

Ordinary Meeting

Meeting Date: Tuesday, 30 July, 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 - 25 June 2019
 - Extra Ordinary Meeting - 25 June 2019
6. **Declarations of Interest**
7. **Call Over of the Business Paper**
8. **Presentation of Petitions**
9. **Mayoral Minute**
10. **Deputations and Presentations**
11. **Notices of Motion / Questions on Notice**

Notices of Motion / Questions on Notice

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14. Confidential Reports

Committee Reports

CCL19.14 Report of the Strategy & Assets Committee - 23 July 2019

CSA19.7 Processing of kerbside collected recycling - Confidential Report

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.

Reports

CCL19.15 Code of Conduct Complaint - Report by Conduct Reviewer

Local Government Act - Section 10A(2)(i) - Alleged contraventions of any code of conduct requirements applicable under section 440.

There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to prejudice the supply to an agency of confidential information that facilitates the effective exercise of that agency's functions and/or found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided.

CL19.171 Notice of Motion - Footpath - Shoalhaven Caravan Village

HPERM Ref: D19/236545

Submitted by: Cllr Joanna Gash

Purpose / Summary

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

Recommendation

That Council provide a report on the following:

1. Cost of providing a continuing footpath from outside of the Shoalhaven Caravan Village to connect to the existing footpath at Ferry Lane.
2. Cost of same in the most economic way.
3. Time frame of same both in construction and schedule of start date.

Background

There are some 10 residents who use mobility scooters living in the village this being their only form of transport and many more without cars..

It is extremely dangerous for these elderly folk as it their only way of getting from the village into Nowra, apart from the use of a Taxi.

It would be of great benefit for all pedestrian users, whether mobility scooter users or simply walking residents to improve this short pathway of connectivity.

The narrow roadway being used as a footpath is both hazardous and a public safety risk for pedestrians and vehicles alike.

As I drive this section of road 2 or 3 times a day , I see just how difficult it is for the mobility scooters to navigate this section of the road.

Mr. Peter Cross a resident of the village has provided photos and would like to speak on the NOM at the meeting.

Note by the CEO

Should the Notice of Motion be adopted at the 30 July 2019 Council meeting, it is anticipated that a report would be available for the October Strategy & Assets meeting

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CL19.172 Notice of Motion - Coastal Dunes - Management Plans

HPERM Ref: D19/239964

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 in enhancing the resilience of our coastal dunes Council staff integrate the points raised in this notice of motion regarding current vegetation issues and those of new plantings or self-propagations, into all current and future plans of management.

1. Damage to public infrastructure and private property needs to be carefully foreseen and avoided by planting the correct species in the correct locations, making a generous allowance for the impact of the fully grown vegetation on its surroundings. Existing vegetation causing damage to public infrastructure or private property may, as a matter of course, necessitate removal.
2. All necessary steps must be taken to ensure that safety is paramount in public areas as well as adjacent to private homes. Selection of the ideal species and the location of new plantings is crucial if bushfire risk and fall hazard is to be eliminated. Assessment of existing vegetation in this regard may need to occur.
3. Staff will give serious consideration to the differentiation between accreting dunes and eroding dunes and the need to potentially have different planting and management regimes in each instance and report their deliberations back to Council for further discussion.
4. Staff advise how the Coastal Dune Management Manual classifications of "incipient foredune", "foredune" and hind dune are applied in situations where hind dunes are developed, and how the appropriate vegetation species recommended for planting is implemented on the ground and into local management plans in such situations.
5. Where residents are prepared to pay for private contractors to carry out work, under the direction of Council staff and according to an approved plan of management, this necessary work proceeds pending availability of staff to approve and oversight works.

Background

The protection and enhancement of our coastal dunes can occur in a logical and scientific manner, and without placing our community at any increase in risk to public infrastructure, personal health or property damage. This notice of motion seeks to go some way in achieving this.

CL19.172

CL19.173 Notice of Motion - Narrawallee Beach - Victor Avenue - Beach Access

HPERM Ref: D19/240566

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 the Victor Avenue access stairs to Narrawallee Beach be replaced with a much wider set of stairs to allow more comfortable "passing" of beach users as they go to and from the beach. The design would ideally incorporate a landing and a slightly decreased grade for ease of access. Funding for the construction could be sourced from savings in a quarterly budget review or a future budget.

Background

Many people are reluctant to use the Victor Avenue stairs as they are too narrow and too steep, thus resulting in conflict of use between dog walkers and those going for a surf. Following the installation, it may well be appropriate to review the hours set aside for supervised dog exercise on the beach.

Note by the CEO

It is suggested that a report be presented to Council in conjunction with a future quarterly budget review providing design options and costing for Council's consideration.

CL19.173

CL19.174 Notice of Motion - Dogs on Leash Signage - Sanctuary Point

HPERM Ref: D19/240660

Submitted by: Cllr Bob Proudfoot

Purpose / Summary

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

Recommendation

That:

1. Council staff install additional signs to reinforce the status quo of 'dogs on leash' in the vicinity of the carpark at the junction of Paradise Beach Road and Walmer Avenue Sanctuary Point, along the Basin walking track to the other side of Paradise Beach and the adjacent reserve.
2. Before installation, Council staff liaise with local residents regarding the most strategic locations for the signs, as well as the most appropriate times and locations to apprehend those people who continue to ignore the rules.

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CL19.175 Notice of Motion - Sanctuary Point Skatepark

HPERM Ref: D19/240669

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 prepare a report on a "minor up-grade" of the Sanctuary Point Skatepark. The target audience for the potential improvements would ideally be the younger users of say around the under twelves.

Background

The Sanctuary Point facility is a very popular one and like many similar facilities requires ongoing thought as to what it will look like in the future. There is no doubt that once the Vincentia skatepark is up and running its popularity will attract many of our youth from the Basin area (especially teenagers and young adults). With this in mind it may well be prudent to plan a future for the Sanctuary Point Skatepark with a focus on the younger users.

Note by the CEO

Subject to adoption by Council, staff will liaise with the community and report back to Council on options to upgrade the Sanctuary Point Skatepark with a focus on potential improvements for younger users.

In the meantime, staff have recently met on-site with community members who have raised concerns about the safety and usability of the Sanctuary Point Skatepark. As a result, the following works have been identified, and an action plan implemented to address these concerns. The works include:

- Trees along pathway between the skatepark and shops being inspected by Council's Tree Management Officer. The outcome is that minor limbs encroaching on lighting are to be removed, along with vegetation encroaching the pathway. This is to be completed August 2019.
- A contractor has been engaged to repair lights at the location. Methods are being discussed to better protect the lights from vandalism, i.e. guards etc.
- Due to debris and run-off onto the skate park, a concrete blade wall is to be constructed at the affected section of skate park to prevent debris. This is to be carried out in the Community and Recreation 2019/20 minor improvements schedule.
- Replacement of the basketball backboard. This is to be carried out in the Community and Recreation 2019/20 minor improvements schedule.

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CL19.176 Notice of Motion - Yulunga Hall Playground Upgrade

HPERM Ref: D19/247682

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

1. Purchase and install an additional piece of equipment known as "Fire Truck Rocker" as part of the upgrade works to Yulunga Hall Playground.
2. Extend the playground area fencing to ensure that this piece of equipment will fit into the detailed design of the playground area.

Background

In March 2019 the upgrade was discussed at the Ordinary Council Meeting with the following recommendation: -

RESOLVED (Cllr White / Cllr Proudfoot)

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That Council

1. *Consults with Yulunga Hall Management Committee, Red Head Villages Association and the Council's Mobile Pre School users to ensure that their treatment of the trees in the playground does not restrict the current easy access to the playground directly from the hall and removes all harmful debris from the playground including any soft fall areas.*
2. *Consults with the same three community groups to ascertain initially the community's needs and wishes for the playground BEFORE commencing initial planning of possible designs.*
3. *Meets regularly with the community throughout the planning, design and implementation processes to ensure Council and Community gain the best possible playground.*

CARRIED

Council staff have been working excellently with the Yulunga Hall Management Committee and residents in the design of the playground.

The Management Committee members and residents have reviewed the design of the playground and equipment and believe that an addition of a piece of equipment known as "Fire Truck Rocker" will enhance the playground for children to play and enjoy. The cost of equipment is approximately \$7,000 and is not budgeted in the current project.

Additionally, the YHMC, the CCB Forum and community will be providing funding to install the proposed Scooter Circuit which will provide another exciting area for children to ride in a

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safe space and not on the local roads or carparks. This will be funded by the Management Committee, CCB Forum and residents.

Throughout the consultation the YHMC and residents have stressed the need to get the design right as this playground has to meet the needs of a community that is currently being impacted by three large scale residential developments into the future:

- a) One development is complete with all 40 home sites completely sold.
- b) Second development, currently on sale, has 182 home sites.
- c) Third development has State planning approval for approximately another 320 home sites.

It is important that Council works with the local community groups to ensure Council “gets this playground right”, as Council did in the consultation and construction of the Manyana Skate Park which has been a great outcome.

I seek all Councillors to support the Manyana Community and residents in obtaining the additional piece of equipment.

Note by the CEO

The Request For Quote for the new playground at Yulunga Reserve has now closed and the successful tenderer has been engaged.

- The community request for a “Fire Truck Rocker” has been noted as a possible inclusion pending final budget estimates. This piece of equipment is quoted to cost \$7,280 + GST + installation (costing for installation has been requested from the engaged contractor).
- The relocation of fencing, to provide additional playground space, has already been included in the scope of works and a contractor has been engaged to undertake the works.
- Ongoing community consultation continues to be a key consideration in this project.

Any additional funding required will be noted for consideration at a future quarterly budget review.

CL19.177 Notice of Motion - Lake Conjola (West) Sewerage Connection

HPERM Ref: D19/247707

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

1. Council immediately carry out a scoping study and detailed design for extension of the existing sewer in Lake Conjola to achieve the connection of the properties at the west end of Lake Conjola which are currently unsewered.
2. A further report be provided to Council on funding options and timeframe for works to be completed.
3. The CEO independently review all fines issued in accordance with Council's Compliance and Enforcement Policy, and the CEO meet with the residents to discuss the fines and way forward for sewer connections.

Background

The connection of town sewer to the west end of Lake Conjola is paramount and should be completed as soon as possible.

Residents have waited far too long and can no longer tolerate the unhealthy failing seep-away systems or expensive pump-outs.

Systems have been failing for several years, and residents have had to replace enviro systems on Council's advice, undertake huge amounts of landscaping with no results in improving the situation. In addition to their Ecomax Mound systems, residents have also had to have pump outs of these systems by Council Contractors. The ongoing advice from Council on possible solutions has been costly to residents.

Following the recent high-water levels and high-water table in Lake Conjola and after heavy rainfall the systems have completely failed. Since 2013 residents have had troubles and I note that this was when the Interim Entrance Management Plan was approved by Council.

Council staff have inspected and confirmed "sewer facility was failing, and effluent had migrated to the ground surface approximately 50m from an intermitted watercourse" (Lake Conjola).

Residents have been trying to work with Council to solve the issues and have become very confused with the processes to connect to the sewer and exactly what works they need to do to the current systems. One resident requested Council to proceed with works to connect to sewer in May 2018, following discussions from 2015 with Council, however, this has not occurred. They have taken further steps to engage Consultants to find interim solutions.

Council is now issuing "show cause notices" and large fines to residents for their failing systems, even though residents are trying to work with Council to resolve the issues and acting on Council advice.

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The situation with these unsewered properties appears no different to the St Andrews Way, Coolangatta or Woollamia Sewer issues that Council has been able to approach in a far more conciliatory and collaborative way with the residents and successfully resolve and funded the works.

I seek all Councillors to support this Recommendation to ensure environmental sewer issues are resolved for Lake Conjola.

Note by the CEO

The connection to the Conjola sewer scheme for the large rural allotments in question would need to be fully investigated and quantified.

The original scheme design did not include these lots and further information can be brought to Council on the feasibility of the proposal.

One owner has been issued a PIN for a failed effluent disposal system. They have also been advised that, if they wish the issue of the PIN reviewed, they need to make representations to Revenue NSW. If such review is requested, it will be forwarded to Council and reviewed by Council's internal panel, which includes Council's CEO.

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CL19.178 Report of the Strategy & Assets Committee - 23 July 2019

HPERM Ref: D19/250740

SA19.97 Risk and Audit Committee Charter Amendments

HPERM Ref:
D19/193770

Recommendation

That Council:

1. Receive the report.
2. Endorse the proposed amendments to the Risk and Audit Committee Charter.

SA19.99 Donation Request - Shoalhaven Art Society

HPERM Ref:
D19/226232

Recommendation

That Council provide sponsorship of \$2,500 to the Shoalhaven Art Society for the 54th Annual Open Art Exhibition held from 3 to 31 August 2019, from the Holiday Haven Promotional Budget.

SA19.104 Community Connect, Bawley Point to Kioloa shared pathway project - Lot 1 DP 782318 - Australian National University Licence to Shoalhaven City Council

HPERM Ref:
D19/193885

Recommendation

That Council:

1. Enter into the Licence agreement with the Australian National University (ABN 52 234 063 906) for twenty (20) years at \$1.00 (plus GST) per annum over part Lot 1 DP 782318, Murramarang Road, Kioloa commencing 1 June 2019;
2. Authorise the CEO 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.

SA19.105 Kerb & Gutter Construction - Ratepayer Advance - 35 Elizabeth Dr Vincentia

HPERM Ref:
D19/190538

Recommendation

That

1. Council enter into a Ratepayers Advance Agreement, executed under the Seal of Council with G Antonelli of 21 Crescent Street, Dobroyd Point NSW 2045 in respect of Kerb and Gutter construction to the value of \$5,852.16 (advance) of which \$1,859.28 (excluding GST) is the contribution, \$3,992.88 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$4,991.10.

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2. The Common Seal of Council of the City of Shoalhaven be affixed to any documentation required to be sealed otherwise the General Manager be authorised to sign any documentation necessary to give effect to the resolution.

SA19.106 Proposed Lease - 3 Stewart Place Nowra**HPERM Ref:
D19/203225****Recommendation**

That Council:

1. Accept the surrender of the lease with Alfred & Roslyn Parker for the occupation of part Lot 1 DP 115782 and part Lot 1 DP 434714 known as 3 Stewart Place Nowra (previously known as 1 Stewart Place Nowra);
2. Enter into a lease for three (3) years with three (3) year option with Franco & Narelle Fulginiti over part Lot 1 DP 115782 and part Lot 1 DP 434714 known as 3 Stewart Place Nowra, at a commencing rent of \$18,712.44 per annum, plus GST, with an annual CPI increase, commencing 1 August 2019; and
3. Authorise the Chief Executive Officer 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 where required to give effect to this resolution.

SA19.107 Notification to Council - EOI for Lease & Management of Building 3, 80 Park Road, Nowra - Authorisation of Lease**HPERM Ref:
D19/203338****Recommendation**

That:

1. Central Shoalhaven Mobile Preschool be offered a lease to occupy Building 3, 80 Park Road, Nowra;
2. Concurrence be granted to finalise the terms of the lease with Central Shoalhaven Mobile Preschool;
3. The Chief Executive Officer be delegated authority to endorse the terms of the lease, that are not yet settled; and
4. The Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed, otherwise the Chief Executive Officer be authorised to sign any documentation necessary to give effect to this resolution.

SA19.113 Acquisition of Easement for Water Supply - Lot 174 DP755952 - 67 Wogamia Road Longreach**HPERM Ref:
D19/173884****Recommendation**

That Council:

1. Acquire an Easement for Water Supply 3m wide over part of Lot 174 DP755952, at 67 Wogamia Road, Longreach, shown coloured yellow on attached easement sketch plan.
2. Pay compensation of \$20,000, plus GST if applicable, 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 Water Fund. If warranted, the compensation is to be adjusted based on the area determined by final

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survey plan.

3. Authorise the Common Seal of the Council of the City of Shoalhaven be affixed to any documentation requiring to be sealed and delegate to the Chief Executive Officer authority to sign any documentation necessary to give effect to this resolution.

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CL19.179 Report of the Nowra CBD Revitalisation Strategy Committee - 3 July 2019

HPERM Ref: D19/236146

CBD19.27 Proposed Establishment of Architectural Ideas Competition in Nowra CBD

HPERM Ref:
D19/198093

Recommendation

That a Nowra CBD Revitalisation Strategy Committee consider establishing a Strategic Working Party to investigate the suitability of an architectural design competition in the Nowra CBD, which:

1. Discusses the potential competition locations noted in the report;
2. Works towards a competition objective, organisational structure and funding model to be submitted to NRSC
3. Includes membership of a relevant Council Officer and other Nowra CBD Revitalisation Strategy Committee members.

Note by the CEO:

This matter has been recommended to the Council for consideration as the concept of an architectural design competition by the Nowra CBD Revitalisation Strategy Committee is an innovative approach which would need the consent of the Council.

By way of further background, the following has been extracted from a report submitted to the Nowra CBD Revitalisation Committee;

"An ideas competition-based approach to identify projects that promotes the development of the CBD through a range of design ideas and opinions for the council, NRSC and public to consider. The key objective is to identify projects that are of interest and begin the first steps of realisation.

Methodology provided by the Australian Institute of Architects

The Australian Institute of Architects supports the use of architectural competitions for the design and completion of certain types of buildings as a mechanism to encourage design excellence and innovation. Competitions should be open to all registered architects, or for certain competitions, all students of architecture and they should be conducted in a fair and equitable way.

To assist the profession and clients who are considering a competition the Institute has developed Guidelines for the Conduct of Architectural Competitions, available to download [here](#)

The architectural competition process is adaptable. Competitions can generate a wide range of solutions to a variety of design problems. The format, rules and details must be tailored for each competition to accommodate the particular requirements of each project.

A competition is appropriate when the project:

- *is of public significance*
- *will benefit from a wide degree of design investigation*
- *is to be on a significant or unusual site*
- *will benefit from the public interest that a competition can generate*
- *where design excellence is a high priority. A competition is inappropriate*

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when:

- *the project is required as a matter of expediency or urgency*
- *it is not possible to appoint an appropriate jury*
- *the budget is insufficient to cover the total cost of the competition*
- *an adequate brief is not available*
- *the sponsor is unwilling or unable to ensure that the competition conditions provide for competitors to retain their intellectual property and moral rights in their designs.*

Potential Competition Ideas that have been identified by the NOWRA CBD MASTERPLAN

1. *Graham Street redevelopment and Nowra Micro parks Competition*
2. *Bus Interchange Competition and lightrail hub + potentially rethinking car parking areas and with new ways to store and free up space for mixed use development.*
3. *River front and City link masterplan competition*
4. *Stocklands Junction street pedestrian bridge Competition”*

In considering the recommendation it should be noted that investigation of potential competition sites would need to have regard to existing adopted policy such as the Nowra Riverfront Precinct and Nowra CBD Urban Design Development Controls. As the matter is subject to considerations/deliberations, it is envisaged that any specific recommended actions from the NRSC would be reported back to Council.

The concept has been proposed by a community representative on the Committee, Mr Wesley Hindmarch who has applied to make a deputation on the concept to this meeting.

CL19.180 Report of the Shoalhaven Traffic Committee - 9 July 2019

HPERM Ref: D19/231536

Attachments: 1. Plan - PN 3523 [↓](#)
2. Plan - PN 3531 [↓](#)

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](#)

CL19.180

TC19.37 Proposed Roundabout - Green St & Warden St, Ulladulla (PN 3523)

HPERM Ref:
D19/220421

Recommendation

That the Chief Executive Officer (Director Assets and Works) be advised that the Shoalhaven Traffic Committee has no objection to the proposed alterations and additions to the signage at the newly constructed roundabout at the intersection of Green Street and Warden Street Ulladulla, as detailed in the attached plan.

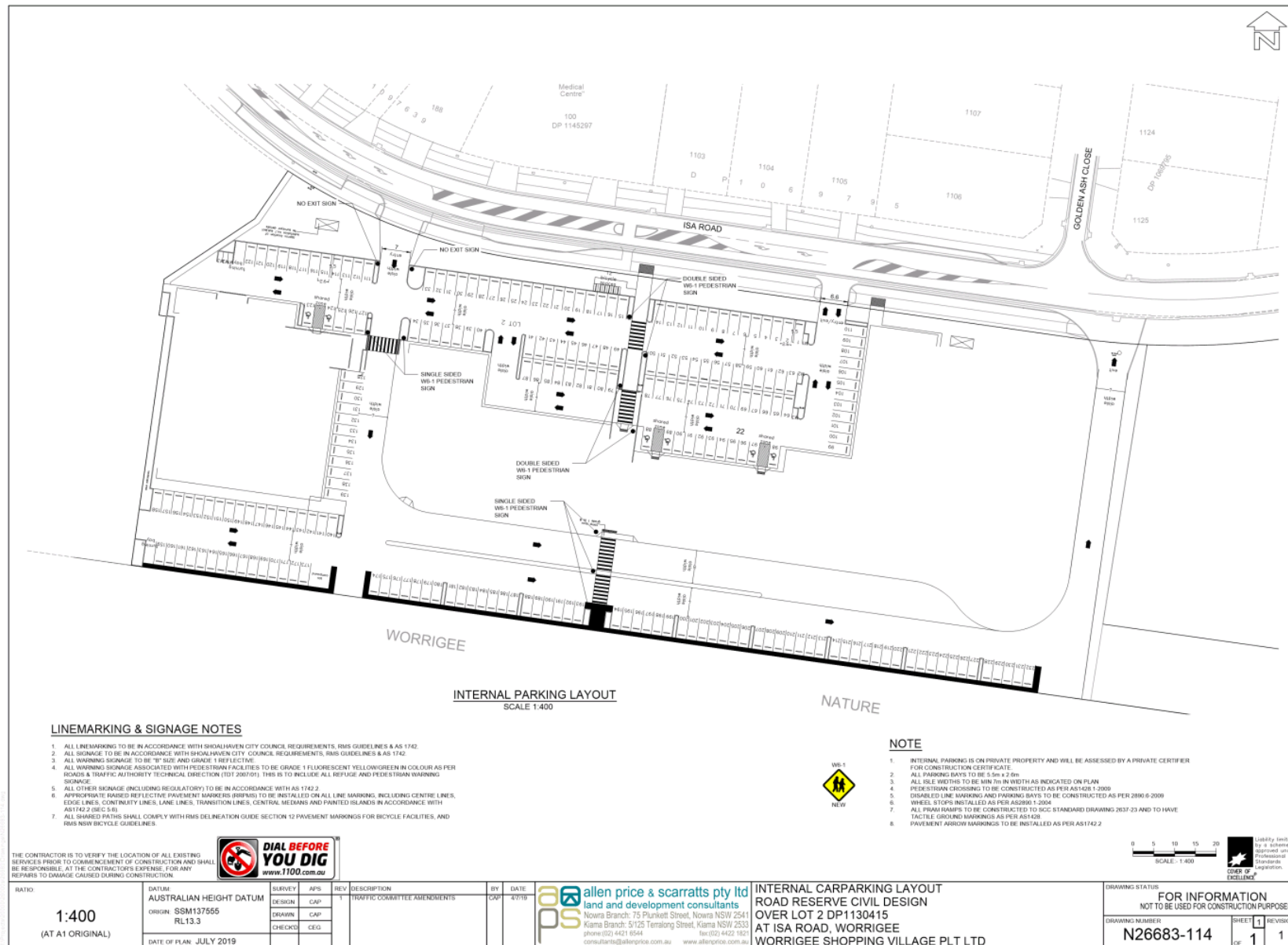
TC19.39 Isa Rd WORRIGEE - Lot 2 DP 1130415 -New Commercial - construct neighbourhood shopping village (PN 3531)

HPERM Ref:
D19/224773

Recommendation

That the Chief Executive Officer (Director Assets and Works) be advised that the Shoalhaven Traffic Committee has no objection to the proposed concept plans plan for the privately owned and operated, off street carpark on Isa Road as part of the Worrige Shopping Complex (DA16/2477).





CL19.181 Instrument of Delegation - Chief Executive Officer

HPERM Ref: D19/232828

Group: CEO Group

Attachments: 1. Instrument of Delegation [↓](#)

Purpose / Summary

To provide the Instrument of Delegation for the newly appointed Chief Executive Officer.

Recommendation

That Council

1. Delegate to the Chief Executive Officer the authority as outlined in the Instrument of Delegation provided as Attachment 1.
2. That for the period 1 August 2019 to 30 September 2020, one of the persons (determined by the Mayor at the relevant time) holding the position of:
 - a. Director of Assets & Works or
 - b. Director of Planning & Development, or
 - c. Director of Finance, Corporate and Community Services, or
 - d. Director of Shoalhaven Water.

be appointed to act as the Chief Executive Officer if the Chief Executive Officer is sick or otherwise absent from work on leave or for any other purpose. Such appointment is to cease upon the return to work of the Chief Executive Officer or by other resolution of the Council.

3. That any person acting as the Chief Executive Officer pursuant to this resolution has all the functions, delegations, and sub-delegations given to the Chief Executive Officer by the Council.

Options

1. As recommended
2. Amend the Instrument prior to endorsement

Implications: Not known

Background

Following the appointment of Mr Stephen Dunshea as the General Manager (styled as Chief Executive Officer) on 25 June 2019, a new instrument of delegation has been created and is provided to the Council for endorsement in accordance with Section 377 of the Local Government Act, 2019.

The instrument of delegation reflects the powers previously Delegated to the position of General Manager with relevant policy and legislative updates included.

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The Instrument previously provided to the General Manager has applied to Mr Dunshea as the Acting General Manager and CEO, however the new instrument is provided for clarity.

CL19.181

SHOALHAVEN CITY COUNCIL

INSTRUMENT OF DELEGATION TO CHIEF EXECUTIVE OFFICER - P00001

On _____ the Shoalhaven City Council (“**Council**”) resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. The person who from time to time holds the position of Chief Executive Officer of Council (“**Chief Executive Officer**”), being at the date of this instrument Stephen DUNSHEA, be delegated authority under section 377 of the LG Act, to exercise and/or perform on behalf of Council the Council’s Functions under all Legislation in force and as amended from time to time:
 - 2.a **Subject to** any condition or limitation on a Function specified in Schedule 1; and
 - 2.b **Excluding** those Functions:
 - i. that are expressly prohibited from delegation as listed under Section 377 of the LG Act;
 - ii. which are expressly required by legislation to be exercised by a resolution of the Council.
3. The Chief Executive Officer be sub-delegated authority to exercise and/or perform on behalf of Council the Functions delegated to the Council under, and in accordance with, the instrument of delegation to the Council set out in **Schedule 2, excluding** those Functions which pursuant to the terms of the delegation to the Council may not be sub-delegated.
4. The Chief Executive Officer be conferred authority to carry out the Policy Authorities listed in **Schedule 3** and undertake any administrative actions necessary to carry out those Policy Authorities.
5. The Chief Executive Officer be delegated any Function which is taken to be conferred or imposed on the Council pursuant to section 381(1) of the LG Act.
6. In the absence of the Chief Executive Officer that a person appointed by resolution to act as Chief Executive Officer assume all Functions, delegations, and sub-delegations of the Chief Executive Officer for the period only of the absence of the Chief Executive Officer unless otherwise resolved by the Council.
7. These delegations and authorities are subject to, and are to be exercised in accordance with:
 - a. the requirements of the relevant Legislation;
 - b. any conditions or limitations set out in Schedule 1 and Schedule 3; and
 - c. any resolution or policy, procedure or budget adopted from time to time by the Council.
8. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.

9. In this delegation:

- **“Functions”** means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
- **“Legislation”** means legislation enacted by the parliament of New South Wales and the parliament of the Commonwealth of Australia, including an Act, regulation made under an Act, by-law, rule or ordinance.
- **“LG Act”** means the *Local Government Act 1993* as amended.

Schedule 1: Limitations

Part A – Limitations applicable to specific statutory Function (if any)	
Legislation	Limitation (if any)
N/A	N/A
Part B – General Limitations	
N/A	

Schedule 2: Instruments of Delegation to Council

Delegator	Instrument Name	Date Of Instrument
Department of Fair Trading	Instrument of delegation under section 21 of the Plumbing and Drainage Act 2011	Thursday, 8 November 2012
Roads and Maritime Services	Transport Administration Act Delegation - Section 50	Monday, 31 October 2011

Schedule 3: Policy Authorities

Code	Policy Authority	Conditions / Limitations (if any)
AA05 - Crisis Management - Level 1	Authority to direct staff and other resources, authorise expenditure or any other action necessary for the management of a crisis and the recovery of operations in accordance with Council's <i>Business Continuity Plan</i> , the <i>Local</i>	N/A

	<p><i>Government Act 1993</i> or other relevant Acts.</p> <p>Pursuant to the <i>Local Government Act 1993</i>, Council's <i>Business Continuity Plan</i> and other relevant legislation.</p>	
F01 - Authority to Operate on Accounts - Shoalhaven City Council	<p>Authority with one other authorised person to:</p> <p>i) Operate on any account(s) now opened or to be opened by the Shoalhaven City Council with Financial Institutions so long as the account(s) shall be in credit or at the Financial Institutions discretion not withstanding that they shall become thereby or be already overdrawn.</p> <p>ii) Authority to sign, draw, make, accept and negotiate cheques and electronic transfers on behalf of Council.</p> <p>Pursuant to the <i>Local Government Act 1993</i> and a resolution of Council dated 31/01/2017 – MIN17.54</p>	N/A
F02 - Accounts Receivable - Write-Offs <\$4000	<p>To authorise the abandonment or write off of accounts receivable for any amount up to but not exceeding \$4,000.</p> <p>Pursuant to the Local Government Act 1993, Council policies - Rates and Other Monies - Delegation of Authority to Write Off (POL16/199 s3(b)) and Revenue - Debt Recovery (POL 16/119 s5) as reviewed from time to time</p>	N/A
GM01 POL14/66 - International Gift Giving and Receiving	<p>Authority to administer the giving and receiving of gifts to the City as a result of international interactions by Councillors or staff, according to Code of Conduct Guidelines.</p> <p>Pursuant to the Local Government Act 1993 and Council POL 14/66 - International Gift Giving Policy as reviewed from time to time</p>	N/A
GM02 - Leases < 5 Years < \$5000	<p>Authority to approve and execute leases and licences that are a maximum term of 5 years, are in accordance with current policies and</p>	N/A

	<p>relevant legislation, have an annual rental of \$5,000 or less and have not been objected to as a result of the public exhibition process. Community Land MIN14.912.</p> <p>Authority to approve and execute telecommunications licences where the agreement relates to an existing telecommunication site</p> <p>Pursuant to the Local Government Act 1993 and Council MIN15.237 adopted at Council Meeting 21 April 2015</p>	
GM03 - Leases - Integrity Real Estate	<p>Authority to approve and finalise all lease negotiations in relation to the properties managed by Integrity Real Estate and to sign any documents necessary (MIN15.237).</p> <p>Pursuant to the Local Government Act 1993 and Council MIN15.237 adopted at Council Meeting 21 April 2015</p>	N/A
GM04 - POL16/10 - Expend Funds for Tree Removal	<p>Authority to expend funds to remove trees subject to a Court Order under the <i>Trees (Dispute Between Neighbours) Act 2006</i>.</p> <p>Pursuant to the <i>Environmental Planning & Assessment Act 1979</i>, the <i>Trees (Dispute Between Neighbours) Act 2006</i> and Council Tree Management Policy - POL 16/10 as reviewed from time to time</p>	N/A
GM08 - Determine and Accept Tenders < \$1M	<p>Authority to determine and accept any tenders with a value of less than \$1M except those tenders required by law to be determined by the Council; and</p> <p>Authority to determine and accept tenders initiated by the Illawarra Shoalhaven Joint Organisation (ISJO) on behalf of all or a majority of member councils.</p> <p>Pursuant to a Resolution of Council dated 26 April 2017 – MIN17.334</p>	N/A

Pursuant to a Resolution of the Council at its meeting of Tuesday, 25 June 2019, MIN19.402C

Mayor Amanda FINDLEY

Mayor / Councillor

Date:

Review date: Wednesday, 1 September 2021

Chief Executive Officer's acknowledgement of Delegations of Authority

I Stephen Dunshea, currently employed by the Council in the position of Chief Executive Officer, do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

Chief Executive Officer of Shoalhaven City Council

Date:

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CL19.181 - Attachment 1

CL19.182 “The Blockstars”! - Lego League Report

HPERM Ref: D19/240350

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

Purpose / Summary

To provide a report on ‘The Blockstars’ attendance at the USA Open International Tournament in California in May 2019, in accordance with MIN19.77.

Recommendation

That Council receive the report of The Blockstars team’s participation in the FIRST Lego League USA Open International Tournament for information.

Options

1. That Council receive the report of The Blockstars team’s participation in the Lego League for information.

Background

At the Ordinary Council meeting of 26 February 2019, it was resolved (MIN19.77)

That Council:

1. Provide the Blockstar students with a donation of \$5,000.00 from Council’s unallocated donations to assist with costs to attend and compete in the USA Open International Tournament in California in May 2019.
2. Write to the Blockstar students and congratulate them on their success in the FIRST Lego League during 2018.
3. Request the Blockstar Students to make a presentation to Council following their participation in the US Open International Tournament.

The Blockstars Team will provide a deputation to the Council in support of this report.

Report on the FIRST Lego League provided by Kate Weakley (Team Coach)

The Blockstars are a Shoalhaven-based robotics team who formed in 2017 to compete in FIRST Lego League. FIRST is an international organisation (and an acronym: For Inspiration and Recognition of Science and Technology) which promotes STEM-based learning in a fun and supportive environment. Our team is composed of five students, ranging in age from 14 to 17, from four different local schools. They are coached by a parent and supported by their families. This past season the competition’s theme was “Into Orbit”, which meant that the robot game, design, research and project based innovation and invention aspects of the competition centred around a space theme.



The Blockstars won the Sydney Regional Tournament at Macquarie University (photo above) and the NSW State Tournament in Wollongong in November 2018. They then competed at the Australian National Championships in December 2018 and were awarded first place in the programming division. This resulted in an invitation to represent Australia at the US Open International Tournament at Legoland in California in May this year.

The opportunity to travel to the US was only able to be realised due to a grant from the NSW Chief Scientist's Office (The NSW Department of Primary Industries), generous donations from Shoalhaven City Council and Berry Rotary Club, and great community support in all of the team's fundraising efforts. Notably, throughout the season, the team raised in excess of \$2500 by recycling plastics via the "Return & Earn" system.

The funds donated and raised covered the cost of flying the team and all their gear to Los Angeles, travelling to San Diego, staying in an AirBnB together, cooking our own food at the house, tournament registration fees for the team and coach, transport to and from Legoland for three days, and other associated costs. Family members who came along to support the team all covered their own costs.

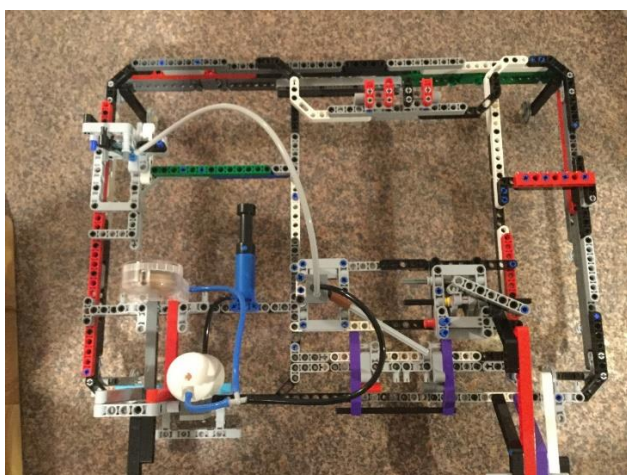
This opportunity has provided the team with an excellent insight into the international standard of competition and the forum to interact with like-minded scientists from all over the world. It also provided challenges in terms of transporting their work (both robotics and project) and developing their ideas beyond what was presented at the National Championships to illustrate progression. Documenting their journey was prioritised and their Core Values, Building & Design and Project manuals are testament to the work completed.

At the international tournament The Blockstars won 3rd Place in the Robot Game, with a score of 256. This was a very pleasing result and it was great to come home with a big LEGO trophy! The team also received excellent feedback for their project ("The Earth Pod"), their level of engagement with the local community and specific aspects of the robot design.

Their results are a testimony to the amazing teamwork and maturity they have displayed and also to the significant support they have received from their families and the wider community. The Blockstars are very grateful and look forward to paying their opportunities forward as the journey continues.



From left: Travis Fuss, Saxon Perry, Kate Weakley, Jess Weakley, Oliver Bristow, Josh Weakley



CL19.182

CL19.183 Nomination - Replacement Nominated Member of Joint Regional Planning Panel

HPERM Ref: D19/242467

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

Purpose / Summary

To determine the replacement Member of the Southern Joint Regional Planning Panel after the resignation of Cllr Pakes from the Panel effective 9 July 2019.

Recommendation

That Council nominate Cllr White as the second member of the Southern Joint Regional Planning Panel until the September 2019 call meeting.

Options

1. As recommended.

Implications: This ensures that Council has the two (2) nominated members until the Council meeting in September 2019 where all Committees and representatives are re-determined. This would elevate Cllr White from an alternate member to a full member during this time. Cllr White has agreed to this proposal for the 2-month period in question.

2. Revise all member representatives of the Council for the Southern Joint Regional Planning Panel at this time, either for the period until September 2019 or September 2020.

Implications: This will not facilitate consideration of representation in the context of Committee arrangements for the September 2019-2020 period.

3. Appoint another Councillor instead of Councillor White as the Council's representative until the September Ordinary Meeting of the Council.

Implications: The Councillor in question will be required to meet the criteria of membership as outlined in the [Code of Conduct for JRPP members](#). Induction Training will also be required.

Background

Councillor Pakes advised the Chief Executive Officer on 9 July 2019 that he was tendering his resignation from the Committee effective immediately.

This report is provided to allow Council to appoint a representative member to replace Councillor Pakes.

The members appointed by Council on 25 September 2018 (MIN18.780) for the period to 30 September 2019 were as follows:

- Cllr Watson (Council Member)
- Cllr Pakes (Council Member)
- Cllr White (Alternate Member)
- Mr Royston (Alternate Community Member)

The number of Panel Members which the Council is required to nominate is two (2) and it may nominate alternatives who can be representatives should the full nominated members be unable to participate.

The proposed recommendation allows for Cllr Watson to remain a nominated member, together with Cllr White. Mr Royston will remain as an alternate member. This arrangement will be in place until the September Ordinary Meeting, when all Committees and representatives will be re-considered.

Cllr White has agreed to the above proposal as a temporary measure.

CL19.184 Number of Councillors and other Electoral Matters for Consideration

HPERM Ref: D19/228354

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

Purpose / Summary

To provide information for Council to make a resolution, as required under the Local Government Act, 1993 (the Act), as to the number of Councillors for Shoalhaven City Council for the term of office commencing 2024.

Recommendation

That Council not seek a Constitutional Referendum in conjunction with the 2020 Local Government Election to change the number of Councillors for Shoalhaven City Council.

Options

1. As recommended – to not amend the number of Councillors
2. Seek a Constitutional Referendum to change the number of Councillors for Shoalhaven City Council to a defined number

Implications: Council will incur additional election costs and may need to reconsider ward boundaries and representation.

Background

Section 224(2) of the Act requires that not less than 12 months before the next ordinary election, Council is required to determine the number of its Councillors for the following term of office. The deadline for such a resolution for the 2024 Local Government Elections is 11 September 2019.

A council must have at least 5 and not more than 15 councillors (one of whom is the Mayor). A popularly elected Mayor is not considered within the number of Councillors for this purpose.

If Council proposes to change the number of councillors for the September 2024 Local Government Election, it must, before determining the number, obtain approval from the Minister for the change to be voted on via a constitutional referendum which may be held in conjunction with the 2020 Election.

There has been no need identified at this time for a reduction or increase of Councillors in the Shoalhaven City Local Government Area.

In addition to changing the number of councillors, a council can pass a resolution to request a constitutional referendum to effect changes to the following constitutional arrangements:

- Change the way the Mayor is elected
- Abolish Wards
- Alter the method of electing Councillors

No resolution on these matters is required under the legislation unless the Council wishes to make changes by constitutional referendum, in which case a resolution will be required before 11 September 2019.

a) *Change the way the Mayor is elected*

Section 228 of the Act allows Council to change the method of election of the Mayor (for the 2024 election) by seeking approval at a constitutional referendum that could be held in conjunction with the 2020 election.

In the case of this Council, the Local Government Act provides a popularly elected Mayor is considered additional to the number of Councillors for each ward. If a decision were to be made to change the method of election of the Mayor to being determined by the Councillors (at the call meeting in September each year), it would have the effect of changing the number of Councillors.

b) *Abolish Wards*

Section 210(5) of the Act provides that Council may not abolish Wards unless it has obtained approval to do so at a constitutional referendum. If the constitutional referendum supports the abolition of Wards, the decision would take effect at the September 2024 election.

If it is the intention of Council to seek a constitutional referendum to abolish Wards, a constitutional referendum on the matter may be conducted in conjunction with the 2020 election.

A report will be provided to the Strategy and Assets Meeting in August 2019 with respect to Ward Boundary adjustments arising from changes in elector numbers in the Shoalhaven City.

c) *Alter the method of electing Councillors*

Two methods are available for the election of Councillors. Presently Council is elected by method 1 where Councillors are elected by all the electors within a Ward. The alternative method is that some Councillor(s) may be elected by all electors within a Ward and others by all electors in the Council area.

Changing the method of electing Councillors for the 2024 election may be determined by constitutional referendum that may be held in conjunction with the 2020 election.

Community Engagement

Should Council determine that it seeks to change constitutional arrangements, community engagement would occur in conjunction with a Constitutional Referendum.

Financial Implications

A constitutional referendum that is conducted in conjunction with the 2020 Election will involve additional expenditure; however, this approach would be significantly more cost effective than Council deciding to conduct a similar referendum during the term of the next Council. It would have minimal impact on other resources.

A reduction in the number of Councillors may result in cost savings for Council.

CL19.185 Policy Review - Internal Reporting Policy

HPERM Ref: D19/243112

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

Attachments: 1. Draft Internal Reporting Policy (under separate cover) [⇒](#)

Purpose / Summary

To provide a Draft Internal Reporting Policy (POL19/36) for adoption by the Council.

Recommendation

That the Draft Internal Reporting (POL19/36) be reported to Council for adoption

Background

Council is required to have an Internal Reporting Policy under the Public Interest Disclosures Act, 1994.

The current policy of the Council (POL11/102) is past its review date and has been amended and presented for consideration and adoption by the Council.

The main amendments proposed to the draft Policy are as follows:

- Alignment with the Model Internal Reporting Policy produced by the NSW Ombudsman.
- A new listing of Disclosure Officers is nominated to align with best practice and current operational roles. Specifically, the following positions were added:
 - Group Directors
 - Section Manager – HR, Governance and Customer Service
 - HR Manager
 - Complaints Officer
- The Internal Audit Coordinator remains as a Disclosure Officer and the Public Officer remains as the Disclosures Coordinator.
- Changes made to reflect that Conflict of Interests provisions appear in the new Code of Conduct, rather than the Local Government Act, 1993.
- Reference to the Council Core Values included.
- Amended references to the General Manager as Chief Executive Officer.
- Amendment to statistical reporting provision to reflect changes arising from the Local Government Bill, 2019.

Community Engagement

Although this is a public policy of the Council, it is not envisaged that public consultation is required or will be undertaken for this review, as the changes are minor and in line with the Model Internal Reporting Policy.

Policy Implications

Although the policy relates directly to the Code of Conduct, Fraud and Corruption Prevention Policy, the changes proposed to the Internal Reporting Policy do not require any corresponding changes to other policy documents.

It is important that the Internal Reporting Policy be updated and included in the roll-out of the new Code of Conduct as it represents a key reporting mechanism for the Council.

Risk Implications

The adoption of the policy, management of disclosures, education of staff about the policy and its provisions are all important fraud and corruption prevention measures for the Council.

New Facts Sheets and training aids, as well as revisions to the Intranet, will be made available on adoption of the policy to advise staff of the changes.

CL19.186 The Local Government Amendment Bill 2019

HPERM Ref: D19/243132

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

Attachments: 1. OLG Circular 19-14 Recent Amendments to the Local Government Act, 1993 [↓](#)

Purpose / Summary

To advise Councillors of the changes to the Local Government Act, 1993 and other legislation arising from the assent of the Local Government Amendment Bill 2019 on 24 June 2019.

Recommendation

That the information in relation to the legislative amendments arising from the assent of the Local Government Bill 2019 be noted.

Options

1. To adopt the recommendation as outlined in the report
2. To adopt the recommendations to note the information provided with additions as considered appropriate by the Council.

Implications: Not known

Background

On 24 June 2019 the assent of the Local Government Amendment Bill, 2019 resulted in changes to the Local Government Act, 1993 and the following legislation:

- Government Section Finance Legislation (Repeal and Amendment) Act 2018
- Land and Environment Court Act 1979
- Local Government General Regulation 2005
- Public Interest Disclosures Act 1994

In summary the amendments arising from the assent of the Bill which have already commenced are:

1. Elections

Under the amendments to the Act, Councils must make a decision on the administration of their September 2020 ordinary elections no later than 1 October 2019 and enter into an election arrangement with the NSW Electoral Commission (NSWEC) no later than 1 January 2020.

If councils do not enter into an election arrangement with the NSWEC for the administration of their elections, they must engage an electoral services provider to administer their elections.

These changes reflect the new preference counting rules that come into effect at the next council elections which mean that it will no longer be possible for votes to be manually

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counted, making it impossible for councils to administer their own elections without the assistance of an expert electoral services provider (either the NSWEC or a commercial provider).

2. Tendering Arrangements:

The tendering threshold, below which councils do not have to undertake a competitive tendering process, has been increased to \$250,000. However, the threshold for contracts involving services provided by council employees at the time of entering the contract remains at \$150,000.

Councils can procure the services of pre-qualified disability employment organisations approved under the Public Works and Procurement Act 1912, without having to go to tender

3. Public Interest Disclosures Reporting

The Public Interest Disclosures Act 1994 has been amended with the intention of allowing councils to report on their obligations under that Act in their own annual reports under the Local Government Act 1993, rather than by the current requirement to table a special report in Parliament. Further changes to relevant legislation and regulations will be made to facilitate this.

4. Rates Path for Amalgamated Councils

Councils formed in 2016 will have their rate path freeze extended until 1 July 2021, unless they resolve to apply to the Minister to vary the existing rates path freeze determination and the determination is varied.

Future Amendments

The following amendments will come into effect by proclamation (date not yet known):

- Regulations will be made to enable councils to access the National Prequalification System for Civil Construction (Roads and Bridges) Contracts after further consultation.
- Councils can delegate regulatory functions to another council, and to joint organisations of which they are not a member, with approval of that council or joint organisation. Further, joint organisations will be able to sub-delegate regulatory functions to their committees, in addition to their Executive Officer.
- Regulations will now be made to exempt councils from the need to publicly notify fees relating to certain defined commercial activities and from the need to determine those fees based on an adopted pricing methodology. This will ensure councils are not placed at unfair disadvantage during commercial negotiations.
- Regulations will now be made to prescribe a scheme for mutual recognition of council approvals for regulatory activities issued under Section 68 of the Act.

The following types of activities generally require approval under section 68:

Temporary structures & places of public entertainment

- Install a manufactured home, moveable dwelling or associated structures.

Water supply, sewerage & stormwater work

- Carry out water supply work

- Draw water from a Council water supply or a standpipe (including selling of the water)
- Install, alter, disconnect or remove a meter connected to a service pipe
- Carry out sewerage work
- Carry out stormwater drainage work
- Connect a private drain or sewer with a Council controlled public drain or sewer
- Management of waste
- Transport waste over or under a public place
- Put waste in a public place
- Put a waste storage container in a public place
- Dispose of waste into a Council sewer
- Install, construct or alter a waste treatment device, or a human waste storage facility (such as a 'septic tank'), or, a drain connected to such a facility or device
- Operate an on-site sewage system (OSMS).

Policy Implications

In the first instance, Council's Procurement Policy and Procedures will require amendment to align with the new legislation.

As other amendments come into effect, assessment will be made on the impact of the changes to current practice and policy, with relevant changes reported to the Council.

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Office of
Local Government

Circular to Councils

Circular Details	Circular No 19-14 / 10 July 2019 / A652389
Previous Circular	19-12 – <i>Consultation by IPART on recommended reforms to local government election costs and extension of the deadline for councils to make a decision on the administration of their elections</i>
Who should read this	Councillors / General Managers
Contact	Policy/Governance Teams / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Recent amendments to the *Local Government Act 1993*

What's new or changing

- The *Local Government Amendment Act 2019* was assented to on 24 June 2019 and a number of provisions came into effect on 25 June 2019.
- This has amended the *Local Government Act 1993*, including:
 - enabling the Minister to extend the rates path freeze for an additional 12 months for those councils formed in 2016 that need more time to consult with communities about rating harmonisation; and
 - extending the 'cut-off date' for councils to make a decision on the administration of elections in 2020, and to require councils that do not enter into an arrangement with the Electoral Commissioner to engage an electoral services provider to administer elections (See *Circular 19-12*).
- Further changes have also come into effect, or will come into effect in future by proclamation, as indicated below.

What this will mean for your council

- Councils have until 1 October 2019 to resolve to enter into arrangements with the Electoral Commissioner, or an electoral services provider, to administer the 2020 ordinary council elections, and have until 1 January 2020 to enter into these arrangements (**commenced**).
- Councils formed in 2016 will have their rate path freeze extended until 1 July 2021, unless they resolve to apply to the Minister to vary the existing rates path freeze determination and the determination is varied (**commenced**).
- The tendering threshold, below which councils do not have to undertake a competitive tendering process, has been increased to \$250,000. However, the threshold for contracts involving services provided by council employees at the time of entering the contract remains at \$150,000 (**commenced**).
- The *Public Interest Disclosures Act 1994* has been amended with the intention of allowing councils to report on their obligations under that Act in their own annual reports under the *Local Government Act 1993*, rather than by the current requirement to table a special report in Parliament (**commenced**). Councils should also note that further changes to relevant legislation and regulations will be made to facilitate this.
- Councils can procure the services of pre-qualified disability employment organisations approved under the *Public Works and Procurement Act 1912*, without having to go to tender (**commenced**).

- Councils should also note that the Minister intends to enable, by a future regulation, councils to access the *National Prequalification System for Civil Construction (Roads and Bridges) Contracts* after further consultation.
- Councils are able to delegate regulatory functions to another council, and to joint organisations of which they are not a member, with approval of that council or joint organisation. Further, joint organisations will be able to sub-delegate regulatory functions to their committees, in addition to their Executive Officer **(commences by proclamation)**.
- Regulations are able to be made to exempt councils from the need to publicly notify fees relating to certain defined commercial activities and from the need to determine those fees based on an adopted pricing methodology. This will ensure councils are not placed at unfair disadvantage during commercial negotiations **(commences by proclamation)**.
- Regulations are able to be made to prescribe a scheme for mutual recognition of council approvals for regulatory activities issued under section 68 of the Act **(commences by proclamation)**.

Key points

- The Office of Local Government (OLG) has provided a separate Circular to Councils about the new provisions in relation to elections (See *Circular 19-12*).
- New councils that need it will be able to seek more time to consult with local communities about rating harmonisation. OLG will write to all new councils shortly about what this means for them and next steps.
- OLG will consult further with local government before preparing regulations to support amendments that commence by proclamation. This includes potential regulations about sharing regulatory services, mutual recognition of approvals and exemptions from regulatory requirements for certain commercial activities.

Where to go for further information

- Further information can be found on OLG's website www.olg.nsw.gov.au.
- A copy of the amendment Act may be found on the NSW Legislation website www.legislation.nsw.gov.au.
- For further information, contact OLG's Governance Team (elections and procurement) and Policy Team (all other matters) on 02 4428 4100.



Tim Hurst
Deputy Secretary
Local Government, Planning and Policy

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CL19.187 Investment Report - June 2019

HPERM Ref: D19/244284

Group: Finance Corporate & Community Services Group
Section: Finance

Attachments: 1. June 2019 Monthly 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 Chief Executive Officer (Finance, Corporate & Community Services Group) on the Record of Investments for the period to 30 June 2019 be received for information

Options

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

Implications: Nil

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

Implications: Nil

3. The report of the Record of Investments for the period to 30 June 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 July 2019.

Implications: Nil

Background

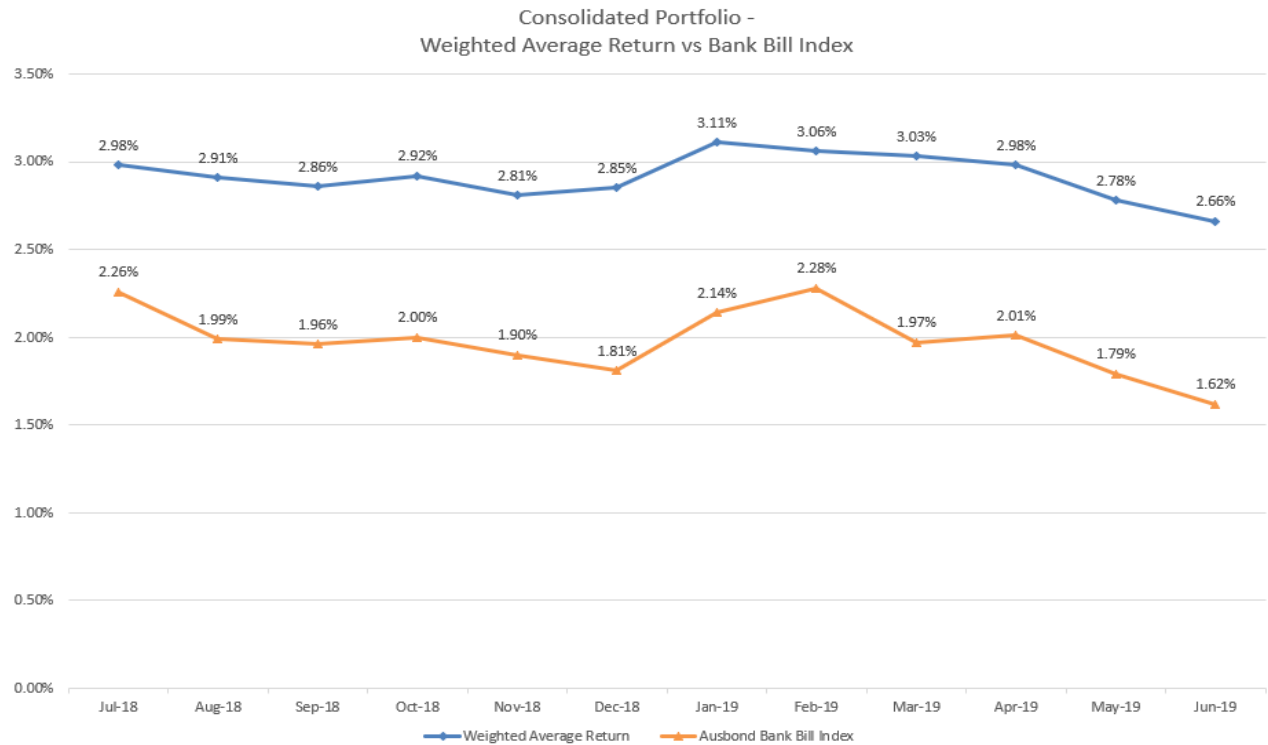
Please refer to the attached monthly report provided by Council's Investment Advisor, CPG Research and Advisory Pty Ltd. A Councillor Briefing with Andrew Vallner, Managing Director CPG, was held on 20 June 2019 that identified a number of options for Council to consider when it revises its Investment Policy. The attached monthly report from CPG states that "Council's Policy will be amended to place precedence on ESG-certified complying products". It should be noted that a decision has not been taken on the final form of the recommended revision of Council's Investment Policy.

An evaluation of the options presented by Mr Vallner is under way and will be the subject of a report to Strategy and Assets Committee later this calendar year. CPG's feedback will be included in the report. Council will then be able to consider the options and resolve to accept any recommended changes to the Policy.

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Council's investment portfolio returned a strong 2.66% for the month of June 2019, exceeding the benchmark AusBond Bank Bill Index (1.62% pa) by 104 basis points (1.04%).

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.



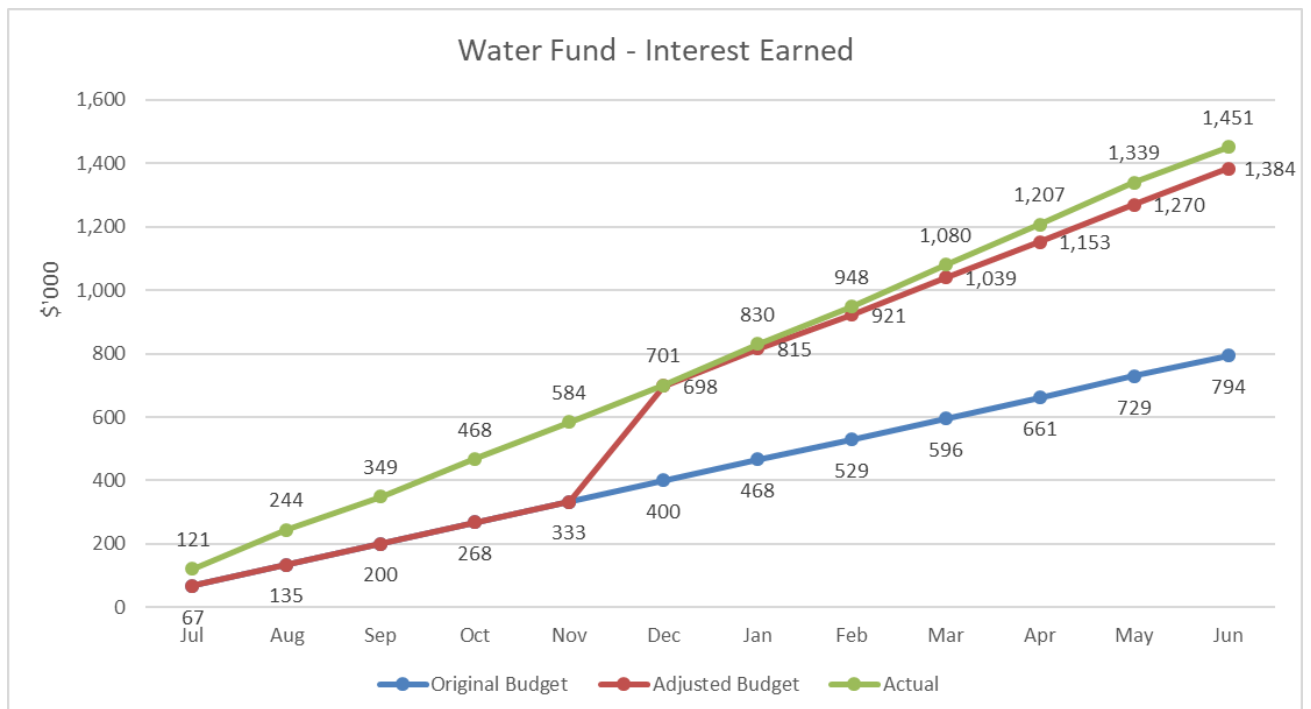
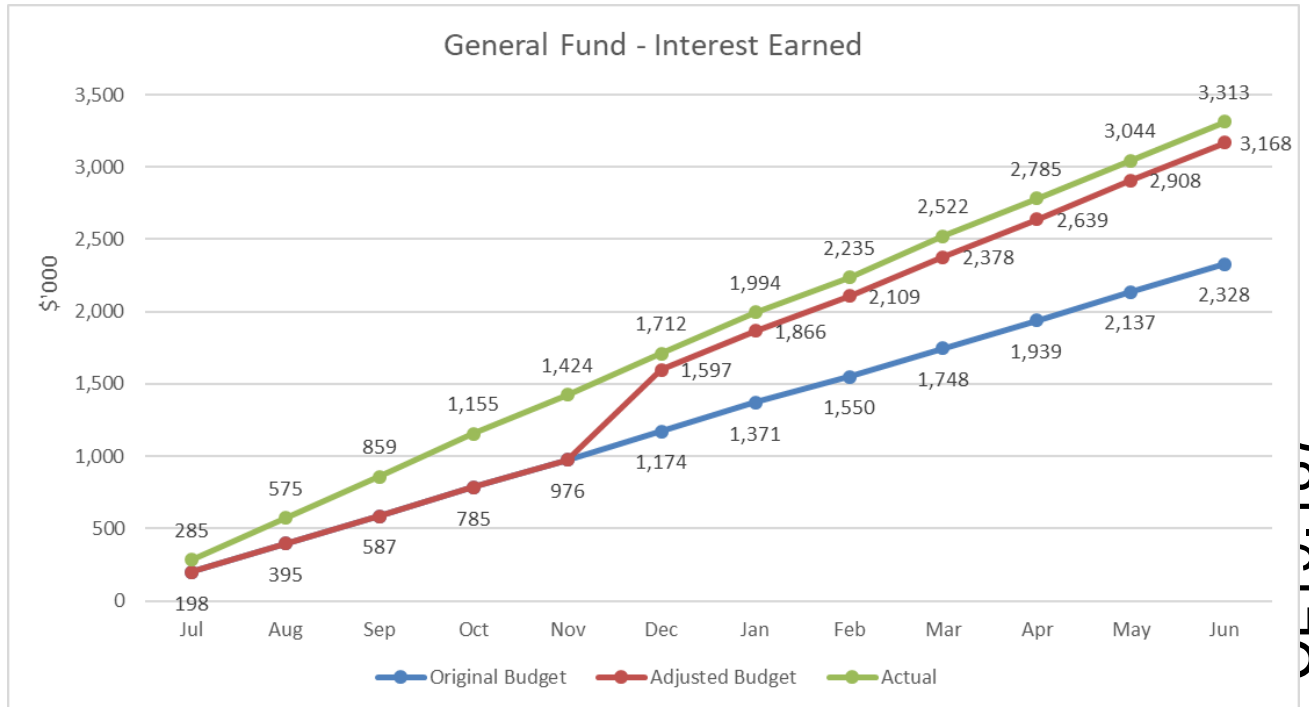
The interest earned to the month of June was \$6,141,672, 1.07% of the current full year budget.

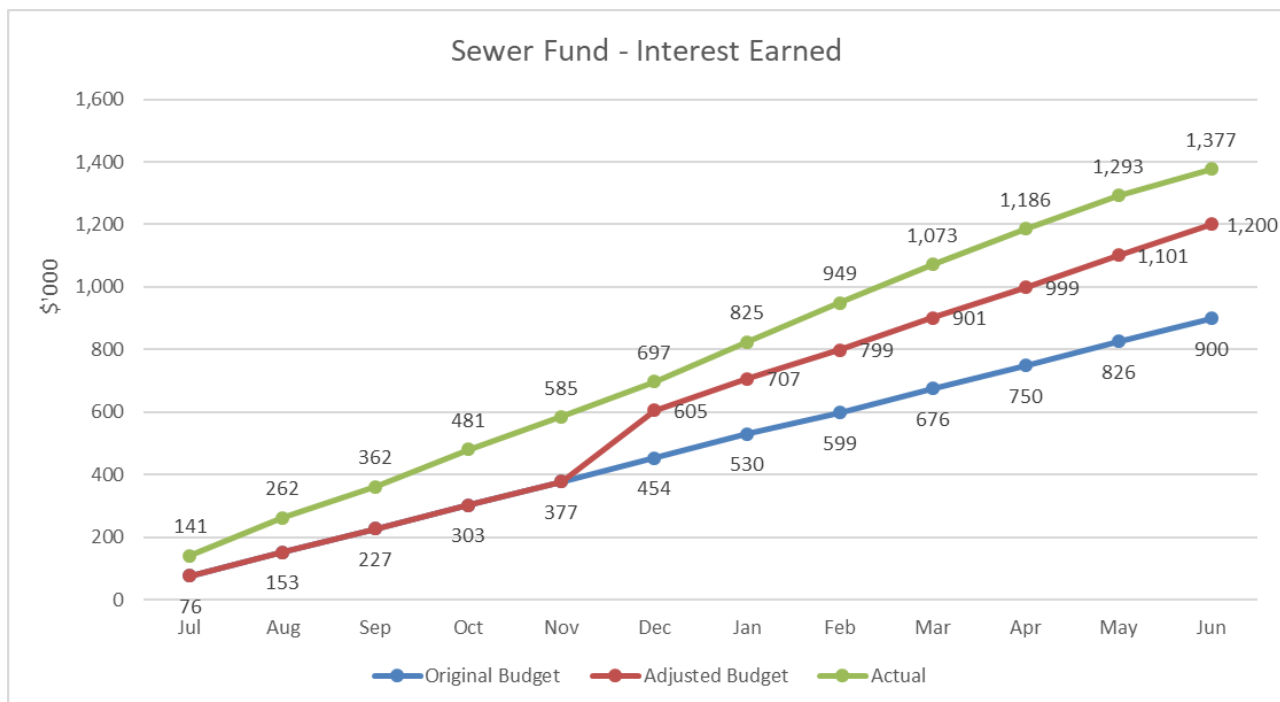
Fund	Original Budget	Actual	%	Revised Budget	Revised %
General	\$2,328,000	\$3,312,938	142.31%	\$3,168,000	104.58%
Water	\$794,000	\$1,451,384	182.79%	\$1,384,000	104.87%
Sewer	\$900,000	\$1,377,350	153.04%	\$1,200,000	114.78%
Total	\$4,022,000	\$6,141,672	152.70%	\$5,752,000	106.77%

The interest earned for the month of June was \$465,920.06; which was \$9,569 above the current budget.

Fund	Original Monthly	Actual	Difference	Revised Budget	Revised Difference
General	\$191,342.47	\$269,249	\$77,907	260,383.56	\$8,865
Water	\$65,260	\$112,736	\$47,476	113,753.42	-\$1,017
Sewer	\$73,973	\$83,935	\$9,962	98,630.14	-\$14,695
Total	\$330,575	\$465,920	\$135,345	\$472,767	-\$6,847

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

	June 2019	May 2019
Cash And Investments Held		
Cash at Bank - Transactional Account	\$8,258,585	\$5,954,330
Cash at Bank - Trust Fund	\$0	\$0
Cash on Hand	\$45,640	\$56,325
Other Cash and Investments	\$199,968,239	\$202,979,414
	\$208,272,464	\$208,990,069
Fair Value Adjustment	\$345,453	\$326,043
Bank Reconciliation	\$409,474	-\$32,149
	\$754,927	\$293,894
Book Value of Cash and Investments	\$209,027,390	\$209,283,963
Less Cash & Investments Held In Relation To Restricted Assets		
Employee Leave Entitlements	\$8,136,913	\$8,136,913
Land Decontamination	\$969,027	\$1,001,639
Critical Asset Compliance	\$1,989,041	\$2,006,723
North Nowra Link Road	\$456,381	\$456,688
Other Internal Reserves	\$8,278,876	\$8,724,134
Section 7.11 Matching Funds	\$311,169	\$311,169
Strategic Projects General	\$1,477,183	\$1,950,961
Industrial Land Development Reserve	\$6,209,842	\$6,049,648
Plant Replacement	\$2,156,038	\$2,413,129
Financial Assistance Grant	\$0	\$0
S7.11 Recoupment	\$1,591,833	\$1,874,679
Commitment To Capital Works	\$2,494,017	\$2,572,839
Property Reserve	\$280,980	\$307,206
Total Internally Restricted	\$34,351,301	\$35,805,728
Loans - General Fund	\$8,044,228	\$12,329,521
Self Insurance Liability	\$1,502,302	\$1,379,523
Grant reserve	\$12,881,090	\$9,466,477
Section 7.11	\$33,924,072	\$32,727,652
Storm Water Levy	\$1,183,274	\$1,260,919
Trust - Mayors Relief Fund	\$88,713	\$86,712
Trust - General Trust	\$3,350,978	\$3,696,871
Waste Disposal	\$7,503,028	\$7,615,549
Sewer Fund	\$36,569,333	\$40,843,942
Sewer Plant Fund	\$2,866,007	\$2,818,607
Section 64 Water	\$19,359,898	\$19,046,990
Water Fund	\$26,794,573	\$24,871,033
Water Communication Towers	\$1,903,035	\$1,947,379
Water Plant Fund	\$3,090,845	\$2,989,259
Total Externally Restricted	\$159,061,375	\$161,080,433
Total Restricted	\$193,412,676	\$196,886,161
Unrestricted Cash And Investments		
General Fund	\$15,614,714	\$12,397,802

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The below table lists the major movements:

Total Cash	+\$256,573	
Grants	+\$3,414,613	Receipt of RMS Grant funds
Sewer Fund	-\$4,274,608	Expenditure on REMS1B
Water Fund	+\$1,923,540	Normal Operating Cycle

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 POL18/57.



Michael Pennisi
Chief Financial Officer

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CL19.188 Summary of Events - Proposed Changes to Parking Arrangements - Moss St / North St Nowra

HPERM Ref: D19/248215

Group: Assets & Works Group
Section: Technical Services

Attachments: 1. SA19.84 Parking Spaces - Petition - Moss Street / North Street - Nowra
[↓](#)

Purpose / Summary

A deputation request has been received from Mr Pip de Pulford (Hyper Hyper Coffee) regarding his concerns in relation to parking impacts from Council's proposed North Street - Kinghorne Street traffic signals project.

Recommendation

That Council receive a deputation from Mr Pip de Pulford at the July Council meeting regarding his concerns in relation to parking impacts from Council's proposed North Street - Kinghorne Street traffic signals project.

Options

Nil

Background Council has received funding under the 2018/19 Federal Government Blackspot Program to install traffic signals at the intersection of North St, Kinghorne St, Moss St, Nowra, to address reported crash history at the intersection.

The proposed traffic signals will result in the removal of 20 on-street timed parking spaces (15 in North St and 5 in Kinghorne St), and this proposal in an accordance with Council strategic, four lane plan for North Street.

At Council's Ordinary Meeting on 26 March 2019, Cllr Findley presented a petition containing 594 signatures which states:

"Businesses like Hyper have been informed of a proposal to reduce up to 15 car park spaces along North Street. We urge Council to save the commercial aspect of Moss and North Streets businesses servicing the life and soul of Nowra's CBD.

We ask for the reallocation of "all day" parking times on the South side of Moss Street, 45-degree parking, to be made shorter times.

I the undersigned, being a patron of Hyper Hyper Coffee, North Street, Nowra, state that:

I personally use the present parking in North Street to visit Hyper Hyper Coffee and that it is the only reason I visit this part of the CBD. Should the existing available parking be reduced from what it is presently I would reconsider my visit to Nowra."

In addition, a further petition containing 17 signatures was presented at the meeting which stated:

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"I/we the undersigned, being a business operator in/in the immediate vicinity of Moss/North Streets rely to some extent on car parking for our business operation. I/we will be directly and negatively affected (sic) by the proposed loss of spaces in North Street.

Should these proposed spaces be lost, I support re-locating the 25 all day 45-degree car parking spaces on the south side of Moss Street to existing and presently contemplated all day car parks on the outer fringe of the CBD and to replace these spaces timed to benefit commercial use of Moss Street, retain viability and increase tourism within the CBD of Nowra.

I/we support; From the West, 5x 15-minutes, 5x 30-minutes, 10x 1-hour, 5 x 2-hour parking. This would in my opinion benefit community commerce and tourism."

In accordance with Council's Policy a report relating to the petitions was submitted to Council to Council's (Strategy & Assets Committee 11 June, 2019, MIN19.395).

That in response to two petitions presented to the Ordinary Meeting on the 26 March 2019, the General Manager (Director, Assets & Works) carry out community consultation on a proposal to time restrict three (3) all day parking spaces to 2P (2 hour) on the southern side of Moss St, Nowra (immediately east of Kinghorne St), prior to consideration of the proposal by the Shoalhaven Traffic Committee and subsequent consideration by Council.

The current consultation period remains open until close of business on Friday 2 August, 2019. It was proposed (pursuant to the June resolution) to report the matter back to Council via the Shoalhaven Traffic Committee; this would be possible for the September 2019 Ordinary Meeting.

Council staff have been made aware that Mr de Pulford was expecting to make a deputation to Council in relation to the petition that he organised. Due to an oversight Mr de Pulford was not directly advised that the "Petition Report" (attachment 1) was going to Council and thus Mr de Pulford missed his opportunity to make his deputation.

This report allows for that deputation to take place and an invitation (via email) has now been extended to Mr de Pulford to make a deputation to the 30 July 2019 Ordinary Council meeting.

Financial Implications

Nil

Risk Implications

Nil

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SA19.84 Parking Spaces - Petition - Moss Street / North Street - Nowra

HPERM Ref: D19/104900

Group: Assets & Works Group
Section: Technical Services

Purpose / Summary

To report on the two petitions that were presented to the Council Ordinary meeting on 26 March 2019 requesting consideration be given to time restricted all day parking spaces in Moss St, Nowra (due to the proposed parking impacts associated with the North St/ Kinghorne St traffic signals project).

Recommendation (Item to be determined under delegated authority)

That in response to two petitions presented to the Ordinary Meeting on the 26 March 2019, the General Manager (Director, Assets & Works) carry out community consultation on a proposal to time restrict three (3) all day parking spaces to 2P (2 hour) on the southern side of Moss St, Nowra (immediately east of Kinghorne St), prior to consideration of the proposal by the Shoalhaven Traffic Committee and subsequent consideration by Council.

Options

1. As recommended.

Implications: The proposal to time restrict 3 parking spaces to 2P parking will result in the loss of 3 all day parking spaces but is supported by the technical parking analysis.

2. That in response to two petitions presented to the Ordinary Meeting on the 26 March 2019, Council carry out community consultation on the possibility of installing 5 x 1/4P (15 minute), 5 x 1/2P (30 minute), 10 x 1P (1 hour), and 5 x 2P (2 hour) parking spaces in Moss St as requested in the petition containing 17 signatures.

Implications: The option to time restrict 25 parking spaces to timed parking will result in the loss of 25 all day parking spaces which will have a significant impact on all day parking and is not supported by technical analysis. In addition, multiple parking restrictions along the same section of road can create confusion for motorists leading to non-compliance with parking times.

3. That in response to two petitions presented to the Ordinary Meeting on the 26 March 2019, Council does not introduce time restricted parking on the southern side of Moss St.

Implications: Not introducing some time restricted parking on Moss Street will have a greater impact on surrounding businesses and customers due to the proposed loss of 2P parking associated with the traffic signal project.

Background

Council has received funding under the 2018/19 Federal Government Blackspot Program to install traffic signals at the intersection of North St, Kinghorne St, Moss St, Nowra, to address reported crash history at the intersection.

A separate report to June Strategy & Assets Committee (approved blackspot variations) details the amended delivery timeframe (it is currently proposed to commence the signals project in September and be completed by December 2019)

The approved traffic signals will provide an important safety treatment at the intersection for both vehicles and pedestrians and is consistent with the Nowra CBD transport strategy. In the 5-year period between July 2011 and June 2016 there were 4 crashes at this intersection which resulted in injuries, 1 of which involved a pedestrian.

An adverse impact of this proposal is there will be some loss of available on-street parking on Kinghorne St and North St. Every effort has been made to minimise the loss of parking for the project, and the extent of parking impacts represents the minimum to achieve safe standards on the approach and departure to the traffic signals and allow for heavy vehicle swept paths.

Parking Impacts

The proposed traffic signals will result in the removal of 20 on-street timed parking spaces (15 in North St and 5 in Kinghorne St).

In the future, North Street will be converted to a 4-lane road, with additional signalised intersections at Graham Street, O'Keeffe Ave and the Princes Highway, in accordance with the Nowra CBD strategy. These works will be required progressively over time but also may be brought forward by the East Nowra Sub Arterial (ENSA) project which will connect into North Street.

The future road upgrades will ultimately require the removal of all on street parking along North St from the Highway to Bridge Rd. At each successive upgrade (like the current proposed traffic signals project at North Street/Kinghorne Street intersection), losses of parking will be minimised where practical.

Consultation

On 14 December 2018, as part of the consultation plan for the project, Council staff provided preliminary design plans of the traffic signals at the intersection of North St and Kinghorne St to adjacent property owners, inviting feedback. The plan also indicated the proposed loss of on-street parking required for the traffic signals.

Concern was raised by the owner of the Hyper Hyper Coffee Shop relating to the loss of available timed on street parking.

Council staff met onsite with the owner of Hyper Hyper on 6 February 2019 to discuss the need for the on-street parking removal as part of the signals project. At the meeting Council staff indicated that due to the concern raised that they will investigate the possibility of time restricting some of the all-day angle parking spaces on the southern side of Moss St to 2 hour (to be consistent with the time restriction on the northern side) to assist in mitigating the short-term parking loss associated with the project.

It was advised that this process will be initiated separate to the traffic signal project but run generally in parallel. Consistent with Council processes for changes of this nature, consultation with adjoining businesses, the Business Chamber, and the Nowra CBD Revitalisation Strategy Committee needs to be carried out prior to referral of the proposal to the Shoalhaven Traffic Committee and Council for resolution.

Petitions Received

At Council's Ordinary Meeting on 26 March 2019, Cllr Findley presented a petition containing 594 signatures which states:

"Businesses like Hyper have been informed of a proposal to reduce up to 15 car park spaces along North Street. We urge Council to save the commercial aspect of Moss and North Streets businesses servicing the life and soul of Nowra's CBD.

We ask for the reallocation of "all day" parking times on the South side of Moss Street, 45-degree parking, to be made shorter times.

I the undersigned, being a patron of Hyper Hyper Coffee, North Street, Nowra, state that:

I personally use the present parking in North Street to visit Hyper Hyper Coffee and that it is the only reason I visit this part of the CBD. Should the existing available parking be reduced from what it is presently I would reconsider my visit to Nowra."

In addition, a further petition containing 17 signatures was presented at the meeting which states:

"I/we the undersigned, being a business operator in/in the immediate vicinity of Moss/North Streets rely to some extent on car parking for our business operation. I/we will be directly and negatively affected (sic) by the proposed loss of spaces in North Street.

Should these proposed spaces be lost, I support re-locating the 25 all day 45-degree car parking spaces on the south side of Moss Street to existing and presently contemplated all day car parks on the outer fringe of the CBD and to replace these spaces timed to benefit commercial use of Moss Street, retain viability and increase tourism within the CBD of Nowra.

I/we support; From the West, 5x 15-minutes, 5x 30-minutes, 10x 1-hour, 5 x 2-hour parking. This would in my opinion benefit community commerce and tourism."

Technical Parking Analysis

A technical analysis has been undertaken to inform the proposed consultation process. The analysis has been undertaken in accordance with AUSTROADS guidelines that suggest parking supply objective should be to satisfy the 85th percentile parking demand. This means it is not sustainable or economic to expect that councils should supply parking to satisfy the busiest days of the year, as an objective; the guidelines suggest parking should be provided at the level that is only exceeded 15% of the time.

Because of the seasonal nature of parking demands in the Shoalhaven, and in order to ascertain whether parking supply meets AUSTROADS guidelines, traffic and parking studies are first required to be undertaken over a period of time, then assessed for annual demand. This was done for Nowra CBD prior to Council adopting the Nowra CBD parking strategy in December 2015. A total of 15 surveys were undertaken (from September to March), and then adjusted to annual demand by analysing 365 days of traffic count data that was also collected on key roads leading into/out of the CBD.

When adjusted to current conditions the analysis suggests the net loss of parking associated with the proposed traffic signals project is only 3 spaces. I.e., whilst one of the petitions calls for a total replacement of a greater number of parking spaces, the technical analysis identifies that the subject 15 spaces in North St are not all fully utilised, when assessed against AUSTROADS guidelines, and supports consideration be given to providing 3 x 2P spaces in Moss Street to offset the proposed loss.

The technical analysis also considered the surveyed parking utilisation in Moss Street (all day) and indicated that the proposed 3 x 2P spaces could be accommodated based on 85thile surveyed demands. Anything greater than this amount of 2P parking cannot be justified (based on survey/demand), and when considering the lack of all-day parking, CBD-wide.

Accordingly, technical analysis supports going to community consultation on a proposal to provide 3 x 2P spaces on the southern side of Moss Street, Nowra, adjacent to Hyper Hyper, which could be utilised by all of the surrounding businesses.

Additional All-Day Parking Proposed

To address the lack of all-day parking, CBD-wide, Council staff will also soon be commencing consultation on the proposed broader provision of additional all-day car parking spaces proposed throughout Nowra CBD (this includes McGrath Avenue and Graham Street in close proximity to the subject location). Designs are currently being finalised for that separate consultation.

Financial Implications

Option 1 – A cost to install signposting for the time restricted parking (3 spaces) is approximately \$400 and can be funded from the RMS Block grant (traffic facilities). This option is supported by the technical parking analysis (meaning this number of spaces can be absorbed without having a significant impact to all day parking).

Option 2 – A cost to install signposting for the multiple time restricted parking (2 spaces) is approximately \$900 and can be funded from the RMS Block grant (traffic facilities). However, this option directly impacts 22 additional all-day parking spaces that is not supported by the technical analysis. Accordingly, if this option were adopted there would be a ripple effect in that 22 additional car parking spaces would need to be constructed elsewhere that are not currently envisaged in the broader Nowra CBD parking strategy (and this could cost several hundreds of thousands of dollars, depending on location).

Option 3 – No cost is associated with this option.

Risk Implications

The consultation process for the introduction of timed parking in Moss St needs to be considered separately to the traffic signal project as there will be a risk to the funding under the Federal Government Blackspot project if the construction of the traffic signals is deferred to resolve the parking matter.

It is noted that consultation processes undertaken to date indicates that there is broad support for the traffic signals project; it is just the parking impacts that are contended. Accordingly it is proposed to resolve the parking matter separately by investigating timed parking options in Moss Street (so as to not impact grant funding deadlines for the delivery of the signals using approved grant funds).

CL19.189 Coast and Estuary Consultation Legislative Requirements and Proposed Model, per MIN19.254

HPERM Ref: D19/148770

Group: Planning Environment & Development Group
Section: Environmental Services

Attachments: 1. OEH Coast / Estuary & Flood Program Community Consultation Presentation [↓](#)

Purpose / Summary

As per part two (2) of the Council resolution MIN19.254 (see below), provide information to Council on the legislative requirements relating to consultation under the NSW Coastal Management Act 2016 and the NSW Flood Development Manual 2005. This includes outlining the reasons for a proposed alternative model for flood, coast and estuary management issues.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the proposed coast, estuary and floodplain advisory management committee structure and functions as described in this report to establish:
 - a. Three advisory Floodplain Risk Management Committees (northern, central and southern) to meet on an as needs basis during development and implementation of floodplain risk management studies and plans in accordance with the NSW Floodplain Development Manual; and
 - b. An interim advisory Shoalhaven Coast and Estuary Management Committee until the completion of the citywide Coastal Management Program Scoping Study (for the open coast and all estuaries), during which community feedback will be sought on the future final model for the coast and estuary advisory committee or group.
2. During the development of the citywide Scoping Study hold north, central and southern community engagement sessions that will scope the Open Coast and St Georges Basin, Lake Conjola and the Lower Shoalhaven River Coastal Management Programs as well as the future strategic coastal management program approach for all other estuaries.
3. Following completion of the citywide Scoping Study, establish Working Groups for the preparation of the Open Coast and St Georges Basin, Lake Conjola and the Lower Shoalhaven River Coastal Management Programs.

Options

1. As per recommendation

Implications: Provide a consultative model and structure for future consultation, regarding matters concerning the management of estuaries and the coast and floodplain risk management.

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2. Receive the report for information and seek further information on the Coastal Management legislation and model

Implications: Dependent on what information was sought.

3. Propose an alternative recommendation

Implications: Dependent on the alternative recommendation.

Background

Council resolved as follows, on 30 April 2019 (MIN19.254), following a report from the Shoalhaven Coast Estuary & Floodplain Management Liaison Group on 27 March 2019.

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.'*

Legislative Requirements

NSW Coastal Management Act 2016 and Manual Part A

As per part two (2) of the resolution, which states the following:

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.*

The following outlines legislative requirements for and the proposed alternative model. The statutory provisions of NSW Coastal Management Act 2016 and the NSW Coastal Management Manual, Part A, relate to the development of a Coastal Management Program (CMP).

Part A of the NSW Coastal Manual states that before adopting a CMP a local Council must consult on the draft program with the following:

- a) The community
- b) If the local council's local government area contains:
 - i. land within the coastal vulnerability area, any local council whose local government area contains land within the same coastal sediment compartment (as specified in Schedule 1), and
 - ii. an estuary that is within 2 or more local government areas (as specified in Schedule 1), the other local councils, and
- c) Other public authorities if the coastal management program:
 - i. proposes actions or activities to be carried out by that public authority, or
 - ii. proposes specific emergency actions or activities to be carried out by a public authority under the coastal zone emergency action subplan, or
 - iii. relates to, affects or impacts on any land or assets owned or managed by that public authority.

The Coastal Management Act 2016 does not specify how the consultation is to be undertaken during the preparation of a CMP. There are no legislative requirements for the establishment of an advisory committee under the NSW Coastal Management Act 2016. Advice from NSW Department of Planning, Industry and Environment (DPIE) is that this should be determined by individual Councils, to best meet the needs of their community.

NSW Floodplain Development Manual 2005

Under the Manual, Council is required to establish a management committee that acts as both a focus and forum for discussion on technical, social, economic, environmental and cultural issues for floodplain risk management.

The manual stipulates that this needs to be achieved by ensuring that all stakeholders are equally represented on the flood committee.

There are a number of diverse issues that the floodplain manual outlines that require consideration during the development of a floodplain risk management plan. The following is a sample of some of these key issues:

- The risk and danger to personal safety and property damage, imposed on existing land use (existing risk);
- The cumulative impact of flooding on potential future land use and development (future risk);
- The environmental impact of existing and potential future developments and flood risk management measures;
- The potential economic cost and benefits, to both public and private sectors of floodplain occupation; and
- Social factors, including the needs and aspirations of the local community, both for existing and future developments.

The following table outlines the process for developing a floodplain risk management plan, in which the flood committee is involved.

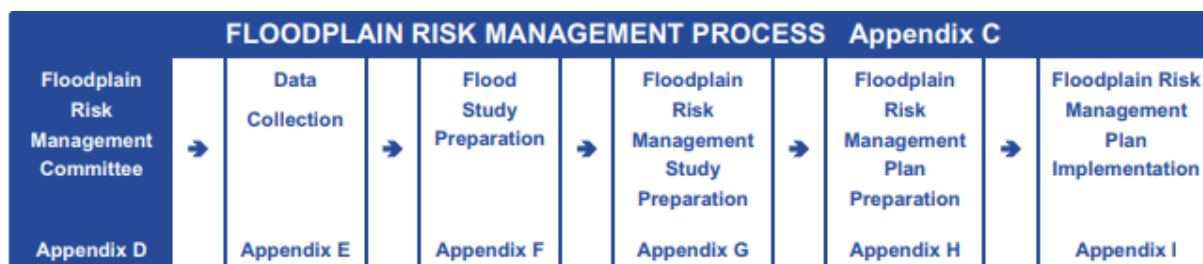


Table 1: NSW Floodplain Risk Management Plan Development Process

The manual also outlines that a floodplain risk management committee does not have formal delegated powers, rather it acts as an advisory committee only. The principal objective of the committee is to assist Council in the development and implementation of flood risk management plans for areas under their jurisdiction, as outlined by the NSW Floodplain Development Manual 2005.

Proposed Floodplain Risk Management Committees Model and Functions

The following tables and flow charts outline the proposed functions and model for Council's Floodplain Risk Management Committees. This model ensures Council meets the consultative requirements, under the NSW Flood Development Manual 2005.

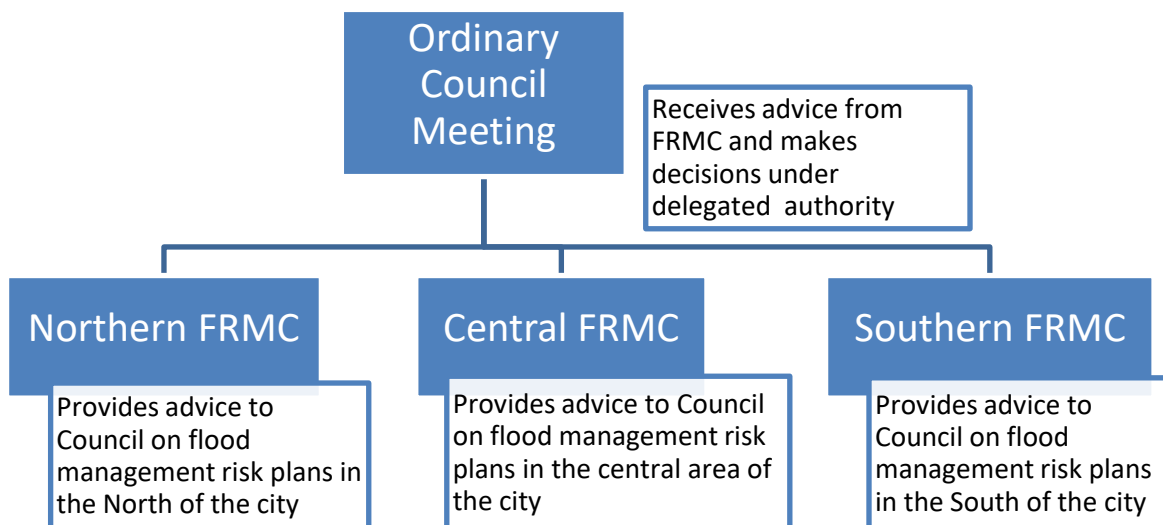
Council noted on 30 April 2019 the recommendation to form three (3) Floodplain Risk Management advisory committees (MIN19.254) for the North, Central and Southern geographical areas of the city.

Table 2: Function of the three (3) Floodplain Risk Management Advisory Committees.

Key Role	Meeting Frequency	Chair	Number of Community Reps.	State Agencies	Other Members	Current Plans
Developing and implementing flood management plans	As required	North – Clr Wells Central – Clr Proudfoot South – Clr White	Five (5)	SES, NSW OEH	Council Staff, and all Councillors	Shoalhaven River, St Georges Basin, Millard's and Currarong Creek

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Figure 1: Model for the three (3) Shoalhaven Flood Risk Management Committees



Proposed Coast and Estuary Consultation Model and Functions

During a presentation to Council by NSW Office of Environment and Heritage staff on 30 May 2019 (see attached), NSW OEH Coast and Estuary staff clearly outlined that Council must consult with the community and other public authorities to inform the preparation of a CMP in accordance with the Coastal Management Act and Manual.

Under the NSW Coastal Management Manual, Council are also required to prepare a community and stakeholder engagement strategy as part of the Scoping Study (Phase 1), when developing a CMP. Council is currently in the process of preparing a first phase Scoping Study for the open coast and all estuaries across the city.

A large part of the citywide scoping study will consist of a detailed community consultation phase, via three key focus workshops in the north, central and southern parts of the Shoalhaven. These focus group workshops will aim to identify the key issues and knowledge gaps for future management of the Shoalhaven coast and estuaries. The input from the scoping study focus groups will also be used to develop a community and stakeholder engagement strategy and a prioritisation for future development of CMP's across the city.

Part 1 (c) of MIN19.254 states that an interim Coast and Estuary Management Liaison Group be established, until the citywide scoping study is complete. Part of the brief for the preparation of the citywide scoping study is to consult with the community on the structure of Council's ongoing Coast and Estuary Management Liaison Group.

During the NSW OEH presentation on 30 May 2019, examples from adjoining Councils, Eurobodalla and Bega Shire Councils' consultation structures for coastal management were presented. Both Bega and Eurobodalla have an overarching Shire-wide Coast and Estuary Management Committee, that has broad community, stakeholder and agency representation. They provide advice to Council on coastal projects, issues and development of CMPs. Bega also establishes formal CMP Project Working Groups (PWG) to prepare individual CMP's. Eurobodalla has the addition of an independent scientific advisor on their Shire Wide Coast and Estuary Committee.

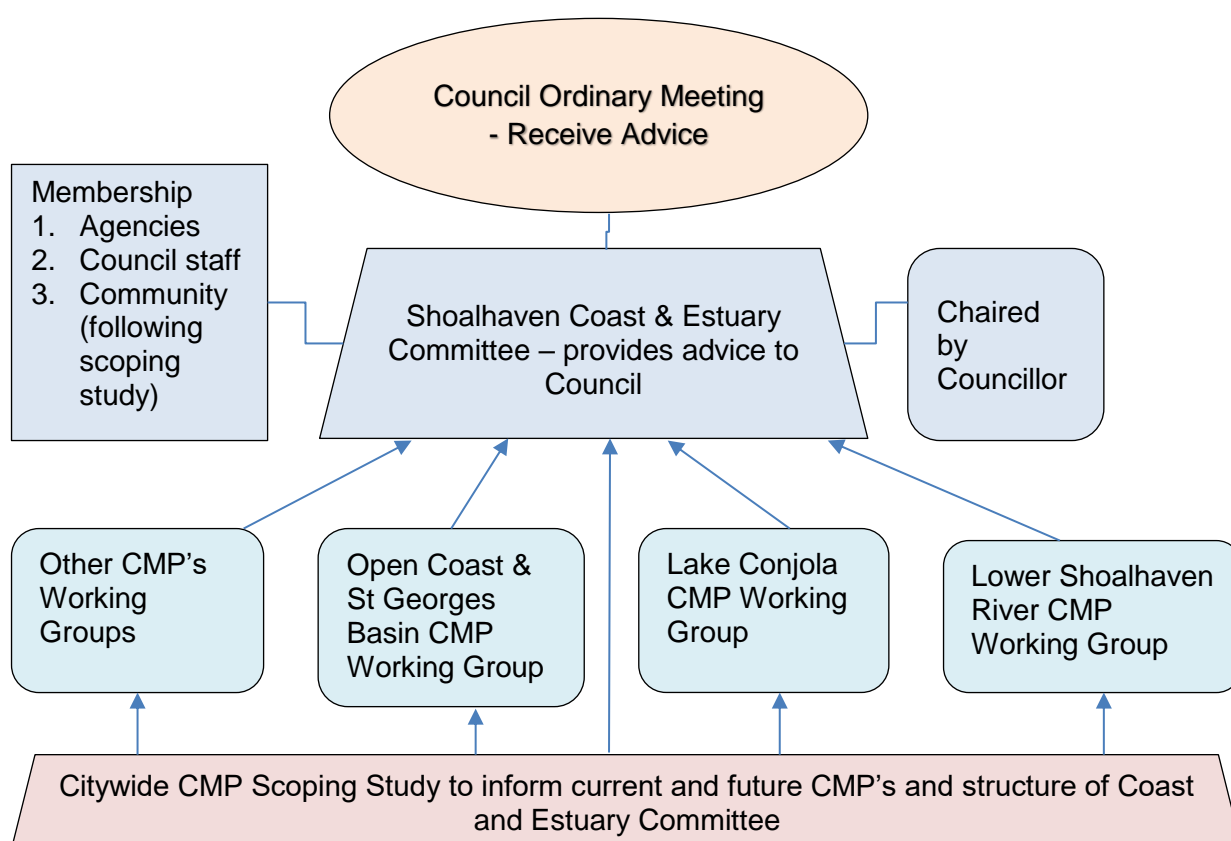
As both these adjoining Councils have similar geographic and socio-economic aspects to Shoalhaven City Council, it is recommended that Shoalhaven Council adopt a similar structure for Coast and Estuary Management and development of CMPs into the future, as the following table and figure demonstrates.

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Table 2: Function of the Shoalhaven Coast and Estuary Management Committee

Key Role	Meeting Frequency	Chair	Number of Community Reps.	State Agencies	Other Members	Current Plans
Advise Council on coast and estuary management, including preparation of CMP's	As required	Councillor	Pending outcomes of citywide scoping study recommendation	OEH, DPI, JB Marine Parks, Crown Lands, RMS & NPWS	Booderee NP, LALC, ADF, SHET	Open Coast CZMP 2018 Open Coast & St Georges Basin, Lower Shoalhaven River and Lake Conjola CMP

Figure 2: Model for the Shoalhaven Coast and Estuary Management Committee



Community Engagement

Council is currently in the process of preparing a scoping study, as per the first phase of the open coast CMP. The scoping study will encompass all the coastline and all estuaries within the LGA, giving Council a prioritisation for the preparation of future CMPs.

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As part of the citywide scoping study three key focus group workshops will be held in the North, South and Central locations. One of the key outcomes of the focus group will be to get feedback on the consultation model and structure for coast and estuary management.

Community feedback from the focus group workshops will be used to obtain community input, during the preparation of the citywide CMP Scoping Study, for further review of the coast and estuary consultation model, so that the community has the most effective and efficient model of engagement.

Policy Implications

As previously stated, the coast and estuary consultation model proposed in this report will provide the framework for Council to transition from its current Coastal Zone Management Plan (CZMP) and Estuary Management Plans to the development, adoption and certification of CMPs under the NSW Coastal Management Act and Manual.

Financial Implications

From 2021 onwards, adopted and certified CMPs with identified management actions will be required to gain access to state and federal government funds for coastal management works. These actions will also need to be tied into Council's Integrated Planning and Reporting (IP&R) framework, with reporting and auditing of CMP actions.

Risk Implications

Community consultation and collaboration is a key requirement for the development of CMPs and must meet the minimum standards of the Coastal Manual to gain certification by the NSW Government.



Office of
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& Heritage

Floodplain Risk Management

Shoalhaven City Context

NSW Floodplain Management Program

Floodplain Development Manual

Floodplain Risk Management process

Floodplain Risk Management Committee




John Murtagh

Senior Natural Resource Officer FRM

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Environment,
Climate Change
& Water

Known Flood Risk across SCC

SCC has 13 Adopted Floodplain Risk Management Plans which identify risk and management options across the City

Residential properties flooded by 1% AEP Flood
SCC FRMP = 2,488, GIS Layers = 3,421 , IAG (2016) = 3,520

SCC FRMP identify residential properties flooded above floor
20% AEP = 5, 5% AEP = 761, 1% AEP = 1,906, PMF = 3,236

2



Environment,
Climate Change
& Water

SCC FRM Program in progress

Implementing measures from the 13 adopted FRMP (City wide)

Lower Shoalhaven R Flood Mitigation Maintenance (North)

Lower Shoalhaven River FRMP Review (North)

Currarong Ck Flood Study (North)

St Georges Basin FRMP Review (Central)

Millards Ck Flood Study (South)

3




Environment,
Climate Change
& Water

NSW Floodplain Management Program

OEHL administers the program supporting Councils with:

- Policy advice, guidance and grant funding
- Technical support with:
 - Grant Applications
 - Technical Briefs
 - Review of Progress, Draft and Final Reports
 - Works Investigation, Design, Construction
 - FRM Committee Operation

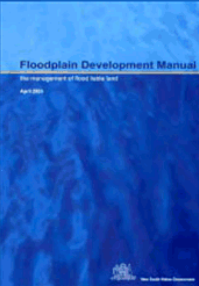
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& Heritage

Floodplain Development Manual

- Current edition gazetted in 2005
- It documents the:
 - NSW Government Flood Prone Land Policy
 - Floodplain Risk Management principles and process
 - Roles, responsibilities and the Section 733 indemnity provisions






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The Flood Prone Land Policy

Primary objective:

To reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses from floods utilising ecologically positive methods, where possible.



NSW Office of Environment & Heritage

Risk Management Approach

- Risk is a product of both:
 - Chance (or probability) and
 - Consequence (e.g. damage, injury, death)
- Consideration of Existing, Future and Continuing Risk



7

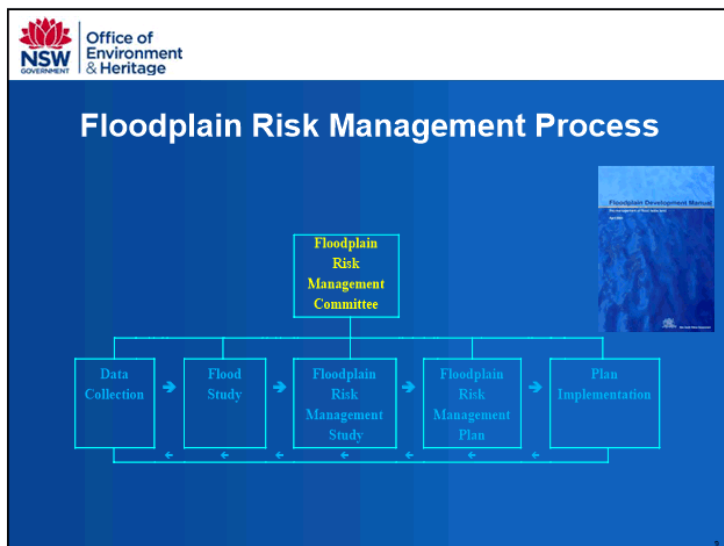
NSW Office of Environment & Heritage

Consider Full Range of Flooding

Terminology from Australian Rainfall and Runoff 2016

- Frequent (High Probability)
 - 4.48 year ARI = **20% AEP** (Annual Exceedance Probability)
 - 5 year ARI = 18.13% AEP = **0.2 EY**
- Rare (Low Probability)
 - 100 year ARI or **1% AEP = 50:50 chance over 70 years**
- Very Rare (Very Low Probability)
 - 200 year ARI or **0.5% AEP usually above FPL + proxy CC**
- Extreme (Very Low Probability)
 - Probable Maximum Flood = PMF Derived from Probable Maximum Precipitation = PMP Probability can't be precisely defined so none assigned

8




NSW GOVERNMENT Office of Environment & Heritage

Floodplain Risk Management Committee

- The committee:
 - **advises Council on formulating and implementing** a Floodplain Risk Management Plan.
 - typically consists of Councillors, community representatives, council staff, industry bodies, OEH, SES and other Agency representatives.
 - **A forum to contribute** ideas, professional expertise, experience, and local knowledge.
 - There is a handbook (under review)
 - has a purely **advisory** role to Council.


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 **Office of
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& Heritage**

Floodplain Risk Management Committee

- **The roles of members:**
 - Councillors: typically chair and guide on Council needs and constraints.
 - Community affected stakeholders: individual residents & businesses, or CCBs, chambers of commerce, environmental groups, link to and from the community
 - Council Staff: secretarial services and technical advice: such as engineering, planning, operations, community, environment
 - NSW Government agency reps advise on relevant technical, statutory & policy matters.


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 **Office of
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& Heritage**

Floodplain Risk Management Committee

- **The committee should meet on an as needs basis, typically at decision points in the process such as:**
 - input to or review the consultant brief.
 - review model results.
 - advise on options to be assessed
 - review draft reports and plans
 - recommend exhibition
 - recommend Adoption by Council

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GOVERNMENT

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& Heritage

Technical Working Group(s)

- Discretionary: A Process Engine Room
- Can be used to resolve specific or technically complex issues
- Membership is as required such as
 - Relevant Council staff (report to Committee)
 - OEH, SES, DPE
 - Other agencies as required FaCS, NPWS, JBMPA, LALCs, RMS, Crown Lands, LLS, DPI
 - Community reps if relevant

13

 **NSW**
GOVERNMENT

Office of
Environment
& Heritage

Thank you

Any Questions?

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14

CL19.190 Exhibition Outcomes and Finalisation - Planning Proposal: 2017 Housekeeping Amendment (Instrument Changes) - Shoalhaven LEP 2014

HPERM Ref: D19/121834

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Exhibition Submission Summary [↓](#)
2. Planning Proposal - Post-Exhibition Version (under separate cover) [⇒](#)

Purpose / Summary

Detail the outcomes of the public exhibition of Planning Proposal (PP033) – 2017 Housekeeping Amendment (Instrument Changes) and enable the resultant amendments to Shoalhaven Local Environmental Plan (LEP) 2014 to proceed to finalisation.

The Development and Environment Committee resolved, at its meeting on 2 July 2019, to defer consideration of this item to the July 2019 Ordinary meeting (MIN19.461).

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt and finalise Planning Proposal (PP033) as exhibited, with the changes outlined in Attachment 2.
2. Forward PP033 to NSW Parliamentary Counsel's Office to draft the amendment to Shoalhaven Local Environmental Plan 2014.
3. Make the resulting amendment to the Shoalhaven Local Environmental Plan 2014 using Council's delegation.
4. Undertake a separate future review of Clause 4.2B of Shoalhaven Local Environmental Plan 2014 with the following scope:
 - a. Further consideration of Item 6 (proposed for deletion from PP033) including the appropriateness of the current zoning of certain land in Clause 4.2B.
 - b. Provide clarification as to what 'land' means (i.e. identifying holdings).
 - c. Other matters that are identified during the review or were raised in submissions.
5. Prepare a future report to Council in relation to the outcome of the review at Part 4 of this recommendation, including the scope of a future Planning Proposal as appropriate and its priority in the Strategic Planning Works Program.
6. Advise key stakeholders, including all CCBs, relevant industry representatives and those who made a submission, of this decision, and when the Amendment will be made effective.

Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will ensure that the relevant housekeeping matters in Shoalhaven LEP 2014 are addressed and progressed in a timely manner so that the LEP operates efficiently.

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2. Adopt an alternative recommendation.

Implications: Depending on its nature, this could delay the progress of the Planning Proposal (PP) and the resulting amendments to Shoalhaven LEP 2014

3. Not adopt the recommendation.

Implications: This is not the preferred option as the identified housekeeping matters will not be resolved.

Background

The Shoalhaven LEP 2014 is continuously reviewed/updated to ensure it aligns with strategic documents, is improved where necessary, relevant matters are resolved and delivers positive outcomes for the community. As a result, Council has an ongoing process of housekeeping amendments to improve the operation and maintain the accuracy of the LEP.

In this regard on 11 September 2018, Council (MIN18.699) resolved to:

1. *Submit the 2017 Housekeeping Amendment – Instrument Changes Planning Proposal (PP033 – Attachment 1) to the NSW Department of Planning and Environment for a Gateway determination and if favourable, proceed to formal public consultation in accordance with the terms of the determination.*
2. *Advise any relevant community groups of this decision, noting the opportunity for formal consultation later in the process.*

This PP addresses several non-urgent matters (Table 1) that were identified during the 2017 calendar year to improve the accuracy and operation of the plan.

Table 1: Summary of LEP instrument amendments

Item	Summary of proposed amendment
1	Amend references to the <i>Crown Lands Act 1989</i> in clause 1.9A (2) to reflect the repeal of the Act in June 2018.
2	Insert 'artisan food and drink industry' as a land use permitted with consent in the RU1 Primary Production and RU2 Rural Landscape zones.
3	Insert 'dual occupancies (attached)' as a land use permitted with consent in the E2 Environmental Conservation zone.
4	Amend clause 4.1(4) Minimum Subdivision Lot Size, to allow the creation of a lot from a closed road that is smaller than the minimum lot size shown on the Lot Size Map.
5	Insert a new subclause to clause 4.1F Minimum Subdivision Lot Size for Community Scheme and Strata Plan Lots, to make it clear that clause 4.1F is not subservient to clause 4.1 (Minimum subdivision lot size).
6	Amend clause 4.2B(2) Subdivision of Certain Land in Zone RU1, Zone RU2, Zone RU4, Zone R5 and Zone E4, to only apply to land in a RU1, RU2 or RU4 zone in relation to prime crop and pasture land given they are the 'rural' zones where agriculture would be expected, noting that R5 and E4 are essentially residential in nature.
7	Amend clause 4.2G (4) Boundary Adjustments of Land in Certain Rural and Environmental Protections Zones, to delete reference to permissibility of a dwelling following subdivision.

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8	In relation to Schedule 1 Additional permitted uses (6) 'Use of certain land at Manyana', update the description of the land to which Schedule 1 (6) applies.
9	In relation to Schedule 2 Exempt Development 'Temporary events on public land and public roads and associated temporary structures', insert additional criteria in subclause 2 in relation to Crown land that is vested in Council, or of which Council is the Crown lands manager.
10	In relation to Schedule 2 Exempt Development, insert new exempt development criteria relating to: <ul style="list-style-type: none"> • A-frame sign boards and structures. • Merchandise displays.

The PP was submitted to the NSW Department of Planning and Environment (DP&E) and was granted a favourable Gateway determination on 5 November 2018. The Gateway determination granted delegated authority to Council for this PP which means that Council can liaise directly with the NSW Parliamentary Counsel's Office to prepare and finalise the LEP amendment.

Government Agency Feedback

Prior to the required public exhibition, the PP was referred to the NSW Office of Environment and Heritage (OEH), NSW Rural Fire Service (RFS), Natural Resource Access Regulator and the NSW Department of Primary Industries – Agriculture (NSW DPI) as required by the Gateway determination. The comments from each agency on the PP are summarised in Table 2 below.

Table 2: Agency Consultation

Agency	Feedback
NSW Office of Environment and Heritage	Requested a map be included within the PP illustrating the spatial location of the E2 Environmental Conservation land that meets the minimum lot size requirement (40ha) for a dual occupancy in relation to proposed Instrument Amendment Item 3. <i>Note: The maps were included as an attachment to the exhibited PP.</i>
NSW Rural Fire Service	No objection to the PP under the condition that development applications comply with Planning for Bush Fire Protection 2006 and the pre-release Planning for Bush fire Protection 2018. <i>Note: This will be undertaken as required at the DA stage.</i>
Natural Resource Access Regulator	No objection to the PP.
Department of Primary Industries – Agriculture	No objections to the PP under the condition that development applications for land in rural zones are assessed in order to avoid conflict with nearby agricultural activities. <i>Note: This will be undertaken as required at the DA stage.</i>

Public Exhibition

In accordance with the Gateway determination and Council resolution (MIN18.699) the PP was publicly exhibited for a period of 31 days from 13 March to 12 April 2019 (inclusive).

Notices appeared in local newspapers on 13 March 2019. All Community Consultative Bodies (CCBs), Development Industry Representatives and relevant affected landowners were notified directly in writing.

The PP was exhibited at Council's Administrative Office, Bridge Road, Nowra during business hours, and could also be viewed at the Ulladulla Administrative Office and on Council's website. The exhibition material included the;

- [Planning Proposal \(PP033\) – 2017 Housekeeping Amendment Instrument Changes.](#)
- [Explanatory Statement.](#)
- [Gateway determination, dated 5 November 2018.](#)
- [Agency consultation responses.](#)
- Newspaper advertisement.

As a result of the exhibition ten (10) formal submissions were received including:

- Two (2) industry/consultancy submissions.
- One (1) internal Council submission: Recreation, Community & Culture Section.
- Seven (7) submissions from the community.

Copies of the actual submissions received will be available for review in the **Councillors' Room** prior to the meeting.

A detailed summary of the submissions with a response to all comments raised is provided in **Attachment 1**. A summary of key issues raised, and brief staff comment is outlined in Table 3 below:

Table 3: Summary of key issues raised in submissions and brief staff comment

Item	Summary of issues raised	Staff comment
2	Support inclusion of 'artisan food and drink industry' as a land use permitted with consent in the RU1 and RU2 zones.	Noted.
	Request to include the land use as permissible with consent in the B2 Local Centre zone.	Permitting artisan food and drink with consent in the B2 Local Centre zone across the city at this stage is a substantial change and beyond the scope of this PP and would trigger re-exhibition. More appropriate for the current PP to proceed and investigate this matter and its merit as part of a future housekeeping amendment to the LEP.
3	Support inclusion of 'dual occupancies (attached)' as a land use permitted with consent in the E2 zone.	Noted.
6	Request the definition of prime crop or pasture land be amended to allow a qualified agricultural consultant to identify prime crop or pasture land.	DP&E has advised that an alteration to the definition of prime crop or pasture land at this point would not be supported by them or the NSW DPI.
	Locality 1: Bundewallah – Question zoning of area and request review.	It is recommended that Item 6 be removed from the PP at this point. Given the nature of the feedback/submissions received, closer consideration of this issue and related matters is considered to be warranted.
	Locality 4: Tapitallee – Question zoning of area and request review. The clause does not recognise the environmental constraints which restricts agricultural	

	pursuits.	<p>This will require a more thorough review of the zoning of land within the localities in question. The priority of this work will be considered in the context of the overall Strategic Planning Works Program. The review once completed will inform any future alterations needed to the proposed/exhibited amendment, which will be addressed within a future PP.</p> <p>This separate handling of Item 6 will enable Council to address the concerns raised surrounding the Clause 4.2B amendment and associated matters, without delaying the other proposed LEP amendments within the PP.</p>
	Concerns related to impact on amenity and land values.	The impact of the proposed amendment on amenity of the surrounding area will be further investigated as part of the identified review into the zoning of land within the localities (see above), if this approach is accepted.
	Locality 4: Tapitallee – Requested a reduction in minimum lot size for the area.	<p>It is not recommended to reduce the minimum lot size provisions within Clause 4.2B. This would conflict with the purpose of Clause 4.2B (2) and significantly limit the ability to undertake agricultural pursuits within the localities.</p> <p>The Growth Management Strategy review that is underway will consider the need for additional rural residential zones/development.</p> <p>This would also be a significant change to the exhibited PP, if pursued, and as such would trigger re-exhibition.</p>
	Locality 6: Termeil – Requested a reduced minimum lot size to enable greater subdivision potential.	
8	Request that the Lot/DP references in Schedule 1 be removed and Council purely rely upon the mapping within Shoalhaven LEP 2014 to identify land that Schedule 1 applies to.	The LEP relies on both mapping and a Lot/DP description to identify the land Schedule 1 applies to. This method is the accepted practice and allows for better identification of the subject land.
9	Support for the additional criteria with a request to include additional wording to allow the clause to apply to all Crown land managed by Council.	The proposed additional wording will enable the clause to capture all Council management/tenure arrangements over Crown land.

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Because of the submissions received, 2 amendments are proposed to the exhibited PP as shown at **Attachment 2**. For convenience, the proposed changes are highlighted in yellow, with strikethroughs to note deletions. The recommended post-exhibition amendments to the PP are summarised briefly below.

- Remove Instrument Amendment Item 6 (Clause 4.2B Subdivision of certain land in Zone RU1, Zone RU2, Zone RU4, Zone R5 and Zone E4) from the PP. It would be

appropriate to include the scope of Item 6 within a broader future review of Clause 4.2B which would consider the zoning of land within the localities identified within Clause 4.2B and also provide clarification as to what 'land' means (i.e. identifying holdings).

- Include the following criteria within Instrument Amendment Item 9 (Exempt Development - 'Temporary events on public land) to capture all management/tenure arrangements over Crown land: *"(e) public reserves for which Council has devolved responsibility under Section 48 Local Government Act 1993"*.

Policy Implications

Finalising these amendments will ensure Shoalhaven LEP 2014 is both accurate and is operating as intended. Removing Item 6 from PP033 will ensure due consideration of matters raised during public exhibition.

Financial Implications

The finalisation of the Amendment will continue to be resourced within the existing Strategic Planning budget.

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Summary of Submissions

Amendment 33: 2017 Housekeeping Amendment Instrument Changes Planning Proposal

Public Exhibition: 13 March 2019 – 12 April 2019

Submission Number	Summary of Submission	Comments
1. Consultancy: Allen Price and Scarratts	Instrument Amendment Item 6. Clause 4.2B(2) Extend the definition of prime crop or pasture land to include “other land that has been assessed by a suitably qualified agricultural consultant”.	Not supported. The NSW Department of Planning and Environment has advised that an alteration to the definition of prime crop or pasture land at this point would not be supported by them or the NSW Department of Primary Industries.
	Instrument Amendment Item 8. Schedule 1 Council should consider removing any Lot/DP references within Schedule 1 and purely rely on the maps within the Shoalhaven LEP (SLEP) 2014 to identify which land Schedule 1 applies to.	Not supported. SLEP 2014 relies upon both mapping and a Lot/DP description to identify land Schedule 1 applies to. This method allows for better identification of the subject land.
2. Internal Council: Recreation, Community & Culture	Instrument Amendment Item 1. Clause 1.9A(2) The amendment to Clause 1.9A(2) is supported as it will enable the LEP to accurately reference the current Crown Land legislation.	Support noted.
	Instrument Amendment Item 9. Schedule 2 The wording of the proposed amendment to Schedule 2 should be changed to capture all Council management/tenure arrangement over Crown land.	Supported. The intention of the amendment is to capture all Council management/tenure arrangements over Crown land. Including the following additional criteria will enable this to occur: “(e) public reserves for which Council has devolved responsibility under Section 48 Local Government Act 1993”.
3.	General, Land Zoning The land identified as locality 4 (Tapitallee) within Clause 4.2B(3) should not be zoned RU4 Primary Production Small Lots. It is more appropriate to zone the land R5 Large Lot Residential.	Partially supported. Any proposed changes to the zoning of land is beyond the scope of this PP and would need to be considered separately. It would be appropriate to remove Item 6. from the Planning Proposal and re-address the proposed amendment within a broader review of Clause 4.2B which could consider a wider assessment into the zoning of land within the localities. This will allow the concerns within the submission to be appropriately addressed without postponing the items within the Planning Proposal.

	<p>General, Prime Crop and Pasture Land</p> <p>Clause 4.2B(2) applies to all land identified as prime crop and pasture land. The Clause does not recognise the environmental constraints (i.e. poor soil fertility and presence of protected vegetation) which would not allow the land to be used for agricultural activities. The Department of Primary Industry has no plans to address the inaccuracies within their identification of prime crop and pasture land.</p>	<p>Not supported. The identification of prime crop and pasture land is currently based on the NSW Department of Primary Industries Agricultural Land Classification Maps. These maps were produced to determine land highly suited for agricultural activities through an evaluation of the biophysical, social and economic factors that influence the use of land for agriculture. As such, any land identified as prime crop and pasture land by the NSW Department of Primary Industries is, to the best knowledge available, suitable for agricultural activities.</p> <p>The NSW Department of Primary Industries are currently preparing a new mapping resource to identify important agricultural land. Once this mapping is complete, Council can utilise the data to inform potential future amendments to Clause 4.2B.</p>
	<p>Instrument Amendment Item 6. Clause 4.2B(2)</p> <p>Amend Clause 4.2B(2) (Locality 4) to increase the maximum density from 1 lot per 10 hectares to 5 lots per 10 hectares.</p>	<p>Not supported. It is recommended to remove Instrument Amendment Item 6. from the Planning Proposal until a wider assessment of the localities identified within Clause 4.2B has occurred. However, a review of the density provisions within Clause 4.2B will not occur as a part of this assessment. The purpose of Clause 4.2B(2) is to maintain an appropriate level of density for land identified as prime crop and pasture land to ensure the preservation of land for agricultural activities. Increasing the density to 5 lots per 10 hectares would effectively permit lots with a minimum lot size of 2 hectares. This fragmentation will significantly limit the ability to undertake the intended agricultural pursuits.</p>
	<p>Instrument Amendment Item 6. Clause 4.2B(2)</p> <p>The wording in the proposed amendment to Clause 4.2B(2) should not use the word “or” as it indicates a choice in determining which zones Clause 4.2B(2) applies to.</p>	<p>Not supported. Instrument Amendment Item 6. is recommended to be removed from the Planning Proposal and re-addressed within a later Planning Proposal after further assessment into the zoning of land within the localities identified within Clause 4.2B has occurred.</p> <p>It is noted however that the proposed wording does not include the word “or”. The proposed wording is as follows, “Zone RU1 Primary Production, Zone RU2 Rural Landscape and Zone RU4 Primary Production Small Lots”.</p>
	<p>Instrument Amendment Item 6. Clause 4.2B(2)</p> <p>Discontinue the amendment to Clause 4.2B(2) and conduct an in-depth assessment into the inaccuracies of the current zoning of rural land. Any amendment to this Clause should only proceed after this research has taken place.</p>	<p>Supported. The intention of the amendment to Clause 4.2B is to remove the prime crop and pasture land provisions from applying to land where neither the form nor character of the area reflect small scale agriculture. There is merit in conducting a further investigation into the zoning of land within the localities identified within Clause 4.2B to ensure that both the proposed amendment and land zonings are reflective of the character of these areas.</p>

		It would be appropriate to remove Item 6. from the Planning Proposal and re-address the proposed amendment within a broader review of Clause 4.2B which could consider a wider assessment into the zoning of land within the localities. This will allow the concerns within the submission to be appropriately addressed without postponing the items within the Planning Proposal.
4.	General, Minimum Lot Sizes Reduce the total allotment size of larger acreages in Termeil (Locality 6) to approximately 15 hectares or less to allow smaller lots of 5 or 7 hectares to be created.	Not supported. Amendments to the minimum lot size within this area are beyond the scope of this PP. A variation of this nature would need strategic justification and would need a revised Gateway determination. Future growth opportunities across the City are being considered as part of the Growth Management Strategy process.
5.	General, Amenity Impacts The proposed amendment will lead to the destruction of the ambience of the area and will adversely affect the quality of life of the residents in the district. It will also potentially reduce the appeal of the properties and therefore the land values.	Noted. The proposed housekeeping amendments are minor and are unlikely to significantly impact upon the amenity of the areas they apply to. Additionally, any future development application would consider amenity.
6.	Instrument Amendment Item 2. Land Use Table The proposed amendment to include artisan food and drink as a land use permitted with consent in the RU1 Primary Production and RU2 Rural Landscape zones will allow greater flexibility for the food and drink industry. The amendment will also support the tourism sector and increase employment in the region.	Support noted.
7.	Instrument Amendment Item 6. Clause 4.2B(2) Objects to the proposed amendment to Clause 4.2B(2).	Partially supported. It is recommended to remove Instrument Amendment Item 6. from the Planning Proposal and re-address the proposed amendment within a future Planning Proposal, after a wider assessment into the zoning of land within the localities has occurred.
8.	Instrument Amendment Item 6. Clause 4.2B(2) The current land zoning within Locality 1 (Bundewallah) is not reflective of the character of the area. Instrument Amendment Item 6. should be withdrawn from the Planning Proposal until a re-examination into the land zonings within the localities identified in Clause 4.2B has been undertaken.	Supported. The intention of the amendment to Clause 4.2B is to remove the prime crop and pasture land provisions from applying to land where neither the form nor character of the area reflect small scale agriculture. There is merit in conducting a further investigation into the zoning of land within the localities identified within Clause 4.2B to ensure that both the proposed amendment and land zonings are reflective of the character of these areas. It would be appropriate to remove Item 6. from the Planning Proposal and re-address the proposed amendment within a broader review of Clause 4.2B which could consider a wider assessment into the zoning of land within the localities. This will allow the concerns within the submission to

		be appropriately addressed without postponing the items within the Planning Proposal.
9. Consultancy: Milestone Australia	Instrument Amendment Item 2. Land Use Table Include artisan food and drink premises as a permitted use with consent in the B2 Local Centre Zone.	Not supported. Permitting artisan food and drink with consent in the B2 Local Centre Zone across the city is a substantial change and beyond the scope of the PP. It is more appropriate for the current PP to proceed and investigate this matter as part of a future housekeeping amendment to SLEP 2014.
10.	Instrument Amendment Item 3. Land Use Table The proposed amendment to include dual occupancies (attached) as a land use permitted with consent in the E2 Environmental Conservation zone is a sensible approach to allow greater housing flexibility and increase land use opportunities.	Support noted.

CL19.191 Variations to Development Standards - Second Quarter Report 2019

HPERM Ref: D19/231667

Group: Planning Environment & Development Group
Section: Development Services

Attachments: 1. Table - Variations to Development Standards - June Quarter [↓](#)

Purpose / Summary

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

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

Recommendation

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

Options

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

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

2. Resolve an alternative and provide details to staff.

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

Background

Function of SEPP 1 and clause 4.6

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

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

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

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

Monitoring of council use of SEPP 1 and clause 4.6

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

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

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

The Circular states:

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

The Circular concludes:

The Department will continue to carry out random audits to ensure the above monitoring and reporting measures are complied with. The Department and the NSW Independent Commission Against Corruption will continue to review and refine the audit strategy.

Should ongoing non-compliance be identified with one or more consent authorities, the Secretary will consider revoking the notice allowing concurrence to be assumed, either generally for a consent authority or for a specific type of development.

Conclusion

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

The attachment is published as soon as practicable at the close of each quarter on Council's webpage.

CL19.191

[illegible]

CL19.192 Lake Conjola Estuary Coastal Management Program - Acceptance of NSW OEH Grant - Coast and Estuary Grant Program

HPERM Ref: D19/214909

Group: Planning Environment & Development Group
Section: Environmental Services

Purpose / Summary

To report to Council the successful grant of \$140,000 for the preparation of a Coastal Management Program for the Lake Conjola estuary under the NSW Government Coastal Estuary Grants Program.

Recommendation

That Council

1. Accept the NSW Office of Environment & Heritage (OEH) grant funds of \$140,000 for the preparation of Lake Conjola Estuary Coastal Management Program, over two (2) years.
2. Note that Council's matching funds of \$140,000 have been provided for in the 2019/20 Budget adopted at the June 2019 Council Meeting.
3. Write to the NSW Minister for Energy and Environment, Hon Matthew Kean, thanking him for the grant funding offer.

Options

- As recommended.

Implications: The grant offer is subject to Council providing the balance of funds for the project, as outlined in the grant application – with the matching dollars of \$140,000 having been provided in the 2019/20 Budget. The tender process can proceed at the completion of the Citywide Scoping Study. The preparation of the Lake Conjola Coastal Management Program (CMP), will include a strategic review of the Interim Entrance Management Policy.

- Council not accept the grant offer for the preparation of a Coastal Management Program for the Lake Conjola Estuary

Implications: Council will be unable to complete the preparation of the CMP as per the requirements of the NSW Coastal Management Act 2016. Without a CMP certified by the NSW Government, Council cannot access funding for implementation of works under the Coastal and Estuary Grants Program. The current Lake Conjola Estuary Management Plan requires updating with new data and knowledge from studies undertaken since its adoption in 2015. NSW Office of Environment & Heritage (OEH) has already informed Council that the Lake Conjola Estuary Management Plan does not meet the requirements of the NSW Coastal Management Manual.

- Alternative recommendation.

Implications: Unknown.

CL19.192

Background

The Stage 2 Coastal Reforms are being implemented by the NSW Government. The reforms are encapsulated in the Coastal Management Act 2016. The legislation requires coastal Councils to prepare Coastal Management Programs and seek certification of CMPs to be eligible for funding of coastal management works under the Coastal and Estuary Grants Program. A funding stream was provided in the NSW Government's Coastal and Estuary Grants Program to assist Councils undertaking the work.

Council has resolved (MIN19.4) to undertake a strategic review of the Lake Conjola Interim Estuary Management Policy and Council's grant application for the preparation of the CMP for the Lake Conjola Estuary was successful and \$140,000 is offered to Council, subject to Council meeting 50% of the balance of funds required to complete the project.

A separate report will be submitted to the August Development & Environment Committee meeting outlining potential timeframes associated with the preparation of the CMP.

Community Engagement

The Conjola Community Association were consulted prior to and during the preparation of the funding application. They will also have input into the project workplan. A community engagement program will be included in the preparation of the CMP.

Policy Implications

The CMP will provide Council with strategic management direction for the Lake Conjola Estuary for ten (10) years following its adoption which will replace the existing estuary management plan. With a review period of five (5) years.

Financial Implications

A Council contribution of \$140,000 was included in the 2019/20 Budget adopted at the June Council Meeting.

Risk Implications

The risk to Council, if the grant is not accepted, is that preparation of the CMP cannot proceed, and Council will not fulfil its obligations under the Coastal Management Act 2016. Without a CMP certified by the NSW Government, Council cannot access funding for implementation of works under the Coastal and Estuary Grants Program.

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.