing in renewable energy generation projects to ensure clean energy for the future.’

- *Comments on some of the technical aspects of the policy*

Some comments offered additional technical advice to include within the Policy including battery storage technology, inclusion of gas, electric vehicles etc.

- Revised Policy wording **changed to include these additional words, as appropriate.**

CL19.149

- *Comments about Council needing to also focus on other areas such as sustainability, water, electric vehicles, etc.*

The response to these comments was that Council is currently in the process of preparing a new Sustainability Policy (MIN19.211) and recently adopted an Electric Vehicle Charging Station Policy on Public Land (adopted 7 May 2019), so these are being addressed but outside the scope of the draft Sustainable Energy Policy.

### **Community Engagement**

A 28-day public exhibition period was utilised to seek public response to the draft Policy. If Council adopts the Policy, a range of communication mechanisms will be utilised to inform staff and the community.

### **Policy Implications**

If adopted by Council, the Sustainable Energy Policy will supersede Council's 'Organisational Energy and Water Management Policy' (POL12/19) originally prepared in 2007.

### **Financial Implications**

Achieving the objectives and targets set in the Policy will require some additional investment by Council over the coming years. However, many energy efficiency projects (e.g. LED streetlighting upgrade) and renewable energy generation initiatives often have short payback periods and will therefore eventually result in cost savings to Council. An adopted Sustainable Energy Policy would also improve Council's opportunities to access external grants and funding.

### **Risk Implications**

There is minimal risk in adopting this Policy to Council's operations and the wider community.



**City Administrative Centre**  
Bridge Road (PO Box 42), Nowra NSW Australia 2541 - DX 5323 Nowra  
Phone: (02) 4429 3111 - Fax: (02) 4422 1816

**Southern District Office**  
Deering Street, Ulladulla - Phone: (02) 4429 8999 – Fax: (02) 4429 8939

Email: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)

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

For more information contact the Shoalhaven Water Group

## Shoalhaven City Council - Sustainable Energy Policy

**Policy Number:** POL18/44 • **Adopted:** [Click here to enter date] • **Minute Number:** [Click here to enter Minute number] • **File:** 56964E • **Produced By:** Shoalhaven Water Group • **Review Date:**

### 1. PURPOSE

Shoalhaven City Council ('Council') aims to ensure access to affordable, reliable, sustainable and modern energy (consistent with the United Nation's Sustainable Development Goals), for both its operations and that of the wider Shoalhaven community. The increased use of renewable energy and improved energy efficiency is crucial to creating more sustainable communities, employment opportunities and resilience to climate change.

### 2. STATEMENT

Shoalhaven City Council is committed to operating sustainable assets, facilities and fleet vehicles across the Shoalhaven Local Government Area. The operation of these facilities and fleet transport can consume large amounts of energy at a high cost and generate harmful greenhouse gas emissions. Council will actively work towards reducing fossil-fuelled energy consumption for assets and transport under its control to reduce greenhouse gas emissions and climate change impacts. At all times, Council will seek the most effective and economic means to achieve its emission reduction targets from all sources, including investing where opportunities are economically feasible, Council will invest in renewable energy generation projects to ensure clean energy for the future. This extends to Council encouraging the Shoalhaven community's transition away from fossil fuels to more renewable energy generation and battery storage for households, businesses and industry.

### 3. PROVISIONS

#### 3.1. Vision

Shoalhaven City Council's vision is to operate its energy consuming assets and fleet transport in a sustainable manner with minimal effect on the natural environment. This will then serve as a model of best practice for the wider Shoalhaven community to reduce energy bills, minimise greenhouse gas emissions and increase uptake of renewable energy.

#### 3.2. Objectives and Targets

To achieve this Vision, and in partnership with stakeholders and the community, Shoalhaven City Council will:

*Shoalhaven City Council – Sustainable Energy Policy*

- Aim to achieve net-zero greenhouse gas emissions by 2050 (consistent with the United Nations Paris Agreement ratified by the Commonwealth Government and the NSW Government's agreed targets). Interim targets to reduce emissions are 25% by 2025 and 50% by 2030, compared to 2015 levels.
- Continually improve management practices to strive towards improved energy efficiency across the organisation.
- Seek opportunities to source or generate electricity supply for Council's operations from renewable energy sources, with an interim target of 25% renewables by 2023 and eventually 50% from renewable sources by 2030.
- Promote relevant initiatives to the community and businesses to increase the uptake of installed rooftop solar panels across the Shoalhaven LGA towards a target of 33% of dwellings by 2025.
- Upgrade all street lighting to energy saving LEDs by 2025.

#### **4. IMPLEMENTATION**

Shoalhaven City Council will support this Policy by:

- Preparing and implementing a Sustainable Energy Strategy by January 2020 to identify priority actions for improved energy efficiency (including electricity and gas), sustainable fleet transport (including transitioning towards electric vehicles), corporate and community greenhouse gas emissions reduction, and renewable energy generation and battery storage.
- Resourcing its implementation by means of sufficient annual budget allocations for the procurement of sustainable energy, energy efficiency and fleet transport initiatives.
- Establishing an internal Revolving Energy Fund (REFund) as a mechanism to generate funds from energy efficiency project savings to support future energy and renewable energy initiatives.
- Measuring, monitoring, benchmarking and reporting on energy consumption to identify issues, tracking towards agreed targets and informing this Policy and the Sustainable Energy Strategy.

#### **5. REVIEW**

The Sustainable Energy Policy and associated Sustainable Energy Strategy will be reviewed every 4 years and particularly where new legislation, guidelines and/or management information dictates.

#### **6. APPLICATION OF ECOLOGICALLY SUSTAINABLE DEVELOPMENT PRINCIPLES**

This Policy will play a key role in the application of ecologically sustainable development (ESD) principles as it aims to reduce reliance on fossil-fuelled grid power, increase renewable energy generation and reduce greenhouse gas emissions.

Specifically, this Policy supports the following ESD principles:

*Shoalhaven City Council – Sustainable Energy Policy*

- The precautionary principle – where there is the threat of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- Intergenerational equity – the current generation should make sure that the health, diversity and productivity of the environment continues for the benefit of future generations.
- Conservation of biological diversity and ecological integrity – conserving the diversity of flora and fauna and the health and sustainability of ecosystems.

DRAFT

## CL19.150 Tenders - Shoalhaven Water Pump Procurement

**HPERM Ref:** D19/154059

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

### Purpose / Summary

To inform Council of the tender process used for the supply of pumps and ancillary equipment to Shoalhaven Water for a period of three years with optional extension of up to two years.

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. As recommended.

Implications: The confidential report will be considered.

2. Propose an alternative process for consideration of the issue.

Implications: This is not recommended as a tender evaluation process has been undertaken in accordance with the Tender Evaluation and Probity Plan.

### Details

This report provides the results of a tender process undertaken by Shoalhaven Water, whereby proposals were sought from pump manufacturers/suppliers to supply water and sewerage pumps of various sizes and quantity for a minimum period of three (3) years with the option of an additional two (2) year extension.

Shoalhaven Water operates over 220 sewage pumping stations comprising approximately 500 pumps, and 26 water pumping stations comprising approximately 60 pumps. In order to provide adequate services to the community Shoalhaven Water is developing ongoing asset replacement programs. From 2013 to 2018 Shoalhaven water procured pumps and ancillary items through a previous supply contract. This expired in 2018 and renewal of a similar arrangement is the key driver for the tender.

CL19.150

Shoalhaven Water is seeking to minimise procurement costs (without compromising product quality and service) and improve the exchangeability of pump parts and equipment between different sites and pump sets.

### **Key Issues**

In order to support a cost effective and efficient pump asset replacement/upgrade program Shoalhaven Water recommends a strategy which involves a Pump Procurement contract with one or more approved suppliers. Tenders were called on this basis in an open tender process.

Tenders were called on 15 March 2019 and closed on 11 April 2019. Two (2) tenders were received from the following companies:

- National Pump and Energy (NPE)
- Xylem Water Solutions Australia (Xylem)

Shoalhaven Water seeks, from this tender, a company that provides value for money for a wide range of pumps (and associated equipment) while supporting an experienced professional team that has demonstrated quality before and after sales service. The products being offered must be proven over a period of time to be highly reliable.

The Tender Evaluation Plan (TEP) prepared for the assessment included mandatory, price and non-price criteria.

### **Conclusion**

In order to meet the high demand for new pumps over the next five (5) years, it is recommended that Council enter into a contract with both tenderers for the supply of pumps and ancillary equipment. The Confidential Report provides evidence that there are numerous advantages to Council from costing and resource efficiency perspectives to the proposed procurement approach.

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

### **Community Engagement:**

Water and sewage pumping stations are critical assets and the efficient management of these assets is crucial to the protection of the environment and public health.

The proposed contractual arrangement will provide for greater efficiency in the purchase of new pumps, thus reducing the risks associated with the safe delivery of water and minimising the risk of overflows from sewage pumping stations.

### **Financial Implications:**

Council can expect significant savings on the purchase cost of pumps and ancillary equipment. Savings would also be realised from the efficiency in the proposed procurement process.

The proposed contract is focused on ensuring timely delivery of quality assets, continuous improvement and reducing costs to Council. This approach will allow Shoalhaven Water to standardise its replacement parts in stores and allow controlled interchange of pumps between stations in emergency situations.

## 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.