

Ordinary Meeting

Meeting Date: Monday, 05 June, 2023

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 - 22 May 2023
6. **Declaration of Interests**
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)

12. Committee Reports

Nil

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Notices of Motion / Questions on Notice

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CCL23.17	Tenders - Meroo Road Bomaderry (CH300m to CH1540m) - Full Service Pavement Rehabilitation <i>Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.</i> <i>There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.</i>
CCL23.18	Waste Fee Relief - Special Circumstances <i>Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.</i> <i>There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal an individual's personal information or contravene an information protection principle under the Privacy and Personal Information Protection Act 1998 or a Health Privacy Principle under the Health Records and Information Privacy Act 2002.</i>

CL23.169 2023/2024 Community Donations

HPERM Ref: D23/177211

Department: Business Assurance & Risk

Approver: Carey McIntyre, Acting Director - City Performance

Attachments: 1. Informal Minutes Panel Meeting - Community Donations Program - 27 April 2023 (under separate cover)

Reason for Report

This report seeks Council’s approval for funding to the successful applicants as determined by the Community Donations Assessment Panel.

Recommendation

That Council

- Note the information in the report outlining the process followed for the 2023/2024 Community Donations Program, including the applications received.
- Approve the funding of the 2023/2024 Community Donations recommended by the Community Donations Panel, totalling \$199,920.17 to the following community organisations and community groups in the Shoalhaven:

Organisation	Donation For:	Amount Recommended
Shoalhaven Historical Society	Heritage & Cultural Publications Printing	\$1,200.00
Lay Missionaries of Charity through St Michael Parish	Lay Missionaries of Charity soup Kitchen	\$1,560.00
The Berry & District Historical Society	Printing - The Berry & District Historical Society	\$750.00
Milton Ulladulla Family History Society Inc	Printing of Journal Pigeon House Tidings (PHT)	\$750.00
Shoalhaven Youth Orchestra Inc	Shoalhaven Youth Orchestra: In school program	\$8,000.00
Shoalies Hockey Club Incorporated	Shoalies Hockey Inclusivity Development Program	\$8,000.00
Tabourie Lake Museum Foundation Inc	Tabourie Lake Museum Upgrade	\$6,000.00
The Ulladulla & Districts Community Resources Centre	Volunteer Booklet - Print Updated Version	\$1,595.00
Shoalhaven City Concert Band	Weekly Hire of Rehearsal Venue, Concert Venue Hires & Community Ensemble Workshops	\$2,000.00
The Flagstaff Group	Flagstaff Binowee Garden Water Tank	\$6,180.00
Nowra Youth Services Inc	2023 Shoalhaven Year 12 Aboriginal & Torres Strait Islander Students	\$7,000.00

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	Graduation Celebration	
Ulladulla Milton Lions Club	2024 Australia Day Celebrations	\$12,930.00
City of Shoalhaven Eisteddfod Inc	Annual City of Shoalhaven Eisteddfod Competition	\$9,000.00
Rotary Club of Berry Inc	Australia Day Community Breakfast	\$3,000.00
Berry & District Garden Club Inc	Berry Garden Club Camellia & Floral Show	\$1,605.00
Rotary Club of Berry Inc	Berry Rotary Celtic Festival	\$2,000.00
Rotary Club of Berry Inc	Berry Small Farm Field Day Event	\$2,000.00
Callala Bay Community Association Inc	Breakfast by the Bay - Community Australia day Event	\$1,440.00
Lions Club of Bomaderry Nowra Inc	Carols in the Park	\$6,500.00
Currarong Community Association Inc (CCA)	Currarong NYE Fireworks Show	\$5,000.00
Bravehearts Foundation Limited	Ditto's Keep Safe Adventure Program	\$6,500.00
Shoalhaven Assistance and Support Inc	Harmony Day Concert	\$3,000.00
Huskisson Chamber of Commerce & Tourism Inc	Huskisson New Year's Eve Fireworks	\$7,000.00
Milton Ulladulla Youth Driver Education	Milton Ulladulla Youth Driver Education	\$5,000.00
Music Shoalhaven Inc	Music Shoalhaven Concert Series	\$2,500.00
Rotary Club of Berry Inc	New Year's Eve Fireworks - Berry	\$7,000.00
Sanctuary Point Community Pride Incorporated	Spring into Sanctuary Point Street Festival & New application received for 22/23 event (cancelled)	\$1,000.00
Albatross Musical Theatre Company Inc	AMTC Rehearsal Support	\$8,000.00
CTC Sussex Inlet Incorporated	Assistance with Rental Expenses - Commercial Premises	\$6,500.00
Berry RSL Sub-Branch	Berry RSL Sub-Branch - Rates Donation	\$2,833.06
Currarong Community Association Inc (CCA)	Currarong Community Hall Subsidised Rates	\$2,874.39
Milton District Country Women's Association	Donation of Rates	\$3,000.00
Five Villages Community Garden Incorporated	Five Villages Community Garden	\$2,000.00
Friends of Callala Seniors Group	Friends of Callala Seniors Group	\$1,953.00
Mollymook Bridge Club Inc	Mollymook Bridge Club Inc	\$2,151.00

CL23.169

Noahs Inclusion Services	Noah's Inclusion Services - Rates Subsidy	\$5,356.00
Berry Branch of the County Women's Association (CWA)	Rate Relief for the Berry Branch of CWA	\$2,163.14
Tomerong School of Arts	Rates Subsidy for 23-24	\$3,209.09
Sussex Inlet Foundation for Community Development Inc	Rent Support for Sussex Inlet Foundation for Community Development Inc.	\$12,000.00
Treading Lightly Inc	Rental Subsidy for Community Hub for NFPs and Groups	\$15,000.00
Shoalhaven Pistol Club	Rates Subsidy	\$1,112.62
Shoalhaven Clay Target Club	Shoalhaven Clay Target Club	\$610.40
Marine Rescue NSW - Jervis Bay Unit	Subsidised Rates - Marine Rescue NSW Jervis Bay Unit	\$1,122.93
Cambewarra School of Arts Association Inc	Subsidised Rates & Water Rates	\$3,000.00
Sussex Inlet RSL Sub-Branch	Sussex Inlet RSL Sub-Branch Memorial Hall Rates & Charges Subsidy	\$2,056.78
Wandandian Progress Association Inc	Wandandian Community Hall & Emergency Hub - Joint Use Facility	\$1,800.00
Wildlife Rescue South Coast Inc	Wildlife Rescue South Coast Inc - Subsidised Rates	\$1,667.76

CL23.169

3. Provide sponsorship to the following organisations / applicants with the sponsorship being paid from the Community Donations Budget:
 - a. Shoalhaven Emergency Services Community for the amount of \$2,000
 - b. Solider On for the amount of \$1,000
4. Advise the remaining applicants that their application for the Community Donations Program have been unsuccessful.

Options

1. As recommended.

Implications: The donations (and two sponsorships) will be paid to the community organisations and groups as listed within the recommendation. This will result in funds of \$199,920.17 being expended from the Community Donations funds, leaving an available balance of \$714.80 in the Donations budget for 2024/2025.

2. That Council approve the funding as recommended by the Community Donations Panel totalling \$199,920.17, as well as any additional funding being awarded to those Community organisations or groups as decided by Council.

Implications: The available balance of \$714.80 will be reduced by any additional funds decided by Council.

3. That Council determines funding to applicants differently to the recommendation made by the Community Donations Assessment Panel.

Implications: This could result in no availability of funds for the 2023/2024 financial year.

Background

In relation application process for the 2023/2024 Financial Year Community Donations, the following actions have been undertaken:

1. Correspondence to past donations recipients to advise them of the new process for applying for a donation, as well as the application period opening and closing dates – 13 February to 24 March 2023.
2. Advertising and promotion of the Community Donations Program via newspaper, Facebook, Council website and radio advertising.
3. Applications closed 24 March 2023.
4. A meeting of the Community Donations Assessment Panel was held on 27 April to assess the applications received. The minutes of the Community Donations Assessment Panel meeting can be found at **Attachment 1**.

As part of the new procedure in accordance with the [Community Donation Policy](#), which was adopted at the Ordinary meeting of 27 June 2022, a Community Donations Assessment Panel was formed with the purpose of independently assessing applications across different areas of Council which involved staff from Environmental Services, Community Connections, Arts & Culture, Shoalhaven Entertainment Centre, Tourism Events, Business Assurance & Risk and Governance.

The Community Donations Assessment Panel met on Thursday 27 April 2023. The panel considered all applications received and recommended that:

- That of the 59 applications received, 49 be provided funding in full or part.
- That 10 applications do not receive funding on the basis that they are ineligible under the policy criteria, did not provide sufficient information for assessment, or were not considered appropriate to fund.
- That the Shoalhaven Emergency Services Communication Awards event, which is ineligible as a Community Donation, be considered as in previous years as a Sponsorship under the Council's Sponsorship Policy and be sponsored to the amount of \$2,000, funding for the Sponsorship will be made from the Community Donations Budget.
- That the Solider On – A Postie Ride for PTSD event, which is ineligible as a Community Donation, be considered as in previous years as a Sponsorship under the Council's Sponsorship Policy and be sponsored to the amount of \$1,000, funding for the Sponsorship will be made from the Community Donations Budget.

Community Engagement

Past recipients of "Allocated" and "Unallocated" donations were contacted via mail and email to advise of the new process in line with the [Community Donation Policy](#) and were encouraged to review the eligibility criteria to apply for a 2023 / 2024 donation.

Advertising was undertaken on Shoalhaven radio stations, Facebook and newspaper advertising in the Milton Ulladulla Times and South Coast Register throughout February to March this year.

Information, eligibility criteria and online application forms were made available via Council's website. The application period was open from 13 February to 24 March 2023.

It is worth noting that the uptake of applications has increased from 56 applications received last year to 59 this year and that of those 59 applications 17 are new applicants that the advertising campaign has reached.

Financial Implications

The donations budget for the 2023/2024 financial year is \$200,634.97. This included \$26,994.60 amount which was carried over from the previous financial year's unspent funds.

The Community Donations Assessment Panel recommends funding of \$199,920.17 with \$3,000 being expended for sponsorship for the Shoalhaven Emergency Services Communication Awards and Solider On Postie Ride for PTSD event.

If Council resolves to approve the recommendation as outlined in the report this would leave an available balance of \$714.80 in the Donations Budget for urgent events or items that arise through the remainder of the financial year – noting that Council has the opportunity to review remaining budget as part of each quarterly budget review.

CL23.170 Local Government Remuneration Tribunal - Determination of Councillor and Mayoral Fees 2023/2024

HPERM Ref: D23/167149

Department: Business Assurance & Risk
Approver: Carey McIntyre, Acting Director - City Performance

Attachments: 1. Annual Report and Determination - Local Government Remuneration Tribunal (under separate cover) [⇒](#)

Reason for Report

The reason for this report is to enable elected Councillors to note and consider the attached determination from the Local Government Remuneration Tribunal, and to adopt the fees payable to the Mayor and Councillors for the 2023/2024 financial year.

Recommendation

That Council:

1. Note the Local Government Remuneration Tribunal's Annual Report and Determination dated 6 April 2023.
2. Note that Shoalhaven City Council has been recategorized as Regional Strategic Area alongside Lake Macquarie, Maitland and Tweed Councils.
3. Adjust the Councillor Fee payable to Councillors from 1 July 2023 to 30 June 2024 to be \$32,590 and the Additional Mayoral Fee to be \$94,950.
4. Not provide the additional Mayoral fee (in full, or in part), to the Deputy Mayor when the Deputy Mayor is required to act in the position of Mayor during periods of approved leave.

Options

1. As Recommended

Implications: This will adjust the Fees for Councillors and Additional Mayoral Fee to the maximum permissible in line with the determination of the remuneration tribunal for the 2023/2024 financial year.

2. Adjust the Councillor and Mayoral fees to a lesser amount within the minimum and maximum amounts as outlined in the report.

Background

The Local Government Remuneration Tribunal has determined an increase of 3% to Mayoral and Councillor fees for the 2023/2024 financial year, with effect from 1 July 2023.

Councillors' Fees

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

CL23.170

The relevant provisions of the Act are outlined below:

248 Fixing and payment of annual fees for councillors

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

249 Fixing and payment of annual fees for the mayor

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

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

For the 2023/2024 financial year, the Tribunal is of the view that the population criteria for Regional Strategic Area be adjusted from 200,000 down to 100,000, given the relativities in population threshold criteria. As a result, three councils will be reclassified as Regional Strategic Area (including Shoalhaven).

The Determination of the Tribunal is that Councils in the Regional Strategic Area Category may fix the 2023/2024 annual fee for Councillors between \$19,760 (minimum) and \$32,590 (maximum). The Mayoral Additional Fee has been set at between \$41,960 (minimum) and \$94,950 (maximum). The Council may set any figure for the fees within this range.

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

Payment for the Deputy Mayor

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

In January 2022 a request was made to all NSW Councils requesting their position on paying the Deputy Mayor fees deducted from the Mayoral fee - 38 responses were received.

- 22 Councils do not pay the Deputy Mayor fees.
- 7 Councils pay 100% of additional Mayoral fee whilst the Deputy Mayor is acting (some with provisions relating to the length of time acting as Mayor).
- 7 Councils pay a percentage of the Mayoral Fee ranging from 10% to 50%.
- 2 Councils pay a specific amount - \$1,200 and \$3,621 respectively.

The matter of the Deputy Mayoral Fee is one for consideration and determination by the Council. This may also be a matter that the Council could consider at the required time when there is an extended absence of the Mayor.

Superannuation for Councillors

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

The relevant amendment to the Act states:

Section 254B Insert after section 254A—

254B Payment for superannuation contributions for councillors

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

The wording of the legislation sets out that the Council may elect to either provide a Superannuation Payment at the rate set out in the Superannuation Guarantee (equal to 11%

of annual fees from July 2023) or not provide a superannuation payment. The superannuation payment is calculated on the Fees paid to Councillors (and for the Mayor the additional Mayoral Fee in addition to the Councillor Fee). Any amounts reimbursed to Councillors in the form of expense payments under the Council Members Payment of Expenses and Provision of Facilities Policy are not related to the superannuation calculation.

Council resolved at its Ordinary Meeting of 7 February 2022 (MIN22.270) to provide a Superannuation Payment to Councillors. In accordance with the Superannuation Guarantee the rate of superannuation for the 2023/2024 Financial year will be 11%.

Community Engagement

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

Financial Implications

Current fees paid to Shoalhaven City Councillors and Mayor

CATEGORY	Councillor Annual Fee	Mayor Additional Fee*
Regional Centre	\$ 25,310	\$ 62,510

Proposed fees to Shoalhaven City Councillors and Mayor 2023/2024 financial year:

2023/2024 Determination - Pursuant to Section 241 of Fees for Councillors and Mayors

CATEGORY	Councillor Annual Fee		Mayor Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Regional Strategic Area	\$ 19,760	\$ 32,590	\$ 41,960	\$ 94,950

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

The total financial impact of the recommendation is summarised below:

	Current draft 23/24 budget	Proposed 23/24 Max Allowance	Additional Allowance costs	Additional Super costs (11%)	Total Additional costs
Councillor Allowance	345,384	423,670	78,286	8,611	86,897
Mayor Allowance	65,628	94,950	29,322	3,225	32,547
Total	411,012	518,620	107,608	11,837	119,445

It is proposed that if endorsed by the Council, the required, currently unbudgeted funds of \$119,445 will be identified and funded at each of the quarterly budget reviews in the 2023/24 financial year.

CL23.170

CL23.171 2022/23 Council Borrowings - TCorp Loan Agreement

HPERM Ref: D23/179627

Department: Finance

Approver: Carey McIntyre, Acting Director - City Performance

Attachments:

1. TCorp Loan Calculation May 2023 - Loan 1 [↓](#)
2. TCorp Loan Calculation May 2023 - Loan 2 [↓](#)
3. TCorp Loan Calculation May 2023 - Loan 3 [↓](#)

Reason for Report

This reason for this report is to seek Council approval to enter into loan agreements with NSW Treasury Corporation (TCorp) for both General Fund and Waste Fund borrowings that have previously been endorsed by Council.

Recommendation

That Council:

1. Enter into a loan agreement, with New South Wales Treasury Corporation (TCorp) for \$16,154,128 (to be repaid over 10 years with an indicative interest rate of 4.31%) to cover the General Fund borrowing requirements that have been previously endorsed by Council and included in the 2022/23 Delivery Program and Budget (MIN22.425).
2. Delegate authority to the Chief Executive Officer to execute the loan agreement.

Options

1. Adopt the recommendation in the report.

Implications: Council will be able to take up loans and fund capital projects in accordance with the adopted 2022/23 Delivery Program and Budget.

2. Not adopt the recommendation and make an alternative resolution.

Implications: Council will need to seek borrowings from other financial institutions and pay higher interest on loans or delay capital works.

Background

As part of the Fit for the Future reforms, the NSW Government announced that councils who were declared “Fit” would be able to borrow funds from TCorp at reduced interest rates. Given that Shoalhaven City Council was deemed “Fit” in October 2015, it is eligible to utilise TCorp for borrowing funds at reduced rates for approved purposes.

The borrowings outlined in this report were approved in principle by Council as part of the 2022/23 Delivery Program (MIN22.425). Please note that these borrowings do not include the Holiday Haven loan program for 2022/23 (\$3,926,184). The loan for Holiday Haven was sourced from another financial institution as TCorp’s loan facilities are not available for a Council run business which is in competition with existing privately run businesses.

The summary of the proposed borrowings along with the estimated interest expenditure is summarised in the 10-year projections table below:

CL23.171

Loan #	Project	Loan Amount \$	Total Interest over Life of the Loan \$	Funding Source
1	Building compliance works	1,503,000	363,375	General Fund
1	Ulladulla Civic Centre Improvements	395,000	95,498	General Fund
1	Building improvements	908,000	219,524	General Fund
1	Local Roads Renewal Program	5,243,128	1,267,611	General Fund
1	Netball Court Redevelopment	2,300,000	556,063	General Fund
1	Showground Improvements	3,900,000	942,889	General Fund
1	Ulladulla Skate Park	1,000,000	241,766	General Fund
2	Various	905,000	218,799	General Fund
	Total	16,154,128	3,905,525	

Financial implications

It is important for Council to gain the best interest rates on borrowings and locking this agreement in place will ensure the lowest interest rate available for the full term of the loan agreement. The current indicative interest rate provided by TCorp is 4.31%, an updated interest rate will be provided when the drawdown date has been confirmed. This rate is more favourable when compared to indicative interest rates from the financial sector of 5.15%, and results in an estimated interest saving over 10 years of \$868,038.

CL23.171

Loan 1 - Waste Projects				4.31%
Payment	Interest	Principal	Total	Balance
23/06/2023				1,000,000.00
23/12/2023	21,609.04	40,479.28	62,088.32	959,520.72
23/06/2024	20,734.32	41,354.00	62,088.32	918,166.73
23/12/2024	19,840.70	42,247.62	62,088.32	875,919.11
23/06/2025	18,824.34	43,263.98	62,088.32	832,655.13
23/12/2025	17,992.88	44,095.44	62,088.32	788,559.70
23/06/2026	16,946.90	45,141.42	62,088.32	743,418.28
23/12/2026	16,064.56	46,023.76	62,088.32	697,394.52
23/06/2027	14,987.68	47,100.64	62,088.32	650,293.88
23/12/2027	14,052.23	48,036.09	62,088.32	602,257.80
23/06/2028	13,014.21	49,074.11	62,088.32	553,183.69
23/12/2028	11,953.77	50,134.55	62,088.32	503,049.14
23/06/2029	10,811.01	51,277.31	62,088.32	451,771.84
23/12/2029	9,762.36	52,325.96	62,088.32	399,445.88
23/06/2030	8,584.47	53,503.85	62,088.32	345,942.03
23/12/2030	7,475.48	54,612.84	62,088.32	291,329.20
23/06/2031	6,260.94	55,827.38	62,088.32	235,501.82
23/12/2031	5,088.97	56,999.35	62,088.32	178,502.47
23/06/2032	3,857.27	58,231.05	62,088.32	120,271.42
23/12/2032	2,598.95	59,489.37	62,088.32	60,782.06
23/06/2033	1,306.26	60,782.06	62,088.32	0.00
	241,766.34	1,000,000.00		

Loan 2 - known General Fund Projects				4.31%
Payment	Interest	Principal	Total	Balance
23/06/2023				15,249,128.00
23/12/2023	329,519.03	617,273.67	946,792.70	14,631,854.33
23/06/2024	316,180.34	630,612.36	946,792.70	14,001,241.98
23/12/2024	302,553.41	644,239.29	946,792.70	13,357,002.69
23/06/2025	287,054.80	659,737.90	946,792.70	12,697,264.79
23/12/2025	274,375.72	672,416.98	946,792.70	12,024,847.82
23/06/2026	258,425.51	688,367.19	946,792.70	11,336,480.63
23/12/2026	244,970.48	701,822.22	946,792.70	10,634,658.41
23/06/2027	228,549.01	718,243.69	946,792.70	9,916,414.73
23/12/2027	214,284.21	732,508.49	946,792.70	9,183,906.24
23/06/2028	198,455.41	748,337.29	946,792.70	8,435,568.96
23/12/2028	182,284.56	764,508.14	946,792.70	7,671,060.82
23/06/2029	164,858.45	781,934.25	946,792.70	6,889,126.57
23/12/2029	148,867.42	797,925.28	946,792.70	6,091,201.30
23/06/2030	130,905.76	815,886.94	946,792.70	5,275,314.36
23/12/2030	113,994.48	832,798.22	946,792.70	4,442,516.14
23/06/2031	95,473.93	851,318.77	946,792.70	3,591,197.38
23/12/2031	77,602.33	869,190.37	946,792.70	2,722,007.01
23/06/2032	58,819.96	887,972.74	946,792.70	1,834,034.27
23/12/2032	39,631.72	907,160.98	946,792.70	926,873.30
23/06/2033	19,919.40	926,873.30	946,792.70	0.00
	3,686,725.93	15,249,128.00		

Loan 3 - possible successful grant projects				4.31%
Payment	Interest	Principal	Total	Balance
23/06/2023				905,000.00
23/12/2023	19,556.18	36,633.75	56,189.93	868,366.25
23/06/2024	18,764.56	37,425.37	56,189.93	830,940.89
23/12/2024	17,955.84	38,234.09	56,189.93	792,706.80
23/06/2025	17,036.03	39,153.90	56,189.93	753,552.90
23/12/2025	16,283.56	39,906.37	56,189.93	713,646.53
23/06/2026	15,336.95	40,852.98	56,189.93	672,793.56
23/12/2026	14,538.42	41,651.51	56,189.93	631,142.05
23/06/2027	13,563.85	42,626.08	56,189.93	588,515.97
23/12/2027	12,717.27	43,472.66	56,189.93	545,043.31
23/06/2028	11,777.86	44,412.07	56,189.93	500,631.25
23/12/2028	10,818.16	45,371.77	56,189.93	455,259.48
23/06/2029	9,783.96	46,405.97	56,189.93	408,853.51
23/12/2029	8,834.93	47,355.00	56,189.93	361,498.51
23/06/2030	7,768.95	48,420.98	56,189.93	313,077.54
23/12/2030	6,765.31	49,424.62	56,189.93	263,652.92
23/06/2031	5,666.15	50,523.78	56,189.93	213,129.14
23/12/2031	4,605.52	51,584.41	56,189.93	161,544.73
23/06/2032	3,490.83	52,699.10	56,189.93	108,845.64
23/12/2032	2,352.05	53,837.88	56,189.93	55,007.76
23/06/2033	1,182.17	55,007.76	56,189.93	0.00
	218,798.55	905,000.00		

CL23.172 DPOP 2022-23 - Quarterly Performance and Budget Report (January 2023 - March 2023)

HPERM Ref: D23/105009

Department: Corporate Performance & Reporting
Approver: Carey McIntyre, Acting Director - City Performance

Attachments:

1. Delivery Program Operational Plan - Quarterly Performance Report 2022-23 - January to March (under separate cover) [⇒](#)
2. Completed Notice of Motion and Mayoral Minutes Action Sheets Report – 23 February 2023 to 24 May 2023 (councillors information folder) [⇒](#)
3. Uncompleted Notice of Motion and Mayoral Minutes Action Sheets Report – 24 May 2023 (councillors information folder) [⇒](#)
4. Quarterly Budget Review Statement - March 2023 (under separate cover) [⇒](#)
5. Capital Projects Status Update March 2023 Quarterly Report (under separate cover) [⇒](#)

Reason for Report

The purpose of this report is to provide Council's Quarter 3 performance (January to March 2023) against actions and targets set in Council's 2022-23 Delivery Program and Operational Plan (DPOP).

In accordance with Clause 203 (1) of the Local Government (General) Regulation (2021), the responsible accounting officer must prepare and submit to Council, a Budget Review Statement at the end of each quarter. This has been undertaken for the third quarter of the 2022/23 financial year.

Recommendation

That Council:

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

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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.

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 March 2023 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 March Quarterly Budget Review Statement.

Summary of Delivery Program Operational Plan 2022-23 Performance

Table 1 below provides breakdown of performance as at 31 March 2023 across each of the key themes outlined in the Community Strategic Plan - Shoalhaven 2032.

Table 1: Action performance as at 31 March 2023 by Community Strategic Plan 2032 Theme area

CSP Theme	Progress snapshot
Resilient, safe, accessible and inclusive communities	94% actions on track or completed
Sustainable, liveable environments	80% actions on track or completed
Thriving local economies that meet community needs	100% actions on track or completed
Effective, responsible and authentic leadership	95% actions on track or completed

Of the 156 DPOP actions, 105 (67%) are programs or services which are delivered throughout the entire financial year. Of the remaining 51 project actions, nine (20%) have been completed to 31 March 2023.

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 (January - March) is included as **Attachment 1**.

Significant achievements between January and March 2023 include:

- Boongaree Skate Park and Pump Track opened to the public in March with the opening ceremony held on 14 April 2023.

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- Sporting Precincts and Destination Parks playing surfaces improvement program is 80% complete, includes turf related maintenance programs - soil testing, fertilizing, aeration, and topdressing.
- Two museum advisors have been appointed to support the volunteer led Shoalhaven Museums for the next 2 years on collection care.
- On-site sewage management inspections exceeded the quarterly target by 29% to 1165 inspections.
- 20 Road repair projects have been completed including Worrigee Road, Main Road – Cambewarra, Village Drive, Callala Beach Road, Tannery and Beach Roads, Kings Point Drive, Croobyar Road and Mayfield Road.
- Alternative power supplies completed at critical Shoalhaven Water infrastructure at Haviland Street, Pointer Road, Pointer Balance Tank, Conjola Reservoir, Bendalong Motorised Valve and Sussex Inlet Water Reservoir.
- Lower Shoalhaven River and St Georges Basin Flood Studies and associated Flood Planning Level Policies were adopted by Council in January 2023.
- Engagement for the Nowra Riverfront Project kicked off as part of the Nowra Bridge Project Opening Walk with 300 postcards completed and initial community workshop held in March.
- Successful in receiving over from the \$2 million Stronger Country Communities Fund to upgrade several parks, playgrounds, floodlighting and drainage to various local sporting fields.
- Shoalhaven has the most affordable - Typical Residential Bill - Water Supply, for a Local Water Utility with connected properties between 50,000 - 100,000 in Australia.
- Get Involved website published 9 consultations/projects during the quarter with 11,564 visits to the site and 284 engaged in a Council project by providing feedback/completing surveys. In-person consultations included the Conjola Park Community Gathering at Hoylake Grove.

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Requires Attention

Table 2 below outlines the six Action items have been reported as requires attention at 31 March 2023. Full performance comments are in the attached report and remedial actions have been reported to senior management.

Table 2: DPOP Actions rated as ‘requires attention’ as at 31 March 2023.

Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
2.1.06.03	Plan for Sewer & Water infrastructure to support West Culburra & Mundamia Urban Release Areas	Design for Mundamia project is 90% complete however construction cannot commence until environmental approval within the development area has been addressed by the developer. Environmental work outside of the site boundary is continuing. Process review for Culburra STP has been completed.
2.1.07.02	Improve Shoalhaven Water's levels of service for Development & Regulatory Function	Resourcing issues have impacted current period, particularly in the development assessment area. Recruiting and resourcing will continue to be monitored over the next 3 to 6 months to ensure levels of service remain within acceptable levels.

Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
2.2.02.01	Assess and determine development applications within legislative timeframes and community expectations	Council continues to improve processing times through recruitment, continual review of the DA assessment process, processing of older applications from the system and working with the Department of Planning and Environment to ensure agency referrals are received in a timely fashion.
2.2.02.02	Resolve Subdivision and Subdivision Works Certificates to meet applicant and community expectations	Subdivision Certificates continue to be resolved efficiently within the target time frame. Staff undertaking assessment of Subdivision Works Certificates continue to work hard to improve timeframes whilst balancing demands noting also a key position has been recently vacated, however recruitment is underway.
2.3.03.02	Support organisational environmental due diligence	There have been some environmental referrals that were not completed on time. Focus is on replacing a vacant role. There is also a major focus by the team on completing referrals. A number of Reviews of Environmental Factors are near completion, including for dog off-leash areas, as well as for the planned reconstruction of two jetties.
2.3.03.02	Prepare new, or review existing Bushcare Group Action Plans in consultation with community	One Bushcare Action Plan has been drafted (Bannister Head Road) and is currently being reviewed, three others (Mahogany Creek, Fishermans Paradise and Kean Ave) are being drafted. Actions to rectify the resource constraints associated with the preparation of the Bushcare Action Plans are being enacted through budget estimations for 2023/24.

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On Hold

Table 3 below, outlines the eight Action items have been reported as on hold as at 31 March 2023. Full performance comments are in the attached report and remedial actions have been reported to senior management.

Table 3: DPOP Actions rated as ‘on hold’ as at 31 March 2023.

Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
1.1.02.03	Work with the NSW Government to finalise the Crown Lands plans of management	Community Planning and Projects Team are amending a number of Plans of Management (PoM), which have been returned (with comments) from Crown Lands. The General Community Use PoM is the first priority, with the remaining generic PoMs to follow. Mapping is also being coordinated with the GIS team.
1.2.02.03	Implement the Strategic Business & Marketing Plan to support development of the Shoalhaven Entertainment Centre	Staff resources continue to challenge delivery of this action. Marketing, Technical, Administration and Events teams are at capacity responding to a full and vibrant program of shows, events and bookings which has impacted on time to progress this activity. A recruitment plan is underway and additional staff have

Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
		been interviewed. This Strategic Business & Marketing plan remains on hold as a consequence.
1.3.02.03	Review and update the CISP to form the strategic planning for future development	The review of the Community Infrastructure Strategic Plan (CISP) will be led by the Strategic Asset Advisor, as part of the Community Planning and Projects team. Recruitment for this position continues.
2.1.06.01	Maximise water reuse to reduce demand on drinking water supplies	The Reclaimed Water Management Scheme (REMS) 2.0 design phase is now complete and project is ready for construction however action is on hold until additional funding is sourced to deliver project.
2.1.06.06	Investigate asset resilience and security of water supply opportunities	Bamarang to Milton pipeline stage 2 project is currently on hold due to funding constraints. Project will be revisited once water strategies are completed and time frames for project delivery are known with greater certainty.
4.2.01.05	Formalisation of Legislative Compliance Framework	Although work has commenced, this action is currently on hold due to competing priorities.
4.2.08.02	Create a strategy with measurable actions for Council's strategic property assets, including investigation into alternate revenue streams	Although preliminary work has commenced, work has been placed on hold as it is intended that a new approach and direction will be pursued to formulate a new strategy with Council. Meetings to be organised with relevant stakeholders to decide on a new strategy moving forward.
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 31 March 2023, Council has endorsed 93 Notices of Motion (NoMs) which can be categorised as follows:

- 63 NoM's relate to information, donations / community support, maintenance / traffic requests, advocacy or Development Application call-ins and covered in business-as-usual operations.
- 30 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 (10)
 - Forward Planning (19)
 - Policy (1)

In addition, there are 9 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 2** and **Attachment 3**, respectively.

March 2023 Quarterly Budget Results Overview

Shoalhaven Council has continued to be actively engaged in emergency repairs and recovery works while continuing to deliver essential services to the community.

As mentioned in September Quarterly Budget Report, Council switched to the "Opt-In" option for Natural Disasters Funding arrangement which means that all the approved repair costs are claimable. However, Council will have to pay a fee of \$600K on average per natural disaster, capped to \$1.5M total per financial year. So far Council is required to contribute \$1.8M in total which includes March 2022, July 2022, and September 2022 natural disaster events. There has been \$1.1M allocated in the 2023/24 draft budget, a source of funding is yet to be identified for the remaining \$700K.

The General Fund operating expenses are 3.99% above the year-to-date adopted budget (\$230M actuals vs. \$222M budget, unfavourable) mainly due to emergency events and recovery works (\$3.7M), local road and stormwater maintenance works (\$2.2M), park precincts maintenance (\$1.9M), depreciation (\$1.5M) and buildings maintenance (\$550K).

It is important to note that Q3 budget adjustments address these major unfavourable variances in expenses. With natural disaster works being funded by the Natural Disaster Funding (\$3.7M). There has also been transfers from capital projects (\$5.3M) that will not be completed this financial year to fund the additional maintenance costs incurred for local road and stormwater maintenance works (\$2.2M), park precincts maintenance (\$1.9M) and buildings maintenance (\$550K).

The breakdown of the capital works program that will not be completed this financial year is summarised in **Table 4**:

Table 4: Capital works program to be carried forward to 2023/24

Program	Project	Budget
Projects not commenced		395,829
Bereavement Services Capital Expenditure	BER - NG - Shed demolition & repair - FY22	12,909
Coastal Programme	Callala Bay Foreshore Protection	7,500
Coastal Programme	Currarong beach access upgrades	120,000
Coastal Programme	Public Safety Beach Access Works	20,000
Floodplain Programme	Review of Broughton Creek Flood Study	23,330
Holiday Haven Lake	HH - LT - Playground Replacement	45,000
Tabourie Capital Works		
IT Capital Projects	Corporate Mobile Devices	100,000
Open Space - Skate Parks	Ulladulla Skatepark Works - SCCF 3-0541	22,090
Pathways	Silkwood Wlk - Streetscpe Wlk Path Lghtng Urban Upgrade/New	25,000
Public Buildings	2/80 Park Road Drainage & Concreting Works	20,000
Projects commenced		4,937,784
Administrative Building Management - Capital	Nowra Admin Building - Renew Western Foyer Glasswork Seals	138,000
Bereavement Services Capital Expenditure	BER - SMGLC - APZ construction - FY22	50,000
Boat Ramps & Jetties	Lakehaven Dr - Waterways Fishing Fac/ Wall Urban Renewal	200,000

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Coastal Area Maintenance	Lower Shoalhaven River - Pre-dredging feasibility (Grant)	15,000
Coastal Programme	Beach Access Upgrades	166,686
Coastal Programme	Climate change impacts policy	95,000
Coastal Programme	Foreshore Protection and Preservation - Community Engagement	16,500
Coastal Programme	Implement Beach Scraping at High Priority Beaches	48,536
Coastal Programme	Managing & Stabilising Dune Systems	37,421
Coastal Programme	Improving Beach Access	
Coastal Programme	Narrawallee - Viewing Platform, Surfers Ave	58,988
Coastal Programme	South Mollymook Coastal Protection Design	44,227
Concrete and Timber	Bridge Program - Various - Bridge Concrete Culvt Replacement	75,000
Concrete and Timber	Steel arch refurbishment Various Locations Upgrade	55,418
Corporate Business Improvement	OneCouncil Implementation - Phase 4 (GF)	750,000
Depot Improvements	Ulladulla Depot - Council Sheds Urban Renewal	35,693
Drainage	Prince Edward Av - Drnge SkatePk WaterQul Urban Upgrade/New	34,900
Estuary Programme	Lake Conjola CMP	5,050
Estuary Programme	Lower Shoalhaven River Estuary CMP	6,542
Open Space - Major Projects	Sanctuary Point Library - Design & Invest	231,773
Open Space - Parks Infrastructure	SSF - Park Enhancement Program	30,000
Open Space - Skate Parks	Regional Skate Park Area 3 - Bay & Basin	467,245
Open Space - Sporting Fields	SSF - Sports Capital Works Partnership Program	100,000
Pathways	BBRF3 Myola Active Transport	335,000
Pathways	Nowra CBD Renewal	1,029,550
Public Amenities	Sanctuary Point - Francis Ryan Reserve - New Amenities	134,353
Public Buildings	EOI 100 St Vincent St - Stage 2 Building Works MIN21.790	84,000
Public Buildings	JBMM Jetty Replacement 2022	38,000
Public Buildings	Nowra & Berry School of Arts, Milton Cultural Report Items	34,000
Public Buildings	Orient Point Preschool Carpark Works	200,000
Public Buildings	Preschools-Fire Detect, Control Indicator Equip & Elect Upgr	93,000
Public Buildings	Public Amenity Door Lock Replacement Project	38,000
Public Buildings	SSF North - Recreation Buildings Programmed Works - Various	49,536
Regional, Sub-Arterial and Industrial	HYSAs (Hillcrest to Yalwal Sub-Arterial)	13,109
Rural Roads	Woodstock Rd - CH7.39 CH8.47 Design Rural Upgrade (LRCl-4)	29,063
SEC Capital	SEC Generator Connection Point	34,000

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Showground Buildings	Berry Showground - Caravan Compliance - Access	35,000
Showground Buildings	Milton Showground Dog Club Relocation	60,000
Showground Buildings	SSF - S'ground Stimulus Round 1 - Milton - Amenities Bld	62,920
Urban Roads	Owen/Sydney St Roundabout Huskisson	6,275
Total		5,333,613

Whilst the year to date additional maintenance costs is \$5M, the full year projection is expected to be \$6.6M. The \$5.3M of funds redirected from capital projects that were to be carried forward into 2023/24 will be replaced through the reallocation of the draft 2023/24 capital works program and will be reported to Council on the completion of the draft Delivery Program / Operational Plan exhibition period. Council will consider the appropriate phasing of project expenditure, ensuring the budgets are allocated across mutile years where it is anticapted projects will exceed a 12 month completion timeframe.

The remaining \$1.4M of unfunded maintenance will be indentified during the June Quarterly Budget Review. The remaining large adjustment to operating expenditure is to recognise an additional grant received for regional and local roads repairs (\$3.3M) which is fully offset by a corresponding income adjustment.

The General Fund revenues are currently 1% above the year-to-date adopted budget (\$269M actuals vs. \$267M budget, favourable), mainly due to better than projected income from Holiday Haven, Swim, Sport and Fitness, waste tipping fees and interest on investment income.

The Water Fund operating expenses are more than the year-to-date adopted budget. Mainly due to the additional depreciation resulting from the revaluation of assets in the 2021/22 financial year.

The revenues of the Water Fund are 8.6% below year-to-date adopted budget. This is primarily due to decreases in residential and non-residential usage revenue (\$1.3M) as a result of heavy rainfall.

The Sewer Fund operating expenses are on track with year-to-date adopted budget.

The revenues of the Sewer Fund are 1.8% above year-to-date adopted budget. This is mainly due to increases in access charges (\$932K).

The March budget results indicate that the Council is in a weaker budget position compared to December but remains financially sustainable with an acceptable level of working capital and a sufficient level of unrestricted cash.

Table 5 shows the working capital position of the General Fund as at 31 March 2023, is **8.3%** of the current liabilities expected to settle within 12 months, above the **benchmark of 5%**:

Table 5: Working Capital Position

Description		(\$'000)
Add	Current assets	120,190
Less	Current liabilities	70,392
Calc	Net Current Assets	49,798
Less	External asset restrictions	66,426
Less	Internal asset restrictions	21,208
Add	Current liabilities not expected to settle in 12 months	18,403

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Add	Current liabilities that are covered by externally restricted assets	17,822
Add	Current liabilities that are covered by internally restricted assets	5,925
Calc	Available working capital	4,313
Calc	Working Capital as a % of Current Liabilities expected to settle within 12 months	8.30%

Management continues to monitor the working capital position and will continue to pursue the \$24M in grant funds expended in advance (which are reflected as a current asset). Council also continues to report on the key liquidity indicators to the Council on a monthly basis.

General Fund Budget and Quarterly Review Movements

The net operating result before capital grants and contributions of the General Fund as at 31 March 2023 Quarterly Budget Review, was a surplus of \$6.8M, a \$3.7M unfavourable variance to the budgeted \$10.5M. This unfavourable variance is mainly due to the continued unavoidable spending needed on natural disaster repairs and roads, parks and building maintenance.

The unrestricted cash outflow was \$1.1M more than the budgeted amount of \$241K (unfavourable). This unfavourable movement is reflected in **Table 6**.

Table 6 presents a high-level summary of the budget and movements for the General Fund for 2022/23:

Table 6: General Fund Budget Summary

(\$'000) Favourable / (Unfavourable)	Current Adopted Budget	March QR Adjustments	March QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	75,263	(7,788)	67,474	45,486	38,948
Net Operating Result before Capital Grants & Contributions	(12,578)	(2,345)	(14,923)	10,549	6,758
Net Cash & Investments Movement	(71,936)	61,669	(10,267)	(57,907)	(806)
Unrestricted Cash Movement	(9)	9	(0)	(241)	(1,393)

There was a unfavourable change to the net operating result before capital grants and contributions (\$2.3M) which is mainly attributed to the transfer of capital budget to fund maintenance expenditures in roads, parks and buildings.

Capital grants and contributions budget is proposed to be decreased by \$5.4M (unfavourable) to reflect capital grants and projects that are proposed to be carried forward in the 2023/24 financial year.

It is important to note that proposed budget adjustments have a minor affect on unrestricted cash movement. The additional expenditure areas mentioned above have not been completely funded and there is still a shortfall \$1.4M to be found in the June Quarterly Budget Review.

During the first nine months of this financial year, various Council resolutions have identified projects to be funded in future quarterly budget reviews. **Table 7** shows these items for

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funding consideration showing the projects that could be funded and the ones where funding was not able to be found.

Table 7: Council Resolved Projects in the First Nine Months of the Year

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
MIN22.383 - detailed Design New Kangaroo Valley playground	50
MIN22.745 - Bawley Point Footpath (Barrie's Way) (MIN23.200 funded in the draft 2023/24 capital works program)	60
Not Funded	
MIN22.135 and MIN.22.286 – annual allocation for masterplans for parks and reserves	300
MIN22.720 - June QR deferred projects to be reinstated at future quarterly budget reviews	670
MIN22.861 – Murramarang Rd–Pedestrian Bawley Point Shared User Path	1,800
MIN22.790 - an education campaign relating to tree management and the 45 degree rule exemption to be funded from a quarterly review	Unknown

It is important to note that Council is exploring available grant options to fund the construction of Murramarang Road Shared User Path and has lodged a grant application to fund this project. Council is yet to be notified about the outcome of the application. The project has been included in the draft 2023/24 capital works program, noting the dependency on grant funding. **Table 8** below, shows the list of deferred projects from MIN22.720

Table 8: List of Deferred Projects from MIN 22.720

2022/23 Deferral into future years (unfunded)	(\$'000)
Funded	
Beach Access Upgrades	200
Not Funded	
Installation of Lions Club Shed - Proposed 21 Norfolk Ave	270
Boree St - LRRP Carpark #5 Bitumen Seal Urban Upgrade	150
Review Community Infrastructure Strategic Plan	50
	670

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

For a detailed list of budget variations and proposed budget adjustments, please refer to **Attachment 4** – Quarterly Budget Review Statement – March 2023.

Capital Projects Progress Overview

Attachment 5 provides a detailed update as at 16 May 2023 on the progress of 105 major capital projects with the annual budget allocation of over \$400K for each project (total budget of \$199M) which represents 78% of the adjusted annual capital budget of \$255M.

As at 16 May 2023, 82 projects remain on track, 12 have been completed, 3 are under close monitoring and 8 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 grants and contributions of the Water Fund as at 31 March 2023 Quarterly Budget Review, was a deficit of \$3.9M when compared to the year to date forecasted deficit of \$588K. The unfavourable variance is largely due to wet weather conditions, resulting in a reduction of \$1.3M in water usage revenue and the impact of additional depreciation due to asset revaluations.

The actual net cash and investments outflows were \$11M less than the adopted budget of \$16M. The primary reason for this favourable movement is the delay in capital expenditure offset by reduced water usage revenue. This is summarised in **Table 9** below:

Table 9: Water Fund Budget Summary

(\$'000) Favourable / (Unfavourable)	Current Adopted Budget	March QR Adjustments	March QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	6,778	(2,794)	3,983	2,727	(1,657)
Net Operating Result before Capital Grants & Contributions	2,227	(2,794)	(567)	(588)	(3,979)
Net Cash Movement	(15,685)	2,300	(13,385)	(16,448)	(5,474)

Sewer Fund Budget and Quarterly Review Movements

The net operating result before capital grants and contributions of the Sewer Fund as at 31 March 2023 Quarterly Budget Review was a surplus of \$5.6M when compared to the year to date forecasted surplus of \$4.8M. The main reason for this favourable variance is the additional access charges received.

The net cash and investment movement was \$8.2M better than the adopted budget of \$13.4M. The primary reason for this unfavourable movement is the advanced progress of the capital program. This is summarised in **Table 10** below.

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Table 10: Sewer Fund Budget Summary

(\$'000) Favourable / (Unfavourable)	Current Adopted Budget	March QR Adjustments	March QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	12,215	120	12,335	7,362	8,169
Net Operating Result before Capital Grants & Contributions	7,815	120	7,935	4,836	5,635
Net Cash Movement	(17,396)	1,308	(16,088)	(13,401)	(5,155)

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.

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CL23.173 Post Exhibition Consideration - 45 Degree Rule and Tree Management - Draft Amendment (Chapter G4), Shoalhaven DCP 2014 (DCP2014.52)

HPERM Ref: D23/164924

Department: Strategic Planning
Approver: Coralie Bell, Acting Director - City Futures

Attachments:

1. Detailed Submission Summary (under separate cover) [⇒](#)
2. Exhibition Summary Report (under separate cover) [⇒](#)
3. Draft Chapter G4 with Recommended Post Exhibition Changes (under separate cover)

Reason for Report

This report considers the submissions received on the public exhibition of the proposed Amendment to Chapter G4: Tree and Vegetation Management of Shoalhaven Development Control Plan (DCP) 2014; and enables the finalisation of the Amendment to be considered.

The proposed Amendment includes changes to the current 45 Degree Rule as part of a 12-month trial.

Recommendation

That Council:

1. Adopt the amendment to Chapter G4: Tree and Vegetation Management of Shoalhaven Development Control Plan 2014 (the Amendment) as exhibited, with the additional changes outlined in **Attachment 3**.
2. Notify the adoption of the Amendment in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulations and set the commencement date of the Amendment at a date in the future that allows for the finalisation of the notification tools/templates, website updates and other associated administrative processes to support the changes.
3. Progress the other tree management recommendations outlined in Table 2 of this report, subject to funding allocation where required.
4. Receive a further report at the completion of the 12-month trial that considers and provides recommendations relating to the matters outlined in Table 3 of this report and addresses Part 5 of MIN22.790.
5. Advise key stakeholders, including all Community Consultative Bodies, relevant industry representatives and those who made a submission, of this decision, and when the Amendment will be made effective.

Options

1. As recommended.

Implications: This is the preferred option as it will enable Council to respond, where appropriate, to issues raised in submissions and finalise the Amendment. It enables the retention of the 45 Degree Rule exemption with some adjustment for a 12-month trial.

The trial period will enable the collection of data to better understand how and where the exemption is used.

An education campaign is considered critical in developing a broad reaching understanding of the value of trees, best practice tree management, as well as when the 45 Degree Rule exemption can be used and how.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and could postpone the finalisation of the Amendment.

3. Not adopt the recommendation.

Implications: This could mean that no changes to Chapter G4 relating to the 45 Degree Rule exemption would be made at this time, and as such, the status quo would be retained.

The option is not recommended as 57% of submissions indicated support for a change to the existing Rule in some way.

Background

Current planning legislation and policy establishes that a person must not cut down, fell, uproot, kill, poison, ringbark, burn, or otherwise destroy the vegetation, or lop or otherwise remove a substantial part of the vegetation without a permit granted by Council (e.g., development application or private tree permit). However, there are currently a few exceptions in this regard, the most notable being the 45 Degree Rule exemption.

The 45 Degree Rule exemption can currently be used or is triggered where any part of a tree is within the 45-degree area of an approved dwelling, garage, or outbuilding (including any part of the trunk or canopy), as per **Figure 1** below.

The 45 Degree Rule exemption overrides the protection of any declared vegetation in Section 5.1 of DCP, except where there are overriding consent conditions, Section 88B instruments applying to properties or heritage listing protections. Without an exemption, a development application or private tree permit would be required to consider the removal of a tree or trees.

Where a tree is closer than its own height from an approved building (including a dwelling, garage or outbuilding). This means where any part of a tree is above a line 45 degrees from the vertical extension of the wall of any building measured from its base (as shown in Figure 1). Hollow bearing trees can only be removed without assessment under the 45 degree exemption if an animal handler is present.

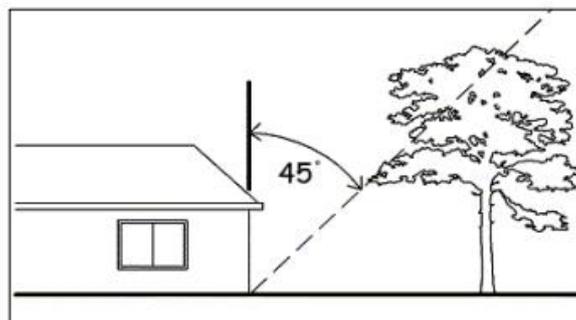


Figure 1: 45 Degree Rule Exemption

On 21 February 2022, a Mayoral Minute was presented to Council seeking an amendment to Chapter G4: Tree and Vegetation Management of the DCP to remove the 45 Degree Rule exemption (MM22.3). Council resolved to ‘defer’ the matter to a Councillor briefing for further consideration and discussion (MIN22.118). This Council briefing was held on 12 May 2022 and a further briefing was held on 15 September 2022.

In October 2022, Council received a further report on potential changes to Chapter G4 which included the retention of the 45 Degree Rule exemption, with some refinement to address a range of considerations, as follows:

- Refine its application to ‘lawfully erected buildings (including dwellings and outbuildings)’.
- Require tree removal to be undertaken by an Australian Qualification Framework (AQF) Level 3 arborist in accordance with relevant Australian Standards. Level 3 = minimum requirements in theoretical and practical tree assessment and care
- Specify that the rule does not apply:
 - To a tree where that tree does not pose a demonstrable risk to the respective building.
 - Beyond the lot the lawfully erected building is located on, which includes public land.
 - To land in the Jerberra Estate (already the case as outlined in the DCP).
 - To trees with hollows or nests.
 - To trees on upward slopes greater than 18 degrees.
 - To the removal of trees on land zoned RU1 Primary Production and RU2 Rural Landscape (already the case as outlined in the DCP).
- Require notification to Council and all adjoining and adjacent landowners/occupants of the proposed tree removal works in writing, at least 72 hours before the tree removal is due to commence.

Council ultimately resolved (MIN22.790) to:

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.*
 - 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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Public Exhibition

In accordance with the resolution (MIN22.790), the Amendment package was publicly exhibited for a period of 54 days from 6 February and 31 March 2023 (inclusive).

The Amendment was notified/publicised by:

- Media releases/posts on Council's website (2) and social media (2).
- Emails to all Community Consultative Bodies (24) and Industry Stakeholders (45).
- Emails to members of the community who had previously registered an interest (126).
- Media Briefing held on 2 February 2023.
- Industry Information Session held on 20 February 2023. Invitations were sent to 48 contractors working in the Industry that Council was aware of, 12 attended.

The Amendment was exhibited on Council's website and could also be viewed at Council's Nowra and Ulladulla Administrative Offices. The exhibition material included: [Explanatory Statement](#), [Public Notice](#) and [Draft Chapter G4](#) detailing the proposed amendments.

The key exhibition platform was Council's 'Documents on Exhibition' page on the Council website. The exhibited draft Amendment was also available for viewing on Council's [project 'Get Involved' page](#), and included other supporting material from the exhibition including detailed [frequently asked questions](#).

A total of 293 formal submissions were received during the public exhibition period, with a breakdown as follows:

- 283 individual submissions, which includes 10 form type submissions (submissions with identical content), as follows:
 - Form letter 1: 5 submissions.
 - Form letter 2: 3 submissions.
 - Form letter 3: 2 submissions.
- 3 submissions from Community Consultative Bodies (CCBs).
- 5 submissions from organised interest groups.
- 2 submissions from the tree removal industry.

Three submissions were received significantly after the close of the exhibition period, one in support and two against. These submissions have been acknowledged; however, the submissions have not been counted as a formal submission.

Councillors Copley and Watson requested that a letter of support provided to a submitter, against the Amendment, be considered as formal submissions. These submissions have been acknowledged and have been considered separately to the 293 community submissions given they were made in the capacity of Councillor.

A total of **57%** of submitters indicated support for a change in some way to the existing Rule:

- 43% supported the Amendment, with or without changes.
- 14% supported the removal of the Rule completely.

A total of **43%** of submissions were not in support of the proposed Amendment (i.e., no change).

Figure 2 illustrates the breakdown of the formal submissions.

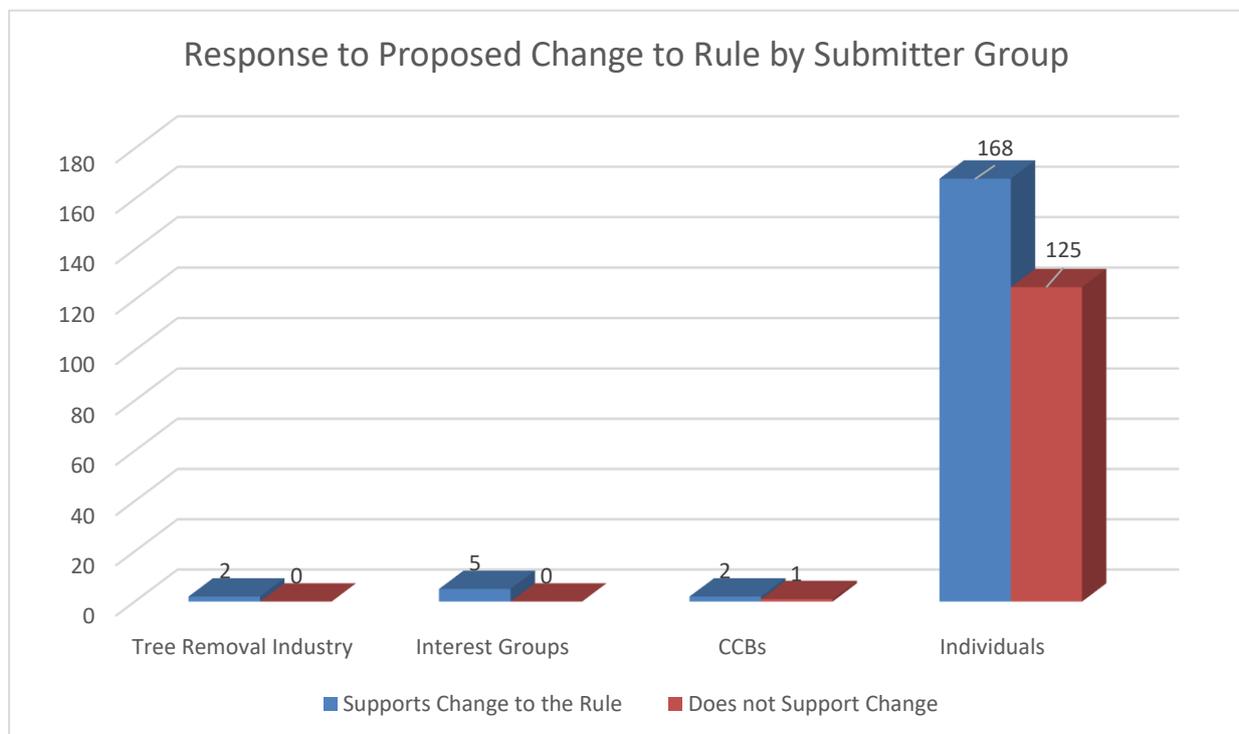


Figure 2: Response to Exhibited Amendment by Submitter Type

A summary of all submissions received is provided in **Attachment 1** and a detailed Exhibition Summary Report is provided at **Attachment 2**. The Exhibition Summary Report

reviews and analyses the themes and matters raised in the submissions and makes recommendations as appropriate.

Copies of the actual submissions can be made available to Councillors upon request.

Resulting from the exhibition, further adjustments are proposed to the exhibited Chapter G4, as shown in **Attachment 3**. This includes two additional housekeeping matters that were not raised in submissions but should be addressed prior to finalisation. For convenience, the proposed post-exhibition changes are summarised in **Table 1** below.

Table 1: Recommended Post-Exhibition Changes to Chapter G4

Theme	Recommendation
Adjust the Policy content of the 45 Degree Rule	<ul style="list-style-type: none"> • Remove the phrase ‘demonstrable risk’ and replace with additional clarification that the risk to a building is considered to be short-term in nature (less than 1 year) and that no alternative tree management approaches are available and/or appropriate to mitigate the risk (e.g., selective pruning and the like). • Clarify that the exclusion of the Rule for rural land applies to all land zoned RU1-RU4, not just land RU1 and RU2. • Clarify that the tree must be removed, not poisoned. • Reiterate that the existing exemptions in Sections 5.2.1 and 5.2.2 of Chapter G4 must be considered in relation to the application of the Rule. • Adjust the notification element so that: <ul style="list-style-type: none"> – The notification is dated with the date the notification was given. – Owners consent from adjoining landowner/s is required if the removal of the tree requires access to adjoining land. – Section 138 (work in road reserve) approval is required if the tree removal process will require any use of the road reserve, including the verge. – Photographs are taken at multiple angles to demonstrate that the tree to be removed meets the criteria of the Rule.
Add additional commentary to the 45 Degree Rule	<ul style="list-style-type: none"> • Include clear policy statement regarding the importance of trees. • Clarify that the risk can be assessed by the landowner and that a development application or third-party assessment is <u>not required</u>. • Clarify that the notification does not provide an opportunity to object to a tree removal proposal, but any concerns should be addressed to Council in the first instance. • Outline the benefits of an arborist report to support the use of the Rule. The commentary should clearly state that this is <u>not mandatory</u>. • Provide information regarding Imminent Risk.
Housekeeping Matters	<ul style="list-style-type: none"> • Unhighlight the term ‘development consent’ as a dictionary term, as the term is no longer defined in the DCP Dictionary. • Update references to certain land use types and zones to reflect the NSW Government’s recent Employment Zone Reforms.

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Other tree management related changes recommended for immediate implementation are shown in **Table 2** below.

Table 3 recommends potential DCP matters for further investigation/consideration at the conclusion of the proposed 45 Degree Rule 12-month trial period. These relate to both the 45 Degree Rule specifically and the DCP more generally.

Table 2: Recommended Post-Exhibition Changes – Tree Management Generally

Theme	Recommendation
Administration and Website	<ul style="list-style-type: none"> • Provide guidance on Council’s website: <ul style="list-style-type: none"> – Outline the protocol for the removal of a tree that is dead, dying or poses an imminent threat to human life or significant property. – Prepare a neighbour notification template and include a ‘date of notification’ section.
Council Policy	<ul style="list-style-type: none"> • Consider whether any changes to Council’s Tree Management Policy – Public Land will need to be undertaken resulting from any changes to the Rule.
Urban Greening Strategy	<ul style="list-style-type: none"> • Investigate opportunities for compensatory tree planting, greening program and tree coverage target as part of an Urban Greening Strategy preparation process. • Investigate opportunities to facilitate tree plantings for new development, opportunities to encourage the private sector to offset carbon, promote the value of urban gardens and identify opportunities for additional policy development for tree removal/management.
Education Campaign	<ul style="list-style-type: none"> • Undertake an education campaign, subject to funding, that: <ul style="list-style-type: none"> – Addresses imminent risk and dangerous trees. – Explains opportunities to remove trees without consent. – Demystifies the Rule and the exceptions to the Rule that apply. – Includes a focus on the cultural, social, economic, and environmental value of trees. – Outlines opportunities to leave hollows in place after tree management activities are undertaken. – Considers appropriate plant species for new plantings, risk awareness for new development (i.e., siting to consider existing trees and risk) and encourages regular tree inspections. – Outlines the comparative risk associated with tree fall. – Addresses best practice management of trees, ways to manage trees without removal, relevant Australian Standards, and vegetation on development sites. – Encourages the reporting to Council of any trees considered unsafe in public areas.
Staff Resourcing and Qualifications	<ul style="list-style-type: none"> • Employ additional resources (as required) to monitor notifications received, undertake spot checks, and undertake compliance action if needed during the initial 12-month trial period. • Consider upskilling relevant staff to an AQF Level 5 arborist standard.

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Table 3: Potential matters for further investigation/ consideration at the conclusion of the proposed 45 Degree Rule 12-month trial period

Theme	Recommendation
Potential 45 Degree Rule matters for further investigation/	<ul style="list-style-type: none"> • Consider the value of a consulting arborist report (prepared by an AQF Level 5 (or higher) arborist) to support the use of the Rule. • Consider the ongoing scope of the Rule and Council’s involvement in tree removal.

<p>consideration <u>at the conclusion of the proposed 12-month trial period</u></p>	<ul style="list-style-type: none"> • Review the actual level of abuse of the Rule through the notification tool and compliance reviews. • Consider establishing a publicly available register of trees removed under the Rule. • Consider opportunities to refine the Rule to be more consistent with Council's Sustainability and Climate Policy and the objectives of the Biodiversity and Conservation SEPP 2021 • Consider adjusting the Rule's degree approach to a size/distance approach.
<p>Potential DCP matters for further investigation/ consideration <u>at the conclusion of the proposed 12-month trial period</u></p>	<ul style="list-style-type: none"> • Investigate amending the DCP definition of 'tree', specifically the height and girth/circumference.

Conclusion

Considering the nature and content of the submissions received, it would be appropriate for the proposed trial Amendment to Chapter G4 of the DCP to proceed as recommended.

Community Engagement

The draft Amendment was publicly exhibited for 54 days on Council's website in accordance with legislative requirements. It is noted that legislation requires consultation to occur for at least 28 days.

A total of 293 submissions were received which are summarised at **Attachment 1** and discussed at **Attachment 2**.

Policy Implications

At the conclusion of the trial period, Council will need to consider whether to continue with the adjustments to the 45 Degree Rule on an ongoing basis or revert to the existing (current) policy approach. The proposed notification tool will enable Council to collect a range of data on the use of the Rule which will assist in this process and enable informed consideration.

Financial Implications

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

Council will need to consider any additional staff resources required to manage additional demand for tree removal applications and auditing/monitoring of the Rule (including spot checks), on an as needs basis, during the initial 12-month period.

The preparation of an educational campaign will also need the allocation of an adequate budget.

Risk Implications

Legal advice has confirmed that there are no legal risk implications for Council resulting from any change in policy position relating to the 45 Degree Rule.

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CL23.174 Post Exhibition Consideration - Proposed Subdivision Amendment - Shoalhaven DCP 2014 (DCP2014.24)

HPERM Ref: D23/175105

Department: Strategic Planning
Approver: Coralie Bell, Acting Director - City Futures

Attachments:

1. Subdivision Amendment Submission Summary (under separate cover) [⇒](#)
2. Recommended Post Exhibition Changes - Chapter G11 and Supporting Document (under separate cover)

Reason for Report

The purpose of this report is to consider results of the public exhibition of the proposed Subdivision Amendment to Shoalhaven Development Control Plan 2014 (DCP); and consider the finalisation of the Amendment.

Recommendation

That Council:

1. Adopt the Subdivision Amendment to Shoalhaven Development Control Plan 2014 (the Amendment) as exhibited, consisting of the following Chapters, with the additional changes outlined in Attachment 2:
 - a. Chapter 1: Introduction.
 - b. Chapter G11: Subdivision and associated supporting document.
 - c. Dictionary.
2. Rescind existing Chapter G11: Subdivision of Land of Shoalhaven Development Control 2014 when the Amendment is made effective.
3. Notify the adoption of the Amendment in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulations.
4. Advise key stakeholders, including all Community Consultative Bodies, Development Industry Stakeholders and those who made a submission, of this decision, and when the Amendment will be made effective.
5. Receive a further report when appropriate to progress the public exhibition of the revised Engineering Design Specifications for use for private development.
6. Consider opportunities to deliver footpath infrastructure across the City which may include a future contribution program of some kind.

Options

1. As recommended.

Implications: This is the preferred option as it will enable the resolution of a range of operational issues and matters that require clarification, to improve the function of the subdivision and ancillary chapters in the DCP.

The current subdivision chapter is outdated, confusing and in parts, not consistent with industry best practice. The Amendment will result in contemporary provisions that

consider urban design, amenity, subdivision, and opportunities for resulting development in a balanced and sustainable way.

The Amendment has been publicly exhibited and the recommendation presents a balanced response to submissions received.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and could delay the implementation of updated and more appropriate subdivision related development provisions.

3. Not adopt the recommendation.

Implications: This could stop the implementation of more appropriate and better structured subdivision provisions in the DCP. This option is not preferred as the current approach is outdated, confusing and in parts, not consistent with industry best practice.

Background

The current DCP [Chapter G11: Subdivision of Land](#) provides more detailed provisions (controls and guidelines) to facilitate a range of subdivision opportunities consistent with the Local Environmental Plan (LEP) citywide. As such, the DCP chapter does not create the legal opportunity for subdivision of land, but it outlines more detailed controls and guidelines for the subdivision of land e.g., neighbourhood design, street network, stormwater, servicing etc. Updating the chapter is a priority project in Council's Strategic Planning Works Program.

The proposed draft Amendment includes:

- The repeal of existing [Chapter G11: Subdivision of Land](#).
- Proposed new Chapter G11: Subdivision and supporting Technical Design Specifications.
- Minor housekeeping type changes to Chapter 1: Introduction.
- Proposed consequential amendment to the DCP Dictionary resulting from the above changes.

On 31 October 2022, Council resolved (MIN22.806) to:

1. *Support the exhibition of the draft Subdivision Amendment to Shoalhaven Development Control Plan 2014, consisting of the following chapters, for a period of 28 days as per legislative requirements:*
 - a. *Draft Chapter 1: Introduction.*
 - b. *Draft Chapter G11: Subdivision.*
 - c. *Draft Dictionary.*
2. *Facilitate an Industry workshop/information session during the public exhibition period.*
3. *Receive a further report on the draft Subdivision Amendment following the conclusion of the public exhibition period.*
4. *Advise key stakeholders, including relevant industry representatives, of this decision and exhibition arrangements.*

Exhibition

In accordance with the resolution, the Subdivision Amendment package was publicly exhibited for a period of at least 28 days from 16 November to 16 December 2022

(inclusive), with submissions being accepted until 6 January 2023 to provide additional time for submissions over the holiday period.

The Amendment was exhibited on Council’s website and could also be viewed at Council’s Nowra and Ulladulla Administrative Offices. The exhibition material included an explanatory statement, public notice and the following draft chapters showing the proposed amendments:

- Chapter 1: Introduction.
- Chapter G11: Subdivision and associated supporting document.
- Dictionary.

The Amendment was notified/publicised by:

- Emails to all Community Consultative Bodies (24).
- Emails to all Development Industry Stakeholders who have nominated to be on Council’s notification list (91).
- An Industry Information Session held on 24 November 2022. Five local consultancies attended the session (total attendees: 13): Allen Price & Scarratts, Cowman Stoddart, Fountaindale Group, SET Consulting and MMJ.

A total of **4** submissions were received during the public exhibition period from: Allen Price & Scarratts, Fountaindale Group, SET Consulting and Sealark Pty Ltd (The Halloran Trust).

A summary of all submissions received is provided in **Attachment 1**, broken into the following key themes:

- Drainage and flooding.
- Planning and environment.
- Recreation.
- Roads.
- Subdivision administration and utilities.

The submission summary reviews and analyses the points raised and makes recommendations as appropriate. Copies of the actual submissions can be made available to Councillors on request.

Resulting from the submissions, further adjustments to Chapter G11 and its supporting document (Subdivision Technical Guidelines) are proposed, as shown in **Attachment 2**. For convenience, the proposed post-exhibition changes are summarised in **Table 1** below.

Table 1: Recommended Post-Exhibition Changes to Exhibited Chapter G11 and Supporting Document

Section	Recommend Change
Chapter G11: Subdivision	
Section 5 Controls	<ul style="list-style-type: none"> • Adapt bushfire mandatory control into an advisory note.
Section 5.1 Road, Pedestrian and Cyclist Network	<ul style="list-style-type: none"> • Provide additional clarification regarding emergency access and road/footpath network connections/provision. • Refinement of provisions relating to access to lower order roads rather than local distributor roads. • Qualifying that certain acceptable solutions may be difficult to achieve due to topography, existing road layout and the like. • Refinement of provisions relating to public transport provision/consideration.

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	<ul style="list-style-type: none"> • Adjust provisions relating to grades of pedestrian pathways and cycleways to reflect Supporting Document 1 and the Engineering Design Specifications and provide additional commentary.
Section 5.2 Design and Construction: Roads and Driveway/Access	<ul style="list-style-type: none"> • Provide an additional provision and note relating to restricted vehicle access to the lot frontage where there is appropriate laneway access available. • Delete instances of duplicated content regarding bus routes and design requirements. • Include provision for consideration of likely driveway locations when siting footpath trees. • Include additional commentary regarding trenching of services beside constructed access. • Refinement of provisions relating to the impact of development on an existing road reserve.
Section 5.3 Subdivision Layout and Design	<ul style="list-style-type: none"> • Provide clarification regarding subdivision design positively responding to prevailing winds. • Provide additional clarification regarding geotechnical report requirements and potential remedial work. • Refinement of provisions relating to solar opportunities in a greenfield subdivision context. • Deletion of the 650m² minimum lot size for battle-axe lots and insertion of note relating to potential conditioning of Section 88B restrictions to ensure lots are adequately sized at the subdivision stage to accommodate a dwelling/s and associated infrastructure (e.g., ingress/egress and waste servicing). • Refinement of multiple use access corridors for residential battle-axe lots.
Section 5.4 Utilities and Servicing	<ul style="list-style-type: none"> • Include a new performance criteria specifying that each lot in a subdivision is to be adequately serviced. • Refine provisions to clarify that telecommunications do not have to be underground, to reflect more contemporary wireless opportunities. • Clarify that common trenching is only required where it is compatible and acceptable to the relevant service provider/s. • Deletion of provision requiring separate utility service metres and sewer junctions as the utility meter installation and associated requirements can be managed through the assessment process and appropriate conditioning.
Section 5.5 Stormwater, Flooding and Water Sensitive Urban Design	<ul style="list-style-type: none"> • Refinement of minimum floor level requirements on plans for major drainage systems. • Refinement of evacuation requirements relating minor drainage systems. • Adjustment of water sensitive urban design provisions to provide additional clarification and guidance. • Provide additional detail regarding inter allotment drainage.
Section 5.6 Community Infrastructure – Public Open	<ul style="list-style-type: none"> • Expand on existing note box to encourage early consultation with Council to determine if an open space needs analysis is required for a subdivision. • Delete requirement that lighting is to be in accordance with AS1158.3.1.

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Space, Recreation and Community Buildings	<ul style="list-style-type: none"> Clarify Council's expectations for dedicated reserves and weed status at handover.
Section 6.8 Completion of Works and Certification	<ul style="list-style-type: none"> Change references of 'practical completion' to 'final completion' to correct error.
Section 6.9 Defects Liability (Maintenance) of Works (Excluding Water Sensitive Urban Design)	<ul style="list-style-type: none"> Change references of 'practical completion' to 'final completion' to correct error. Provide clarity regarding the bond requirements for defect elements. Adjust so that the one month period to rectify defective works commences at the time of the defects inspection.
Section 6.10 Defects Liability (Maintenance) of Water Sensitive Urban Design Devices	<ul style="list-style-type: none"> Change references of 'practical completion' to 'final completion' to correct error. Adjust so that the one month period to rectify defective works commences at the time of the defects inspection.
Chapter G11: Subdivision - Supporting Document 1: Subdivision Technical Guidelines	
Section 2.1 Road Typologies	<ul style="list-style-type: none"> Adjust carriageway widths for Local/Retail Streets and Access Streets (Tier 1) in Table 1 to be consistent with the road typology plans/sections. Amend the Local Street (Riparian) plan to remove the lighting along the riparian edge to be consistent with the requirements of Australian Standard AS1158.2.1, which is also reflected in revised Figure 3. Add new notes for certain road typologies, explaining the width of parking lane accommodates not just parked vehicles, but safe door opening and safe cycling opportunities.
Section 2.2 Intersections	<ul style="list-style-type: none"> Adjust legend in Figure 1 to better describe the road typologies to avoid confusion.
Section 3.1 Designing for Safety	<ul style="list-style-type: none"> Deletion of incorrect references relating to introducing slow points and curved alignments, as well as the introduction of new content relating to slow points (AUSTROADS AND 88B Instruments).
Section 3.6 Construction of Verges	<ul style="list-style-type: none"> Revise Figure 3 to reflect the requirements of Australian Standard AS1158.2.1 (700mm minimum distance from back of kerb to the outside of the lighting pole).
Section 4 Minimum Land Requirements for Recreation Areas/Public Reserves	<ul style="list-style-type: none"> Clarify Council's intent for recreation areas/public reserves that are proposed to be dedicated to Council, specifically type of areas/reserves and gradient of slopes.

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Conclusion

Considering the nature and content of the submissions received and the proposed post exhibition changes, it would be appropriate for the proposed Subdivision Amendment to now proceed as recommended.

Community Engagement

The draft Amendment was publicly exhibited for at least 28 days on Council's website in accordance with legislative requirements.

A total of 4 submissions were received, which are summarised at **Attachment 1**.

Policy Implications

The Development Control Plan

The proposed Subdivision Amendment seeks to introduce further user-friendly DCP provisions in a logical structure that addresses gaps in policy and respond to operational matters that have arisen through time.

Should the Amendment not proceed, these fundamental concerns will not be addressed. It is noted that a contemporary review of the subdivision provisions in the DCP was generally supported by those who made a submission.

It is proposed that draft Chapter G11: Subdivision will ultimately replace the existing Chapter G11: Subdivision of Land due to the substantial review of the content and structure that has been undertaken as part of the review process.

Engineering Design Specifications

The current and draft Chapter G11 makes reference to specifications within Council's [Engineering Design Specifications](#) (EDS) document. This document provides detail to guide the actual design and construction of infrastructure within Shoalhaven.

The EDS is currently applied/managed in two different ways within Shoalhaven:

1. The City Development and City Services Directorates have recently updated the EDS to align with industry best standards, and this revised version is currently being applied to Council infrastructure. This version is not publicly available as it has not been endorsed by Council for use by the broader industry.
2. The older (Council endorsed) EDS remains in use for private development - the EDS in the link above.

There is merit in working towards the public exhibition and endorsement of the revised EDS so that it can also be used for private development. This will ensure that a consistent approach is applied across the City in this regard. It is noted that the references to the EDS in the draft Chapter G11 are generic, and as such, the Chapter will not need to be amended in the future to update EDS references.

Financial Implications

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

CL23.175 Information Report - Collaboration Agreement with NSW Land & Housing Corporation

HPERM Ref: D23/200146

Department: Strategic Planning

Approver: Coralie Bell, Acting Director - City Futures

Reason for Report

The report provides an overview of the Collaboration Agreement that has recently been signed at an organisational level with NSW Land & Housing Corporation.

Recommendation

That Council:

1. Receive the report on the Collaboration Agreement that has been signed with the NSW Land & Housing Corporation for information.
2. Note that an initial Council briefing will be arranged to enable NSW Land & Housing to provide an overview of their forthcoming projects in Shoalhaven.

Options

1. As recommended.

Implications: The report will be received for information and a Council briefing will be arranged for NSW Land & Housing Corporation to provide an overview of their forthcoming projects in Shoalhaven.

2. Alternate recommendation as determined.

Implications: Will depend on what is recommended.

Background

Consistent with the current Shoalhaven Affordable Housing Strategy and arising from Councils ongoing representations to the NSW Government regarding the need for additional social and affordable housing, Council staff have been working at an organisational level with NSW Land & Housing Corporation (LaHC) on a 'Collaboration Agreement' between the two organisations. This agreement was completed and signed by both organisations during May 2023.

LaHC are currently responsible for the management of the NSW Government's social housing portfolio and have approximately 1,386 dwellings in the Shoalhaven Local Government Area, with large concentrations of these dwellings in the Nowra and Bomaderry area.

The renewal or redevelopment of existing public housing areas and the opportunities this presents to provide much needed additional social and affordable housing has been something Council has continued to raise as a priority given current housing issues. The agreement is a key step in this regard.

The agreement establishes the intent of both organisations to cooperate and work together to realise improved housing that delivers the right social housing in the right locations in a timely manner. The agreement sets out the roles and responsibilities of the two parties and provides a framework for collaboration covering:

- Principles
- Objectives and purpose
- Functions and responsibilities
- Governance model
- Communication
- Land and property
- Confidentiality
- Resources

The agreement will be formally reviewed every 3 years and currently identifies collaboration priorities and opportunities, with an initial focus on:

- Vacant Land Sites, including investigating opportunities for social and affordable housing on other Government or Council owned sites.
- Renewal of concentrated estates, with an initial focus on precincts in Nowra and Bomaderry.
- Consolidated new supply sites, including redevelopment of smaller contiguous groups of LaHC properties, or newly acquired sites.
- Dual occupancy/manor house sites, including redevelopment of appropriate isolated LaHC properties for new housing supply.

The agreement includes a governance structure, including terms of reference, and will be overseen by a Strategic Oversight Group made up of key staff from LaHC and Council who will meet bi-monthly or as required. Specific working groups will also be arranged between Council and LaHC staff as needed.

Similar agreements are in place with other Councils including Wollongong, Newcastle, Wagga Wagga, Forbes, Bega and Albury

Conclusion

The agreement is a positive step that will see Council and LaHC formally working collaboratively on the provision of additional social and affordable housing in Shoalhaven.

Community Engagement

Given that it is an agreement between the two organisations, no community engagement was undertaken as part of its preparation and signing.

The agreement includes provisions regarding:

- Engagement with the elected Council – commitment to keep the elected Council informed about activities arising from the agreement including general updates/reports on progress of social housing renewal, relevant development applications or self-assessments and responding to other matters as requested by Council.
- Public communications and engagement – shared communications will be considered by both organisations where appropriate. LaHC will undertake community engagement process for estate renewals and will share communications and engagement strategies with Council to ensure coordination where appropriate.

Policy Implications

There are no immediate policy implications arising from the agreement, however, as the dialogue and collaboration evolves there could be potential planning policy changes or adjustments that arise. These will be separately considered and managed in accordance with existing legislative processes.

Financial Implications

There are no direct financial implications for Council at this time and the governance and reporting structures established by the agreement will be managed within existing staffing.

The agreement specifically notes *“In entering this Collaboration Agreement, SCC does not accept any responsibility for funding or resourcing of the studies or master planning required to support planning outcomes.”*

Risk Implications

The agreement includes provisions to manage land and property matters confidentiality.

CL23.176 Shoalhaven Motor Sports Working Group - Update to Terms of Reference and Way Forward

HPERM Ref: D23/96525

Department: Tourism

Approver: Coralie Bell, Acting Director - City Futures

Attachments:

1. Shoalhaven Motor Sports Working Group - Terms of Reference [↓](#)
2. Draft Motor Sports Working Group - Terms of Reference - March 2023 [↓](#)
3. Shoalhaven Motor sports Complex Yerriyong - Business Case 2015 (councillors information folder) [⇒](#)

Reason for Report

The Motor Sports Working Party held a meeting 6 February 2023. Recommendations made at that meeting prompted further discussion between Council officers and Working Party members in relation to roles and responsibilities and a potential review of the Terms of Reference. This report seeks Council approval to update the Terms of Reference for the Shoalhaven Motor Sports Working Group which clarifies how Council will support the Working Group moving forward and notes the recommendations from the 6 February Meeting for information.

Recommendation

That Council:

1. Note the Recommendations from the 6 February 2023 meeting of the Shoalhaven Motor Sports Working Group as referenced in the report.
2. Adopt the new updated Draft Terms of Reference for the Shoalhaven Motor Sports Working Group which includes the following changes:
 - a. Increasing the quorum to 4 members
 - b. Increasing the length of membership appointment to 4 years
 - c. Revise the purpose and delegated authority of the Working Group to clearly defining the role of the group, as detailed in **Attachment 2**.

Options

1. As Above.

Implications:

The Working Group will be able to continue to meet and function in its stated role and purpose within Council. Section 15 of the Terms of Reference (TOR) states that '*Council at its discretion may review and change the Terms of Reference, Role and Structure of the Working Group*'.

This does not meet the expectations of the community members regarding Council's role in the project, and it lacks the significant budget that is required to progress further investigations and approvals. However, it would allow community members to continue to lead the project.

Staff have raised significant and ongoing concerns about the availability of a site in the Shoalhaven LGA.

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2. Accept the increases in quorum and length of membership appointment but support the alternative view of the participating community members regarding the purpose of the working group, detailed below, and allocate \$250,000 in seed funding to support required investigations of due diligence at potential environmentally sensitive sites.

Role and Purpose of the Working Group

- Lead investigations into potential sites for the establishment of a Motor Sports Complex in the Shoalhaven
- *Advocate for and actively seek funding for the establishment phase of this project from Federal and State Governments as part of their programs for rural and regional economic development.*
- *Once a suitable site for the project is determined that Council acts as a conduit to ensure the project is brought to fruition”*

Implications:

Community members have expressed that they would like increased focus and support from Council in identifying a site, completing relevant due diligence reports, including environmental impacts, and any costs and work associated with approved DA on a site. They have advised that they would like to be involved in an advisory capacity only and believe Council staff should lead and drive the project.

Three sites have been suggested by the group, all with the need for significant tree clearing. Staff have expressed concern that there is the potential that none of the identified sites are viable for a variety of reasons. The next steps would be to engage a consultant to look at due diligence, including potential environmental implications, approvals, and offset estimates for the sites in priority order. Landholders consent would be needed.

Funding will be needed to progress with consultants, this work is not currently identified in the DPOP and capital budget.

Based on staff estimates, it is envisioned that works to DA approval could cost up to \$650,000, including investigations and DA associated costs.

It is recommended that if Council wish to progress with Option 2, seed funding will need to be allocated to the group to progress with future site investigations.

3. Revoke the status of the Shoalhaven Motor Sports Working Group, thank the community members for their passion and commitment to the project, and do not continue with further site investigation.

Implications:

The Working Group will no longer continue its function as its stated role and purpose within Council.

This is not in line with the expectations of the community members.

Section 15 of the Terms of Reference (TOR) states that ‘*Council at its discretion may review and change the Terms of Reference, Role and Structure of the Working Group*’.

Background

The vision of developing a Motor Sport Complex in the Shoalhaven has been a long-term proposal within sections of the community, with discussions commencing in the late 1970’s. Land of the existing Motorplex at Yerriyong and its surrounding areas has been a focal point for previous and current discussions.

A notice of Motion was reported to the Ordinary Meeting off Council on 17 October 2017. As a result, it was resolved (MIN17.915):

That:

- 1. In recognition of the strategic importance and economic value of developing a motor sports complex in our area, that Council, after reviewing the previous development application (DA) by Motorcycling NSW, prepares and submits a DA as proponent for this project.*
- 2. Council establishes a project working group to oversee the process, comprising relevant Council staff and representatives of the South Coast Motor Sports Club Inc.*
- 3. Council continues to explore both Federal and State Government programs to facilitate funding for the project and private partnership.*
- 4. That initial costs associated with the review and DA submission be funded through the economic development budget.*
- 5. Recoupment of all costs be factored into any future lease arrangements.*
- 6. The General Manager provide a detailed report on how “serious and irreversible impacts” have been addressed in similar situations, and what precedents have been established in that regard.*

Council progressed to the completion of site selection investigations, which confirmed that the most suitable site was within Lot 7309 DP 1148878 & Lot 7308 DP 1147573, Yerriyong. Environmental studies were completed at the site before and after the 2019/2020 Black Summer Bushfires.

There was no allocated budget for the completion of the above investigations. Approximately \$230,000 was spent on this aspect of the proposal, which was funded from existing budgets within the Economic Development Budget.

The investigations found that three threatened species were subject to serious and irreversible impacts, and at the Strategy and Assets Committee Meeting on 20 July 2021, it was resolved (MIN21.498):

That the preparation of the Development Application by Council for a Motor Sports complex at Yerriyong (part Lot 7309 DP 1148878 & Lot 7308 DP 1147573) be discontinued as it would appear to be not feasible on environmental grounds.

The Current Working Group

In July 2021, the Shoalhaven Motor Sport Working Group was established, with the purpose of overcoming the ongoing challenges associated with finding a site for the proposed motorsports complex.

A meeting was held 6 February 2023 and the recommendations made at that meeting prompted further discussion and highlighted the need for the Terms of Reference Workshop.

For Council’s information the recommendations to Council included:

That Council

- 1. Receives the attached report and presentation from the Australian Off-Road Vehicle Association (AORVA) for information.*
- 2. Notes that there may be an opportunity for collaboration with AORVA including side-by-side locations occurring at a future Motorsport facility.*
- 3. Recommends a report be received which considers a further investigation by Council of site options for side-by-side stand alone locations throughout the City.*

That Council

1. Further investigate the western side of the Yerriyong site on Braidwood Road, with the existing motorcycle complex, and
2. Come back to the Motor Sports Working Group with a report at the next meeting regarding how the existing motorcycle complex is operating commercially.

Terms of Reference and Purpose of Working Group

In the most recent meeting of the Shoalhaven Motor Sports Working Group, there was discussion about the role and scope of the working group and some practical changes requested to the Terms of Reference (TOR), please see:

- **Attachment 1** for a copy of the adopted Terms of Reference, and
- **Attachment 2** for the draft changes.

A summary of changes is included below.

Community membership

The TOR state that the ‘*Appointments will be for a term of 1 year*’. The current community member positions were filled on 28 March 2022 (MIN22.216), and as such, will be deemed vacant as of 28 March 2023. The TOR does not specify any EOI process that will be undertaken when a position is deemed vacant, and as such, if Council were not to extend the term of their appointment, this Working Group will be unable to continue meet and work towards any outstanding actions/goals. It is proposed in the draft TOR (**Attachment 2**) that the current community member appointments will be for the current term of Council.

Quorum

The current TOR state quorum as half plus one. However, with all Councillors formal members of the working group a high number of people need to be present to make quorum, this has been identified as not practical for ongoing meetings. It is proposed in the draft TOR that quorum be changed to 4, consisting of at least one Councillor and one community member.

Provide additional clarity on the role and purpose of the working group.

During the last meeting of the Shoalhaven Motor Sports Working Group, there was discussion around three new potential sites that had been identified by community members. Two privately held lots that are currently on the market for sale, both heavily vegetated with environmental concerns raised by staff, and the third, the preferred site, the current location of the Yerriyong Motorplex motorcycle complex. This site is owned by Crown Land and currently Motorcycling NSW hold the Permissive Occupancy of the Motorplex site, along with the Nowra and Districts Motorcycling Club. The Working Group have asked staff to contact Motorcycling NSW and Crown Land to discuss opportunity for collaboration, with an initial discussion about the option for Council to potentially take over the occupancy and management of the site and develop a shared user complex for both bikes and cars. Crown Lands have provided initial advice that the land is also subject to undetermined claims under the Aboriginal Land Rights Act. (claims #42448 & #42483).

This prompted questions from the staff about expectations for Council, and on 14 March a meeting was held with the Chair of the working Group, Cllr Norris; Stephen Dunshea – CEO; Carey McIntyre – Director, City Futures; and community members Norman Mogg; Paul Dean; Roger Walker and Robert Bridge.

Overall, expectations of Council and the working group were discussed with the community members and the CEO. During that meeting staff reported that it was made clear that Council is not expected to fund any identified land or the facility itself. Rather, it is being

asked to be a joint facilitator and to assist in the application of and advocacy for future grant applications.

The draft TOR were updated to reflect this discussion for future clarity and accepting these draft Terms of Reference (Attachment 2) is the recommendation of staff in this report. An email of the draft TOR was sent to the committee on 11 April 2023

At that time community members raised concerns via email as follows:

“After due consideration we are supportive of the points 2 and 3 of the Role and Purpose of the Working Group. We see it as essential that council provides the leadership in seeking a site for the MSC in our City. The project obviously cannot proceed without such a site. Likewise, it is also beneficial to the project for council to advocate and actively seek funding to support the establishment phase of this project.

However, we are uncertain as to the extent of council involvement in the first point. It does seem to us that “Advocacy for the development of the MSC” is a weak link in the chain. This seems to imply that council is not prepared to show leadership in bringing the project to completion.

Also, we are not sure that in point 2 that both terms “location” and “sites” are necessary. Perhaps just sites might be all that is required. If we were to have input into the draft Terms of Reference, we would prefer it reads as follow:

Draft Terms of Reference for the Shoalhaven Motor Sports Working Group – Role and Purpose of the Working Group

- 1. Lead investigations into potential sites for the establishment of a Motor Sports Complex in the Shoalhaven*
- 2. Advocate for and actively seek funding for the establishment phase of this project from Federal and State Governments as part of their programs for rural and regional economic development.*
- 3. Once a suitable site for the project is determined that Council acts as a conduit to ensure the project is brought to fruition”*

On Monday 17 April 2023, an informal meeting of the Shoalhaven Motor Sports Working Group was held to further discuss the TOR and the role of the Working Group. Members of the Working Group, including Community representatives Norman Mogg, Roger Walker and Robert Bridge, and Councillors Patricia White, Paul Ell, Mark Kitchener and Serena Copley, were present. This provided clarity on the expectation from community members that Council should be completing works required to have a site identified and a DA approved, with the community representatives acting in an advisory capacity, not a lead capacity. It was then clarified that the community could assist in a more active way to seek funding once a DA was approved.

As a result, it was concluded that their vision for the Working Group was to support the progress to a DA approved site, where a developer could then be engaged to build and run the facility.

It was also discussed at this meeting that a significant budget would need to be assigned to the project, to complete the various investigations, planning, and assessments to receive DA approval. Without budget, the role of the Working Group as identified by the Group, would not be achievable. The view of the Working Group is reflected for Council consideration as Option 2.

Policy Implications

The Draft Terms of Reference (attached) will be updated following Council’s determination.

Consultation

An informal meeting of the Shoalhaven Motor Sports Working Group was held to discuss updates to the draft Terms of Reference on 17 April 2023. Community members and Councillors were present. It was concluded that both staff and community point of view be reported to Council for consideration on the role and ongoing purpose for the committee, as the community members were strong in their opinion that this project should be Council led and driven.

Options 1, 2 and 3 are included for Council consideration.

CL23.176

Shoalhaven Motor Sports Working Group - Terms of Reference

Adoption Date:	28/03/2022
Amendment Date:	5/12/2022
Minute Number:	MIN22.216, MIN22.937
Review Date:	1/12/2024
Directorate:	City Futures
Record Number:	POL22/158

Shoalhaven Motor Sports Working Group – Terms of Reference

1. Role and Purpose of the Working Group

- Help guide and facilitate the development a Motor Sports Complex (MSC) in Shoalhaven
- Investigate suitable potential locations and sites for the establishment of a MSC in the City, including a review of land badly affected by bush fires in recent years to establish the extent of the proliferation of endangered species due to the opening of these areas through the loss of tree coverage
- Actively seek funding for the establishment phase of this project from Federal and State Governments as part of their programs for rural and regional economic development.

2. Relationship To Council

Working group of Council

3. Delegated Authorities

- Make recommendations to Council to facilitate the development of a MSC in Shoalhaven.
- Provide feedback on matters regarding the development of a MSC in Shoalhaven

4. Membership

The membership shall comprise of the following delegates:

Clr Norris - Chairperson

All Councillors

CEO or Nominee

Director – City Futures and/or Nominee

Community / Organisational Representatives Community membership as formally endorsed by Council

Note: Council encourages the appointment of two (2) Indigenous representatives, male and female, on all Advisory Committee.

Councillors

Council will advise the working group of its appointed representatives. Council at its discretion can replace representatives at a time of its choosing.

5. Term of Appointment

Appointments will be for a term of 1 year

6. Executive Positions

The Working Group will appoint a Chairperson and Deputy Chairperson on an annual basis by a vote of members of the Working Group.

The role of Chairperson is:-

- To chair the meeting and exercise functions.

Shoalhaven Motor Sports Working Group – Terms of Reference

- To be the spokesperson for the working group
- To call Extra ordinary meetings of the working group
- The role of the Deputy Chairperson is to act as Chair when the Chair is not present at meetings.

7. Working Group Meetings

- Formal Meetings will be held no less than quarterly in a form and format as determined by the membership
- Topics for the Agenda are to be forwarded to the Chairperson no later than 14 days prior to the meeting.
- Agenda and minutes from previous meetings will be circulated to members at least 7 days prior to the meeting.
- Members must declare in writing, or during the meeting, any interest in any report tabled at the meeting in line with the Code of Conduct.

8. Quorum

The Quorum is half plus one.

9. Voting and Recommendations

- Voting and Recommendations are made by consensus and all decisions must be stated precisely for the inclusion of the minutes
- Where a consensus cannot be reached at two consecutive meetings, then the majority of 60% of those present can adopt a recommendation
- Alternative views and general key discussion points are to be minuted.

10. Communication

- Members of the Working Group are not permitted to speak to the media as representatives of the Group unless approved by the Chairperson
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Working Group and not of Shoalhaven City Council
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes.

11. Parent Advisory Group

Ordinary Council.

12. Code of Conduct

All members of the Committee are to abide by Council's Code of Conduct, including declaration and management of all conflicts of interest

Members cannot obtain private benefit because of their involvement in decision making as a member of the Committee

Shoalhaven Motor Sports Working Group – Terms of Reference

13. Record of Minutes

The Working Group shall ensure that an agreed written record of each of their meetings is forwarded to Council.

14. Staff Attendance

Executive staff may be required to attend the meetings of the Working Group. Other staff at the Directors' discretion or at the Working Group's request can attend meetings as required.

15. 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 Working Group.

16. Review

After each election of Council.



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

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

Email: council@shoalhaven.nsw.gov.au

Website: www.shoalhaven.nsw.gov.au

For more information contact the City Futures Directorate

Terms of Reference - Shoalhaven Motorsports Working Group

Policy Number: Adopted: • Amended: • Minute Number: • File: 1 • Produced By: City Futures • Review Date:

1. ROLE AND PURPOSE OF THE WORKING GROUP

- Advocate for the development of a Motor Sports Complex (MSC) in the Shoalhaven.
- Help guide and facilitate the development a Motor Sports Complex (MSC) in Shoalhaven
- Lead investigations into Seek to identify current and future potential new locations and sites for the establishment of a MSC in the City Shoalhaven.
- Upon identification of a potentially suitable site, Investigate suitable potential locations and sites for the establishment of a MSC in the City, including a review of land badly affected by bush fires in recent years to establish the extent of the proliferation of endangered species due to the opening of these areas through the loss of tree coverage
- Advocate for and actively seek. Actively seek funding for the establishment establishment phase of this project from Federal and State Governments as part of their programs for rural and regional economic development.
-

2. RELATIONSHIP TO COUNCIL

Working group of Council

3. DELEGATED AUTHORITIES

- Make recommendations to Council to that facilitate the development of a MSC in Shoalhaven regarding;
 - Ongoing project advocacy opportunities;
 - Requests for any joint facilitation opportunities identified for the development of a MSC in Shoalhaven.
 - Seeking approval to actively seek funding for the establishment phase of the project.

Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference

- Provide feedback to staff and Council on matters regarding the development of a MSC in Shoalhaven

4. MEMBERSHIP

The membership shall comprise of the following delegates:

Clr Norris Councillor - Chairperson

All Councillors

CEO or Nominee

Director – City Futures and/or Nominee

~~Community / Organisational Representatives Community membership as formally endorsed by Council~~

Community representatives -

- Norman Mogg
- Paul Dean
- Roger Walker
- Robert Bridge

Councillors

~~Council will advise the working group of its appointed representatives.~~ Council at its discretion can replace representatives at a time of its choosing.

5. TERM OF APPOINTMENT

- Appointments will ~~be for a term of 1 year~~ be for the term of the sitting Council.

6. EXECUTIVE POSITIONS

The Working Group will appoint a Chairperson and Deputy Chairperson on an annual basis by a vote of members of the Working Group.

The role of Chairperson is:-

- To chair the meeting and exercise functions.
- To be the spokesperson for the working group
- To call Extraordinary meetings of the working group
- The role of the Deputy Chairperson is to act as Chair when the Chair is not present at meetings.

7. WORKING GROUP MEETINGS

- ~~Formal Meetings will be held no less than quarterly in a form and format as determined by the membership.~~ In general, meetings should be held quarterly or otherwise as determined by the Chair and conducted either in person and/or electronically. Please note as required the Working Group can request to meet informally via Teams or in

Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference

[person without formal agenda or minutes for the purpose of receiving information only i.e. not making recommendation/resolution.](#)

- ~~Topics for the Agenda are to be forwarded to the Chairperson no later than 14 days prior to the meeting.~~
- Agenda and minutes from previous meetings will be circulated to members at least 7 days prior to the meeting.
- Members must declare in writing, or during the meeting, any interest in any report tabled at the meeting in line with the Code of Conduct.

8. QUORUM

The Quorum ~~is half plus one is 4.~~ [consisting of at least one Councillor and one Community Member](#)

9. VOTING AND RECOMMENDATIONS

- Voting and Recommendations are made by consensus and all decisions must be stated precisely for the inclusion of the minutes
- Where a consensus cannot be reached at two consecutive meetings, then the majority of 60% of those present can adopt a recommendation
- Alternative views and general key discussion points are to be minuted

10. COMMUNICATION

- ~~Members of the Working Group are not permitted to speak to the media as representatives of the Group unless approved by the Chairperson~~
- ~~Where approval has been given by the Chairperson, views and opinions expressed are those of the Working Group and not of Shoalhaven City Council~~
- ~~Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes.~~

11. PARENT ADVISORY GROUP

Ordinary Council.

12. CODE OF CONDUCT

All members of the Committee are to abide by Council's Code of Conduct, including declaration and management of all conflicts of interest

Members cannot obtain private benefit because of their involvement in decision making as a member of the Committee

13. RECORD OF MINUTES

Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference

~~The Working Group shall ensure that a~~ An agreed written record of each of their meetings ~~is forwarded to Council.~~ will be distributed to all Members and Councillors as soon as practical.

14. STAFF ATTENDANCE

Executive staff may be required to attend the meetings of the Working Group. Other staff at the Directors' discretion or at the Working Group's request can attend meetings as required.

15. 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 Working Group.

16. REVIEW

After each election of Council.

CL23.177 Proposed Delivery Model - Federal \$40M Road Improvement Funding

HPERM Ref: D23/162427

Department: Technical Services
Approver: Paul Keech, Director - City Services

Attachments: 1. Letter of Thanks - Federal \$40M Road Improvement Funding - The Hon Fiona Phillips MP [↓](#)

Reason for Report

To allow Council to consider a delivery model for the Federal \$40 Million Road Improvement Funding.

Recommendation

That Council

1. Commit to a Program, Project Management and Engineering (PPME) partnership model to deliver the \$40 million commitment from the Federal Government for road improvements following the 2023 Federal Election
2. The PPME partnership would allow for the \$40 million project to be delivered through a stand-alone project team and thus not impact on the capacity of Council to deliver current commitments.
3. Authorise the CEO (Director City Services) to prepare documents to facilitate a public tender for a PPME Partner Consultant and commence this process as required.

Options

1. As recommended

Implications: This option is considered the best delivery model for this funding given the funding has been promised before the design process has begun.

2. Workshop the Project at a Briefing

Implications: Nil.

Background

Roads Services Team

Council's internal roads design and capital works team are currently working at full capacity delivering a large and increasing capital works program. The increases in the road program are being driven by two primary factors - sustained population growth and damage from extreme weather events. These factors, coupled with a tight local resource market, has led to Council's internal roads design and capital works team reaching full working capacity in delivering the committed works program.

CL23.177

Additional Funding for Road Capital Works Program

During the recent Federal election, Labor and Coalition candidates for Gilmore – committed \$40 million to upgrade a package of roads within the Shoalhaven region. This funding is independent of the existing capital works and Natural Disaster Recovery funding.

On 2 March 2023 a formal letter was received from the *Department of Infrastructure, Transport, Regional Development, Communication and the Arts* outlining the confirmed funding arrangements for the project, as well as guidance and obligations on receiving funding from the Australian Government. The letter outlined that the next step in accessing the funding is the completion and approval of a Project Proposal Report (PPR).

The \$40 million commitment will require significant effort above 'business as usual' and existing commitments, including establishing the required scope of works, investigation of the areas, designing the works, and then management of the construction.

The nominated roads are all located in Ward 2, including:

- Forest Road
- Callala Beach Rd
- Callala Bay Rd
- Culburra Rd
- Coonemia/Currarong/Callala Bay Rd Intersection
- Greenwell Point/Worrigee Rd Intersection

The nominal timeframe of 3 years to deliver the entire package poses a significant challenge due to the amount of effort required to establish and deliver these projects. Each process necessary to deliver this program will require considerable time to manage, including development of detailed scope of works, preparation of individual procurement packages, coordination of construction works and management of stakeholder communications.

Tendering these projects via a traditional lump sum method for individual packages would leave Council carrying financial, reputation and quality risks due to undefined requirements, minimally investigated scope, and an inability to accurately estimate the likely capital cost of the proposed roads program.

This has led City Services to investigate alternate delivery models to obtain the assistance of local industry to effectively increase the capacity of Council and its ability to deliver this additional program of work.

Proposed Model

City Services has investigated alternate delivery models and believe that this package of works would best be delivered under a partnership model.

A partnership model involves an external consultant acting in the interests of Council as a 'Partner Consultant', providing various design and management services to support the delivery of a package of works.

The partner Consultant can also act to coordinate the package of works across its program. This allows the Partner Consultant to manage the overall program objective of upgrading the package of roads within the overall program's constraints, including time and funding availability.

This model is not new to Shoalhaven Council, with Shoalhaven Water having adopted a similar approach in 2012 in response to a temporary surge in their planned capital works program.

Council has written to Member for Gilmore, Fiona Phillips, thanking her for the Federal Government commitment and outlined the concept of the proposed delivery model (see Attachment 1).

History of Partnership Model with Shoalhaven Water

Shoalhaven Water has a successful example of the partnership model, named the PPME (Program, Project Management and Engineering) partnership. This model was established due to a large capital works program required to be delivered in a short period of time and was undertaken with locally based consultant GHD between 2012-2017.

Shoalhaven Water sought a partnership as they were under-resourced for this magnitude of work and identified that traditional methods of procurement could not achieve planned capital works program objectives.

The partnership was successful in that it delivered over \$200 million of capital works within the 5-year period, including complex multi-disciplinary projects as well as improving Shoalhaven Water's systems and standards. Over 70 projects, ranging from complex multi-disciplinary projects, small specialist skill projects, and repetitive large projects, were delivered in this partnership. The partnership key benefits include collaborative scoping at project establishment, access to local specialist skillset to support and enhance Shoalhaven Water's capability and tracking the overall program of works against key performance indicators with various levels of governance embedded into the engagement.

The collaborative establishment of each project resulted in an adaptability and agility of project objectives and scope that could not have been achieved through standard models. This led to not only successfully achieving the objective of the overall partnership but also better overall project whole-of-life outcomes.

Funding of the Partnership

The funding of these services is proposed to be sourced from the \$40 million commitment from Federal Government. This funding can be used to cover the planning, design, and construction costs.

The Partner Consultant is to work within establish grant milestones that will be established to ensure sufficient cash flow is available to provide required services.

Partnership Management

Governance of Partnership

A strong governance structure will be required for the partnership, due to the large responsibility of the Partner Consultant in this arrangement. To address this, a three-fold governance structure is proposed to maintain sufficient control of the program's outcomes.

1. Program Governance – This will require the establishment of a steering group to ensure partnership objectives are met. Senior level employees across both sides of the partnership should attend these meetings to actively manage project status and risks at a program level.
2. Project Governance – Project managers assigned from both Council and the Partner Consultant will drive this level of governance, ensuring individual project outcomes continue to meet the expectations of the Federal Government for delivery outcomes.
3. Asset Governance – This layer will ensure project outcomes are in line with Council's expectations for asset and systems legacy, including consistency with relevant asset management strategies and plans.

Management of Probity

To ensure compliance with local government legislation regarding probity, the Shoalhaven Water partnership was released as an open tender to the market, including mandatory and weighted criteria as per the typical procurement assessment.

If approved to proceed, a Procurement Evaluation Plan would be prepared for this package of work based on a three-stage procurement process:

Stage 1 – Open EOI seeking organisational capability and local support strategy

Stage 2 – Select tender seeking nominated project resources, schedule of rates and partner model governance structure

Stage 3 – Interview or workshop with short-listed tenderers (nominally 2) to inform selection of the preferred tenderer based on a balance of assessed value for money and potential for value-adding integration with Council

Financial Management

A standard lump sum approach to consultancy services is not recommended due to undefined scope. However, initial value for money assessment would be achieved through assessment of tender criteria, including capability of consultants proposed staff, as well as an assessment of the Schedule of Rates fees for equivalent qualifications.

Whilst a schedule of rates is used to establish the pricing mechanism at the time of tender, each individual project within a package will have an upper limiting fee established collaboratively, reducing effort from Council resources and time in procurement.

Value for money can also be demonstrated through collaborative establishment of scope, as this will reduce Council's efforts but also allow the Consultant to propose adjustments to the scope of works to suit total budget and design objectives.

Alignment with Asset Custodians

As scope is established collaboratively, asset custodians will have input into the refinement of the scope to achieve the desired asset outcomes in collaboration with the Council Project Manager and the Partner Consultant's project team. The Asset Custodian can then be engaged throughout the stakeholder engagement process, with the level of expected engagement identified at the beginning of each project.

This partnership can act as an enabling project to help establish improved asset management practice, including supporting the implementation of the Asset-Designed-As-Constructed (ADAC) process and incorporating asset betterment strategies.

Risk Implications

Timely Delivery

Delivery of the funded package has been assumed over a nominal timeframe of three years, although this has not been defined by the Federal Government. As the scope is not yet defined, there is a risk in this delivery timeframe, including contemporary risks such as availability of contractors. There is also a risk if a proposed design requires utility relocation or land acquisition, as the time and technical outcomes of these engagements are partly outside the control of Council.

The Partner Consultant model provides access to a larger pool of resources which will facilitate earlier identification of issues and increase opportunities for developing work packages that can maximise leverage within the market.

Reputation

As the \$40 million funding was a public announcement, there will be significant interest from community members, particularly those likely to be impacted by these upgrades. Upgrades will need to be managed in a way to minimise disruption to the community. Scope will also need to ensure the quality of the upgrades is commensurate with community and political expectations.

Reputational risk is also present by awarding a large package of works to a single consultant. The tendering process will need to ensure this is considered, with clear assessment criteria and management of external perceptions.

The advantages in awarding to a single consultant include reduced administrative management on Council’s side and creating a conducive environment to build a strong partner relationship that will constructively address issues as they arise.

Budget Availability

A lump sum of \$40 million has been nominated for the package of road upgrades, but the scope has not been adequately established at this stage to determine the funding risk. As such, it is not yet clear what scope can be achieved for this budget.

Coupled with the undefined scope, the region has experienced significant price escalation in recent years both in material supply and contractors’ costs. As such, it will be important that the Partner Consultant undertakes cost estimates in line with current market price at regular intervals, to ensure the budget is suitable for the package of works.

Proposed Partnership Model Parameters

ITEM	RESPONSE
Asset Custodians	Central District Engineer & Basin District Engineer (coordinated by Roads Asset Manager)
Program Coordinator	Experienced Officer engaged on a fixed term contract (target Band 12)
Program Control Group	Asset Custodian Oversight – <i>Manager Works & Services</i> Design & Project Delivery Oversight – <i>Manager Technical Services</i> Financial Oversight – <i>Manager Budgeting & Analysis</i> Program Coordinator Partner Consultant Project Director Partner Consultant Project Manager
Budget	\$40M: Works & Services business unit as a special project.
Program Objectives	<p><i>Asset Betterment</i></p> <ul style="list-style-type: none"> • Increase the resilience of the road network through improved pavements and drainage consistent with Council’s adopted Engineering Design Code (40yr pavement life), which may be achieved through an agreed staged improvement approach • Improve the safety of the road network by incorporating Safe Systems solutions • Where feasible, facilitate future freight needs by upgrading Regional roads to be suitable for B-Doubles

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	<p><i>Cost Efficient Delivery</i></p> <ul style="list-style-type: none">• Package and program works to achieve optimal economies of scale that are complimentary to other project objectives <p><i>Timely Delivery</i></p> <ul style="list-style-type: none">• Meet funding milestones• Program works to minimise disruption to the broader road network <p><i>Legacy System Enhancement</i></p> <ul style="list-style-type: none">• Capture data in accordance with ADAC system to promote efficiencies in data processing and document procedures for ongoing implementation by Council• Enhancement of Safety by Design practices to support positive community outcomes <p><i>Community Informed</i></p> <ul style="list-style-type: none">• Community updates provided routinely every fortnight in addition to other stakeholder communication needs
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Address all correspondence to: The Chief Executive Officer,
PO Box 42, Nowra NSW 2541 Australia
shoalhaven.nsw.gov.au/contact | 1300 293 111

shoalhaven.nsw.gov.au     

Council Reference: 5279E (D23/212913)

31/05/2023

The Hon Fiona Phillips MP
Member for Gilmore
PO Box 1009
NOWRA NSW 2541

By email only: fiona.phillips.mp@aph.gov.au

Dear Fiona

Federal \$40M Road Improvement Funding

On behalf of Shoalhaven City Council, I would like to thank you for the Federal Government's commitment of \$40 million towards upgrades of some key local roads and intersections within the Shoalhaven. This is a significant contribution that will assist Council's efforts to reinstate and upgrade roads to improve transport resilience for locals and our many visitors to the region.

Thank you also for taking the time to meet with our CEO and senior staff on the 29th of May to discuss our proposal to deliver the project in a partnership arrangement. Please note that we will be reporting that proposed delivery arrangement to the 5 June 2023 Ordinary Council Meeting for endorsement.

If you need further information about this matter, please contact me on (02) 4429 3362. Please quote Council's reference 5279E (D23/212913).

Yours faithfully

Paul Keech
Director - City Services

CL23.177 - Attachment 1

CL23.178 Compulsory Acquisition - 39 Shoalhaven Street (Nowra Park) - Health Administration Corporation

HPERM Ref: D23/204952

Department: Technical Services

Approver: Paul Keech, Director - City Services

Reason for Report

To allow Council to consider the Compulsory Acquisition of 39 Shoalhaven Street (Nowra Park) by the Health Administration Corporation.

Recommendation

That Council

1. Agrees to receive compensation of \$126,262.45 for the Compulsory Acquisition by Health Administration Corporation of 39 Shoalhaven St (Lot 104 DP 1165533), Nowra, with the funds be allocated to the Strategic Property Reserve.
2. Authorises the Chief Executive Officer to sign any documentation required to give effect to this resolution and to affix the Common Seal of the Council of the City of Shoalhaven to all documentation required to be sealed.

Options

1. As recommended.

Implications: Council receives compensation for the acquisition of 39 Shoalhaven St, Nowra.

2. Council could elect to challenge the compensation amount in the Land & Environment Court.

Implications: This is not recommended as the valuation amount has been determined by the Valuer General. Any challenge in the Land & Environment Court would have a cost implication that is unknown at this stage. The Land & Environment Court could also elect not to hear the case due to the 90 day appeal window lapsing.

Background

In August 2021, the NSW Government released its initial masterplan for the hospital expansion. This indicated that the new expansion would be built adjacent to the existing hospital and off Shoalhaven Street on what is currently Lot 7034 (existing Pre-school) and Lot 104 DP 1165533 (formerly Nowra Park).

Council was briefed on the Master Plan by representatives from the Illawarra-Shoalhaven Local Health District (ISLHD) in September 2021.

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Compulsory acquisition - Lot 104 (Nowra Park)



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The land was owned by Crown Lands with Council as the Crown Lands Manager. The NSW Treasury agreed to transfer the land from Crown Lands as the owner, to Health Administration Corporation for NIL compensation. Council had a stake in the land as the Crown Land Trust Manager.

In April 2021 Council, as the Crown Land Trust Manager, was advised of the NSW Health Administration Corporation's (NSW HAC) intention to compulsorily acquire Lot 104 via a Potential Acquisition Notice (PAN). Council responded to this advice re potential compensation.

The compulsory acquisition proceeded, and the 2.64 ha lot transferred to the NSW HAC in November 2021 and is now in NSW Health Administration Corporation's ownership.

Council's claim for compensation has been determined by the Valuer General.

Note that this lot is separate to the Pre-School site. Council has already resolved on the 11/04/2022, the following (MIN22.256) in relation to the Pre-School site:

That Council

1. *Receive the report on the Shoalhaven Hospital Masterplan and the associated Pre-school land matters for information.*
2. *Negotiate with Health Administration Corporation (HAC) and NSW Crown Lands for documentation to be finalised which provides for:*
 - a. *Council to be the Crown Land Manager for the proposed relocation of the Shoalhaven Community Pre-school Incorporated (Pre-school) to the intended site off North Street, Nowra.*
 - b. *A Lease to the Pre-School in the current premises from 1 January 2023 to the completion of the new facility.*
 - c. *An agreement to lease, for a period of ten (10) years, the proposed new location with the Shoalhaven Community Pre-school Inc. at a statutory minimum rental which will require Crown Lands approval.*

- d. *Document the new facility being provided by HAC off North Street, Nowra and the financial implications, including no relocation cost to the Pre-school or Council.*
3. *In relation to the Potential Acquisition Notice, regarding the acquisition of Lot 7034 DP1031852, not pursue compensation under Section 2.24 of the Crown Land Management Act provided that no costs are incurred by Council (legal, stamp duty etc), on the basis that the new facility (approximate cost of \$4.5M) will provide an improved facility to the community and the Pre-school and the reduce costs required to repair and maintain an existing older structure.*
4. *Note that Council's claim for compensation for the compulsorily acquisition of Lot 104 (Nowra Park) is still being pursued with the NSW Government.*

Council had previously resolved on the 04/08/2020, the following (MIN20.539) in relation to the anticipated acquisition of the Nowra Park site for the hospital redevelopment:

That Council reaffirms its previous in-principle support for the establishment and staged development of a master planned medical precinct centred on the current Shoalhaven District Memorial Hospital site and adjacent land, including, where required, the further acquisition and development of Nowra Park.

Financial Implications

For the recommended option Council will receive \$126,262.45 in compensation for the compulsory acquisition of Nowra Park.

To challenge the Valuer General's determination in the Land & Environment Court would be expected to cost in the magnitude of hundreds of thousands of dollars.

CL23.179 Update on \$10M Special Local Road Improvement Works Program

HPERM Ref: D23/8317

Department: Works & Services

Approver: Paul Keech, Director - City Services

Attachments: 1. LRCI - Final Report Photographic Evidence [↓](#)(under separate cover)

Reason for Report

The purpose of this report is to update Council on the finalisation of the Special Local Roads Improvement Program and the works achieved with the \$10M funding.

Recommendation

That Council note that the \$10 Million Special Local Roads Improvement Program (MIN21.417) has been completed with the following being achieved from this funding:

1. 47.7 kilometres of bitumen sealing/resurfacing;
2. 79,935 square metres of pavement rehabilitated; and
3. 17,000 square metres of asphalt works laid which include roundabouts and cul-de-sacs on local roads.

Background

At the Ordinary Meeting on 29 June 2021 Council resolved as follows (MIN21.417)

That Council endorse:

1. *The creation of the Special Local Roads Improvement Program with a total budget of \$10M for the 2021/22 financial year to improve the condition of relevant roads across Shoalhaven City Council.*
2. *The program be funded by Phase 3 of the Local Roads and Community Infrastructure Grant (\$4.2M) and an internal loan from the Section 7.11 Recoupment Reserve (\$5.8M).*
3. *The \$5.8M internal loan from Section 7.11 Recoupment Reserve be repaid over 10 years, starting 1 July 2023 funded from Shoalwater dividends received by the general fund.*
4. *The COVID-19 Contributions Discount Subsidy Policy be discontinued on 31 March 2022 for the internal borrowings funding strategy to be sustainable, and for Council to continue maintaining a sufficient level of working capital in future years. This is in line with the end of the pandemic period as defined by the current Section 10.17, ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979: COVID-19 Pandemic - Ministerial Orders (2021).*
5. *The local roads projects to be delivered under the Special Local Roads Improvement Program are to be determined by management, and the program will target local road works that require non-complex design and approval processes and thus deliver the maximum possible new road seal to customers within the 2021/22 financial year. The types of roads being targeted are. Local access gravel roads which are appropriate for sealing. b. Urban sealed roads that have failed.*

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6. *The 2021/22 Delivery Program and Operational Plan including Budget be updated to incorporate an additional \$10M of capital budget allocated to the Special Local Roads Improvement Program.*

Works commenced in January 2022 following the Department of Infrastructure providing formal confirmation to Council of the Phase 3 Local Roads and Community Infrastructure Grant to the value of \$4.2m.

A needs-based list of locations was then derived from Council's previous road condition survey, undertaken in 2020, along with consultation with various internal stakeholders in order to ascertain their individual eligibility under grant funding criteria.

Works have progressed through 2022 and into early 2023 with all physical works completed by the end of March 2023.

The Department of Infrastructure had offered an extension of time to Council for this particular grant, however this was not required, as all works have been completed well within the original timeframe of completion, which was 30 June 2023.

A summary of the works are as follows:

- Phase 3 of the Local Roads and Community Infrastructure Grant (\$4.2M)

The criteria for this portion of the program was split into two main categories including Sealing of gravel roads and Resealing of sealed roads and pavement reconstruction/rehabilitation.

 - \$4.2M spent;
 - 8.2 kilometres of bitumen sealing/resurfacing; and
 - 36,756 square metres of pavement rehabilitated.
- Key highlights of the Phase 3 Local Roads and Community Infrastructure Grant program included:
 - Upper Kangaroo River Road, Upper Kangaroo River
 - Kellys Road, Upper Kangaroo River
 - Main Road, Cambewarra
 - Ocean Street/Golf Avenue, Mollymook
 - Princes Highway Service Road, South Nowra
- Internal loan from the Section 7.11 Recoupment Reserve (\$5.8M)
 - \$5.8M spent;
 - 39.5 kilometres of bitumen sealing undertaken;
 - 17,000 square metres of asphalt works were laid including roundabouts and cul-de-sac in local roads; and
 - 43,179 square metres of pavement rehabilitated.
- Key highlights of the works undertaken as a result of the Section 7.11 Recoupment Reserve program included:
 - Toolijooa Rd, Berry
 - Illaroo Road Bangalee
 - Comberton Grange Rd, Falls Creek
 - Hames Rd, Parma

- Forest Rd, Falls Creek
- Huskisson Road, Huskisson
- Mount Agony Rd, East Lynne

Community Engagement

Community engagement was provided through Council's Major Projects and Works website.

Financial Implications

Based on the forecasted cash flow for the Section 7.11 Recoupment Reserve \$5.8M has been borrowed from this reserve with the loan to be paid back over 10 years starting 1 July 2023,

The Final financial report has been submitted by the CFO for the Grant portion of the works advising all funds had been fully acquitted.

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CL23.180 Progress Update - Infrastructure Recovery Works - Natural Disaster

HPERM Ref: D23/166118

Department: Works & Services

Approver: Paul Keech, Director - City Services

Reason for Report

To provide Council with an update on the progress of public infrastructure reconstruction works as a result of the severe weather Natural Disaster events occurring during February 2022, June 2022, and September 2022 in the Shoalhaven LGA.

Recommendation

That Council

1. Receives the May 2023 update on the progress of public infrastructure reconstruction works following the February 2022, June 2022, and September 2022 severe weather Natural Disaster events. Noting that most of this information is now drawn from Council's webpage "Severe weather events reconstruction work – 2022".
2. Note the concern with delays in the Natural Disaster Funding assessment process and reviewing of the assessment criteria and that these delays and reviews are contributing to further pavement deterioration and cost escalations.

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Background

Since the 2019/20 Bush Fire crisis, the worst in NSW history, there have been many significant events that have impacted the Shoalhaven, ten of which included damages significant enough to have the Shoalhaven LGA declared a Natural Disaster area, the most recent being the September 2022. The formal declarations can be found via the following link;

<https://www.nsw.gov.au/disaster-recovery/natural-disaster-declarations>

This report focuses on the three significant East Coast Low natural disaster events in 2022, which caused extensive damage by way of major landslips, pavement failures, bridge, stormwater and causeway damage:

- AGRN1012 February 2022
- AGRN1025 June 2022 ongoing, and
- AGRN1034 September 2022.

Whilst this report focuses on these three natural disaster events, the Natural Disaster Reconstruction Team (NDRT) has been managing the repair work to a total of eleven natural disaster events (8 of which occurred whilst Council was operating under the Business Continuity Plan arrangements due to the COVID19 crisis) as follows:

AGRN	Month	Event	EW	IRW	EPARW
871	Nov 2019	Currowan Fire	C	C	C
898	Feb 2020	Severe Weather Event	C	C	C
	Mar 2020	COVID19 Crisis Management Commences			
922	Jul 2020	Flood / Storm Damage	C	C	C
923	Aug 2020	Severe Weather	C	C	P
936	Oct 2020	Severe Weather	C	C	P
960	Mar 2021	Severe Weather	C	C	P
970	May 2021	Storm	C	C	P
987	Nov 2021	Severe Weather & Flooding	C	C	P
1012	Feb 2022	NSW Severe Weather & Flooding	C	C	P
1025	Jun 2022	NSW Severe Weather & Flooding	C	C	P
	Jul 2022	COVID19 Crisis Management Concludes			
1034	Sep 2022	NSW Severe Weather & Flooding	C	C	P

*C = Complete, P = In Progress

Emergency Work (EW)

Immediate Reconstruction Work (IRW)

Essential Public Asset Reconstruction Works (EPARW)

Natural Disaster Reconstruction Team

As reported in June 2022, SCC has formed a Natural Disaster Reconstruction Team (NDRT) to undertake the enormous task of managing the reconstruction of all eligible public infrastructure works following declared natural disaster events. Hence the NDRT works closely with:

- Council's four Engineering Districts;
- Council's Coastal Management team &;
- Council's Media and Communications team
- Council's Community Recovery Officer
- Council's Local Emergency Management Committee
- NSW Reconstruction Authority
- TfNSW
- NSW PWA
- NSW EPA

Status summary of the current NDRT resourcing is as follows:

- Program Manager
- Senior Project Manager
- Project Manager x 2 (plus 1 being recruited)

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- Communication Officer (Part Time, being extend to full time)
- Senior Administration Officer
- Business Support Officer
- Administrative Assistant x 2
- Surveillance Officers x 3

In addition to these positions, Council’s four District Offices have recruited administration staff to assist with customer and maintenance enquiries on matters related to natural disaster repairs.

Extent of Damage

The following statistics summarises the extent of damage as result of the February, June and September 2022 natural disasters:

Damage Records from 1012, 1025 & 1034 Natural Disaster Events		
Number	Work Category	Status
1643	Total damaged records	Various
577	Emergency Works (EW)	Completed
657	Immediate Reconstruction Work (IRW)	In Progress
409	Essential Public Asset Reconstruction Works (EPARW)	In Progress

Damaged Assets from 1012, 1025 & 1034 Natural Disaster Events	
No. Damages	Infrastructure Type
133	Landslips Road / embankment
6	Flood Levee
102	Other (Jetty, boat ramp, beach access, damage, debris, silt)
51	Bridge Structure
610	Roads (sealed)
47	Culverts
14	Footpaths
2	Roadside Furniture
38	Roads (unsealed)
40	Storm water (including sink holes)
1043	Total

The total damage bill for all events in 2022 is likely to exceed \$80 million.

Master Page

Important background information, related documents, links for further information and a platform for disseminating important general communication and urgent announcements is

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provided on the Master Page created for reconstruction work following the Severe Weather events of 2022, which interested persons can subscribe to.

[Master Page Severe weather events reconstruction work 2022](#)

Following the calling of tenders and the receipt of four (4) tenders, the major landslip package of work for 38 sites was awarded to contractor Symal P/L at the meeting of Council on 13 February 2023. The program of works was to commence along Upper Kangaroo River Rd, Bunkers Hill Rd, Woodhill Mt Rd, and Burrier Rd. The full program of work is available on the Master Page. Due to material procurement and resourcing delays, commencement of physical construction has unfortunately been delayed by several weeks although the contractor current program retains the original contract completion dates.

Roadworks Pages

Interested persons can also subscribe to individual Roadworks pages where current and timely information is provided on the planning and progress of repair work at specific locations or along specific roads. A link to these individual roadwork pages is:

[Natural Disaster Repair Works Listings](#)

Drop In Sessions

One hour long Drop-In sessions in the Kangaroo Valley and Burrier localities commenced late March 2023. These sessions are taking place every two weeks with information about dates and times published on the project page which interested persons can subscribe to receive timely updates.

Council Contribution to Natural Disaster Arrangements

On 1 November 2022 Council was approved to “Opt In” to the NSW Disaster Funding Arrangements, backdated to 1 January 2022 to permit inclusion of all 2022 severe weather events into the [NSW Natural Disaster Essential Public Asset Restoration Guidelines 2018](#).

- Minimum \$ 579,683.00 (0.75% Rate Revenue) for each event in each financial year &
- Maximum \$1,545,821.33 (2.00% Rate Revenue) for multiple natural disaster events in any financial year.

Expenditure and Income to Date

The following statistics summarises the extent of damage as result of the February, June and September 2022 natural disasters.

Costs		
Actual Expenditure	\$20,740,579	
Commitments	\$3,914,618	
Total Expenditure	\$24,655,198	
Council Contribution 22/23	\$1,545,821	
Total Council Contribution	\$1,545,821	
Total Claimable	\$23,109,377	Total Expenditure – Total Council Contribution
Claims		

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AGRN1012	\$2,120,163	EW
AGRN1012	\$2,455,496	IRW
AGRN1025	\$1,587,750	EW
AGRN1025	\$33,495	IRW
Total Claimed	\$6,196,904	
Total to Claim	\$16,912,473	Total Claimable – Total Claimed
Funds Received		
Local Govt Recovery Grants	\$756,631	Reflects Balance after \$500,916 social recovery programs \$144,715 for Martinvale Causeway \$111,000 for the repair of Yalwal fire trail
Pre-payment of ND claims	\$5,000,000	March 2022
Total Funds Received	\$5,756,631	
Outstanding		
Total Outstanding Funds	\$11,155,842	Total to Claim – Total Funds Received
Note:		
Next Prepayment of ND Claims	\$12,000,000	See Below

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Next Prepayment of ND Claims

The NSW Government has realised that some Councils are struggling to cover the costs of the Natural Disaster response given the comprehensive claims and approval process. Shoalhaven City Council has been given access to additional special prepayment claims.

ARGN1012 which effectively covers the Major Landslip work package has a current upper fee limit approval of \$60 million. A claim for a prepayment to the value of \$12,000,000 (being 20%) has recently been made following close consultation with the NSW Government.

Consideration

There have been several delays in funding decisions beyond Council's control and thus frustrating attempts by staff to plan and communicate repair activities. The delays are explained as follows:

Betterment Grant Funding

In late 2022, the NSW Government announced a state-wide "Betterment" grant funding program that allocated \$100M to NSW Councils. The program allowed Council to apply for funding to upgrade the repair / replacement solution of damage assets and build "resilience" / "future proofing" against future natural disasters.

In December 2022, the NDRT applied for funding for eight projects from this program, with the combined value of the "betterment" component exceeding \$16M. Funding for successful projects were to be announced in January 2023. However, the latest advice from the NSW Government is that successful projects and funding will now not be announced until a date in June 2023. As a result, the planning of delivery for these eight projects, has been delayed due to the uncertainty of additional state Betterment Grant Funding.

Approval of Scopes of work by TfNSW and NSW Reconstruction Authority

In 2018, the NSW Government published revised guidelines for the administration and approval of federal funding for the repair and reconstruction of “essential” public assets impacted by natural disasters. Unfortunately, there is some ambiguity in the interpretation of the guidelines affecting the standard and eligibility of proposed reconstruction work and this has delayed the assessment of many Local Government projects impacted by natural disasters. As a result, the assessment of Natural Disaster funding and engineering / technical solutions of some of Council’s own projects (namely road pavement rehabilitation projects) has been delayed, some since January 2023.

Financial Implications

The total damage bill is likely to exceed \$80million, say this bill reaches \$95million.

ARGN0012 has been approved to a maximum upper limit of \$60million.

Thus, let’s assume the remaining damage bill is \$35million, if only 90% of this bill was covered by ND funding, Council would need to find 10% or \$3.5million over the next two financial years.

The time delays in receiving approvals means that unfunded maintenance/holding costs increase, and repair cost estimates become outdated and need to be redetermined.

Risk Implications

The road network is currently in a fragile and damaged state. Even minor rain events are having impacts on the road condition. The network is accumulating more and more filled potholes as opposed to repaired potholes and thus the pavement condition deterioration is increasing at an increasing rate.

Council has reached out to the NSW Reconstruction Authority for urgent meetings to discuss these delay and assessment concerns.

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CL23.181 Tenders - Proposed Roundabout - Bowen Street/ Currambene Street Intersection, Huskisson and Stage One Road Rehabilitation Works of Sydney Street and Bowen Street, Huskisson

HPERM Ref: D23/145620

Department: Works & Services

Approver: Paul Keech, Director - City Services

Reason for Report

To inform Council of the tender process for Proposed Roundabout – Bowen Street / Currambene Street Intersection, Huskisson and Stage One Road Rehabilitation Works of Sydney Street and Bowen Street, Huskisson.

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

Recommendation

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

Options

1. Accept the recommendation.

Implications: Consider a separated confidential report on the matter

2. Council make a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the tender evaluation plan

Details

Project Description

The project is for the construction of a 17-metre diameter concrete roundabout at the Intersection between Bowen Street and Currambene Street, Huskisson. The scope of the roundabout project includes kerb and gutter, concrete footpath, pavement rehabilitation, street lighting, stormwater drainage, line marking and road signage.

The tender also included the Stage One Road Rehabilitation works of Sydney Street and Bowen Street, Huskisson. The Stage One road rehabilitation is from the proposed Roundabout at the intersection between Bowen Street and Currambene Street to Hawke

CL23.181

Street (CH240-CH340). The scope of the road rehabilitation includes kerb and gutter, pavement rehabilitation, stormwater drainage, line marking and road signage.

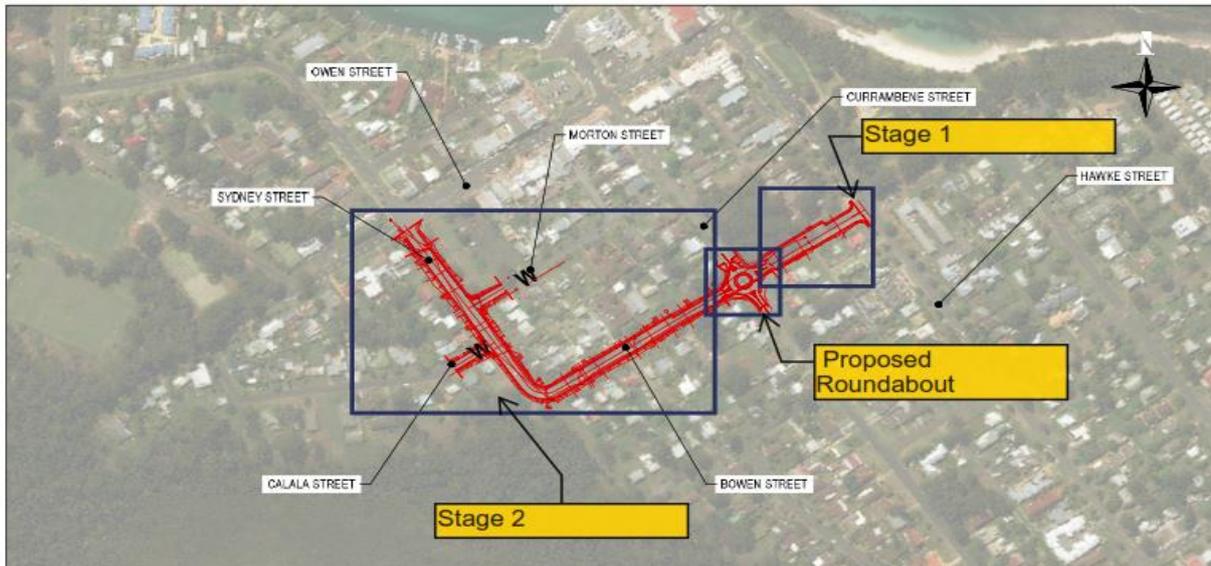


Figure 1. Sydney Street/Bowen Street Huskisson 2540

Tendering

Council called tenders for the construction of a Proposed Roundabout - Bowen Street / Currambene Street, Huskisson and Stage 1 Road Rehabilitation works of Sydney Street and Bowen Street, Huskisson on 6 March 2023 which closed at 10:00 am on 11 April 2023. Three (3) tenders were received at the time of closing. Tenders were received from the following:

Tenderer	Location
Cleary Bros (Bombo) Pty Ltd	Port Kembla, NSW
Kingsline Pty Ltd	Greenfield Park, NSW
Pascall Group Pty Ltd	Tomerong, NSW

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

Policy Implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993.

Financial Implications

Details relating to the Financial Implications are contained in the confidential report.

Risk Implications

Details relating to the Risk Implications are contained in the confidential report.

CL23.181

CL23.182 Tenders - Meroo Road, Bomaderry (CH300m to CH1540m) - Full Service Pavement Rehabilitation

HPERM Ref: D23/192864

Department: Works & Services

Approver: Paul Keech, Director - City Services

Reason for Report

To provide Council the opportunity to consider the recommendation of a tender award for the Full Service Pavement Rehabilitation of Meroo Road, Bomaderry, from Chainage 300 to Chainage 1540.

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

Recommendation

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

Options

1. Accept the recommendation

Implications: Consider a separated confidential report on the matter

2. Council make a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the tender evaluation plan

Background

Project Description

Rehabilitation of Meroo Road, Meroo Meadow commencing from The Meadows Swim School extending 1200m south, terminating at chainage 1540m. The section of Meroo Rd scheduled for rehabilitation is in close proximity to the DN100 North Nowra High Pressure Gas Pipeline impacting construction from Fletchers Lane (chainage 480m) to chainage 1540m.

Council has engaged a specialist Pipeline Engineer to provide advice and recommendations relating to safety and asset protection ensuring the selected construction methodology is to Jemena (asset owner) satisfaction.

CL23.182

Council called tenders for Meroo Road Bomaderry (CH300m to CH1540m) Full Service Pavement Rehabilitation on 12 April 2023 which closed at 10:00 am on 8 May 2023. 3 tenders were received at the time of closing.

Tendering

Tenderer	Location
Cleary Bros (Bombo)	Port Kembla, NSW
Fulton Hogan	Minto, NSW
Stabilised Pavements of Australia	Somersby, NSW

Tendering

Details relating to Tendering are contained in the confidential report.

Community Engagement

The community have been advised of the proposed rehabilitation by means of roadside variable message boards and councils road work webpage.

Financial Implications

Details relating to the Financial Implications are contained in the confidential report.

Risk Implications

Details relating to the Risk Implications are contained in the confidential report.

CL23.182

CL23.183 Waste Fee Relief - Special Circumstances

HPERM Ref: D23/214450

Approver: Paul Keech, Director - City Services

Reason for Report

The owners of a property are seeking waste fee relief for the demolition of their house, which was partially damaged in the fires of 2019/20 and eventually considered unreparable.

In accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, some information should remain confidential as it would, if disclosed, could reasonably be expected to reveal an individual's personal information or contravene an information protection principle under the Privacy and Personal Information Protection Act 1998 or a Health Privacy Principle under the Health Records and Information Privacy Act 2002.

Recommendation

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

Options

1. As recommended

Implications: Consider a separate confidential report on the matter.

2. Reject the recommendation

Implications: Information personal to the property owners would be made public.

Background

The property (2 Huddle Close Conjola Park) was partially destroyed in the 2019 Bushfire crisis.

Policy Implications

Details relating to the Policy Implications are contained in the confidential report.

Financial Implications

Details relating to the Risk Implications are contained in the confidential report.

CL23.184 Policy - Waiving of DA Fees & Other Fees for Charitable Organisations & Community Groups

HPERM Ref: D22/505722

Department: Development Services

Approver: James Ruprai, Director - City Development

Attachments: 1. Draft Policy - Refund of Development Application Fees and Other Fees for Charitable Organisations and Community Groups [↓](#)

Reason for Report

Council resolved on 31 October 2022 that:

1. *Council Receive a report in regard to a review of Policy 22/18 - Waiving of Development Application Fees and Other Fees for Charitable Organisations & Community Groups to include draft criteria, at Clause 2.4, to allow Councillors to make well informed and transparent decisions when determining requests for the waiving of fees over \$1,500.*
2. *Council includes additional Criteria at Clause 2.4 to consider, but not limited to:*
 - a. *Financial position of the organisation*
 - b. *What services or initiatives will be provided*
 - c. *If the funds will be held locally*
3. *The revised draft be presented to Councillors via a briefing prior to Christmas.*

This report is in response to the above resolution of Council.

Recommendation

That Council adopt the revised Policy for Waiving of Development Application Fees and Other Fees for Charitable Organisations & Community Groups as detailed in Attachment 1 to this report.

Options

1. As recommended.

Implications: This will result in staff having delegation to refund fees up to a value of \$5,000. It will also require that applicants provide financial details verifying their charitable status and make a written request to refund fees. Details are contained in the report.

A minor change is also proposed to section 68 Applications (section 2.5 of the proposed Policy attached to this report). The change is intended to capture certain onsite sewage management facility operations for community groups and charitable organisations.

This change clarifies that if the criteria is met the organisations do not need to play a fee at lodgement and will not be levied the annual onsite sewage management charge.

2. Not adopt the Policy.

Implications: The current Policy would continue to apply.

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3. Resolve alternatively.

Implications: Adequate detail would be required to enable staff to pursue the recommendation.

Background

- Council resolved via MIN22/829 to review the Policy.
- At a briefing to Councillors on 1 December 2022, options were discussed concerning the Policy. This report responds to the feedback at that meeting and the Council resolution.
- The Policy follows Council’s recent consideration of refunds for two matters, being the Anglican Church and Southern Cross Housing.
- An electronic file search has revealed 13 refunds for fees since 2017, for fees paid to council in excess of \$1,500. Two refunds have been reported in 2022.
- Other Councils’ Policies /approaches were also explored concerning refunds.

Table 1 – Other Council Policies

Council	Policy
Eurobodalla	100% refund – where applications were submitted by non-profit or community groups which did not derive profit for sale or rental of land or buildings. The refund of fees is met by a donation of Council.
Wingecarribee	Fees are waived subject to the project being on Council owned or controlled land. The applicant is a not for profit club, organisation, community group or charitable organisation and is in effective control of the land. A request must be made in writing setting out the community benefit that will be achieved from the development.
Shellharbour	Funding assistance is provided to local sporting, cultural, education, health, welfare, and other groups who have demonstrated a community need. Applications for funding are open four times per year.
Kiama	Written requests on a case by case basis. The matter is reported to Council.
Central Coast	Application are to be made in advance of a DA being lodged. The Development Manager has delegation to consider the request. If granted, a written reply is provided to the applicant who submits the reply with the application through the Planning Portal when an application is made.
Bega	Applicants pay fees upfront. If a request is made, the matter is reported. Refunds are subject to budget capacity.

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Key Changes

- The word waiver is removed from the title and document. It’s now simply referred to as a refund.
- Events are removed from the list of exemptions. This will not completely deny refunds for events. For example, if there is a charity group holding some sort of event, they *may* require development consent and still benefit from the Policy. Note that temporary events that 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* do not require approval if compliant with Schedule 2 Exempt Development, *Shoalhaven Local Environmental Plan 2014*.
- Clubs – an explanation is included in the Policy. Clubs that hold a licence under the relevant legislation will not benefit from a refund. Organisations under the umbrella of a club are also not to be exempted.

- The Refund Policy is not to apply to subdivision of land. For the most part this is typically a commercial activity. If a charity undertakes a subdivision, they still may meet the criteria if the organisation can show that the funds are coming back to the broader community. For example, a lot is created for a community housing project.
- Any fee refund request must be in writing and supported by evidence of meeting the criteria, provide a balance sheet and explain how funds are returned to the Shoalhaven community.
- A sample table of potential refund scenarios is included in the Policy.
- Delegation now increased for staff to a cap of \$5k. Anything over this amount is to be reported to Council.
- A clarification is provided that the Policy that refunds under the Policy do not apply to Section 7.11 contributions.

On-site Sewerage Management Systems (OSSMs)

Council has identified that there are 52 properties that have been identified as historically fee exempt. These properties include Council owned, Crown land, charities and community groups, religious institutions, Minister / Department of Education, and the Forestry Commission.

It was reported that these exemptions would not be automatically applied into the future and those currently fee exempt would be informed of the new charging process and that a Council resolution would be required for any future exemptions.

This Policy can deal with the OSSMs associated with **charitable organisations and community groups**.

In this regard, the following change is recommended which will clarify that a fee is not required when making applications for a facility and the annual onsite sewerage management charge.

2.5.1 Sewage management facility applications

*For sewage management facility applications, applicants/organisations who apply for a fee refund and demonstrate that they meet the exemption criteria in clause 2.1, **do not need to pay an application fee at the time of lodging such applications and will not be levied the annual onsite sewerage management charge.***

Policy Implications

If Council proceeds with the recommended revised Policy, it will replace the current Policy and delegate refunds, up to the increased amount (\$5k) subject to meeting criteria specified.

Financial Implications

The refund of fees will result in monies being refunded from the City Development Budget to nominated organisations / groups.

Risk Implications

The Policy is not envisaged to expose Council to an unacceptable risk given the number of applications likely to attract a refund.

Refund of Development Application Fees and Other Fees for Charitable Organisations and Community Groups

Adoption Date:	18/02/1997
Reaffirmed:	21/12/2004
Amendment Date:	24/07/2007, 14/04/2009, 20/07/2011, 23/11/2012, 19/09/2014, 19/09/2017, 15/05/2018, 12/11/2019, 25/02/2020, 20/09/2022
Minute Number:	MIN97.72, MIN04.1598, MIN07.1041, MIN09.429, MIN12.1280, MIN17.796, MIN18.353, MIN19.842, MIN20.135, MIN22.644
Review Date:	01/06/2023
Directorate:	City Development
Record Number:	POL23/6

Waiving of Development Application Fees and Other Fees for Charitable Organisations and Community Groups

1. Purpose

This policy exempts certain applicants/ organisations from the payment of some fees such as: Development Applications (DAs) and applications under section 68 of the *Local Government (LG) Act 1993* (including sewerage management facility, temporary/ mobile food and street stall approvals), subject to certain exemption criteria.

2. Provisions

2.1 Exemption criteria

The following exemption criteria apply:

(a) The applicant is a non-profit organisation, such as:

- a registered charity and evidence of registration as a charity has been provided to Council; or
- a local community or sporting group; or
- a Council project of a “community” nature.

(b) The application does **not** involve any ongoing commercial or business type venture such as a nursing home, childcare centre, educational establishment, registered club* or subdivision of land etc, whether or not they meet the exemption criteria in clause 2.1(a).

*Club includes any subsidiary, associated group or organisation, including an arm of the club ‘Trading As’ and holding a Club Licence under the relevant legislation.

(c) To support a fee refund request the following information must be provided:

- Evidence of being one of the organisations referred to in (a) above. In this regard, the organisation must provide current, verifiable written proof that the organisation is either registered with the Australian Taxation office (ATO) as a charitable / non-profit organisation or, alternatively, is registered with the Office of Fair Trading under either *Associations Incorporation 1981* or *Corporations Act 2001*.
- Balance sheets.
- An explanation of how any refunded fees will be returned and benefit the local Shoalhaven community.

Examples of potential exemptions or applicants not meeting exemptions

Community Housing provider	✓	Bowling Club	✗
Church	✓	Private Childcare Centre	✗
Hockey Club	✓	Group of residents, formed for a project to lease land and construct an art studio	✓
Residential subdivision	✗	Medical centre	✗

Waiving of Development Application Fees and Other Fees for Charitable Organisations and Community Groups

2.2 Refund threshold for DAs

The sum of all DA fees does not exceed \$5,000 This excludes prescribed advertising, notification and archive fees which must be paid. Refer to clause 2.3 regarding any amount above this refund threshold.

The fee refund does not apply to any section 7.11 contributions.

2.3 Payment of fees for DAs

Applicants/ organisations who meet the exemption criteria in clause 2.1 are required to pay upfront any amount above the fee refund threshold set in clause 2.2. The applicant/ organisation can apply for reimbursement of the amount paid and Council will consider this request on merit in accordance with clause 2.4.

Applicants/ organisations who do not meet the exemption criteria must pay the scheduled fees upon lodgement of an application.

2.4 Reimbursement of fees for DAs

If a reimbursement of the fees is sought, a written request outlining the grounds for reimbursement must be submitted. Refer to 2.1.

The matter will then be referred to a meeting of Council. Any donations by way of whole or partial reimbursement determined by the Council will be paid out of the City Development budget or a source identified in Council's resolution.

2.5 Refunding applications under S68 of the LG Act 1993

2.5.1 Sewage management facility applications

For sewage management facility applications, applicants/organisations who apply for a fee refund and demonstrate that they meet the exemption criteria in clause 2.1, do not need to pay an application fee at the time of lodging such applications and will not be levied the annual onsite sewerage management charge.

2.5.2 Temporary/ mobile food and street stall applications

For temporary/ mobile food and street stall applications, applicants/ organisations who meet the exemption criteria in clause 2.1, do not need to pay an application fee at the time of lodging such applications.

3. Implementation

City Development administers this policy.

4. Review

This policy statement will be reviewed annually by City Development as part of the overall annual review of Council's Delivery Program and Operational Plan.

CL23.185 DA22/2290 - Development Application - 5 Treetops Crescent Mollymook Beach - Lot 396 DP 246719

DA. No: DA22/2290/4

HPERM Ref: D23/182642

Department: Development Services
Approver: James Ruprai, Director - City Development

Attachments: 1. Planning Report - S4.15 Assessment (under separate cover) [⇒](#)
2. Draft Development Consent (under separate cover) [⇒](#)
3. Development Plans (under separate cover) [⇒](#)

Description of Development: Alteration and additions to existing dwelling, construction of a new dwelling at the rear to create a detached dual occupancy, and Torrens title subdivision.

Owner: Siberian Matrix Pty Ltd

Applicant: Illawarra Design Company

Notification Dates: 5 January 2023 to 21 January 2023

No. of Submissions: 8

Purpose / Reason for consideration by Council

The application was called in for determination by the Council due to the 'public interest' on 13 February 2023, by a Notice of Motion (MIN23.64).

Recommendation

That Development Application DA22/2290 alteration and additions to existing dwelling, construction of a new dwelling at the rear to create a detached dual occupancy, and Torrens title subdivision at Lot 396 DP 246719, 5 Treetops Crescent, Mollymook Beach be approved subject to the conditions contained in Attachment 2 of this report.

Options

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

Implications: This would allow the applicant to pursue construction of the developments.

2. Refuse the Development Application (DA).

Implications: Council would need to determine the grounds on which the DA is to be refused, having regard to sections 4.15 considerations. A refusal enables the applicant to lodge a section 8.2 Review and / or appeal with the Land and Environment Court of NSW (LEC).

3. Alternative recommendation.

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

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Location Map



Figure 1 – 5 Treetops Crescent Mollymook Beach



Figure 2 – Existing Dwelling at 5 Treetops Crescent Mollymook Beach

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Figure 3 – View to southern boundary at 5 Treetops Crescent Mollymook Beach



Figure 4 – Rear yard of 5 Treetops Crescent with view to south east

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Figure 5 – Rear view of neighbour to the north from site

CL23.185

Background

Proposed Development

The DA seeks approval for the alterations and additions to the existing dwelling and construction of a two-storey dwelling at the rear to create a detached dual occupancy and Torrens Title subdivision.

Proposed Development	<ul style="list-style-type: none"> • Alterations and additions to the existing dwelling to create a two storey dwelling. • Construction of a second dwelling to create a dual occupancy. • Associated external works including driveway extension and landscaping. • Two lot Torrens subdivision
Lot Area	765.6m ²
Proposed Height	Dwelling 1 = 7.525m Dwelling 2 = 6.745m
Street Presentation	Dwelling 1 - Two storey dwelling with second storey set back into the roof
Proposed Floor Plan for each dwelling	Dwelling 1 (Front) – 4 bedrooms with living areas on the ground floor Dwelling 2 (Rear) – 3 bedrooms with living areas on the ground floor
Proposed Lot Sizes	Lot A = 419.3 m ² Lot B = 346.4 m ²
Floor space ratio (FSR)	0.43:1

Table 1 – Proposed development criteria

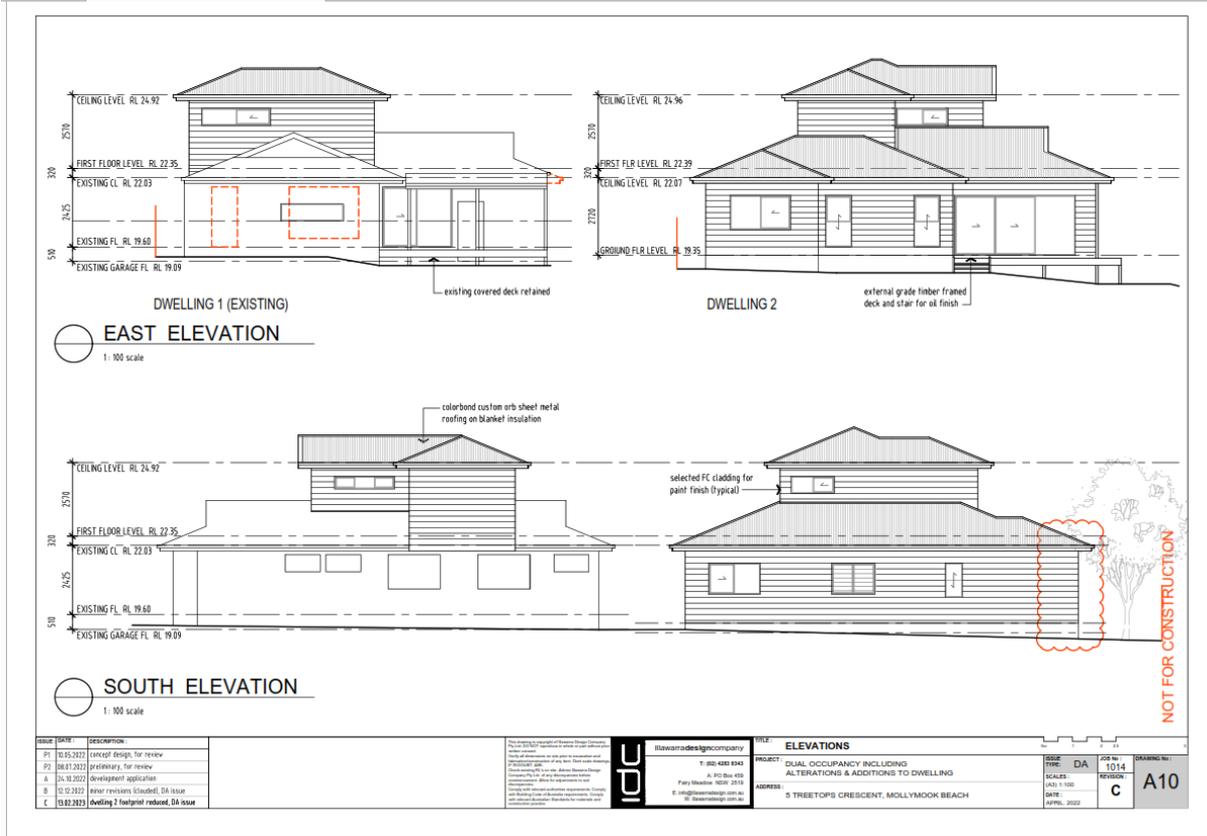


Figure 8 – East & South Elevations – 5 Treetops Crescent Mollymook Beach

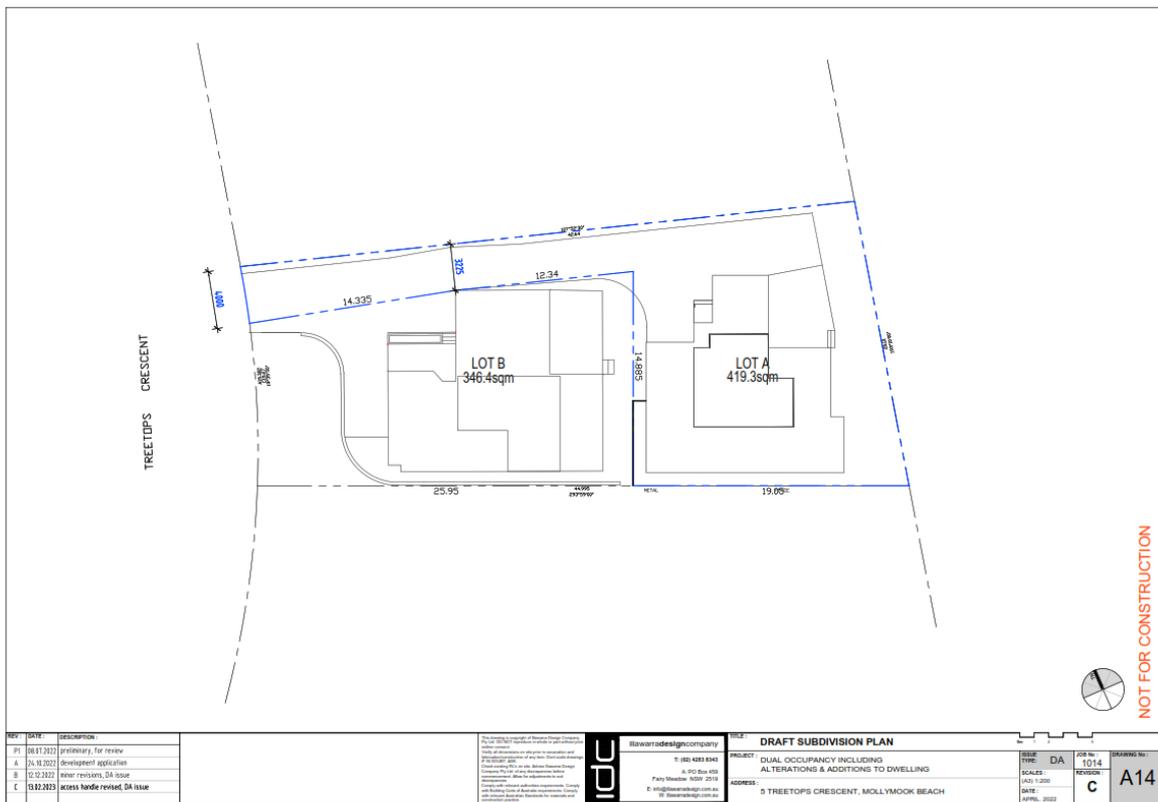


Figure 9– Proposed Subdivision Plan – 5 Treetops Crescent Mollymook Beach

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Subject Land

The development sites comprise Lot 396 DP 246719, 5 Treetops Crescent Mollymook Beach.

Site & Context

The development site contains an existing single storey dwelling house. The lot is zoned R2 Low Density Residential under the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

The site is an irregular shaped lot that has a 15.3m frontage to Treetops Crescent with a depth of 43.5m. It slopes down from the street, from northwest to southeast, with a cross fall of approximately 4m. The lot is located approximately 630m west of Mollymook Beach and approximately 570m southwest of the Mollymook Beach shopping centre. The lot has an easement to drain water that runs adjacent to the rear boundary.

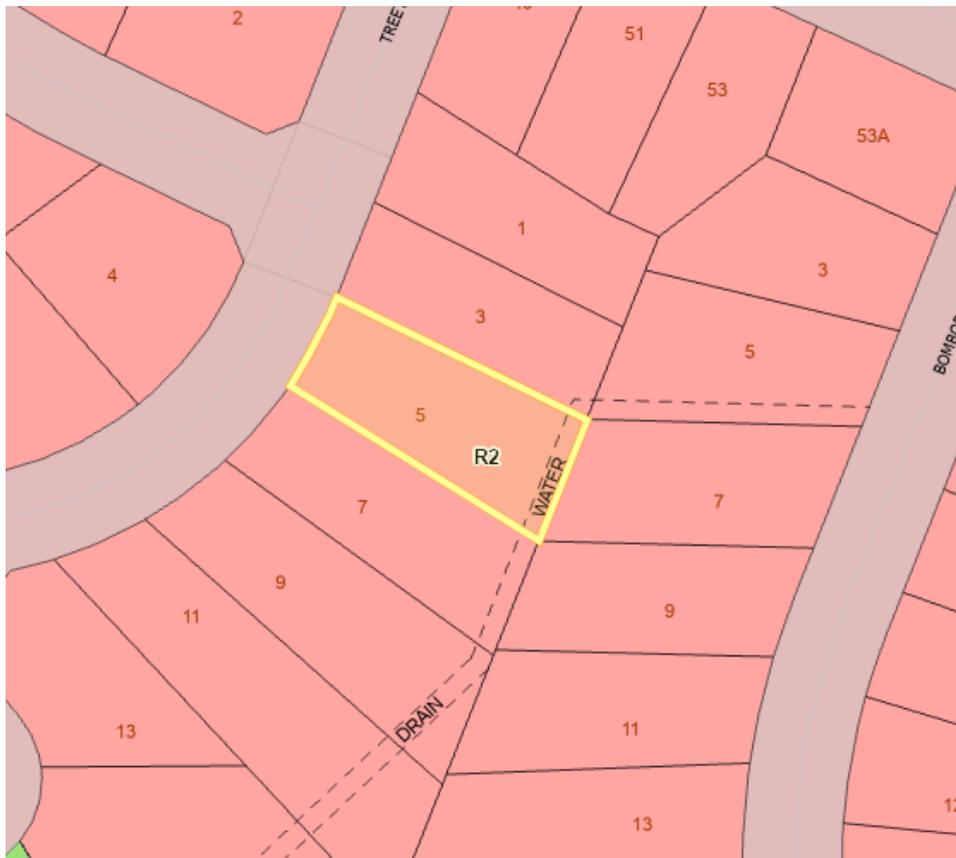


Figure 10 – Zoning Map – 5 Treetops Crescent Mollymook Beach – R2 Low Density Zone

Planning Assessment

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

The proposed application has been assessed against the relevant planning instruments and has been found to be satisfactory.

Consultation and Community Engagement:

Notification was undertaken for the application in accordance with Council’s Community Consultation Policy with letters being sent within a 25m buffer of the site. The notification

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period was 5 January 2023 to 21 January 2023. There were eight (8) submissions received in response to the notification and after the notification, were objections.

Key points (in no particular order) are summarised below.

- The proposal raises issues of unsympathetic character (& density)
- Privacy & overshadowing
- Stormwater drainage issues
- Amenity impacts
- Holiday letting & carparking concerns
- Access
- Subdivision pattern is inconsistent with the existing area
- Views are impacted
- Tree removal is required

The assessment of the application considered the matters raised in the submissions (as prescribed by s4.15(d) and concluded on balance having regard to all the heads of consideration (section 4.15 Evaluation), that the application should be approved.

A detailed analysis can be found in the attached section 4.15 assessment report.

Summary of Main Issues

Compatibility and Character

Issue

The development is out of character with the surrounding area.

Comment

Consideration of the compatibility of the proposal and its surroundings can be undertaken having regard to the Land and Environment Court Planning Principle on “compatibility with context” in *Project Venture Developments V Pittwater Council [2005] NSWLEC 191*. In order to test whether a proposal is compatible with its context, the following two questions should be asked:

1. Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The proposals physical impacts on surrounding development have been assessed against the relevant provisions in Shoalhaven Development Control Plan 2014 (DCP) and found to be satisfactory. The impacts on surrounding amenity, solar access and streetscape character are acceptable.

Dual occupancy development is permissible in the R2 zone.

2. Is the proposal’s appearance in harmony with the buildings around it and the character of the street?

It is considered that the proposed two storey designs are in harmony with the buildings around them and they are consistent with the character of streetscape, which is a mix of one and two storey dwellings which also use similar pitched roofs and mixed building materials. The second storey components of both dwellings are set back into the roof structures which reduces the overall bulk and scale.

Dual occupancy development is an appropriate and permissible land use in the R2 as mentioned above, and was also permissible under the preceding *Shoalhaven Local*

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Environmental Plan 1985 (SLEP1985) and reaffirmed by council under Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

There are many dual occupancy developments in the Mollymook Beach area. It is not an atypical form of development.

Privacy

Issue

Privacy and overlooking of neighbouring dwellings.

Comment

The first storey is less than half of the ground floor footprint and generally centrally located to each dwelling, the windows on the first storey on the southern elevations are high set and the northern elevation are of normal size to take advantage of the northern light. The northern elevation windows are not living room windows and are a minimum 8.5m from the side boundary. Dwelling 1 and Dwelling 2 have no living room windows on the first floor and therefore are not considered to be in the privacy sensitive zones as defined in the acceptable solutions of the DCP.

There is no privacy or overlooking impacts to adjoining neighbours as the living areas are on the ground floor and the existing fencing between the neighbours will provide privacy. The southern elevation which is 40mm 'short' of meeting the numeric development control in the DCP, contains no windows and as such there are no overlooking / privacy issues are a result of this minor departure from the development control.

Overshadowing

Issue

Overshadowing of neighbouring properties living areas and outdoor areas.

Comment

The applicant has provided shadow diagrams that indicate that the neighbouring properties will receive adequate sunlight to north facing windows and private open space in accordance with the acceptable solutions of the DCP and the NSW Land and Environment Court – Planning Principle: Sunlight – Access to Sunlight.

Stormwater

Issue

There is already a stormwater issue to adjoining properties during heavy rain and this proposal will redirect overland flow into neighbouring properties and exacerbate the problem.

Comment

The property has a drainage easement at the rear which follows a natural drainage line. The proposed stormwater management plan has been designed by an appropriately qualified engineer and incorporates onsite detention with overflow to the drainage easement pit at the rear. The plan has been reviewed by Council Engineers and complies with DCP Chapter G2 Stormwater Management.

Amenity impacts

Issue

Amenity impacts and overdevelopment on the surrounding low-density neighbourhood will be adversely impacted by dual occupancy development, and it should not be permitted.

Comment

The R2 zone allows for dual occupancy development with Council approval, and it is also permitted as complying development.

All residential zones in the Shoalhaven permit dual occupancy development.

Holiday letting

Issue

That the properties will be used for holiday letting which will create parking issues.

Comment

The potential for holiday letting is not a consideration for development approval for a dual occupancy application.

Holiday letting is exempt development in dwellings, including dual occupancy dwellings, under *State Environmental Planning Policy (Housing) 2021 – Short Term Accommodation* (SEPP (Housing) 2021) which applies to the entire State.

The proposal provides two car parking spaces for each dwelling on the site which is compliant with Council DCP requirements.

Tree Removal

Issue

Concerns that a large tree on the rear boundary will be removed.

Comment

The Landscape Plan indicates that only one small tree is to be removed adjacent to the rear boundary. The large tree in the southeast corner is to be retained. The applicant has confirmed in writing that the large tree is to be retained.

Views

Issue

Concerns regarding the loss of views across the property from neighbouring dwellings

Comment

The proposed dwellings are within the SLEP 2014 height restrictions and the building envelope outlined in the DCP. There are no significant views that will be lost from surrounding development.

Subdivision

Issue

The proposed subdivision is inconsistent with the subdivision pattern of the surrounding area and will not comply with the LEP minimum lot size and clause (now section) 4.1 of the SLEP 2014. In addition, the access handle should not be included in the calculation.

Comment

The proposed dual occupancies are being subdivided in accordance with clause (now section) 4.1A of the SLEP 2014 which allows for approved dual occupancy development to be subdivided into lots of any size provided that a dual occupancy development is approved. The subdivision pattern is not a relevant consideration for the subdivision of dual occupancies. The proposal is compliant with the SLEP 2014 and the DCP.

Precedence

Issue

If this proposal is approved, it will set an undesirable precedent for greater residential density in the area.

Comment

Dual occupancy development is permitted in the zone and is considered to be an appropriate development type. Increased density in the form of dual occupancy, provides for much needed residential accommodation, improves the efficiency of existing utilities delivery while reducing demand for urban sprawl. There are several other examples of dual occupancy development in the Mollymook Beach area.

Access

Issue

The access to the rear dwelling is narrow and emergency vehicles and larger vehicles will be unable to access.

Comment

The access handle is 4m wide for most of its length, except for a small section near the corner of the existing dwelling which is 3.225m wide. The applicant has requested a variation to the DCP requirement of the minimum 4m width of access handle for a battle axe allotment. The application has provided the following justification for the variation. (It is noted that a car parking space is 2.4 in width and the design vehicle width dimension for a semi-trailer is 2.5m wide which would be the largest vehicle to ever access the site (removal truck))

Applicant:

How the development will achieve the objectives of the DCP:

1. Provide guidelines for applicants and Council to consider the subdivision of a dual occupancy development where the development satisfies the guidelines and controls established for that development.

The proposal satisfies the objective. The proposal has considered the standard, the proposal is infill development and makes use of the existing site and dwelling siting.

2. Minimise the impact of subdivision of dual occupancy developments on existing character and streetscapes of the locality.

The proposal satisfies this objective- The land subdivision has minimal impact on the streetscape and locality. The outcome would be the same if the land was Strata titled without subdivision. The access handle will provide clearance for rigid trucks to service the site during construction and post construction for removals, deliveries etc.

3. Provide a range of housing styles in specified residential localities as described below.

The proposal satisfies this objective – The land subdivision results in one additional dwelling and improved aesthetic to the existing dwelling.

Comment:

The variation is a 0.775m or 19% departure from the 4m numerical standard. The proposed variation is relatively minor and only occurs at the point which is closest to the existing house. Most of the driveway will be compliant with the required 4m width. The driveway access is a minimum 3m in width which is a suitable width to accommodate a standard vehicle. The applicant is proposing to modify the eave on the existing house at this point to enable taller vehicles to utilise the driveway access.

The Development Engineer has reviewed the access and is satisfied that the proposal can comply with the objectives of the DCP subject to conditions of consent.

The proposed departure from the essential requirement will not have any adverse impacts on the surrounding environment and will provide suitable access to both dwellings.

Private Open Space

Issue

Green space in the rear yard is only 3m wide, is impacted by easements, trees and a clothesline.

Comment

Each dwelling provides the more than 50m² private open space which is compliant with the DCP requirements. Trees and landscaping can be included in the area. Proposed private open space includes the outdoor living deck areas which are directly accessed from the indoor living areas of the dwellings.

Financial Implications:

The applicant is entitled to appeal a decision of Council. In the event of an appeal being lodged with the NSW Land and Environment Court, Council would be responsible for costs incurred throughout the proceedings.

Legal Implications

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

Summary and Conclusion

There are two numeric departures from the acceptable solutions. One is the driveway width for a small part of the driveway the other a 3% departure for the side setback for the two-storey component of Dwelling No 1. The proposal is 40mm short of meeting the standard. There are no windows on this elevation. The intention of the control is to deal with height impacts as well as enabling adequate light, solar access ventilation and privacy - none of these are compromised by the design.

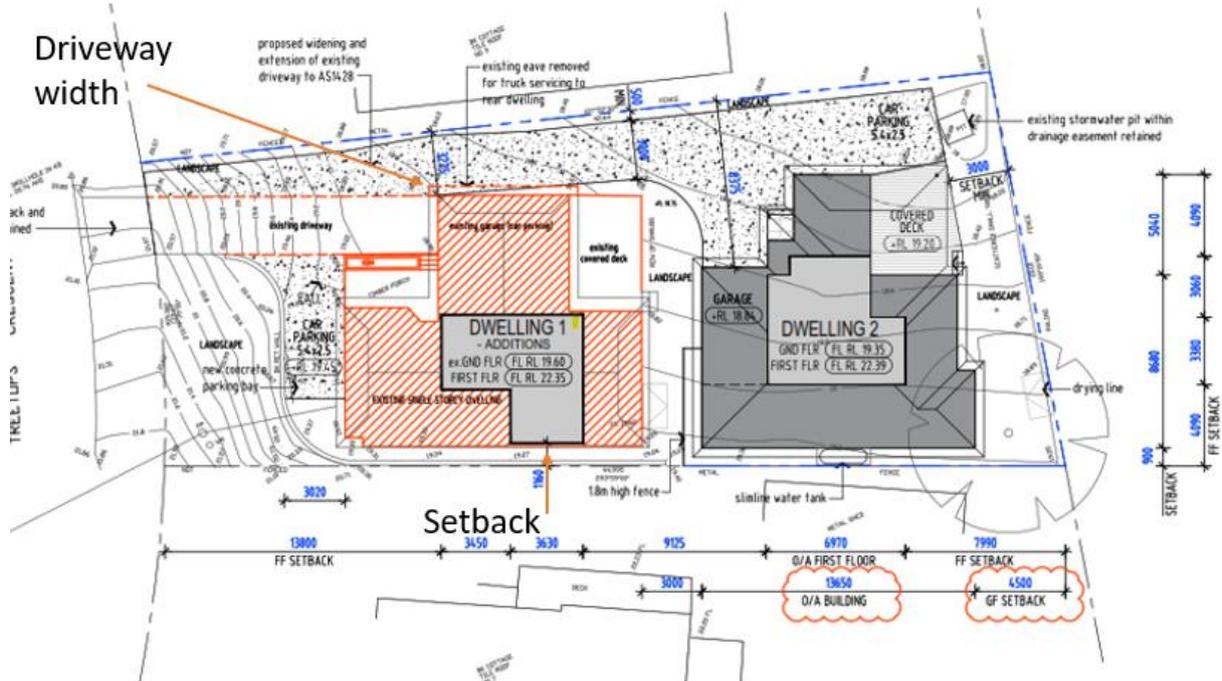


Figure 11 – Numeric acceptable solution departures for which performance solutions have been sought

The proposed development has satisfied the provisions of SLEP 2014, significantly, meeting the lot size controls for this type of development and complying with the height controls. The proposal is also considered to satisfy the objectives of the DCP.

The application has been subjected to a detailed analysis of the issues raised in the submissions which have been addressed in this report.

The application for the dual occupancy development is considered satisfactory and in this regard, approval is recommended.

CL23.185

CL23.186 Shoalhaven Sports Board Membership - Community Membership x 5 and Inclusion/Accessible Sporting Group x 1

HPERM Ref: D23/161595

Department: Community Planning & Projects

Approver: Jane Lewis, Director - City Lifestyles

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

Reason for Report

The purpose of this report is to seek endorsement to appoint new members to the Sports Board following the recent call for Expressions of Interest (EOI), to fill:

- 5 x Community Member representative positions and,
- 1 x Inclusion / Accessible Sporting Group representative position, and,

To consider an amendment to the Sports Board Terms of Reference to enable 2 x past Board community members representatives be extended an invitation to be re-appointed to the Board for a fixed term to assist with succession planning and transition, and that the Sports Board Terms of Reference are updated to reflect these changes.

Recommendation

That Council:

1. Endorse the appointment of the following 5 nominees to the Shoalhaven Sports Board as community member representatives for a term of 4 years expiring in June 2027:
 - Craig Howsan (existing member)
 - Jonathan Sellers (existing casual member)
 - Colin Stevenson (existing casual member)
 - Greg Wellington
 - Anna Gardner
2. Endorse the appointment of the following nominee to the Sports Board as the Inclusion/Accessible Sporting Group member representative for a term of four years expiring in June 2027:
 - Jacqueline Peace
3. Write to the successful applicants congratulating them on their appointment and sending them a copy of the Sports Board Terms of Reference, Mission Statement and upcoming meeting dates.
4. Write to the unsuccessful applicants thanking them for their interest and time in lodging an application and attending an interview.
5. Invite the past Sports Board Members David Goodman & Roger Walker, who were not recommended by the panel to be re-appointed, to continue attending Shoalhaven Sports Board meetings (with voting privileges) for a term of 2 years expiring 30 June 2025, as part of Board succession and transition to share their experience, and offer guidance and advice to the new representatives.

6. Council endorse updates to be made to the Shoalhaven Sports Board Terms of Reference to give effect to part (5).

Options

1. As recommended

Implications: this will ensure the vacant position on the Board are filled.

2. Adopt an alternate recommendation

Implications: Adopting an alternate recommendation could result in positions remaining vacant and therefore the possibility of not reaching quorum for future meetings.

Background

Shoalhaven City Council Sports Board was established in 2000 with the aim of providing advocacy for the sporting community on policy, direction and strategic planning related to Council's objectives.

The Sports Board Terms of Reference articulates the role and responsibilities of the Sports Board members, see *Attachment 1 – Shoalhaven Sports Board – Terms of Reference*. Specifically, section 3.4 governs 'Community Member Appointments'.

As of 31 March 2023, 6 positions became vacant on the Board, with the following 3 community member representatives' terms of office expiring:

- David Goodman (Chairperson)
- Roger Walker
- Craig Howsan

The 2 casual community member representative terms of office also expired:

- Jonathan Seller
- Col Stevenson

Additionally, the following position has remained vacant for over 6 months:

- Inclusion/Accessible Sporting Group member representative

Council advertised for expressions of interest for the positions from 18 January 2023 - 24 February 2023. This included promotions both online and in newspapers (the South Coast Register and Milton Ulladulla Times ran the advertisement on 25 February 2023).

In total 13 applications were received: 8 new applications, 3 from previous community members, and 2 from the casual community members. Interviews were scheduled for all 13 applicants, however 1 was unable to attend an interview and withdrew the application and 1 did not return any phone calls or correspondence in response to the request to attend an interview. 11 interviews ultimately took place.

The interview panel consisted of:

- Councillor Patricia White
- Stephanie Cascun, Manager Community Planning and Projects
- Simon Brown, Central Leisure Manager

The 11 interviews were held in April and early May 2023.

Applicants and Recommendations:

The following applications were received:

- David Goodman – existing community member
- Roger Walker – existing community member
- Craig Howsan – existing community member
- Jacqueline Peace
- Harry Davis
- Greg Wellington
- David Schofield
- Paul McDonald
- Anna Gardner
- Peter Dorsett (did not return emails or phone calls to attend interview)
- Jenni Barker (withdrew application)

The following applicants are recommended:

- Craig Howsan (existing member)
- Jonathan Sellers (existing casual member)
- Colin Stevenson (existing casual member)
- Greg Wellington
- Anna Gardner

Inclusion/Accessible Sporting Group member:

- Jacqueline Peace

The response to the EOI resulted in some high-quality applications. As a result, applications from 2 long serving members of the Shoalhaven Sports Board were not recommended for re-appointment, being David Goodman and Roger Walker.

In recognition of their service to the Shoalhaven Sports Board as community members over many years it is proposed to invite them to continue attending Shoalhaven Sports Board meetings (with voting privileges) for a term of 2 years expiring 30 June 2025, as part of Board succession and transition to share their experience and offer guidance and advice to the new community representatives appointed.

Community Engagement

Council advertised for expressions of interest for the positions from 18 January 2023 - 24 February 2023. This included promotions both online and in newspapers (the South Coast Register and Milton Ulladulla Times ran the advertisement on 25 February 2023). Online advertisement available here: <https://www.shoalhaven.nsw.gov.au/Council/Meetings/Council-Committees/Shoalhaven-Sports-Board>

Policy Implications

The Sports Board Terms of reference (POL22/70) guide the functions and delegation of Shoalhaven City Council Sports Board.

To recognise the inclusion of 2 x past Sports Board community members who were not recommended by the panel to be re-appointed, to continue attending Shoalhaven Sports Board meetings (with voting privileges) for a term of 2 years expiring 30 June 2025, as part of Board succession and transition to share their experience with new representatives, will require the Shoalhaven Sports Board Terms of Reference be amended and updated at clauses 3.3 Membership 3.5 Term of Office to give effect to this.

Shoalhaven Sports Board – Terms of Reference

Adoption Date:	28/06/2016
Reaffirmed:	20/12/2016
Amendment Date:	16/08/2016, 11/12/2018, 30/04/2019, 14/11/2022, 5/12/2022
Minute Number:	MIN16.499, MIN16.654, MIN16.703, MIN16.1025, MIN18.958, MIN19.252, MIN22.870, MIN22.937
Review Date:	01/12/2024
Directorate:	City Lifestyles
Record Number:	POL22/70

Shoalhaven Sports Board – Terms of Reference

1. Purpose

The Shoalhaven Sports Board (Board) is to provide advocacy for the sporting community on policy, direction and strategic planning related to Council’s objectives. To achieve this policy and strategic objective, the Board will be strategic in nature and focus on appointments to achieve this outcome.

2. Statement

Council encourages and recognises the value of community participation in guiding the strategic development of both sport facilities and participation within the Shoalhaven Local Government Area. To guide sports development each Board member will be responsible for maintaining and reporting on a specific portfolio.

3. Terms of Reference

3.1. Relationship to Council

The Shoalhaven Sports Board is a strategic advisory committee to advocate for and inform Council’s decision-making processes related to improving Shoalhaven sporting facilities and sports participation.

3.2. Role of the Shoalhaven Sports Board

- Represent the whole Shoalhaven Sporting Community (all sports)
- Provide ongoing, high level policy and planning advice to Council.
- Make recommendations to the Council on all relevant business presented before it
- Advocate and maintain specific sports related portfolios.
- Advocate and promote Board recommendations.

3.3. Membership

Board membership is to have a range of strategic capability, expertise and advice to cover specific sports related portfolios.

The Board will have a total membership consisting of the following:

- Eleven (11) local community members (includes 2 positions from disadvantaged sporting groups).
- All Councillors.
- General Manager (or nominee)

Note: Council encourages the appointment of two (2) Indigenous representatives, male and female, on all Advisory Committee.

In addition, a member of NSW Sport & Recreation will be invited to attend Board meetings but will have no voting privilege.

The Sports Board be delegated authority to invite representative from disadvantaged sporting groups to inform the Board.

3.4. Community Member Appointments

- Nominations should be advertised throughout the community.
- Appointments to the Board will be for a four (4) year term with a set commencement and finish date.

Shoalhaven Sports Board – Terms of Reference

- There is no limit on the number of terms a community member may serve.
- Community members may re-apply for nomination at the conclusion of their Term.
- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process.
- An interview panel consisting of a Council staff member, the Chairperson of the Board and one (1) suitably qualified independent representative will assess the applications and make recommendations for appointments to the Board.

3.5. Term of Office

- Community membership will be renewed every 4 years and ideally during the midterm of the elected Council.
- Councillor membership will be renewed at following normal Council elections.
- Should there be a casual Community membership vacancy it may be filled upon the resignation of a Community member and will align with set fixed finish dates.

3.6. BOARD membership with specific portfolios

All Board members will have specific portfolios which cover the following areas of focus:

Sporting Governance

- Sports Association liaison
- Sports Management Training
- Marketing & Advertising
- Induction for members
- Governance
- Strategic planning
- Stakeholders

Communication and Marketing

- Systems & Processes.
- How to interact with Council links with:
 - Grass roots sports
 - Elite sports
 - Peak sporting bodies
 - Indigenous sports
- sports tourism

Grass Roots Club Development

- Volunteers educated/supported
- Volunteer Succession Planning
- Evaluate programs

Grants and Funding

- Identify grant and other funding opportunities
- Assist with preparation of funding submissions working with Council staff and other stakeholders

Sports Tourism, Programs and Events

- Advocate for sports tourism opportunities
- Represent Sports Community Advisory Group at programs and events

Shoalhaven Sports Board – Terms of Reference

Facility Development

- Ensure consistent with adopted Council Policies / position
- Alignment with strategic direction

Talent Programs

- Linkages, facilitation and liaison between grass root sport clubs / organisations and elite training programs / opportunities

3.7. Meeting Practices and Procedures

- The administrative provisions of Council's adopted Code of Meeting shall apply subject to any amendment by this Terms of Reference.
- The chairperson will be appointed by the Board, the position will be limited to a two (2) year term and be open to all members.
- Each Board meeting shall be properly recorded by the taking of minutes by Governance Unit.
- The minutes of the Board meeting will be submitted to the next available Council Meeting.
- The quorum for each meeting will be seven (7) members of the Board.
- If a quorum is not present within 30 minutes of the time appointed for the commencement of the Board meeting, the meeting shall lapse.
- In the event of a tied vote, the Chair can exercise a casting vote.
- Formal Board meetings will be held quarterly.
- Agenda and minutes from previous Board meetings will be circulated to members at least seven (7) days prior to the meeting.
- Board members must declare in writing any interest in any report tabled at the meeting covered by the Code of Conduct and Pecuniary Interest.
- Informal Board meetings, special meetings that may discuss specific portfolio matters will be held as and when required or set by the Board
- Planning and costs associated with conducting meetings will be borne by Council.
- Board 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 Board.

3.8. Code of Conduct

- All members of the Board are required to observe the provisions of the Council's Code of Conduct.
- Board members should act in a professional and responsible manner with the information they obtain as a member, as the Board require openness and honesty to function well.
- Board members should feel free to express their opinions and views without fear of recrimination.
- It is essential for Board members to accept collective responsibility, and remain loyal to decisions of the Board, even where they may not have agreed with the final decision.

3.9. 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.

3.10. Communication

- Members of the Board are not permitted to speak to the media as Committee of Council representatives of the Board unless approved by the Chairperson.

Shoalhaven Sports Board – Terms of Reference

- Where approval has been given by the Chairperson, views and opinions expressed are those of the Board 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 Board is the point of contact for communication between Board members and Council staff.

3.11. Council Staff Attendance

Executive Council staff are normally required to attend the meetings of the Board. Other staff at the relevant Group Directors' discretion or at the Board's request can attend meetings as required. Staff have no voting privileges.

Council will provide secretarial support to arrange meetings and take minutes and provide professional office support where required.

3.12. Expectations of Board Members

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

3.13. Responsibility of Council

Council at its discretion may review and change the Terms of Reference, Role and Structure of the Board.

CL23.187 Rescission Motion - MM23.14 Mayoral Minute - Callala Bay Bio-Certification Application

HPERM Ref: D23/205163

Submitted by: Clr Patricia White
Clr John Wells
Clr Greg Watson

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 MM23.14 Mayoral Minute - Callala Bay Bio-Certification Application of the Council Meeting held on Monday 22 May 2023.

Background

The following resolution was adopted at the Ordinary Meeting held Monday 22 May 2023 (MIN23.250)

That Council take the necessary steps to formally withdraw the Callala Bay Bio-certification application given the widespread community opposition to the potential development it is associated with.

CL23.187

CL23.188 Notice of Motion - Call In - SF10987 - 33 Forest Road Kioloa - Lot 5 DP 1280813

HPERM Ref: D23/209458

Submitted by: Cllr Patricia White

Purpose / Summary

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

Recommendation

That Council "Call In" SF10987 - 33 Forest Road Kioloa (Lot 5 DP 1280813) due to the public interest.

CL23.188

CL23.189 Notice of Motion - Waste & Recycling Services - 35 The Basin Road, St Georges Basin (Basin Shores)

HPERM Ref: D23/211084

Submitted by: Cllr Patricia White
Cllr John Kotlash

Purpose / Summary

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

Recommendation

That:

1. The CEO, relevant staff and available Councillors meet with the Community Management Association at 35 The Basin Road, St Georges Basin to discuss;
 - a. The 13 modifications made to DA95/3219 and the Community Management Statement originally approved by Council 12th May 2008.
 - b. Future modifications to the current Development Approval.
 - c. Facilitation of positive outcomes to achieve practical cost-effective collection of Waste & Recycling services for 35 The Basin Road, St Georges Basin.
2. The current arrangements for Waste & Recycling Services at 35 The Basin Road, St Georges Basin remain in place until the CEO reports the matter back to council for consideration.

Background

This development was originally approved on the 24th of June 1996 for Tourist (50%) and Permanent Accommodation (50%) including community title subdivision, construction of dwelling units and ancillary community facilities.

Basin Shores is a Community Precinct Association of all age's lifestyle gated residential affordable housing development in the locality of St. Georges Basin, comprising 113 Torrens title land lots. Thirteen (13) modifications have been made to the DA since 1996 but the most important one is the Tourist Accommodation which was reduced by Council under modification in 2017 to only 13 units i.e., 10%.

Currently there are 82 dwellings completed and occupied, mostly by full time permanent residents, both owner/occupier and low-income renters. The development completion of 113 dwellings is expected in 2024.

The ABS 2021 census data and SEIFA index information shows that the St. Georges Basin locality is a low socio economic and disadvantaged area and that there were 1659 dwellings in this area.

Basin Shores represents a large percentage of the dwellings and resident/population of St. Georges Basin. Once all the dwellings are complete at Basin Shores community will represent approximately 14% of the total current number of the area dwellings, and with a population projection of approximately 300 will represent 7.5% of the area total population, this is a high proportion. Therefore, it is highly likely that the Basin Shores Community has

CL23.189

way above the area and state average of low socio economic and disadvantaged community members. Service support and funding investment in this community will have a positive community development grass roots impact and reach a high percentage of the most marginalized at risk of homelessness and other target groups (Ageing, Aboriginal, Family Domestic Violence, children, families, and disabilities) in the St. Georges Basin area.

As this is community title, the original DA in 1996 stated: -

Road pavement within the development is to be designed and constructed suitable for access by a garbage truck.

Details of the garbage storage, collection, and management system to be established on the development site. The applicant shall discuss these with Council's Waste Management Section prior to the submission of details within the proposed Management plan and shall note that Council and Council-contracted collection vehicles will not enter upon the site.

In relation to the roads, infrastructure, and public liability the Community Association has obtained documentation certifying the standard of construction of roads and infrastructure. In relation to public liability the Community Association is willing to indemnify the Council and Council's contractor for the garbage collection.

When residents in Stage 1 took occupation and Community Management Statement was developed, approved by Council, and registered with Land Titles in 2008.

The Management Statement provided for garbage services:

"The Community Association must ensure that waste from the Community Association Property is made available for collection by its Private Contractor in accordance with Council's by laws and ordinances relating to the disposal of garbage".

In 2008, Shoalhaven Council agreed to the role of the Private garbage contractor, and this has been in place until recently, March this year, when a resident requested a garbage bin from Council. Following this, the Council has given notice to the Association that all services will end on 30th June 2023 and garbage bins must be collected from residents.

Over this period – 2008 to 2023 – some 15 years the residents have paid Council rates and waste fees.

The Community Association obtained quotes for a new Waste Service and are very concerned that each resident will need to pay \$700 to \$1,000 more than the Council waste charges.

Many of the residents are pensioners or low-income earners and cannot afford the increased fees. This leaves them in a position of not being able to afford waste charges and what do they do with their waste?

Basin Shores land lot owners pay full residential zoned land rates to Council and pay association levies to maintain internal community infrastructure and facilities. There are no profits made, shared, or distributed to community members, all levies paid are used to maintain the community.

For over 27 years the Council has made many changes to this DA and fully supported the collection of Waste & Recycling services for the residents of Basin Shore, 35 The Basin Road, Basin View with no problems until someone asked for a new bin!

I am seeking support from all Councillors to have this matter resolved in the best interests of the residents and to support the recommendation for the extension and further dialog with Council.

CL23.189

CL23.190 Notice of Motion - Short Term Rental Accomodation in the Shoalhaven

HPERM Ref: D23/212388

Submitted by: Clr Tonia Gray
Clr John Wells

Purpose / Summary

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

Recommendation

That Council;

1. Note the recommendations arising from the Independent Planning Commission (IPC) final advice report titled "Byron Shire Short-Term Rental Accommodation Planning Proposal PP-2021-3351".
2. Receive a report from staff that addresses the following matters, arising from recommendations in the report:
 - a. Advice specific to the Shoalhaven LEP on any explicit measures that may be implemented to recognise Short-Term Rental Accommodation (STRA) as a use/activity, and limitations that may legally be imposed; and,
 - b. Advice specific to Council's ability to impose conditions of consent on new developments that limit or prevent residential properties use as STRA's for the life of a development.

Background

The Independent Planning Commission (IPC) was referred the Byron Bay Council planning proposal by the DPE, which effectively looked at limiting the use of residential properties as STRA's within their LGA. The report can be found here for posterity:

https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/12/byron-shire-short-term-rental-pp/advice/230424_byron-stra-pp_advice-report_final.pdf

There are numerous recommendations which have the potential for future discussions on STRAs here in the Shoalhaven.

Some key takeaways:

- The IPC has recommended that foremost the Planning Proposal not proceed (i.e.; be terminated).
- Tighten the local exempt development cap to 60 days for non-hosted STRA.
- Define STRA as a type of Tourist Accommodation and thereby restrict permissible use.
- Require development consent for non-hosted STRA beyond the 60-day cap.
- Prevent subsequent conversion of new housing supply to non-hosted STRA and support transitional arrangements to current non-hosted STRA.
- Consider legal and policy options to encourage a return of dual occupancy and secondary dwelling properties to long term rentals.

CL23.190

- Introduce a levy on all STRA properties to provide an income stream to address amenity, infrastructure and service impacts from STRA on the local community.

The current regulatory controls are inadequate. The Code of Conduct is hard to implement, and Private Certification circumnavigates council processes and therefore never comes under community scrutiny. The resultant noise complaints from neighbours re party houses under the guise of an STRA alongside the reduction in housing stock for long-term residents, is causing major social problems and disruption for our local neighbourhoods. What we, as residents and rate payers are left with, is unfettered development on an industrial scale. For this reason, it is timely that Shoalhaven Council starts to explore mechanisms which will effectively address these ongoing issues.

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.