

Ordinary Meeting

Meeting Date: Monday, 14 November, 2022

Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

Time: 5.30pm

Membership (Quorum - 7)
All Councillors

Please note: The proceedings of this meeting (including presentations, deputations and debate) will be webcast, recorded and made available on Council's website, under the provisions of the Code of Meeting Practice. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

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<https://www.shoalhaven.nsw.gov.au/Council/Meetings/Stream-a-Council-Meeting>.

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Shoalhaven City and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

Agenda

1. Acknowledgement of Country
2. Moment of Silence and Reflection
3. Australian National Anthem
4. Apologies / Leave of Absence
5. Confirmation of Minutes
 - Ordinary Meeting - 31 October 2022
6. Declarations of Interest
7. Presentation of Petitions
8. Mayoral Minute

9. Deputations and Presentations

10. Call Over of the Business Paper

11. A Committee of the Whole (if necessary)

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15. Confidential Reports

Nil

CL22.581 Report of the Nowra CBD Revitalisation Strategy Committee - 25 October 2022

HPERM Ref: D22/463469

**CBD22.36 Election of Chairperson and Notification of Council
Resolution**

HPERM Ref:
D22/424923

Recommendation

That Council:

1. Note the Committee received the report regarding Council Resolution – Re-establishment for information; and
2. Reaffirm James Caldwell as Chairperson for the period to September 2023 for the Nowra CBD Revitalisation Committee.

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CL22.582 Draft Financial Statements for the year ended 30 June 2022

HPERM Ref: D22/457081

Department: Finance

Approver: Kevin Voegt, Director - City Performance

Attachments:

1. Commentary - Financial Statements for the year ended 30 June 2022 (councillors information folder) [⇒](#)
2. Draft General Purpose Annual Financial Statements - June 2022 (councillors information folder) [⇒](#)
3. Draft Special Purpose Annual Financial Statements - June 2022 (councillors information folder) [⇒](#)
4. Draft Statement by Councillors and Management - General Purpose Financial Statements (councillors information folder) [⇒](#)
5. Draft Statement by Councillors and Management - Special Purpose Financial Statements (councillors information folder) [⇒](#)

Reason for Report

Under Sections 413 and 418 of the Local Government Act 1993, Council is required to formally refer the draft Financial Statements to audit, sign statements on the preparation of the statements, and set the date for the presentation of the audited Financial Statements to the public.

Recommendation

That:

1. Council receives and notes the draft Financial Statements for the year ended 30 June 2022 and commentary on the draft Statements presented as Attachments 1, 2 and 3 to this report.
2. The Mayor, Deputy Mayor, Chief Executive Officer and Responsible Accounting Officer sign the statements on the preparation of the Financial Statements for the year ended 30 June 2022 in accordance with Section 413(2)(c) of the Local Government Act 1993 and requirements under the Local Government Code of Accounting Practice and Financial Reporting 2021-22 presented as Attachments 4 and 5 to this report.
3. The draft Financial Statements for the year ended 30 June 2022 be formally referred to Council's External Auditor, Audit Office of New South Wales, in accordance with Section 413 of the Local Government Act 1993.
4. Council, in anticipation of receiving the Auditor's Report, set the Council Meeting to be held on 12 December 2022 as the meeting at which the audited Financial Statements for the year ended 30 June 2022 and Audit Report be presented to the public in accordance with Section 418 of the Local Government Act 1993.

Options

1. Adopt the recommendation

Implications: Council will proceed in submitting the Financial Statements for the year ended 30 June 2022 to the Office of Local Government in line with the requirements of the Local Government Act.

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2. Adopt part of the recommendation and make an alternative resolution

Implications: Council will not meet the required timeframes for the submission of the Financial Statements for the year ended 30 June 2022.

Background

Council's Financial Statements for the year ended 30 June 2022 have been prepared and informally referred for audit.

In accordance with Section 413 of the Local Government Act 1993, Council must now formally refer these statements for audit. Prior to the completion of the audit, Council is required to provide its statement on the Financial Statements.

Section 413(2)(c) of the Local Government Act 1993 and the Local Government Code of Accounting Practice and Financial Reporting requires the Mayor, one other Councillor, the Chief Executive Officer and Responsible Accounting Officer to certify the following:

1. The General Purpose Financial Statements have been prepared in accordance with:
 - Local Government Act 1993 (as amended) and Regulations made thereunder
 - The Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board
 - Local Government Code of Accounting Practice and Financial Reporting

And that to the best of Council's knowledge and belief that the statements:

- Present fairly the Council's operating result and financial position for the year; and
- Accord with Council's accounting and other records

2. The Special Purpose Financial Statements have been prepared in accordance with:
 - NSW Government Policy Statement *Application of National Competition Policy to Local Government*
 - Division of Local Government Guidelines *Pricing & Costing for Council Businesses - A Guide to Competitive Neutrality*
 - The Local Government Code of Accounting Practice and Financial Reporting
 - The NSW Office of Water *Best-Practice Management of Water and Sewerage Guidelines*

And that to the best of Council's knowledge and belief, the statements:

- Present fairly the operating result and financial position for each of Council's declared business activities for the year, and
- Accord with Council's accounting and other records
- Present overhead reallocation charges to the water and sewerage businesses as fair and reasonable

The General Purpose Financial Statements (Attachment 2) and Special Purpose Financial Statements (Attachment 3) have been prepared in accordance with the Local Government Code of Accounting Practice and Financial Reporting and applicable Accounting Standards (draft confidential copies are included in Councillors' Information Folder).

The General Purpose Financial Statements are prepared on a consolidated basis. The information presented reflects all of Council's activities including the General Fund, Water Fund, Sewer Fund and Southern Water Services Pty Ltd, a wholly owned subsidiary. It

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should be noted that all internal transactions are eliminated, including expenses relating to Council rates, water usage charges, waste management charges, etc. levied on Council activities.

It should also be noted that earlier Financial Statements also included Council's Management Committees. While Council will continue to receive financial statements from, and monitor the financial wellbeing of its Management Committees they will no longer be included in the consolidated financial statements. In the context of the Financial Statements, Management Committees are immaterial individually and collectively. From an administrative perspective, Council received information from different Committees from one year to the next and often in an untimely manner. Their exclusion from the Financial Statements will simplify the preparation process and not detract from the information presented in the Statements.

The Special Purpose Financial Statements relate to activities that Council has declared as business activities under the National Competition Guidelines. Declared activities are further classified as either a Category 1 or Category 2 business depending on whether the annual turnover is above or below \$2 million.

In preparing the Special Purpose Financial Statements, certain taxes and charges Council is not normally liable to pay must be calculated. These "notional" taxes include company income tax, land tax and payroll tax. These amounts are included in the Special Purpose Financial Statements but only as notional amounts.

The Financial Statements Commentary (Attachment 1) provides an overview of Council's year-end financial results and key indicators and is consistent with the information provided at the Councillor Briefing on 19 September 2022.

It is important to note that the Office of Local Government have granted Shoalhaven City Council an extension to the submission date for the Financial Statements for the year ended 30 June 2022 by one month, to 30 November 2022. Council has applied for a further extension to 23 December as a precaution to allow sufficient time for the audit to be completed.

Statement by Management

To assist Councillors with their decision in respect of the recommendations to this report, the following statement by the Chief Executive Officer, Director - City Performance and Chief Financial Officer (Responsible Accounting Officer) is provided:

We acknowledge our responsibility for the preparation of the General Purpose and Special Purpose Financial Statements and we confirm, to the best of our knowledge and belief, the following:

- The Financial Statements have been prepared in accordance with the Local Government Act 1993 (NSW) (as amended) and Regulations made thereunder, Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board and the Local Government Code of Accounting Practice and Financial Reporting so as to present fairly Council's operating result and financial position for the year.
- Further, the Special Purpose Financial Statements have been prepared in accordance with NSW Government Policy Statement 'Application of National Competition Policy to Local Government' the Division of Local Government Guidelines 'Pricing & Costing for Council Businesses - A Guide to Competitive Neutrality' and the NSW Office of Water 'Best-Practice Management of Water and Sewerage Guidelines' and present fairly the operating result and financial position of the activities and present overhead reallocation charges to the water and sewerage businesses as fair and reasonable.

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- There have been no irregularities involving management or employees who have a significant role in the accounting and internal control systems or that could have a material effect on the Financial Statements.
- We have made available to the auditors all books of account and supporting documents and all minutes of meetings of Council.
- The financial statements are free of material misstatements, including omissions.
- The Council has complied with all aspects of contractual arrangements that could have a material effect on the Financial Statements in the event of non-compliance.
- There has been no non-compliance with requirements of regulatory authorities that could have a material effect on the Financial Statements in the event of non-compliance.
- We have recorded or disclosed, as appropriate, all liabilities, both actual and contingent, and have disclosed any guarantees that we have given to third parties.
- All material claims have been properly accrued in the Financial Statements. No other material claims in connection with litigation have been or are expected to be received.
- There are no formal or informal set-off arrangements with any of our cash and investment accounts. Except as disclosed in the financial statements, we have no overdraft arrangements.

Accordingly, we believe that it is in order for Council to adopt its statements of certification in relation to the Financial Statements which is as per Recommendation 2 to this report.

Review by the Audit, Risk & Improvement Committee

A meeting of the Audit, Risk and Improvement Committee (ARIC) has been scheduled for 21 November 2022 to review the draft Financial Statements presented to Council in this report. Any comments or recommendations made by ARIC will be reported to Council when the Financial Statements are presented to the public in December.

Next Steps

The draft Financial Statements have been informally referred for audit and the audit is progressing. As noted above, ARIC will be reviewing the draft Statements at a meeting to be held on 21 November. Council's auditors will be in attendance at that meeting to provide an update on the progress of the audit and answer any questions from the Committee.

When the audit is completed, the auditors will provide a Closing Report and meet with Management at an Audit Clearance meeting. Upon receipt of the Audit Reports, Council will be able to lodge its Financial Statements with the Office of Local Government.

Community Engagement

When the audit is finalised, the audited Financial Statements and Audit Report are to be presented to the public at a meeting of Council in accordance with Section 418 of the Local Government Act 1993. It is proposed that the Financial Statements and Audit Report be presented to the public at the Ordinary Meeting of Council to be held on 12 December 2022. Achieving this is dependent on the completion of the audit and receipt of the Audit Reports. Public notice of this meeting will be made as required by legislation and the Financial Statements made available for inspection at Council's offices and on the website accordingly.

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CL22.583 DPOP 2022-23 - Quarterly Performance and Budget Report (July - September)

HPERM Ref: D22/432241

Department: Corporate Performance & Reporting
Approver: Kevin Voegt, Director - City Performance

Attachments:

1. DPOP 2022-23 - Quarterly Performance Report - July to September (under separate cover) [⇒](#)
2. Quarterly Budget Review Statement – September 2022 (under separate cover) [⇒](#)
3. Capital Projects Status Update September 2022 (under separate cover) [⇒](#)
4. Completed Notices of Motion Report (councillors information folder) [⇒](#)
5. Uncompleted Notices of Motion Report (councillors information folder) [⇒](#)

Reason for Report

This report outlines Quarter 1 performance (July to September 2022) against actions and targets set in Council's 2022-23 Delivery Program and Operational Plan (DPOP). Also, in accordance with Regulation 203 (1) of the Local Government (General) Regulation (2021), the responsible accounting officer must prepare and submit to Council, a Budget Review Statement after the end of each quarter. This has been carried out for the first quarter of the 2022/23 financial year.

Recommendation

That Council:

1. Receive the September Quarterly Performance Report on the 2022-2026 Delivery Program and 2022-2023 Operational Plan and publish on Council's website.
2. Receive the September 2022 Quarterly Budget Review Report.
3. Adopt the budget adjustments as outlined in the September 2022 Quarterly Budget Report Document.

Options

1. Adopt the recommendation

Implications: Nil.

2. Adopt an alternative recommendation

Implications: Staff will be required to rework the quarterly performance and budget report in accordance with the alternative resolution.

Background

Section 404 of the Local Government Act 1993 requires the General Manager (Chief Executive Officer) to provide progress reports to the Council with respect to the principal activities detailed in the Delivery Program (Operational Plan) at least every 6 months. Furthermore, all Councils must continue to consider a Quarterly Budget Review report.

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Clause 203 of the Local Government (General) Regulation 2021 requires the Responsible Accounting Officer (Chief Financial Officer) to prepare and submit to the Council, a Quarterly Budget Review Statement that shows, by reference, the estimates of income and expenditure set out in the Operational Plan and a revised estimate of the income and expenditure for the full financial year.

The Responsible Accounting Officer is also required to report as to whether they believe the financial position of the Council is satisfactory, having regard to the original estimate of income and expenditure.

The September 2022 Quarterly Budget Review Statement (QBRs) includes an analysis of the year-to-date result and the reasons for the major variances from the previously adopted Budget, by fund and for each Directorate. Any proposed changes to the budget are included in the attached September Quarterly Budget Review Statement.

Summary of DPOP Performance

The following performance has been measured on 30 September 2022 across each of the key themes outlined in the Community Strategic Plan - Shoalhaven 2032.

Theme	Progress snapshot
Resilient, safe, accessible and inclusive communities	92% actions on track or completed
Sustainable, liveable environments	93% actions on track or completed
Thriving local economies that meet community needs	95% actions on track or completed
Effective, responsible and authentic leadership	93% actions on track or completed

Key Highlights

Council has consistently delivered a range of services, projects and activities which work towards achieving the 11 key priorities outlined in Council's Delivery Program 2022-26. Performance comments are provided in the report against each of the 156 actions and related targets in Council's 2022-23 Operational Plan.

The complete DPOP Quarterly Performance Report (July - September) is included as **Attachment 1**.

Significant achievements between July and September 2022 include:

- Major preparation works completed at Rugby Park in time to host the 2022 NSW Koori Rugby League Knockout Carnival.
- Over 12 community events to build capacity were coordinated and supported during the quarter including: Thrive Together, Disability Expo, NAIDOC Awards, and Emergency Preparedness for older Adults.
- New Compliance Policy includes a risk-based compliance and regulatory framework has a completed and presented to Council.
- Cameras have been deployed on Council's garbage collection trucks to analyse road defects.
- Tenderer appointed for supply of retail electricity for Council's Large Sites & Street Lighting for the next 8 years who has committed to build 2 new solar farms in the region.
- Alternative power supplies to critical Shoalhaven Water infrastructure is 95% complete

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- 11 events were supported during the quarter including through the Kangaroo Valley Recovery Program, with a total return on investment a very strong \$7.5M
- 'Business after hours' networking event held in Ulladulla on 21 September with around 70 attendees in partnership with the South Coast Centre of Excellence, Milton Ulladulla, and Shoalhaven Business Chambers.
- New customer request management system launched with a large number of requests categories now available online for the public to lodge requests 24 hours 7 days a week.
- Work Health and Safety team promoted "R U OK? Day" with site visits across Council's workplaces to deliver healthy fruit snacks and mental health support material.
- Held two citizenship ceremonies with an average of 51 guests at each.

Requires Attention

The following six (6) Action items have been reported as requires attention at 30 September 2022. Full performance comments are in the attached report and remedial actions have been reported to senior management.

Ref.	Action	Quarter 1 Comment (summary) Full comments in attached report
1.1.01.08	Investigate the opportunities for bushfire resilient buildings, such as FORTIS House, to be constructed within the LGA.	There is interest from the FORTIS House Team to provide funds to build an exhibition home to showcase the resilience of the FORTIS House project. What is needed, is an allotment of land to erect this building. Once the allotment of land is located, a development application for the exhibition home will be needed. There will also need to be funds for staffing the facility. A project plan will need to be developed for this project and this is expected to be completed by 30/06/2023.
1.1.06.02	Undertake environmental health regulatory inspections to ensure compliance with legislative standards	Despite weather constraints, almost 100% of OSSMs have been completed, Food Shops have fallen behind due to staff on sick leave and higher duties required from the Food team. Skin Penetration is on target to be completed by end of October.
1.1.06.05	Undertake retail food regulatory inspections to ensure compliance with legislative standards	Food shop inspections have been undertaken in accordance with available resourcing.
2.1.06.02	Identify and mitigate risk to critical water supply and wastewater assets	Risk identification has been completed. Mitigation measures now in development with Operations staff.
2.2.02.01	Assess and determine development applications within legislative timeframes	Council continues to improve processing times through recruitment processes, continual review of the DA assessment process, processing of older applications from the system and working with the

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Ref.	Action	Quarter 1 Comment (summary) Full comments in attached report
	and community expectations	Department of Planning and Environment to ensure agency referrals are received in a timely fashion.
2.3.03.02	Support organisational environmental due diligence	Assessments being conducted for Council projects have included 12 Review of Environmental Factors (REF) that have begun for dog off-leash areas as part of the Dog Policy review. Eight (8) REFs are being prepared for Shoalhaven Water (for Asset Protection Zones around sewage pumping stations) and are nearing completion but were due by end of September so are a top priority.

On Hold

The following five (5) Action items have been reported as on hold.

Ref.	Action	Quarter 1 Comment (summary) Full comments in attached report
1.1.02.03	Work with the NSW Government to finalise the Crown Lands plans of management	Draft generic Plans of Management, and site-specific Plans of Management (PoM) are currently with the Minister to seek approval to proceed to public exhibition. Crown lands have not started reviewing the PoMs. Draft PoMs for showgrounds have been reported to Council and referred to Property for Native Title comment and will be forwarded to the Minister once Native Title comment is received.
3.1.01.02	Review and update Council's Employment Land Strategy	The employment land strategy will be reviewed on appointment of vacant positions within the Directorate.
4.2.01.05	Formalisation of Legislative Compliance Framework	Awaiting additional input prior to proceeding further (budgetary constraints / resourcing constraints / planning delays / community issues / design unresolved)
4.2.08.02	Create a strategy with measurable actions for Council's strategic property assets, including investigation into alternate revenue streams	It is intended to pursue a new Property Strategy that takes a different strategic approach and direction to the previous 2016/2017 Property Strategy. Early work commenced however has been placed on hold awaiting the appointment of a new Strategic Property Manager.
4.2.09.01	Implement the Holiday Haven Business Plan to achieve investment and growth targets	The Business plan is awaiting approval by Management.

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Additional Operational Plan Actions arising from Notices of Motions (NoM's)

Between 1 July 2022 and 30 September 2022, Council has endorsed 27 Notices of Motion (NoMs) which can be categorised as follows:

- Twenty (20) NoM's relate to information, donations / community support, maintenance / traffic requests, advocacy or Development Application call-ins and covered in business-as-usual operations.
- Seven (7) NoM's relate to projects that required additional resources being added to the Operational Plan 2022-23. These Actions can be further categorised into the following areas:
 - Infrastructure Upgrades (1)
 - Forward Planning (6)

In addition, there are 21 NoM's resolved prior to 1 July 2022 which are currently categorised as 'in progress'.

Funding was allocated to the respective projects during the Quarterly Budget reviews. The full report of Completed and Uncompleted Notices of Motion's have been attached as **Attachment 4** and **Attachment 5**, respectively.

September 2022 Quarterly Budget Results Overview

Shoalhaven City Council was severely impacted by the recent East Coast Low weather pattern, which has brought unprecedented rainfall across all coastal areas of NSW making the civil infrastructure damage for this natural disaster exceeding \$50M which is larger than that of the Currowan fire in 2019/20.

Council has reprioritised works to ensure communities can be accessed and resources delivered to those most in need. Council is focusing on repairing critical community infrastructure that was damaged as a result of the natural disaster and this change in priorities has a direct impact on allocations of the Council budget.

As emergency repairs are taking priority, Council will continue to monitor the planned capital works program and report any issues that may arise with the ability to complete the works.

The General Fund operating expenses are 9.15% above the year to date adopted budget (\$76M actuals vs. \$70M budget, unfavourable) mainly due to an increase in emergency repairs (\$3.1M), depreciation expense (\$1.4M), road maintenance (\$631K), tourist parks (\$280K), waste management (\$245K), mechanical services (\$215K) and parks maintenance costs (\$125K). The emergency repair costs will be covered by natural disaster funding. Council is now an "Opt In" Council where all of the repair costs will be covered by the funding but there will be an out-of-pocket amount of approximately \$585K for each event (March and July 2022) that will need to be found. This will be considered in future quarterly reviews. If Council were to stay as "Opt Out", there would be \$1.5M of costs that could not be claimed to date.

The General Fund revenue is currently 1.4% ahead of the year to date adopted budget, mainly due to new grants received and not budgeted. During the September Quarterly Budget Review it was identified that there will be shortfall of the income for On-Site Sewer Management Services (\$390K), due to the phasing of the renewals being levied annually on the rates notice instead of the previous 5 year renewal. This shortfall was not able to be funded during this quarterly review and will be considered in future reviews.

Water and Sewer funds budget results are close to the budget forecast with the revenue and operating expenses slightly exceeding budget.

The September budget results indicate that the Council is in a strong budget position and remains financially sustainable with an acceptable level of working capital and a sufficient level of unrestricted cash.

The working capital position of the General Fund as at 30 September 2022, is **14.82%** of the current liabilities, above the **benchmark of 10%**:

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Description		(\$'000)
Add	Current Asset	180,470
Less	Current Liabilities	100,813
Calc	Net Current Asset	79,657
Less	External restrictions	98,963
Less	Internal restrictions	25,989
Add	Provisions (Liabilities not expected to settle in 12 months)	19,163
Add	Current liabilities that are covered by externally restricted assets	41,072
Calc	Available working capital	14,941
Calc	Working Capital as a % of Current Liabilities	14.82%

Management continues to monitor the working capital position of the Council and continues to report on the key liquidity indicators to the Council on a monthly basis.

Financial Impact of COVID-19

The eligibility for developer contributions discount subsidy closed on 31 March 2022. Applications for the subsidy are open for two years after the development consent has been issued. The amount of subsidy provided for the first quarter was \$39K for S7.11 and nil for S64.

General Fund Budget and Quarterly Review Movements

The net operating result before capital grants and contributions of the General Fund as at 30 September 2022 Quarterly Budget Review, was a surplus of \$74.5M, a \$5.5M unfavourable variance to the budgeted \$80M. This unfavourable variance is largely driven by the additional emergency maintenance works. It is important to note that the September Quarterly Budget adjustments will address the majority of the unfavourable budget variations.

The unrestricted cash balance movement was \$203K less than the budgeted amount of \$5.1M (unfavourable). The primary reason for this unfavourable movement is the higher expenditure for emergency repairs which is offset by the capital expenditure being less than anticipated.

The following table presents a high-level summary of the budget and movements for the General Fund for 2022/23:

(\$'000) Favourable / (Unfavourable)	Current Adopted Budget	September QR Adjustments	September QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	84,976	(10,686)	74,290	94,339	90,254
Net Operating Result before Capital Grants & Contributions	3,899	(16,441)	(12,542)	79,989	74,475
Net Cash & Investments	(9,352)	(54,936)	(64,288)	(16,348)	(1,417)

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Movement					
Unrestricted Cash Movement	0	0	0	(41,078)	(4,403)

The main contributing factor for the change to the operating result before capital grants and contributions (-\$16.4M) is an increase in emergency repairs expenditure (\$6M, \$4M returned from grant reserve, \$2M transferred from capital), depreciation expenses (\$5.6M), roads maintenance transfer from capital (\$2M), environmental management transfer from capital (\$1.3M), waste management (\$773K from reserve) and other changes across the general fund.

Capital grants and contributions budget is proposed to be increased by \$5.7M (favourable) to reflect capital grants approved for Stronger Country Communities, Boongaree and Ulladulla Skate Park.

During the June Quarterly Budget Review \$45M of unspent funds were returned to reserves and have been reallocated in this quarterly budget review.

It is important to note that proposed budget adjustments have NIL on unrestricted cash movement which demonstrates that Council continues to manage its budget effectively despite having to address budget shortfalls caused by the unforeseen circumstances such as the natural disasters.

During the first quarter of this financial year, various Council minutes have been resolved to be funded in future quarterly budget reviews. Below is a table of these items for funding consideration showing the projects that could be funded and the ones where funding was not able to be found.

Project	Funding Requested (\$'000)
Funded	
MIN22.302 - Shoalhaven Arts Foundation	150
MIN22.538 - Freedom of Entry Ceremony	50
MIN22.724C - Fixing Country Bridges funding shortfall (from Local Road Repair Program)	130
MIN22.535 - RFS 'Get Ready' Campaign (funded from waste management)	100
MIN22.567 - Wowly Creek scoping and feasibility study (subsequently reported to Council 31 Oct 2022, MIN22.814)	No Impact
Not Funded	
MIN22.135 and MIN.22.286 – annual allocation for masterplans for parks and reserves	300
MIN22.383 – Detailed design new Kangaroo Valley Playground	50
MIN22.745 - Bawley Point Footpath (Barrie's Way)	60
MIN22.720 - June QR deferred projects to be reinstated at future quarterly budget reviews	670

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The list of deferred projects from MIN22.720 are:

2022/23 Deferral into future years (unfunded)	(\$'000)
Installation of Lions Club Shed - Proposed 21 Norfolk Ave	270
Boree St - LRRP Carpark #5 Bitumen Seal Urban Upgrade	150
Beach Access Upgrades	200
Review Community Infrastructure Strategic Plan	50
	670

The Not Funded items above will be re-listed for consideration at future budget reviews.

Further, in response to MIN22.718 regarding a possible second round of applications for the Community Donations Program, the CEO considers appropriate to roll the unspent funds into the 2023/24 budget. This will be actioned at the end of the financial year together with other carry forwards and revotes.

For a detailed list of budget variations and proposed budget adjustments please refer to **Attachment 2** – Quarterly Budget Review Statement – September 2022.

Capital Projects Progress Overview

Attachment 3 provides a detailed update as at 1 November 2022 on the progress of 128 major capital projects with the annual budget allocation of over \$400K for each project (total budget of \$259M) which represents 81% of the adjusted annual capital budget of \$320M.

As at 1 November 2022, 100 projects remain on track, 3 completed, 2 are under close monitoring and 23 were flagged as on hold due to pending approvals from other government bodies and other external factors.

Water Fund Budget and Quarterly Review Movements

The net operating result before capital revenue of the Water Fund is a \$1.2M deficit when compared to the year to date forecasted deficit of \$1.1M. The unfavourable variance is largely due to additional overtime and labour costs for repairs and maintenance of infrastructure (\$315K), partially offset by an increase in revenue collected from fees (\$149K).

The net cash and investments movement has reduced compared to the adopted budget. All cash held by the water fund is restricted.

(\$'000) Favourable / (Unfavourable)	Current Adopted Budget	September QR Adjustments	September QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	3,280	905	4,185	(728)	(98)
Net Operating Result before Capital Grants & Contributions	(517)	5	(512)	(1,101)	(1,238)
Net Cash Movement	(15,679)	1,506	(14,174)	(707)	(1,044)

CL22.583

Sewer Fund Budget and Quarterly Review Movements

The net operating result before capital revenue of the Sewer Fund is a surplus of \$2.4M when compared to the year to date forecasted surplus of \$2.3M. The primary reason for this unfavourable variance is the additional overtime and labour costs for repairs and maintenance of infrastructure (\$221K) and expenditure on material and services (\$90K).

The net cash and investment movement has reduced compared to the adopted budget.

(\$'000) Favourable / (Unfavourable)	Current Adopted Budget	September QR Adjustments	September QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	8,817	(37)	8,740	2,603	2,708
Net Operating Result before Capital Grants & Contributions	6,365	(37)	6,288	2,303	2,416
Net Cash Movement	(38,828)	3,261	(35,607)	(8,386)	(7,547)

Communication Strategy

Subject to Council's endorsement, the Quarterly Performance report will be made available on Council's website. A range of other communication methods may also be used to communicate the outcomes of the report including performance highlights across Council's social media platforms.

CL22.583

CL22.584 Policy - Privacy Management Plan for Adoption

HPERM Ref: D22/325016

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Attachments: 1. Draft Privacy Management Plan (under separate cover) [⇒](#)

Reason for Report

An existing resolution of Council requires that all Public Policies are to be submitted to Council for review within 12 months of the election of a new Council.

Recommendation

That Council

1. Adopt the Privacy Management Plan with changes as detailed in the attachment.
2. The amended Privacy Management Plan be forwarded to the Privacy Commissioner of NSW in accordance with Section 33 of the Privacy & Personal Information Protection Act, 1998.

Options

1. Adopt the recommendation as written

Implications: The Privacy Management Plan (version attached) will be adopted by Council and provided to the Privacy Commissioner for NSW.

2. Not adopt the recommendation

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

Background

The Privacy Management Plan is attached to this report for reaffirmation, the changes proposed are shown using track changes in the attachment.

The Policy was first adopted by the Council in June 2007 and was last significantly changed in 2013 based on the Model Privacy Management Plan for Local Government released by OLG.

This Plan was then updated to incorporate the Health Records and Information Privacy Act 2002 (HRIP Act) and included references to the Government Information (Public Access) Act 2009 (GIPA Act).

The Privacy and Personal Information Protection Act 1998 (the PPIPA) requires all Councils to prepare a Privacy Management Plan.

The Privacy Management Plan enables the Shoalhaven City community to be informed about how their personal information will be used, stored and accessed after it is collected by Shoalhaven City Council. It also ensures Council staff are aware of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

CL22.584

It is an overarching document in relation to private and personal information management. Specific arrangements have also been established for individual processes involving private information such as CCTV operations in Council buildings and Nowra CBD and the related Memorandum of Understanding with NSW Police.

The attached amended version of the Policy (with proposed changes tracked) has been updated to reflect best practice and provide additional information to readers on the information currently held by Council and current information about how we meet our obligations.

Following adoption of the attached policy, a comprehensive update and training will be provided to staff to ensure we are meeting our Privacy requirements and obligations, and such training will assist staff to direct customers to appropriate sources of information where Council is unable to provide this information due to privacy restrictions.

Community Engagement

There is no requirement for further public exhibition of this Policy. However, Council may choose to do so, should they consider any additional changes of significance.

Policy Implications

The proposed policy has no implications or deviation from current approved Policy.

CL22.584

CL22.585 Misuse of Council Resources – March 2023 State Election

HPERM Ref: D22/462835

Department: Business Assurance & Risk
Approver: Kevin Voegt, Director - City Performance

Attachments: 1. OLG Circular No 22-33 - Misuse of Council Resources – March 2023 State Election [↓](#)

Reason for Report

To advise Councillors of the content of the Office of Local Government's Circular No 22-33 Misuse of Council Resources – March 2023 State Election.

Recommendation

That the information in relation to use of council resources and electoral matter in advance of the 2023 State Government elections be noted.

Options

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

Background

On 2 November 2022, the Office of Local Government (OLG) released Circular No 22-33 titled *Misuse of Council Resources – March 2023 State Election*, which outlined the following key messages outlined below.

The Model Code provides that Council officials must not:

- Use Council resources (including Council staff), property or facilities for the purpose of assisting their election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for the use of the resources, property or facility
- Use Council letterhead, Council crests, Council email or social media or other information that could give the appearance it is official Council material for the purpose of assisting their election campaign or the election campaign of others.

These obligations apply to all election campaigns including Council, State and Federal election campaigns.

Councils should also ensure that they exercise any regulatory powers in relation to election activities such as election signage in an impartial and even-handed way and in accordance with established procedures and practices.

Failure to comply with these requirements may result in disciplinary action under the Code of Conduct.



Office of
Local Government

Circular to Councils

Circular Details	Circular No 22-33 / 2 November 2022 / A839741
Previous Circular	18/41 <i>Misuse of Council resources – 2019 State Election</i>
Who should read this	Councillors / General Managers / All council staff
Contact	Council Governance Team/ 02 4428 4201/ olg@olg.nsw.gov.au
Action required	Information / Council to Implement

Misuse of Council Resources – March 2023 State Election

What's new or changing?

- In the lead up to the 25 March 2023 State election, councillors, council staff and other council officials need to be aware of their obligations under the *Model Code of Conduct for Local Councils in NSW* (the Model Code) in relation to the use of council resources.

What this will mean for your council

- It is important that the community has confidence that council property and resources are only used for official purposes.
- Councils are encouraged to ensure that councillors, council staff and other council officials are aware of their obligations regarding the use of council resources.

Key points

- The Model Code provides that council officials must not:
 - use council resources (including council staff), property or facilities for the purpose of assisting their election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for the use of the resources, property or facility
 - use council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material for the purpose of assisting their election campaign or the election campaign of others.
- These obligations apply to all election campaigns including council, State and Federal election campaigns.
- Councils should also ensure that they exercise any regulatory powers in relation to election activities such as election signage in an impartial and even-handed way and in accordance with established procedures and practices.
- Failure to comply with these requirements may result in disciplinary action under the code of conduct.

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E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 44 913 630 046

Where to go for further information

- For more information, contact OLG's Council Governance Team by telephone on 4428 4100, or by email to olg@olg.nsw.gov.au.

Melanie Hawyes
Deputy Secretary Crown Lands and Local Government

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CL22.586 Ongoing Register of Pecuniary Interest Returns - October 2022

HPERM Ref: D22/429088

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Reason for Report

To provide the Council with the Register of Pecuniary Interest Returns from newly designated persons lodged with the Chief Executive Officer for the period of 1 October to 31 October 2022 as required under Section 440AAB of the Local Government Act 1993 and Part 4.26 of the Model Code of Conduct.

Recommendation

That the report of the Chief Executive Officer regarding the Ongoing Register of Pecuniary Interest Returns lodged for the period of 1 October to 31 October 2022 be received for information.

Background

Under Section 440AAB of the *Local Government Act 1993* and Part 4.26 of the Model Code of Conduct, newly designated persons are required to complete an Initial Pecuniary Interest Return within 3 months of becoming a designated person.

Section 440AAB (2) of *The Local Government Act 1993* states:

Returns required to be lodged with the general manager must be tabled at a meeting of the council, being the first meeting held after the last day specified by the code for lodgement, or if the code does not specify a day, as soon as practicable after the return is lodged.

Part 4.26 of the Model Code of Conduct states:

Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.

This report is one of a series of reports of this nature which will be provided throughout the year to align with the legislative requirements.

Those persons who have submitted a return within the period in accordance with their obligation to lodge an initial pecuniary interest return are listed below:

Directorate	Name	Designated Position Start Date	Returned
City Lifestyles	Stephanie Cascun	23/08/2022	04/10/2022
City Performance	Soni Achuthan	29/08/2022	07/10/2022
City Development	Janelle Munson	05/09/2022	12/10/2022
Shoalhaven Water	Bradley Tunks	10/10/2022	12/10/2022
City Lifestyles	Clinton Coker	18/07/2022	13/10/2022

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City Development	Jonathan Coyle	05/09/2022	14/10/2022
City Development	Josh Mellueish	05/09/2022	17/10/2022
City Futures	Terry Dwyer	19/09/2022	28/10/2022

Electronic versions of the disclosure documents (with relevant redactions) are available on the Council website, in accordance with requirements under the *Government Information (Public Access) Act, 2009*.

Risk Implications

A failure of meeting the obligations with respect to the Pecuniary Interest Returns by a designated officer leaves Council at risk of non-compliance with legislative requirements, conflicts of interest and limited transparency.

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CL22.587 Proposed Voluntary Planning Agreement - Part of Mundamia Urban Release Area

HPERM Ref: D22/436072

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

Reason for Report

The reason for this report is to obtain in-principle support to commence the process of entering into a Voluntary Planning Agreement (VPA) with the owner/developer (Jemalong Mundamia Pty Ltd) of Lot 30 DP 1198692, George Evans and Jonsson Roads, within the Mundamia Urban Release Area (URA).

Recommendation

That Council:

1. Provide in-principle support to enter into a Voluntary Planning Agreement (VPA) with the owner and developer (Jemalong Mundamia Pty Ltd) of Lot 30 DP 1198692, George Evans and Jonsson Roads, in the Mundamia Urban Release Area in relation to:
 - a. The design and construction of Roundabout 01 by the Developer - Council will contribute 58% of the additional cost of the roundabout.
 - b. The design and construction of Roundabout 03 by the Developer - Council will contribute 18% of the additional cost of the roundabout.
 - c. The dedication or acquisition, by Council, of any land adjoining the roundabouts required to facilitate construction, except where the Developer owns the required land, where the land will be dedicated to Council at no cost.
 - d. The design and construction of the threshold on Jonsson Road by the Developer - Council will contribute 100% of the additional construction cost.
 - e. The design and construction of the Community Hall by the Developer, as approved via DA20/1652.
 - f. Conditioned s7.11 contributions for project 01CFAC0014 (Community Hall) will not be payable by the Developer.
 - g. The dedication of the proposed central public reserve (6,344m²) to Council by the Developer, at no cost.
 - h. Payment of maintenance costs for the roundabouts and community centre by the Developer, if required.
 - i. Bushfire management measures that need to be considered in the VPA by the Developer, following the resolution of the deferred commencement conditions, if any.
2. Endorse the allocation of deleted funds, where available, to cover Council's contribution and any surplus value relating to the delivery of the community hall (01CFAC0014).
3. Delegate authority to Council's Chief Executive Officer, or his delegate, to:
 - a. Finalise negotiations including acceptance of plans and independent costings of works.
 - b. Prepare the draft VPA and associated Explanatory Note.

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- c. Publicly exhibit the draft VPA and associated Explanatory Note for a minimum period of 28 days as required by legislation.
- d. Enter into the Voluntary Planning Agreement consistent with the detailed key terms in Part 1 above, except where objections or substantial issues are raised as a result of public notification, in which case the Voluntary Planning Agreement is to be reported to Council before it is entered into.

Options

1. As recommended.

Implications: The proposed VPA will result in a positive public benefit through the facilitation and delivery of a range of public infrastructure items in the Mundamia URA. This subdivision is the first development in the URA.

Further, in accordance with the NSW Government's approval, the VPA needs to be entered into prior to the issue of the first Construction Certificate and the development proceeding.

2. Adopt an alternative recommendation.

Implications: An alternative recommendation may affect the timely delivery of the first component of the Mundamia URA, and subsequently the delivery of a range of public infrastructure items for this new community.

Background

On 23 December 2019, [State Significant development consent \(SSD7169\)](#) was granted by the NSW Government for a 308 lot residential subdivision, neighbourhood safer place and open space/drainage reserves at Lot 30 DP 1198692, George Evans and Jonsson Roads, within the Mundamia URA. Figure 1 shows the subject land in the URA and Figure 2 shows the approved subdivision layout, as modified.

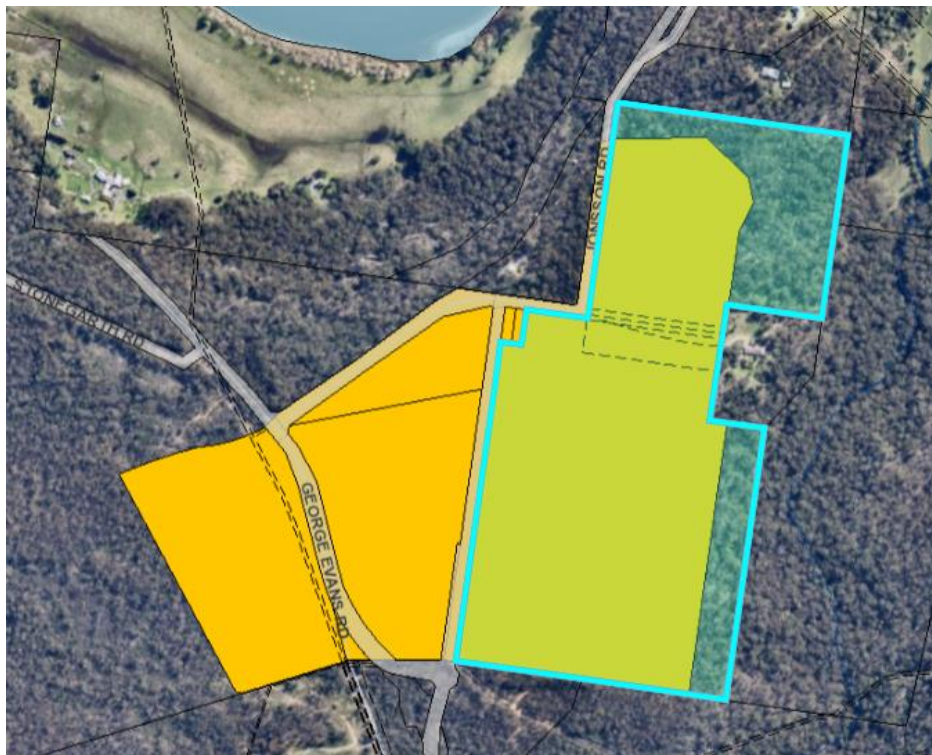


Figure 1: Lot 30 DP 1198692 in the Mundamia Urban Release Area (the Site)

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The Mundamia URA is a 57 hectare site to the west of the Nowra urban area that has been identified as a future residential area in the Nowra-Bomaderry Structure Plan since 2006. It is anticipated that the URA will provide land for at least 500 new homes. The future community will be supported by a range of infrastructure, including open space, play spaces, a community centre, drainage and roads.

Council is also a landowner in the URA, owning the land immediately to the west of the approved subdivision.

- The roundabout at the intersection of Road 1 and George Evans Road (Roundabout 01 above).

- The roundabout at the intersection of Road 1 and Road 14 at the entry threshold north of the intersection of Jonsson Road and Road 16 (Roundabout 03 above)
- The combined neighbourhood safer place/community hall
- Other bushfire management measures required by the consent.

The proposed VPA seeks to facilitate satisfactory arrangements for these works.

2018 Consideration of the proposed VPA

In 2018, Council considered a request for a VPA in response to the then draft consent (and a specific draft consent condition) that had been issued at the time by the NSW Government.

The scope of the proposed VPA was for contributions towards the cost of three specific traffic calming devices, as outlined in Table 1. This is the “additional cost” to augment the base road design to accommodate the additional roundabouts and entry threshold.

The detailed traffic assessment supporting the development application found that additional speed control facilities were warranted due to the 1.2km of collector road traversing through the middle of the combined developments, and the prevalence of through traffic due to the existing Thomson’s Point Reserve which is popular local walking and climbing location. The NSW Government accepted the need for these additional facilities, however considered that the applicant and Council, should both contribute towards the provision of the additional infrastructure, in proportion with the traffic they will theoretically generate.

Table 1: 2018 Proposed VPA Particulars

Infrastructure	Additional cost (estimated, 2018)	Council apportionment	Council’s contribution (2018)
Roundabout at intersection of road 1 and George Evans Road	\$134,526	58%	\$78,025.08
Roundabout at intersection of Road 14 and Jonsson Road	\$99,501	18%	\$17,910.18
Threshold treatment at intersection of road 16 and Jonsson Road	\$40,044	100%	\$40,044
TOTAL			\$135,979.26

On 18 September 2018, Council’s Strategy & Assets Committee resolved (MIN18.718) to:

1. *Provide ‘in-principle’ support to enter into a Voluntary Planning Agreement as per the draft consent issued by the NSW Department of Planning and Environment;*
2. *Upon determination of the application, by the NSW Department of Planning and Environment, process the draft Voluntary Planning Agreement as per legislative requirements (the draft VPA needs to be reported to Council and exhibited); and*
3. *Supports ‘in principle’ the request for financial contribution to the construction of traffic calming devices associated with this proposed subdivision including allocation of the necessary funds for contribution to the necessary traffic calming devices to that extent Council confirms its share (calculated to be \$135,979.26) will be payable upon completion of the works as requested by the applicant.*

Current Proposal

Since the issue of the consent in 2019, the Developer has been resolving a range of ‘deferred’ commencement conditions. Negotiations and discussions on the VPA particulars

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have been ongoing through this process, and the Developer's current proposal for the VPA is outlined below:

- The Developer will design and construct Roundabout 01 (at the intersection of George Evans Road and Road 1). Council will contribute 58% of the actual construction cost.
- The Developer will design and construct Roundabout 03 (at the intersection of Road 1 and Jonsson Road). Council will contribute 18% of the actual construction cost.
- Council will dedicate or acquire any land adjoining the roundabouts required to facilitate construction. If the Developer owns the required land, this will be dedicated at no cost to Council.
- The Developer will design and construct the threshold on Jonsson Road. Council will contribute 100% of the actual construction cost.
- The Developer will design and construct the combined Community Hall and neighbourhood safer place as approved via DA20/1652. *Note:* this is a requirement of the consent. Contributions for s7.11 project [01CFAC0014 \(Mundamia URA Community/Childcare Centre\)](#) will not be payable. Council is to reimburse the shortfall between the 01CFAC0014 contribution value and the actual construction costs, over a 5-year period.
- The proposed central public reserve (6,344m2) will be dedicated to Council at no cost.

Each of these matters are discussed further in Table 2 below.

Table 2: Discussion of proposed VPA scope – Staff Recommendation

Proposed VPA Item	Council Staff Comment
The Developer will design and construct Roundabout 01 (at the intersection of George Evans Road and Road 1). Council will contribute 58% of the actual construction cost.	The proposal is satisfactory, subject to the following: <ul style="list-style-type: none"> • The design is to consider the George Evans Road design and road changes required by the consent.
The Developer will design and construct Roundabout 03 (at the intersection of Road 1 and Jonsson Road). Council will contribute 18% of the actual construction cost.	<ul style="list-style-type: none"> • Council's resolution was to pay the respective percentage of the <u>additional cost</u> of the roundabouts (i.e., the difference between the 'no roundabout' and 'roundabout' scenarios). • Possible maintenance arrangements for these infrastructure elements will need to be considered further.
Council will dedicate or acquire any land adjoining the roundabouts required to facilitate construction. If the Developer owns the required land, this land will be dedicated to Council at no cost.	It is understood that the only land that needs to be dedicated for the roundabout infrastructure is currently in the ownership of Council or the Developer. The VPA can address the dedication of this land as road, to the extent it is required.
The Developer will design and construct the threshold on Jonsson Road. Council will contribute 100% of the actual construction cost.	Council's contribution is 100% of the <u>additional cost</u> of the threshold (i.e., the difference between the 'no threshold' and 'threshold' scenarios).
The Developer will design and construct the Community Hall as approved via DA20/1652. Contributions for 01CFAC0014 will not be payable.	The Community Hall proposal is satisfactory, subject to the following: <ul style="list-style-type: none"> • The Developer has confirmed that there is no cost difference between the design of a Community Hall and the upgrade to a

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<p>Council is to reimburse the shortfall between the 01CFAC0014 contribution value and the actual construction costs, over a 5-year period.</p>	<p>Neighbourhood Safer Place (NSP) standard as required by condition F12 of the consent.</p> <ul style="list-style-type: none"> • The offset of the conditioned 01CFAC0014 contributions is acceptable. • Possible maintenance arrangements for this infrastructure element will need to be considered further. • Parking is included in accordance with the consent (DA20/1652). • The 5 year reimbursement timeframe <u>is not accepted</u>. If funds are not immediately available for the reimbursement of the surplus value (i.e., deleted funds), reimbursement will occur over time as s7.11s are collected.
<p>The Developer will dedicate the proposed central public reserve (6,344m²) to Council at no cost.</p>	<p>The central open space proposal is satisfactory, noting that no embellishment is proposed and contributions for this project (01OREC0014) are still payable as per the consent.</p> <p>Interest was sought from the Developer to work with Council to deliver the embellishments upfront for the new community. This would be via a contributions offset relating to 01OREC0014. The Developer declined and will therefore pay monetary contributions. Council will need to deliver the embellishments at the relevant stage.</p>

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The VPA condition in the consent also requires consideration of any bushfire management measures that need to be considered by the agreement following the resolution of the 'deferred' commencement conditions. The Developer has advised that there are none, however this will need to be confirmed as the negotiations continue. Council Staff delegation is requested to manage any VPA particulars required to manage bushfire management measures, if required.

To progress with a draft VPA, the plans for the infrastructure, including the community hall, need to be accepted by staff. Once the designs have been accepted by Council, the infrastructure/works can then be costed.

Delegation Opportunities

In accordance with Council's [Planning Agreement Policy](#), Council may resolve to delegate authority to Council's Chief Executive Officer, or his delegate, to negotiate, publicly notify, enter into and register the Planning Agreement. It is recommended that Council extend delegation for the above functions, unless there are objections or substantial issues raised as a result of public notification, in which case Council will receive a further report prior to finalisation.

Recommendation

Due to the public benefit realised from the delivery of a range of infrastructure items associated with this important URA, it is in Council's interest to support the proposal, finalise negotiations and proceed to prepare and publicly exhibit the draft VPA for review and comment.

Community Engagement

The *Environmental Planning and Assessment Regulation 2000* requires that draft VPA be publicly exhibited for a minimum period of 28 days. Community engagement will be encouraged through the public exhibition period.

Policy Implications

As a result of the VPA, changes to the [Shoalhaven Contributions Plan 2019](#) (the Plan) will be required to address actual costs, additional infrastructure items/elements (e.g., additional roundabouts and threshold not currently in the Plan) and changes to the location of certain items. This can be undertaken as part of a future amendment to the Plan and would be reported separately at the appropriate point in time.

This VPA only addresses the matters identified in condition C3 of the consent. It is noted that another agreement may be required to progress other infrastructure elements and costing arrangements relating to the development. This will be reported to Council in due course, should the staff delegations in Council's [Planning Agreement Policy](#) or [Works in Kind Policy](#) not extend to the scope.

Financial Implications

Council Contribution for community hall construction

The Developer has requested that Council cover the shortfall between the contributions payable for 01CFAC0014 and the actual construction value of the community hall (i.e., the surplus value).

No contributions have been collected for 01CFAC0014 to date as this is the first development in the project catchment. As such, it would be appropriate for the shortfall to be covered by 'deleted funds'. This is consistent with Council's resolution (MIN19.212(4)) to support the provision of seed funding for community infrastructure projects. However, depending on the timing of the infrastructure delivery and the terms within the VPA, there may not be adequate deleted funds available at the time. Should this be the case, it would be appropriate for reimbursement of the surplus value to occur overtime as s7.11s are collected for 01CFAC0014. The five-year time frame for reimbursement is not supported.

Costs associated with the drafting, exhibition and entering into the VPA

In accordance with Council's [Planning Agreement Policy](#), the Developer will cover Council's costs (direct and incidental) relating to the negotiation, preparation and entering into the agreement (including associated legal costs and independent costings) and enforcing the agreement.

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CL22.588 Planning Agreement and Works In Kind Agreement Policy Review

HPERM Ref: D22/443899

Department: Strategic Planning
Approver: Carey McIntyre, Director - City Futures

Attachments: 1. Proposed Amended Planning Agreement Policy (under separate cover) [⇒](#)
2. Proposed Amended Works In Kind Agreement Policy (under separate cover) [⇒](#)

Reason for Report

The reason for this report is to enable Council to reconsider the Planning Agreement Policy (POL19/78) and Works in Kind Policy (POL19/79).

Recommendation

That Council reaffirm the Planning Agreement Policy (POL19/78) and Works In Kind Policy (POL19/79), with the minor changes and additions changes outlined in Attachment 1 and 2.

Options

1. As recommended.

Implications: This will see the reaffirmation of the two policies, which is the preferred option as the policies are working well and generally remain contemporary. Some minor additions/changes are suggested to both, in order to address matters that have been raised since the first came in during 2021.

2. An alternative recommendation.

Implications: Will depend on the extent of any changes/approaches.

Background

The [Planning Agreement Policy](#) was first adopted by Council in 2008 and has been amended/reaffirmed multiple times since, with a more recent large scale review undertaken in 2021.

The [Works In Kind Policy](#) is relatively new and was introduced in 2021.

The policies set out the legislative framework and provides guidance about how Council will consider requests to enter into Planning Agreements and Works in Kind Agreements.

The content of both policies is generally contemporary; however, minor changes are recommended to the policies as follows:

- General (both policies):
 - a. Relating to formatting and readability.

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- b. To specifically note the relevant fee, which is now in Council's Fees and Charges.
 - c. To revise contact details to minimise amendments that may be required to the policies over time.
 - d. To provide flexibility for reporting agreements to the internal Council Contributions Panel.
- Planning Agreement Policy:
 - a. Reference alignment with Council's strategic plans, including the Local Strategic Planning Statement.
 - b. To include reference to the new Planning Agreement Practice Note that was issued by the NSW Government in 2021, after Council adopted the last amendment to the Policy.
 - c. Clarifying that Council cannot use Planning Agreements for value capture (i.e., capturing the uplift in value) when in connection with making planning decisions.
 - d. Noting that Planning Agreements will need to be assessed by an independent third party in relation to Council land, except road reserves for road and associated purposes outlined in the Contributions Plan.
 - e. Additions to align with the NSW Government's Planning Agreement Practice Note, e.g., agreements need to be not wholly unrelated to the development, agreements need to protect the community against adverse planning decisions, the role of an agreement needs to be outlined in any related planning proposal.
 - f. To enable staff delegation to consider maintenance and recurrent funding where it is considered minor, is agreed between parties, and is supported or necessitated via a policy of Council or a plan or study required for the development (e.g., a vegetation management plan).
 - g. Reflect recent name changes in NSW Government agencies.
 - Works In Kind Agreement Policy:
 - a. To clarify that Council may consider a credit or reimbursement of surplus value (difference between contributions and cost of infrastructure), however it is not obliged to do so.
 - b. To clarify that any difference between the agreed value of works in a works in kind agreement, and the actual cost of the infrastructure may be to the benefit or disadvantage of the developer.
 - c. To enable staff delegation to consider the dedication of land and payment for that land value, where it is consistent with the value in the Contributions Plan and is of the general area so identified. If the land value differs from that in the Contributions Plan, Council will need to consider the proposal.

All proposed additions and changes to the Planning Agreement Policy and the Works In Kind Policy are outlined in **Attachment 1** and **Attachment 2** respectively. Note: the relevant Template attachments to the policies are not included in Attachments 1 and 2 as they remain unchanged.

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Community Engagement

No community engagement is required as part of the reaffirmation process. It is noted however that engagement and consultation will be undertaken as appropriate as part of any Planning Agreements as required by legislation.

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CL22.589 Report Back - Short Term Protection Options - Former Anglican Church, Huskisson

HPERM Ref: D22/445321

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

Reason for Report

The purpose of this report is to respond to Part 4 of Council's 20 September 2022 (MIN22.618) resolution that required the following:

"Report back to Council as soon as possible on additional measures that Council can take to immediately protect the site while its heritage listing is being pursued."

Recommendation

That Council

1. Receive and note the options outlined in this report.
2. Note that the landowner has been advised in writing that development consent is required to carry out scraping work within 1m of lot boundaries and a written undertaking sought to the effect that no works will be done in that area unless and until development consent is obtained

Options

The following options are presented for Council's consideration and are not necessarily mutually exclusive.

1. Take the necessary steps to enable Council to seek an injunction in the event that scraping works are undertaken within 1 m of lot boundaries without the required development consent.

Implications: If scraping is not undertaken within 1m of lot boundaries, it could be undertaken as 'exempt' development. If scraping is undertaken within 1m of lot boundaries, development consent is required.

Council has written to the owner of Lots 7 and 8 and advised that development consent is required to carry out the scraping works within 1m of lot boundaries and sought a written undertaking to the effect that no works will be done in that area unless and until development consent is obtained. The letter also foreshadowed Council seeking an injunction if necessary if the undertaking is not provided.

This option would require legal services to be provided in advance so that an injunction could be sought at short notice, if necessary.

2. Write to the NSW Minister for Heritage and ask that an Interim Heritage Order (IHO) be made for the site under s.24(1) of the Heritage Act.

Implications: If the Minister is not prepared to make an IHO, Council could request that the Ministerial Order be amended or a new authorisation under s.25 of the NSW Heritage Act be issued, that enables the Council to make an IHO specific to the site.

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3. Consider:

- a. Writing to the NSW Heritage Council requesting that it revoke the s.140 Excavation Permits that have been issued.
- b. Writing to the Secretary of the NSW Department of Planning and Environment requesting that the Secretary consider making a stop works order and/or recommend that the Minister issue an Interim Protection Order under the NPW Act over the Site. Council could also request that the Minister consider declaring the Site to be an Aboriginal place by notice in the Gazette.

Implications: If a permit is revoked (not guaranteed), the holder of the permit may appeal to the Minister of Heritage (under s145) but does not have the ability to seek a merits review in the Land and Environment Court.

4. Seek assurance from the landowner that the surface scraping will be deferred for an appropriate period while offering to facilitate with external independent assistance a negotiation/conciliation process with the key parties.

Implications: This option could only succeed if the key parties are willing to explore a potential negotiated outcome. This appears to be unlikely at present, given the nature of the issues and conflicting views and interests of the key parties. Furthermore, Council currently has no legal obligation or role to try and facilitate a negotiated outcome. However, given the strong community interest in former Huskisson Church site, it could be argued that Council should offer to assist negotiations between the key parties.

Background

As a result of a Mayoral Minute considered by Council on 20 September 2022, it was resolved as follows (MIN22.618):

That Council

1. *Affirms that it fully supports the application made to the Department of Climate Change, Energy, the Environment and Water by the Jerrinja LALC, seeking a declaration of emergency protection for lots 7 and 8 in DP 758530 on the corner of Hawke, Bowen and Currambene Streets, Huskisson NSW (including the former Anglican Church at Huskisson).*
2. *Commence the process to immediately list the Former Anglican Church, Huskisson and any associated items on the site (including Lots 7 and 8 Section 3 DP 758530) as a 'Heritage Item' of local significance in Schedule 5 of the Shoalhaven Local Environment Plan 2014, including the preparation of an updated statement of heritage significance and any other required supporting information*
3. *As part of the Gateway determination submitted to the NSW Department of Planning and Environment, note that although a development consent for the relocation of the church has been issued and commenced, that this is not the will of the current Council elected in December 2021.*
4. *Report back to Council as soon as possible on additional measures that Council can take to immediately protect the site while its heritage listing is being pursued.*
5. *Confirm 29 September 2022 as the date for a comprehensive briefing on the matter with Councillors and stakeholders.*

This report specifically addresses Part 4 of the resolution.

Matters Considered

The following matters have been investigated:

- a) Council's ability to make an Interim Heritage Order (IHO) over the site, having regard also to development consent DA18/2102 and the s.140 Excavation Permit that have been issued for the site;
- b) Any short-term protection options under the NSW National Parks and Wildlife Act 1974 (NPW Act) potentially available to Council or the Secretary of the relevant NSW Government Department;
- c) Any short-term protection options available under the NSW Environmental Planning and Assessment Act 1979 (EPA Act), including whether a 'stop work' order may be given;
- d) Process for seeking an injunction under the EPA Act and/or NPW Act, including the steps that could be taken now to prepare for this.

Summary

- Short of seeking an injunction to prevent the scraping works within 1m of each Lot boundary, there are presently limited options for the Council to take to prevent the scraping works from proceeding.
- Council cannot make an IHO for the site whilst the development consent DA18/2102 and the s.140 Excavation Permits are in force – see explanation below. It also cannot issue a 'stop work' order under the EP&A Act to stop the scraping from proceeding.
- Legal precedent indicates that a Court is unlikely to find that the possibility that Aboriginal remains exist on the Site, and nothing more, is sufficient to attract the protections which apply under the NPW Act, notwithstanding that there may be a strongly held belief in the community that such remains are present.
- Aside from taking steps to enforce the EPA Act with respect to the requirement to obtain development consent for earthworks within 1 m of lot boundaries, the Council's present options to prevent the scraping works from proceeding are limited to making representations to various NSW Ministers, the NSW Heritage Council, and the Secretary of Department of the NSW Planning and Environment for intervention. This includes asking the NSW Heritage Minister to make an IHO for the Site, or making a new authorisation allowing the Council to do so. It also includes requesting the making of a 'stop work' or interim protection order under the NPW Act, or declaring the Site to be an 'Aboriginal place'. Further details of these options are set out below.

Interim Heritage Order (IHO)

Council was authorised by the NSW Minister of Heritage to make IHO's by a Ministerial Order published in the Government Gazette on 12 July 2013, subject to conditions. The conditions specified in Schedule 2 of the Order contain important qualifications on the ability of the Council to make an IHO in this case. Of particular significance/relevance are conditions (2)(d) and (4).

Condition 2(d) is in the following terms (emphasis added):

A council must not make an IHO where: ... (d) a development consent (other than a complying development certificate), has been granted in relation to the item that permits the item to be harmed, and the development consent is still in force.

Condition (4) is in the following terms (emphasis added):

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A Council must not make an IHO in respect of an item (which includes a building, work, relic, or place) that is subject to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Crown, an officer or employee of the Crown or a Minister.

What options are available to Council?

The options available to Council are outlined below:

1. Write to the landowner and put them on notice of the Council's view that development consent is required to carry out the scraping works within 1m of lot boundaries and seek a written undertaking from them by a particular date, to the effect that no works will be done in that area, unless and until development consent is obtained. This letter would foreshadow the Council's intention to seek an injunction if the undertaking is not provided. See point 4 below.

Note: Council wrote to the landowner in early October 2022, noting the community concern re the possible scraping and that the permit has a range of conditions that need to be considered and complied with. The letter requested that the applicant not proceed with the scraping and continue the dialogue with Council and the community re the future of the site.

2. Write to the NSW Minister for Heritage and ask that an IHO be made for the Site under s.24(1) of the NSW Heritage Act. If the Minister is not prepared to make an IHO, the Council could then request that the Ministerial Order be amended or a new authorisation under s.25 of the Heritage Act be issued that enables the Council to make an IHO specific to the Site.
3. Consider:
 - a. Requesting the NSW Heritage Council to revoke the s.140 Excavation Permits that have been issued;
 - b. Writing to the Secretary of the NSW Department of Planning and Environment and request that the Secretary consider making a stop works order and/or recommend that the Minister issue an Interim Protection Order under the NPW Act over the Site. The Council could also request that the Minister consider declaring the Site to be an Aboriginal place by notice in the Gazette.
4. If Council wishes to be prepared to seek an urgent injunction at short notice, the necessary Summons, Notice of Motion and supporting affidavit would need to be drafted and Counsel briefed.

Update - Application for Emergency Protection under Federal Legislation

It is understood that the application for emergency protection lodged by the Jerrinja Local Aboriginal Land Council (LALC) under the Commonwealth's *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* is still being assessed by the Department of Agriculture, Water and Environment (DAWE). Council Staff will continue to liaise with DAWE officers and update the Council if/when a decision is made.

Update - Heritage Listing Process

Part 2 of Council's resolution on 20 September 2022 was to:

Commence the process to immediately list the Former Anglican Church, Huskisson and any associated items on the site (including Lots 7 and 8 Section 3 DP 758530) as a 'Heritage Item' of local significance in Schedule 5 of the Shoalhaven Local Environment Plan 2014, including the preparation of an updated statement of heritage significance and any other required supporting information

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As advised at the Councillor briefing on 29 September 2022, the Heritage listing process involves the preparation of a Planning Proposal (PP) under part 3 of the EPA Act. There are 6 stages in the PP process:

1. Pre-lodgement
2. PP preparation (including supporting information)
3. Gateway determination
4. Post gateway (addressing gateway conditions)
5. Public exhibition & assessment
6. Finalisation

A pre-lodgement meeting was held with the Department of Planning and Heritage NSW on 13 October 2022 and early work has commenced on preparing the PP. The PP will need to be supported by an updated heritage assessment prepared by an appropriately qualified heritage consultant. In accordance with Council's procurement procedures, a project brief is being prepared to enable fee proposals to be sought for this key supporting information.

Financial Implications

The options outlined in this report would need to be funded using Council's existing resources and internal budget allocations (e.g. for procuring legal services).

If the landowner were to undertake work without the necessary approval (i.e. surface scraping within 1m of property boundaries) Council could seek an injunction, in which case, the usual rule is that the unsuccessful party is ordered to pay the successful party's costs.

Risk Implications

As noted above, if Council does ultimately seek an injunction (in the event that scraping commences within 1m of any property boundaries without development consent) and Council is unsuccessful, costs are likely to be awarded against Council (The reverse is also true, however, this is not a risk to Council).

If Council prepares to seek an injunction but the need does not arise (because scraping does not occur within 1m of any property boundaries) any costs incurred by Council will not be able to be recovered.

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CL22.590 Proposed Land Disposal - North Crescent Culburra Beach

HPERM Ref: D22/173460

Department: Technical Services

Approver: Craig Exton, Manager - Technical Services

Attachments: 1. Plan of Subdivision of part of North Crescent for Title Issue and Road Closure [↓](#)

Reason for Report

This report provides Council with an opportunity to consider the sale of part North Crescent Culburra Beach, being part of a closed Council Road, to the adjoining landowners. The proposed land disposal relates to Lots 2, 3 and 4 DP 1287563 as shown in Attachment 1 (D22/446587).

Recommendation

That Council

1. Authorise the sale and consolidation of:
 - a. Proposed Lot 2 (108.4m²) to the owner of Lot 738 DP 12278 (112 Penguin Head Road, Culburra) for \$6,600 (plus GST if applicable).
 - b. Proposed Lot 3 (73.6m²) to the owner of Lot 1 DP 28615 (37 Allerton Ave, Culburra), for \$4,500 (plus GST if applicable).
 - c. Proposed Lot 4 (308.7m²) to the owner of Lot 7621 DP 1205582 (118 Marina Lane, Culburra), for \$110,000 (plus GST if applicable).
2. The purchasers of proposed Lots 2, 3 and 4 are responsible for all costs involved with lot consolidation and their legal costs;
3. Authorise the proceeds from sale of the closed road to be allocated to the Property Reserve – Roads, in accordance with the *Roads Act 1993*;
4. Authorise for the Common Seal of the Council of the City of Shoalhaven to be affixed to any documentation requiring to be sealed and delegate to the CEO authority to sign any documentation necessary to give effect to this resolution.

Options

1. Resolve as recommended.

Implications: This resolution provides Council the ability to progress Council resolution MIN21. 716 dated 12 October 2021 to realign boundaries as agreed with local residents.

2. Not resolve as recommended.

Implications: Current negotiation and agreed sale with adjoining property owners will cease and may cause ill relations between Council and residents. The matter has been delayed several times due to reporting requirements and external review and approval matters. The current owners have been patient whilst Council continued to support the road closure and realignment of boundaries.

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Background

The road reserve North Crescent Culburra Beach is almost 50m wide. Figure 1 below shows the locality of North Crescent subject to the road closure.



Figure 1: Location of partial road closure of North Crescent Culburra – highlighted in blue

On 12 October 2021, via MIN21.716, Council resolved:

That Council

1. As required by MIN21.188, receive this report for information and continue progressing with the Road Closure at North Crescent Culburra Beach in accordance with MIN18.861 being:
Resolve, as Roads Authority, to close the surplus road reserve at North Crescent Culburra Beach, adjacent to Lot 738 DP 12278, Lot 1 DP 286157, Lots 7621 and 7622 DP 1205582 and Lots 1 and 2 DP 526508 by a notice published in the Government Gazette.
2. Undertake actions as necessary in the road closure process to:
 - a. realign boundaries as agreed with local residents
 - b. construct kerb & gutter as agreed with local residents
3. Following the above, place a moratorium on this project to allow for further consultation with the community with a view to arriving at the best way to develop the site.

This report is seeking Council resolution to comply with MIN21.716 item 2(a) and progress the agreed sale to adjoining residents.

The future subdivision is currently on hold in accordance with MIN21.716 (3).

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Community Engagement

Community and Notifiable Authority notification was undertaken in accordance with the Roads Act 1993 for road closure.

All adjacent landowners have been consulted as part of the process of establishing the proposed new property boundaries.

Policy Implications

The matter is in accordance with Council's Dealing with Requests for the Closure, Sale or Transfer of Council and Crown Roads Procedure.

Financial Implications

The sales listed above will generate \$121,100. Council has incurred costs for the matter including survey, environmental, plan registration and legal fees of approximately \$60,000. The net profit will be allocated to Council's Property Reserve – Roads. The residual proceeds will be used for road projects.

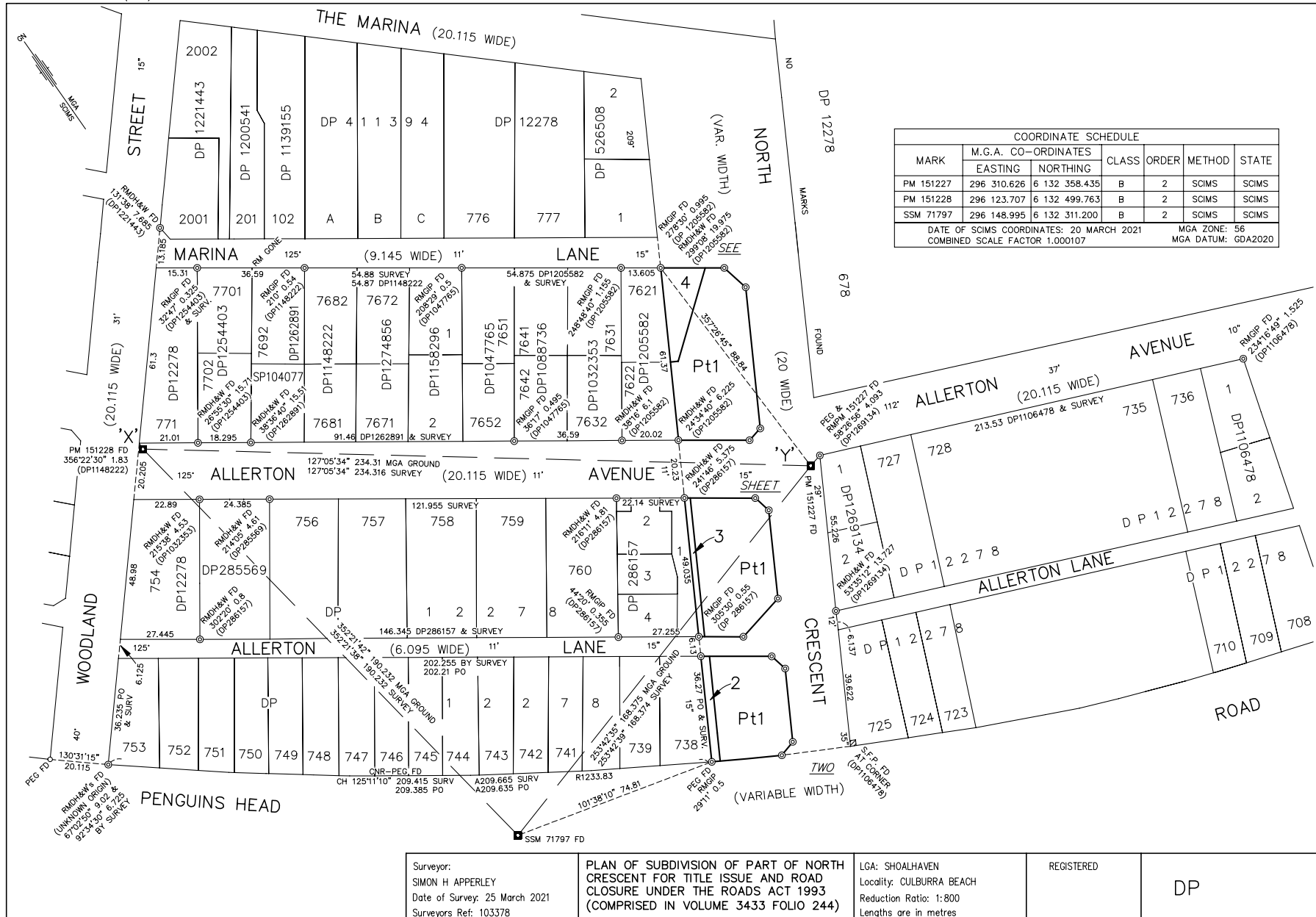
It should be noted that costs incurred above include costs for future subdivision and kerb & gutter works undertaken prior to MIN21.716.

Risk Implications

Nil risk for the proposed sale of operational land.

PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION



CL22.590 - Attachment 1

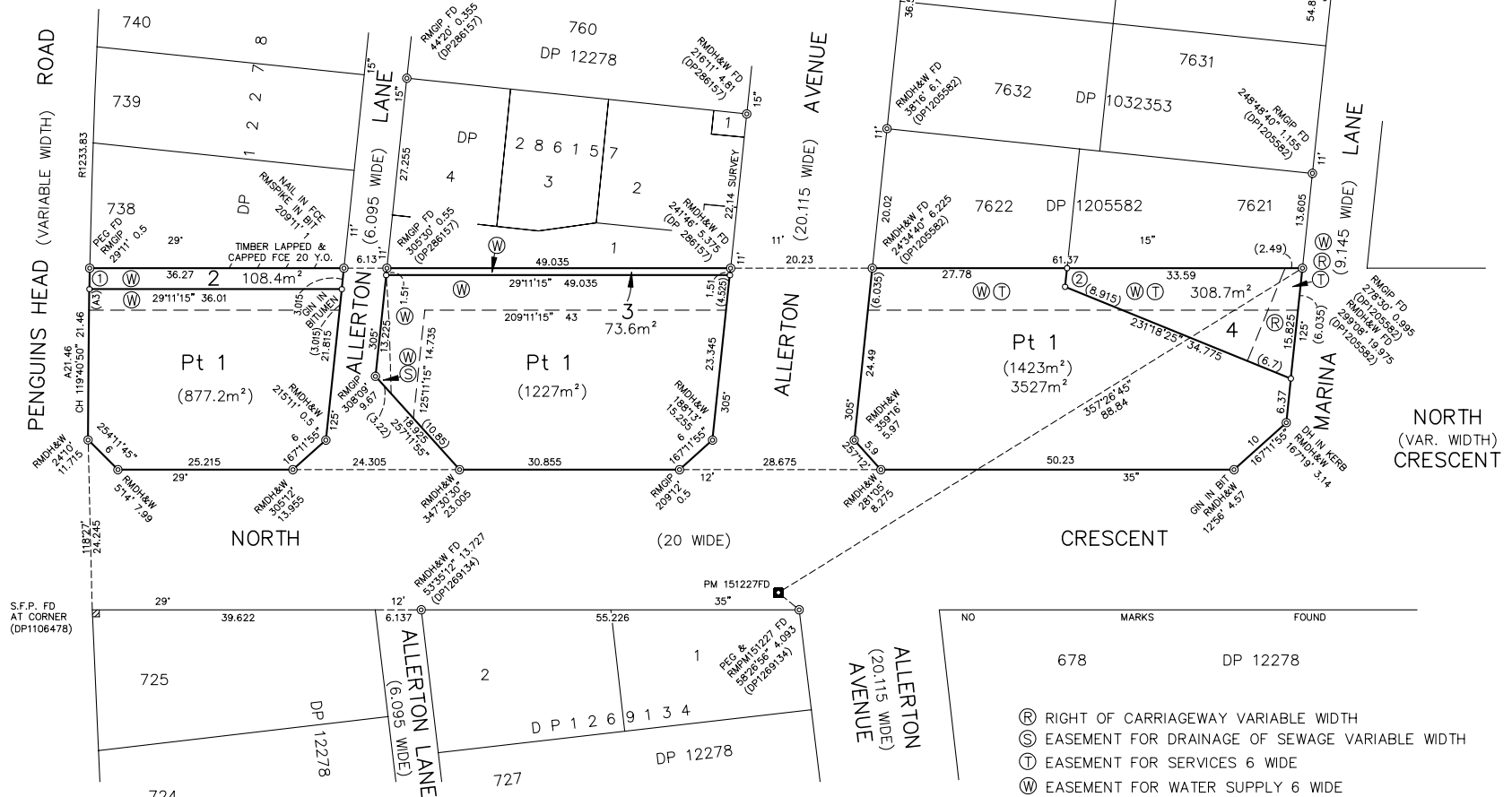
PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet 2 of 2 sheets

LINE SCHEDULE

No.	BEARING	DISTANCE	ARC	RADIUS
1	120°14'55"	3	3	R1233.83
2	305°11'20"	2.66	—	—



S.F.P. FD
AT CORNER
(DP1106478)

Surveyor:
SIMON H APPERLEY
Date of Survey: 25 March 2021
Surveyors Ref: 103378

PLAN OF SUBDIVISION OF PART OF NORTH
CRESCENT FOR TITLE ISSUE AND ROAD
CLOSURE UNDER THE ROADS ACT 1993
(COMPRISED IN VOLUME 3433 FOLIO 244)

LGA: SHOALHAVEN
Locality: CULBURRA BEACH
Reduction Ratio: 1:400
Lengths are in metres

REGISTERED

DP

CL22.590 - Attachment 1

CL22.591 Proposed Transfer of Lot 1 DP 915430 Brooman Road, Morton from the Minister for Public Works to Shoalhaven City Council

HPERM Ref: D22/435603

Department: Technical Services

Approver: Craig Exton, Manager - Technical Services

Reason for Report

To report is to provide Council with an opportunity to consider the transfer of Lot 1 DP 915430 Brooman Road, Morton from The Minister for Public Works to Shoalhaven City Council.

Recommendation

That Council

1. Accept the transfer of Lot 1 DP 915430 from The Minister for Public Works for the purpose of Public Road at nil compensation;
2. Upon transfer the land be dedicated as public road in accordance with Section 10 of the *Roads Act 1993*;
3. Pay all associated costs from Property Reserve Roads; and
4. Grant authority to affix the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer be authorised to sign any documents necessary to give effect to this resolution.

Options

1. Resolve as recommended

Implications: Will formalise Council's ownership of this part of Brooman Road, Morton to ensure future legal access for the operation and maintenance of the public road.

2. Not resolve as recommended

Implications: Council will not have guaranteed access to maintain the public road which may have a negative impact on the future of the public infrastructure and may result in Council needing to compulsorily acquire the land in the future with compensation payable.

Background

Lot 1 DP 915430 Brooman Road, Morton is a parcel of land comprising of an existing formed road and bushland, of approximately 3,436sqm. It is shown highlighted in red below:

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In a bulk review of its property register, Department of Regional NSW - Public Works Advisory, identified the subject property as one in which Shoalhaven City Council appears to be the beneficial owner but the title remains with the Minister for Public Works.

The Minister for Public Works is able to acquire land either by agreement or through the compulsory process to undertake public works. Over the years works have been undertaken using these powers on behalf of other agencies to construct infrastructure, and whilst it was generally intended that the land would be transferred to the appropriate and beneficial owner upon completion of the works, the transfer was often not effected and the land remained in the name of the Minister for Public Works.

The Minister for Public Works resumed Lot 1 DP 915430 by way of gazette notification on 22 June 1894, for the purpose of road deviation. As part of its bulk property register review, Public Works has offered to transfer the parcel to Council at nil compensation, with associated title investigation and transfer costs to be borne by Council. These costs are estimated at \$1,728.87 including GST.

Without legal tenure, Council must seek the consent of the Minister to conduct works which may be a lengthy process causing unnecessary delays for maintenance. Alternatively, Council may seek compulsory acquisition of the parcel in the future, which would result in a lengthy and costly exercise.

Community Engagement

No community engagement has been undertaken for this acquisition.

Internal Engagement

Manager – Works & Services	<p>Agreeable.</p> <p>Provide instruction to District Engineer to confirm Council expenditure of the subject land required for Public Works Advisory.</p>
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District Engineer (Asset Custodian and Asset Planner)	Evidence provided to confirm maintenance activities.
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Policy Implications

The proposed transfer is in accordance with Council's Acquisition of Land Policy.

Financial Implications

The proposed transfer of road to Council is agreed at nil compensation.

Associated transfer costs are to be borne by Council. These costs are approximately \$1,728.87 and will be funded from Council's Property Reserve – Roads.

The costs for acquisition are considered reasonable in order to avoid future costs and delays of seeking permission for future works.

Alternatively, future compulsory acquisition of the land would require compensation payable and additional associated costs.

Risk Implications

Transfer of Lot 1 DP 915430 into Council's ownership is necessary to ensure Council has the legal tenure required to maintain essential public infrastructure being the existing public road.

No risks are identified.

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CL22.592 IPART Review of Domestic Waste Charges

HPERM Ref: D22/459895

Department: Commercial Services

Approver: Trevor Dando, Manager Works & Services

Reason for Report

To inform Council of the outcomes from the IPART review into Domestic Waste Management Charges.

Recommendation

That Council accept the IPART review of domestic waste management service charges and their recommendations as follows:

1. To not publish an indicative 'benchmark' waste peg or report on Council's performance against such a benchmark;
2. To continue making decisions on whether to limit domestic waste management (DWM) annual charges in future years in the context of the NSW Office of Local Government (OLG)'s regulatory role and commitment to its recommended regulatory approach for DWM annual charges; and
3. Request the NSW Office of Local Government (OLG) develop and implement, in consultation with stakeholders, its recommended regulatory approach that OLG:
 - a. Update it's Council Rating and Revenue Raising Manual to provide further guidance to Councils on setting DWM annual charges; and
 - b. Work with the NSW Audit Office to initiate performance audits on a case-by-case basis of any Council or Councils that may be imposing unjustifiably high DWM annual charges on their communities.

Options

1. Accept the recommendation as written.

Implications: Recommended - It is an IPART imposed recommendation following 2 years of consultation.

2. Not accept the recommendation and draft a different recommendation.

Implications: Not Recommended - IPART have undertaken two years of consultation with stakeholders across New South Wales which resulted in eighty submissions, including fifty-five from Councils, twelve from Council Organisations, two from Government agencies, two from peak body organisations, four from waste and allied industry organisations and six from the public/community.

Background

Domestic waste management (DWM) is a key responsibility for Councils, with social, public health, environmental and economic significance. Councils provide a range of DWM services to their residents, such as kerbside collection, drop-off facilities and periodic clean-up services. To recover the cost of these services, Councils levy DWM annual charges (separate to local government rates) on their residential ratepayers.

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In August 2020, the Independent Pricing and Regulatory Tribunal (IPART) published a discussion paper for the review of the annual DWM charge. The review was based on their preliminary assessment that DWM charges may not be delivering good value for ratepayers.

IPART, has in the past, opted to not limit Councils to a maximum percentage increase in the DWM charge. Instead, the Office of Local Government (OLG) audited the charges annually to ensure that they do not exceed the “reasonable cost” of providing the service. The Reasonable Cost Calculation is set out in Chapter 12 of the *Department of Local Government Council Rating and Revenue Raising Manual 2007*.

Following responses to the discussion paper and follow up consultation with many different stakeholders, including Shoalhaven City Council, IPART produced a draft report in December 2021. This report recommended the following actions:

- IPART to publish an annual benchmark Waste Peg.
- The Peg is not binding but requires Councils that exceed the Peg to explain why.
- IPART will publish an annual report of all Councils waste charges, highlighting those that exceed the Waste Peg and the reasons for exceeding the Peg.
- IPART recommend that OLG publish pricing principles to guide Councils on how to calculate the DWM charge, including the publishing of the bin sizes, frequency of collection and individual charges for each service.

IPART invited comment on the draft report up to end April 2022. Eighty submissions were received, 55 from Councils, 12 from Council Organisations, 2 from Government agencies, 2 from peak body organisations, 4 from waste and allied industry organisations and 6 from the public/community.

The IPART took note of the submissions and acknowledged that there are issues with a Waste Peg such as:

- Not accounting for the differences between councils
- Not aligning with the NSW waste and sustainable materials strategy 2041
- Reflecting up to a 2-year lag based on latest cost information, so cannot account for volatility and lag in a timelier manner
- Potentially creating a disincentive to provide appropriate waste management – the Peg could limit Council’s ability to deliver the DWM services the community wants
- A Waste Peg is simple and understandable, but without the context of the differing Council’s geographic and socioeconomic demographics, it can be misleading

IPART revised their final conclusions and recommendations and published their final report ([Final Report \(nsw.gov.au\)](https://www.nsw.gov.au/ipart/final-report)) on 25 October 2022. These are summarised as:

- IPART will not publish an indicative ‘benchmark’ waste peg for 2023-24.
- IPART will continue making decisions on whether to limit DWM annual charges in future years in the context of the OLG’s regulatory role and commitment to its recommended regulatory approach for DWM annual charges
- IPART to Request the OLG to develop and implement, in consultation with stakeholders, its recommended regulatory approach including:
 - update its Council Rating and Revenue Raising Manual to provide further guidance to councils on setting DWM annual charges
 - work with the NSW Audit Office to initiate performance audits on a case-by-case basis of any council or councils that may be imposing unjustifiably high DWM annual charges on their communities

CL22.438 Policy - Companion Animals (Impacts on Native Fauna) - Conditions of Development Consent

HPERM Ref: D22/262981

Department: Environmental Services

Approver: James Ruprai, Director - City Development

Attachments: 1. Companion Animals (Impacts on Native Fauna) - Conditions of Development Consent [↓](#)

Reason for Report

The purpose of this report is to present the *Companion Animals (Impacts on Native Fauna) – Conditions of Development Consent* policy to Council for adoption.

Recommendation

That Council adopt the revised Companion Animals (Impacts on Native Fauna) – Conditions of Development Consent policy.

Options

1. Adopt the recommendation as written

Implications: The revised policies will maintain a policy position on applying development controls in relation to companion animals for the protection of native fauna, where appropriate.

2. Not adopt the recommendation

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

Background

The policy 'Companion Animals (Impacts on Native Fauna) – Conditions of Development Consent' was established in 2005 to document Council's position that conditions relating to the keeping of pets (companion animals) can be imposed for developments that are adjacent to environmentally sensitive areas.

Conditions pertaining to the keeping of companion animals are included within the Development Consent for proposed developments that are located adjacent to environmentally sensitive areas. Such conditions are enforceable by Council and are vital in the Shoalhaven given the extent of environmentally sensitive areas.

This policy was presented to the meeting of Council of 20 September. It was resolved (MIN22.628) that it be deferred and reported back to a future meeting after further consultation with Councillors.

Council staff subsequently met with Councillors who had identified the need for further consultation in relation to this policy, on the geographical area to which the policy is applicable. 'Environmentally significant areas' as defined below, are the areas to be protected by the provisions of the policy. In contrast, the conditions can be applied for developments in adjacent areas, from which companion animals may foray to environmentally significant areas leading to a potential impact on threatened species. The draft policy states 'This policy applies to areas from which companion species may roam and

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impact on environmentally sensitive areas, if unrestrained. Staff are thereby supported to use the best available science in an assessment of a proposed development – for example, on how far a cat may roam at night to hunt. Through consultation, no changes were required to the draft previously presented to Council.

Proposed Changes to Policy (to the current adopted policy, as previously presented)

The following minor administrative changes are proposed in response to legislative updates:

- Section 3 – Provisions:
 - The term ‘environmentally sensitive areas’ has been defined as being that as described by section 3.3 of the *Shoalhaven Local Environment Plan (2014)*.

These are:

- (a) the coastal waters of the State,
- (b) a coastal lake,
- (c) land within the coastal wetlands and littoral rainforests area (within the meaning of the [Coastal Management Act 2016](#)),
- (d) land reserved as an aquatic reserve under the [Fisheries Management Act 1994](#) or as a marine park under the [Marine Parks Act 1997](#),
- (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
- (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
- (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
- (h) land reserved under the [National Parks and Wildlife Act 1974](#) or land acquired under Part 11 of that Act,
- (i) land reserved or dedicated under the [Crown Land Management Act 2016](#) for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land that is a declared area of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#) or declared critical habitat under Part 7A of the [Fisheries Management Act 1994](#),
 - a. land identified as riparian land by clause 7.6(2)(a) (of the Shoalhaven Local Environment Plan 2014. See: Riparian Lands and Watercourses Map),
 - b. land identified as “Excluded Land” on the Terrestrial Biodiversity Map.

These areas have a high likelihood of occurrence for threatened biodiversity and provide important retention habitat for native wildlife preservation.

- Additional wording has been included to define the locations for which this policy applies, with the intention that those areas adjacent to environmentally sensitive areas are included.
- The document has also been updated to new nomenclature relating to the recent restructure within Council, and in response to the introduction of the *Biodiversity Conservation Act 2016* (NSW), which replaced the repealed *Threatened Species Conservation Act 1995* (NSW).

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Companion Animals (Impacts on Native Fauna) - Conditions of Development Consent

Adoption Date:	20/12/2005
Reaffirmed:	14/04/2009, 26/02/2013
Amendment Date:	21/02/2017
Minute Number:	MIN05.1776, MIN09.429, MIN13.110, MIN17.95
Review Date:	
Directorate:	City Development
Record Number:	POL22/10

Companion Animals (Impact on Native Fauna) – Conditions of Development Consent

1. Purpose

This policy has been prepared ~~to prevent impacts of companion animals (domestic cats and dogs) on protect~~ populations of native fauna, including threatened species, ~~from impacts associated with the keeping of companion animals (domestic cats and dogs) that may arise from within certain new~~ development, in accordance with the *Environmental Planning & Assessment Act, 1979 (NSW)* and the *Threatened Species Biodiversity Conservation Act, 1995/2016 (NSW)*.

2. Statement

Conditions of development consent relating to appropriate measures for the management of companion animals may be applied ~~where applications are in for sites adjacent to environmentally sensitive areas~~. For the purposes of this policy, ~~the term environmentally sensitive areas~~ is defined by section 3.3 of the *Shoalhaven Local Environment Plan 2014*. ~~sensitive environmental locations~~. These include, but are not limited to, coastal waters, Threatened Ecological Communities and land reserved under the *National Parks and Wildlife Act 1974 (NSW)* and accord with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW)*.

3. Provisions

That appropriate restrictions on title or conditions of consent for the management of companion animals may be applied ~~in relation to environmentally sensitive areas~~. These restrictions will not apply to assistance animals (e.g., disability discrimination guide dogs ~~and~~ hearing assistance dogs ~~and trained animals~~) as defined by the *Disability Discrimination Act 1992*.

This policy applies to areas from which companion species may roam and impact ~~upon~~ environmentally sensitive areas, if unrestrained.

In addition, any specific measures for limiting the ~~impact on the environment~~ ~~environmental impact associated with the keeping of~~ companion animals within plans adopted by Council will apply. These include, for example, those within the Jerbera Estate Environmental Management Plan (2014).

4. Implementation

This policy will be implemented by the *Planning, Environment & City Development Group Directorate* in the assessment of development applications relating to impacts on native fauna, associated with keeping of companion animals (domestic cats and dogs) in accordance with the *Environmental Planning & Assessment Act, 1979* and the *Threatened Species Biodiversity Conservation Act, 1995/2016*.

5. Review

This Policy will be reviewed within 12 months of the election of the new Council.

6. Application of ESD Principles

~~This policy is in line with Council's adopted policy on integrating the principles of Ecologically Sustainable Development (ESD) into all Council's planning, decision making and actions. This Policy applies to maintaining the biodiversity of the Local Government Area by protecting the variety of species, populations, habitats and ecosystems.~~

CL22.593 Policy - Shoalhaven Sports Board Terms of Reference

HPERM Ref: D22/462097

Department: Community Planning & Projects
Approver: Jane Lewis, Director - City Lifestyles

Attachments: 1. Shoalhaven Sports Board - Terms of Reference [↓](#)

Reason for Report

The *Shoalhaven Sports Board Terms of Reference* is presented for adoption. Council Policy requires that all Council public policies should be reviewed within 12 months of an election of a new Council.

Recommendation

That Council re-adopt the Shoalhaven Sports Board Terms of Reference.

Options

1. Adopt the recommendation

Implications:

- Updated Policies will be adopted within the 12-month timeframe of a newly elected Council
- This will allow the inclusion of changes to make the relevant policy appropriate

2. Not adopt the recommendation

Implications:

- Council can request further details, seek further community input, or make other changes
- This may delay or impact Council's ability to meet the requirement for review of policies within twelve (12) months of the election of a new Council
- This may result in loss of provision and controls for the relevant Policy.

Background

All Council policies should be reviewed within twelve (12) months of the election of a new Council.

The Shoalhaven Sports Board is an Advisory Committee of Council. The purpose of the Policy is to define Council's Terms of Reference for the Shoalhaven Sports Board, including the delegated authorities for this committee under Section 355 of the NSW Local Government Act.

The *Shoalhaven Sports Board Terms of Reference* policy was first adopted in 2016, replacing the Shoalhaven Sports Board Charter developed in 2000.

Since adoption in 2016, the Policy has been regularly updated and revised to ensure it remains current and meets the needs of Council and the community representation through the Sports Board.

CL22.593

The policy is being presented at this stage with no changes, however, there is an internal review of Terms of Reference templates being undertaken in consultation with relevant staff and Governance, with a view to developing a new template which will provide greater consistency across all Advisory Committees.

The *Shoalhaven Sports Board – Terms of Reference* policy will be re-presented to Council once the new template is introduced in early 2023. This will allow for ongoing consultation with members of the Sports Board to identify if further changes need to be made.

Community Engagement

There are minor changes to the format and no changes to the content of the Policy, hence there is no requirement to place on public exhibition.

Policy Implications

There is a requirement that all Council policies should be reviewed within twelve (12) months of the election of a new Council.

Reaffirmation of the above policy will make it relevant and up to date.

Financial Implications

There are no additional financial implications resulting from reaffirming the above policy.

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CL22.593 Policy - Shoalhaven Sports Board Terms of Reference

HPERM Ref: D22/462097

Department: Community Planning & Projects
Approver: Jane Lewis, Director - City Lifestyles

Attachments: 1. Shoalhaven Sports Board - Terms of Reference

Reason for Report

The *Shoalhaven Sports Board Terms of Reference* is presented for adoption. Council Policy requires that all Council public policies should be reviewed within 12 months of an election of a new Council.

Recommendation

That Council re-adopt the Shoalhaven Sports Board Terms of Reference.

Options

1. Adopt the recommendation
Implications:
 - Updated Policies will be adopted within the 12-month timeframe of a newly elected Council
 - This will allow the inclusion of changes to make the relevant policy appropriate
2. Not adopt the recommendation
Implications:
 - Council can request further details, seek further community input, or make other changes
 - This may delay or impact Council's ability to meet the requirement for review of policies within twelve (12) months of the election of a new Council
 - This may result in loss of provision and controls for the relevant Policy.

Background

All Council policies should be reviewed within twelve (12) months of the election of a new Council.

The Shoalhaven Sports Board is an Advisory Committee of Council. The purpose of the Policy is to define Council's Terms of Reference for the Shoalhaven Sports Board, including the delegated authorities for this committee under Section 355 of the NSW Local Government Act.

The *Shoalhaven Sports Board Terms of Reference* policy was first adopted in 2016, replacing the Shoalhaven Sports Board Charter developed in 2000.

Since adoption in 2016, the Policy has been regularly updated and revised to ensure it remains current and meets the needs of Council and the community representation through the Sports Board.

The policy is being presented at this stage with no changes, however, there is an internal review of Terms of Reference templates being undertaken in consultation with relevant staff

and Governance, with a view to developing a new template which will provide greater consistency across all Advisory Committees.

The *Shoalhaven Sports Board – Terms of Reference* policy will be re-presented to Council once the new template is introduced in early 2023. This will allow for ongoing consultation with members of the Sports Board to identify if further changes need to be made.

Community Engagement

There are minor changes to the format and no changes to the content of the Policy, hence there is no requirement to place on public exhibition.

Policy Implications

There is a requirement that all Council policies should be reviewed within twelve (12) months of the election of a new Council.

Reaffirmation of the above policy will make it relevant and up to date.

Financial Implications

There are no additional financial implications resulting from reaffirming the above policy.

CL22.594 Policy - Terms of Reference - Inclusion and Access Advisory Group and Aboriginal Advisory Committee

HPERM Ref: D22/428510

Department: Community Connections

Approver: Jane Lewis, Director - City Lifestyles

Attachments: 1. Inclusion & Access Advisory Group - Terms of Reference [↓](#)
2. Aboriginal Advisory Committee - Terms of Reference [↓](#)

Reason for Report

To provide information relating to Terms of Reference (TOR) for Shoalhaven City Council Advisory Committees.

The *Aboriginal Advisory Committee* and *Inclusion and Access Advisory Group* are presented for adoption. Council Policy requires that all Council public policies should be reviewed within 12 months of an election of a new Council.

Recommendation

That Council reaffirm the Terms of Reference for:

1. The Inclusion and Access Advisory Group (Attachment 1)
2. The Aboriginal Advisory Committee (Attachment 2)

Options

1. Adopt the recommendation

Implications:

- Updated Policies will be adopted within the 12-month timeframe of a newly elected Council
- This will allow the inclusion of changes to make the relevant policy appropriate

2. Not adopt the recommendation

Implications:

- Council can request further details, seek further community input or make other changes
- This may delay or impact Council's ability to meet the requirement for review of policies within twelve (12) months of the election of a new Council
- This may result in loss of provision and controls for the relevant Policy.

Background

The *Aboriginal Advisory Committee (AAC)* and *Inclusion and Access Advisory Group (IAAG)* are Advisory Committees of Council. The purpose of the Policies are to define Council's Terms of Reference for these Committees, including the delegated authorities under Section 355 of the NSW Local Government Act.

The *IAAG's* policy was first adopted in 2018 and the *AAC* in 2015.

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Since the above dates these Terms of Reference have been regularly updated and revised to ensure they remain current and meet the needs of Council and the community representation.

These policies are being presented at this stage with no changes since they were last endorsed. However, there is an internal review of Terms of Reference templates being undertaken in consultation with relevant staff and Governance, with a view to developing a new template which will provide greater consistency across all Advisory Committees.

The AAC and IAAG policies will be re-presented to Council once the new template is introduced in early 2023. This will allow for ongoing consultation with members of the committees to identify if further changes need to be made.

Community Engagement

There are no changes to the Terms of Reference, therefore there is no requirement to place them on public exhibition.

Policy Implications

There is an existing Council resolution requiring all Council policies to be reviewed within twelve (12) months of the election of a new Council.

Reaffirmation of the above policies will make them relevant and up to date.

Financial Implications

There are no additional financial implications resulting from reaffirming the above policies.

Inclusion and Access Advisory Group – Terms of Reference

Adoption Date:	27/03/2018
Amendment Date:	22/09/2020, 11/04/2022, 26/09/2022
Minute Number:	MIN18.224, MIN20.688, MIN22.248, MIN22.673
Review Date:	01/12/2024
Directorate:	City Lifestyles
Record Number:	POL22/68

Inclusion and Access Advisory Group – Terms of Reference

1. Purpose

To inform, educate and advise Shoalhaven City Council, its staff and residents on accessibility and inclusion with the purpose of creating accessible and inclusive community infrastructure by:

- Actively engaging with Council on policies,
- Inputting on submissions and relevant legislation affecting accessibility and inclusion
- Being a conduit for information and communication between community and Council,
- Raising awareness in the Council, with its staff and in the community around inclusion and accessibility issues

2. Statement

Shoalhaven City Council recognises the experience, knowledge, expertise and insight of the Inclusion and Access Advisory Group. Council acknowledges the Group's role as a conduit for strategic input into Council's decision-making processes.

3. Terms of Reference

3.1. Relationship to Council

The Group is a Section 355 Committee of Council (Local Government Act 1993). It is a strategic advisory committee to advocate for and inform Council's decision-making process related to people with disability in the Shoalhaven.

3.2. Chairperson

The Chairperson position is open to Councillors who are members of the Group

The Group will appoint the Chairperson with the position limited to one (1) Council term. (4 years)

3.3. Membership

Members must live, work or volunteer within the Shoalhaven City Council Local Government Area.

Membership is by application and is open to:

- Up to 25 community members who are either a;
 - Parents/carers of people with disability.
 - Person who has lived experience of physical, sensory, intellectual, and mental health issues.
 - Young person
 - Person who is passionate about advocating for access & Inclusion
 - Representatives from disability organisations (non-voting).
 - 1 x Health Representative (from an organisation providing health services in the Local Government Area)
 - 1 x Education Representative (from an organisation providing Educational services in the area)
 - State & Federal Parliament Representation
 - 3 Councillors
- Note: Any non-voting Councillor in attendance at a meeting may act as an alternate voting member in circumstances where achievement of a quorum is required.
- All other Councillors as observers

Inclusion and Access Advisory Group – Terms of Reference

- People who are passionate about advocating for access & inclusion.
- Young person

An assessment panel will consist of a Council staff member, the Chair of the Inclusion & Access Advisory Group (IAAG) and one (1) Community Committee representative to assess the applications against the agreed criteria for the Committee. Appointment recommendations to IAAG to be submitted to Council at the next Ordinary Meeting for endorsement.

Community representatives that do not attend three (3) meeting without an apology will be sent a reminder/courtesy letter advising that their membership will lapse unless they confirm their membership in writing.

3.4. Quorum

The quorum to be 5 (five) members in attendance at the meeting (including those who have joined by video or tele-conference)

3.5. Meetings

- Frequency - Quarterly
- Duration - 2½ hours to be reviewed after 6 months
- Agendas - Will be distributed to members one week prior to the meeting. Priorities identified by participants at the beginning of each meeting will be used to order the business of the meeting.
- Minutes - Council will perform administrative support for the meetings of the Group

3.6. Voting

- Members do not need to be present to have an input. Should they wish to make comment on items when they cannot be in attendance, they can be submitted via email on one working day before the meeting. People can also video or tele-conference (where available).
- Where possible, all decisions will be reached by consensus
- All decisions must be stated precisely for the inclusion of the minutes
- Alternative views are to be minuted.
- Every possible avenue will be explored to reach consensus. If consensus cannot be reached, and there is no urgency to the business, it will go to vote at the third meeting.
- Where an item cannot be determined by consensus after 3 meetings or an urgent decision is required before the next meeting, a vote will be taken from those members in attendance (including those who have joined by video or tele-conference). The chairperson will have a casting vote.

3.7. Code of Conduct

- All members of the Group are to abide by Council's Code of Conduct. A copy of the Code of Conduct is distributed to prospective members upon application to the Group.
- Members must declare in writing any interest in any report tabled at the meeting covered by the Code of Conduct and Pecuniary Interest
- Group members should act in a professional and responsible manner with the information they obtain as a member, as the Group requires openness and honesty to function well,
- Group members should feel free to express their opinions and views without fear of recrimination.

3.8. Confidentiality and Privacy

- Members may have contact with private and confidential or personal information retained by Council. If so members are required to maintain security of any confidential or personal

Inclusion and Access Advisory Group – Terms of Reference

information and not access, use or remove any information, unless the member is authorised to do so.

3.9. Communication

- All issues must be clearly communicated including priorities, limitation and benefits to the community
- Members of the Advisory Group are not permitted to speak to the media as a Group of Council representatives of the Advisory Group unless approved by the Chairperson
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes
- The Chair of the Advisory Group is the point of contact for communication between Board members and Council staff.
- Communication methods must be accessible in all instances and may take place via email, direct mail and phone calls where necessary.

3.10. Working Sub Groups

- The Group may establish working sub groups as deemed appropriate to assist in fulfilling their role and purpose.
- Working sub groups will be formed around specific tasks and a convenor from the group will be appointed.

3.11. Responsibility of Council

- Council will provide secretarial support to arrange meetings and take minutes and provide professional officer support where required.
- Council at its discretion may review and change the Terms of Reference, Role and Structure of the Advisory Group.

4. Implementation

The City Lifestyles Directorate of Council is allocated responsibility for the administration of the policy.

5. Review

To be reviewed within one (1) year of the election of a new Council, or earlier at the direction of Council.

Aboriginal Advisory Committee – Terms of Reference

Adoption Date:	16/08/2016
Amendment Date:	28/02/2017, 26/09/2017, 25/09/2018, 26/11/2019, 7/02/2022
Minute Number:	MIN16.656, MIN17.149, MIN17.853, MIN17.882, MIN18.243, MIN19.900, MIN22.57
Review Date:	01/12/2024
Directorate:	City Lifestyles
Record Number:	POL22/67

Aboriginal Advisory Committee – Terms of Reference

1. Purpose

To provide appropriate and considered advice to Council on all relevant issues affecting Aboriginal and Torres Strait Islander people within the Shoalhaven LGA, and to influence Council's support & intent in achieving their objectives for the current Statement of Commitment 2010 (SoC) and the Shoalhaven City Council Community Strategic Plan 2027 (SCCSP) and endorsement of the Uluru Statement of the Heart June 2020.

2. Statement

Shoalhaven Local Government Area (LGA) is made up of many unique communities with a diverse range of people, lifestyles and cultures. It comprises 49 towns and villages and a key role of Shoalhaven City Council within that is to work in partnership with organisations, services, government agencies and individuals to build strong, resilient, cohesive and creative communities.

Shoalhaven City Council established the Aboriginal Advisory Committee (AAC) in 1997 to advise Council on the needs of Aboriginal people living in the Shoalhaven Local Government Area. This advisory committee provides an opportunity for Council to develop both a structure for effective consultation and communication with Aboriginal communities and the opportunity for Aboriginal people to participate in Council's decision-making process to achieve mutually co-operative responses for their cultural, environmental and economic wellbeing.

3. Provisions

The Shoalhaven City Council maintains, in its Statement of Commitment 2010, to strongly support the work of the AAC and sees it as serving an important role in providing the specialist and professional guidance to achieve positive outcomes for local Aboriginal people.

4. Terms of Reference**4.1. Relationship to Council**

The committee is an Advisory Committee, administered by Council to discuss relevant issues and recommend solutions specifically associated to local government and their Aboriginal & Torres Strait Islander communities.

4.2. Role of the Advisory Committee

All members are encouraged to become actively involved in the business of the AAC and to be an advocate between community and Council. The role of the Committee is:-

- To advise Shoalhaven City Council on necessary issues relating to Aboriginal communities in the LGA.
- Promote and increase knowledge & understanding of Aboriginal society, history & culture in the LGA.
- Facilitate access and accessibility to services and facilities for Aboriginal people.
- Advise on the development and implementation of the Shoalhaven City Council Community Strategic Plan.
- Develop strong collaborative partnerships between Aboriginal communities and Shoalhaven City Council.
- Maintain strong links between Council and Aboriginal communities throughout the Shoalhaven to accomplish the relationships and outcomes required for genuine reconciliation.

Aboriginal Advisory Committee – Terms of Reference

- Foster and safeguard a spirit of mutual trust and respect which allows the AAC and Shoalhaven City Council to work together in their commitment towards intelligent, well informed decision making processes that are sensitive to all Aboriginal issues.
- Recognise, support & uphold past and present local cultural heritage and its place in future Council directions.
- Remain a meaningful 'place' for the communication of messages and information from Aboriginal community voices that identify local needs for services, facilities and activities.
- Support and promote significant celebrations and events within the Shoalhaven Aboriginal and Torres Strait Islander community.
- Provide specialist advice to other Committees of Council.

4.3. Membership

Representatives must live in the Shoalhaven Local Government area (LGA) area and/or work with Aboriginal communities of the Shoalhaven on a full-time or part-time basis. The composition will be:

The Group will have membership made up of the following positions:

- Up to 13 local Aboriginal community representatives including Elders, Youth or Government/Non-Government agencies/organisation delegates (including 2 Youth members).
- One (1) NPWS Representative
- Three (3) members being a representative from each Local Aboriginal Land Council
- All Councillors
- The CEO or nominee.

It is important for the AAC to take broad community advice from those Aboriginal organisations and Government agencies with a capacity to provide professional guidance to its members to enable them to make sound decisions.

These organisations and agencies working in the sector may be invited to attend the Advisory Committee meetings but will have no voting privilege.

Community representatives that do not attend three (3) meeting without an apology will be sent a reminder/courtesy letter advising that their membership will lapse unless they confirm their membership in writing.

4.4. Membership Appointments

- Nominations for Local Aboriginal Community Members should be advertised throughout the community.
- Appointment to the Advisory Committee can be for a maximum four (4) years with a set commencement and finish date and standing members may re-nominate for an additional term.
- Should there be a local Aboriginal community membership vacancy it may be filled upon the resignation of a local Aboriginal community member and will align with set fixed finish dates
- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process in consultation with the Community Capacity Builder, Aboriginal.
- An interview panel will consist of a Council staff member, the Chair of the Aboriginal Advisory Committee and one (1) Aboriginal Committee representative to assess the applications against the agreed criteria for the Committee. Appointment recommendations to AAC to be submitted to Council at the next Ordinary Meeting for endorsement.

Aboriginal Advisory Committee – Terms of Reference

- Councillor membership will be reaffirmed at the Call meeting in September of each year.

4.5. Sub Committees/Working Groups/Represented Delegation

If representing the AAC on an identified working group/party your role is to represent the Committee's commitment and purpose.

The Advisory Committee will have the right to establish sub groups as deemed appropriate to assist in fulfilling their role and purpose.

4.6. Meeting Practices and Procedures

- The administrative provisions of Council's adopted Code of Meeting shall apply subject to any amendment by this Advisory Committee.
- The Chair of the Committee will be limited by a four (4) year tenure and is open to all members of the Committee.
- The Chair of the Committee will be appointed from the Aboriginal members of the Committee, a Chair can be either a community member or nominated LALC representative on the AAC membership.
- In instances where the Chair is not present to perform their duties the Committee will appoint an Acting Chair for the meeting.
- Councillors who have an interest in forming a relationship with the committee should consider their ability to commit for the term of that Council.
- The Chair of the committee may make representations to Council on recommendations from the ACC through the formal deputation process.
- Committee members who are absent for three (3) consecutive meetings of the AAC without tendering an apology will be requested in formal correspondence from Council to confirm their intention regarding their membership of the committee. Failure to respond may result in removal from this committee.
- Formal meetings will be held a minimum of four (4) times per year (and others as required) depending on demand and also allowing Committee member's time for consultations.
- Meetings are held at Shoalhaven City Council Administrative Building or can be negotiated with Committee Members.
- A quorum will consist of five (5) local Aboriginal community members of the Committee.
- If a quorum is not present within 30 minutes of the time appointed for the commencement of the Advisory Committee meeting, the meeting will be adjourned or rescheduled to a time and date set by the CEO.
- Each Committee meeting shall be properly recorded by the taking of minutes by the Governance Unit.
- Items in the minutes which are recommendations to Council will be submitted to the next available Council Meeting. Minutes will be confirmed at the next AAC meeting.
- Where possible, members are encouraged to reach a consensus; decisions will normally be made through modified consensuses.
- The Chair of the Committee should facilitate a meeting that is run on a consensus decision making model rather than rely on the formal structures of a simple majority plus one.
- If however there are times when a position cannot be reached, despite open and thorough exploration of the issues and options, the Chairperson will ask for a vote.
- All formal members of the committee are entitled to a vote.
- In the event of a tied vote, the Chair can exercise a casting vote.

Aboriginal Advisory Committee – Terms of Reference

- Governance will aim to circulate Agendas for the ACC to members at least seven (7) days prior to the meeting.
- Advisory Committee members must declare in writing any conflict of interest in any report tabled at the meeting covered by the Code of Conduct and Pecuniary Interest.
- Informal Advisory Committee meetings, special meetings that may discuss specific portfolio matters will be held as and when required or set by the Advisory Committee.
- Planning and costs associated with conducting meetings will be borne by Council.
- Advisory Committee recommendations which are determined to be purely or substantially 'operational' in nature, will be dealt with by the relevant Council officer and any action or lack thereof reported to the Advisory Committee.
- Progress towards the outcomes of Council's Community Strategic Plan 2027 and Statement of Commitment will be reported to Shoalhaven City Council at Council meetings and corporate management meetings, where appropriate, throughout the year. Progress against actions arising from AAC Minutes will be reported on a quarterly basis at each consecutive AAC meeting.

4.7. Code Of Conduct

Meetings be conducted in an informal manner, but still within Council's 'Code of Conduct' Policy which all members are required to observe.

- Advisory Committee members should act in a professional, responsible and respectful manner with the information they obtain as a member, as the Advisory Committee require openness and honesty to function well.
- Advisory Committee members must at all times respect other members when expressing their opinions and views. Members should feel free to express their opinions and views without fear of recrimination.
- It is essential for Advisory Committee members to accept collective responsibility, and remain loyal to decisions of the Advisory Committee, even where they may not have agreed with the final decision.

4.8. Confidentiality and Privacy

Members may have contact with confidential or personal information retained by Council. If so, members are required to maintain the security of any confidential or personal information and not access, use or remove any information, unless the member is authorised to do so or is doing so in their capacity as nominated representative of an organisation.

4.9. Communication

- All issues must be clearly communicated including priorities, limitations and benefits to community.
- Care needs to be undertaken to ensure that all participants fully understand mutual issues under discussion and that there are no false expectations created. It is important that all members' views are given weight during discussions.
- Members of the Advisory Committee are not permitted to speak to the media as representatives of the advisory committee unless approved by the chairperson
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Advisory Committee and not of Shoalhaven City Council.
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes.
- The Chair of the Advisory Committee is the point of contact for communication between Advisory Committee members and Council staff.

4.10. Council Staff Attendance

Aboriginal Advisory Committee – Terms of Reference

Shoalhaven City Council will provide administrative Council staff who are normally required to attend the meetings of the Advisory Committee to carry out the following tasks:

- Collate and distribute Business Papers.
- Organise meetings.
- Minute taking, storage and distribution of minutes and associated documents.
- Providing administrative support to the Community Capacity Builder to distribute information between the Committee and the Community Capacity Builder Aboriginal.
- Other staff at the relevant Group Directors' discretion or at the Advisory Committee's request can attend meetings as required. Staff have no voting privileges.

4.11. Expectation Of Advisory Committee Members

- Advisory Committee members will undertake the prescribed Induction process.
- Pecuniary Interest Returns may be required on appointment and annually as required by the Office of Local Government and Council.

4.12. Responsibility Of Council

- Council at its discretion may review and change the Terms of Reference, Role and Structure of the Advisory Committee taking into account the views of the Advisory Committee.

5. Review

After every Council election.

CL22.595 Rescind Policy - Community Facilities - Use and Hire for Commercial Activities

HPERM Ref: D22/453103

Department: Shoalhaven Swim Sport Fitness
Approver: Jane Lewis, Director - City Lifestyles

Attachments: 1. Community Facilities - Use and Hire for Commercial Activities Policy [↓](#)

Reason for Report

To rescind the Community Facilities - Use and Hire for Commercial Activities Policy (POL16/77).

Recommendation

That Council rescind the Community Facilities - Use and Hire for Commercial Activities Policy (POL16/77).

Options

1. As recommended.

Implications:

- Will streamline Council's management of community facilities, ensuring that Council enacts legislation efficiently and accurately.
- Council will comply with the existing Council resolution that all Council policies be reviewed within twelve (12) months of the election of a new Council.

2. Council not accept the recommendation and provide alternative direction.

Implications:

- Delay may impact Council's ability to meet the requirement for review of policies within twelve (12) months of the election of a new Council.
- Changes may affect Council's efficient management of community facilities within legislated guidelines.

Background

At Council's Extra Ordinary Meeting 20 September 2022 it was resolved (MIN22.628):

"That this item was deferred and will be reported back to a future meeting after further consultation with Councillors"

A meeting was held on 19 October 2022 for consultation with Councillors, including staff from Council's Shoalhaven Swim Sport Fitness and Tourism departments. This meeting resolved to clarify the following text included in the table below, outlining how conditions for temporary use are implemented in Council's current policies:

Conditions for temporary use are included and expanded in:

- *Council's Events Policy for events over 200 people, in line with the Terms and Conditions of Hire / Use. The Events Policy is implemented by the Tourism department.*

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- *Council's Terms and Conditions of Hire / Use for events under 200 people. The Terms and Conditions of Hire / Use are implemented by:*
 - *S355 Management Committees*
 - *Council's Customer Experience and Tourism departments*

This report presents the following background for consideration and recommends that the Community Facilities - Use and Hire for Commercial Activities Policy (POL16/77) be rescinded.

The Use and Hire for Commercial Activities Policy provides guidance on the process and approvals required for Council's community facilities to be used for commercial and retailing activities.

The Policy was previously required because the zoning for Council managed public land prohibited commercial events or required Development Applications for those events. Amendments to the Shoalhaven Local Environment Plan 2014 (SLEP) were notified on 27 September 2019. These included the clarification that temporary events (including commercial) are 'exempt development' (under the SLEP) when they take place on land owned by the Council or for which the Council has care, control and management (including Crown land) or a public road for which Council is the roads authority under the Roads Act 1993.

These amendments and associated provisions are outlined in *Schedule 2 Exempt Development of the SLEP* and are outlined in the table below. This change in legislation has been incorporated into Council's internal procedures.

All the effective content of the Use and Hire for Commercial Activities Policy is now formalised within legislation, Council policy and procedures as identified in the table below, and it is recommended that this Policy now be rescinded.

Items included in the Policy to be Rescinded	Current Legislation, Policy or Procedure
<p>Item 2</p> <p>Typically, Council community facilities (buildings and reserves) do not have approval for conducting commercial and retailing activities.</p> <p>Commercial and retailing are prohibited under the current zoning.</p> <p>Council may grant consent for temporary use of the land for up to 28 days in any one year (these days do not have to be consecutive).</p>	<ul style="list-style-type: none"> • Shoalhaven Local Environment Plan 2014 (SLEP), Schedule 2 Exempt Development, includes the following clauses: <p>Temporary events on public land and public roads and associated temporary structures</p> <ol style="list-style-type: none"> 1. For the purposes of development specified for this clause – event means any event (including, without limitation, a market, exhibition, ceremony, meeting, concert, sporting event or fete) that would, but for this clause, require development consent. 2. Must take place on land owned by the Council or for which the Council has care, control and management (including Crown land) or a public road for which the Council is the roads authority under the Roads Act 1993. 5. Must not be conducted for more than 52 days (whether or not consecutive) in any period of 12 months. <ul style="list-style-type: none"> • It is recommended that Council approve commercial hire agreements to the full extent of the SLEP, for up

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	<p>to 52 days (whether or not consecutive) in any period of 12 months. This will:</p> <ul style="list-style-type: none"> ○ Improve the activation of local facilities which are currently often under-utilised ○ Support service provision by local businesses in local communities <p>Should Council resolve in accordance with the previous point, reference to this legislation will be included in Council's Terms and Conditions of Hire/Use (D21/330433), with advice that commercial events over 52 days duration in any period of 12 months will require a Development Application to be lodged.</p> <ul style="list-style-type: none"> • S355 Management Committees for community facilities, Council's Customer Experience department, Tourism department and Asset Custodian's implement the Terms and Conditions of Hire / Use.
<p>Item 2</p> <p>Conditions for temporary use:</p> <ul style="list-style-type: none"> • There is protection of the environment and the amenity of the locality during and immediately after the carrying out of the proposed use. • Appropriate arrangements are made for the provision of utility services, vehicular and pedestrian access, parking and restoration of the site to the condition prevailing immediately before the carrying out of the proposed use. • The period for the carrying out of the proposed use is reasonable in the circumstances or whether a lesser period would be more appropriate. 	<p>Conditions for temporary use are included and expanded in:</p> <ul style="list-style-type: none"> • Council's Events Policy for events over 200 people, in line with the Terms and Conditions of Hire/Use. The Events Policy is implemented by the Tourism department. • Council's Terms and Conditions of Hire / Use for events under 200 people. The Terms and Conditions of Hire / Use are implemented by: <ul style="list-style-type: none"> ○ S355 Management Committees ○ Customer Experience and Tourism departments
<p>Item 2</p> <p>The lodging of a Development Application and supporting information can be considered by Council as Clause 39C of the Shoalhaven Local Environment Protection Act (SLEP) allows for and provides Council with the ability to undertake and conduct an assessment of the activity.</p>	<ul style="list-style-type: none"> • There is no Clause 39C of the SLEP. • These provisions are included in the Environmental Planning and Assessment Act 1979 (EP&A Act), 4.15 Evaluation, which directs Council's assessment of Development Applications.

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Items 3.1 and 3.2 Provisions regarding processing of Development Applications.	Provisions are included in the EP&A Act.
Items 3.3 to 3.7 Provision regarding insurance, fees, fee waivers, bonds and licences.	<p>These provisions are now directed by the following Council guidelines:</p> <ul style="list-style-type: none"> • Council's Events Policy for events over 200 people, in line with the Terms and Conditions of Hire / Use • Council's Terms and Conditions of Hire / Use for events under 200 people • Development Program Operation Plan - Fees and Charges • Fee Waivers, Subsidies and Support Policy

Community Engagement

Consultation was undertaken throughout July and August 2022 with the following stakeholders:

- Development Services staff, Shoalhaven City Council
- Business Assurance & Risk staff, Shoalhaven City Council
- Tourism staff, Shoalhaven City Council
- Shoalhaven Swim Sport Fitness staff, Shoalhaven City Council
- Customer Experience staff, Shoalhaven City Council
- Building Services staff, Shoalhaven City Council
- Property staff, Shoalhaven City Council

All internal submissions were in agreement to rescind the Policy.

Subsequent consultation was undertaken with Councillors, in person and feedback sought via email.

Policy Implications

Rescinding this Policy will streamline Council's policies and procedures for management of community facilities in line with government legislation. The following policy and procedure documents are overseen by:

City Futures:

- Events Policy (POL22/35)

City Lifestyles:

- Terms and Conditions of Hire / Use (D22/159212)
- Management Committees Policy (POL22/72)
- Fee Waivers, Subsidies and Support Policy (POL22/77)

Risk Implications

All elements of the Policy are managed by state legislation or Council's policies and procedures. There are no identified risks in rescinding the Use and Hire for Commercial Activities Policy (POL16/77).

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For more information contact the Finance Corporate & Community Services Group

USE AND HIRE OF COMMUNITY FACILITIES FOR COMMERCIAL ACTIVITIES

Policy Number: POL16/177 • **Adopted:** 17/09/1985 • **Amended:** 21/12/2004, 14/04/2009, 14/12/2012, 24/11/2015 • **Minute Number:** MIN85.2791, MIN04.1591, MIN09.409, MIN12.1396, MIN15.721 • **File:** 28029E • **Produced By:** Finance Corporate and Community Services Group • **Review Date:**

1. PURPOSE

To provide guidance on the process and approvals required for Council's community facilities to be used for commercial and retailing activities.

2. STATEMENT

This policy statement is based on Council Minute 85.2791 of 17th September 1985. Council reaffirmed the policy (with amendments) in its revised format on 21st December 2004 by Minute 04.1591.

"Typically, Council community facilities (buildings and reserves) do not have approval for conducting commercial and retailing activities.

Commercial and retailing are prohibited under the current zoning. The lodging of a Development Application and supporting information can be considered by Council as Clause 39C of the Shoalhaven Local Environment Protection Act (SLEP) allows for and provides Council with the ability to undertake and conduct an assessment of the activity.

Council may grant consent for temporary use of the land for up to 28 days in any one year (these days do not have to be consecutive), provided that:

- there is protection of the environment and the amenity of the locality during and immediately after the carrying out of the proposed use;
- appropriate arrangements are made for the provision of utility services, vehicular and pedestrian access, parking and restoration of the site to the condition prevailing immediately before the carrying out of the proposed use; and
- the period for the carrying out of the proposed use is reasonable in the circumstances or whether a lesser period would be more appropriate.

Community Facilities covered by this policy include all Council managed/owned buildings and reserves.

3. PROVISIONS

Shoalhaven City Council - Use and Hire of Community Facilities for Commercial Activities

- 3.1. Sufficient notice be provided to allow for the processing of a Development Application that includes adequate consultation with other users of the Community Facility and potential businesses that may be affected by the proposed commercial activity.
- 3.2. Development Applications will not be supported for a commercial activity that may conflict with the normal function of this community facility or if the proposal contravenes the Local Environment Plan.
- 3.3. The hirer of the community facility, where not covered by Council's 'Casual Hirer Insurance Policy', such as in the case of an incorporated or proprietary limited body, will be required to provide adequate public liability cover as determined by Council's General Manager (Insurance/Risk Manager). This will be for a minimum of \$20,000,000 cover with an insurer approved by the Australia Prudential Regulation Authority, noting Council's interest.
- 3.4. A specific fee for commercial hire shall be in accordance with Council's adopted Management Plan's Fees & Changes.
- 3.5. The commercial fee shall apply for each day the community facility is required for setting up and dismantling of structures in accordance with Council's adopted Management Plan's Fees & Changes.

Given the commercial nature of this hire, there shall be no waiving of subsidising of fees as per the Fee Waivers, Subsidies and Support Policy.

- 3.6. A bond shall be required to protect the community facility from damage or necessary clean up following commercial use in accordance with Council's adopted Management Plan's Fees & Changes.
- 3.7. If required by Council, a license will be negotiated with the community facility hirer and be subject to the concurrence of Council.

4. IMPLEMENTATION

The responsibility for the implementation and review of this policy shall be with the Director of Finance Corporate and Community Services.

5. REVIEW

The Finance Corporate and Community Services Group will review this policy:

- Within 12 months of the date of the election of every new Council, or
- Every four years, or
- As directed by Council, or
- As a result of a review in legislation that affects this policy

6. APPLICATION OF ESD PRINCIPLES

None applicable.

CL22.596 Acquisition of Easement for Water Supply - Lot 3 DP 595695 - 109 Main Road Cambewarra

HPERM Ref: D22/414134

Department: Technical Services

Approver: Robert Horner, Executive Manager Shoalhaven Water

Attachments: 1. Draft Easement Survey Plan [↓](#)

Reason for Report

This report provides Council with an opportunity to consider the acquisition of an Easement for Water Supply 6 metres wide over part of Lot 3 DP 595695, 109 Main Road Cambewarra.

The easement is marked (W1) and outlined blue on the attached draft survey plan.

Recommendation

That Council:

1. Acquire an Easement for Water Supply, 6 metres wide over part of Lot 3 DP 595695, 109 Main Road Cambewarra;
2. Pay compensation of \$11,000 (plus GST if applicable) and reasonable costs associated with the acquisition, in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991;
3. Fund all costs for acquisition of the water supply easement from Council's Water Fund;
4. If applicable, adjust the compensation in accordance with the area of the easement determined by the final registered survey plan;
5. Authorise the affixing of the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer be authorised to sign any documents necessary to give effect to this resolution.

Options

1. Resolve as Recommended

Implications: The easement is needed for infrastructure required for the Moss Vale Road Urban Release Area. It will provide Council with legal rights to the access, operation and maintenance of the infrastructure.

2. Not resolve as recommended and provide further direction to staff.

Implications: Failure to acquire the easement will lead to a delay in the delivery of the required infrastructure for the Moss Vale Rd Urban Release Area.

Background

The subject easement is required to facilitate construction and future operation/maintenance of a water main parallel to Moss Vale Road, which will service the residential subdivisions in the area.

A valuation report undertaken on behalf of Council by Walsh & Monaghan Valuers assessed compensation for the easement at \$5,500 (excluding GST). An offer of that amount was

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made to the owners' representative. The representative later submitted a valuation in the amount of \$11,000, based on a more recent sale of nearby land.

Both parties have reached agreement at compensation of \$11,000 (plus GST if applicable).

Community Engagement

Community engagement is not required for operational purposes such as an easement acquisition.

Policy Implications

Nil.

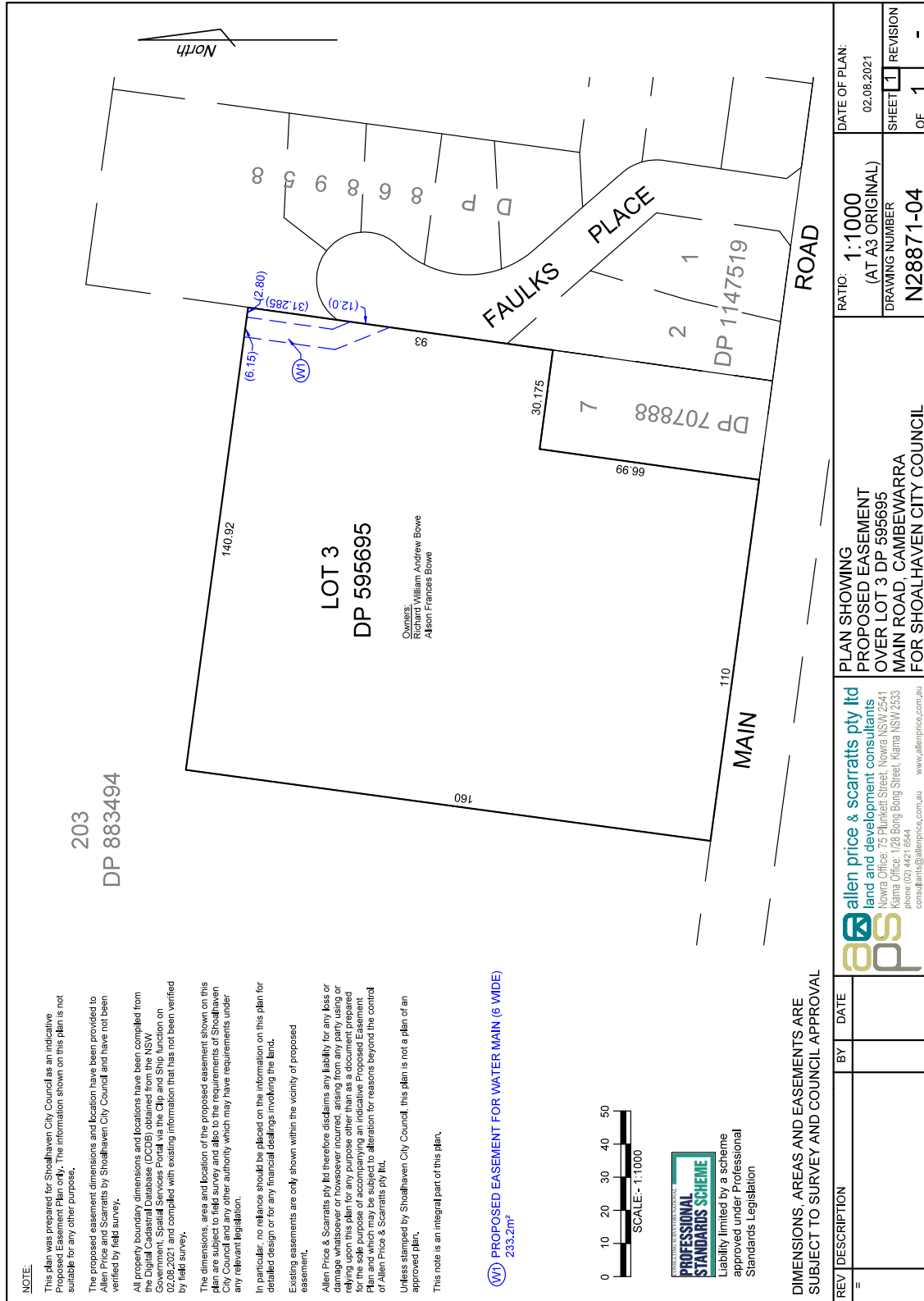
Financial Implications

Compensation and all costs associated with the acquisition are to be funded from Council's Water Fund.

Risk Implications

Acquisition of the easement is necessary to secure Shoalhaven Water's legal rights to access, operation and maintenance of essential public infrastructure. The proposed action is administrative only and has no environmental impact.

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CL22.597 Classification of Land - Lot 21 DP 1284124 Abernethys Lane Meroo Meadow

HPERM Ref: D22/393497

Department: Technical Services

Approver: Robert Horner, Executive Manager Shoalhaven Water

Reason for Report

To provide Council with an opportunity to consider the classification of land, being Lot 21 DP 1284124 Abernethys Lane, Meroo Meadow, as 'Operational Land' within the meaning of the Local Government Act 1993.

Recommendation

That Council classify the land described as Lot 21 DP 1284124 Abernethys Lane, Meroo Meadow, as Operational Land within the meaning of the Local Government Act 1993.

Options

1. Resolve as recommended

Implications: The Operational classification will provide Council with flexibility in its use as a sewerage pumping station and any future operational dealings.

2. Not resolve as recommended

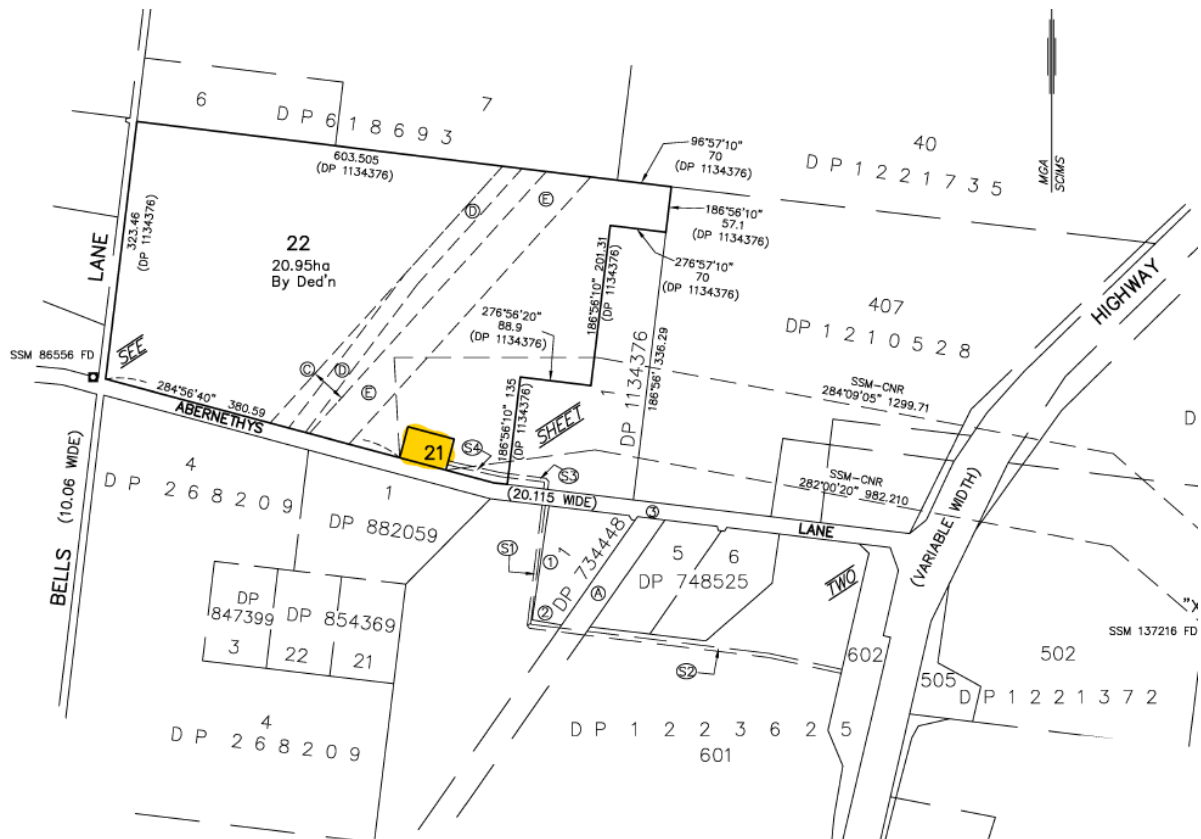
Implications: The land will default to Community Land and be subject to the Community Land provisions as outlined in the Local Government Act 1993. This would limit Council's ability to effectively manage the site as a sewerage pumping station.

Background

Council MIN22.111 dated 07 February 2022, approved the acquisition of 2,400sqm of land over part Lot 2 DP 1134376 for a proposed sewerage pumping station, to service the Moss Vale Road URA's.

The matter settled on 23 August 2022, and the land is now identified as Lot 21 DP 1284124 Abernethys Lane, Meroo Meadow as shown below highlighted yellow.

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Section 31(2) of the Local Government Act 1993 provides that Council may resolve to classify the land within 3 months after it is acquired by Council (i.e. 23 November 2022).

Community Engagement

In accordance with Section 34 of the Local Government Act 1993, a public notice of Council's intention to classify the land as Operational was placed in the South Coast Register on the 28 September 2022 allowing 28 days for written submissions. No submissions were received from the public notification.

Policy Implications

Section 31(2) of the Local Government Act 1993 provides that before Council acquires land, or within 3 months after it acquires land, Council may resolve to classify it.

There are two classifications available:

1. Operational Land – land which Council owns as a business entity and upon which it conducts Council business, and
2. Community Land – land in Council's ownership which is held for and on behalf of the Community subject to the Community Land provisions of the Local Government Act 1993.

A resolution of Council, within the time frame prescribed in the Local Government Act 1993, is required to finalise the classification of land as Operational.

Financial Implications

Nil

Risk Implications

The resolution to classify Lot 21 DP 1284124 as Operational is required within 3 months of acquisition.

Should the recommendation not be resolved, the land will default to community classification in accordance with the LGA 1993. Any future reclassification to operational land to enable future use/development, will require an LEP amendment under the Environmental Planning & Assessment Act 1979. This is a time-consuming and costly exercise that would require a budget allocation.

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CL22.598 Australian Regional Tourism Convention

HPERM Ref: D22/470525

Submitted by: Cllr Mark Kitchener

Attachments: 1. Australian Regional Tourism Convention Report [↓](#)

Reason for Report

To provide a report (Attachment 1) from Cllr Mark Kitchener on the Australian Regional Tourism Convention held in Ballarat, Victoria 10-13 October 2022 in accordance with Clause 3.3(e) of the Council Members – Payment of Expenses and Provision of Facilities Policy.

Recommendation

That Council receive the report from Cllr Mark Kitchener on the Australian Regional Tourism Convention for information.

Options

1. Receive the report for information
2. Request further information on the conference

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ART

Title: Australian Regional Tourism Convention

<u>Date:</u>	10 -13 October 2022
<u>Venue:</u>	Mecure Hotel Convention Centre Ballarat Victoria
<u>Theme:</u>	Australia – Paving the way for a stronger Visitor Economy
<u>SCC Representatives:</u>	Councillor Mark Kitchener Staff Coralie Bell
<u>Keynote Speakers:</u>	Caria Giuca, John Hart, Sarah Pilgrim, Tom Leslie, Bruce Billson
<u>Conference Format:</u>	Keynote addresses, presentations, panels discussions, concurrent sessions, and case studies.

Summary of Presentations:

The theme of the conference was “Paving the way for a stronger Visitor Economy.” The format of the conference was made up of Keynote addresses, various presentations, panel discussions, and concurrent sessions that were interspersed with regional success stories.

The following report is my understanding of what is currently happening and possible future directions of Australian Regional Tourism towards 2030. The report is based on salient points made by some Keynote speakers and other professionals who delivered presentations at the ART conference.

Comparisons are made between what is occurring around the country and what is happening in the Shoalhaven. Examples of regional tourism strategies in Local Government Areas of Australia are incorporated.

Australia is a safe, politically stable, English-speaking country, with beautiful beaches, unique animals, the oldest indigenous culture in the world, an environment conducive to outdoor activities and its people are generally good at sport. Increasing numbers of international tourists are attracted to what Australia has to offer.

Australian tourism must demonstrate effective sustainable management, maximize social and economic benefits to local communities and minimize negative impacts. Community support for tourism is essential as there is clearly a love-hate relationship between the two. The relationship between tourism, government and community needs to be stronger.

Regardless of what people think about tourism, the tourism industry is paving the way for a stronger visitor economy. There are an increasing number of exciting attractions, ultimate winery experiences, luxury lodges, great walks, great fishing, great golf courses, cultural attractions, Australian wildlife journeys, events associated with specific locations, inclusive access, adventure tourism, agritourism and more. Many of these attractions are good in their respective industries but need to focus on being great at tourism.

Giovanna Lever in Marketing isn't enough said, a tourism company starting up needs a solid foundation in business understanding, finance, and marketing. Many startups don't know who to ask for help, what to ask or who to trust, they don't know what they don't know. Some might know their business, but they don't know tourism.

Glenbernie Orchard Wollongong, Wagaana Yaam Adventure Tours, Earp Distillery Newcastle, Macadamias Australia, and Best Intentions Tentco Mackay, all knew their businesses well but had a lack of understanding of how to work the travel trade. It takes some start-up companies many attempts to get the formula right. Building business capability delivers far reaching benefits for destinations.

State and Local governments together are putting pressure on the Federal government to prioritize regions, activate uniqueness, increase event grant funding, and support experiences that have emerged from Covid, to make tourism part of the solution in the Covid recovery process.

Katrina Denoux in Harnessing the community to develop regional tourism said, tourism is not one industry, but an integration of many activities placed together under one heading. Tourism is a unified pursuit of many businesses that promote diversification and help to create sustainable economies. Tourism marketing is no longer in the hands of destination marketers that rely on small business to deliver their product, but rather, it is in the hands of the consumer and the social media they report on.

It is calculated that 1.2 million people work in tourism. Over 800 000 are in the food industry and are identified as a very young workforce. Covid has fashioned an immensely difficult landscape to navigate and created a skilled based workforce shortage that has become the number one issue in tourism. There is no silver bullet to the workforce shortages of today.

Workforce shortages have impacted hospitality and tourism heavily. The tourism sector simply cannot rely on working holidaymakers anymore and must recognize the value and balance of part-time and casual employment in the industry.

The shortage of skills and labour in regional areas is restricting industry, productivity, and growth. Nine out of ten councils are facing skill shortages across all sectors and must attract people from outside of the area. The challenge for regional areas is rebuilding the workforce.

Covid, a spate of natural disasters, war in Europe and global economic uncertainty have caused internal and external migrations that have contributed to the workforce shortage. Australia has witnessed a population loss with 270 000 migrants going home and people on temporary visas leaving

the country. There has been a large cohort retiring and a small cohort entering the workforce. Millennials are starting families and women are leaving their jobs momentarily.

Currently, there is a lack of 25-to-33-year old's working in the regions. Competition for skilled employees of working age has become fierce. Businesses need to be very shrewd to attract new staff.

Industries need to become more responsive to the wants and needs of the millennials whose preferences are a clear career pathway, an affordable lifestyle, a work life balance, maximum flexibility, and minimal bureaucracy. Employers must listen to the requests of millennials otherwise they will be unable to entice them to work. Employers must make it easy for millennial mothers to re-enter the workforce, because by the end of this decade gender inequality will no longer exist.

Initiatives from the government must include offshore workers in job placements. The government must continue to invest in visa processing for all applicants, remove all restrictions on eligibility for a second-and third year working holidaymaker visa, and continue to negotiate extensions to caps and age restrictions. As a matter of priority, the government must address the cost of plane flights for people entering the country.

Additionally, employment is inextricably intertwined with the availability of housing. Low-income workers will not relocate to an area that doesn't provide enough accommodation. Councils must provide development opportunities through rezoning, deliver available land for urban release areas, and ultimately encourage some form of affordable housing.

Working from home will continue to grow creating increased population growth on the coast and urban hinterland while regional areas will struggle to find workers. It is estimated that millennials will continue to migrate to the urban fringe or to a location two hours travel distance from a city, for the next fourteen years.

By 2031 different values will shape the Australian workforce. The cultural influence of baby boomers will have faded out, over sixty years old will retire, and there will be over one million eighty-five-year old's entering the twilight years of their life and needing assistance to live. The country must transform its workforce to tackle the eighty-five years plus boom.

Tourism in all its forms, helps provide employment opportunities that wouldn't normally exist in regional areas. Agritourism for example, attracts increased employment openings for groups such as mature aged workers, indigenous, disability, youth, women, and seasonal workers.

With growth in tourism comes other supplementary industries such as agrifood, arts and crafts and other creative industries. The arrival of these industries that support tourism have contributed to the longevity and sustainability of many Australian towns. People are learning to do things differently in different geographic locations.

Marcus Falconer in Building tourism communities said, "when people stop for a rest in a location there must be experiences available to keep them longer." Travellers frequently stop at the local pub. The cooperation of a good pub as an information provider will contribute to the visitor experience of

an area. The pub could distribute pamphlets, have guest speakers, activities, and encourage visitors to attend local events.

Kate Shilling and Karen Fitzgerald in Learnings from the wine industry agreed, that the food and wine industries are key drivers of tourism. People working in these businesses research trends and data to understand the customer, who they are and how they engage with business. They match stories and wine credentials to the food and the occasion, establish boutique wineries that unlock different tastes and styles, and layer in and leverage other unique elements.

When it comes to going on holidays food and wine become part of the decision-making process. Wine reflects the region and is an expression of the people that make it. Innovations to the traditional cellar door tastings include foraging, comedy, restaurants, song, music, picnics, meet the owner walks among the vines, elements of the working winery, and story sharing all become value adding products. Fine dining restaurants have become a game changer.

However, food cannot get enough workers to do the job. There is an identified need to do more with less workforce and be more productive in the sector. Work force shortages are just as pronounced in industries such as travel, tourism, hospitality, accommodation, and events where salaries are not as high, as in other sectors.

It is a shared understanding among many tourism operators that most international tourists don't have any idea what Australia is like twenty kilometers inland from the coast. The challenge is to get people to see more of the country. Attractions like coast-to-coast cross country wine trails, wine festivals, road trips, bookable wine trails, symphony in the vines, ultimate unique and ungooglable, and elements of joy, all contribute to the dispersal of visitors and provide opportunities to build lasting relationships and promote regional prosperity.

Likewise, events are important to regional Australia and have become a tourism product that enables infrastructure development. Every town can provide a unique experience that differentiates one place from another. People enjoy unique individual events to discover. Capability building of smaller events adds to the attraction of a region and has a flow on effect to the provision of infrastructure. Infrastructure, however, is not innovation.

Catering for people who are living longer, who are travelling domestically, or who have a disability, are presenting themselves as huge markets. It is recognized that many Australians go to the same place for annual holidays but not everybody is looking for the same experience they were looking for forty years ago. The more the community discusses Australia's ageing population, access and mobility, the more inclusion will become a daily experience.

Local government needs to think about connectivity of its regional areas and must collaborate across borders to distinguish the value of the region. Empowerment and collaboration across the regions are becoming critical. It is hard to get people to come to a place for the first time. Consequently, marketing's role is to get tourists to visit a region, the product is to keep them longer and local government's responsibility is to disperse them.

Regions must engage consultants with experience in innovation to identify or reinvigorate an optimum lead product that will improve the level of capacity for moving international visitors around the country. Queensland, for example, has been developing regional airfields and providing international terminals to bring tourists to varying attractions.

Since Covid there is a growing need to invest in regions because regions are currently growing faster than metropolitan areas. Four months ago, there were five million overnight trips to the regions and only two million overnight trips to the cities. Domestic tourism is currently the backbone of tourism in Australia with the regions drawing most visitation.

Phil Lockyer, Ash Bartley, Macaylah Johnson in the panel discussion on How to engage and embed indigenous tourism in regional communities agreed, that emerging travel trends and insights indicate that all roads lead to culture, nature and wildlife.

Tourists that come to Australia expect the usual attractions, but a growing number want to engage in indigenous activities. There is high demand for Australia's indigenous story, particularly for authentic cultural experiences, spending time with aboriginal groups observing dance, song, ceremonies and entering controversial conversations about culture and politics. Tourists are seeking deep and meaningful experiences and a chance to participate.

Many Elders are warm and generous and are inclined to share their history, stories of country, and aspects of culture. The art of storytelling is authentic, is creative, makes an emotional and personal connection, inspires action, and takes an audience on a cultural journey. Good stories compel people to change the way they feel, think, act, and behave. Story telling is an attraction that is increasing in value.

The kind of experiences people are seeking, are creating opportunity for indigenous communities, to provided sand dune adventures, walks, tours, indigenous stories of a local place, connections to land and community. Creating a space for artworks, stories, and access to activities are starting to push through to international markets.

Access to indigenous cultural experiences for tourist participation are emerging at wineries, food outlets, accommodation providers, travel agents' and information providers. These encounters enrich the tourist experience through the eyes of the indigenous community.

Sarah Pilgrim in How can the visitor economy be sustainably delivered within community said, Covid has changed behaviour, caused a loss of five years growth to the tourism industry and has been identified as a catalyst to prepare for the future. Statistics show that human nature changes off the back of a significant crisis.

Post pandemic, personal priorities have shifted. People would rather spend money on experiences like travel, family fitness, social companionship, work, career, study, and education than on possessions, investments, or real estate.

It is expected that financial confidence will continue to hold up over the next five years with household spending contributing to economic growth. However, rather than coming from increased wages, spending has been coming from savings.

Tom Leslie in Understanding your domestic customer stated, data indicates more than a third of Australians are travelling more often in 2022 to make up for lost time. 37% of Australians are travelling overseas but 66% are wary and less confident because of political instability and increased cost of living.

The rising cost of living in Australia is the highest concern with 30- to 49-year-olds holding the greatest fears. Increased costs for utilities, groceries, interest rates, transport, insurance, health, education, telecommunications, travel, home expenses, personal care, electronics, recreation, and entertainment impacts on everyone. Statistics indicate that this age cohort are looking to save rather than splurge. However, the over fifties cohorts are not cutting spending at all, with 39% of them more likely to be financially stable.

John Hart in Skills and Workforce Shortages stated, 37% of Australians agree that lockdowns and travel restrictions, have changed how people travel for holidays. Sick of lock downs people are getting out there and getting on with life. Post Covid, many travellers have turned to visiting friends and relatives. Group sizes for holidays have increased and there is a growing connection between families.

John went on to say that 49% of today's travellers plan to travel more frequently to rural destinations that are off the beaten track. Post covid, fifty-five towns in Australia have experienced their first Airbnb bookings where there were no accommodation providers previously.

Michael Crosby in Off the beaten track: How Australia is partnering with farm Hosts to create new tourism opportunities for regional communities stated, Airbnb plays a significant role for tourism in Australia. On 5th October 2022 there were 2800 Airbnb farm stay listings across the country with 30% of nights booked occurring in regional areas.

People who are socially outgoing tend to become high volume hosts. Less socially outgoing hosts are more at ease with smaller groups centering a visit around their home. Hosting guests and relatives brings the benefits of regional living and community into focus.

Having visitors can prompt hosts to be more adventurous in their own city, consider shared interests and develop fresh perspectives. One of the pleasures of hosting is being prompted to do something different.

There is no question that hosts are highly influential on their visitor's dispersion and spend. With their local knowledge hosts will act as tour guides and decision makers. Host recommendations are what makes the city's hidden gems sing. Locals are our best advocates; they know the area and the best spots to go.

Simon McArthur and Kari Flowers in Opportunities in Innovation for Regional Tourism Attractions said, "if we want to hold onto the market, we need to rejuvenate and innovate." Even remote regions with

little tourism can win with innovation. The silo art trail in the Wimmera region of Victoria is a good example.

Tourist attractions are rapidly separating into highly innovative practises while others are stagnating due to not responding to changing consumer needs. Operators must make decisions based on customers of the future not customers of the past. Tasmania and Victoria are having the greatest success with acquiring grants for innovation, but most grants are dealing with catch up. Government grants being released are too little too late and appear to have questionable accountability and effectiveness.

The NSW Government, in response to the economic impacts of natural disasters and Covid on the farming community proposed streamlining amendments to the NSW Planning System to boost farm businesses and regional tourism through agritourism. Farm stay accommodation is already currently permissible with consent in the RU1, RU2, RU4, and C3 Environmental Management zones in some councils. Farm gate premises' is however, a new land use being introduced for the first time into the planning scheme.

Speakers at the inaugural Agritourism Conference described Agritourism as a hybrid between agriculture and tourism that demonstrates a unique opportunity for growth by connecting people, place, and product and is expected to be worth \$18.6 billion by 2030. Agritourism is already at a significant scale in some parts of NSW, it is bringing down barriers and the diversity of activities is creating new prospects. Relative to other agritourism destinations, Australia is ranked second out of thirty with New Zealand being first.

From a national perspective agritourism is a grass roots movement led by the regions with 85% of councils considering it a priority. There is a growing momentum in the regions with 92% of agritourism experiences delivered in regional Australia. Opportunities exist to promote non-traditional rural destinations and create more resilient livelihoods for regional communities by diversifying income streams.

Agritourism must be associated with a commercial farm that produces food or fibre, rears livestock, or grows fruit. It is a symbiotic relationship between tourism and earning a living from the land where living off the land is the primary activity. Agritourism is acceptable where agriculture is typically permitted, and councils can further nominate permissibility within their council areas where farms may be located. An on-farm experience is a more immersive activity for tourists, and a defining attribute for farmers who get to share their love of the land.

Existing agricultural businesses are looking for alternative revenue streams to mitigate market fluctuations and natural disasters to ensure farming remains profitable. By tying new tourism products into the primary production lands increases the output of primary production through diversification. This gives farmers the necessary profitability and incentive to stay on the land and reinvest in their property.

33% of international travellers are interested in on farm experiences and show strong demand for other immersive activities. Opportunities exist to tailor touring routes and itineraries around farm experiences. 96% of agritourism enthusiasts are also interested in the indigenous experience.

Casting an indigenous lens over agritourism can enrich the experience by unlocking value added opportunities stemming from indigenous connection to country, learning and preserving ancient knowledge. Bushtucker, and farm gate to plate, for example, are high on the agenda for international tourists.

In starting, running, and growing agritourism businesses farmers have experienced inconsistent and uncertain rules, standard zones and land use terms not fit for purpose, time delays and costly approvals. There are up to thirty-nine land uses which are too specific and not permitted in rural zones. Change is possible but it is difficult for people living in rural zones to improve or diversify their business. People are passionate about turning a struggling business into a great business but are challenged by the role of governments.

Invariably, councils have been concerned about unauthorised activities, the compliance burden, traffic, parking, developments, visitor numbers, operating hours, gross floor area, setbacks, waste, evacuation, biodiversity issues, food regulations, planning regulations and insurance.

Red tape and council fees have created barriers to farmers entering the agritourism industry. Overbearing outdated regulatory framework is preventing farmers from innovating and rejuvenating their business and making connections with their customers. There are untold opportunities for rural areas to diversify revenue streams, but regulations can sometimes cause the launch of a compliant business to take three to five years. The new planning reforms are great news for farmers, with flow on effects for regional towns.

Yes, these new reforms will have unintended consequences and yes, they might be unpalatable to a small section of the community, but these issues can all be resolved. Every decision made at council has a positive and negative impact on the community and every decision has a set of unintended consequences.

Shoalhaven staff have demonstrated on many occasions the ability to address, reduce and rectify unintended consequences with positive outcomes for the community, Hyams Beach is one example. Sometimes unintended consequences force councils to improve infrastructure ahead of the capital works program.

Luckily for Shoalhaven Mrs. Coralie Bell, Shoalhaven's Tourism Manager, is the chairperson for Australian Regional Tourism. Mrs. Bell is the only member of Shoalhaven staff that chairs a national committee and as such has great credibility when talking to government.

If the state government finds it necessary to make amendments to its planning reforms, for coastal councils, then through Mrs. Bell's influential position, the Shoalhaven City Council can make suggestions for the State Government's consideration. Sometimes adjustments to new reforms need to be made along the way but ultimately reducing red tape to make economic sustainability easier for rural communities is a good thing.

Under Mrs. Bells leadership the tourism team at Shoalhaven have received many prestigious awards and achieved many goals and objectives including,

- reached an estimated \$1 billion total tourism spend by 2020,
- reached an estimated 43% growth in off-season visitation 2015 – 2018,
- awarded 8th in the world from TripAdvisor Choice awards Top Emerging Destination in the world 2021,
- became the most visited LGA in regional NSW (2021),
- recorded total estimated visitors 3.71 million plus recorded nights (staying longer) 6.4 million (Dec 2019),
- Won Gold in NSW and Silver in Australian Tourism Awards for the 100 Beach Challenge (2018),
- Silver in 2019, Bronze in 2020/1 NSW Tourism Awards for Visitor Services,
- \$1 million in council funds injected in tourism events via the event support fund since 2016,
- 2012 – 2019 Unspoilt campaign with South Coast partners with Destination NSW won Gold at NSW Tourism Awards in 2016, & PATA accolade (Pacific Asia Travel Awards),
- 94th in the world's Top Loved Destinations 2022 via the Tourism Sentiment Index (Destination Think!),
- Received \$5.3 million in grant funding for Sustainable Tourism Infrastructure Project grant for seven projects

The Shoalhaven is currently at the top of the regional New South Wales tourism ladder but to stay at the top it must continue to be committed to progressing iconic new tourism experiences so not to lose market position. Attracting government expenditure is always challenging but currently, the investment space for tourism is very positive. Shoalhaven must continually sharpen the investment attraction elements of its portfolio to attract government attention.

Tourism is the fourth largest revenue raiser in the Shoalhaven after manufacturing, defense and health and aged care. Tourism brings a significant external revenue to the Shoalhaven that contributes to the socio-economic and cultural development of the region. Getting the balance right between profitability, cultural experiences, social outcomes, and environmental issues is crucial.

The Shoalhaven community is saying, 'yes' it wants a viable strong tourism industry that provides employment and economic growth but simultaneously, the community also want tourists to respect and conserve, in a sustainable way, the region that is called home by one hundred and eight thousand people. Overtourism is a commonly voiced concern.

Councils cannot solve all the challenges associated with tourism but can reach out, inform, and advocate to other levels of government making them aware of the problems people face when confronted with legislative changes and seek funding for assistance when necessary.

Conclusion:

It appears abundantly clear that the NSW Government intends to progress these Agritourism reforms, and it is not likely it will amend or defer the commencement of these pathways. Shoalhaven does not have a sound policy reason to request an exclusion from these pathways and as such, could be required to consider Agritourism applications from December 1, 2022.

Subsequently, it is a Councillor's responsibility to make decisions that inform the strategic direction of council. It is the council staff's responsibility to find ways to make these new NSW governments planning reforms work effectively, minimize negative impacts, and maximize the Shoalhaven's advantage.

Tourism, whether you love it or hate it, has always been a significant factor contributing to the economic growth of the Shoalhaven. It is reasonable to suggest keeping tourism strong, evolving, and innovative is a strategic move that will further the prosperity of the region.

Supporting the State government's planning reforms to make agritourism more reachable for farmers, will strengthen diversity and ultimately the Shoalhaven's socio-economic sustainability. Agritourism will create increased opportunities for farmers, tourists, employees, and communities. It is my opinion, that questioning or resisting the new planning reforms before being applied could possibly antagonize or alienate a state government that has provided \$15.56 million in operational grants and \$33.58 million in capital grants to the Shoalhaven in the last financial year.

It seems reasonable to suggest that identifying and promoting the positives of the Agritourism initiative is a strategic decision that will continue to add to the Shoalhaven's propensity to grow and help maintain its sustainability into the future.

Councillor Mark Kitchener 6.11.22

CL22.599 Rescission Motion - CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing

HPERM Ref: D22/463435

Submitted by: Clr Greg Watson
 Clr Mark Kitchener
 Clr Serena Copley

Purpose / Summary

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

Recommendation

That Council rescind the Motion relating to Item CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing of the Council Meeting held on Monday 31 October 2022.

Background

The following resolution (MIN22.790) was adopted at the Ordinary Meeting held Monday 31 October 2022.

That Council:

1. *Support the exhibition of the draft 12-month trial amendment to Chapter G4: Tree and Vegetation Management of Shoalhaven Development Control Plan (DCP) 2014, as shown at Attachment 1, for a period of 28 days as per legislative requirements, with an amendment to the notification period to 5 working days prior to tree removal, to allow for spot inspections that could result in the withdrawal of the exemption. The notification declaration is to be signed by the owner and the contractor.*
2. *Advise key stakeholders, including key relevant tree removal operators working in the Shoalhaven Local Government Area, of this decision, exhibition arrangements and the risk of fines for development without consent (i.e., tree removal that is inconsistent with Degree Rule exemption in Chapter G4 of the DCP).*
3. *Facilitate a tree contractor information session/workshop during the public exhibition period.*
4. *Commence the preparation of:*
 - a. *A data collection tool that will enable the efficient collection of the self-notification data relating to the 45 Degree Rule exemption.*
 - b. *An educational campaign relating to tree management and the 45 Degree Rule exemption, as outlined in this report, to be funded from a quarterly review .*

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- c. *The education campaign should be both social media and rolled out to every CCB to include and make clear where the 45 Degree Rule DOES NOT APPLY i.e. - To a tree where that tree does not pose a demonstrable risk to the respective building.*
 - i. *Beyond the lot the lawfully erected building is located on, which includes public land.*
 - ii. *To land in the Jerberra Estate (already the case as outlined in the DCP).*
 - iii. *To trees with hollows or nests.*
 - iv. *To trees on upward slopes greater than 18 degrees.*
 - v. *To the removal of trees on land zoned RU1 Primary Production and RU2 Rural Landscape (already the case as outlined in the DCP).*
- 5. *Receive a further report:*
 - a. *On the draft amendment following the conclusion of the public exhibition period.*
 - b. *After the 12-month trial operation period of the amended 45 Degree Rule exemption, that includes an analysis of data received during this period and recommended next steps. An interim report is to be received at 6 months.*
 - c. *On a quarterly basis as a compliance review, with data on those who:*
 - i. *Would have unlawfully removed trees had it not been for the spot inspection.*
 - ii. *Have unlawfully removed trees and vegetation under the 45 Degree Rule exemption.*
- 6. *Commence the preparation of an Urban Greening Strategy for Shoalhaven, including the identification of funding required to prepare the strategy.*
- 7. *Not progress an amendment to Shoalhaven DCP 2014 regarding an additional exemption for the clearing of asset protection zones (MIN22.229).*

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CL22.572 Notice of Motion - Affordable Housing

HPERM Ref: D22/449280

Submitted by: Cllr John Wells

Note: This item was deferred from the Ordinary Meeting 31 October 2022.

Purpose / Summary

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

Recommendation

That Council:

1. Prioritise the envisaged five-year review of its adopted Affordable Housing Strategy (2018) in 2023 to identify and confirm the work Council can undertake to contribute to improving housing affordability and increase the supply of affordable (rental) housing.
2. Concurrently with the review of the adopted Strategy, investigate in detail the potential to establish an "Affordable Housing Development Contribution Scheme". This work should identify the viability of such a scheme, opportunities and mechanisms to apply it, and the work required to implement it in Council's planning documents, including the Local Environmental Plan, Development Contributions Plan, and a new policy governing the use of Voluntary Planning Agreements to achieve this aim.
3. As the work on Parts (a) and (b) proceeds, consider the establishment of a restricted reserve for the provision of various forms of affordable housing, housing for seniors and people with a disability, and crisis and transitional housing. The use of the reserve to provide these types of housing to be in partnership with recognised community housing and homelessness services operating in Shoalhaven.

Background

Councillors, the causality of affordable/social housing demands are many, complex and inter-related. Economic conditions, shortage or disruption of supply, demographic shifts in population age and geographic location, technological impacts on workplace flexibility and productivity and the hard knocks society and other humans can impact on our lives often results in displacement and chaos in our living arrangements.

To its great credit, this Council has been working hard in the affordable housing space, especially since 2015 when we engaged Judith Stubbs to work with us on developing a strategy in this area. This was the genesis of the Coomea Street land acquisition vision to get involved with direct provision of an affordable housing development. It drove the Mayor's push to convert as much short term rental accommodation across to long term rentals as possible and I commend her on her recent letter to ratepayers which accompanied our recent rate notices.

But, underlying all this, I could not escape the feeling that we were playing around at the edges and that we really needed a well-grounded planning base and funding arrangement that could drive sustainable provision of social/affordable housing in our City.

A review of legislation brought to my attention Division 7.2 of the Environmental Planning and assessment Act relating to Affordable Housing. Contributions Clause 7.32 of this Division

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outline the conditions under which land can be contributed for affordable housing, and Clause 7.33 mandates that the use of land so contributed, and any monetary contribution in lieu of land must be spent on affordable housing. The legislation is a bit clunky, but it's a starting point.

Then at the LGNSW conference only a couple of weeks ago, I came across the Community Housing Industry Association's Guidelines for Councils Taking Action on Affordable Housing - some of which we're already doing - we have a strategy, we've acquired some land, we're working in the STRA space.

What we now need to do is to work on our planning controls and, to quote the Association "put in place requirements for affordable housing contributions when land is released for housing or rezoned for higher densities. Councils should immediately flag their intention to establish contribution schemes to support feasibility"

That's what this motion does. As soon as a developer comes into Council with a proposed subdivision or an uplift development for medium density or apartments, there is a contributions scheme or a voluntary planning arrangement which provides for a land or monetary contribution, or both, for social and affordable housing. A restricted fund, dedicated solely for that purpose, will over time, become the engine room for affordable housing and I would like this concept on the table during our weekend planning workshops for more detailed consideration. I therefore commend my motion to the Chamber as a way forward in dealing with this scourge on our society.

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CL22.600 Notice of Motion - Update and Proposed Next Steps - Land Use Planning Changes for Agritourism

HPERM Ref: D22/469317

Submitted by: Cllr Tonia Gray
Cllr Serena Copley
Cllr John Wells
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. Urgently inform the NSW Government that Council insists that the new 'Agritourism', 'Farm experience premises' and 'Farm gate premises' land use terms be prohibited across all zones in the Shoalhaven LEP 2014, including in the RU1, RU2 and C3 zones.
2. Remind the DPE of its many assurances via the Explanation of Intended Effect, statements on the Planning Portal and various emails that councils could "*identify zones in which they wish to allow the new farm events and farm gate land uses*", and "*councils could decide to amend their LEPs to prohibit these new uses in all zones.*"
3. Strongly object to the ambiguity and quasi mandating of 'Agritourism' and its sub terms as permissible with consent in the Shoalhaven LEP 2014 from 1 December 2022 and February 2023.
4. Strongly object to the significant weakening of the development standards in the exempt and complying provisions that were exhibited in 2021 and have been amended and notified without any meaningful consultation with Council.
5. Note Council's strong disappointment with the lack of meaningful or transparent consultation with local constituents and communities, and the disregard for the LGNSW President Darriea Turley's letter outlining serious concerns (dated Oct 13, 2022).
6. Should the NSW Government persist with effectively mandating 'Agritourism' in certain zones in Shoalhaven:
 - a. Opt-in to the 'Farm gate premises' and 'Farm stay accommodation' optional clauses for Shoalhaven LEP 2014 and the 'Farm stay accommodation' optional clause for the Shoalhaven LEP (Jerberra Estate) 2014.
 - b. Commence the preparation of a Planning Proposal to provide additional development standards relating to the 'Farm gate premises' and 'Farm stay accommodation' optional clauses. Report the draft Planning Proposal back to Council with the draft Tourism Amendment to Shoalhaven Development Control Plan 2014, in due course.
 - c. Strongly request a deferral from the commencement of the Agritourism Reforms until February 2024, to enable the preparation, exhibition and finalisation of a Planning Proposal and detailed Development Control Plan provisions (as required), that will establish additional Shoalhaven specific development standards for the range of agritourism land uses.

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7. Request that the NSW Government commit to:
 - a. Arranging public information sessions, as a matter of urgency, to explain the reforms to the public and interested communities; and
 - b. Depending on what eventuates, undertaking a 12 month review of the reforms to enable them to be refined, improved or adjusted if needed or appropriate.
8. Send a copy of this resolution to:
 - a. The Director, Planning Legislation & Economic Policy at the Department of Planning and Environment, Ms Paulina Wythes.
 - b. The Deputy Premier and Minister for Regional NSW, the Hon. Paul Toole.
 - c. The Shadow Minister for Regional NSW and Shadow Minister for Agriculture, the Hon. Mick Veitch.
 - d. The Minister for Planning and Minister for Homes, the Hon. Anthony Roberts.
 - e. The Former Minister for Planning and Minister for Homes, the Hon. Rob Stokes.
 - f. The Shadow Minister for Planning and Public Spaces, the Hon. Paul Scully.
 - g. The Minister for Agriculture, the Hon. Dugald Saunders.
 - h. The NSW Minister for Environment and Heritage, the Hon. James Griffin.
 - i. The Member for the South Coast, the Hon. Shelley Hancock.
 - j. The Member for Kiama, Mr Gareth Ward.
 - k. Local Government NSW, Attn: LGNSW President Darriea Turley.
 - l. The community members/industry representatives who have previously engaged with Council on this issue.

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Background to the Agritourism Reforms

In March 2021, the NSW Government released initial exhibition material relating to [Agritourism and small-scale agriculture development](#). This exhibition proposed amendments to the NSW Planning System to boost farm businesses and regional tourism, by streamlining the approval of agritourism and other small-scale agricultural development. The proposed reforms are part of the response to the economic impacts of natural disasters and COVID-19 on the farming community.

Council made a submission at the time that contained a range of feedback. The detailed report (DE21.41) relating to this resolution can be accessed [here](#).

The Explanation of Intended Effect (EIE) supporting the 2021 exhibition outlined that additional consultation would be needed relating to the agritourism proposals. Given the relevance of this matter to Shoalhaven, Council requested to be included in any additional consultation and engagement to ensure that the final reforms were appropriate for Shoalhaven, functioned as intended and balanced impacts (MIN21.252(2)).

In December 2021, further material on the Agritourism Reforms was released by the NSW Government and additional consultation commenced in this regard. The focus of this additional consultation was for Councils across NSW to:

- 'Opt in' or 'out' of the proposed new 'optional' clauses in the Standard Instrument LEP for 'Farm stay accommodation' and 'Farm gate premises'. If opting in, councils could nominate development standards as relevant for each optional clause.
- Nominate zones to apply the proposed new land use terms for 'Agritourism', 'Farm gate premises' and 'Farm experience premises'.

Council's resolution relating to the additional consultation opportunity and nomination process is at **Attachment 1**. Essentially though, this resolution Council signalled that it wanted to 'opt out' of, or not be included in, the proposed Agritourism Reforms.

Mayoral Minute – October 2022

On 10 October 2022, Council considered a Mayoral Minute relating to land use planning changes for agritourism, following the notification of part of the Agritourism Reforms and ongoing community interest in the matter. Council resolved (MIN22.747) that:

1. *Council urgently and strongly confirm to the NSW Department of Planning and Environment, that Shoalhaven City Council:*
 - a. *'opts out' of the new provisions for agribusiness/tourism until such time as we conduct our own review of where the provisions/clauses could possibly be appropriate;*
 - b. *Reaffirms Parts 1 to 3 of its resolution of 28 March 2022 (MIN22.200);*
 - c. *Objects to the land use terms 'Agritourism', 'Farm experience premises' and 'Farm gate premises' being made permissible with consent anywhere in our LEPs at this stage;*
2. *Once confirmed, Council write to those who have previously engaged with Council on this issue to reassure them of Council's position;*
3. *Given the community concern that this matter is generating, Council receive a short report as soon as practical on the agritourism related land use planning changes being considered/pursued by the NSW Government.*

In October 2022, correspondence was sent to the NSW Government (relevant Ministers etc) and community members who previously engaged with Council on this matter, advising of Council's position.

This report now addresses part three of the above resolution.

Summary - Agritourism Reform Changes and Implications for Council

In October 2022, the NSW Government proceeded to notify a range of changes to legislation relating to the first stage of the Agritourism Reforms:

- [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Amendment \(Farm Stay Accommodation\) Regulation 2022](#)
- [Standard Instrument \(Local Environmental Plans\) Amendment \(Agritourism\) Order 2022](#)
- [State Environmental Planning Policy \(Exempt and Complying Development Codes\) Amendment \(Agritourism\) 2022](#)

The first stage of the reforms, commencing on 1 December 2022, will:

- Amend the NSW Standard Instrument LEP to:
 - Insert the new agritourism and related land use terms. Notably, 'Agritourism', and its sub terms ('Farm experience premises' and 'Farm gate premises') will become permissible with consent in all Standard Instrument LEPs across the State (including Shoalhaven LEP 2014) where 'Agriculture' is permissible with consent.
 - Refining controls relating to 'Farm stay accommodation'.
 - Expanding 'development without consent' opportunities for 'Poultry farms' and 'Pig farms'.
 - Introduce the new 'Farm stay accommodation' and 'Farm gate premises' optional clauses. These clauses remain optional and as such, Council has the opportunity to opt in or maintain its opt-out nomination.

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- Make related changes to the Dictionary to reflect the new and amended definitions.
- Amend State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008 to:
 - Make changes to the Interpretation section (i.e., dictionary) to reflect the new and amended definitions.
 - Introduce savings provisions for complying development.
 - Introduce an exempt development pathway for the rebuilding of farm buildings damaged by natural disasters, agritourism signs, 'Farm experience premises', 'Farm gate premises', 'Farm stay accommodation' and 'Roadside stalls'.
 - Introduce a new Code, being the 'Agritourism and Farm Stay Accommodation Code' that provides a complying development pathway for 'Farm experience premises', 'Farm gate premises' and 'Farm stay accommodation'.
- Make consequential changes to the Housing SEPP, Primary Production SEPP and the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 in response to the Agritourism Reform changes.

The key themes that are considered to be potentially of most concern for Shoalhaven at this stage are outlined below:

Exempt and complying development pathways

These pathways were originally flagged as part of the initial EIE exhibition process in 2021, however, the notified amendments are different to that exhibited in a range of areas – some strengthened and others weakened. It is considered unlikely that the NSW Government will amend or defer the commencement of these pathways and as such they will commence on 1 December 2022.

Further, it would appear that Shoalhaven does not have a sound policy reason to request an exclusion from these pathways. It is understood that only one exclusion has been accepted to date, being the special Hunter Water Drinking Water Catchment land (note the Sydney Drinking Water Catchment land in Shoalhaven is unlikely to be considered similarly in this regard). The land around Mount Panorama in the Bathurst LGA is currently also being considered by the NSW Government for a specific exclusion.

Recommendation: Note Council's disappointment that the exhibited exempt and complying provisions have been amended and notified without any meaningful consultation with Council.

Changes to the Standard Instrument LEP and Shoalhaven LEP

The changes to the Standard Instrument LEP and Shoalhaven LEP have substantial implications for Shoalhaven, however unlike the changes to the Codes SEPP, Council has the greater likelihood of influence/change in this area.

Significantly, the new land use term 'Agritourism', and its sub terms will become permissible with consent anywhere that 'Agriculture' is permissible with consent in NSW from 1 December 2022.

In the Shoalhaven LEP 2014, this means the RU1, RU2 and RE1 zones. In addition to this, the NSW Government has also confirmed that the land use 'Agritourism' and its sub terms will also become permissible with consent in the RU4 Primary Production Small Lots zone in Shoalhaven LEP 2014 sometime in February 2023. Whilst not explicitly mandating these uses as permissible with consent, the NSW Government has advised that Council is likely to be unable to prohibit these land uses in these zones. This is directly contrary to Council's March 2022 resolution.

As such, come 1 December 2022 (or February 2023 for the RU4 zone), Council could be required to consider development applications for 'Agritourism', and its sub terms in the respective zones, however the flow on concern in this regard, Council will not have any contemporary supporting development controls in place for these uses. Any development applications received would then need to be assessed on merit by Council.

Work is progressing on a largescale review and possible future amendment to Chapter G15: Tourist and Visitor Accommodation of Shoalhaven DCP 2014 (Tourism Review) in accordance with Council's adopted Strategic Planning Works Program. A deferral from the commencement of the Agritourism Reforms until February 2024 would potentially allow the Agritourism Reforms to be adequately considered in the Tourism Review, in a more suitable/realistic timeframe. It is noted that a similar deferral was put in place for the Low Rise Housing Diversity Code amendments to the Codes SEPP around 2018/2019, which enabled Council adequate time to get supporting development controls in place. Other NSW Councils, such as Byron Shire, are considering opportunities to request deferrals as well.

It is noted that Local Government NSW has written to the Hon. Anthony Roberts, NSW Minister for Planning and Minister for Homes, outlining a range of concerns regarding the proposed new agritourism rules. The advocacy on behalf of NSW Councils includes a request to postpone the commencement of the reforms.

Recommendation: That Council:

- *Note its objection to the quasi mandating of 'Agritourism' and its sub terms as permissible with consent in Shoalhaven LEP 2014.*
- *Should the NSW Government persist with quasi mandating 'Agritourism' in certain zones in Shoalhaven, request a deferral from the commencement of the Agritourism Reforms until February 2024, to enable the preparation, exhibition and finalisation of appropriate development controls and guidance to support the agritourism land uses in Shoalhaven's planning scheme.*

'Farm gate premises' and 'Farm stay accommodation' optional clauses

'Farm stay accommodation' is already currently permissible with consent in the:

- RU1, RU2, RU4, C3 Environmental Management zones in Shoalhaven LEP 2014.
- C3 zone in Shoalhaven LEP (Jerberra Estate) 2014.

In accordance with Council's previous resolution, no additional zones were nominated for this use.

'Farm gate premises' is however, a new land use being introduced for the first time into the planning scheme. Council nominated to make this land use prohibited in every zone in Shoalhaven, however the NSW Government have essentially mandated the use in a range of zones across the City.

In March 2022, Council also resolved to opt out of the optional clauses for these uses. The optional clauses have been prepared to provide additional rigour and support for these land uses. As such, there is merit in opting in to the optional clause as the 'Farm stay accommodation' term already exists in our LEPs and it is apparent that the 'Farm gate premises' use will be included in due course.

There has been some concern in the community that if Council does not opt in to the optional clauses, the exempt and complying provisions would be used in the assessment of development applications instead. To clarify, these optional clauses relate to development applications only, and in the absence of any specific LEP or DCP provisions, any applications would be considered on merit only.

It is noted that the optional clauses will commence in Standard Instrument LEPs from February 2023 (where a Council has opted in), however, the notified versions no longer include the suggested detailed or set development standards that Council had previously

considered. The notified documentation does, however, specify that development standards can be added by Councils as required. Whilst this provides Council with greater flexibility and opportunities to tailor these clauses specifically for Shoalhaven, the inclusion of additional provisions will need to be undertaken as part of a future planning proposal initiated by Council (not as part of the February 2023 NSW Government managed process). This change in approach has the potential to have resourcing impacts on Council.

It appears abundantly clear however, that the NSW Government intends to progress the Agritourism Reforms, which presents a current and urgent need to prepare appropriate supporting development controls for these land uses in Shoalhaven DCP 2014. Should Council wish to opt in to the 'Farm gate premises' and 'Farm stay accommodation' optional clauses, Council will also need time and commit resources to consider and progress a Planning Proposal to set additional development standards for these uses.

There is significant merit in pursuing Shoalhaven specific development standards for these uses, especially 'Farm stay accommodation'. For example, the Agritourism Reforms have amended the number of bedrooms for this type of accommodation to 7 (existing in Shoalhaven LEP 2014), but now refined to in buildings. This means that whilst there will be a limit of 7 'Farm stay accommodation' bedrooms in buildings, it appears that there would be no limit on the number of manufactured homes/moveable dwellings and the like that could be considered as part of a development application.

Recommendation: That Council:

- *Given what it appears is highly likely to occur irrespective of representations, opts-in to the 'Farm gate premises' and 'Farm stay accommodation' optional clauses for Shoalhaven LEP 2014 and the Farm stay accommodation optional clause for the Shoalhaven LEP (Jerberra Estate) 2014.*
- *Formally request a deferral from the commencement of the Agritourism Reforms until February 2024, to enable the preparation, exhibition and finalisation of a Planning Proposal and detailed DCP provisions (as required) that will establish additional Shoalhaven specific development standards for the 'Farm gate premises' and 'Farm stay accommodation' land uses.*

Conclusion

Whilst there is merit in continuing to strongly advocate that the Agritourism Reforms do not apply to Shoalhaven, it appears highly likely (or there is a significant risk) that the reforms will progress regardless NSW wide. As such, there is merit in also progressing a range of alternative measures to help protect the interests of the Shoalhaven community includes, including:

- Opting in to the optional clauses for 'Farm stay accommodation' and 'Farm gate premises' (as appropriate to the relevant LEP).
- Seeking a deferred commencement until February 2024 to enable the preparation, exhibition and finalisation of amendments to Shoalhaven LEP 2014 and Shoalhaven DCP 2014 that will provide additional rigour and guidance regarding these amended and new land uses.

Community Engagement and Policy Implications

Council has continued to receive representations from Community Consultative Bodies (CCBs) and community members about the need for rural and agricultural tourism/visitor uses to be restricted or regulated.

Destination Sydney Surrounds South (DSSS) have also continued to advocate for a more certain planning framework for rural and agricultural tourism/visitor opportunities.

The Shoalhaven Local Strategic Planning Statement (LSPS) that was adopted by Council in October 2020 includes the following action:

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*A7.1 Review planning and development controls for tourist and visitor accommodation and temporary uses to balance the support of tourism activity and manage impacts on communities and sensitive locations. **Short-term** (Note: this means between 2022-2024).*

The recommended approach includes the continued progression of the Tourism Amendment to Shoalhaven DCP 2014 and a Planning Proposal to provide specific development standards to support the 'Farm stay accommodation' and 'Farm gate premises' optional clauses. Any amendment to Shoalhaven DCP 2014 or Shoalhaven LEP 2014 (including Jerberra Estate) would be exhibited for a period of at least 28 days. Community and industry engagement will be encouraged during the public exhibition period.

Financial Implications

The process of amending Shoalhaven's LEPs and DCP would be resourced as much as possible via the existing Strategic Planning budget but may require specific funding if external or other assistance is needed to advance the work in a timely manner.

The insertion of the optional clauses (without the additional development standards) will be managed by DPE. As such, there will be minimal financial implications for Council.

Risk Implications

Without specific provisions in Shoalhaven LEP and DCP that guide agritourism development, development applications for these uses will need to be assessed individually on merit. This provides a level of risk and uncertainty for the community and Council and may result in undesirable built form and operational outcomes.

Without a deferred commencement arrangement in place, Council will not be able to get appropriate development standards and controls in place for the commencement of the Reforms in December 2022 and February 2023 respectively.

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CL22.601 Notice of Motion - Call in and Councillor Briefing - Hitchcock's Lane - SF10965

HPERM Ref: D22/463472

Submitted by: Cllr Matthew Norris
Cllr Patricia White
Cllr Tonia Gray

Purpose / Summary

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

Recommendation

That:

1. Councillors be briefed on the application for Hitchcock's Lane (SF10965).
2. The application SF10965 be called up to Council for decision due to public interest.

Background

Subsequent to a formal Planning Proposal to rezone land at the subject site, Council resolved (MIN21.242) to investigate a road connection via Schofields Lane as opposed to that via Hitchcock's Lane, as well as to liaise with relevant State Government Agencies and the applicant, as to the preferred road connection outcome.

Given the public interest, this Application should be brought before Council for final decision and determination.

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CL22.602 Notice of Motion - Councillor Briefing - RA21/1003 - South Moss Vale Road Subdivision

HPERM Ref: D22/469401

Submitted by: Cllr Matthew Norris
Cllr Tonia Gray

Purpose / Summary

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

Recommendation

That Councillors receive a briefing on the application for South Moss Vale Rd submitted with Council (RA21/1003).

Background

Questions from the community have shown the lack of information out there around this development and I feel Councillors would benefit from a briefing where all the community questions can be answered and solutions can be identified.

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CL22.603 Notice of Motion - Urgent Inclusion of Character Considerations in Shoalhaven's Key Planning Instruments

HPERM Ref: D22/471521

Submitted by: Cllr Evan Christen

Purpose / Summary

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

Recommendation

That Council

1. Discuss and consider this critical community issue as part of the special Strategic Planning Working Party meeting that has been scheduled for 26 November 2022.
2. Receive a report back as soon as possible following the Working Party meeting on the immediate steps that can be taken to strengthen the important recognition and consideration of character in Councils key planning instruments (Local Environmental Plan and Development Control Plan); and,
3. Request that the report in Recommendation 2., include: setting of timeframes to expedite this critical work; resulting potential resourcing implications; and options for consideration in this regard.

Background

Often community objections to development in the Shoalhaven are based upon concerns that the proposed development does not fit with the existing and desired future character of an area. Often this relates to bulk and scale and aesthetics that are considered to be 'out of character' with a street, suburb, village, town or area.


The communities are often frustrated that their arguments based on character carry little weight as the existing character and desired future character have often not been defined in the DCP. This has led to a number of DAs being called in to Council and ultimately some being rejected. If there were strong character considerations in the LEP and/or character statements in the DCPs then that would give the community and Council arguments greater weight.

Several communities in the Shoalhaven are so concerned about what they feel is 'inappropriate development' for their village/town that they have undertaken or are setting up groups to explore their character and what the community wishes to be their character e.g. Huskisson, Currarong, Sanctuary Point/St Georges Basin, Berry, Milton.

These concerns are not new and have in fact been noted by Council and incorporated in relevant documents, the Shoalhaven 2040 Our LSPS (September 2020) includes in Planning Priority 13 – "There is a strong desire for good management of development in our towns and villages to ensure development respects existing character. The development of the Shoalhaven Character Assessment report provides a starting point for us to work with our communities to settle a vision for the existing and future character of their neighbourhoods". The progression of this noted in Activity A13.1 "Update Shoalhaven Development Control

Plan 2014 with built form statements to ensure in-fill development contributes to neighbourhood character. Immediate”.

Our recently adopted Community Strategic Plan 2032 has as Key Priority 2.2 with the Outcome “Development contributes to and enhances neighbourhood character”, see below. Therefore, this Council needs to active steps to meet this Key Priority.

 Sustainable, Liveable Environments				
Key Priority		Outcomes	Council's Role	Our Partners
2.1	Manage our infrastructure for long term sustainability to meet community need	<ul style="list-style-type: none"> Public infrastructure is maintained for its current purpose and for future generations 	Leader Advocate Service provider Planner	NSW Government Federal Government
2.2	Manage growth and development with respect for environmental & community values	<ul style="list-style-type: none"> Improved collaborative strategic planning with the community Development contributes to and enhances neighbourhood character 	Leader Advocate Service provider Facilitator Planner Regulator	NSW Government Developers Community members Businesses

The Shoalhaven DCP 2014 overall objective number (iv) is

“iv. Ensure development responds to the qualities of the subject site and to the character of the surrounding neighbourhood.”

Also in chapter G12 the specific objectives are to:

- i. *Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity.*
- ii. *Maintain and enhance the amenity of existing and future residential areas.*
- iii. *Ensure development is compatible with the bulk, scale and character of the area, including scenic, landscape, pastoral or environmental qualities.*
- iv. *Set appropriate environmental criteria for energy efficiency, solar access, privacy, noise, vehicular access, parking, landscaping and open space.*
- v. *Ensure that development has due regard and is sympathetic to the physical constraints of the site.*

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- vi. *Allow for efficient use of existing services and facilities, including utility services, transport systems and community facilities.*
- vii. *Promote wider and more affordable housing choice in Shoalhaven. Implement agreed strategic directions and respond to demographic needs.*

Despite these laudable objectives in the DCP it is very difficult for Council to judge character without specific character statements that provide Council a reference frame to judge the character of proposed developments. This frustrates the community that their concerns regarding character cannot be acted upon by Council.

Examples of character statements in other Council DCPs show that they can be straightforward one-page statements that state the existing character and the desired future character. Wollongong has these 'Locality based DCPs / Precinct Plans' which may be a good model to follow.

This approach would also be consistent with the NSW Government - Local Character and Place Guideline dated February 2019.

The community would like to see character included in the Shoalhaven LEP; however, this will potentially require much more time and resources, therefore a first step is to have character included in the DCPs. It is useful to have character in the DCP as shown by the verdict of the Land and Environment Court in favour of Wollongong Council where in giving judgment, Commissioner Dickson stated:

"That the built form of the development is incompatible with the desired future character of Thirroul Village Centre as detailed in Chapter D12 of DCP 2009. Further, that on merit, a variation to the building height development controls at cl 13.2 (a) and 18 of chapter D12 of DCP 2009 is not warranted as the objectives of the control are not achieved: s 4.15 (3A) (b) of the EPA Act."

In summary, this notice of motion is to put into effect immediate steps to include character as a critical consideration in our key planning Instruments, including Character Statements in our Shoalhaven DCP 2014 and if possible also strengthened provisions in the Shoalhaven LEP 2014 so that planning applications can be immediately assessed against a character test and as a "Head of Consideration" for development proposals.

LOCAL GOVERNMENT ACT 1993

Chapter 3, Section 8A Guiding principles for councils

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services

Chapter 3, 8C Integrated planning and reporting principles that apply to councils

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.