

AGENDA

1. Acknowledgement to Country	3
2. Apologies.....	3
3. Leave of Absence.....	3
4. Confirmation of Minutes	4
4.1 Ordinary Council Meeting 30 March 2021	4
4.2 Extraordinary Council Meeting 20 April 2021	4
5. Disclosures of Interest.....	4
6. Condolences.....	4
7. Mayoral Statements / Reports / Presentations	4
8. Mayoral Minutes	5
8.1 Mayoral Minute: Request from RSL Warilla Sub-Branch to Waive Headstone Application Fee at Shellharbour Cemetery for Pt. Christopher McCabe (11650721).....	5
Recommendation.....	6
9. Councillors' Statements / Reports.....	7
10. Reports.....	7
10.1 Chief Executive Officer	7
10.1.1 Draft Integrated Planning and Reporting Documents for Public Exhibition (11648838)....	7
Recommendation.....	13
10.2 Council Sustainability Directorate	26
10.2.1 Monthly Investment Report – March 2021 (11646459)	26
Recommendation.....	28
10.2.2 Shell Cove Subdivisions and Easement (11646772).....	32
Recommendation.....	34
10.3 Community and Customers Directorate.....	37
10.3.1 Shellharbour City Hall of Fame (11646817)	37
Recommendation.....	40
10.3.2 Endorsement of the Draft Crown Land Plan of Management - Hennegar Bay Reserve - Oak Flats (11647422)	41
Recommendation.....	47
10.3.3 Endorsement of the Draft Crown Land Plan of Management - Cowrie Island Reserve - Shellharbour (11647482)	85
Recommendation.....	91
10.4 Amenity and Assets Directorate	126
10.4.1 Oak Flats Depot Building Upgrade Funding Model (11648590).....	126
Recommendation.....	129
10.4.2 Tender 2020/74 - Shellharbour Airport Business Park (11648594).....	130
Recommendation.....	134

11. Committee Recommendations.....	135
11.1 Recommendations from the Traffic Committee Meeting held 7 April 2021 recommended for adoption.....	135
11.2 Recommendations from the Australia Day Advisory Committee Meeting held 7 April 2021 recommended for adoption.....	135
12. Items for Information	135
12.1 Item for Information – Responses to Questions Taken on Notice (11648537)	135
13. Notices of Rescission/Alteration Motions.....	136
14. Notices of Motion	136
14.1 Notice of Motion submitted by Cr Kellie Marsh: Tripoli Way, Albion Park Bypass (11617127)	136
14.2 Notice of Motion submitted by Cr Kellie Marsh: Investigation of Traffic Capacity of Station Road, Albion Park Rail (11643100)	137
14.3 Notice of Motion submitted by Cr Kellie Marsh: Investigation of the Capacity of the Stormwater Drainage System on the Illawarra Highway, Albion Park (11643099)	138
14.4 Notice of Motion submitted by Cr Kellie Marsh: CCTV Camera Installation at Bass Point (11643101)	139
14. 5 Notice of Motion submitted by Cr Moran: Killalea State Park (11648875).....	140
15. Questions on Notice (must be submitted in writing)	141
16. Urgent Business.....	141
17. Confidential Business (Committee of the Whole in Closed Session).....	141
17.1 Chief Executive Officer's Performance - Mid Term Review 2020/2021 (11648884)	141
18. Committee of the Whole in Closed Session (Closed to the Public): Adjournment.....	141
19. Committee of the Whole in Closed Session: Consideration of Adoption of Decisions Reached in Closed Session.....	141
20. Consideration of Motions to Declassify Reports Considered in Closed Session	141

1. Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting and pays its respects to Elders past, present and emerging.

Webcasting Statement

Pre-registered members of the public who address Council at the Addresses to Council Forum and those who attend Council Meetings should be aware that their image, and comments will be recorded, and broadcast live from Council's website.

It should be noted that the Addresses to Council Forum is held prior to the Council Meeting from 4.30pm to 5.30pm.

Council broadcasts live to enhance the accessibility of Council Meetings to the broader Shellharbour City Community. Recordings can be downloaded from Council's website for later viewing, or purchased from Council for viewing on a computer. For further information on Privacy, refer to the Public Gallery Conduct Standards displayed in the Chamber.

Council accepts no responsibility for any defamatory or offensive statements. Members of the gallery should also refer to the Public Gallery Conduct Standards, for appropriate standards of behaviour during Council Meetings.

Should Council need to consider confidential matters during a Council Meeting, invited members of the gallery may address the Council on the reasons why the meeting should not resolve into Committee of the Whole (Confidential Session).

Please ensure that mobile phones and other electronic devices are turned off or are in silent mode for the duration of the meeting.

In the event of an emergency, please evacuate the building using the nearest exit and follow the instructions given by the wardens. Do not use the lifts.

2. Apologies**3. Leave of Absence**

4. Confirmation of Minutes

4.1 Ordinary Council Meeting 30 March 2021

That the Minutes of the Ordinary Council Meeting held on 30 March 2021 as circulated be taken as read and confirmed as a correct record of proceedings.

4.2 Extraordinary Council Meeting 20 April 2021

That the Minutes of the Extraordinary Council Meeting held on 20 April 2021 as circulated be taken as read and confirmed as a correct record of proceedings.

5. Disclosures of Interest

Note: Councillors and staff who declare an Interest at the Council Meeting are also required to complete a Declaration of Interest form.

6. Condolences

7. Mayoral Statements / Reports / Presentations

8. Mayoral Minutes**8.1 Mayoral Minute: Request from RSL Warilla Sub-Branch to Waive Headstone Application Fee at Shellharbour Cemetery for Pt. Christopher McCabe (11650721)**

To my fellow Councillors

Mayoral Minute

Summary

The Returned and Services League of Australia (RSL) – Warilla Sub-Branch has advised it is in the process of raising funds and organising the installation of a grave marker (headstone) on the grave of 5418 Pt. Christopher McCabe in Shellharbour Cemetery.

The Warilla RSL Sub-Branch has written to me formally asking Council if it could waive charges associated with the grave marker of \$288 and I seek my colleagues' support in providing these funds for this purpose.

Background

The RSL Warilla Sub-Branch has advised it is in the process of raising funds and organising the installation of a grave marker (headstone) on the only World War I decorated Shellharbour soldier's grave in Shellharbour Cemetery.

That is the grave of 5418 Pt. Christopher McCabe, who, I have been advised, is the only soldier in World War I in Shellharbour Cemetery. The Warilla RSL Sub-Branch has formally asked Council by letter to me directly, if it could waive charges associated with the grave marker. The applicable fee is a headstone application fee of \$288.

The advice of Council Officers is that this financial request is not covered by Council's Financial Assistance Policy. Further advice is that if Council were to support the funding of this expenditure, it would be sourced from within Council's existing Council Services Group Operational Budget and would not impact on Council's services, operations or programs.

On this basis, rather than waive the fee, I seek my colleagues' support in providing the funds of \$288 to the Warilla RSL Sub-Branch for the purpose described in this Mayoral Minute.

Recommendation

That Council provide funding of \$288 from existing operational budget allocations to the Warilla Sub-Branch for the installation of a grave marker at Shellharbour Cemetery for 5418 Pt. Christopher McCabe.

Approved for Council's consideration: Marianne Saliba
Mayor, Shellharbour City

Date of Meeting: 27 April 2021

Attachments

Nil

9. Councillors' Statements / Reports**10. Reports****10.1 Chief Executive Officer****10.1.1 Draft Integrated Planning and Reporting Documents for Public Exhibition (11648838)**

To the Mayor and Councillors

Directorate: Chief Executive Officer
Group: Organisational Performance

Manager: Sharne Colefax – Acting Group Manager Organisational Performance
Katie Buckman – Chief Financial Officer
Daniel Brilsky – Acting Group Manager Asset Strategy

Author: Terri Downton – Organisational Performance Coordinator
Paul Henderson – Manager Financial Services
Shaun Robinson – Asset Planning Manager

Summary

The purpose of this report is to seek Council's endorsement of the Draft Operational Plan 2021/22 (**Attachment 1**), Draft Long Term Financial Plan 2021/31 (**Attachment 2**), Draft Asset Management Plan 2021/31 (**Attachment 3**) and Draft Rates Policy (**Attachment 4**), for the purposes of public exhibition.

The draft budget for 2021/22 reflects an Operating Performance Ratio of 11.88% and an operating surplus before capital of \$16.6M. As Shellharbour City Council's (Council) asset base continues to increase to meet the requirements of the growing local government area, depreciation expenses are also increasing with an additional \$2.0M forecast for 2021/22. With this trend expected to continue in the future, the process of delivering a balanced sustainable budget each year is becoming increasingly challenging.

The draft documents are proposed to be placed on exhibition for a period of 28 days. The public exhibition of these draft documents will allow the community to provide feedback via submissions.

Background**Integrated Planning and Reporting Framework**

The Integrated Planning and Reporting (IP&R) Framework provides Councils in NSW with the opportunity to work with their communities to develop a long term plan for their areas. The Framework is a legislative requirement that forms part of the *Local Government Act 1993*.

Integrated Planning considers the longer-term future of an area and is based around a Community Strategic Plan (CSP) that reflects the community's aspirations and needs for the future. The CSP is informed by relevant information relating to four key areas - Community, Environment, Economy and Leadership.

Ultimately, the Framework provides greater accountability and transparency. Councils are required to outline a clear strategic direction for their community through their CSP and then report their performance back to their community, in line with pre-defined community indicators.

The IP&R Framework is outlined in Figure 1 below and consists of four layers of plans – the CSP, a Resourcing Strategy, a Delivery Program and an Operational Plan.

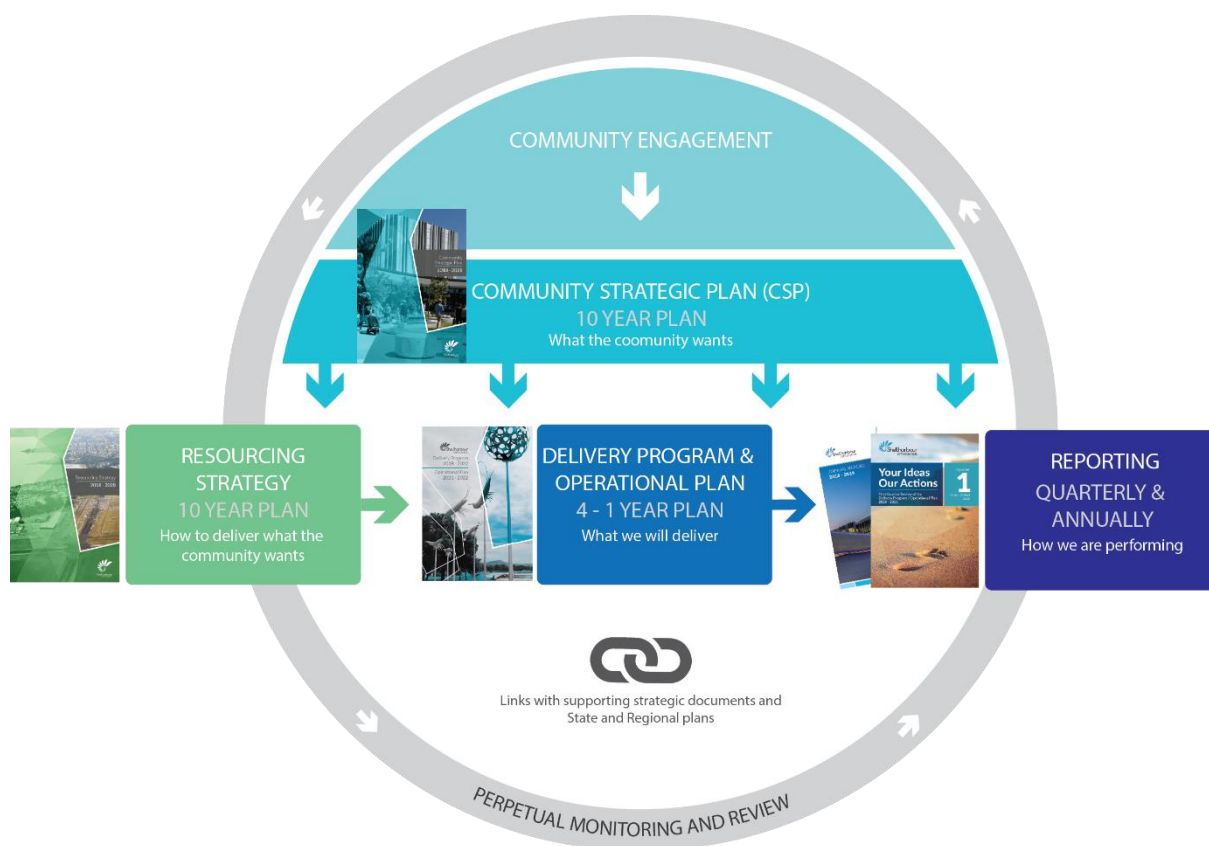


Figure 1 - Integrated Planning & Reporting Framework

The IP&R Framework encourages councils to draw their various plans and strategies together, to understand how they interact and to ensure the greatest benefits are achieved from comprehensively planning for the future.

Draft Operational Plan 2021-2022

Shellharbour City Council's Delivery Program 2018-2022 and Draft Operational Plan 2021-2022 are combined into one document that details Strategies and Actions for the key areas of Community, Environment, Economy and Leadership.

The Draft Operational Plan 2021-2022 represents the fourth annual plan within the current Delivery Program (the first being 2018/19) and identifies corresponding budgets and measures to determine the effectiveness of the projects, programs and services, in order to meet the commitments made in the Delivery Program. Council is required to review the Operational Plan annually, including the budget.

The Draft Operational Plan has been prepared utilising the results from the most recent community satisfaction survey, as well as integrating actions from existing supporting strategic documents.

It also contains Council's Revenue Policy, which includes annual fees and charges; proposed borrowings; rating structure; consolidated income statement and loan principal repayments.

The Capital Works Program is detailed. It has been split into two categories: the first being "renewal" which relates to the replacement of existing assets with equivalent capacity or performance, the second being "new" which relates to the acquisition or construction of new assets.

Councillors have been actively engaged in the ongoing review of the Operational Plan through briefings and a workshop. The most recent briefing was 13 April 2021. A further briefing will be provided to Councillors in May 2021 following the exhibition period and prior to adoption of the final documents.

Draft Budget 2021/22 and Draft Long Term Financial Plan 2021-2031

The compilation of the Operation Plan and Long Term Financial Plan (LTFP) each year is one of the key functions performed by Local Government Councils. Each council must balance the objective of delivering services and maintaining facilities to meet community expectations, while at the same time ensuring Council's short and longer term financial sustainability.

The preparation of the draft 2021/22 budget has been challenging. As the Local Government area grows and Council continues to invest in new assets, an increase in annual depreciation is expected. Council is forecasting to receive \$90M of assets next year from the Shell Cove project, with an anticipated increase in depreciation expense relating to these assets of \$1.6M. Total depreciation is forecast to increase by \$2M, or 10.9%. This, combined with a low interest rate environment which has had significant impacts on Council's capacity to earn interest on investment revenue, along with operating within a rate peg environment, has required significant work across the organisation in preparing a sustainable budget to commence the 2021/22 year.

The proposed draft budget reflects a surplus position before capital of \$16.6M. This includes Council's share of the Shell Cove project's profit forecast for 2021/22 of \$18.2M. With all profits from the project being currently reinvested back into project, if that profit is excluded Council is proposing to commence the year with a deficit before capital of \$1.5M (rounded).

A balanced position with the exclusion of the Shell Cove project was reached at a late point in the budget preparation process, however a change in relation to property settlements for next year has resulted in a timing delay with those settlements now expected in 2022/23. This has seen the position move to a deficit position.

In preparing the draft budget estimates for 2021/22, a number of assumptions have been made. The key assumptions are outlined below:

Rates – the Independent Pricing and regulatory Tribunal has advised that the maximum rate peg that can be applied for 2021/22 is 2.0%.

Inflation – a rate of 2.0% has been used for 2020/21. This has been applied to areas including some User Charges and Fees, Materials and Contracts and Other Expenses. If more accurate forecast increases are available for specific items, they have been used instead of the inflationary based increase.

Investment Revenue – a return of 1.21% on Council's investment portfolio has been included for 2021/22. This is based on advice from Council's investment advisors taking into account expected cash rate levels for next year along with Council's current investment portfolio makeup. This is approximately 0.7% lower than in the 2020/21 financial year.

Employee Benefits & On Costs – an increase of 2.55% has been applied to existing salary levels to allow for the annual award increase along with salary system movements. This has been offset by a 5% vacancy factor to allow for vacant positions during the year from staff turnover.

Borrowings – new borrowings for next year are \$13.2M associated with capital expenditure for the Shell Cove Marina, Warilla Beach Seawall renewal and Oak Flats Depot upgrade.

There is a separate report to this Council meeting regarding the Oak Flats Depot Upgrade project (report number 10.4.1 – Oak Flats Depot Building Upgrade Funding Model). As outlined in that report, Council officers will continue to identify other potential funding sources including capital grants to support the overall capital program, which may result in offsetting some or all of the proposed loan borrowings for this project.

The borrowings planned for the Shell Cove Marina in 2021/22 represent the second drawdown for these works with the first drawdown planned to occur before the end of the current 2021/21 year. This borrowing proposal was included in last year's Operational Plan document and included in the current 2020/21 Capital Works Program. The recommendation of this report seeks Council approval to seek quotations from financial institutions for this first drawdown for an amount of \$6.7M.

COVID-19 – any remaining impacts the COVID-19 pandemic is still having on Council operations have been factored into the estimates for 2021/22, however due to the ongoing easing of restrictions, the impacts are forecast to be minimal.

New Information/Capital Project Timing

The draft budget estimates have been compiled based on current expectations. Any new information received after the preparation of the IP&R documents for exhibition purposes, may require the updating of some estimates or fees and charges etc., when Council meets again to adopt the 2021/22 Operational Plan. The same applies for capital project cash flow timing. These cash flows, particularly on the larger capital projects, can change quite regularly as a result of internal and external influences.

Capital Reporting

To ensure Council is efficient and proactive with the delivery of capital projects and better meets the needs and expectations of the Community, the draft Capital Budget 2021/22 includes project budgets reported within a program level. The program level is a capture of the individual project budgets that sit within them and each program aligns to an asset class.

This allows for adjustments of the individual projects within that program to occur provided no extra budget is required for the relative program. Where adjustments are required between programs, a Council report will be necessary to approve the adjustment, as per current processes and in compliance with legislation.

A comprehensive list of the individual projects that comprise these program level budgets is included as **Attachment 5**. Upon endorsement by Council for public exhibition of the Operational Plan, further information for each of these projects would be made available on the Council website within the Council Works and Projects page.

Shell Cove

This report and the attachments incorporate Council's share of the Shell Cove project. This is based on the determination that Council's interest in the project is that of a Joint Operation, which requires Council to reflect its share of the Shell Cove Project's assets, liabilities, revenue and expenses within Council's consolidated Financial Reports. The reporting implications result in significant accrual profits, for example \$18.2M in 2021/22. It should be noted all cash relating to Council's interests are currently reinvested within the Shell Cove Project, with cash surpluses not being accessible by Council until dividends are received from the Shell Cove Project.

Draft Rates Policy

Each year as part of the IP&R preparation process, Council's Rates Policy is also reviewed. That review has again occurred this year with some minor changes. The main change is the inclusion of a section regarding changes to rating category classifications. The revised rates Policy has been included as **Attachment 4**.

Draft Asset Management Plan 2021-2031

Council's Asset Management Plan (AMP) brings all Council assets that are in use, except fleet, intangible assets and land stock, into a single report to consider a sustainable level of services, the impact of asset base growth and to quantify the costs associated with their lifecycle management. The AMP recommends a financial allocation which is achievable within the Draft Long Term Financial Plan 2021-2031 and is forecast to meet all Special Schedule 7 reporting ratios from the Office of Local Government.

Each year the AMP will be updated to reflect the actual figures of the completed financial year and subsequently develop revised forecasts for the 10 years ahead. See **Attachment 3** for the Asset Management Plan 2021-2031.

Exhibition of documents

If endorsed the draft documents will be placed on public exhibition for a period of 28 days commencing 28 April for public feedback via submissions. The documents will be made available on Council's webpage via 'Let's Chat'. Public notices advising that the documents are on exhibition will be placed in the newspaper and on Council's social media.

Financial / Resources Implications

The Draft Operational Plan outlines Council's 2021/22 financial implications. These are subject to continuous review to ensure they remain current. Any financial issues that may be identified through the March 2021 Quarterly Budget Review process will also need to be incorporated into the final plans including any further amendments to the draft Capital Works Program 2021/22, reflecting the progress of the current Capital Works Program 2020/21. Any changes required to be made as a result of the community consultation through the public exhibition period will also need to be included when Council meets again to adopt the 2021/22 Operational Plan.

Legal and Policy implications

The public exhibition of these draft documents is in accordance with the requirements of the *Local Government Act 1993*.

The annual review of Council's Rates Policy has been performed with some amendments proposed. The revised policy has been included as a separate attachment to this report.

Public / Social Impact

These draft documents provide positive impacts to the community through Council achieving quality outcomes.

Link to Community Strategic Plan

The Integrated Planning and Reporting suite of documents supports the following Objective and Strategies of the Community Strategic Plan:

Objective: 4.2 Supported by a Council that is responsive, accountable and financially viable

Strategy: 4.2.1 Undertake Council activities within a clear framework of strategic planning, policies, procedures and service standards

Strategy: 4.2.3 Ensure Council is financially sustainable and continues to be transparent and accountable.

Consultations**Internal**

All directorates of Council

External

Nil

Political Donations Disclosure

Not applicable

Recommendation**That Council:**

- 1. Endorse for the purpose of exhibition for a period of 28 days the Draft Operational Plan 2021-2022 (including Draft Revenue Policy and Draft Fees and Charges), the Draft Long Term Financial Plan 2021-2031, the Draft Asset Management Plan and the Draft Rates Policy.**
- 2. Invite financial institutions to provide loan borrowing quotations for an amount of \$6,677,000, representing the first drawdown of borrowings for capital expenditure associated with the Shell Cove Marina for the current 2020/21 year.**
- 3. Delegation be granted to the Chief Executive Officer to accept the most advantageous interest rate once received and authorise the Mayor and Chief Executive Officer, or their nominated delegate, to execute any loan documents under Council Seal.**

Approved for Council's consideration: Sharne Colefax
Acting Group Manager Organisational
Performance

Date of Meeting: 27 April 2021

Attachments

1. Draft Operational Plan 2021-2022 (*under separate cover*)
2. Draft Long Term Financial Plan 2021-2031 (*under separate cover*)
3. Draft Asset Management Plan 2021-2031 (*under separate cover*)
4. Draft Council Rates Policy – *Page 15*
5. Draft 2021/22 Capital Works Program – *Page 22*

Attachment 4 - Council Rates Policy



Policy

Rates Policy

Policy Owner: Chief Financial Officer	
Date Last Adopted/Amended: 12 June 2018	Review Date: Annually

1. Policy Statement/Objective(s)

Shellharbour City Council is committed to providing a consistent, fair and legally compliant approach to all rating functions. We are required by the Local Government Act, 1993 (Section 494), to make and levy Ordinary rates each year.

The objectives of the policy are to:

- Provide the guiding principles for the Rating function including the recovery of rate debts.

2. Scope

This policy applies to the levying and collection of Council Rates and Charges. It includes recovery procedures for overdue rates, pensioner rebates and other general matters associated with rating.

3. References

Local Government Act 1993

Local Government (General) Regulation 2005

4. External/Internal Consultations

Nil

5. Definitions

<i>Material</i>	Refers to printed items such as small brochures and flyers.
<i>Organisation</i>	Includes Local Government organisations, charitable organisations, commercial organisations and organisations affiliated with Council
<i>Pensioner</i>	Means an eligible pensioner for the purposes of determining pensioner concessions, as defined in clause 134 of the Local Government (General) regulation 2005.

COLLABORATION	ACCOUNTABILITY	INTEGRITY	RESPECT	SUSTAINABILITY
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Policy Name: [Enter Policy Name]
Date of Last Adoption/Amendment: [Enter date]
Page 1 of 7

<i>Section 575 rebate</i>	A mandatory pensioner rebate granted under Section 575 of the Local Government Act 1993, which is applied to the properties of all eligible pensioners, regardless of any arrears that may be owed.
<i>Voluntary rebate</i>	A rebate on rates provided by this Council, only to eligible pensioners who were registered with Council prior to 1 July 2009 and who have not fallen into arrears with their rates payments. This rebate where applicable, is provided under Section 582 of the Local Government Act. It is a voluntary rebate, not provided by most Councils but reviewed by this Council on an annual basis.
<i>Rates and Charges as levied</i>	The amount of rates and charges owed by a pensioner, taking into account the mandatory (Section 575) rebate.

6. Variation and Review

Council reserves the right to review, vary or revoke this policy.

Review History

Date Policy first adopted – version 1	22/09/1998
Date amendment adopted – version 2	12/10/2010
Date amendment adopted - version 3	9/11/2010
Date amendment adopted - version 4	26/06/2012
Date amendment adopted - version 5	12/06/2013
Date amendment adopted - version 6	10/06/2014
Date amendment adopted - version 7	23/06/2015
Date amendment adopted – version 8	28/06/2016
Date amendment adopted – version 9	13/06/2017
Date amendment adopted – version 10	12/06/2018
Date reviewed no changes made	April 2019
Date reviewed no changes made	April 2020
Date amendment adopted – version 11	TBA

7. Policy

7.1. INSERTIONS INTO ENVELOPES, WITH RATE NOTICES

Council will consider allowing organisations to include material in the mail out of Council rates notices. Commercial organisations will only be considered when there is a direct benefit to Council, from the distributed material.

Material will only be distributed if the organisation agrees to pay all costs associated with the inclusion of the material with Council's rates notices.

Material will not be included if it is in contravention with any Council policy, any legislation, any regulation or any of Council's objectives.

The Chief Executive Officer has delegation to consider such requests but reserves the right to refuse any and all such requests.

Requests should be made in writing and where possible have an example of the material, which the organisation wishes to include with Council's rates notice.

COLLABORATION	ACCOUNTABILITY	INTEGRITY	RESPECT	SUSTAINABILITY
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Policy Name: [Enter Policy Name]
Date of Last Adoption/Amendment: [Enter date]
Page 2 of 7

7.2 COUNCIL REBATE OF RATES AND CHARGES

1. *Voluntary Rebate*

Council's voluntary rebate will apply only to eligible pensioners registered with Council and who were entitled to receive the mandatory rebate under Section 575 of the Local Government Act 1993 and the Council rebate under Section 582 of the Local Government Act 1993, prior to 1 July 2009.

Eligible pensioners will only qualify for Council's voluntary rebate if they pay all rates and charges levied in the current financial year by 31 May of that year. These pensioners will also qualify for the voluntary rebate in the next financial year.

If an eligible pensioner's rates and charges are not paid in full by 31 May of a particular financial year, the pensioner will no longer qualify for future voluntary rebates until all outstanding payments have been paid. The pensioner will then commence receiving the rebate again in the first rating year after the year in which the outstanding balances have been paid.

The voluntary rebate may be applied proportionally, if the eligible pensioner sells one property and purchases another property. The voluntary rebate will apply to the new property.

Reminder notices will be issued to all eligible voluntary rebate recipients after 1 May, if they have a balance due of over \$5.00, reminding them that the rates and charges must be paid in full by 31 May of that year.

The voluntary rebate amount will be reviewed by Council, annually.

7.3 GRANTING OF PENSIONER CONCESSIONS

Council will only grant pensioner concessions pertaining to the current year and previous year upon receipt of an application along with appropriate supporting documentation. Adjustments beyond the current year and previous year may be made to correct any administrative irregularities and/or administrative errors, where required.

7.4 WAIVING OF INTEREST CHARGED TO PENSIONERS

Provided pensioners pay their rates and charges in full, on or before 31 May each year, Council will waive the current year's interest charges.

This waiver only applies to interest charged against the current year's rates. Interest charged on arrears from a previous financial year will not be waived.

7.5 DEBT RECOVERY

1. *Recovery of Pensioner Rate Debts*

Where a pensioner has an outstanding rate debt on a property currently subject to a pension rebate, Council will refrain from taking legal action against that person, for recovery of that debt.

The exception to this will be where a pensioner has rates outstanding, for a term approaching 20 years. In this circumstance, Council must serve a Statement of Liquidated Claim on the pensioner debtor and then enter Judgment to ensure that the debt remains secured as a charge against the property.

Council may seek to make payment arrangements with a pensioner who has an outstanding rate debt, in an effort to reduce the quantum of the debt.

2. Recovery of All Other Rate Debts

a. Arrangements for the Payment of Overdue Rates

Where a ratepayer has overdue rates and charges and they cannot pay their rates by reason of financial hardship, a reasonable arrangement to pay the overdue amount may be made.

The arrangement must be acceptable to Council and reasonable in all the circumstances of the case. Prior to accepting any arrangement, Council will take into account the history of the ratepayer and the conduct of any previous arrangements with Council.

In the first instance, determination of a reasonable arrangement will be made by the Senior Rates Officer; however this determination can be subject to review by the Manager Financial Services at the request of the ratepayer. Any such review will be conducted having regard to all of the circumstances of the case.

It is Council's requirement that all rates and charges, where possible, are paid in full by 31 May of the rating year. If this is not possible, an agreement for payment of the outstanding rates and charges over a period not exceeding 2 years, may be made. This excludes future rates and charges which must be paid on or before their due dates. Where there are exceptional circumstances, a longer period may be considered for approval by the Manager Financial Services.

Whilst an agreed arrangement for payments is in place and is being adhered to by the ratepayer, no further action will be taken by Council on the amount overdue which is the subject of the arrangement.

Where a ratepayer defaults on an agreed arrangement, Council will take any action that is appropriate in the circumstances. This may include overdue arrangement letters or legal action, depending on the circumstances of the default and the history of the ratepayer. New arrangements will not be entered into.

b. Overdue Rates

This section does not apply whilst an arrangement is in place and is being adhered to by the ratepayer as per 2a above.

Where 7 days after the due date of a rate instalment, a ratepayer has one instalment overdue, a reminder notice will be sent requesting immediate payment.

Where a ratepayer has an amount overdue, which is more than one instalment overdue, a notice of intended legal action (final notice) will be sent.

If the overdue amount has not been paid in full, or a suitable arrangement has not been made as a consequence of the final notice, then legal action may be commenced. The costs of any legal action are added to the debt to be recovered from the ratepayer.

The legal process conducted through Council's external debt collection agency, will allow for the issue of one or more of the following:

- Statement of Liquidated Claim;
- Garnishee;
- Writ of Execution;
- Examination Summons,
- Rent for Rates Notice (Sec 569),
- Instalment Order,
- Winding Up,
- Bankruptcy,
- Sale of Land.

The Senior Rates Officer will usually approve the recommendation of the external debt collection agency. A decision not to proceed with legal action may be made at the discretion of the Senior Rates Officer, where the overdue amount is less than \$500. For overdue amounts over \$500, the Manager Financial Services has the discretion to stop the legal action, where further pursuit of the debt would be uneconomical.

3. Write off Rates and Charges

Where it is necessary to write off rates and charges as unable to be collected (eg. land becoming non-rateable, lapsed Crown leases etc.), the Chief Executive Officer is authorised to approve the writing off of amounts up to \$20,000.

7.6 RATING OF SUB-DIVIDED LAND

Following the sub-division of a parcel of land, rates cannot be levied on new lots until supplementary valuations have been provided to the Council by the Valuer-General and Council has categorised each of the new parcels. Once this has happened, Council can levy rates on a pro-rata basis from the date the plan was registered.

Upon notification from NSW Land Registry Services, rates and charges are cancelled on the parent properties from the date of the registration of the plan to reflect that rates and charges are only payable on that parcel up until the date of subdivision.

7.7 DELIVERY OF RATES NOTICES

1. *Service by mail*

Council will deliver annual and quarterly rates notices to the postal address as per the advice of the title deeds or solicitor at the time of purchasing a property, or to the last known place of residence, business or post office box.

If a rates notice is not returned to Council by way of "Return to Sender", it is deemed to be served.

An owner must advise Council in writing of a change of postal address. It is the owner's responsibility to inform Council of this change.

If a property is managed by a real estate, then the owner is giving the above responsibility to the real estate, who must inform Council in writing of their commencement of managing the property. When a real estate ceases managing a property, the responsibility to inform Council rests with the owner.

2. *Service by email*

Council offers ratepayers the option to have rates notices delivered by email, in lieu of the normal mailing option. Registering, de-registering and updating email information is the responsibility of the owner. If the rates notice fails to be delivered by email, Council will revert to posting the rates notice by mail.

Rates notices may be delivered by email to managing agents if they have previously informed Council of the commencement of managing the property on behalf of the owner. Email addresses that are unrecognisable as being specifically related to the owner may not be approved for this method of service.

7.8 CHANGES TO RATING CATEGORIES

1. *Ratepayer requests review*

A ratepayer may request a review of their rating category in accordance with Section 525 of the Local Government Act. Where the application is approved, any adjustments to the Ratepayer's assessment will be effective from the date of application. A new rates notice will be forwarded to the ratepayer.

2. *Council conducts a review*

Where Council reviews a category in accordance with Section 523 of the Local Government Act and as a result of the review a category change occurs, any adjustment of rates and charges will be effective from the date of transfer or date of the inspection. A new rates notice and letter will be forwarded to the ratepayer.

3. *Exemption from rates*

Ratepayers may apply for exemption from rates and/or charges in accordance with Sections 554-559 of the Local Government Act by completing an 'Application for Rate Exemption' form. All applications must have a completed form, state which Section of the Local Government Act the appeal is being made, and must be supported by sufficient evidence to allow a decision to be made.

COLLABORATION	ACCOUNTABILITY	INTEGRITY	RESPECT	SUSTAINABILITY
Policy Name: [Enter Policy Name] Date of Last Adoption/Amendment: [Enter date] Page 6 of 7				

If the application is approved, adjustment will be made accordingly to the rate account from the date of application. A letter will be sent to the Ratepayer advising them of Council's decision.

Council will review all properties exempt from rates at least every three years, where a ratepayer may be required to reapply for a rating exemption providing evidence that the use of land supports their claim of the exemption.

A separate application must be made for each individual property as evidence supporting use of land for each assessment is required.

8. Related Forms/Documents

- Nil

9. Attachments

- Nil

Policy Authorised by:

Name: TBA

Date: TBA

Attachment 5 - Draft 2021/22 Capital Works Program

Asset Class	Program	Works or Job	2021/22 Activity
Buildings & Aquatics	Aquatics Facilities	Pool CCTV and Relines	Construction
		Warilla Pool Fencing Renewal	Construction
		Warilla Pool Shelter Renewal	Construction
	Aquatics Facilities Total		\$150,000
	Community Buildings	Albion Park Scout Centre Recladding	Construction
		Beverly Whitfield Pool Roof Replacement	Construction
		Building Renewals	Construction
		Flinders Child And Family Centre Roof Repairs	Construction
		SACYA Wall Renewal	Construction
		Warilla Community Centre Window Treatments	Construction
	Community Buildings Total		\$390,000
	Operational Building	Oak Flats Depot Redevelopment - Stage 3	Construction
	Operational Building Total		\$3,329,691
	Public Toilets	Boonerah Point Reserve Amenities Renewal	Construction
		Central Park Public Toilet Renewal	Design
		Dawes Park Public Toilet Renewal	Design
	Public Toilets Total		\$490,000
	Shell Cove Library & Community Centre	Shell Cove Library & Community Centre	Construction
	Shell Cove Library & Community Centre Total		\$4,858,279
	Sportsfield Amenities	Albion Oval Amenities Renewal	Design & Construction
		Panorama Oval Amenities Renewal	Design & Construction
	Sportsfield Amenities Total		\$1,010,000
	Buildings & Aquatics Total		\$10,227,971
Business Units	Cemetery Facilities	Cemetery Improvements	Construction
	Cemetery Facilities Total		\$40,000
	Shellharbour Airport	Airport Project - Part B	Construction
		Airport Intersection Resurfacing	Construction
	Shellharbour Airport Total		\$1,699,577
	Shell Cove Marina	Marina Refuelling & Sewer Pump-Out Facility	Construction
		Shell Cove Marina Heavy Duty Platform and Travel Lift Rail	Construction
		Shell Cove Marina Kayak Launching Ramp	Construction
		Shell Cove Marina Tavern Undercroft	Construction
		Shell Cove Outer Harbour Piles & Pontoons	Construction
		Shell Cove Marina Services Building	Construction
		Shell Cove Marina Services Building - Land	Procure
		Shell Cove Boat Maintenance Facility - Land	Procure
		Shell Cove Boat Maintenance Facility	Design
		Shell Cove Marina Breakwater Improvement	Construction
	Shell Cove Marina Total		\$8,983,441

Fleet	Shellharbour Holiday Park	Shellharbour Tourist Park Capital	Construction
	Shellharbour Holiday Park Total		\$10,000
	The Links Golf Course	Links Course Works	Construction
		Links Plant & Equipment	Construction
		Links Tavern Works - Furniture & Fittings	Construction
	The Links Golf Course Total		\$415,000
	Business Units Total		\$11,148,018
	Fleet Vehicle & Major	Fleet Vehicle & Major Plant change overs	Procure
	Fleet Vehicle & Major Total		\$1,757,088
	Fleet Total		\$1,757,088
Non-Infrastructure Assets	IT Software and Hard	Major Core S/ware Renewals - Office & IT	Procure
		Major Infrastructure Renewals - Office & IT	Procure
	IT Software and Hard Total		\$510,000
	Library Book Acquisition	Library Book Acquisitions	Procure
	Library Book Acquisition Total		\$370,000
Open Spaces	Non-Infrastructure Assets Total		\$880,000
	Foreshore Infrastructure	Warilla Beach Seawall Renewal	Construction
	Foreshore Infrastructure Total		\$1,432,150
	Parkland Facilities	Croom Dog Agility Park	Construction
		Dawes Park Furniture Upgrade	Construction
		Bush Street Fence Renewal	Construction
		Oak Flats Dog Agility Equipment	Construction
		Parkland Furniture - Renewal	Construction
		Passive Open Space Embellishment - City East	Construction
		Warilla Dog Agility Park	Construction
	Parkland Facilities Total		\$560,000
	Play & Fitness Equipment	Art Trail	Construction
		Playground Renewals and Upgrades	Construction
		Reddall Reserve Play Equipment Renewal & Upgrade	Construction
	Play & Fitness Equip Total		\$1,000,000
	Reddall Reserve Prom	Reddall Reserve Promenade Renewal - Construction	Construction
	Reddall Reserve Prom Total		\$1,526,000
	Shell Cove Sportsfields	Shell Cove Sports Fields	Construction
	Shell Cove Sportsfields Total		\$1,337,828
	Sporting Facilities	Benson Basin Sportsfield	Design
		Howard Fowles Oval Sight Screen Renewal	Construction
		Myimbarr Additional Sporting Field	Construction
		Sportsfield Facilities Renewal	Construction
	Sporting Facilities Total		\$575,000

Stormwater	Open Spaces Total		\$6,430,978
	Stormwater Management	88 Calderwood Rd Stormwater Renewal	Construction
		Bolwarra Pl Stormwater Renewal	Construction
		Digby Close Stormwater Renewal	Construction
		GPT Refurbishments	Construction
		Headwall Safety Upgrades	Construction
		Kimbeth Cres Stormwater Renewal	Construction
		Reddall Parade Culvert Replacement	Construction
		Stormwater Pipe Relining	Construction
		Thomas St Stormwater Renewal	Construction
		Wolfgang Rd Stormwater Renewal	Construction
		Tallowood Stormwater Renewal	Design
		Pioneer Drive Open Channel Renewal	Design
		Cuthbert Drive Stormwater Renewal	Design
	Stormwater Management Total		\$865,000
	Stormwater Total		\$865,000
	Footpaths & Shared Paths	Balarang Reserve Shared Path Renewal Stage 3	Construction
		Church St Albion Park Footpath/Shared Use Path	Construction
		College Ave Footpath Renewal	Construction
		Croome Road Footpath Renewal	Construction
		Darcy Dunster Shared Path Stage 2	Construction
		Path Renewal: Munmorah Cct	Construction
		Shared Path Renewal Detailed Designs	Design
		Shared Path Renewal: Blackbutt Forest (Stage 3)	Construction
		Tongarra Rd Shared Path	Construction
		Wollongong Lane footpath	Construction
	Footpaths & Shared Paths Total		\$1,550,000
Transport	Roads & Carparks	Albion Park SES Carpark Renewal	Construction
		Anthony St Laneway	Construction
		Ash Avenue: Pine Street - Oak Street	Construction
		Ashburton Drive/Croom Road: Mortlock Dr - EW Link	Design & Construction
		Bass Point Tourist Rd Renewal & Upgrade - Construction	Construction
		Bega Lane: Toolijooa to Pambula	Construction
		Bimbadeen Pl: Cooby to end	Construction
		Boonerah Point Carpark Adjustment - Design	Design
		College Ave/Glider Ave Traffic Management Upgrade	Construction
		Delegate Lane: Mollymook to Milton	Construction
		Holt and Chifley Lanes	Construction
		Johnson Pl: Cooby to end	Construction
		Madigan Blvd: Morgan Ave - Reddall Pde	Construction
		Old Bass Point Road Renewal	Design & Construction
		Osbourne Pde: K&G and patches	Construction
		Queen St Median Renewal	Construction
		Roads to Recovery Program	Construction

Waste Management		Rose St: Koda to Oak	Construction
		Terry Ave Carpark Renewal	Construction
		Terry Street Block Grant	Construction
		Tripoli Way Project	Design
		Trumper Lane: Trumper to Morley	Construction
		Wentworth St: Towns to Addison	Construction
		Wildes Lane: Toolijooa to Tallowa	Construction
		Woodburn Tce: Seymour to Willinga	Construction
		Yeramba Cl: Cooby to end	Construction
	Roads & Carparks Total		\$4,397,956
	Roadside Furniture	Albion Park Entrance Monument	Design & Construction
		Bus Shelter Renewal	Construction
		Citywide Suburb Monuments	Design & Construction
		Roadside Furniture Renewal	Construction
		Warilla Town Centre Streetscape Renewal Stage 1	Construction
		Warilla Town Centre Streetscape Renewal Stage 2	Construction
	Roadside Furniture Total		\$1,300,000
	Transport Total		\$7,247,956
	Bins	Green Bins	Procure
		Recycling Bins	Procure
		Waste Bins	Procure
	Bins Total		\$150,000
	Waste Management Facilities	Cell 6 Design, Preparation & Construction	Construction
		Landfill Capping	Construction
		Leachate Treatment System	Construction
		Waste Dimple rectification works	Construction
	Waste Management Facilities Total		\$1,918,000
	Waste Management Total		\$2,068,000
Grand Total		\$40,625,011	

10.2 Council Sustainability Directorate**10.2.1 Monthly Investment Report – March 2021 (11646459)**

To the Chief Executive Officer

Directorate: Council Sustainability
Group: Finance

Manager: Katie Buckman – Chief Financial Officer
Author: Lisa McCabe – Senior Accountant

Summary

The purpose of this report is to provide details to Council of its current investment portfolio in terms of holdings and impacts of changes in market values since the last monthly report, as well as to seek a resolution to receive and note the report. The report for the month of March 2021 details investment performance against applicable benchmarks, and reviews the compliance of Council's investments with policy and legislative requirements.

As at the end of March 2021, \$1.374M of interest revenue has been accrued.

Council is \$13K ahead of the revised annual budget forecast of \$1.814M (forecast = \$1.814M divided by 12 months and multiplied by 9 months = \$1.361M).

Background

Financial Services staff monitor Council's cash flow on a daily basis, with surplus funds being invested in accordance with Council's Investment Policy, the *Local Government Act 1993*, Local Government (General) Regulation and the Ministerial Investment Order.

Subject to these constraints, Council's objective when investing funds is to obtain the most favourable rate of interest, whilst taking into consideration the risks and security associated with the investment, as well as ensuring that Council's liquidity requirements are also being met. To assist with this process, Council consults with its independent investment advisor (Imperium Markets Pty Ltd) prior to any investment being made. Close attention is paid to Council's Investment Policy document.

This report provides details on the performance for the month of March 2021 (**Attachments 1 & 2**).

The return on investments for the month of March 2021 was 0.15%, or approximately 1.80% when annualised. This compares very favourably with the AusBond Bank Bill Index which was 0.00% for the month of March 2021.

Financial / Resources Implications

Council is ahead of the revised annual budget forecast by \$13K at the end of March 2021. There are additional fair value assessments of Floating Rate Notes, however these amounts are excluded from the Operational Performance Ratio.

Council remains the best performing Council in the state of NSW where term deposits are concerned, earning on average, approximately \$600K in additional interest income compared to other Councils (based on November 2020 rankings). This rankings analysis carried out on over 90 NSW Local Government Council term deposit portfolios is conducted by Council's independent investment advisors, Imperium Markets Pty Ltd. This analysis has ranked Shellharbour City Council's portfolio as number 1 since July 2020, when analysing the returns generated over the last 12 months.

Legal and Policy implications

Section 212 of the *Local Government (General) Regulation 2005*, requires Council's Responsible Accounting Officer to provide a report to Council, detailing all investments held at the end of each month. This report confirms that the investments made, have been in accordance with the Act and the regulations, along with Council's Investment Policy.

Public / Social Impact

Council invests its surplus funds on the best available advice, to maximise interest returns in accordance with Council's Investment Policy. Any additional interest income achieved through the placement of investments will result in extra funds being put to facilities, operations and outcomes for the community.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

- | | | |
|------------|-------|---|
| Objective: | 4.2 | Supported by a Council that is responsive, accountable and financially viable |
| Strategy: | 4.2.1 | Undertake Council activities within a clear framework of strategic planning, policies, procedures and service standards |
| | 4.2.3 | Ensure Council is financially sustainable and continues to be transparent and accountable |

Consultations**Internal**

Nil

External

Imperium Markets Pty Ltd

Political Donations Disclosure

Not Applicable

Recommendation

That Council receive and note the Investment Portfolio report as at 31 March 2021.

Approved for Council's consideration: Katie Buckman
Chief Financial Officer

Date of Meeting: 27 April 2021

Attachments

1. Council's Investment Portfolio as at 31 March 2021 – *Page 29*
2. Council's Investment Portfolio Graphs as at 31 March 2021 – *Page 30*

Attachment 1 – Council's Investment Portfolio as at 31 March 2021



Shellharbour City Council Investment Report by Investment Strategy as at 31 March 2021

The table below shows the actual performance of Council's investment portfolio. It is provided as required by the Local Govt (General) Reg 2005 (CI 212).

Issuer	Rating	Rate	Opening Balance 28/02/2021	Closing Balance 31/03/2021	Monthly Movement	Maturity
Cash Funds						
NSWTC IM CF	AAA	0.01	315,013	315,016	4	T + 3
Commonwealth Bank	AA-	0.20	8,568,926	6,569,937	- 1,998,989	T
Senior Bonds						
Newcastle Permanent	BBB	1.41	1,777,354	1,776,240	- 1,115	06/02/2023
Commonwealth Bank	AA-	1.15	2,049,564	-	- 2,049,564	11/01/2024
Westpac	AA-	0.89	2,547,963	2,548,915	953	16/08/2024
ANZ Bank	AA-	0.80	1,523,432	1,524,147	716	29/08/2024
HSBC	AA-	0.86	3,031,842	3,028,407	- 3,435	27/09/2024
Northern Territory Treasury Corporation	AA-	1.20	1,000,000	1,000,000	-	15/12/2025
Northern Territory Treasury Corporation	AA-	1.20	1,000,000	1,000,000	-	15/12/2025
Northern Territory Treasury Corporation	AA-	1.00	4,000,000	4,000,000	-	15/12/2025
Northern Territory Treasury Corporation	AA-	1.30	-	2,000,000	2,000,000	15/06/2026
Senior Bond Performance (Excluding sale/maturity of investments)					- 2,882	*
Term Deposits						
QBank	BBB-	3.60	2,000,000	-	- 2,000,000	01/03/2021
Australian Unity Bank	BBB+	3.10	2,000,000	-	- 2,000,000	02/03/2021
Bank of Sydney	Unrated	1.70	1,000,000	-	- 1,000,000	02/03/2021
BOQ	BBB+	3.60	2,000,000	-	- 2,000,000	03/03/2021
AMP Bank	BBB+	1.60	1,500,000	1,500,000	-	25/05/2021
Auswide Bank	BBB	2.22	3,000,000	3,000,000	-	18/06/2021
Westpac	AA-	2.22	3,000,000	3,000,000	-	21/06/2021
Bananacoast Community CU	BBB	2.35	2,000,000	2,000,000	-	28/06/2021
St George Bank	AA-	2.30	5,000,000	5,000,000	-	28/06/2021
Westpac	AA-	1.70	1,000,000	1,000,000	-	16/09/2021
Australian Military Bank	BBB+	1.78	2,000,000	2,000,000	-	29/11/2021
Rabobank Australia Branch	A+	3.00	2,000,000	2,000,000	-	13/12/2021
Newcastle Permanent	BBB	3.05	1,500,000	1,500,000	-	24/01/2022
Police Credit Union SA	Unrated	2.99	1,000,000	1,000,000	-	25/02/2022
Police Credit Union SA	Unrated	2.99	1,000,000	1,000,000	-	25/02/2022
AMP Bank	BBB+	2.75	2,500,000	2,500,000	-	11/03/2022
Newcastle Permanent	BBB	2.90	3,500,000	3,500,000	-	14/03/2022
St George Bank	AA-	2.30	2,000,000	2,000,000	-	04/07/2022
Westpac	AA-	1.14	3,000,000	3,000,000	-	05/09/2022
Police Credit Union SA	Unrated	1.64	2,000,000	2,000,000	-	02/03/2023
BOQ	BBB+	2.30	2,000,000	2,000,000	-	19/06/2023
Rabobank Australia Branch	A+	3.40	1,000,000	1,000,000	-	04/09/2023
Westpac	AA-	0.82	2,000,000	2,000,000	-	04/09/2023
Westpac	AA-	0.84	3,000,000	3,000,000	-	07/09/2023
BOQ	BBB+	1.15	2,500,000	2,500,000	-	20/08/2024
NAB	AA-	0.94	5,000,000	5,000,000	-	09/09/2024
BOQ	BBB+	1.85	2,000,000	2,000,000	-	13/03/2025
BOQ	BBB+	1.25	1,000,000	1,000,000	-	04/09/2025
NAB	AA-	1.08	7,000,000	7,000,000	-	08/09/2025
NAB	AA-	1.05	4,000,000	4,000,000	-	18/09/2025
Westpac	AA-	0.76	2,000,000	2,000,000	-	18/12/2024
NAB	AA-	0.85	3,000,000	3,000,000	-	18/12/2024
NAB	AA-	1.00	6,000,000	6,000,000	-	18/09/2025
AMP Bank	BBB	0.75	-	1,000,000	1,000,000	30/08/2022
ING Direct	A	0.55	-	2,000,000	2,000,000	01/03/2023
Westpac	AA-	1.12	-	2,000,000	2,000,000	03/03/2026
NAB	AA-	1.25	-	1,000,000	1,000,000	03/03/2026
P&N Bank	BBB	1.20	-	6,000,000	6,000,000	03/03/2026
Total Shellharbour City Council Portfolio			109,314,093	112,262,661	2,948,568	

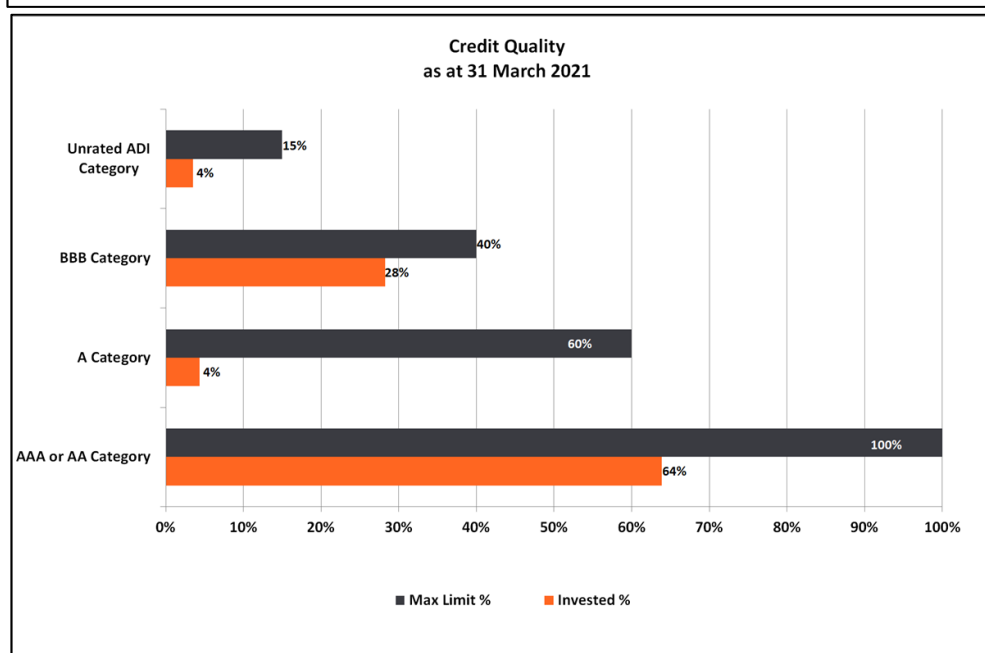
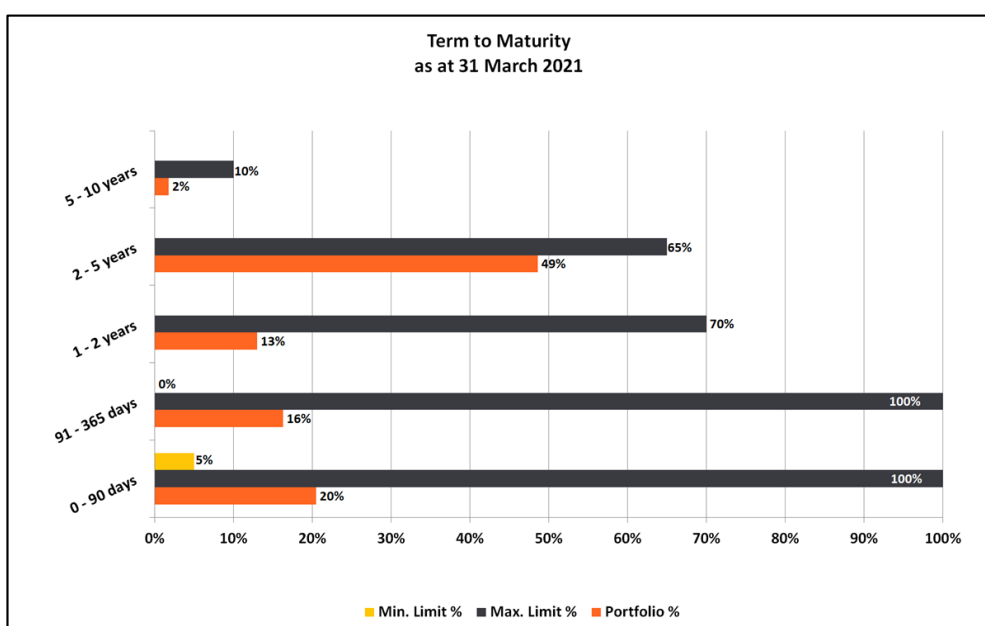
* Returns are calculated using a daily time weighted methodology. The performance figures are net of all fees.

* Council's unrestricted cash balance position as at 30 June 2020 was \$22.388M.

This will be earmarked for the ongoing budget as part of Council's financial management strategy.

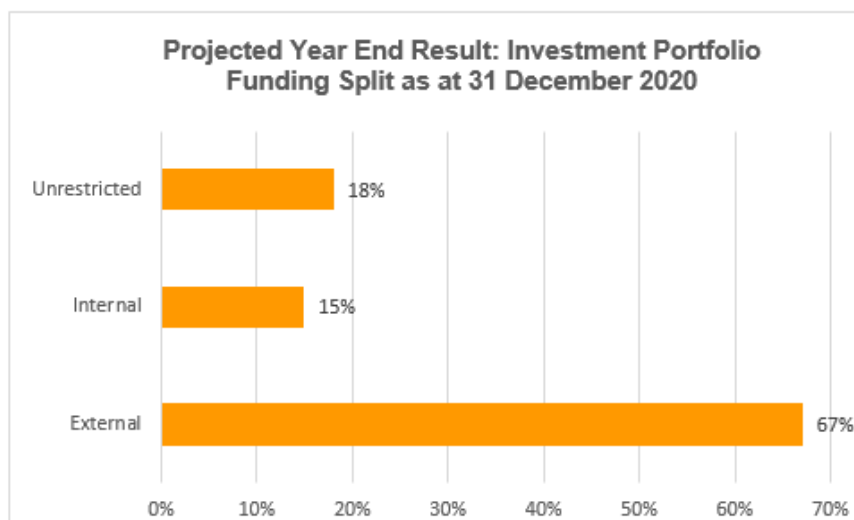
Attachment 2 – Council's Investment Portfolio Graphs as at 31 March 2021

Performance (Actual)	1 month	3 months	6 months	FYTD	1 year	2 years
Official Cash Rate	0.01%	0.02%	0.06%	0.13%	0.19%	0.56%
AusBond Bank Bill Index	0.00%	0.00%	0.02%	0.05%	0.11%	0.67%
Council's T/D Portfolio	0.13%	0.44%	0.93%	1.54%	2.21%	2.53%
Council's FRN Portfolio	0.31%	0.48%	1.26%	1.65%	2.02%	2.15%
Council's Bond Portfolio	0.09%	0.27%	0.55%	-	-	-
Council's Portfolio^	0.15%	0.43%	0.95%	1.52%	2.11%	2.44%
Outperformance	0.15%	0.43%	0.92%	1.47%	2.00%	1.77%



Counterparty

Compliant	Issuer	Rating	Invested (%)	Max. Limit (%)
✓	NSW TCorp	AA+	0.28%	40.00%
✓	ANZ	AA-	1.33%	25.00%
✓	CBA	AA-	7.50%	25.00%
✓	HSBC	AA-	2.65%	25.00%
✓	NAB	AA-	22.75%	25.00%
✓	Northern Territory	AA-	7.00%	25.00%
✓	Westpac (SGB)	AA-	22.36%	25.00%
✓	Rabobank Aus.	A+	2.63%	15.00%
✓	ING Bank Aus.	A	1.75%	15.00%
✓	Aus. Military Bank	BBB+	1.75%	12.50%
✓	BoQ	BBB+	6.56%	12.50%
✓	AMP	BBB	4.38%	12.50%
✓	Auswide Bank	BBB	2.63%	12.50%
✓	Newcastle PBS	BBB	5.93%	12.50%
✓	P&N Bank	BBB	7.00%	12.50%
✓	Police CU SA	Unrated	3.50%	10.00%
			100.00%	



Breakdown by Asset Type



10.2.2 Shell Cove Subdivisions and Easement (11646772)

To the Chief Executive Officer

Directorate: Council Sustainability

Group: Shell Cove

Manager: Wayde Peterson – Shell Cove Executive Manager

Author: Kevin James – Manager Shell Cove

Summary

The purpose of this report is to seek a Council resolution to affix the Seal on plans and documents for upcoming Shell Cove subdivisions and easements.

Background

The Shell Cove Management Agreement provides the authorities to undertake the following activities. However, to have each Plan registered at NSW Land Registry Services, Council will need to sign the Plan and the 88B Instrument as the owner of the land under its Seal.

A resolution of Council is required under the *Local Government Act 1993* to affix the Seal to a document.

Land Subdivision & Sale

In order to complete the sale and conveyance of each lot, house or apartment, Council will need to sign the associated documents as owner of the land under its Seal.

Precinct B2 (Nautilus Apartments)

This is a strata subdivision plan to create 117 lots and Common Property for the apartments – see **Attachment 1** for its location. The land to be subdivided is proposed Lot 3001 from the unregistered subdivision of Lot 9009 DP1254656.

Precinct D (MSB Stratum)

This is a stratum subdivision plan to create 2 lots for the Marina Services Building (MSB) and the adjacent park – see **Attachment 1** for its location. The land to be subdivided is Lot 4028 DP1254658.

Precinct E (Ancora Apartments)

This is a strata subdivision plan to create 65 lots and Common Property for the apartments – see **Attachment 1** for its location. The land to be subdivided is Lot 5071 DP1238340.

Precinct E (Stage 59 Housing)

This is a subdivision plan to create 22 lots for the medium density houses – see **Attachment 1** for its location. The land to be subdivided is Lot 5062 DP1221924 and the registered subdivision plan will contain lots 5901 to 5922.

Marina Easements

The services for the Shellharbour Marina pontoons within Shell Cove Harbour (Lot 9030 DP 1264148) are being currently installed. The pipes and conduits for the services traverse several parcels of land (Lot 4028 DP 1254658 and Lot 4106 DP 1260905) – see **Attachment 1** for its location. The Plan of Easements has Lot 9030 benefitted and Lots 4028 and 4106 burdened.

Financial / Resources Implications

It is considered that there are no implications as a consequence of this report.

Legal and Policy implications

It is a requirement of the *Local Government Act 1993*, as amended, and its Regulations for there to be a resolution of Council in order to execute the documents under Seal.

The recommendations do not conflict with Council's Policy with regard to this matter of having granted delegated authority to the Chief Executive Officer to proceed with the Shell Cove Project, subject to all necessary approvals being obtained.

Otherwise, it is considered that there are no additional implications as a consequence of this report.

Public / Social Impact

It is considered that there are no impacts as a consequence of this report.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

Objective: 3.2 Supports and increases employment and business opportunities within a strong local economy

Strategy: 3.2.1 Activate the Shell Cove Harbour Precinct as a lifestyle and boating destination providing development, tourism and community opportunities

Consultations

Internal

Nil

External

Australand Corporation (NSW) – part of Frasers Property Group

Political Donations Disclosure

Not Applicable

Recommendation

That the Mayor and the Chief Executive Officer, or his nominated delegate, be authorised to sign:

- 1. the Strata Subdivision Plan, 88B Instrument and any associated documents for the subdivision of proposed Lot 3001 (from the unregistered subdivision of Lot 9009 DP1254656), and any documents associated with the sale (including the Transfers) of proposed lots 1 to 117 (Precinct B2 Nautilus Apartments), under Council Seal;**
- 2. the Stratum Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 4028 DP1254658 (Precinct D MSB Stratum), under Council Seal;**
- 3. the Strata Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 5071 DP1238340, and any documents associated with the sale (including the Transfers) of proposed lots 1 to 65 (Precinct E Ancora Apartments), under Council Seal;**
- 4. the Subdivision Plan and 88B Instrument for the subdivision of Lot 5062 DP 1221924, and any documents associated with the sale (including the Transfers) of proposed lots 5901 to 5922 (Precinct E Stage 59 Housing), under Council Seal; and**
- 5. the Plan of Easements, 88B Instrument and any associated documents over Lot 4028 DP 1254658 and Lot 4106 DP 1260905 (Marina Easements), under Council Seal.**

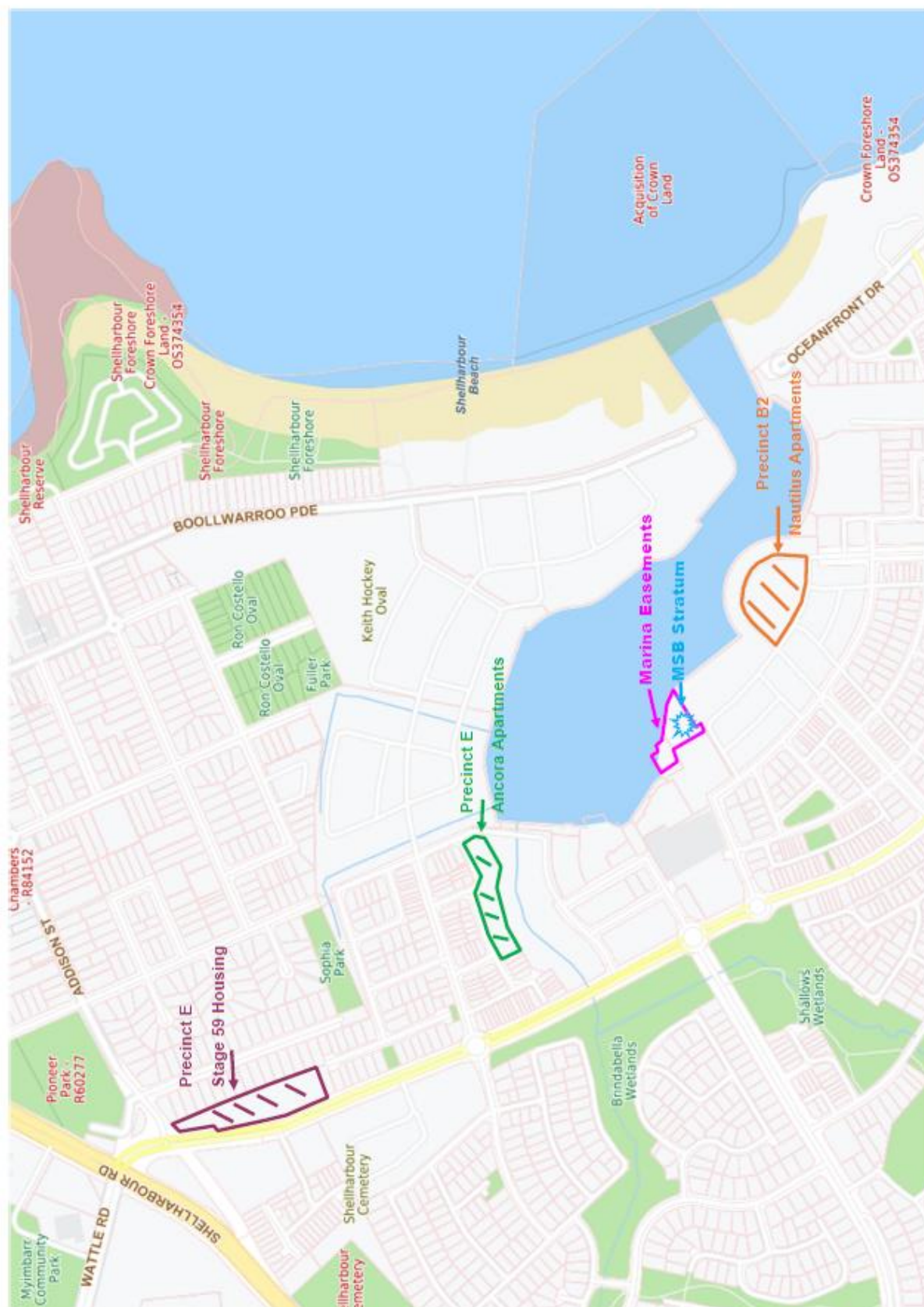
Approved for Council's consideration: Wayde Peterson
Shell Cove Executive Manager

Date of Meeting: 27 April 2021

Attachments

1. Location Plan of Shell Cove Subdivisions and Easements – *Page 36*

Attachment 1 – Location Plan of Shell Cove Subdivisions and Easements



10.3 Community and Customers Directorate

10.3.1 Shellharbour City Hall of Fame (11646817)

To the Chief Executive Officer

Directorate: Community & Customers
Group: Community Connections

Manager: Kathryn Baget-Juleff – Group Manager Community Connections
Author: Katrina Owers – Civic Centre Activation Manager

Summary

The purpose of this report is to seek Council endorsement for the induction of nominees for 2020 into the Shellharbour City Hall of Fame.

Background

The Shellharbour City Hall of Fame was established in 1988 and aims to recognise and celebrate those within the Shellharbour City Local Area who have achieved significantly and who have made great contributions in their field of endeavour.

The Hall of Fame has been established in order to create a source of civic pride and in doing so has included a wide scope of categories from which people may be nominated. These categories include Arts, Sports and Recreation, Business and Public Service, Science and Innovation and Education and Research.

Nominations were called in September 2020 via media release, social media, Shellharbour Civic Centre and Council websites, direct email to Community groups, sporting groups and schools along with paid advertising.

Council received eight nominations. Of those eight nominations, the Hall of Fame Working Party consisting of the Mayor and Chief Executive Officer determined that the four nominations below met the criteria as outlined in the Hall of Fame policy. **Table 1** below shows the qualifications and experience of each of the 2020 proposed inductees for the Hall of Fame.

Table 1 – Page 38

Table 1 – 2020 Proposed Inductee List for Shellharbour City Hall of Fame

Proposed Inductee	Category	Qualification and Experience
Harold (Harry) Andrews Goodwin	Science and Innovation	<p>Harry's working life was spent doing Inorganic Chemistry research at Universities in Australia, America and Germany and has made a contribution to the world of science and he was acclaimed by his Peers as a world authority in his field of research</p> <p>He was appointed Lecturer Inorganic Chemistry at UNSW in 1960 then Associate Professor continuing research until retirement in 1995.</p>
David Smith OAM	Sports and Recreation	<p>David is an Australian sprint canoeist who has competed since the late 2000s.</p> <p>He won a silver medal in the K-2 1000m event at the 2009 ICF Canoe Sprint World Championships in Dartmouth.</p> <p>He also won a silver at the 2011 ICF World Championships in Szeged, Hungary in the K-4 1000m, and then a bronze in the same event in 2013.</p> <p>David competed in the K-4 1000m event at the 2008 Summer Olympics in Beijing, but was eliminated in the semi-finals.</p> <p>He was the member of the Gold Medal winning Australian Kayak Four (K4) 1000m team in the London Olympics 2012.</p>

Stuart Allan Thompson	Sports and Recreation	<p>Stuart played in the National Baseball team continuously for 5 years (1993-1997) and was selected into the Australian team and competed in the 1996 Olympic Games in Atlanta.</p> <p>Stuart is the only Illawarra born baseball player to ever represent Australia in the Olympic Games.</p>
Maddison Lacey and Caitlin O'Neil	Sports and Recreation	<p>These athletes compete in the Senior International Division of Acrobatic Gymnastics, the highest level in their sport.</p> <p>They were awarded International Senior Gymnasts of the Year for Acrobatic Gymnastics in 2019 and the Australian Team for the 2020 Acrobatic World Championships.</p> <p>They have both represented New South Wales at the Australian Championships for over 5 years with Caitlin attending the competition 8 times and Maddison 12.</p>

Following Council's endorsement, the inductees would be included in the Hall of Fame, which is located in Shellharbour Civic Centre. A Civic reception will be held.

Financial / Resources Implications

The estimated cost of placing the new inductees details on the Hall of Fame board is \$2,500.

Legal and Policy implications

Nil

Public / Social Impact

The community feel a sense of civic pride when local identities are recognised and celebrated. The Shellharbour City Hall of Fame provides the opportunity for those within the Shellharbour LGA that have achieved significantly and have made great contributions in their field of endeavour to be valued by future generations.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

Objective: 1.1 Vibrant, safe, creative and inclusive

Strategy: 1.1.6 Provide responsive community services and programs across the City

Consultations

Internal

Hall of Fame Working Party

External

Nil

Political Donations Disclosure

Not applicable

Recommendation

That Council endorse the induction of the following 2020 nominees into the Shellharbour City Hall of Fame:

- **Harold Andrew Goodwin**
- **David Smith**
- **Stuart Allan Thompson**
- **Maddison Lacey and Caitlin O'Neil**

Approved for Council's consideration: Kathryn Baget-Juleff
Group Manager Community Connections

Date of Meeting: 27 April 2021

Attachments

Nil

**10.3.2 Endorsement of the Draft Crown Land Plan of Management -
Hennegar Bay Reserve - Oak Flats (11647422)**

To the Chief Executive Officer

Directorate: **Community and Customers**
Group: **City Planning**

Manager: Geoff Hoynes – Group Manager City Planning
Author: Leanne Stevens – Planning Contractor

Summary

The purpose of this report is to seek Council's endorsement of the Draft Plan of Management (**Attachment 1**) for Hennegar Bay Reserve, Oak Flats (Crown Reserve 97393) and subsequent referral to the NSW Department of Planning, Industry & Environment – Crown Lands (Crown Lands) for approval prior to public exhibition. Hennegar Bay Reserve is owned by NSW State Government (the Crown), and is managed by Shellharbour City Council as Crown Land Manager, under the *Crown Land Management Act 2016*.

The *Crown Land Management Act 2016* introduced legislation in 2018 that requires Local Councils to manage Crown reserved land as if it were public land under the *Local Government Act 1993*.

There are also twelve small lots associated with Hennegar Bay Reserve which are owned and managed by Shellharbour City Council and classified as community land. These parcels adjoin the main Crown reserve lot and are included in the draft Plan of Management.

Council is required to forward a copy of the Plan to the landowner (the Crown) for approval before placing it on public exhibition. In accordance with the *Local Government Act 1993*, public exhibition will be for a period of 28 days and the community will have an opportunity to provide feedback via submissions for a period of 42 days.

Background

The *Crown Land Management Act 2016* (CLM Act) commenced 1 July 2018 which introduced a requirement for Local Councils to manage Crown reserved land as if it were public land under the *Local Government Act 1993* (LG Act).

There are 18 Crown reserves in Shellharbour Local Government Area, 15 of which are under management of Council in accordance with the CLM Act and the LG Act. This means that the 15 Crown reserves will be classified 'community land' under the LG Act and Council is required to have plans of management in place for the land.

The remaining three Crown reserves were devolved to Council for cemetery purposes and therefore in accordance with the CLM Act, do not require a plan of management.

At its meeting held 12 June 2018, Council endorsed an initial schedule of Crown reserves that Crown Lands indicated were to be transferred to Shellharbour Council, to manage as Reserve Trust Manager (now referred to as Crown Land Manager) or devolved to Council.

This reserve is situated along the foreshore of Lake Illawarra and includes a shared use pathway to facilitate active transport, passive recreational uses and connectivity to adjoining reserves. The category of General Community Use will apply to the shared use pathway and land from the path to the residential boundaries on the southern side. The category of Natural Area – Foreshore will apply to the land from the northern edge of the pathway to the lakes edge.

Council currently manages and will continue to manage the reserve in a way that allows the public to utilise the site as for the purpose which is outlined in the core objectives of General Community Use and Natural Area - Foreshore.

What is a plan of management?

A plan of management (PoM) is a legal document prepared in accordance with the LG Act over land classified as 'community land' and provides strategic planning and governance for the management and use of the land. It establishes directions for planning, resource management and maintenance of the land. PoMs categorise land, authorise leases, licenses, or granting of any other estate and determine what development can take place. Further, a PoM identifies the key values of the land and its purposes so they can be protected and enhanced.

What is the difference between a PoM for public land and Crown land?

Plans of management for Crown land are very similar to those of public land and Council will be able to manage Crown reserves generally in the same way that Council-owned land is managed. The main difference between a plan of management for Crown land and a plan of management for public land primarily relates to the management of native title responsibilities on Crown reserves which is addressed later in this report.

What is land Classification?

The CLM Act provides that Crown land managed by Council as public land, must be managed as if it were community land, unless the Minister administering the CLM Act has given written consent to classify the land as operational.

The LG Act defines that all land in the ownership of Council is classified as either 'community' or 'operational'. The default classification is 'community'.

The classification of community land reflects the importance of the land to the community due to its special features. Generally, community land is intended for public access and use.

To protect community land, the LG Act places restrictions on the land to preserve the special qualities of the area. These restrictions being:

1. Community land cannot be sold; and
2. Cannot be leased/licenced for more than 21 years; and
3. Can only be used for purposes which are consistent with a PoM.

Operational land is land owned by Council which has no special restrictions other than that which apply to any piece of land. Council may deal with operational land in the same manner as any other person may deal with private freehold land.

What is Categorisation of Land?

Under section 3.23 of the CLM Act, Crown land managed by Council is required to be categorised into one or more categories according to their purpose. The different categories are:

- Park,
- Sportsground,
- General Community Use,
- Area of Cultural Significance,
- Natural Area – Bushland,
- Natural Area – Wetland,
- Natural Area – Escarpment,
- Natural Area – Watercourse, or
- Natural Area – Foreshore

Categories each have assigned core objectives. When determining a land category, consideration of the core objectives must be given in relation to the facilitation, use and management of the land; and categorisation must closely relate to the purpose for which the land is classified, dedicated or reserved.

Draft Plan of Management – Hennegar Bay Reserve, Oak Flats

The Draft Plan of Management – Hennegar Bay Reserve (**Attachment 1**) applies to, Lot 7313 DP 1199591, Crown Reserve 97393, reserved for Public Recreation, notified in Government Gazette 17 August 1984 and the following Council owned lots:

- Lot 1 DP 709545
- Lot 2 DP 709545
- Lot 3 DP 709545
- Lot 4 DP 709545
- Lot 5 DP 709545
- Lot 6 DP 709545

- Lot 8 DP 709545
- Lot 9 DP 709545
- Lot 10 DP 709545
- Lot 11 DP 709545
- Lot 12 DP 709545
- Lot 16 DP 709545

Hennegar Bay Reserve is a public reserve situated along the foreshore of Lake Illawarra, Oak Flats and includes a shared use pathway to facilitate active transport, passive recreational uses and connectivity to adjoining reserves.

Council's vision for Hennegar Bay Reserve recognises the long-term use of the site, as socially, culturally and physically enhancing the community. The site will be managed and maintained according to the categorisation of General Community Use and Natural Area – Foreshore as detailed in the Plan (**Attachment 1**).

This site is classified as community land under the LG Act 1993 and categorised as General Community Use and Natural Area - Foreshore. These categories are the initial assigned categories of the land (endorsed by Crown Lands), therefore no public hearing will be required for this Plan.

Council's Native Title Responsibilities

All crown reserves in Shellharbour are subject to a Native Title Claim by the South Coast People. The claim includes the exclusive or non-exclusive right to access, to remain in and use the land and waters for any purpose, to take resources and to maintain and protect places and objects of significance. This application has not yet been determined.

Council is required to undertake steps to identify if any activities that they allow, or not allow on Crown land, will have native title implications. Council is also required to identify what provisions of the *Native Title Act 1993* will validate the activity and what procedures should be taken in relation to a particular activity prior to its commencement.

The CLM Act states that Council must receive written advice from its Native Title Manager in relation to certain activities and acts it intends to carry out on Crown land. Council cannot adopt a PoM until it has obtained written Native Title Manager advice, that the PoM complies with any applicable provision of the *Native Title Act 1993*. Crown Lands will not endorse the progress of a draft PoM unless the Council attests that it has considered Native Title Manager advice. Native Title Manager advice is required to ensure that Council understands any procedural requirement and other implications that may be applicable under Native Title legislation.

Native title advice has been received from Council's Native Title Manager for this Plan. Native title rights have not been extinguished over the reserve and therefore any works or activities on the reserve must consider the possible impacts on native title.

The Plan complies with Native Title legislation. The Plan states that further native title advice is required for any proposed works or activities on the Crown reserve.

Public Exhibition Requirements

Council is required to forward a copy of the Plan to the landowner (the Crown) for approval before placing it on public exhibition. In accordance with the LG Act, public exhibition will be for a period of 28 days and the community will have an opportunity to provide feedback via submissions for a period of 42 days.

Financial / Resources Implications

Council has received a funding grant of \$30,000 from the Office of Local Government for preparation of the Crown reserve PoMs.

Council has used some of those funds in the preparation of this draft Plan through the engagement of a contractor to assist Council staff.

Legal and Policy implications

Under Division 3.4 of the CLM Act, as a Crown Land Manager, Council is authorised to classify and manage its dedicated or reserved Crown land as if it were public land within the meaning of the LG Act.

Council is required to prepare a draft plan of management in accordance with the provisions of Division 2 of Part 2 of Chapter 6 of the LG Act.

Council is then required to forward a copy of the Plan to Crown Lands, under Section 39 of the LG Act, for review and approval.

It should be noted that the initial assigned category of the land, has been approved by Crown Lands as part of the Plan's preparation. Unless the category is changed by Crown Lands, as part of the formal forthcoming review and approval process, no public hearing will be required for the Plan under Section 3.23(7)(c) of the CLM Act.

Council is required to give public notice of the Plan for a minimum of 28 days under Section 38 of the LG Act after advice is received from Crown Lands.

Public / Social Impact

The Plan for Hennegar Bay Reserve has been prepared to reflect the current condition of the land and facilities, and outlines permitted community uses on the land. This Plan will guide the future use and development of Hennegar Bay Reserve. The community will have an opportunity to have input into the finalisation of the plan after it has been reviewed by the Department of Planning, Industry & Environment – Crown Lands.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

Objective: 1.2 Active and healthy

Strategy: 1.2.2 Provide diverse opportunities for sport, recreation and enjoyment in the City's parks, open spaces and facilities.

Objective: 2.1 Protects, promotes and enhances its natural environment

Strategy: 2.1.2 Deliver plans and programs that enhance and protect biodiversity in our natural areas.

Consultations**Internal**

Group Manager Services
Parks Manager
Senior Asset Engineer
Asset Officers
Manager Business and Investment
Property Management Coordinator
Property Coordinator
Executive Manager Council Services
Native Title Manager
Governance Manager
Administration Officer Business and Investment
Senior GIS Officer
Environment Officers
Bush Regeneration Officer
Manager Community Life
Community Development Officer
Community Planning Officer
Community Safety Officer
Aboriginal Community Liaison Officer
Manager Planning
Manager Compliance and Regulation
Museum Curator
Recreation Planner
Cadet Strategic Planner

External

Office of Local Government
Department of Industry - Crown Lands
Aboriginal Advisory Committee

Lake Illawarra Estuary Management Committee
Coastal Management Working Party
NTS Corp (Native Title Service Provider)
Illawarra Local Aboriginal Land Council

Political Donations Disclosure

Not Applicable

Recommendation

That:

- 1. Council endorse the draft Plan of Management for Hennegar Bay Reserve, Oak Flats (Attachment 1), and its referral to the Department of Planning Industry & Environment – Crown Lands for review and approval prior to placing it on public exhibition for a period of 28 days in accordance with the *Local Government Act 1993*.**
- 2. If any significant changes are made by the Department, a report will be submitted to Council for consideration with further recommendations regarding exhibition.**
- 3. If any opposing submissions are received as a result of the public exhibition process, or substantial changes are recommended for any reason, a further report be provided to Council for consideration.**
- 4. Council adopt the Draft Plan of Management – Hennegar Bay Reserve, Oak Flats (Attachment 1), if at the conclusion of the exhibition period no opposing submissions are received and there are no substantial post public exhibition changes proposed for any reason. Councillors will be informed of submissions, any post public exhibition changes and the Plan's final adoption by memo.**

Approved for Council's consideration: Geoff Hoynes
Group Manager City Planning

Date of Meeting: 27 April 2021

Attachments

- 1. Draft Plan of Management – Hennegar Bay Reserve, Oak Flats – Page 48**

Attachment 1 - Draft Plan of Management – Hennegar Bay Reserve, Oak Flats



DRAFT PLAN OF MANAGEMENT

**HENNEGAR BAY RESERVE,
CROWN RESERVE 97393**

OAK FLATS



Adopted by Council XXXX

COLLABORATION • ACCOUNTABILITY • INTEGRITY • RESPECT • SUSTAINABILITY

**HENNEGAR BAY RESERVE,
CROWN RESERVE 97393**

OAK FLATS

DRAFT PLAN OF MANAGEMENT

CONTENTS

EXECUTIVE SUMMARY	5
PART 1: GENERAL INFORMATION	6
1. INTRODUCTION.....	6
1.1 Corporate objectives	6
1.2 Review of this Plan.....	6
1.3 Community consultation	6
2. LAND DESCRIPTION	7
2.1 Land to which this Plan applies.....	7
2.2 Owner of the land.....	8
2.3 Categorisation of the reserve.....	9
2.4 Zoning of the Reserve	10
2.5 Land comprising the habitat of endangered species or threatened species	11
2.6 Land containing significant natural features	12
2.7 Culturally significant land.....	12
3. DEVELOPMENT AND USE	12
3.1 Overview.....	12
3.2 Condition of the land and structures on adoption of the Plan.....	12
3.2 Use of the land and structures as at the date of adoption of the Plan	13
3.3 Permitted use.....	13
3.4 Further development	13
3.5 Scale and intensity	13
3.6 Leases, Licences and other Estates	13
3.7 Short Term Casual Purposes	14
3.8 Signs.....	14
3.9 Easements.....	14
3.10 Alcohol.....	14
3.11 Management actions.....	15
3.12 Fees and charges	15
4. ADDITIONAL MATTERS.....	15
4.1 Definitions.....	15
4.2 Native Title Assessment.....	15
4.3 Community Assistance	15
PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND.....	16
5. CATEGORY: GENERAL COMMUNITY USE.....	16
5.1 Introduction.....	16

5.2	Key issues	16
5.3	Development and use	17
5.4	Express authorisation of leases, licences and other estates – General Community Use	18
5.5	Management framework for reserves categorised as General Community Use	19
6.	CATEGORY: NATURAL AREA	21
7.	CATEGORY: FORESHORE	21
7.1	Introduction	21
7.2	Physical environment	22
7.3	Key issues	22
7.4	Development and use	23
7.5	Express authorisation of leases, licences and other estates - Natural Area – Foreshore	24
7.6	Management framework for reserves categorised as Natural Area - Foreshore	25
APPENDIX 1: PLAN OF MANAGEMENT LEGISLATIVE FRAMEWORK		27
APPENDIX 2: ABORIGINAL INTERESTS IN CROWN LAND		35
APPENDIX 3: EXISTING LEASES AND LICENCES ON THE SITE		37

EXECUTIVE SUMMARY

This Plan of Management, adopted on XX/XX/XXXX by Shellharbour City Council, applies to Hennegar Bay Reserve, The Boulevarde, Oak Flats. It is situated on Crown reserve 97393 and a small amount of adjoining Council owned land.

The purpose of this Plan of Management (the Plan), is to provide Council with a framework that enables decisions regarding Hennegar Bay Reserve, to be made in a consistent and equitable basis. The plan meets all the requirements of the *Crown Land Management Act 2016* (CLM Act) and the *Local Government Act 1993* (LG Act) as amended.

The majority of Hennegar Bay Reserve is owned by the NSW State Government (the Crown) and is managed by Shellharbour City Council as Crown Land Manager, under the CLM Act. In addition to the Crown component, there are 12 small lots owned by Shellharbour City Council, which are part of Hennegar Bay Reserve and included in this plan of management.

This Plan replaces the existing plan of management previously adopted by Council for the land. It should be read in conjunction with the existing plans of management for the adjoining reserves of Central Park and the Oaks Reserve/Oak Park, Oak Flats.

Acknowledgement of Country

Shellharbour City Council acknowledges the Traditional Custodians of the Land and recognise their continued connection to the land. Council pays its respect to Elders past, present and emerging and the contribution they make to the life of this city and this region.

PART 1: GENERAL INFORMATION

1. INTRODUCTION

The *Crown Land Management Act 2016* (CLM Act) commenced on 1 July 2018, introducing legislation to govern the management of Crown land in NSW. Councils will now manage their Crown reserved land as if it were public land under the *Local Government Act 1993* (LG Act). Most of this land is expected to be 'community land' under the LG Act, meaning that Councils will be required to have plans of management in place for the land. Hennegar Bay Reserve is a Crown reserve and is classified as community land under the LG Act. Therefore, this Plan of Management (the Plan) has been prepared to comply with the legislation.

1.1 Corporate objectives

The purpose of this Plan is to provide Council with a framework that enables decisions regarding Hennegar Bay Reserve, to be made in a consistent and equitable basis. The Plan meets all the requirements of the CLM Act and the LG Act, as amended.

Council's vision for Hennegar Bay Reserve recognises the long-term use of the site's infrastructure, as socially, culturally and physically enhancing the community. The site will be managed and maintained according to the categorisation of General Community Use and Natural Area – Foreshore as detailed in this Plan.

The Plan incorporates the direction statements within the Shellharbour Open Space and Recreation Needs Study and Strategy. These are:

1. Shape open spaces to encourage public recreation and relaxation,
2. Ensure sports grounds and facilities support active participation,
3. Improve access to aquatic facilities and activities,
4. Encourage sustainable enjoyment of the natural environment,
5. Activate open spaces and facilities to broaden public participation,
6. Work in collaboration with stakeholders to achieve our Strategy,
7. Provide effective management, maintenance, and monitoring.

The Plan is also written to reflect each of Council's core values:
Collaboration – Accountability – Integrity – Respect – Sustainability.

Further information about the legislative context of Crown Reserve Plans of Management can be found in Appendix 1 of this document.

1.2 Review of this Plan

Council reviews plans of management every five years, or as required. Reviewing the Plan is the only way to change the land category, nature and use of the land.

1.3 Community consultation

Shellharbour City Council recognises community participation is an integral aspect of planning and is committed to providing opportunities for the community to be involved in the planning system.

This Plan is required to be placed on public exhibition for a period of 28 days in accordance with the LG Act. The public exhibition will provide opportunity for the community to provide feedback via submissions.

2. LAND DESCRIPTION

2.1 Land to which this Plan applies

This Plan applies to Hennegar Bay Reserve situated on Crown reserve 97393, The Boulevarde, Oak Flats. In addition, there are twelve small lots owned by Shellharbour City Council, which are a part of Hennegar Bay Reserve and included in this Plan.

The reserve information is detailed below in **Table 1**.

Reserve Number	97393
Gazetted Date	17/8/1984
Reserve Purpose	Public Recreation
Land parcel/s	<ul style="list-style-type: none">• Lot 7313 DP 1199591 (Crown land)• Lot 1 DP 709545 (Council owned)• Lot 2 DP 709545 (Council owned)• Lot 3 DP 709545 (Council owned)• Lot 4 DP 709545 (Council owned)• Lot 5 DP 709545 (Council owned)• Lot 6 DP 709545 (Council owned)• Lot 8 DP 709545 (Council owned)• Lot 9 DP 709545 (Council owned)• Lot 10 DP 709545 (Council owned)• Lot 11 DP 709545 (Council owned)• Lot 12 DP 709545 (Council owned)• Lot 16 DP 709545 (Council owned)
Area (Sqm)	14864
LEP zoning	<ul style="list-style-type: none">• RE1 Public Recreation• W1 Natural Waterways
Assigned category/categories	<ul style="list-style-type: none">• General Community Use• Natural Area - Foreshore

Table 1 - Information about reserve covered by this plan of management.

The reserve extends beyond the above lot boundaries on the foreshore side due to mapping anomalies. This Plan covers the land that extends beyond the boundaries onto the foreshore of Lake Illawarra. See Figure 1 below for land to which this Plan applies.

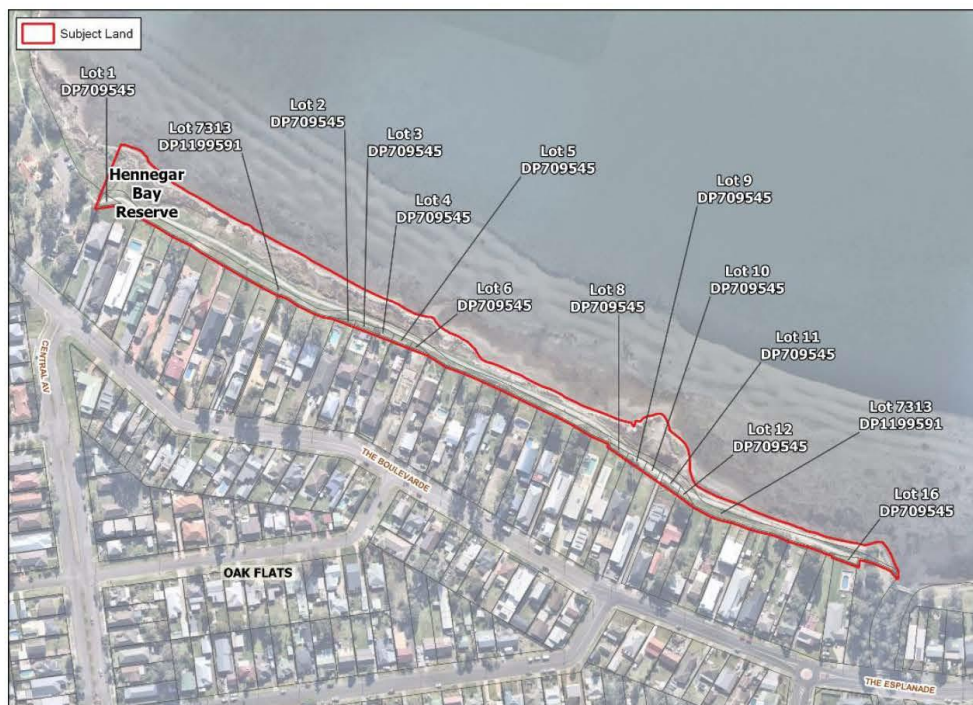


Figure 1 – Land to which this Plan applies.

2.2 Owner of the land

Most of Hennegar Bay Reserve is owned by the NSW State Government (the Crown) and is managed by Shellharbour City Council as Crown Land Manager, under the CLM Act.

In addition to the Crown component, there are 12 small lots owned by Shellharbour City Council, which are part of Hennegar Bay Reserve. These small grassed lots adjoin the main Crown reserve lot and are included in this Plan.

The land is a Reserve within the meaning of Part 5 of the *Crown Lands Act 1989* and there are restrictions on transfer and other dealings in the land under that Act, which may require consent of the Minister.

See Figure 2 below showing owners of the land.



Figure 2 – Owners of the land.

2.3 Categorisation of the reserve

Under section 3.23 of the CLM Act, Crown land reserves managed by Council are required to be categorised into one or more of the following categories according to their purpose:

- Park,
- Sportsground,
- General Community Use,
- Area of Cultural Significance,
- Natural Area – Bushland,
- Natural Area – Wetland,
- Natural Area – Escarpment,
- Natural Area – Watercourse,
- Natural Area – Foreshore.

In accordance with advice from the Department of Planning, Industry and Environment – Crown Lands, the guidelines set out in the *Local Government (General) Regulation 2005*, and Practice Note 1: Public Land Management (Department of Local Government Amended 2000) Hennegar Bay Reserve is categorised into two categories:

- General Community Use, and
- Natural Area - Foreshore

This reserve is situated along the foreshore of Lake Illawarra and includes a shared use pathway to facilitate active transport, passive recreational uses and connectivity to adjoining reserves. The category of General Community Use will apply to the shared use pathway and land from the path to the residential boundaries on the southern side. The category of Natural Area – Foreshore will apply to the land from the northern edge of the pathway to the lakes edge.

Council currently manages and will continue to manage the reserve in a way that allows the public to utilise the site as for the purpose which is outlined in the core objectives of General Community Use and Natural Area - Foreshore.

See Figure 3 below for land categories.

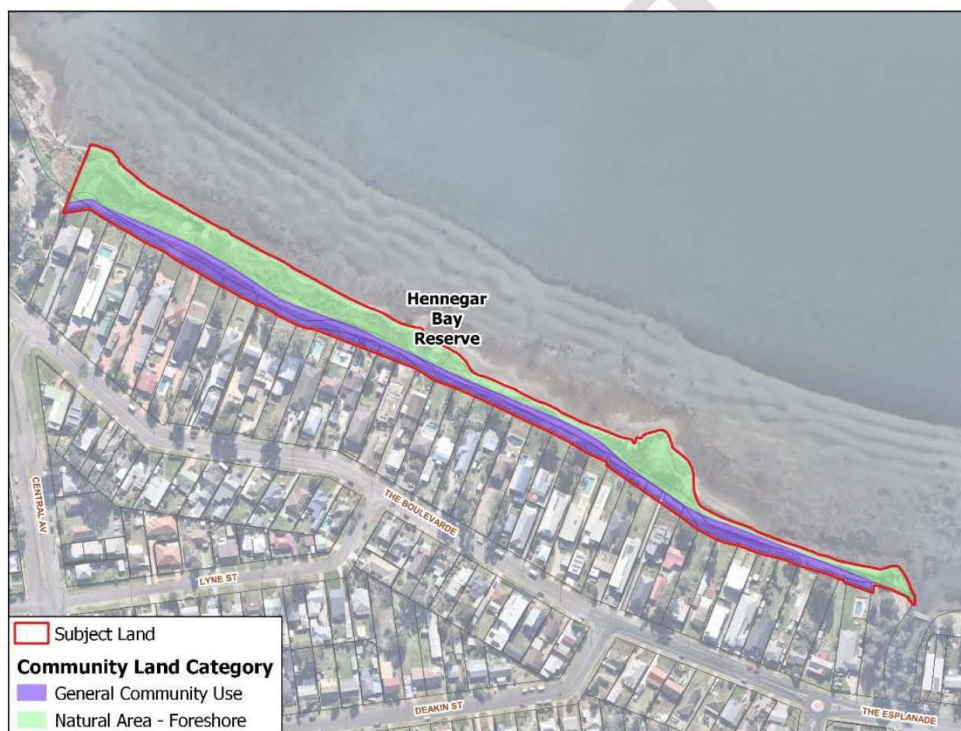


Figure 3 – Land categories

2.4 Zoning of the Reserve

Hennegar Bay Reserve is zoned RE1 Public Recreation and W1 Natural Waterways under the *Shellharbour Local Environmental Plan 2013* (LEP). The reserve adjoins other lands zoned W1 – Natural Waterways and R2 – Low Density Residential. Land zones are shown in Figure 4 below.



Figure 4 – Land Zones

The objectives of the RE1 zone in the LEP are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The objectives of the W1 zone in the LEP are:

- To protect the ecological and scenic values natural waterways.
- To prevent development that would have an adverse effect on the natural values of waterways in this zone.
- To provide for sustainable fishing industries and recreational fishing.

Refer to the LEP for permissible uses in the RE1 zone and W1 zone and other attributes present on the site, including but not limited to terrestrial biodiversity and the presence of acid sulfate soils.

2.5 Land comprising the habitat of endangered species or threatened species

The site has not been identified under Section 36 A or B of the LG Act, with regards to the habitat of endangered species or threatened species. Section 36A of the LG Act refers to a critical habitat which is now declared as Areas of Outstanding Biodiversity Values under the *Biodiversity Conservation Act 2016*. Section 36B of the LG Act refers to an applicable Recovery Plan for listed threatened species and ecological communities. Neither of these are applicable to this site.

2.6 Land containing significant natural features

The site has not been identified under Section 36 C of the LG Act, with regards to significant natural features.

2.7 Culturally significant land

Under Section 36D of the LG Act, the reserve has not been identified as an Area of Cultural Significance.

Aboriginal Significance

At the time the plan was made, no identified items of cultural heritage significance, known Aboriginal archaeological sites, or places of specific Aboriginal heritage significance were located within the reserve. Nevertheless, any works proposed should ensure consistency with Chapter 27 - Aboriginal Heritage, of Shellharbour Development Control Plan (DCP).

Non-Aboriginal Significance

Hennegar Bay Reserve is not identified as a significant item of Environmental Heritage under *Shellharbour Local Environmental Plan 2013*.

3. DEVELOPMENT AND USE

3.1 Overview

Council's Resourcing Strategy ensures sufficient financial and human resources exist to provide services and infrastructure assets expected by the community. The Long-Term Financial Plan, Asset Management Strategy, and Workforce Management Plan contained within the strategy address strategies and actions contained within the Community Strategic Plan. These strategies and actions are then implemented through the Delivery Program and Operational Plan. The Resourcing Strategy ensures Council has an ongoing commitment to the maintenance of this reserve.

3.2 Condition of the land and structures on adoption of the Plan

Council's Asset Management Plan reports on the current state of Council assets. Asset conditions are assessed as part of comprehensive network inspections. These assessments are undertaken in accordance with the Institute of Public Works Engineering Australasia Practice Notes.

At the date of adoption of this Plan, assets identified on the site and their current condition include:

- Park bench – fair condition
- Shared-use pathway – excellent condition
- Storm water pipe – fair condition

The mowed grass area adjoining the pathway was in good condition.

The vegetation present within the subject site contains two Coastal Swamp Oaks which form part of a larger patch of swamp Sclerophyll Forest on Coastal Floodplain Endangered Ecological Community (EEC). The eastern edge of the Crown Land reserve also slightly crosses into an area of mapped Illawarra Coastal Grassy Woodlands EEC. Saltmarsh EEC is also present along the extent of the Reserve bordering the lake frontage, parallel to the mown grass strip and shared use pathway.

3.2 Use of the land and structures as at the date of adoption of the Plan

Hennegar Bay public reserve's current use is a shared use pathway for pedestrians, strollers, rollerbladers, skateboarders and cyclists along the foreshore of Lake Illawarra. The land provides for active transport and recreational opportunities and is part of the shared pathway that extends around Lake Illawarra and the coast to Shellharbour.

See Appendix 3 for current leases and licence on the site.

3.3 Permitted use

The purpose of Hennegar Bay Reserve is for public recreation, the assigned categories are General Community Use and Natural Area - Foreshore. These purposes and categories align with the reserve's past and current use and corporate objectives. Refer to the LEP for permissible uses in the RE1 zone and other attributes present on the site, including but not limited to terrestrial biodiversity and the presence of acid sulfate soils.

3.4 Further development

Further development may be considered along with maintenance of existing infrastructure if it is consistent with the categories and purpose for the reserve and relevant legislation such as the LG Act, *Native Title Act 1993*, and the CLM Act.

The general types of uses which may occur on community land categorised as General Community Use and Natural Area, and the forms of development generally associated with those uses, are set out in tables in the relevant category section in this Plan.

3.5 Scale and intensity

Hennegar Bay public reserve's current use is a shared use pathway for pedestrians, strollers, rollerbladers, skateboarders and cyclists along the foreshore of Lake Illawarra. The land provides for active transport and recreational opportunities and is part of the shared pathway that extends around Lake Illawarra and the coast to Shellharbour. The intensity with which this pathway is used is dependent on varying factors such as weather, day of the week and holidays.

The reserve will be used in future for public recreation, with public right of access to all outdoor areas.

3.6 Leases, Licences and other Estates

This Plan expressly authorises leasing, licensing or granting of any other estate over this reserve for any community purpose as determined by Council. Any agreement which may be entered into will be in accordance with relevant section of the LG Act (s. 46 and 47) and in consideration of native title implications for Crown land.

This Plan expressly authorises the issue of leases, licences and other estates over the reserve, provided that:

- The purpose is consistent with the reserve purpose of the land.
- The purpose is consistent with the core objectives for the category of the land.
- The lease, licence or other estate is for a permitted purpose listed in the LG Act or the *Local Government (General) Regulation 2005*.
- The issue of the lease, licence or other estate and the provisions of the lease, licence or other estate for Crown land can be validated by the provisions of the *Native Title Act 1993*.
- Where the land is subject to a claim under the *Aboriginal Land Rights Act 1983* the issue of any lease, licence or other estate will not prevent the land from being transferred in the event the claim is granted.
- The lease, licence or other estate is granted and notified in accordance with the provisions of the LG Act or the *Local Government (General) Regulation 2005*.
- The issue of the lease, licence or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved.
- Council Crown Land Managers have obtained written advice from a qualified Native Title Manager that any proposed lease or licence arrangements comply with any applicable provisions of the *Native Title Act 1993* for Crown land.

Tables in the relevant category sections of this Plan further identify the purposes for which leases and licences may be issued over the reserve.

3.7 Short Term Casual Purposes

Subject to Council approval, the following short term casual purposes may be allowed if considered appropriate:

- a) the playing of a musical instrument, or singing, for fee or reward,
- b) engaging in a trade or business,
- c) the playing of a lawful game or sport,
- d) the delivery of a public address,
- e) commercial photographic sessions,
- f) picnics and private celebrations such as weddings and family gatherings,
- g) filming sessions.

3.8 Signs

Council uses signs to regulate the activities carried out on community land and to provide educational information. All Council signs erected under Part 9 of the CLM Act, plus reserve name signs and traffic and safety signs, are permissible. Council must approve all other signs, including design before erection. All signs must be sympathetic to their environment in their design, construction and location.

3.9 Easements

Council reserves the right to grant easements as required for utilities and access.

3.10 Alcohol

Council can declare the area an alcohol-free zone under Chapter 16, Part 4 - Street Drinking (s.642-648) of the LG Act.

3.11 Management actions

Management actions must be consistent with those outlined in this Plan. Council shall provide (when required) the construction and maintenance of utility services, provision and maintenance of wetlands, floodways, cycle ways, vehicular access ways and the granting of easements.

3.12 Fees and charges

Council fees and charges may apply for specific uses of the reserve, these are outlined in Council's Fees and Charges Schedule. Applications must be lodged with Council for reserve hire.

4. ADDITIONAL MATTERS

4.1 Definitions

The terms used within this Plan are to be understood as they are presented in the LG Act. For terms which require further definition, please see the *Interpretations Act 1987*.

4.2 Native Title Assessment

The CLM Act provides new direction for the management of Crown Land and Council is now responsible for compliance with Native Title legislation for the Crown land that it manages.

Council is required to undertake steps to identify if any activities that they do, or do not allow on Crown land, will have native title implications, what provisions of the *Native Title Act 1993* will validate the activity and what procedures should be taken in relation to a particular activity prior to its commencement.

Council must receive written advice from its Native Title Manager in relation to certain activities and acts it intends to carry out on Crown land.

Where a plan of management covers both Crown and Council owned land, native title assessment and advice for any activity is only required for the Crown land portion of the reserve.

See Appendix 2 for more information regarding aboriginal Interests in Crown Land.

4.3 Community Assistance

Council will encourage, where appropriate, community assistance in the development of new facilities as well as maintenance of existing facilities through the co-operation and assistance of local groups.

PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND

5. CATEGORY: GENERAL COMMUNITY USE

5.1 Introduction

Part of Hennegar Bay Reserve is categorised as General Community Use. The categories of Hennegar Bay Reserve are shown in Figure 3 - Land Categories. The General Community Use area includes the shared use pathway and the mowed grass on the southern side of the path, adjoining the residential properties.

The guidelines for categorisation of land as General Community Use are outlined in Part 4, Division 1 of the *Local Government (General) Regulation 2005*. The Regulation states that land should be categorised as General Community Use under section 36(4) of the LG Act if the land:

- (a) may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public, and
- (b) is not required to be categorised as a natural area under section 36A, 36B or 36C of the LG Act and does not satisfy the guidelines under clauses 102–105 for categorisation as a natural area, a sportsground, a park or an area of cultural significance.

This section of the reserve is therefore categorised as General Community Use.

The core objectives of the LG Act for the management of land categorised as General Community Use are:

To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- (a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
- (b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

5.2 Key issues

The key issues associated with the land categorised as General Community Use within Hennegar Bay include but are not limited to:

Impact on residence

Council will, as far as possible, consult with adjoining owners in respect of activities on the land which may affect them.

Access to Reserve

Ensure continued access to the reserve to enable its use for the purpose of General Community Use for all residents, including those with a disability.

Public Safety

Ensure and maintain public safety of persons using the land. Passive surveillance of the reserve will be enhanced with increased usage.

General Maintenance

Ensure general maintenance of the shared use pathway and landscaping to facilitate use by the community.

5.3 Development and use

The current use of the land categorised as General Community Use within Hennegar Bay Reserve is a shared use pathway and landscaped/mowed grass. The shared use pathway was in excellent condition at the time this plan was adopted and the grass cover adjoining the pathway was generally good.

The pathway is used by pedestrians, strollers, rollerbladers, skateboarders and cyclists along the foreshore of Lake Illawarra. The land provides for active transport and recreational opportunities and is part of the shared pathway that extends around Lake Illawarra and the coast to Shellharbour.

Developments and uses on the reserve must be consistent and permissible under the LEP and SEPPs applicable to this site. These activities or developments must also be consistent with the land categorisation.

Council approval may be required prior to any development or improvement made to community land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

The general types of uses which may occur on community land categorised as General Community Use, and the forms of development generally associated with those uses, are set out in detail in Table 2. The facilities on community land may change over time, reflecting the needs of the community. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Purpose/Use	Examples of development to facilitate uses
Providing a location for, and supporting, the gathering of groups for a range of social, cultural or recreational purposes.	Development for the purposes of social, community, cultural and recreational activities. Development may include: <ul style="list-style-type: none">• landscaping and finishes, improving access, amenity and the visual character of the general community area• water-saving initiatives such as rain gardens• energy-saving initiatives such as solar lights and solar panels• locational, directional and regulatory signage.

Table 2 - Possible permissible uses and development of community land categorised as General Community Use

5.4 Express authorisation of leases, licences and other estates – General Community Use

This plan of management expressly authorises the issue of leases, licences and other estates over the land categorised as General community Use. **Table 3** provides some possible types of purposes for which tenure may be granted. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Type of tenure arrangement	Maximum term	Examples of purposes for which tenure may be granted
Lease	As per statutory requirements	<ul style="list-style-type: none"> • cultural purposes • recreational purposes • commercial retail uses associated with the facility (e.g. sale or hire of sports goods)
Licence	As per statutory requirements	<ul style="list-style-type: none"> • recreational purposes • sale of goods or services that are ancillary to community land use and reserve purpose
Short-term licence	As per statutory requirements	<ul style="list-style-type: none"> • the playing of a musical instrument, or singing, for fee or reward, such as busking or concerts • engaging in a trade or business, such as community events, auctions, markets, book launches, film releases, displays, exhibitions, fairs, fashion parades, shows and similar activities • the playing of a lawful game or sport • the delivery of a public address, such as speeches, meetings, seminars, presentations and educational programs • commercial photographic sessions • picnics and private celebrations such as weddings and family gatherings • filming sessions, such as broadcasts associated with any event, concert or public speech • other uses consistent with the purpose, category and objectives of the reserve
Other estates		This PoM allows the council to grant 'an estate' over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility provider on the community land in accordance with the LG Act.

Table 3 – Leases, licences and other estates and purposes for which they may be granted for community land categorised as General Community Use.

5.5 Management framework for reserves categorised as General Community Use

The Action Plan (Table 4) is prepared in accordance with Section 36 of the LG Act and identifies the:

- Broad management issues,
- Objectives and performance targets of the Plan with respect to the land,
- Means by which Council proposes to achieve the Plan's objectives and performance targets; and
- The manner in which Council proposes to assess its performance with respect to the Plan's objectives and performance targets.

Management Issues	Objectives and performance targets s.36(3)(b)	Means of achievement of objectives s.36(3)(c)	Manner of assessment of performance s.36(3)(d)
Facilities	To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public.	Implement strategies to maintain the reserve, and ensure all associated services are safe, accessible and inclusive of the needs of the whole community. Provide and maintain shared use pathway to a satisfactory standard.	Natural and built services meet the needs of the community. That inspections are made by appropriate Council staff when required. Whether there are complaints from users.
Tenures	To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).	Advertise, promote and manage tenures accordingly.	Monitor Tenures.
Landscaping	To provide a well-maintained reserve.	Mowing the area on a regular basis necessary to achieve a reasonable standard of presentation. By removing refuse and waste material from the area when required. By generally	That inspections are made by appropriate Council staff when required.

		maintaining the area in a neat, tidy and safe condition.	
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Table 4 - Action Plan for land categorised as General Community Use.

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6. CATEGORY: NATURAL AREA

Part of Hennegar Bay Reserve is categorised as Natural Area which is further defined and categorised as Foreshore. The categories of Hennegar Bay Reserve are shown in Figure 3 – Land Categories. The Natural Area category is the strip of land situated on the water's edge, on the northern side of the pathway, and forms a transition zone between the aquatic and terrestrial environment.

The guidelines for categorisation of land as Natural Area are outlined in Part 4, Division 1 of the *Local Government (General) Regulation 2005*. The Regulation states that land should be categorised as Natural Area under section 36(4) of the LG Act if the land:

Whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the LG Act.

This part of the reserve is the foreshore of Lake Illawarra and is therefore categorised as Natural Area.

The core objectives for the management of land categorised as Natural Area are:

- (a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and
- (b) to maintain the land, or that feature or habitat, in its natural state and setting, and
- (c) to provide for the restoration and regeneration of the land, and
- (d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
- (e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*.

This section should be read in conjunction with the land's sub-category of Foreshore outlined in this Plan.

7. CATEGORY: FORESHORE

7.1 Introduction

Hennegar Bay Reserve is categorised as General Community Use and Natural Area – Foreshore. These areas are shown in Figure 3 - Land Categories. The Foreshore area is the strip of land situated on the water's edge, on the northern side of the pathway, and forms a transition zone between the aquatic and terrestrial environment. It is the sub-category to Natural Area and covers the same area.

The guidelines for categorisation of land as Foreshore under section 36(5) of the LG Act are if the land is situated on the water's edge and forms a transition zone between the aquatic and terrestrial environment.

This part of the reserve is the foreshore of Lake Illawarra and is therefore further categorised as Foreshore.

The core objectives for management of community land categorised as Foreshore are:

- (a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and
- (b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.

7.2 Physical environment

Topography

The landscape of Hennegar Bay Reserve is levelled park lands on the foreshore of Lake Illawarra.

Hydrology/Flooding

Water from the site drains into Lake Illawarra. All or part of the land has been identified within the Lake Illawarra Flood plain Risk Management Study and Plan 2012 as flood prone. Councils' Floodplain Risk Management Development Control Plan (DCP) will apply to the site.

Soils

The soils within the area of the site are dominated by Soloths. The reserve contains class 1 acid sulfate soils.

Vegetation

The vegetation present within the subject site contains two Coastal Swamp Oaks which form part of a larger patch of Swamp Sclerophyll Forest on Coastal Floodplain Endangered Ecological Community (EEC). The eastern edge of the Crown land reserve also slightly crosses into an area of mapped Illawarra Coastal Grassy Woodlands EEC. Saltmarsh EEC is also present along the extent of the Reserve bordering the lake frontage, parallel to the mown grass strip and walking track.

Fauna

The mature trees provide roosting and foraging habitat for birds moving through the landscape. The Saltmarsh and adjacent Lake Illawarra Frontage, Seagrass Meadows and Estuarine Flats provide foraging habitat for species of waders (birds).

7.3 Key issues

The key issues associated with the land categorised as Natural Area within Hennegar Bay include but are not limited to:

Protection of Biodiversity

Ensure biodiversity is protected and ecosystem function is maintained as well as possible.

Maintain Natural State

Protect the natural state and setting of the foreshore of Lake Illawarra.

Provide Community Use while minimising disturbance

To provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion.

Transitional Area

Maintain the foreshore as a transition area between the aquatic and terrestrial environment.

Acid Sulfate Soils

Class 1 Acid Sulfate Soils occur on the site. Any risk of exposure needs to be considered with any proposed works or developments.

7.4 Development and use

The current use of the land categorised as Natural Area within Hennegar Bay Reserve is the natural foreshore of Lake Illawarra.

Developments and uses on the reserve must be consistent and permissible under the LEP and SEPPs applicable to this site. These activities or developments must also be consistent with the land categorisation.

Council approval may be required prior to any development or improvement made to Community Land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

The general types of uses which may occur on community land categorised as Natural Area – Foreshore, the forms of development which generally associate with those uses, as set out in detail in **Table 5**. The facilities on community land may change over time, reflecting the needs of the community. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Purpose/Use	Examples of development to facilitate uses
<ul style="list-style-type: none">• Preservation of the council's natural heritage including the identified endangered ecological communities• Preservation of biological diversity and habitat• Providing a location for formal and informal recreation• Walking and cycling• Environmental and scientific study• Approved bush care projects requiring ecological restoration activities associated with protection of flora and fauna.• Fire hazard reduction	<ul style="list-style-type: none">• Visitor facilities: picnic tables, BBQs, sheltered seating areas, lighting, Low-impact walking trails• Interpretive signage• Water-saving initiatives such as rain gardens, swales and sediment traps• Energy-saving initiatives such as solar lights and solar panels• Bridges, observation platforms• Work sheds or storage sheds required in connection with the maintenance of the land• Bicycle/boat hire or similar• Temporary erection or use of any building or structure necessary to enable a filming project to be carried out• Locational, directional and regulatory signage

Table 5 - Possible permissible use and development of community land categorised as Natural Area – Foreshore by Council or the Community

7.5 Express authorisation of leases, licences and other estates - Natural Area – Foreshore

This plan of management expressly authorises the issue of leases licences and other estates over the land categorised as Natural Area – Foreshore. **Table 6** provides some possible types of purposes for which tenure may be granted. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Type of tenure arrangement	Maximum term	Examples of purposes for which tenure may be granted
Lease	As per statutory requirements	<ul style="list-style-type: none"> walkways, pathways, bridges, causeways observation platforms, signs bicycle/boat hire or similar work sheds or storage sheds required in connection with the maintenance of the land temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Licence	As per statutory requirements	<ul style="list-style-type: none"> walkways, pathways, bridges, causeways observation platforms, signs bicycle/boat hire or similar work sheds or storage sheds required in connection with the maintenance of the land temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Short-term licence	As per statutory requirements	<ul style="list-style-type: none"> the playing of a musical instrument, or singing, for a fee or reward engaging in a trade or business, such as bicycle/boat hire, scientific studies and surveys or similar the playing of a lawful game or sport the delivery of a public address commercial photographic sessions picnics and private celebrations such as weddings and family gatherings filming sessions, including the temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Other estates		This PoM allows the council to grant 'an estate' over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility

		provider on the community land in accordance with the LG Act.
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Table 6 – Leases, licences and other estates and purposes for which they may be granted for community land categorised as Natural Area – Foreshore.

7.6 Management framework for reserves categorised as Natural Area - Foreshore

The Action Plan (Table 7) is prepared in accordance with Section 36 of the LG Act and identifies the:

- Broad management issues,
- Objectives and performance targets of the Plan with respect to the land,
- Means by which Council proposes to achieve the Plan's objectives and performance targets; and
- The manner in which Council proposes to assess its performance with respect to the Plan's objectives and performance targets.

Management Issues	s.36(3)(b) Objectives and performance targets	S. 36(3)(c) Means of achievement of objectives	s.36(3)(d) Manner of assessment of performance
Biodiversity	To conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area.	Undertake an effective targeted weed control program to ensure survival of key native vegetation.	That inspections are made by appropriate Council staff when required.
Natural State	To maintain the land, or that feature or habitat, in its natural state and setting.	By carrying out foreshore maintenance and restoration work in accordance with Council's available resources. Weed control. Removal of waste.	That inspections are made by appropriate Council staff when required.
Restoration	To provide for the restoration and regeneration of the land.	If needed, consider planting appropriate species.	That inspections are made by appropriate Council staff when required.
Appropriate Community Use	To provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion.	Ensure safety, access and inclusion are key considerations in the provision of any assets or facilities. Provide appropriate signage to avoid disturbance of the foreshore.	Whether there are complaints from users. That inspections are made by appropriate Council staff when required.

Recovery Plan/Threat abatement Plan	To assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the <i>Threatened Species Conservation Act 1995</i> or the <i>Fisheries Management Act 1994</i> .	Undertake land management, restoration and maintenance in accordance with the relevant plans as outlined in legislation, including the <i>Biodiversity Conservation Act 2016</i> .	Land management, restoration and maintenance is in accordance with the relevant plans as outlined in the legislation. The plans are kept relevant and reviewed as required.
Transition Area	To maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area.	By carrying out foreshore maintenance and restoration work in accordance with Council's available resources. Rubbish removal Weed control	That inspections are made by appropriate Council staff when required.
Ecologically Sustainable Use	To facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.	Inform the community in good faith, regarding any issues associated with the foreshore in terms of its key management issues.	Community knowledge about foreshore management issues and responding by contributing positively to outcomes. Monitor any negative or positive change/impacts that may occur on the ecological value of the land categorised as foreshore.
Lake Illawarra Coastal Management Program (CMP)	Reduce threats to Lake Illawarra.	Implement recommendations from the Lake Illawarra CMP	Recommendations from the CMP are implemented.

Table 7 - Action Plan for land categorised as Natural Area - Foreshore.

APPENDIX 1: PLAN OF MANAGEMENT LEGISLATIVE FRAMEWORK

The primary legislation that impacts on how community land is managed or used is briefly described below. You can find further information regarding these acts at www.legislation.nsw.gov.au.

Local Government Act 1993

Section 35 of the *Local Government Act 1993* (LG Act) provides that community land can only be used in accordance with:

- the plan of management applying to that area of community land, and
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land, and
- the provisions of Division 2 of Chapter 6 of the Act.

Section 36 of the Act provides that a plan of management for community land must identify the following:

- a. the category of the land,
- b. the objectives and performance targets of the plan with respect to the land,
- c. the means by which the council proposes to achieve the plan's objectives and performance targets,
- d. the manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets,

and may require the prior approval of the council to the carrying out of any specified activity on the land.

A plan of management that applies to just one area of community land:

- A. must include a description of:
 - (i) the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and
 - (ii) the use of the land and any such buildings or improvements as at that date, and
- B. must:
 - (i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and
 - (ii) specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and
 - (iii) describe the scale and intensity of any such permitted use or development.

Land is to be categorised as one or more of the following:

- a. a natural area
- b. a sportsground
- c. a park
- d. an area of cultural significance
- e. general community use.

Land that is categorised as a natural area is to be further categorised as one or more of the following:

- a. bushland
- b. wetland
- c. escarpment
- d. watercourse
- e. foreshore
- f. a category prescribed by the regulations.

Additionally, under section 36 of the LG Act, a site-specific PoM must be made for land declared:

- as critical habitat, or directly affected by a threat abatement plan or a recovery plan under threatened species laws (sections 36A(2) and 36B(3))
- by council to contain significant natural features (section 36C(2))
- by council to be of cultural significance (section 36D(2)).

Classification of public land

The LG Act requires classification of public land into either 'community' or 'operational' land (Section 26). The classification is generally made for council-owned public land by the council's Local Environmental Plan (LEP) or in some circumstances by a resolution of the council (Section 27).

Crown reserves managed by council as Crown land manager have been classified as community land upon commencement of the *Crown Land Management Act 2016* (CLM Act). Councils may manage these Crown reserves as operational land if written consent is obtained from the minister administering the CLM Act.

Classification of land has a direct effect on the council's ability to dispose of or alienate land by sale, leasing, licensing or some other means. Under the LG Act, community land must not be sold (except for scheduled purposes), exchanged or otherwise disposed of by the council, and the land must be used and managed in accordance with an adopted PoM. In addition, community land is subject to strict controls relating to leases and licences (sections 45 and 46) of the LG Act.

By comparison, no such restrictions apply to operational land that is owned by councils. For example, operational land can be sold, disposed, exchanged or leased including exclusive use over the land, unencumbered by the requirements which control the use and management of community land. Crown reserves managed by council as operational land may generally be dealt with as other operational land but may not be sold or otherwise disposed of without the written consent of the minister administering the CLM Act.

Operational land would usually include land held as a temporary asset or an investment, land which facilitates the council carrying out its functions or land which may not be open to the general public (for example, a works depot).

The classification or reclassification of council-owned public land will generally be achieved by a Local Environmental Plan (LEP) or by a resolution of council in accordance with sections 31, 32 and 33 of the LG Act. If land is not classified by resolution within a three-month period from acquisition it automatically becomes community land, regardless of whether it satisfies the objectives for community land as outlined in the LG Act.

For Crown land, Council cannot reclassify community land as operational land without consent of the minister administering the CLM Act.

Crown Land Management Act 2016

Crown reserves are land set aside on behalf of the community for a wide range of public purposes, including environmental and heritage protection, recreation and sport, open space, community halls, special events and government services.

Crown land is governed by the CLM Act, which provides a framework for the state government, local councils and members of the community to work together to provide care, control and management of Crown reserves.

Under the CLM Act, as Council Crown land managers, councils manage Crown land as if it were public land under the LG Act. However, it must still be managed in accordance with the purpose of the land and cannot be used for an activity incompatible with its purpose – for example, Crown land assigned the purpose of 'environmental protection' cannot be used in a way that compromises its environmental integrity.

Councils must also manage Crown land in accordance with the objects and principles of Crown land management outlined in the CLM Act. The objects and principles are the key values that guide Crown land management to benefit the community and to ensure that Crown land is managed for sustainable, multiple uses.

Principles of Crown land management

- Environmental protection principles are to be observed in the management and administration of Crown land.
- The natural resources of Crown land (including water, soil, flora, fauna and scenic quality) will be conserved wherever possible.
- Public use and enjoyment of appropriate Crown land are to be encouraged.
- Where appropriate, multiple uses of Crown land should be encouraged.
- Where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained.
- Crown land is to be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the state of NSW, consistent with the above principles.

Crown land management compliance

In addition to management and use of Crown reserves that is aligned with the reserve purpose(s), there are other influences over council management of Crown reserves. For example, Crown land managers may have conditions attached to any appointment instruments, or councils may have to comply with specific or general Crown land management rules that may be published in the NSW Government Gazette. Councils must also comply with any Crown land regulations that may be made.

Native Title Act 1993

The Commonwealth *Native Title Act 1993* (NT Act) recognises and protects native title rights and interests. The objects of the NT Act are to:

- provide for the recognition and protection of native title
- establish ways in which future dealings affecting native title may proceed and to set standards for those dealings
- establish a mechanism for determining claims to native title

- provide for, or permit, the validation of past acts invalidated because of the existence of native title.

The NT Act may affect use of Crown land, particularly development and granting of tenure. Specifically, the CLM Act makes it mandatory for council to engage or employ a native title manager. This role provides advice to council as to how the council's dealings and activities on Crown land can be valid or not valid in accordance with the NT Act.

Council must obtain the written advice from an accredited native title manager that Council complies with any applicable provisions of the native title legislation when:

- a. granting leases, licences, permits, forestry rights, easements or rights of way over the land
- b. mortgaging the land or allowing it to be mortgaged
- c. imposing, requiring or agreeing to covenants, conditions or other restrictions on use (or removing or releasing, or agreeing to remove or release, covenants, conditions or other restrictions on use) in connection with dealings involving the land
- d. approving (or submitting for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in (a), (b) or (c).

Council plans and policies relating to this plan of management

Council has developed plans and policies that are concerned to some extent with the management of community land. These documents have been considered when preparing this PoM.

The following is a list of documents that have a direct association with this PoM:

Shellharbour Local Environmental Plan 2013 (LEP)

Shellharbour Local Environmental Plan 2013 guides planning decisions for the city through zoning and development controls, which provide a framework for the way land can be used.

Shellharbour City Local Strategic Planning Statement 2020

The Shellharbour City Local Strategic Planning Statement (LSPS) guides the future of land use planning in the City and provides guidance on meeting our changing needs, managing land use planning challenges and will assist us to further develop the local character of Shellharbour now and into the future. The LSPS identifies a land use planning vision, supported by planning priorities and actions which inform Council planning, decisions and with managing the future growth of our City based on economic, social and environmental needs over the next 20 years.

Planning Priority 3 of the LSPS 'Deliver high quality, well-connected and integrated, green spaces' requires Council to continue to review and update plans of management for Community land.

Shellharbour Open Space and Recreation Needs Study and Strategy 2020

Council's Open Space and Recreation Needs Study and Strategy guides how Council will plan, implement and manage current and future open spaces and sport, recreation and aquatic facilities across the Shellharbour Local Government Area. This study provides a hierarchy of parks which assists with decision making and planning.

Lake Illawarra Coastal Management Program 2020 - 2030

The Lake Illawarra Coastal Management Program (CMP) is a long-term strategy for the coordinated management of the Lake. It includes a set of actions to reduce threats to the Lake. The actions are to be implemented by a range of land managers over the next 10 years.

Other state and Commonwealth legislation

NSW state legislation

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the framework for planning and development across NSW and guides environmental planning instruments which provide a basis for development control.

The EP&A Act ensures that effects on the natural environment, along with social and economic factors, are considered by the council when granting approval for or undertaking works, developments or activities.

This Act is also the enabling legislation for planning policies which may have a direct influence on open space management. On a state-wide level there are State Environmental Planning Policies (SEPPs). On a regional level there are Regional Environmental Plans (REPs). On a local level there are Local Environmental Plans (LEPs) as well as Development Control Plans (DCPs).

Aboriginal Land Rights Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) is important legislation that recognises the rights of Aboriginal peoples in NSW. It recognises the need of Aboriginal peoples for land and acknowledges that land for Aboriginal people in the past was progressively reduced without compensation. Crown land meeting certain criteria may be granted to an Aboriginal Land Council. This Act may affect dealings with Crown land that is potentially claimable.

National Parks and Wildlife Act 1974

Statutory responsibilities on the council arising from this Act specifically relate to the protection of sites of pre- and post-European contact archaeological significance. This Act may affect community land categorised as cultural significance, natural area or park.

Biodiversity Conservation Act 2016

Note: This Act repealed several pieces of legislation including the *Native Vegetation Act 2003*, *Threatened Species Conservation Act 1995*, the *Nature Conservation Trust Act 2001*, and the animal and plant provisions of the *National Parks and Wildlife Act 1974*.

This Act covers conservation of threatened species, populations and ecological communities, the protection of native flora and fauna. This Act primarily relates to community land categorised as natural area. However, other categories may also be affected.

The *Threatened Species Conservation Act 1995* has been repealed and superseded by the *Biodiversity Conservation Act 2016*. However, references to the former legislation remain in the LG Act and are therefore retained in this guideline.

DPIE's Energy, Environment and Science division advises that recovery plans and threat abatement plans made under the *Threatened Species Conservation Act 1995* were repealed on the commencement of the *Biodiversity Conservation Act* in 2017. These plans have not been preserved by any savings and transitional arrangement under the Biodiversity Conservation Act or LG Act, meaning pre-existing plans have no legal effect.

For this reason, requirements relating to recovery plans and threat abatement plans for local councils preparing plans of management under section 36B of the LG Act are now redundant. Councils will be advised if future amendments are made to the LG Act to enable these mechanisms.

Certain weeds are also declared noxious under this Act, which prescribes categories to which the weeds are assigned, and these control categories identify the course of action which needs to be carried out on the weeds. A weed may be declared noxious in part or all of the state.

Fisheries Management Act 1994

The *Fisheries Management Act 1994* (FM Act) includes provisions for the management of state fisheries, including the conservation of fish habitats, threatened species, populations and ecological communities of fish and marine vegetation and management of the riparian zone, waterways and threatened marine/freshwater aquatic species. This relates to community land categorised as natural area (foreshore, watercourse or wetland).

Where an area of community land is declared to be critical habitat, or if that area is affected by a recovery plan or threat abatement plan under Part 7A of the FM Act, a site-specific plan of management will need to be undertaken.

Rural Fires Act 1997

This Act contains provisions for bushfire risk management and the establishment of a Bushfire Management Committee. It also includes direction on development in bushfire prone lands.

Water Management Act 2000

This Act is based on the concept of ecologically sustainable development, and its objective is to provide for the sustainable and integrated management of the water sources of the state for the benefit of both present and future generations. The Act recognises:

- the fundamental health of our rivers and groundwater systems and associated wetlands, floodplains, estuaries has to be protected
- the management of water must be integrated with other natural resources such as vegetation, native fauna, soils and land
- to be properly effective, water management must be a shared responsibility between the government and the community
- water management decisions must involve consideration of environmental, social, economic, cultural and heritage aspects
- social and economic benefits to the state will result from the sustainable and efficient use of water.

Heritage Act 1977

This Act contains provisions for the conservation of items of heritage and may relate to community land categorised as cultural significance or natural area.

Draft State Strategic Plan for Crown Land 2020

The draft State Strategic Plan for Crown land sets the vision, priorities and overarching strategy for the management of Crown land and outlines timeframes and outcomes.

Commonwealth legislation

Environmental Protection and Biodiversity Conservation Management Act 1999

This Act enables the Australian Government to join with the states and territories in providing a national scheme of environment and heritage protection and biodiversity conservation. It incorporates threatened species on a national level and with relevance to Matters of National Environmental Significance.

Telecommunications Act 1997

This Act provides for telecommunication facilities being permitted on community land without authorisation in a PoM.

State Environmental Planning Policies

State Environmental Planning Policy no. 19 – Bushland in urban areas

This planning policy deals with bushland in urban areas, so is applicable to PoMs for community land categorised as Natural Area – Bushland.

State Environmental Planning Policy (Infrastructure) 2007

This planning policy lists development allowed with consent or without consent on community land.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

This aims to protect quality of surface water and the ecosystems that depend on it and requires that any development would have a neutral or beneficial effect on water quality.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This policy deals with clearing of native vegetation in urban areas and land zoned for environmental protection.

State Environmental Planning Policy (Coastal Management) 2018

This policy applies to land within the coastal zone.

Other relevant legislation, policies and plans

Biosecurity Act 2015

Catchment Management Authorities Act 2003

Companion Animals Act 1998

Council plans, strategies, policies, procedures and guidelines, generally as amended

Disability Discrimination Act 1992

Environmental Protection and Biodiversity Conservation Management Act 1999 (Cth)
Local Land Services Act 2013
Operations Act 1997
Pesticides Act 1999
Protection of the Environment Operations Act 1997
Protection of the Environment Operations (Noise Control) Regulation 2008
Public Works Act 1912 (as amended)
Retail Leases Act 1994
Rural Fire Regulation 2002
Shellharbour Development Control Plan
Shellharbour Asset Management Plan
Soil Conservation Act 1938
Telecommunications Act 1997 (Cth)
NSW Invasive Species Plan 2008-2015
National Local Government Biodiversity Strategy
NSW Biodiversity Strategy

The list above is not exhaustive. Depending on the nature of the land subject to a plan of management, there may be other relevant legislation, policies and procedures that need to be considered. Further advice on this can be sought by contacting Council.

APPENDIX 2: ABORIGINAL INTERESTS IN CROWN LAND

Crown land has significant spiritual, social, cultural and economic importance to the Aboriginal peoples of NSW. The CLM Act recognises and supports Aboriginal rights, interests and involvement in Crown land.

The management of Crown land can be impacted by the *Native Title Act 1993* (Cth) and the *Aboriginal Land Rights Act 1983* (NSW).

Native Title

Native title describes the rights and interests that Aboriginal and Torres Strait Islander people have in land and waters according to their traditional law and customs. Native title is governed by the Commonwealth *Native Title Act 1993* (NT Act).

Native title does not transfer the land to the native title holder, but recognises the right to land and water, by providing access to the land and if applicable, compensation for any loss, diminution, impairment or other effect of the act on their native title rights and interests.

All Crown land in NSW can be subject to a native title claim under the NT Act. A native title claim does not generally affect Crown land where native title has been extinguished or it is considered excluded land.

When preparing a PoM, Council is required to employ or engage a qualified native title manager to provide advice and validate acts (developments and tenures) over the reserve, in line with the NT Act. The most effective way to validate acts under the NT Act is to ensure all activities align with the reserve purpose.

If native title rights are found to exist on Crown land, council Crown land managers may be liable to pay compensation for acts that impact on native title rights and interests. This compensation liability arises for local councils whether or not the act was validated under the NT Act.

For further information about native title and the future acts framework see the [Crown lands website](#).

Native Title Claim of the South Coast People

The Yuin group of Aboriginal peoples along the south coast of NSW lodged a native title claim with the Federal Court on 3 August 2017. The South Coast people's claim covers 16,808 sq. km, extending south from Sydney to Eden, along the south coast of NSW and west towards Braidwood and also extends three nautical miles into the ocean. Shellharbour LGA is one of six councils within this area.

The claim does not affect freehold land but does extend to national parks, state forests, Crown land and council-managed Crown land and reserves. The claim includes the exclusive or non-exclusive right to access, to remain in and use the land and waters for any purpose, to take resources and to maintain and protect places and objects of significance.

Aboriginal Land Rights

The *Aboriginal Land Rights Act 1983* (ALR Act) seeks to compensate Aboriginal peoples for past dispossession, dislocation and removal of land in NSW (who may or may not also be native title holders).

Aboriginal land claims may be placed on any Crown land in NSW. The Department of Planning, Industry and Environment is responsible for investigating claims as defined in the ALR Act. If a claim is established, the land is transferred to the Aboriginal Land Council as freehold land.

At the time of preparing this plan of management, Crown reserves within Shellharbour LGA are affected by an undetermined Aboriginal land claim (claim number 42453, lodged 15/12/2016). Council has considered the claim in development of this plan of management.

DRAFT

APPENDIX 3: EXISTING LEASES AND LICENCES ON THE SITE

Group/organisation	Type of Tenure	Term
Nil		

(Current as at the date of adoption of the Plan)

DRAFT

10.3.3 Endorsement of the Draft Crown Land Plan of Management - Cowrie Island Reserve - Shellharbour (11647482)

To the Chief Executive Officer

Directorate: **Community and Customers**
Group: **City Planning**

Manager: Geoff Hoynes – Group Manager City Planning
Author: Leanne Stevens – Planning Contractor

Summary

The purpose of this report is to seek Council's endorsement of the Draft Plan of Management (**Attachment 1**) for Cowrie Island Reserve, Shellharbour (Crown Reserve 580064) and subsequent referral to the NSW Department of Planning, Industry & Environment – Crown Lands (Crown Lands) for approval prior to public exhibition. Cowrie Island Reserve is owned by NSW State Government (the Crown), and is managed by Shellharbour City Council as Crown Land Manager, under the *Crown Land Management Act 2016*.

The *Crown Land Management Act 2016* introduced legislation in 2018 that requires Local Councils to manage Crown reserved land as if it were public land under the *Local Government Act 1993*.

Cowrie Island Reserve is the adjoined island/headland between Nuns Beach and Shellharbour Boat Harbour. Its current use is for public recreational activities including fishing, surfing, boating and picnicking. The category of Natural Area-Foreshore will apply to the reserve. Council currently manages and will continue to manage the reserve in a way that allows the public to utilise the site as for the purpose which is outlined in the core objectives of Natural Area-Foreshore.

Council is required to forward a copy of the Plan to the landowner (the Crown) for approval before placing it on public exhibition. In accordance with the *Local Government Act 1993*, public exhibition will be for a period of 28 days and the community will have an opportunity to provide feedback via submissions for a period of 42 days.

Background

The *Crown Land Management Act 2016* (CLM Act) commenced 1 July 2018 which introduced a requirement for Local Councils to manage Crown reserved land as if it were public land under the *Local Government Act 1993* (LG Act).

There are 18 Crown reserves in Shellharbour Local Government Area, 15 of which are now under management of Council in accordance with the CLM Act and the LG Act.

This means that the 15 Crown reserves will be classified 'community land' under the LG Act and Council is required to have plans of management in place for the land. The remaining three Crown reserves were devolved to Council for cemetery purposes and therefore in accordance with the CLM Act, do not require a plan of management.

At its meeting held 12 June 2018, Council endorsed an initial schedule of Crown reserves that Crown Lands indicated were to be transferred to Shellharbour Council, to manage as Reserve Trust Manager (now referred to as Crown Land Manager) or devolved to Council.

What is a plan of management?

A plan of management (PoM) is a legal document prepared in accordance with the LG Act over land classified as 'community land' and provides strategic planning and governance for the management and use of the land. It establishes directions for planning, resource management and maintenance of the land. PoMs categorise land, authorise leases, licenses, or granting of any other estate and determine what development can take place. Further, a PoM identifies the key values of the land and its purposes so they can be protected and enhanced.

What is the difference between a PoM for public land and Crown land?

Plans of management for Crown land are very similar to those of public land and Council will be able to manage Crown reserves generally in the same way that Council-owned land is managed. The main difference between a plan of management for Crown land and a plan of management for public land primarily relates to the management of native title responsibilities on Crown reserves which is addressed later in this report.

What is land Classification?

The CLM Act provides that Crown land managed by Council as public land, must be managed as if it were community land, unless the Minister administering the CLM Act has given written consent to classify the land as operational.

The LG Act defines that all land in the ownership of Council is classified as either 'community' or 'operational'. The default classification is 'community'. The classification of community land reflects the importance of the land to the community due to its special features. Generally, community land is intended for public access and use.

To protect community land, the LG Act places restrictions on the land to preserve the special qualities of the area. These restrictions being:

1. Community land cannot be sold; and
2. Cannot be leased/licenced for more than 21 years; and
3. Can only be used for purposes which are consistent with a PoM.

Operational land is land owned by Council which has no special restrictions other than that which apply to any piece of land. Council may deal with operational land in the same manner as any other person may deal with private freehold land.

What is Categorisation of Land?

Under section 3.23 of the CLM Act, Crown land managed by Council is required to be categorised into one or more categories according to their purpose. The different categories are:

- Park,
- Sportsground,
- General Community Use,
- Area of Cultural Significance,
- Natural Area – Bushland,
- Natural Area – Wetland,
- Natural Area – Escarpment,
- Natural Area – Watercourse, or
- Natural Area – Foreshore

Categories each have assigned core objectives. When determining a land category, consideration of the core objectives must be given in relation to the facilitation, use and management of the land; and categorisation must closely relate to the purpose for which the land is classified, dedicated or reserved.

Draft Plan of Management – Cowrie Island Reserve, Shellharbour

The Draft Plan of Management – Cowrie Island Reserve (**Attachment 1**) applies to Lot 7008 DP 1075107, Crown Reserve 580064, reserved for Public Recreation, notified in Government Gazette 23 November 1892.

Cowrie Island Reserve is a public reserve situated along the foreshore of Shellharbour. The reserve is the adjoined island/headland between Nuns Beach and Shellharbour Boat Harbour and includes the fish cleaning area located just outside the lot boundary.

Cowrie Island and Fish Processing Area (fish cleaning area), is listed as a locally significant item of environmental heritage under the LEP. It is also part of the Shellharbour Foreshore Heritage Conservation Area under the LEP.

Council's vision for Cowrie Island Reserve recognises the long-term use of the site, as socially, culturally and physically enhancing the community. The site will be managed and maintained according to the categorisation of Natural Area – Foreshore as detailed in the Plan (**Attachment 1**).

This site is classified as community land under the LG Act 1993 and categorised as Natural Area - Foreshore. This category is the initial assigned category of the land (endorsed by Crown Lands) therefore, no public hearing will be required for this Plan.

Council's Native Title Responsibilities

All crown reserves in Shellharbour are subject to a Native Title Claim by the South Coast People. The claim includes the exclusive or non-exclusive right to access, to remain in and use the land and waters for any purpose, to take resources and to maintain and protect places and objects of significance. This application has not yet been determined.

Council is required to undertake steps to identify if any activities that they allow, or not allow on Crown land, will have native title implications. Council is also required to identify what provisions of the *Native Title Act 1993* will validate the activity and what procedures should be taken in relation to a particular activity prior to its commencement.

The CLM Act states that Council must receive written advice from its Native Title Manager in relation to certain activities and acts it intends to carry out on Crown land. Council cannot adopt a PoM until it has obtained written Native Title Manager advice, that the PoM complies with any applicable provision of the *Native Title Act 1993*. Crown Lands will not endorse the progress of a draft PoM unless the Council attests that it has considered Native Title Manager advice. Native Title Manager advice is required to ensure that Council understands any procedural requirement and other implications that may be applicable under Native Title legislation.

Native title advice has been received from Council's Native Title Manager for this Plan. Native title rights have not been extinguished over the reserve and therefore any works or activities on the reserve must consider the possible impacts on native title. The Plan complies with Native Title legislation. The Plan states that further native title advice is required for any proposed works or activities on the Crown reserve.

Public Exhibition Requirements

Council is required to forward a copy of the Plan to the landowner (the Crown) for approval before placing it on public exhibition. In accordance with the LG Act, public exhibition will be for a period of 28 days and the community will have an opportunity to provide feedback via submissions for a period of 42 days.

Financial / Resources Implications

Council has received a funding grant of \$30,000 from the Office of Local Government for preparation of the Crown reserve PoMs.

Council has used some of those funds in the preparation of this draft Plan through the engagement of a contractor to assist Council staff.

Legal and Policy implications

Under Division 3.4 of the CLM Act, as a Crown Land Manager, Council is authorised to classify and manage its dedicated or reserved Crown land as if it were public land within the meaning of the LG Act.

Council is required to prepare a draft plan of management in accordance with the provisions of Division 2 of Part 2 of Chapter 6 of the LG Act.

Council is then required to forward a copy of the Plan to Crown Lands, under Section 39 of the LG Act, for review and approval.

It should be noted that the initial assigned category of the land, has been approved by Crown Lands as part of the Plan's preparation. Unless the category is changed by Crown Lands, as part of the formal forthcoming review and approval process, no public hearing will be required for the Plan under Section 3.23(7)(c) of the CLM Act.

Council is required to give public notice of the Plan for a minimum of 28 days under Section 38 of the LG Act after advice is received from Crown Lands.

Public / Social Impact

The Plan for Cowrie Island Reserve has been prepared to reflect the current condition of the land and facilities, and outlines permitted community uses on the land. This Plan will guide the future use and development of Cowrie Island Reserve. The community will have an opportunity to have input into the finalisation of the plan after it has been reviewed by the Department of Planning, Industry & Environment – Crown Lands.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

Objective: 1.2 Active and healthy

Strategy: 1.2.2 Provide diverse opportunities for sport, recreation and enjoyment in the City's parks, open spaces and facilities.

Objective: 2.1 Protects, promotes and enhances its natural environment

Strategy: 2.1.2 Deliver plans and programs that enhance and protect biodiversity in our natural areas.

Consultations

Internal

Group Manager Services
Parks Manager
Senior Asset Engineer
Asset Officers
Manager Business and Investment
Property Management Coordinator
Property Coordinator
Executive Manager Council Services
Native Title Manager
Governance Manager
Administration Officer Business and Investment
Senior GIS Officer
Environment Officers
Bush Regeneration Officer
Manager Community Life
Community Development Officer
Community Planning Officer
Community Safety Officer
Aboriginal Community Liaison Officer
Manager Planning
Manager Compliance and Regulation
Museum Curator
Recreation Planner
Cadet Strategic Planner

External

Office of Local Government
Department of Industry - Crown Lands
Aboriginal Advisory Committee
Lake Illawarra Estuary Management Committee
Coastal Management Working Party
NTS Corp (Native Title Service Provider)
Illawarra Local Aboriginal Land Council

Political Donations Disclosure

Not Applicable

Recommendation

That:

- 1. Council endorse the draft Plan of Management Cowrie Island Reserve, Shellharbour (Attachment 1), and its referral to the Department of Planning Industry & Environment – Crown Lands for review and approval prior to placing it on public exhibition for a period of 28 days in accordance with the *Local Government Act 1993*.**
- 2. If any significant changes are made by the Department, a report will be submitted to Council for consideration with further recommendations regarding exhibition.**
- 3. If any opposing submissions are received as a result of the public exhibition process, or substantial changes are recommended for any reason, a further report be provided to Council for consideration.**
- 4. Council adopt the Draft Plan of Management – Cowrie Island Reserve, Shellharbour (Attachment 1), if at the conclusion of the exhibition period no opposing submissions are received and there are no substantial post public exhibition changes proposed for any reason. Councillors will be informed of submissions, any post public exhibition changes and the Plan's final adoption by memo.**

Approved for Council's consideration: Geoff Hoynes
Group Manager City Planning

Date of Meeting: 27 April 2021

Attachments

- 1. Draft Plan of Management – Cowrie Island Reserve, Shellharbour – Page 92**

Attachment 1 - Draft Plan of Management – Cowrie Island Reserve, Shellharbour



DRAFT PLAN OF MANAGEMENT

**COWRIE ISLAND RESERVE,
CROWN RESERVE 580064**

SHELLHARBOUR



Adopted by Council XXXX

COLLABORATION • ACCOUNTABILITY • INTEGRITY • RESPECT • SUSTAINABILITY

**COWRIE ISLAND RESERVE,
CROWN RESERVE 580064**

SHELLHARBOUR

DRAFT PLAN OF MANAGEMENT

5.	CATEGORY: NATURAL AREA.....	18
6.	CATEGORY: NATURAL AREA - FORESHORE.....	19
6.1	Introduction.....	19
6.2	Physical environment.....	19
6.3	Key issues.....	19
6.4	Development and use.....	20
6.5	Management framework for reserves categorised as Natural Area - Foreshore.....	22
	APPENDIX 1: PLAN OF MANAGEMENT LEGISLATIVE FRAMEWORK	25
	APPENDIX 2: ABORIGINAL INTERESTS IN CROWN LAND	33
	APPENDIX 3: EXISTING LEASES AND LICENCES ON THE SITE	35

EXECUTIVE SUMMARY

This Plan of Management, adopted on XX/XX/XXXX by Shellharbour City Council, applies to Cowrie Island Reserve, Towns Street, Shellharbour. It is situated on Crown reserve 580064.

The purpose of this Plan of Management (the Plan) is to provide Council with a framework that enables decisions regarding Cowrie Island Reserve, to be made in a consistent and equitable basis. The Plan meets all the requirements of the *Crown Land Management Act 2016* (CLM Act) and the *Local Government Act 1993* (LG Act) as amended.

Cowrie Island Reserve is owned by the NSW State Government (the Crown) and is managed by Shellharbour City Council as Crown Land Manager, under the CLM Act.

Acknowledgement of Country

Shellharbour City Council acknowledges the Traditional Custodians of the Land and recognise their continued connection to the land. Council pays its respect to Elders past, present and emerging and the contribution they make to the life of this city and this region.

PART 1: GENERAL INFORMATION

1. INTRODUCTION

The *Crown Land Management Act 2016* (CLM Act) commenced on 1 July 2018, introducing legislation to govern the management of Crown land in NSW. Councils will now manage their Crown reserved land as if it were public land under the *Local Government Act 1993* (LG Act). Most of this land is expected to be 'community land' under the LG Act, meaning that Councils will be required to have plans of management in place for the land. Cowrie Island Reserve is a Crown reserve and is classified as community land under the LG Act. Therefore, this Plan of Management (the Plan) has been prepared to comply with the legislation.

1.1 Corporate objectives

The purpose of this plan is to provide Council with a framework that enables decisions regarding Cowrie Island Reserve, to be made in a consistent and equitable basis. The plan meets all the requirements of the CLM Act and the LG Act, as amended.

Council's vision for Cowrie Island Reserve recognises the long-term use of the site's infrastructure, as socially, culturally and physically enhancing the community. The site will be managed and maintained according to the categorisation of Natural Area – Foreshore as detailed in this Plan.

The Plan incorporates the direction statements within the Shellharbour Open Space and Recreation Needs Study and Strategy. These are:

1. Shape open spaces to encourage public recreation and relaxation,
2. Ensure sports grounds and facilities support active participation,
3. Improve access to aquatic facilities and activities,
4. Encourage sustainable enjoyment of the natural environment,
5. Activate open spaces and facilities to broaden public participation,
6. Work in collaboration with stakeholders to achieve our Strategy,
7. Provide effective management, maintenance, and monitoring.

The Plan is also written to reflect each of Council's core values:
Collaboration – Accountability – Integrity – Respect – Sustainability.

Further information about the legislative context of Crown Reserve Plans of Management can be found in Appendix 1 of this document.

1.2 Review of this Plan

Council reviews plans of management every five years, or as required. Reviewing the Plan is the only way to change the land category, nature and use of the land.

1.3 Community consultation

Shellharbour City Council recognises community participation is an integral aspect of planning and is committed to providing opportunities for the community to be involved in the planning system.

This Plan is required to be placed on public exhibition for a period of 28 days in accordance with the LG Act. The public exhibition will provide opportunity for the community to provide feedback via submissions.

2. LAND DESCRIPTION

2.1 Land to which this Plan applies

This Plan applies to Cowrie Island Reserve situated on Crown reserve 580064, Towns Street, Shellharbour. The reserve information is detailed below in **Table 1**.

Reserve Number	580064
Gazetted Date	23/11/1892
Reserve Purpose	Public Recreation
Land parcel/s	Lot 7008 DP 1075107
Area (Sqm)	253
LEP zoning	RE1 Public Recreation
Assigned category/categories	Natural Area - Foreshore

Table 1 - Information about reserve covered by this plan of management.

This Plan covers part of the land that extends beyond the boundary onto the foreshore to encompass the fish cleaning area. See Figure 1 below for land to which this Plan applies.



Figure 1 – Land to which this Plan applies.

2.2 Owner of the land

Cowie Island Reserve is owned by the NSW State Government (the Crown) and is managed by Shellharbour City Council as Crown Land Manager, under the CLM Act.

The land is a Reserve within the meaning of Part 5 of the *Crown Lands Act 1989* and there are restrictions on transfer and other dealings in the land under that Act, which may require consent of the Minister.

See Figure 2 below showing owners of the land.

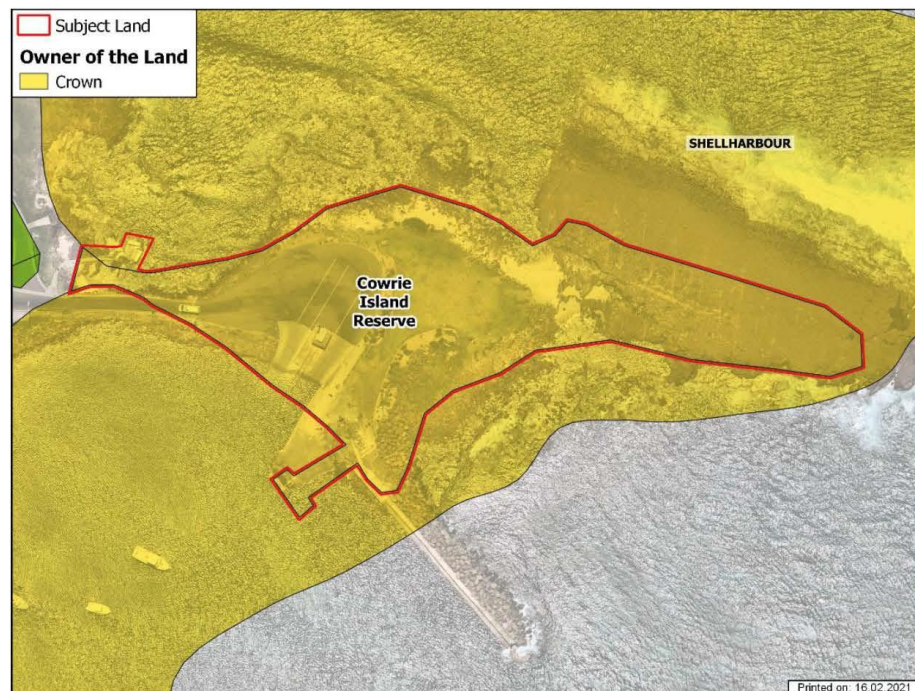


Figure 2 – Owners of the land.

2.3 Categorisation of the reserve

Under section 3.23 of the CLM Act, Crown land reserves managed by Council are required to be categorised into one or more of the following categories according to their purpose:

- Park,
- Sportsground,
- General Community Use,
- Area of Cultural Significance,
- Natural Area – Bushland,
- Natural Area – Wetland,
- Natural Area – Escarpment,
- Natural Area – Watercourse,

- Natural Area – Foreshore.

In accordance with advice from the Department of Planning, Industry and Environment – Crown Lands, the guidelines set out in the *Local Government (General) Regulation 2005*, and Practice Note 1: Public Land Management (Department of Local Government Amended 2000) Cowrie Island Reserve is categorised as:

- Natural Area - Foreshore

Cowrie Island is a rocky basalt rock outcrop with a surrounding intertidal zone. The tiered island forms the north east boundary of the harbour, to which are its protective sea walls. There are views out to the north along the coastline, and into the birthplace of Shellharbour. The reserve consists of two boat ramps, a fish cleaning area, three breakwater walls, bins, benches and signs.

Council currently manages and will continue to manage the reserve in a way that allows the public to utilise the site for the purpose which is outlined in the core objectives of Natural Area - Foreshore.

See Figure 3 below for land category.

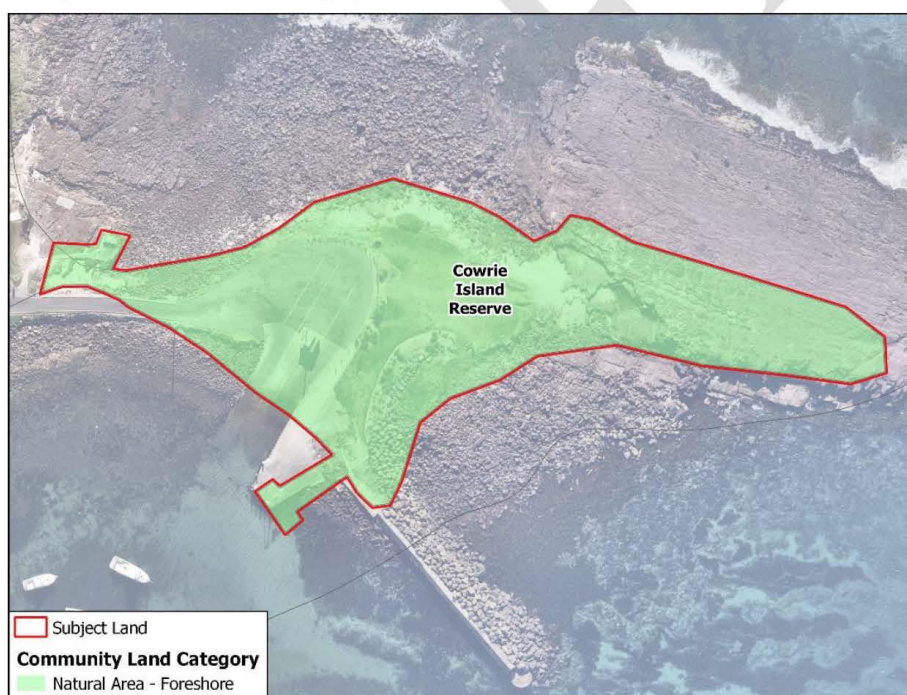


Figure 3 – Land category.

2.4 Zoning of the Reserve

Cowie Island Reserve is zoned RE1 Public Recreation under the *Shellharbour Local Environmental Plan 2013* (LEP). The reserve adjoins other lands zoned RE1 – Public Recreation. Land zones are shown in Figure 4 below.

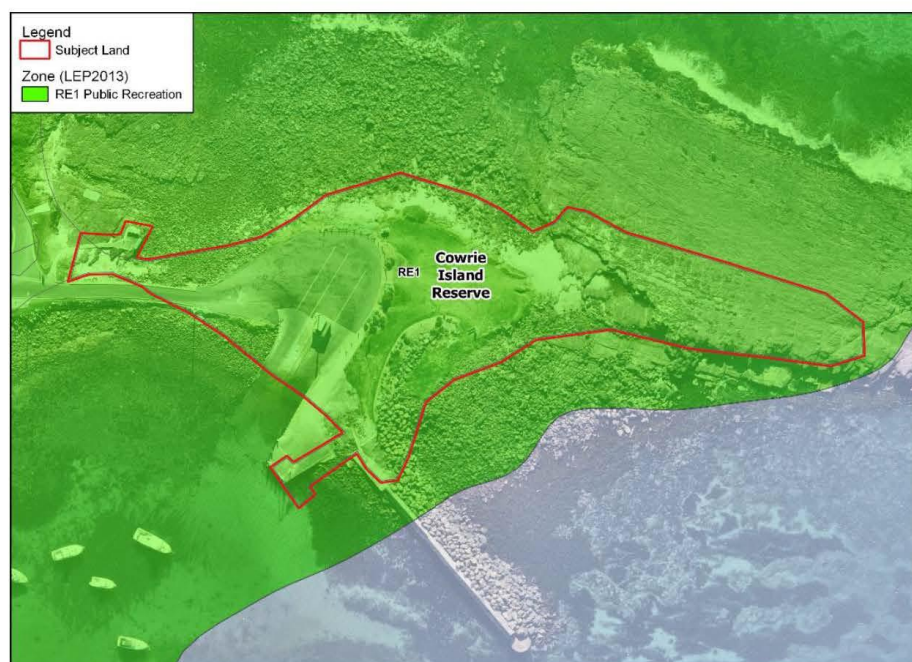


Figure 4 – Land Zones.

The objectives of the RE1 zone in the LEP are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

Cowie Island and Fish Processing Area (fish cleaning area) is listed as a locally significant item of environmental heritage in the LEP. It is also part of the Shellharbour Foreshore Heritage Conservation Area listed in the LEP.

Refer to the LEP for permissible uses in the RE1 zone and other attributes present on the site, including but not limited to; heritage conservation.

2.5 Land comprising the habitat of endangered species or threatened species

The site has not been identified under Section 36 A or B of the LG Act, with regards to the habitat of endangered species or threatened species. Section 36A of the LG Act refers to a critical habitat which is now declared as Areas of Outstanding Biodiversity Values under the *Biodiversity Conservation Act 2016*. Section 36B of the LG Act refers to an applicable Recovery

Plan for listed threatened species and ecological communities. Neither of these are applicable to this site.

2.6 Land containing significant natural features

The site has not been identified under Section 36 C of the LG Act, with regards to significant natural features.

2.7 Culturally significant land

Under Section 36D of the LG Act, the reserve has not been identified as an Area of Cultural Significance.

Aboriginal Significance

At the time the plan was made, no identified items of cultural heritage significance, known Aboriginal archaeological sites, or places of specific Aboriginal heritage significance were located within the reserve. Nevertheless, any works proposed should ensure consistency with Chapter 27 - Aboriginal Heritage, of Shellharbour Development Control Plan (DCP).

Non-Aboriginal Significance

Cowie Island and Fish Processing Area (fish cleaning area), is listed as a locally significant item of environmental heritage under the LEP. It is also part of the Shellharbour Foreshore Heritage Conservation Area under the LEP.

Any works proposed should ensure consistency with Chapter 28 - European Heritage, of Shellharbour DCP.

Cowie Island and Fish Processing Area (fish cleaning area)

Cowie Island and Fish Processing Area (fish cleaning area) is of high local significance for its strong links with the development of the local tourism industry and the importance of maritime leisure activities in the district.

Cowie Island and associated rock shelves are integral to the Shellharbour Layout Group, and have major visual and aesthetic significance, contributing to the views and vistas in and out from the birthplace of Shellharbour.

At the eastern end of Towns Street, the fish cleaning area is a simple concrete platform with concrete tables. Its construction date is unknown, however oral histories have a fish cleaning area in this location used by fishermen since at least the 1960's, and less formally since the early decades of the 20th century. The actual infrastructure has been upgraded several times, but the use has been continuous.

The heritage listing for Cowie Island and Fish Processing Area (fish cleaning area) is State Heritage Inventory (SHI) number 2380132.



Figure 5 - Fish processing area (fish cleaning area)

Shellharbour Foreshore Heritage Conservation Area



Figure 6 - Shellharbour Foreshore Heritage Conservation Area

Shellharbour Foreshore Conservation Area is a unique cultural landscape, with outstanding local heritage significance for Shellharbour and its people. Its special character is derived from historical layers set within a public reserve, in a quaint, and increasingly rare, historic seaside village.

Shellharbour Foreshore Conservation Area includes individual places and spaces, having significance in their own right; Little Park, Grey Park, Cowrie Island Reserve and Beverley Whitfield Pool.

Shellharbour Foreshore Conservation Area represents the evolution and growth, of both Shellharbour Village, and the Shellharbour Local Government Area, and is unparalleled in its ability to tell this story.

Individually and collectively, the natural and manmade landscape elements, view lines and vistas, and relationships with surrounding historic buildings and places, reflects major phases and themes of Shellharbour's evolution.

The foreshore demonstrates initial and successive phases of settlement and land use in the Illawarra. It has strong links with Caroline Chisholm's Shellharbour settlement scheme and the clearing lease system, which saw vast amounts of land in the area opened up for new

residents, and consequent population, and economic growth, of the former Peterborough Estate.

Shellharbour Foreshore Conservation Area has strong links with the shipping and dairying industries that helped Shellharbour thrive over generations. The natural harbour adjacent to the foreshore, was first used by cedar getters in the early 1800s, working on VVC Wentworth's cedar estate. Settlers later relied on shipping at the harbour to transport goods to and from the Sydney markets, until the arrival of the railway in 1887.

The foreshore has strong visual and social relationships with places within, and beyond its boundaries, like Signal Hill (The Hill) and Bass Point, and represents the growth of tourism and leisure activities like rock pool bathing, fishing and boating, in the seaside village.

The special character of Shellharbour Foreshore is derived from its historic development and associations, and its setting within the historic seaside village of Shellharbour, and the wider cultural landscape of Shellharbour City.

The heritage listing for Shellharbour Foreshore Heritage Conservation Area is SHI-2380295.

3. DEVELOPMENT AND USE

3.1 Overview

Council's Resourcing Strategy ensures sufficient financial and human resources exist to provide services and infrastructure assets expected by the community. The Long-Term Financial Plan, Asset Management Strategy, and Workforce Management Plan contained within the strategy address strategies and actions contained within the Community Strategic Plan. These strategies and actions are then implemented through the Delivery Program and Operational Plan. The Resourcing Strategy ensures Council has an ongoing commitment to the maintenance of this reserve.

3.2 Condition of the land and structures on adoption of the plan

Council's Asset Management Plan reports on the current state of Council assets. Asset conditions are assessed as part of comprehensive network inspections. These assessments are undertaken in accordance with the Institute of Public Works Engineering Australasia Practice Notes.

At the date of adoption of this Plan, assets identified on the site and their current condition include:

- Bollards, posts and fencing – good condition
- Boat ramps – excellent condition
- Breakwater walls – fair condition
- Bins – varying condition
- Park benches – good condition
- Signs and plaque – varying condition
- Kerb and gutter – good condition

The assets on this site are in varying condition. The fish cleaning area is not listed as an asset on this table as it lies outside the lot boundary on the foreshore, however it is included in this Plan. It appears to be in as new/excellent condition.

3.3 Use of the land and structures as at the date of adoption of the Plan

Cowrie Island reserve's current use is for public recreational activities on the coastal foreshore of Shellharbour. These activities include fishing, surfing, boating, picnics etc.

See Appendix 3 for current leases and licences on the site.

3.4 Permitted use

The purpose of Cowrie Island Reserve is for public recreation, the assigned category is Natural Area - Foreshore. The purpose and category align with the reserve's past and current use and corporate objectives. Refer to the LEP for permissible uses in the RE1 zone and other attributes present on the site, including but not limited to heritage conservation.

3.5 Further development

Further development may be considered along with maintenance of existing infrastructure if it is consistent with the categories and purpose for the reserve and relevant legislation such as the LG Act, *Native Title Act 1993*, and the CLM Act.

Future maintenance should consider heritage conservation. Heritage considerations include, but are not limited to:

- Maintenance/reconstruction in accordance with the Burra Charter principles.

The general types of uses which may occur on community land categorised as Natural Area - Foreshore, and the forms of development generally associated with those uses, are set out in the table in the Natural Area - Foreshore category section in this Plan.

3.6 Scale and intensity

Cowrie Island reserve's current use is for public recreation. The intensity with which this reserve is used, is dependent on varying factors such as weather, surf conditions, day of the week and holidays.

The reserve will be used in future for public recreation, with public right of access to all outdoor areas.

3.7 Leases, Licences and other Estates

This Plan expressly authorises leasing, licensing or granting of any other estate over this reserve for any community purpose as determined by Council. Any agreement which may be entered into will be in accordance with relevant section of the LG Act (s. 46 and 47) and in consideration of native title implications for Crown land.

This Plan expressly authorises the issue of leases, licences and other estates over the reserve, provided that:

- The purpose is consistent with the reserve purpose of the land.
- The purpose is consistent with the core objectives for the category of the land.
- The lease, licence or other estate is for a permitted purpose listed in the LG Act or the *Local Government (General) Regulation 2005*.
- The issue of the lease, licence or other estate and the provisions of the lease, licence or other estate for Crown land can be validated by the provisions of the *Native Title Act*

- 1993.
- Where the land is subject to a claim under the *Aboriginal Land Rights Act 1983* the issue of any lease, licence or other estate will not prevent the land from being transferred in the event the claim is granted.
- The lease, licence or other estate is granted and notified in accordance with the provisions of the LG Act or the *Local Government (General) Regulation 2005*.
- The issue of the lease, licence or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved.
- Council Crown Land Managers have obtained written advice from a qualified Native Title Manager that any proposed lease or licence arrangements comply with any applicable provisions of the *Native Title Act 1993* for Crown land.

Tables in the relevant category sections of this Plan further identify the purposes for which leases and licences may be issued over the reserve.

3.8 Short Term Casual Purposes

Subject to Council approval, the following short term casual purposes may be allowed if considered appropriate:

- a) The playing of a musical instrument, or singing, for fee or reward,
- b) Engaging in a trade or business,
- c) The playing of a lawful game or sport,
- d) The delivery of a public address,
- e) Commercial photographic sessions,
- f) Picnics and private celebrations such as weddings and family gatherings,
- g) Filming sessions.

3.9 Signs

Council uses signs to regulate the activities carried out on community land and to provide educational information. All Council signs erected under Part 9 of the CLM Act, plus reserve name signs and traffic and safety signs, are permissible. Council must approve all other signs, including design before erection. All signs must be sympathetic to their environment in their design, construction and location.

3.10 Easements

Council reserves the right to grant easements as required for utilities and access.

3.11 Alcohol

Council can declare the area an alcohol-free zone under Chapter 16, Part 4 - Street Drinking (s.642-648) of the LG Act.

3.12 Management actions

Management actions must be consistent with those outlined in this Plan. Council shall provide (when required) the construction and maintenance of utility services, provision and maintenance of wetlands, floodways, cycle ways, vehicular access ways and the granting of easements.

3.13 Fees and charges

Council fees and charges may apply for specific uses of the reserve, these are outlined in Council's Fees and Charges Schedule. Applications must be lodged with Council for reserve hire.

4. ADDITIONAL MATTERS

4.1 Definitions

The terms used within this Plan are to be understood as they are presented in the LG Act. For terms which require further definition, please see the *Interpretations Act 1987*.

4.2 Native Title Assessment

The CLM Act provides new direction for the management of Crown Land and Council is now responsible for compliance with Native Title legislation for the Crown land that it manages.

Council is required to undertake steps to identify if any activities that they do, or do not allow on Crown land, will have native title implications, what provisions of the *Native Title Act 1993* will validate the activity and what procedures should be taken in relation to a particular activity prior to its commencement.

Council must receive written advice from its Native Title Manager in relation to certain activities and acts it intends to carry out on Crown land.

4.3 Community Assistance

Council will encourage, where appropriate, community assistance in the development of new facilities as well as maintenance of existing facilities through the co-operation and assistance of local groups.

PART 2: DETAILED INFORMATION REGARDING CATEGORIES OF LAND

5. CATEGORY: NATURAL AREA

Cowie Island Reserve is categorised as Natural Area which is further defined and categorised as Foreshore. The category of Cowie Island Reserve is shown in Figure 3 – Land Categories.

The guidelines for categorisation of land as Natural Area are outlined in Part 4, Division 1 of the *Local Government (General) Regulation 2005*. The Regulation states that land should be categorised as Natural Area under section 36(4) of the LG Act if the land:

Whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36(5) of the LG Act.

The reserve is the adjoined island/headland between Nuns Beach and Shellharbour Boat Harbour. It is the foreshore of the Tasman Sea and is therefore categorised as Natural Area.

The core objectives for the management of land categorised as Natural Area are:

- a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and
- b) to maintain the land, or that feature or habitat, in its natural state and setting, and
- c) to provide for the restoration and regeneration of the land, and
- d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
- e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*.

This section should be read in conjunction with the land's sub-category of Foreshore outlined in this Plan.

6. CATEGORY: NATURAL AREA - FORESHORE

6.1 Introduction

Cowrie Island Reserve is categorised as Natural Area – Foreshore. This area is shown in Figure 3 - Land Categories. Foreshore is the sub-category to the Natural Area category and covers the same area.

The guidelines for categorisation of land as Foreshore under section 36(5) of the LG Act are if the land is situated on the water's edge and forms a transition zone between the aquatic and terrestrial environment.

This reserve is the adjoined island/headland between Nuns Beach and Shellharbour Boat Harbour. It is the foreshore of the Tasman Sea and is therefore further categorised as Foreshore.

The core objectives for management of community land categorised as Foreshore are:

- (a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and
- (b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.

6.2 Physical environment

Topography/Hydrology/Soils

Cowrie Island Reserve is a flat, rocky coastal headland, 1.5m above sea level. It is free draining, shallow sandy soil, with minimal organics.

Vegetation

The reserve consists of exotic Kykuyu grasslands with native/exotic planted garden beds with species such as *Westringia fruticosa* and *Lomandra longifolia*. *Tetragonia tetragonoides* grows naturally on the coastal edge of the rocky shore.

Fauna

There is limited habitat on the reserve. Habitats are restricted to the intertidal shores for marine animals.

6.3 Key issues

The key issues associated with the land categorised as Natural Area within Cowrie Island Reserve include but are not limited to:

Protect Biodiversity

Ensure biodiversity is protected and ecosystem function is maintained as well as possible. There are localised threats from weeds including Asparagus Fern, Cobblers Pegs and exotic grasses.

Maintain Natural State

Protect the natural state and setting of the foreshore and harbour.

Provide Community Use while minimising disturbance

To provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human activity.

Transitional Area

Maintain the foreshore as a transition area between the aquatic and terrestrial environment.

Coastal Zone

Shellharbour Coastal Zone Management Plan encompasses Cowrie Island Reserve, no specific hazards were identified within this reserve, however the Coastal Zone Management Plan should be read in conjunction with this Plan.

Heritage Considerations

Cowrie Island and fish processing area (fish cleaning area) as well as the Shellharbour Foreshore have been identified for their heritage significance. The preservation of this heritage significance needs to be taken into consideration when managing this reserve.

6.4 Development and use

The reserve is used by the public for fishing, surfing and other tourism/maritime leisure activities.

Developments and uses on the reserve must be consistent and permissible under the LEP and SEPPs applicable to this site. These activities or developments must also be consistent with the land categorisation.

Council approval may be required prior to any development or improvement made to Community Land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to Council approval.

The general types of uses which may occur on community land categorised as Natural Area – Foreshore, the forms of development which generally associate with those uses, as set out in detail in Table 5. The facilities on community land may change over time, reflecting the needs of the community. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Purpose/Use	Examples of development to facilitate uses
<ul style="list-style-type: none">• Preservation of the council's natural heritage including the identified endangered ecological communities• Preservation of biological diversity and habitat• Providing a location for formal and informal recreation• Walking and cycling• Environmental and scientific study• Approved bush care projects requiring ecological restoration activities associated with protection of flora and fauna.	<ul style="list-style-type: none">• Visitor facilities: toilets, picnic tables, BBQs, sheltered seating areas, lighting, low-impact carparks, refreshment kiosks (but not restaurants)• Low-impact walking trails• Interpretive signage and information kiosks• Water-saving initiatives such as rain gardens, swales and sediment traps• Energy-saving initiatives such as solar lights and solar panels• Bridges, observation platforms• Work sheds or storage sheds required in

<ul style="list-style-type: none"> • Fire hazard reduction 	<p>connection with the maintenance of the land</p> <ul style="list-style-type: none"> • Bicycle/boat hire or similar • Temporary erection or use of any building or structure necessary to enable a filming project to be carried out • Locational, directional and regulatory signage
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Table 5 - Possible permissible use and development of community land categorised as Natural Area – Foreshore by Council or the Community

Express authorisation of leases, licences and other estates - Natural Area – Foreshore
This plan of management expressly authorises the issue of leases licences and other estates over the land categorised as Natural Area – Foreshore. **Table 6** provides some possible types of purposes for which tenure may be granted. The following examples in the table does not guarantee approval as this is subject to site suitability and assessment. It is not an exhaustive list.

Type of tenure arrangement	Maximum term	Examples of purposes for which tenure may be granted
Lease	As per statutory requirements	<ul style="list-style-type: none"> • walkways, pathways, bridges, causeways • observation platforms, signs • information kiosk • kiosk selling light refreshments (but not restaurants) • bicycle/boat hire or similar • work sheds or storage sheds required in connection with the maintenance of the land • toilets • temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Licence	As per statutory requirements	<ul style="list-style-type: none"> • walkways, pathways, bridges, causeways • observation platforms, signs • Information kiosk • Kiosk selling light refreshments (but not restaurants) • Bicycle/boat hire or similar • work sheds or storage sheds required in connection with the maintenance of the land • toilets • temporary erection or use of any building or structure necessary to enable a filming project to be carried out

Short-term licence	As per statutory requirements	<ul style="list-style-type: none"> the playing of a musical instrument, or singing, for fee or reward engaging in a trade or business, such as bicycle/boat hire or scientific studies and surveys or similar the playing of a lawful game or sport the delivery of a public address commercial photographic sessions picnics and private celebrations such as weddings and family gatherings filming sessions, including the temporary erection or use of any building or structure necessary to enable a filming project to be carried out
Other estates		This PoM allows the council to grant 'an estate' over community land for the provision of public utilities and works associated with or ancillary to public utilities and provision of services, or connections for premises adjoining the community land to a facility of the council or public utility provider on the community land in accordance with the LG Act.

Table 6 – Leases, licences and other estates and purposes for which they may be granted for community land categorised as Natural Area – Foreshore.

6.5 Management framework for reserves categorised as Natural Area - Foreshore

The Action Plan (Table 7) is prepared in accordance with Section 36 of the LG Act and identifies the:

- Broad management issues,
- Objectives and performance targets of the Plan with respect to the land,
- Means by which Council proposes to achieve the Plan's objectives and performance targets; and
- The manner in which Council proposes to assess its performance with respect to the Plan's objectives and performance targets.

Management Issues	s.36(3)(b) Objectives and performance targets	S. 36(3)(c) Means of achievement of objectives	s.36(3)(d) Manner of assessment of performance
Biodiversity	To conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area.	Undertake an effective targeted weed control program to ensure survival of key native vegetation.	That inspections are made by appropriate Council staff when required.
Natural State	To maintain the land, or that feature or habitat, in its natural state and setting.	By carrying out foreshore maintenance and restoration work in	That inspections are made by appropriate Council staff when

		accordance with Council's available resources. Weed control. Removal of waste.	required.
Restoration	To provide for the restoration and regeneration of the land.	If needed, consider planting appropriate species.	That inspections are made by appropriate Council staff when required.
Appropriate Community Use	To provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion.	Ensure safety, access and inclusion are key considerations in the provision of any assets or facilities. Provide appropriate signage to avoid disturbance of the foreshore.	Whether there are complaints from users. That inspections are made by appropriate Council staff when required.
Recovery Plan/Threat abatement Plan	To assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the <i>Threatened Species Conservation Act 1995</i> or the <i>Fisheries Management Act 1994</i> .	Undertake land management, restoration and maintenance in accordance with the relevant plans as outlined in legislation, including the <i>Biodiversity Conservation Act 2016</i> .	Land management, restoration and maintenance is in accordance with the relevant plans as outlined in the legislation. The plans are kept relevant and reviewed as required.
Transition Area	To maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area.	By carrying out foreshore maintenance and restoration work in accordance with Council's available resources. Rubbish removal Weed control	That inspections are made by appropriate Council staff when required.
Ecologically Sustainable Use	To facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.	Inform the community in good faith, regarding any issues associated with the foreshore in terms of its key management issues.	Community knowledge about foreshore management issues and responding by contributing positively to outcomes. Monitor any negative or positive change/impacts that may occur on the ecological value of the land categorised as foreshore.
Heritage	To preserve the heritage significance of the site.	Any works should be in accordance with the	Refer to any recommendations for

		Burra Charter principles and Chapter 28 - European Heritage, of Shellharbour DCP.	heritage conservation for specific applications.
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Table 7 - Action Plan for land categorised as Natural Area - Foreshore.

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APPENDIX 1: PLAN OF MANAGEMENT LEGISLATIVE FRAMEWORK

The primary legislation that impacts on how community land is managed or used is briefly described below. You can find further information regarding these acts at www.legislation.nsw.gov.au.

Local Government Act 1993

Section 35 of the *Local Government Act 1993* (LG Act) provides that community land can only be used in accordance with:

- the plan of management applying to that area of community land, and
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land, and
- the provisions of Division 2 of Chapter 6 of the Act.

Section 36 of the Act provides that a plan of management for community land must identify the following:

- a. the category of the land,
- b. the objectives and performance targets of the plan with respect to the land,
- c. the means by which the council proposes to achieve the plan's objectives and performance targets,
- d. the manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets,

and may require the prior approval of the council to the carrying out of any specified activity on the land.

A plan of management that applies to just one area of community land:

- A. must include a description of:
 - (i) the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and
 - (ii) the use of the land and any such buildings or improvements as at that date, and
- B. must:
 - (i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and
 - (ii) specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and
 - (iii) describe the scale and intensity of any such permitted use or development.

Land is to be categorised as one or more of the following:

- a. a natural area
- b. a sportsground
- c. a park
- d. an area of cultural significance
- e. general community use.

Land that is categorised as a natural area is to be further categorised as one or more of the following:

- a. bushland
- b. wetland
- c. escarpment
- d. watercourse
- e. foreshore
- f. a category prescribed by the regulations.

Additionally, under section 36 of the LG Act, a site-specific PoM must be made for land declared:

- as critical habitat, or directly affected by a threat abatement plan or a recovery plan under threatened species laws (sections 36A(2) and 36B(3))
- by council to contain significant natural features (section 36C(2))
- by council to be of cultural significance (section 36D(2)).

Classification of public land

The LG Act requires classification of public land into either 'community' or 'operational' land (Section 26). The classification is generally made for council-owned public land by the council's Local Environmental Plan (LEP) or in some circumstances by a resolution of the council (Section 27).

Crown reserves managed by council as Crown land manager have been classified as community land upon commencement of the *Crown Land Management Act 2016* (CLM Act). Councils may manage these Crown reserves as operational land if written consent is obtained from the minister administering the CLM Act.

Classification of land has a direct effect on the council's ability to dispose of or alienate land by sale, leasing, licensing or some other means. Under the LG Act, community land must not be sold (except for scheduled purposes), exchanged or otherwise disposed of by the council, and the land must be used and managed in accordance with an adopted PoM. In addition, community land is subject to strict controls relating to leases and licences (sections 45 and 46) of the LG Act.

By comparison, no such restrictions apply to operational land that is owned by councils. For example, operational land can be sold, disposed, exchanged or leased including exclusive use over the land, unencumbered by the requirements which control the use and management of community land. Crown reserves managed by council as operational land may generally be dealt with as other operational land but may not be sold or otherwise disposed of without the written consent of the minister administering the CLM Act.

Operational land would usually include land held as a temporary asset or an investment, land which facilitates the council carrying out its functions or land which may not be open to the general public (for example, a works depot).

The classification or reclassification of council-owned public land will generally be achieved by a Local Environmental Plan (LEP) or by a resolution of council in accordance with sections 31, 32 and 33 of the LG Act. If land is not classified by resolution within a three-month period from

acquisition it automatically becomes community land, regardless of whether it satisfies the objectives for community land as outlined in the LG Act.

For Crown land, Council cannot reclassify community land as operational land without consent of the minister administering the CLM Act.

Crown Land Management Act 2016

Crown reserves are land set aside on behalf of the community for a wide range of public purposes, including environmental and heritage protection, recreation and sport, open space, community halls, special events and government services.

Crown land is governed by the CLM Act, which provides a framework for the state government, local councils and members of the community to work together to provide care, control and management of Crown reserves.

Under the CLM Act, as Council Crown land managers, councils manage Crown land as if it were public land under the LG Act. However, it must still be managed in accordance with the purpose of the land and cannot be used for an activity incompatible with its purpose – for example, Crown land assigned the purpose of 'environmental protection' cannot be used in a way that compromises its environmental integrity.

Councils must also manage Crown land in accordance with the objects and principles of Crown land management outlined in the CLM Act. The objects and principles are the key values that guide Crown land management to benefit the community and to ensure that Crown land is managed for sustainable, multiple uses.

Principles of Crown land management

- Environmental protection principles are to be observed in the management and administration of Crown land.
- The natural resources of Crown land (including water, soil, flora, fauna and scenic quality) will be conserved wherever possible.
- Public use and enjoyment of appropriate Crown land are to be encouraged.
- Where appropriate, multiple uses of Crown land should be encouraged.
- Where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained.
- Crown land is to be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the state of NSW, consistent with the above principles.

Crown land management compliance

In addition to management and use of Crown reserves that is aligned with the reserve purpose(s), there are other influences over council management of Crown reserves. For example, Crown land managers may have conditions attached to any appointment instruments, or councils may have to comply with specific or general Crown land management rules that may be published in the NSW Government Gazette. Councils must also comply with any Crown land regulations that may be made.

Native Title Act 1993

The Commonwealth *Native Title Act 1993* (NT Act) recognises and protects native title rights and interests. The objects of the NT Act are to:

- provide for the recognition and protection of native title
- establish ways in which future dealings affecting native title may proceed and to set standards for those dealings
- establish a mechanism for determining claims to native title
- provide for, or permit, the validation of past acts invalidated because of the existence of native title.

The NT Act may affect use of Crown land, particularly development and granting of tenure. Specifically, the CLM Act makes it mandatory for council to engage or employ a native title manager. This role provides advice to council as to how the council's dealings and activities on Crown land can be valid or not valid in accordance with the NT Act.

Council must obtain the written advice from an accredited native title manager that Council complies with any applicable provisions of the native title legislation when:

- a. granting leases, licences, permits, forestry rights, easements or rights of way over the land
- b. mortgaging the land or allowing it to be mortgaged
- c. imposing, requiring or agreeing to covenants, conditions or other restrictions on use (or removing or releasing, or agreeing to remove or release, covenants, conditions or other restrictions on use) in connection with dealings involving the land
- d. approving (or submitting for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in (a), (b) or (c).

Council plans and policies relating to this plan of management

Council has developed plans and policies that are concerned to some extent with the management of community land. These documents have been considered when preparing this PoM.

The following is a list of documents that have a direct association with this PoM:

Shellharbour Local Environmental Plan 2013 (LEP)

Shellharbour Local Environmental Plan 2013 guides planning decisions for the city through zoning and development controls, which provide a framework for the way land can be used.

Shellharbour City Local Strategic Planning Statement 2020

The Shellharbour City Local Strategic Planning Statement (LSPS) guides the future of land use planning in the City and provides guidance on meeting our changing needs, managing land use planning challenges and will assist us to further develop the local character of Shellharbour now and into the future. The LSPS identifies a land use planning vision, supported by planning priorities and actions which inform Council planning, decisions and with managing the future growth of our City based on economic, social and environmental needs over the next 20 years.

Planning Priority 3 of the LSPS 'Deliver high quality, well-connected and integrated, green spaces' requires Council to continue to review and update plans of management for Community land.

Shellharbour Open Space and Recreation Needs Study and Strategy 2020

Council's Open Space and Recreation Needs Study and Strategy guides how Council will plan, implement and manage current and future open spaces and sport, recreation and aquatic facilities across the Shellharbour Local Government Area. This study provides a hierarchy of parks which assists with decision making and planning.

Lake Illawarra Coastal Management Program 2020 - 2030

The Lake Illawarra Coastal Management Program (CMP) is a long-term strategy for the coordinated management of the Lake. It includes a set of actions to reduce threats to the Lake. The actions are to be implemented by a range of land managers over the next 10 years.

Other state and Commonwealth legislation

NSW state legislation

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the framework for planning and development across NSW and guides environmental planning instruments which provide a basis for development control.

The EP&A Act ensures that effects on the natural environment, along with social and economic factors, are considered by the council when granting approval for or undertaking works, developments or activities.

This Act is also the enabling legislation for planning policies which may have a direct influence on open space management. On a state-wide level there are State Environmental Planning Policies (SEPPs). On a regional level there are Regional Environmental Plans (REPs). On a local level there are Local Environmental Plans (LEPs) as well as Development Control Plans (DCPs).

Aboriginal Land Rights Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) is important legislation that recognises the rights of Aboriginal peoples in NSW. It recognises the need of Aboriginal peoples for land and acknowledges that land for Aboriginal people in the past was progressively reduced without compensation. Crown land meeting certain criteria may be granted to an Aboriginal Land Council. This Act may affect dealings with Crown land that is potentially claimable.

National Parks and Wildlife Act 1974

Statutory responsibilities on the council arising from this Act specifically relate to the protection of sites of pre- and post-European contact archaeological significance. This Act may affect community land categorised as cultural significance, natural area or park.

Biodiversity Conservation Act 2016

Note: This Act repealed several pieces of legislation including the *Native Vegetation Act 2003*, *Threatened Species Conservation Act 1995*, the *Nature Conservation Trust Act 2001*, and the animal and plant provisions of the *National Parks and Wildlife Act 1974*.

This Act covers conservation of threatened species, populations and ecological communities, the protection of native flora and fauna. This Act primarily relates to community land categorised as natural area. However, other categories may also be affected.

The *Threatened Species Conservation Act 1995* has been repealed and superseded by the *Biodiversity Conservation Act 2016*. However, references to the former legislation remain in the LG Act and are therefore retained in this guideline.

DPIE's Energy, Environment and Science division advises that recovery plans and threat abatement plans made under the *Threatened Species Conservation Act 1995* were repealed on the commencement of the *Biodiversity Conservation Act* in 2017. These plans have not been preserved by any savings and transitional arrangement under the Biodiversity Conservation Act or LG Act, meaning pre-existing plans have no legal effect.

For this reason, requirements relating to recovery plans and threat abatement plans for local councils preparing plans of management under section 36B of the LG Act are now redundant. Councils will be advised if future amendments are made to the LG Act to enable these mechanisms.

Certain weeds are also declared noxious under this Act, which prescribes categories to which the weeds are assigned, and these control categories identify the course of action which needs to be carried out on the weeds. A weed may be declared noxious in part or all of the state.

Fisheries Management Act 1994

The *Fisheries Management Act 1994* (FM Act) includes provisions for the management of state fisheries, including the conservation of fish habitats, threatened species, populations and ecological communities of fish and marine vegetation and management of the riparian zone, waterways and threatened marine/freshwater aquatic species. This relates to community land categorised as natural area (foreshore, watercourse or wetland).

Where an area of community land is declared to be critical habitat, or if that area is affected by a recovery plan or threat abatement plan under Part 7A of the FM Act, a site-specific plan of management will need to be undertaken.

Rural Fires Act 1997

This Act contains provisions for bushfire risk management and the establishment of a Bushfire Management Committee. It also includes direction on development in bushfire prone lands.

Water Management Act 2000

This Act is based on the concept of ecologically sustainable development, and its objective is to provide for the sustainable and integrated management of the water sources of the state for the benefit of both present and future generations. The Act recognises:

- the fundamental health of our rivers and groundwater systems and associated wetlands, floodplains, estuaries has to be protected
- the management of water must be integrated with other natural resources such as vegetation, native fauna, soils and land
- to be properly effective, water management must be a shared responsibility between the government and the community
- water management decisions must involve consideration of environmental, social, economic, cultural and heritage aspects

- social and economic benefits to the state will result from the sustainable and efficient use of water.

Heritage Act 1977

This Act contains provisions for the conservation of items of heritage and may relate to community land categorised as cultural significance or natural area.

Draft State Strategic Plan for Crown Land 2020

The draft State Strategic Plan for Crown land sets the vision, priorities and overarching strategy for the management of Crown land and outlines timeframes and outcomes.

Commonwealth legislation

Environmental Protection and Biodiversity Conservation Management Act 1999

This Act enables the Australian Government to join with the states and territories in providing a national scheme of environment and heritage protection and biodiversity conservation. It incorporates threatened species on a national level and with relevance to Matters of National Environmental Significance.

Telecommunications Act 1997

This Act provides for telecommunication facilities being permitted on community land without authorisation in a PoM.

State Environmental Planning Policies

State Environmental Planning Policy no. 19 – Bushland in urban areas

This planning policy deals with bushland in urban areas, so is applicable to PoMs for community land categorised as Natural Area – Bushland.

State Environmental Planning Policy (Infrastructure) 2007

This planning policy lists development allowed with consent or without consent on community land.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

This aims to protect quality of surface water and the ecosystems that depend on it and requires that any development would have a neutral or beneficial effect on water quality.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This policy deals with clearing of native vegetation in urban areas and land zoned for environmental protection.

State Environmental Planning Policy (Coastal Management) 2018

This policy applies to land within the coastal zone.

Other relevant legislation, policies and plans

Biosecurity Act 2015
Catchment Management Authorities Act 2003
Companion Animals Act 1998
Council plans, strategies, policies, procedures and guidelines, generally as amended
Disability Discrimination Act 1992
Environmental Protection and Biodiversity Conservation Management Act 1999 (Cth)
Local Land Services Act 2013
Operations Act 1997
Pesticides Act 1999
Protection of the Environment Operations Act 1997
Protection of the Environment Operations (Noise Control) Regulation 2008
Public Works Act 1912 (as amended)
Retail Leases Act 1994
Rural Fire Regulation 2002
Shellharbour Development Control Plan
Shellharbour Asset Management Plan
Soil Conservation Act 1938
Telecommunications Act 1997 (Cth)
NSW Invasive Species Plan 2008-2015
National Local Government Biodiversity Strategy
NSW Biodiversity Strategy

The list above is not exhaustive. Depending on the nature of the land subject to a plan of management, there may be other relevant legislation, policies and procedures that need to be considered. Further advice on this can be sought by contacting Council.

APPENDIX 2: ABORIGINAL INTERESTS IN CROWN LAND

Crown land has significant spiritual, social, cultural and economic importance to the Aboriginal peoples of NSW. The CLM Act recognises and supports Aboriginal rights, interests and involvement in Crown land.

The management of Crown land can be impacted by the *Native Title Act 1993* (Cth) and the *Aboriginal Land Rights Act 1983* (NSW).

Native Title

Native title describes the rights and interests that Aboriginal and Torres Strait Islander people have in land and waters according to their traditional law and customs. Native title is governed by the Commonwealth *Native Title Act 1993* (NT Act).

Native title does not transfer the land to the native title holder, but recognises the right to land and water, by providing access to the land and if applicable, compensation for any loss, diminution, impairment or other effect of the act on their native title rights and interests.

All Crown land in NSW can be subject to a native title claim under the NT Act. A native title claim does not generally affect Crown land where native title has been extinguished or it is considered excluded land.

When preparing a PoM, Council is required to employ or engage a qualified native title manager to provide advice and validate acts (developments and tenures) over the reserve, in line with the NT Act. The most effective way to validate acts under the NT Act is to ensure all activities align with the reserve purpose.

If native title rights are found to exist on Crown land, council Crown land managers may be liable to pay compensation for acts that impact on native title rights and interests. This compensation liability arises for local councils whether or not the act was validated under the NT Act.

For further information about native title and the future acts framework see the [Crown lands website](#).

Native Title Claim of the South Coast People

The Yuin group of Aboriginal peoples along the south coast of NSW lodged a native title claim with the Federal Court on 3 August 2017. The South Coast people's claim covers 16,808 sq. km, extending south from Sydney to Eden, along the south coast of NSW and west towards Braidwood and also extends three nautical miles into the ocean. Shellharbour LGA is one of six councils within this area.

The claim does not affect freehold land but does extend to national parks, state forests, Crown land and council-managed Crown land and reserves. The claim includes the exclusive or non-exclusive right to access, to remain in and use the land and waters for any purpose, to take resources and to maintain and protect places and objects of significance.

Aboriginal Land Rights

The *Aboriginal Land Rights Act 1983* (ALR Act) seeks to compensate Aboriginal peoples for past dispossession, dislocation and removal of land in NSW (who may or may not also be native title holders).

Aboriginal land claims may be placed on any Crown land in NSW. The Department of Planning, Industry and Environment is responsible for investigating claims as defined in the ALR Act. If a claim is established, the land is transferred to the Aboriginal Land Council as freehold land.

At the time of preparing this plan of management, Crown reserves within Shellharbour LGA are affected by an undetermined Aboriginal land claim (claim number 42453, lodged 15/12/2016). Council has considered the claim in development of this plan of management.

APPENDIX 3: EXISTING LEASES AND LICENCES ON THE SITE

Group/organisation	Type of Tenure	Term
Nil		

(Current as at the date of adoption of the Plan)

DRAFT

10.4 Amenity and Assets Directorate

10.4.1 Oak Flats Depot Building Upgrade Funding Model (11648590)

To the Chief Executive Officer

Directorate: Amenity and Assets
Group: Asset Strategy

Manager: Daniel Brilsky – Acting Group Manager Asset Strategy
Author: Scott Spiers – Project Delivery Officer

Summary

The purpose of this report is to seek Council's endorsement to proceed with the Oak Flats Depot Building upgrade and adopt a funding model, which includes the pursuit of loan borrowings up to the value of \$1.06M to fund the proposed upgrade.

It is recommended that Council receive and note the financial matters described in the confidential attachment (**Attachment 1**) for the Project. The allocation of funds through this report will allow the advertising of tenders for the Depot upgrade to proceed.

Background

The proposed new Depot Building will bring together the depot staff from a range of old buildings that were in place since the early 1980's with small additions in 2001, to a new facility that consists of office spaces, centralised amenities, training room, staff rooms, meeting areas and associated facilities. This follows the works on-site to improve road access and car parking.

The upgrade of the Oak Flats Depot Building will provide a facility that not only meets current building standards but meets the needs of Council's workforce now and into the future. It will assist Council to attract and retain high calibre staff seeking to work in contemporary facilities that are fit for purpose given the quantum of staff needing to be accommodated. The design incorporates improved access points and space for additional workstations and amenities. The replacement building meets the Disability Discrimination Act and Australian Standards for Access and Mobility. The new building will be raised above the probable maximum flood level to ensure access and operations can continue in major flood events.

The Depot upgrade was included in the adopted delivery program for 2020/21 and an update was provided to Council on the status of the Project at its meeting held on 16 March 2021. A briefing of Councillors on the depot upgrade, funding requirements and an associated site visit occurred on 13 April 2021.

The funding identified in this report will allow the advertising of tenders for the Depot upgrade and a further report to Council will be provided on the outcomes and recommendation from the tender process.

Financial / Resources Implications

The Project budget for the Depot Building and associated works is proposed to be funded in the capital budget for 2021/22. The balance of funds required for the Project will require loan borrowings of up to \$1.06M, as outlined in this report. The draft 2021/22 Operational Plan which is being considered by Council as a separate report to this meeting, has included loan borrowings for this project.

Council officers however will continue to identify other potential funding sources, including grants for projects within the Capital Program. If successful, this will result in offsetting some or all of the proposed loan borrowings for this project. The project budget and any offsetting of loan funds will be reflected in the draft 2021/22 Operational Plan following public exhibition. Confidential information relating to contingencies and the overall financial estimate is contained within **Attachment 1**. It is not in the public interest to disclose this information as it may impact the ability of Council to attract competitive tenders.

Upon consideration of Council's forecast unrestricted cash holdings, it is deemed that the pursuit of external loan borrowings is the most appropriate strategy for the funding of the upgrade component of the project, if additional grant funds for the overall Capital program aren't secured. This aligns with Council's Financial Sustainability Strategy objectives of achieving intergenerational equity through, when appropriate, pursuing loans and other commercial options to align costs with generations that are receiving benefits.

It is proposed that Council seek borrowing quotations from financial institutions for a loan of up to \$1.06M over a period of 20 years. At an estimated interest rate of 2.85%, the loan would result in total annual loan repayments (principal and interest) of approximately \$70,000 per annum. It is anticipated that the interest can be capitalised in the first year whilst the asset is being constructed. The interest payments from 2022/23 onwards, will then be funded from the operational budget, however this will have a minimal impact on the (FFF) Operating Performance ratio. In terms of the impact of the proposed loan borrowing on the Debt Service ratio which has a maximum benchmark target of 20%, Council's draft Long Term Financial Plan (also included in a separate report to this meeting) is forecasting the ratio to reach a maximum of 2.57% over the next 10 year period.

Legal & Policy implications

Under the provisions of the State Environmental Planning Policy (Infrastructure) 2007, the Oak Flats Depot Building Upgrade Project is deemed development permitted without consent.

The project will however require lot consolidation within the Depot site due to the proposed administration building footprint straddling multiple lots. This lot consolidation is required to ensure the building complies with planning legislation.

As the works can be carried out ‘without consent’ under the Infrastructure SEPP the proposed works do not require a development application under Part 4 of the Environmental Planning and Assessment Act.

Subject to Clause 77(1)(d) of ISEPP the building can be developed as a replacement for the existing building. Consequently, approval can be obtained under Part 5 of the EP&A Act informed by a review of Environmental Factors.

Public / Social Impact

Current improvements to the depot facility will create a more efficient working environment which meets building standards.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

- | | | |
|------------|-------|--|
| Objective: | 1.1 | Vibrant, safe, creative and inclusive |
| Strategy: | 1.1.4 | Provide a liveable community that is accessible and inclusive |
| Objective: | 3.1 | Plans, builds and manages infrastructure for the community |
| Strategy: | 3.1.2 | Maintain the City’s assets to meet community needs and the delivery of services |
| Objective: | 4.2 | Supported by a Council that is responsive, accountable, and financially viable |
| Strategy: | 4.2.2 | Continually improve services to enhance the customer experience and meet customer expectations |

Consultations

Internal

Chief Financial Officer
Change Management Advisor
Property Officer
Manager Asset Planning

External

Nil

Political Donations Disclosure

Not Applicable

Recommendation

That Council:

1. **Proceeds with the upgrade of the Oak Flats Depot Building, a fit for purpose facility designed to meet current standards and the needs of Council's workforce.**
2. **Approve loan borrowings of up to \$1.06M (excl. GST) to fund the Oak Flats Depot Building upgrade.**
3. **Request financial institutions to provide loan borrowing quotations and that delegation be granted to the Chief Executive Officer to accept the most advantageous interest rate once received.**
4. **Authorise the Mayor and Chief Executive Officer, or their nominated delegate, to execute any loan documents under Council seal.**
5. **Endorse that the actual loan amount be reduced by the reallocation of available Capital Program funds (including redistribution of new grant funds) as part of the 2021/22 Operational Plan review process.**

Approved for Council's consideration: Daniel Brilsky
Acting Group Manager Asset Strategy

Date of Meeting: 27 April 2021

Attachments

1. Confidential Memo - Oak Flats Depot Building Upgrade Funding Model (*under separate cover*)

10.4.2 Tender 2020/74 - Shellharbour Airport Business Park (11648594)

To the Chief Executive Officer

Directorate: Amenity and Assets

Group: Asset Strategy

Manager: Daniel Brilsky – Acting Group Manager Asset Strategy

Author: Anne Peden – Acting Manager Projects

Summary

The purpose of this report is to inform Council of the tender process for Contract 2020/74 Shellharbour Airport Business Park and to seek a resolution to award contract 2020/74 to Tenderer 'A'. Additionally, this report requests that Council authorises the Chief Executive Officer or his delegate to sign the Letter of Award and execute the contract and associated documents.

In accordance with Section 10A (2)(d)(i) of the Local Government Act 1993, some information will remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it. This information will be considered in a separate confidential attachment (**Attachment 1**).

Background

At the Council meeting of 4 September 2018 Council received report 11.2.7 Growing Local Economies Fund and resolved:

1. 'That Council endorse the submission of an application for funding of development at the Illawarra Regional Airport from the Growing Local Economies Fund.
2. That Council approve the required 25 percent co-contribution of the total project costs.
3. That Council approve a further report be brought to Council identifying all project costs and funding sourced if the application is successful.'

Council was successful in its application and received \$15,977,322 in grant funding from the NSW State Government for development works at Shellharbour Airport.

At the Council meeting of 5 February 2019 Council further resolved to approve the contribution to the grant in the amount of \$4,372,678 per the requirements of the grant and the funding deed was subsequently signed by the General Manager.

In total, a budget of \$20.35M has been allocated to undertake the development works outlined in the business case prepared to support the grant funding application.

A portion of the grant funding was for the construction of a business park intended to provide serviced land suitable for leasing, such that aviation related business could establish operations from Shellharbour Airport.

The business park will include an access road off Tongarra Road, requiring upgrades to Tongarra Road to improve safety of vehicles entering the business park. Utility services will be installed such as Water, Sewer, Electrical and provisions for Gas and Telecommunications. Substantial earthworks will also be undertaken to prepare approximately 20,000m² of land for future building construction.

In accordance with the Business Plan and grant funding deed, designs have been prepared and tenders sought for the construction of the business park.

The Shellharbour Airport Business Park works package was advertised on 30 January 2021 via open tender. The request for open tenders closed at 10am on 2 March 2021.

Eight tender submissions were received and reviewed by the Tender Assessment Panel (TAP) in accordance with Council's Procurement Policies and Procedures. The eight submissions were received from the companies outlined in **Table 1**.

Table 1: Tender submissions received (in alphabetical order)

Received Tenders
Cleary Bros (Bombo) Pty Ltd
Colin Joss & Co Pty Ltd trading as Joss Construction
Devcon Civil Pty Ltd
Menai Civil Contractors Pty Ltd
NACE Civil Engineering Pty Ltd
North Shore Paving Co Pty Ltd
TJ & RF Fordham Pty Ltd trading as TRN Group
Western Earthmoving Pty Ltd

The TAP included representatives from the Projects and Procurement teams.

The following confidential information relating to assessment of tenders is contained within **Attachment 1**:

1. Non-Conforming Tenders
2. Final Ranking of Tenders
3. Financial Capacity Assessment
4. Detailed breakdown of budget and cost

The TAP reviewed the submitted tenders and determined the preferred contractor, Tenderer 'A', was the highest ranked overall and was considered value for money, as outlined in **Attachment 1**.

The preferred contractor, Tenderer 'A' has satisfied the TAP that it is capable of undertaking the works. It is recommended that Council accept the tender and award contract 2020/74 to tenderer 'A'.

Alternatively, under Clause 178(3) of the Local Government (General) Regulations 2005, Council can decide not to accept any of the supplied tenders and therefore must, by resolution do one of the following:

- a. Postpone or cancel the proposal for the contract.
- b. Invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details.
- c. Invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,
- d. Invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
- e. Enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,
- f. Carry out the requirements of the proposed contract itself.

If Council resolves to enter into negotiations, the resolution must state:

- a. The Council's reasons for declining to invite fresh tenders.
- b. The Council's reasons for determining to enter into negotiations.

Should Council resolve to accept the recommendations of this report the contractor's name and the contract sum will be made public through Council's contract register.

Financial / Resources Implications

The project budget is funded from the 2020/21 Capital Works Program budget. The budget is anticipated to be sufficient to deliver the works. A program level budget for Shellharbour Airport developments is approximately \$11.15M for 2020/21 and \$1.70M for 2021/2022, which also includes other works at the airport including completion of runway and taxiway upgrades and the Shellharbour Airport Passenger Terminal.

Funding from the LCRI grant has previously been allocated to the project to upgrade Tongarra road, which is required to facilitate the business park. Following the tender process for the Shellharbour Airport business park, forecasts have been adjusted which now show there is sufficient funds within the current budget to complete all necessary works within the original project budget. The funding from the LCRI grant will be reallocated to other capital works through QBR 3.

A detailed breakdown of the tender prices and available budget has been included in the confidential memo **Attachment 1**.

Legal and Policy implications

The Tender process has been undertaken in accordance with the Local Government Act, Local Government (General) Regulation 2005 (NSW), Part 7 Tendering and Council's Procurement Policy.

The contract proposed is based on the NSW Government's GC21 standard contract. The GC21 contract is designed for government agencies to manage construction contracts valued over \$1M. The GC21 contract template is accessible on the NSW Government 'buy' website. The proposed contract conditions contains no confidential conditions that prohibit release of information relating to the contract with Council.

Public / Social Impact

A business park at Shellharbour Airport will assist in creating jobs in the region and give businesses the opportunity to grow.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

- | | | |
|------------|-------|--|
| Objective: | 3.1 | Plans, builds and manages infrastructure for the community |
| Strategy: | 3.1.1 | Provide the community with a range of infrastructure delivered in a sustainable manner |
| Objective: | 3.2 | Supports and increases employment and business opportunities within a strong local economy |
| Strategy: | 3.2.2 | Create, promote and maintain local business, job, investment and lifestyle opportunities |

Consultations

Internal

Acting Manager Airport
Procurement Officer

External

Illion Australia Pty Ltd

Political Donations Disclosure

Not Applicable

Recommendation

That:

- 1. In accordance with Clause 178 of the Local Government (General) Regulation 2005 (NSW), Council accept the tender offer for contract 2020/74 from Tenderer 'A' for Shellharbour Airport Business Park.**
- 2. Council authorise the Chief Executive Officer or his nominated delegate to sign the Letter of Award, execute the contract, approve variations and any documents associated for the contract.**
- 3. In accordance with the Government Information (Public Access) Act 2009, the name of the successful contractor and amount payable under the contract be added to the contracts register.**

Approved for Council's consideration: Daniel Brilsky
Acting Group Manager Asset Strategy

Date of Meeting: 27 April 2021

Attachments

1. Confidential Memo – 10.4.2 Summary of Tender Assessment 2020/74 Shellharbour Airport Business Park (*under separate cover*)

11. Committee Recommendations**11.1 Recommendations from the Traffic Committee Meeting held 7 April 2021 recommended for adoption.**

That the Recommendations from the Traffic Committee Meeting held 7 April 2021 be adopted.

11.2 Recommendations from the Australia Day Advisory Committee Meeting held 7 April 2021 recommended for adoption.

That the Recommendations from the Australia Day Advisory Committee Meeting held 7 April 2021 be adopted.

12. Items for Information**12.1 Item for Information – Responses to Questions Taken on Notice (11648537)****12.1.1 Question on Notice**

Council Meeting 30 March 2021 – Item 10.4.1 Royal Life Saving Society of Australia (New South Wales Branch) – Shellharbour City Stadium, Croom Regional Sporting Complex (11632087)

Councillor Moran asked if the Royal Life Saving Society could apply for a rental subsidy anytime in the future or only when the lease is up for renewal. The Chief Executive Officer took the Question on Notice.

Response

Royal Life Saving Society of Australia (New South Wales Branch) could apply for a rental subsidy at any time as there is no limitation on the timeframe. Any application for rental subsidy must be in accordance with the *Leasing and Licensing of Council Public Land and Buildings Policy* and would be assessed by Council Officers in line with the requirements of the policy. A request to vary the annual rental amount needs to be agreed to by both parties. If agreed, this would require a variation to the lease with costs associated with the variation being the responsibility of Royal Life Saving Society.

Responsible Officer: Melissa Scozzafava
Property Coordinator, Finance

Date of Meeting: 27 April 2021

13. Notices of Rescission/Alteration Motions

Nil

14. Notices of Motion

14.1 Notice of Motion submitted by Cr Kellie Marsh: Tripoli Way, Albion Park Bypass (11617127)

Notice of Motion:

That Council officers:

1. prepare a report on the anticipated program for the construction of Tripoli Way (Albion Park Bypass), showing anticipated commencement and completion dates, including an update on the elements of that program completed to date. That report is to include appropriate plans and maps.
2. Prepare a report on project costs, including current funding proposals, what funds are available at this time and what is their source.

Cr Kellie Marsh

Date of Meeting: 27 April 2021

14.2 Notice of Motion submitted by Cr Kellie Marsh: Investigation of Traffic Capacity of Station Road, Albion Park Rail (11643100)

Notice of Motion:

A report be prepared to Council, to investigate the traffic capacity of Station Road, Albion Park Rail, from Princes Highway to Tongarra Road, and identify options to provide for additional traffic capacity.

Cr Kellie Marsh

Date of Meeting: 27 April 2021

14.3 Notice of Motion submitted by Cr Kellie Marsh: Investigation of the Capacity of the Stormwater Drainage System on the Illawarra Highway, Albion Park (11643099)

Notice of Motion:

A report be prepared to Council, to investigate the capacity of the stormwater drainage system on the Illawarra Highway, Albion Park in the vicinity of the intersection of the proposed Tripoli Way extension and identify options to provide for additional capacity.

Cr Kellie Marsh

Date of Meeting: 27 April 2021

14.4 Notice of Motion submitted by Cr Kellie Marsh: CCTV Camera Installation at Bass Point (11643101)

Notice of Motion:

That Council investigate CCTV cameras installation at Bass Point in order to monitor anti-social behaviour.

Cr Kellie Marsh

Date of Meeting: 27 April 2021

14.5 Notice of Motion submitted by Cr Moran: Killalea State Park (11648875)

Notice of Motion:

That Council advise Reflections Holiday Parks that it does not support the current proposed development of Killalea State Park.

Cr Peter Moran

Date of Meeting: 27 April 2021

15. Questions on Notice (must be submitted in writing)

16. Urgent Business

17. Confidential Business (Committee of the Whole in Closed Session)

**17.1 Chief Executive Officer's Performance - Mid Term Review
2020/2021 (11648884)**

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(a) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

(a) personnel matters concerning particular individuals

This matter has been classified as confidential under Section 10A(2)(a) of the Local Government Act 1993 as it relates to the Chief Executive Officer's performance review as a personnel matter and is in accordance with the Guidelines for the Appointment and Oversight of General Managers issued by the Office of Local Government (guidelines under Section 23A of the Local Government Act 1993).

Declassification of this Report

The report will not be declassified.

**18. Committee of the Whole in Closed Session (Closed to the Public):
Adjournment**

**19. Committee of the Whole in Closed Session: Consideration of Adoption of
Decisions Reached in Closed Session**

**20. Consideration of Motions to Declassify Reports Considered in Closed
Session**