



# **BUSINESS PAPER**

Notice is hereby given in accordance with the *Local Government Act 1993* and *Local Government (General) Regulation 2005* of the below mentioned meeting.

## **Ordinary Council Meeting**

**Tuesday, 9 May 2023**

**Commencing at 6:30PM**

**Shellharbour Civic Centre**

**Council Chambers**

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## **1. Acknowledgement to Country**

Shellharbour City Council acknowledges the Traditional Custodians of the Dharawal Country and recognise their continued connection to the land we meet on today. We pay our respects to Elders past, present and emerging and the contribution they make to the life of this city and this region and extend our recognition to their descendants who continue to live on country.

### **Webcasting Statement**

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

It should be noted that if Council receive any registrations for Addresses to Council this 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. For further information on Privacy refer to Council website.

Council accepts no responsibility for any defamatory or offensive statements. Conduct standards for appropriate behaviour during the public address forum is available on Council's website.

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.

### **Statement of Ethical Obligations**

The Mayor and Councillors are reminded of their Oath/Affirmation of office made under Section 233A of the Local Government Act 1993 and their obligations under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

## **2. Apologies**



**3. Leave of Absence**

**4. Confirmation of Minutes**

**4.1 Ordinary Council Meeting 18 April 2023**

That the Minutes of the Ordinary Council Meeting held on 18 April 2023 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**

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## **8. Mayoral Minutes**

### **8.1 Mayoral Minute: Damaging increase in Emergency Services Levy costs (12057797)**

To my fellow Councillors

#### **Mayoral Minute**

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##### **Summary**

The purpose of this Mayoral Minute is to call on Councillors' support to make representations to the NSW Government in response to the highly damaging increase in the Emergency Services Levy (ESL) imposed on all councils without warning for the 2023/24 financial year.

##### **Background**

The ESL is a cost imposed on councils and insurance policy holders to fund the emergency services budget in NSW. The majority is paid as part of insurance premiums, with a further 11.7% funded by councils and 14.6% by the NSW Government. The ESL represents cost shifting at its worse, as it is imposed on councils without any mechanism for councils to recover costs.

The levy increase for the State's 128 councils in 2023/24 amounts to almost \$77 million, with the total cost imposed on the local government sector increasing from \$143 million in the current financial year to \$219 million next year. This represents a 53.1% increase, completely dwarfing the IPART baseline rate peg of 3.7% for 2023/24, and Council's rate increase of 3.7%.

Reporting suggests that the increase in costs this year reflects a 73% increase in the State Emergency Service budget and an 18.5% funding increase to Fire and Rescue NSW. The impact of these large increases on councils' finances will be particularly severe in 2023/24 as a result of the NSW Government deciding to scrap the subsidy for council ESL payments.

For many councils, the unexpected cost hit will absorb almost all of their IPART approved rate rise for this year and in some cases absorb more than 100%. This is placing local government budgets under enormous pressure as they struggle from the combined impact of the pandemic, extreme weather events, high inflation and wage increases.

IPART approved rate rises are intended to compensate for the impacts of inflation and increases in council costs. Instead, the rate increase will have to be largely diverted to the significantly higher ESL payments this year. NSW councils will have no option other than to make cuts to infrastructure and services expenditure.

For Council, the ESL has increased by approx. \$310,000 for 2023/24, bringing the total Council contribution to \$1,759,889. This amounts to approx. 15% of the expected increase in rate income for 2023/24. If the NSW Government's decision is not reversed, the potential impacts on Council's services, infrastructure maintenance and delivery include:

- Ability to maintain and provide for asset renewal of our existing infrastructure.
- Reducing our ability to remain competitive in a very tight labour market.
- Impacting our ability to deliver new services to our community and facilities.
- Impacting our ability to deliver current services and projects in the 2023/24 proposed budget.

The timing of this development is particularly challenging for councils as it comes so late in the local government budgeting cycle, well after IPART's rate determination for the coming financial year.

All councils strongly support a well-funded emergency services sector and the critical contribution of emergency services workers and volunteers (many of whom are councillors and council staff). However, it is essential that these services be supported through an equitable, transparent and sustainable funding model.

Local Government NSW has raised the serious concerns of the local government sector with the NSW Government and is seeking the support of councils across NSW in amplifying this advocacy.

This Mayoral Minute recommends that Council call on the NSW Government to take immediate action to:

- a. restore the ESL subsidy,
- b. decouple the ESL from the rate peg to enable councils to recover the full cost,
- c. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services.

The Mayoral Minute also recommends that Council write to IPART advising of the financial sustainability impacts of the ESL.

## **Recommendation**

**That:**

- 1. Council writes to the Treasurer, the Minister for Emergency Services, the Minister for Local Government and local State Member(s):**
  - a. Expressing Council's strong opposition to the NSW Government's last minute decision to impose an enormous Emergency Services Levy (ESL) cost increase on councils for 2023/24 by scrapping the ESL subsidy for councils and at a time after Council has publicly advertised its Operational Plan and annual budget to the community;**

- b. Noting that as a consequence of the unannounced 73% increase in the State Emergency Service budget and an 18% increase in the Fire and Rescue NSW budget, Council's \$3.7% rate increase to provide essential community services and infrastructure has been significantly eroded.
  - c. Advising that the Government's decision may/will lead to a reduction in important local services and/or the cancellation of necessary infrastructure projects;
  - d. Calling on the NSW Government to take immediate action to:
    - i. restore the ESL subsidy in 2023/24
    - ii. urgently introduce legislation to decouple the ESL from the rate peg to enable councils to recover the full cost
    - iii. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services in consultation with local government.
2. Council writes to the Chair of the Independent Pricing and Regulatory Tribunal (IPART) advising that Council's forced emergency services contribution is manifestly disproportionate to the 2023/24 rate cap, which has resulted in additional financial stress.
3. Council writes to the President of LGNSW seeking the Association's ongoing advocacy to bring about a relief in the burden of Council's emergency services contribution.

Approved for Council's consideration:      Mayor  
Chris Homer

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**Date of Meeting:** 9 May 2023

**Attachments**

Nil

**9. Councillors Statements / Reports**

## **10. Reports**

### **10.1 Chief Executive Officer**

#### **10.1.1 Delegations to the Chief Executive Officer (12051663)**

To the Mayor and Councillors

**Directorate:** Chief Executive Officer  
**Group:** Council Services

**Manager:** Flora Lepouras – Executive Manager / Public Officer  
**Author:** Lisa Davey – Governance Manager

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### **Summary**

The purpose of this report is to seek endorsement of the amended Chief Executive Officer's delegations following a full and thorough review following the minor review of the Chief Executive Officer's delegations which were endorsed by Council on 29 November 2022 in accordance with Section 380 the *Local Government Act 1993* (the Act).

### **Background**

A minor review of the Chief Executive Officer's delegations were endorsed by Council on 29 November 2022 in accordance with Section 380 of the Act which states that each council must review its delegations during the first 12 months of each term of office.

As noted in the report to Council on 29 November 2022, a full and thorough review of the Chief Executive Officer's delegations has been undertaken and the following amendments are proposed:

1. Add reference in the delegations to the functions that the Chief Executive Officer may not delegate under Section 377 of the Act.
2. Add 'GST exclusive' to 1(d).
3. Propose more succinct delegations in relation to Shell Cove and the Calderwood Urban Development Project which reflect the scope and Council's role in those projects.
4. Delegate to the Chief Executive Officer the function of negotiating, signing and executing leases and licences and setting limitations in respect of value and term. This amendment will ensure only those leases and licences over these values and terms are reported to Council. This delegation is common with other councils and provides efficiencies in terms of costs and time and consistency between leases and licence agreements. All new leases and licences entered into will be reported to Council for information.
5. Providing a specific delegation permitting the Chief Executive Officer to follow through with all necessary actions arising from his delegations.

6. Adding a delegation identifying the position of Chief Executive Officer as a Disclosure Officer under the *Public Interest Disclosure Act*.
7. Adding a delegation in relation to those delegations assigned from external government agencies.
8. Minor amendments in relation to the Chief Executive Officer's title.

In relation to tenders, it should be noted that the Chief Executive Officer has the authority to not accept tender submissions in accordance with the *Local Government (General Regulations) 2021* (the Regulations) and therefore the inclusion of a delegation is not required. However, a council resolution is required should the Chief Executive Officer determine to enter into negotiations with a person in accordance with the Regulations.

The proposed amendments to the Chief Executive Officer's delegations are based on advice from Council's legal advisors to ensure compliance with legislation and best practice.

It should also be noted that Section 378(2) of the Act provides that the Chief Executive Officer may sub-delegate a function delegated to the Chief Executive Officer by the Council to any person or body (including another employee of the Council). There is no requirement under the Act for the Chief Executive Officer to refer these sub-delegations to Council. A comprehensive register of delegations is maintained which allocates the delegations, sub delegations, authorisations and appointments to Council employment positions. A full review of these sub-delegations will take place following endorsement by Council of the Chief Executive Officer's delegations.

### **Financial / Resources Implications**

Nil

### **Legal and Policy implications**

Sections 377 to 381 of the *Local Government Act 1993* detail the statutory requirements for the issue of and operation of delegations. Section 335 of the Act details the statutory roles and functions of the Chief Executive Officer.

It is most important that council officers, in the execution of their duties on behalf of Council, are authorised in accordance with the *Local Government Act 1993*, to undertake these duties.

### **Public / Social Impact**

The adoption of the delegations to the Chief Executive Officer enables them and subsequently council staff, to make decisions within their granted authority. This is necessary to allow the provision of efficient and effective customer service to internal and external customers.

### **Link to Community Strategic Plan**

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

Objective: 4.2 We have strong leadership

Strategy: 4.2.4 Undertake visionary, integrated, long term planning and decision making, reflective of community needs and aspiration

### **Consultations**

#### **Internal**

Chief Executive Officer

#### **External**

Legal Advisors

### **Political Donations Disclosure**

Not Applicable

### **Options**

#### Option 1

That Council endorse the amended delegations to the Chief Executive Officer in accordance with the recommendation.

#### Option 2

That Council not endorse some or all of the amended delegations to the Chief Executive Officer. If all of the proposed amendments are not endorsed, this will mean that the delegations endorsed by Council on 29 November 2022 will remain in effect.

### **Conclusion**

The amendments proposed have been identified by the Chief Executive Officer and Council's legal advisors as being typical delegations which will facilitate the efficient operations of the Council. These amendments are also typical of other councils. It is therefore recommended that Option 1 be endorsed.

**Recommendation**

**That Council endorse the amended delegations to the Chief Executive Officer as detailed in Attachment 1.**

Approved for Council's consideration:      Flora Lepouras  
Executive Manager / Public Officer

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**Date of Meeting:** 9 May 2023

**Attachments**

1. Proposed amended Chief Executive Officer's delegations



**Attachment 1. Proposed amended Chief Executive Officer's delegations**



Address all communication to the Chief Executive Officer  
Shellharbour City Council,  
Dharawal Country  
Locked Bag 155, Shellharbour City Centre, NSW 2529  
DX 26402 Shellharbour City Centre  
p. 02 4221 6111 f. 02 4221 6016  
council@shellharbour.nsw.gov.au  
www.shellharbour.nsw.gov.au

**SHELLHARBOUR CITY COUNCIL**

**DELEGATIONS & SUB-DELEGATIONS TO THE  
CHIEF EXECUTIVE OFFICER\***

Section 377 of the *Local Government Act 1993* empowers a Council, by resolution, to delegate to the Chief Executive Officer any of the functions of the Council (excluding those functions specified in clauses (a) to (u) of section 377(1) of the *Local Government Act 1993*).

The Council of the City of Shellharbour resolves as follows:

**1. Specific limitations**

The Council of the City of Shellharbour delegates to the Chief Executive Officer all of the delegable functions, ~~powers, duties and authorities~~ of the Council subject to the following limitations:

- (a) The Chief Executive Officer may not delegate any of the functions set out in Schedule 1 to this Instrument of Delegation.
- (b) All functions delegated to the Chief Executive Officer must be exercised in accordance with the applicable statutory requirements, as well as any resolution or policy adopted by the Council from time to time.
- (bc) The Chief Executive Officer shall not authorise works that have not been listed or had funds allocated in the Council's adopted budget unless, in the Chief Executive Officer's opinion, the expenditure is necessary to respond to an emergency, community safety issue or potential public liability issue. Any such expenditure must be reported to the next Ordinary Meeting of the Council.
- (ed) The Chief Executive Officer does not have authority to determine development applications, applications to modify a development consent, applications for determinations and decisions subject to review and applications for a complying development certificate in the following circumstances:
  - (i) where a submission by way of an objection to the application has been submitted to Council during the public notification period, unless in the Chief Executive Officer's opinion, the objection:
    - (A) is unreasonable; or
    - (B) can be satisfied by the imposition of a condition of consent,
  - (ii) the development involves designated development as defined in the *Environmental Planning & Assessment Act 1979*,
  - (iii) the development does not comply with any adopted Council policy (including a development control plan) unless, in the Chief Executive Officer's opinion compliance with the policy is unreasonable and unnecessary in the circumstances,

Council Resolution:

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(iv) the development does not comply with a development standard unless in the case of a non-compliance with a development standard:

- (A) in the case of Shellharbour Local Environmental Plan 2013 the Chief Executive Officer is satisfied of the matters prescribed by clause 4.6(4)(a) and the concurrence of the Planning Secretary has been obtained.
- (B) in the case of Shellharbour Rural Local Environmental Plan 2004, the Chief Executive Officer is satisfied of the matters prescribed under clause 64A(4)(a) and the concurrence of the Planning Secretary has been obtained.
- (C) in the case of Shellharbour Local Environmental Plan 2000 the Chief Executive Officer is satisfied of the matters prescribed by clause 90(4)(a) and the concurrence of the Planning Secretary has been obtained.
- (D) in the case of *State Environmental Planning Policy (Precincts—Regional) 2021* at Appendix 5, the delegate is satisfied of the matters prescribed by clause 23 and the concurrence of the Planning Secretary has been obtained.

(vii) the development has an estimated value exceeding \$20million.

(de) The Chief Executive Officer does not have the authority to accept tenders over the value of \$500,000 (exclusive of GST).

## 2. Write-off of sundry debts

The Council fixes the amount of \$5,000 as the amount above which sundry debts owed to the Council may be written off only by resolution of the Council, pursuant to clauses 131(1), 131(2) and 213(2) of the *Local Government (General) Regulation 2005* (NSW).

## 3. Shell Cove Project

Council delegates to the Chief Executive Officer authority with respect to the Shell Cove Project (Project) to:

- (i) Negotiate amendments to the Management Agreement with Australand Corporation (NSW) Pty Limited (Australand);
- (ii) Facilitate the acquisition of Harbour Land as defined by the Management Agreement and agreed to by Council resolution;
- (iii) Manage all financial aspects of the Project under the Management Agreement;
- (iv) Appoint and remove Council's members of the Shell Cove Management Committee;
- (v) Resolve disputes between the Council and Australand with respect to the Project in accordance with the Management Agreement; and
- (vi) Instruct Council's Shell Cove Management Committee members.

subject only to the limitations set out in Schedule 1 to this Instrument of delegation.

### Definitions

In this Instrument:

Authorisations means all authorisations, leases, licences, permits, approvals and consents of Council which are necessary or desirable to enable the carrying out of the Project.

**Management Agreement** means the development agreement known as the Management Agreement between Council and Australand (as amended).

For the avoidance of doubt, this clause overrides the limitations and exclusions set out in clause 1(d) of this instrument of delegation.

#### 4. Calderwood Urban Development Project

Council delegates to the Chief Executive Officer ~~in accordance with this instrument of delegation, all of:~~

- (i) All the functions of the Council under the EPA Act relating to the Calderwood Urban Development Project ~~(s 377 of the Local Government Act 1993); and~~
- (ii) ~~Other functions of the Council in respect of the Calderwood Urban Development Project, including but not limited to the issuing of approvals and orders under the Local Government Act 1993 and Roads Act 1993.~~

subject only to the restrictions set out in Schedule 1 to this instrument of delegation.

For the avoidance of doubt, this clause overrides the limitations and exclusions set out in clause 1(d) of this instrument of delegation.

#### Definitions

In this instrument:

**Calderwood Urban Development Project** means the development the subject of the concept plan approval granted by the Minister to Major Project Application No. 09\_0082 on 8 December 2010.

**Function** means a function of the Council within the meaning of the *Local Government Act 1993* that is capable of being lawfully delegated by the Council to the Chief Executive Officer under s377 of the *Local Government Act 1993*.

**EPA Act** means the *Environmental Planning and Assessment Act 1979*.

**Chief Executive Officer** means the person appointed by the Council pursuant to s334 of the *Local Government Act 1993* to the position of general manager, and a person appointed by the Council pursuant to s336 of the *Local Government Act 1993* to act in the vacant position of general manager.

**Minister** means the Minister for the time being administering the *Environmental Planning and Assessment Act 1979*.

#### 5. Leases and Licences

Without limiting the delegations given to the Chief Executive Officer under any other Resolution of Council, Council delegates to the Chief Executive Officer the function of negotiating, signing and executing the following leases and licences:

- (a) Residential Leases for a term not exceeding 12 months.
- (b) Leases and Licences -
  - a. With a maximum rental or fee not exceeding \$200,000 (exclusive of GST) for the term and a term not exceeding 5 years (including any period for which the lease or licence could be renewed by the exercise of an option) over community land.
  - b. With a maximum rental or fee not exceeding \$200,000 (exclusive of GST) for the term and a term not exceeding 10 years (including any period for which the



- lease or licence could be renewed by the exercise of an option) over operational land,
- (c) Leases and Licences of air space above or land below the surface of any public road for which Council is the roads authority for a term not exceeding 5 years,
- (d) Leases under Part 10, Division 2 of the Roads Act 1993 (NSW),
- (e) Short term licences under section 2.20 of the Crown Land Management Act 2016 (NSW).

All new leases and licences are to be reported to Council for information.

#### **6. Giving Effect to Delegated Powers**

Subject only to the specific restrictions and limitations set out in this or any other Resolution of Council, Council delegates to the Chief Executive Officer the authority to do all things reasonable and necessary to carry out the delegated functions, including but not limited to:

- (a) The development and implementation of strategies, policies, plans, budgets, programs and the like;
- (b) Making applications, written proposals, representations or submissions on behalf of the Council;
- (c) Negotiating and signing contracts, agreements and other legally binding documents on behalf of the Council; and
- (d) Taking such compliance or regulatory action on behalf of the Council as the Chief Executive Officer deems necessary.

#### **7. Disclosure Officer**

In accordance with Council's Internal Reporting (Public Interest Disclosure) Policy, the Chief Executive Officer is identified as a Disclosure Officer within the meaning of the Public Interest Disclosures Act 2022.

#### **8. Delegation under an Act or Instrument**

Council delegates to the Chief Executive Officer any function that is delegated to Council by a government agency under any Act or instrument, subject to the terms and conditions of the instrument of delegation. Where permitted by the instrument of delegation, the Chief Executive Officer may sub-delegate the function to a Council employee in accordance with the terms and conditions of the relevant instrument of delegation.

In this instrument:

Government agency includes a Minister of the Crown, a statutory body representing the Crown, or the delegate or other authorised representative of such a Minister or body.

**Chief Executive Officer's Delegations, Sub-Delegations & Authorisations**

Section 378 of the *Local Government Act* empowers the Chief Executive Officer to delegate any functions of the Chief Executive Officer and sub-delegate the functions of Council which Council has delegated to the Chief Executive Officer, to any person or body (including another employee of Council).

In accordance with Section 378 of the *Local Government Act 1993*, I **Michael Archer**, Chief Executive Officer\* of the Council of the City of Shellharbour hereby:

1. Delegate and sub-delegate (as the case may be) the functions identified in the **attached Register of Delegations** to the corresponding Council employment positions specified in the third column marked "Position";
2. Authorise and appoint (as the case may be) the Council employment positions to the corresponding appointment and authorisation identified in the **attached Register of Delegations** in the third column marked "Position"; and
3. Revoke all previous delegations, sub-delegations, appointments and authorisations made by the Chief Executive Officer of the Council of the City of Shellharbour.

Any variation to the **attached Register of Delegations** may only be authorised by the Chief Executive Officer and only takes effect when the Chief Executive Officer signs the revised Register of Delegations.

Where a position title is referred to in the **Register of Delegations** and the position title changes during the applicable period of the Register, then any reference to the former position title shall be read as a reference to the new position title.

\_\_\_\_\_  
Chief Executive Officer\*

Date:

| (\* *The Chief Executive Officer is Council's title for its general manager, appointed in accordance with s.334 of the Local Government Act 1993. Council resolved to change the position title to Chief Executive Officer at its meeting on 1 September 2020 – Resolution No 161*)

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**Schedule 1 – Functions Not Delegated**

The following functions are not permitted to be delegated to a general manager, in accordance with section 377 of the *Local Government Act 1993* (NSW).

Unless otherwise stated, references to section numbers are to be read as references to the *Local Government Act 1993*.

- (a) the appointment of a general manager,
- (b) the making of a rate,
- (c) a determination under section 549 as to the levying of a rate,
- (d) the making of a charge,
- (e) the fixing of a fee,
- (f) the borrowing of money,
- (g) the voting of money for expenditure on the council's works, services or operations,
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
- (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
- (j) the adoption of an operational plan under section 405,
- (k) the adoption of a financial statement included in an annual financial report,
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*,
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
- (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
- (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,
- (t) the power of delegation set out in section 377,
- (u) any function under the *Local Government Act 1993* or any other Act that is expressly required to be exercised by resolution of the council.

Except that the above restrictions do not apply to any functions relating to the granting of financial assistance if—

- (a) the financial assistance is part of a specified program, and
- (b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and

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- (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
- (d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.



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## **10.2 Council Sustainability Directorate**

### **10.2.1 Monthly Investment Report – March 2023 (11993160)**

To the Chief Executive Officer

**Directorate:** Council Sustainability  
**Group:** Finance

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

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#### **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 2023 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 2023, \$1,944,267 of interest revenue has been accrued.

Council is approximately \$80,000 ahead of the revised annual budget forecast of \$2,486,000 (forecast = \$2,486,000 divided by 12 months and multiplied by 9 months = \$1,864,500).

#### **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 (the Act), Local Government (General) Regulation (the 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 2023 (**Attachments 1 and 2**).

The return on investment for the month of March 2023 was 0.17%, or approximately 2.04% when annualised. This compares to the AusBond Bank Bill Index of 3.39% for the month of March 2023. This underperformance is attributed to the unexpected aggressive rate hikes delivered by the RBA since May 2022.



### **Financial / Resources Implications**

Council is ahead of the revised annual budget forecast by approximately \$80,000 at the end of March 2023.

### **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.

Finance staff are currently undertaking evaluations for submissions received via Request for Quotation (RFQ) process for the provision of investment advisory services.

### **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 We have strong leadership

Strategy: 4.2.2 The Council lives responsibly within its means and strengthens its financial sustainability

### **Consultations**

#### **Internal**

Nil

#### **External**

Imperium Markets Pty Ltd

### **Political Donations Disclosure**

Not Applicable

## Nil

Council has invested its surplus funds in accordance with Council's Investment Policy, the Local Government Act 1993 (the Act), Local Government (General) Regulation (the Regulation) and the Ministerial Investment Order. The return on investment for the month of March 2023 was 0.17%, or approximately 2.04% when annualised.

**That Council receive and note the Investment Portfolio report as at 31 March 2023.**

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

**Date of Meeting:** 9 May 2023

1. Council's Investment Portfolio as at 31 March 2023
2. Council's Investment Portfolio Graphs as at 31 March 2023

Attachment 1. Council's Investment Portfolio as at 31 March 2023



**Shellharbour City Council Investment Report by Investment Strategy as at 31 March 2023**  
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	Instrument	Rate	Original Investment Date	Original Investment Term	Opening Balance 28/02/2023	Closing Balance 31/03/2023	Monthly Movement	Maturity
<b>Remaining Term to Maturity: 0-90 days</b>									
Commonwealth Bank	AA-	CASH	3.70			11,985,513	10,002,461	(1,983,052)	T
Macquarie Bank	A+	CASH	3.55	04/05/2022		1,990,195	5,055	(1,985,141)	T
ING Direct	A	TD	0.55	03/03/2021	2 years	2,000,000	-	(2,000,000)	01/03/2023
Police Credit Union SA	Unrated	TD	1.64	02/03/2020	3 years	2,000,000	-	(2,000,000)	02/03/2023
BOQ	BBB+	TD	2.30	18/06/2019	4 years	2,000,000	2,000,000	-	19/06/2023
						<b>19,975,709</b>	<b>12,007,516</b>	<b>8%</b>	<b>(7,968,193)</b>
<b>Remaining Term to Maturity: 91-365 days</b>									
Westpac	AA-	TD	0.56	06/07/2021	2 years	2,000,000	2,000,000	-	06/07/2023
AMP Bank	BBB	TD	4.30	30/08/2022	1 year	2,500,000	2,500,000	-	23/08/2023
Westpac	AA-	TD	0.82	04/09/2020	3 years	2,000,000	2,000,000	-	04/09/2023
AMP Bank	BBB	TD	4.30	30/08/2022	1 year	1,000,000	1,000,000	-	30/08/2023
Rabobank Australia Branch	A+	TD	3.40	04/09/2018	5 years	1,000,000	1,000,000	-	04/09/2023
Westpac	AA-	TD	0.84	07/09/2020	3 years	3,000,000	3,000,000	-	07/09/2023
Suncorp	A+	TD	4.15	15/09/2022	1 Year	5,000,000	5,000,000	-	24/09/2023
AMP Bank	BBB	TD	1.00	29/10/2021	2 years	4,000,000	4,000,000	-	30/10/2023
AMP Bank	BBB	TD	1.35	24/01/2022	2 years	2,500,000	2,500,000	-	24/01/2024
P&N Bank	BBB	TD	1.80	25/02/2022	2 years	1,000,000	1,000,000	-	26/02/2024
P&N Bank	BBB	TD	1.80	25/02/2022	2 years	1,000,000	1,000,000	-	26/02/2024
NAB	AA-	TD	1.90	14/03/2022	2 years	3,000,000	3,000,000	-	07/03/2024
P&N Bank	BBB	TD	2.06	14/03/2022	2 years	1,000,000	1,000,000	-	07/03/2024
Westpac	AA-	TD	1.91	14/03/2022	2 years	3,000,000	3,000,000	-	14/03/2024
BOQ	BBB+	TD	2.00	14/03/2022	2 years	1,000,000	1,000,000	-	14/03/2024
NAB	AA-	TD	2.00	15/03/2022	2 years	2,000,000	2,000,000	-	15/03/2024
ING Direct	A	TD	1.92	15/03/2022	2 years	3,000,000	3,000,000	-	15/03/2024
						<b>38,000,000</b>	<b>38,000,000</b>	<b>26%</b>	<b>-</b>
<b>Remaining Term to Maturity: 1-2 years</b>									
ING Direct	A	TD	4.20	04/07/2022	2 years	2,000,000	2,000,000	-	04/07/2024
BOQ	BBB+	TD	1.15	20/08/2020	4 years	2,500,000	2,500,000	-	20/08/2024
NAB	AA-	TD	0.94	07/09/2020	4 years	5,000,000	5,000,000	-	09/09/2024
Westpac	AA-	TD	4.42	14/09/2022	2 years	7,000,000	7,000,000	-	16/09/2024
Suncorp	AAA	FRN*	4.20	17/10/2022	5 years	2,006,973	2,006,124	(849)	17/10/2025
NAB	AA-	TD	0.85	18/12/2020	4 years	3,000,000	3,000,000	-	18/12/2024
Westpac	AA-	TD	0.76	18/12/2020	4 years	2,000,000	2,000,000	-	18/12/2024
ING Direct	A	TD	5.10	01/03/2023	2 years	-	2,000,000	2,000,000	03/03/2025
ING Direct	A	TD	5.10	02/03/2023	2 years	-	4,000,000	4,000,000	03/03/2025
Police Credit Union SA	Unrated	TD	5.15	02/03/2023	2 years	-	2,000,000	2,000,000	03/03/2025
BOQ	BBB+	TD	1.85	13/03/2020	5 years	2,000,000	2,000,000	-	13/03/2025
						<b>25,506,973</b>	<b>33,506,124</b>	<b>23%</b>	<b>7,999,151</b>
<b>Remaining Term to Maturity: 2-5 years</b>									
BOQ	BBB+	TD	1.25	04/09/2020	5 years	1,000,000	1,000,000	-	04/09/2025
NAB	AA-	TD	1.08	07/09/2020	5 years	7,000,000	7,000,000	-	08/09/2025
P&N Bank	BBB	TD	4.55	15/09/2022	3 years	1,000,000	1,000,000	-	15/09/2025
NAB	AA-	TD	1.05	18/09/2020	5 years	4,000,000	4,000,000	-	18/09/2025
BOQ	BBB+	TD	1.79	29/10/2021	4 years	3,000,000	3,000,000	-	29/10/2025
Northern Territory Treasury	AA-	BOND	1.20	16/09/2020	5.25 years	1,000,000	1,000,000	-	15/12/2025
Northern Territory Treasury	AA-	BOND	1.20	18/09/2020	5.25 years	1,000,000	1,000,000	-	15/12/2025
Northern Territory Treasury	AA-	BOND	1.00	14/10/2020	5.17 years	4,000,000	4,000,000	-	15/12/2025
Northern Territory Treasury	AA-	BOND	1.20	06/07/2021	4.45 years	3,000,000	3,000,000	-	15/12/2025
NAB	AA-	TD	1.00	18/12/2020	5 years	6,000,000	6,000,000	-	18/12/2025
Westpac	AA-	TD	1.12	03/03/2021	5 years	2,000,000	2,000,000	-	03/03/2026
NAB	AA-	TD	1.25	03/03/2021	5 years	1,000,000	1,000,000	-	03/03/2026
P&N Bank	BBB	TD	1.20	03/03/2021	5 years	6,000,000	6,000,000	-	03/03/2026
Northern Territory Treasury	AA-	BOND	1.30	17/03/2021	5.25 years	2,000,000	2,000,000	-	15/06/2026
Northern Territory Treasury	AA-	BOND	1.30	26/05/2021	5.06 years	1,500,000	1,500,000	-	15/06/2026
P&N Bank	BBB	TD	1.25	18/06/2021	5 years	3,000,000	3,000,000	-	18/06/2026
Westpac	AA-	TD	1.31	18/06/2021	5 years	3,000,000	3,000,000	-	18/06/2026
P&N Bank	BBB	TD	1.20	28/06/2021	5 years	2,000,000	2,000,000	-	29/06/2026
Westpac	AA-	TD	1.32	28/06/2021	5 years	5,000,000	5,000,000	-	29/06/2026
BOQ	BBB+	TD	1.94	29/10/2021	4 years	3,000,000	3,000,000	-	29/10/2026
Northern Territory Treasury Corporation	AA-	BOND	1.50	06/07/2021	5.45 years	5,000,000	5,000,000	-	15/12/2026
						<b>64,500,000</b>	<b>64,500,000</b>	<b>43%</b>	<b>-</b>
<b>Remaining Term to Maturity: 5-10 years</b>									
NIL									
<b>Senior Bond Performance (Excluding sale/maturity of investments)</b>								<b>(849) **</b>	
<b>Total Shellharbour City Council Portfolio</b>						<b>147,982,681</b>	<b>148,013,640</b>	<b>30,958</b>	

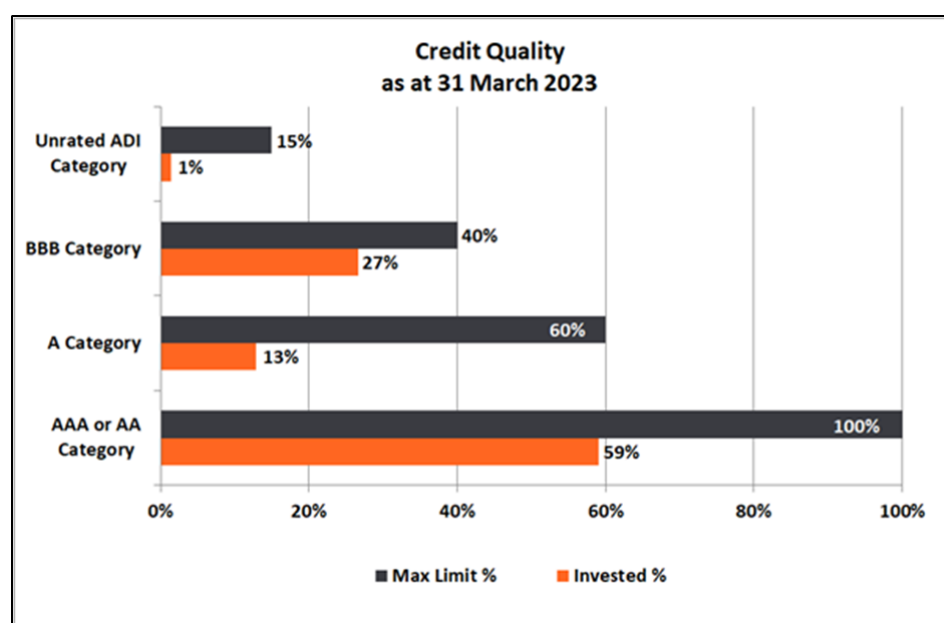
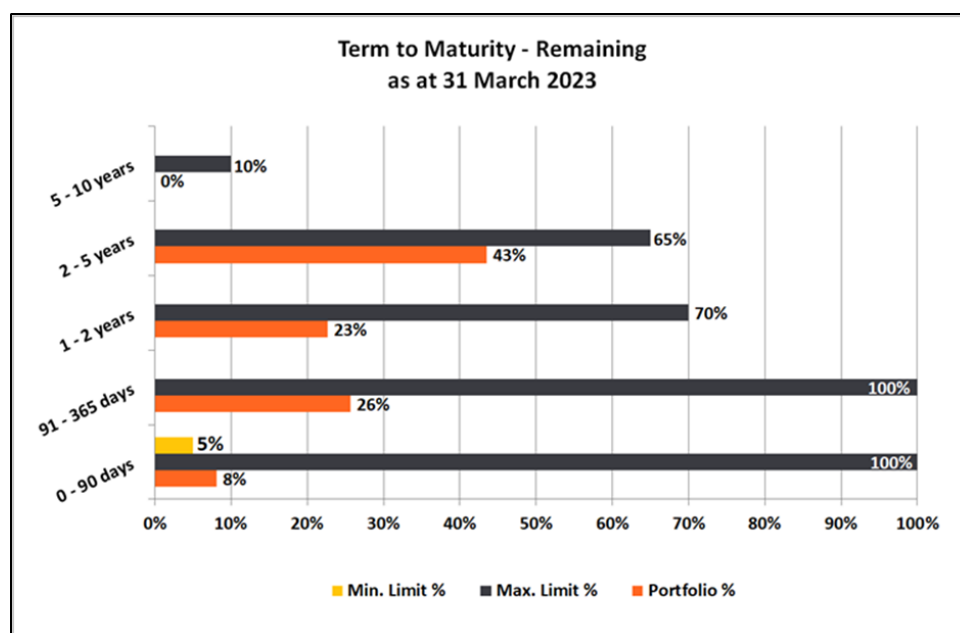
\* Maturity classification of these Floating Rate Notes [FRNs] are based on a Held-For Trading basis, as they are expected to be sold prior to maturity.

\*\* 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 2022 was \$30,649M. This will be earmarked for the ongoing budget as part of Council's financial management strategy.

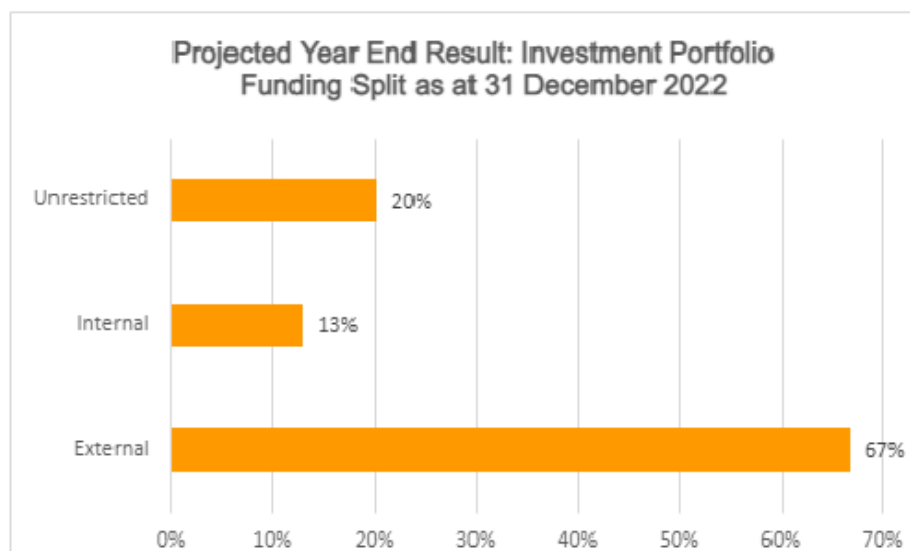
**Attachment 2. Council's Investment Portfolio Graphs as at 31 March 2023**

Performance (Actual)	1 month	3 months	6 months	FYTD	1 year	2 years	3 years
Official Cash Rate	0.30%	0.82%	1.53%	2.00%	2.11%	1.10%	0.80%
AusBond Bank Bill Index	0.28%	0.79%	1.54%	1.97%	2.04%	1.03%	0.73%
Council's T/D Portfolio	0.18%	0.47%	0.94%	1.33%	1.67%	1.57%	1.78%
Council's FRN Portfolio	0.36%	1.05%	2.05%	2.84%	3.49%	2.50%	2.34%
Council's Bond Portfolio	0.11%	0.32%	0.65%	0.98%	1.29%	1.27%	-
<b>Council's Portfolio^</b>	<b>0.17%</b>	<b>0.46%</b>	<b>0.92%</b>	<b>1.31%</b>	<b>1.65%</b>	<b>1.55%</b>	<b>1.74%</b>
<b>Outperformance</b>	<b>-0.11%</b>	<b>-0.33%</b>	<b>-0.62%</b>	<b>-0.66%</b>	<b>-0.39%</b>	<b>0.52%</b>	<b>1.01%</b>



## Counterparty

Compliant	Issuer	Rating	Invested (%)	Max. Limit (%)
✓	CBA	AA-	6.76%	25.00%
✓	NAB	AA-	20.94%	25.00%
✓	Northern Territory	AA-	11.82%	25.00%
✓	Westpac (SGB)	AA-	19.59%	25.00%
✓	Macquarie Bank	A+	0.00%	15.00%
✓	Rabobank Aust	A+	0.68%	15.00%
✓	Suncorp	A+	4.73%	15.00%
✓	ING Bank Aus.	A	7.43%	15.00%
✓	BoQ	BBB+	9.80%	12.50%
✓	AMP	BBB	6.76%	12.50%
✓	P&N Bank	BBB	10.13%	12.50%
✓	Police CU SA	Unrated	1.35%	10.00%
			<b>100.00%</b>	



## Breakdown by Asset Type



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**10.2.2 Licence Agreement and Lease of Airspace to Historical Aircraft Restoration Society – Qantas Boeing 747-400ER “VH-OJA” – Part Lot 2 DP 1240742 Shellharbour Airport (12047083)**

To the Chief Executive Officer

**Directorate:** Council Sustainability  
**Group:** Business and Investment

**Manager:** Trevor James – Manager Business and Investment  
**Author:** Amy Celima – Property Officer

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### **Summary**

The purpose of this report is to seek Council endorsement to enter into a five-year Licence Agreement with the Historical Aircraft Restoration Society (HARS) for the continued occupation of Council land within Shellharbour Airport, being part Lot 2 in Deposited Plan 1240742, Albion Park Rail, for the purpose of parking the Qantas Boeing 747-400ER “VH-OJA”.

This report also seeks Council endorsement to enter into a five year Lease of Airspace pursuant to the *Roads Act 1993* for the purpose of formalising the encroachment of the aircraft’s rear tail and left wing over the public road known as Boomerang Avenue, Albion Park Rail.

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.

A confidential memo (**Attachment 3** – under separate cover) provides further information in support of this report.

### **Background**

Shellharbour City Council is the owner of the land situated at 42 Airport Road, Albion Park Rail, Lot 2 DP 1240742, known as Shellharbour Airport (the Land). Parked within the Land is the retired Qantas 747-400ER (747), shown in **Attachment 1** and **2**.

At its Ordinary Meeting of 9 February 2015, Council resolved to enter into a Licence Agreement and Lease of Airspace for a term of 5 years with HARS for the occupation of part of the Land and airspace for the purpose of parking the 747. The licenced area is approximately 2458m<sup>2</sup>.

The Licence Agreement and Lease of Airspace both expired on 7 March 2020 and have since been on a holding-over period. Council staff have been in discussions with HARS to renew the agreements and establish a mutually beneficial arrangement that factors in the land’s value and the tourism benefits the 747 brings to Shellharbour City due to its historical significance.

In 2015, the 747 was retired from commercial flight operations and gifted to HARS by Qantas. It has remained on static display at Shellharbour Airport after completing its final commercial flight from South Africa to Sydney and a subsequent short flight from Sydney to Shellharbour. The 747 holds significant historic value as it is the first 747-400ER aircraft of its kind in Australia and holds the record for the longest non-stop commercial flight from London to Sydney.

HARS currently operates tours of the 747 by the general public. This provides a unique opportunity for aviation enthusiasts and members of the public to explore the aircraft and learn about its history. The proceeds generated from the tours are used by HARS to maintain the 747, ensuring that it remains in a presentable condition.

### **Lease of Airspace**

A portion of the 747's rear tail and left wing overhangs Boomerang Avenue and encroaches into that airspace. In accordance with section 149 of the *Roads Act 1993*, Council as the roads authority, can grant a Lease of Airspace with the approval of the Secretary of the Department of Planning and Environment, provided that:

- a) The lease does not exceed 99 years, and;
- b) The lease is not inconsistent with the rights of passage and access that exist with respect to the road.

The Lease of Airspace will be aligned with the Licence Agreement for the Land, and it does not interfere with the access or use of Boomerang Avenue.

This arrangement is consistent with the information provided to Council at its meeting on 18 April 2023 regarding an update of strategic developments at Shellharbour Airport, the way forward for future airport operations and the timeframes involved in the implementation of these developments.

### **Financial / Resources Implications**

An independent valuation was undertaken by a registered valuer to determine the current market rental value of the Land, in accordance with Council's Valuation Policy. The current market rental was assessed at \$38,220 per annum excluding GST.

The valuation also includes a notation that the assessment is offered as a benchmark rental value which would require an adjustment by the Licensor (Council) in recognition of the special public interest the use of this property has within the community.

HARS is currently paying \$4,773 excluding GST per annum for the Land which has a 54.1% subsidy applied. Additionally, HARS currently pay \$650 excluding GST per annum for the Lease of Airspace. Council's valuer has advised that this figure should remain the same, largely due to the minimal area involved, uniqueness and the lack of comparable airspace leases.

After consultation with Council's valuer and reviewing the current arrangement, Council staff deemed it reasonable to apply a subsidy of 54.1% to the assessed current market rent, which is consistent with the subsidy applied in the current agreement. By applying the subsidy, the annual rental of the Land will be reduced to \$17,543 excluding GST.



In addition, HARS expressed concerns that the proposed subsidised rental still represents a significant increase and could potentially impact the maintenance of the 747, operations of the HARS museum and potential expansion of the museum. In recognition of the historic significance of the 747 and the tourism benefit it brings to Shellharbour City, Council staff proposed a compromise solution which is to provide a staged rent reduction over the term of the Licence Agreement, as detailed in **Table 1**. This proposal was agreed to by HARS.

**Table 1 – Proposed Subsidised Staged Rental**

Year	Percent Subsidy	Proposed Rent per annum (ex GST)	Lease of Airspace (ex GST)	Total rental per annum (not including CPI increases)
Year 1	85%	\$5,733	\$650	\$6,383
Year 2	75%	\$9,555	CPI increase	\$10,205
Year 3	65%	\$13,377	CPI increase	\$14,027
Years 4 & 5	54.1%	\$17,543	CPI increase	\$18,193

As Council is offering an annual subsidy, this will be noted as an "in-kind donation" in Council's aggregate record of donations to the community. All subsidies made under the policy are made as "in-kind donations" in the form of the use of the land for a lesser amount in return for the service it provides to the community.

HARS will be responsible for all reasonable costs associated with the preparation of the Licence Agreement and Lease of Airspace in accordance with Council's fees, charges and the policy titled *Leasing and Licensing on Council Public Land and Buildings*.

### **Legal and Policy Implications**

The land identified as 42 Airport Road, Albion Park Rail, part Lot 2 DP 1240742 known as Shellharbour Airport is owned by Council and is classified as Operational land in accordance with Sections 25 and 26 of the *Local Government Act 1993*

As the subject Land is classified as Operational, there is no requirement to place the proposal on public exhibition. In accordance with the *Roads Act 1993*, The Lease of Airspace will require the approval of the Secretary of Department of Planning and Environment.

### **Public / Social Impact**

The aircraft is the only 747-400 remaining in Australia. It is a unique feature of Shellharbour Airport and has not only become a tourist attraction, but also a desirable location for both short and major films and still photography. The 747 is also used as a security and defence training facility by Government agencies.

HARS has advised that the 747 contributes to attracting approximately 25,000 visitors annually to Shellharbour Airport.



This report supports the following strategic priorities and actions of the Property Strategy:

Priority 2: Maximise the service potential of assets

Action: Improve the flexibility of the asset base

Priority 5: Assign responsibility and accountability

Action: Clearly define ownership and control of assets

### **Link to Community Strategic Plan**

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

Objective: 3.1 We support a strong local economy

Strategy: 3.1.3 Our City is loved by locals, desired by others

Objective: 4.2 We have strong leadership

Strategy: 4.2.1 Our Council is transparent and trusted to make decisions that reflect the values of the community collectively

### **Consultations**

#### **Internal**

Manager Airport

#### **External**

Historical Aircraft Restoration Society (HARS) Consultant

Valuer

HARS Valuer

### **Political Donations Disclosure**

Not Applicable

### **Options**

#### Option 1

Endorse the proposed Licence Agreement and Lease of Airspace to Historical Aircraft Restoration Society as detailed in this report.

By adopting this option, Council will benefit from a higher rental return and ensure a longer tenure is secured for HARS and the 747.

#### Option 2

Not endorse the Licence Agreement and Lease of Airspace as detailed in this report.

This option will result in the agreements remaining on a holding-over basis which is inconsistent with Council's policies, objectives and strategies.

## **Conclusion**

It is recommended that Council endorse the Licence Agreement and Lease of Airspace to Historical Aircraft Restoration Society for a term as outlined in this report (Option 1).

## **Recommendation**

**That:**

- 1. Council endorse a five year Licence Agreement with Historical Aircraft Restoration Society for the occupation of part Lot 2 DP 1240742, 42 Airport Road, Albion Park Rail for the purpose of parking the Qantas 747-400 aircraft.**
- 2. Council endorse that the annual market rental of \$38,200 (exclusive of GST) be reduced and staged in accordance with the following Table:**

<b>Year</b>	<b>Percent Subsidy</b>	<b>Proposed Rent per annum (ex GST)</b>
Year 1	85%	\$5,733
Year 2	75%	\$9,555
Year 3	65%	\$13,377
Years 4 & 5	54.1%	\$17,543

- 3. Council enter into a Lease of Airspace with the Historical Aircraft Restoration Society for occupation of airspace over the public road known as Boomerang Avenue, Albion Park Rail for a term of 5 years, at a commencing rental of \$650 excluding GST with CPI increases to be applied annually thereafter.**
- 4. The Chief Executive Officer, or their nominated delegate, be authorised to sign all documentation associated with the Licence Agreement and Lease of Airspace with the Historical Aircraft Restoration Society for the occupation of part Lot 2 DP 1240742, 42 Airport Road, Albion Park Rail and airspace over part Boomerang Avenue, Albion Park Rail.**

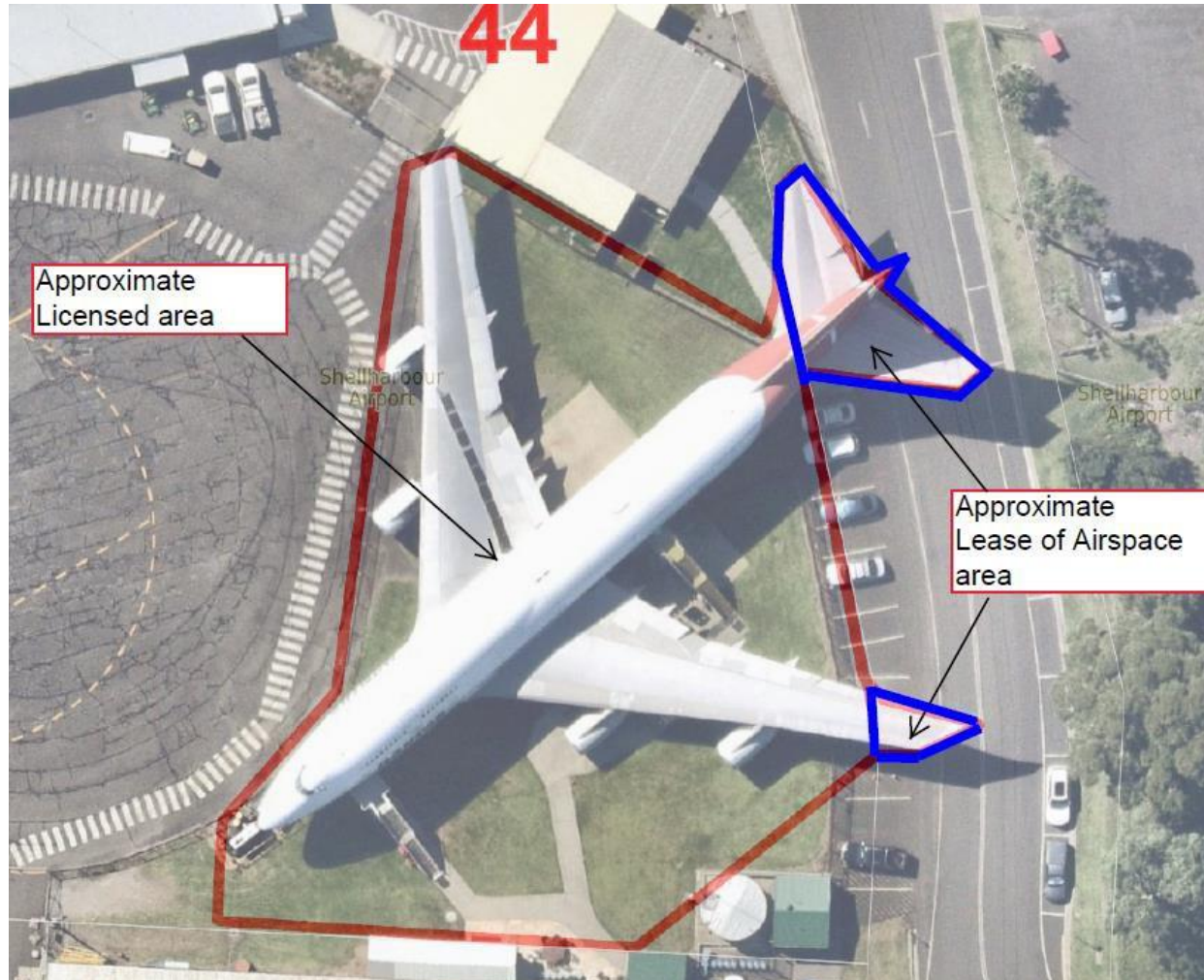
Approved for Council's consideration: Trevor James  
Manager Business and Investment

**Date of Meeting:** 9 May 2023

## **Attachments**

1. Licensed area – Part Lot 2 DP 1240742 , 42 Airport Road, Albion Park Rail
2. Photo image – Qantas 747- 400ER - Shellharbour Airport

**Attachment 1. Licensed area - Part Lot 2 DP 1240742, 42 Airport Road, Albion Park Rail**



**Attachment 2. Photo image - Qantas 747- 400ER - Shellharbour Airport**



## **10.3 Community and Customers Directorate**

### **10.3.1 Council Related Development Application – Conflict of Interest Policy (12028102)**

To the Chief Executive Officer

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

**Manager:** Melissa Boxall – Director Community and Customers  
**Author:** Jasmina Micevski – Group Manager City Development

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#### **Summary**

The purpose of this report is to seek Council's acknowledgement of the Council Related Development Application – Conflict of Interest Policy (Operational Policy).

The objective of the policy is to manage potential conflicts of interest and increase transparency at all stages of the development process for council related development.

The policy is provided in **Attachment 1**.

#### **Background**

The establishment of the Conflict of Interest Policy for Development Applications is required as a result of amendments to the *Environmental Planning and Assessment (EP&A) Regulation*. The amendments to the regulation come into effect on 3 April 2023 and requires all Councils to:

- have a Conflict of Interest Policy in place that advises how they would manage any potential conflict of interest that may arise when a Council assesses DAs, where they have a commercial interest in the outcome;
- prepare a management statement which must be exhibited with the Development Application (DA), which details the potential conflict and the way they propose to manage it;
- exhibit Council-related DAs for a minimum of 28 days and record in their DA register the steps taken to manage any conflicts.

The aim of the Policy (**Attachment 1**) is to strengthen transparency and accountability in the planning system.

The policy has been developed based on the acknowledgment that Council can be the developer, landowner or hold a commercial interest in the land it regulates. Where Councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator.

A sample policy has been provided by the Department of Planning and Environment (DPIE) and used to develop the Related Development Application – Conflict of Interest Policy (Operational Policy).

Section 7 of the policy provides management and control strategies in how staff are to administer such DAs. There is no one-size-fits-all approach, however, the most common type of proposals have been considered within this section and importantly, aligns with existing delegations and processes already adopted within the statutory planning space.

### **Financial / Resources Implications**

In certain circumstances DAs are to be vetted by an external independent planning consultant through a 'Development Application Process Audit'.

The scope of the audit is ensure that the administrative requirement of the *Environmental Planning and Assessment Act 1979* have been met and the integrity of the Conflict of Interest Policy is maintained.

The financial implication will be borne by the applicant in a user-pays model. Upon lodgement of the application the 'Applicant' will be made aware that an audit is required and subsequently invoiced.

The process to engage and administer the audit process will be undertaken by Council before the application is determined.

The charges have been included in the Draft Fee Policy 2023/24 – Fees and Charges.

### **Legal and Policy implications**

This Policy is in response to the recommendations made by the NSW Ombudsman and the resulting changes to the *Environmental Planning and Assessment (EP&A) Regulation*.

As a result, this policy will form part of the Development Application process and will ensure Council meets the statutory obligations under the above Regulations.

### **Public / Social Impact**

Nil

### **Link to Community Strategic Plan**

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

Objective: 4.2 We have strong leadership

Strategy: 4.2.1 Our Council is transparent and trusted to make decisions that reflect the values of the community collectively

## **Consultations**

### **Internal**

Governance Manager  
Property Manager  
Manager - Finance

### **External**

Nil

## **Political Donations Disclosure**

Not Applicable

## **Options**

Nil

## **Conclusion**

Council received advice from the DPIE of the requirement for each Council to adopt a Conflict of Interest Policy for Development Applications.

The purpose of this report is to seek Council acknowledgement of the Council Related Development Application – Conflict of Interest Policy (Operational Policy) as provided within **Attachment 1**.

## **Recommendation**

**That Council acknowledge the Council Related Development Application – Conflict of Interest Policy (Operational Policy).**

Approved for Council's consideration: Jasmina Micevski  
Group Manager City Development

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**Date of Meeting:** 9 May 2023

## **Attachments**

1. Council Related Development Application – Conflict of Interest Policy (Operational Policy)



**Attachment 1. Council Related Development Application – Conflict of Interest Policy (Operational Policy)**



**Policy**

**Council Related Development Application - Conflict of Interest Policy**

Policy Owner: Group Manager – City Development	
Date Last Adopted: 4 April 2023	Review Date: 4 April 2026

**1. Policy Statement/Objective(s)**

Councils are development regulators. But they also can be the developer, landowner or hold a commercial interest in the land they regulate. Where Councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator.

Identifying these conflicts of interest early and finding ways to address them is crucial to good governance and allows councils to strengthen their relationship with communities and build and enhance trust.

The objective of the policy are to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development.

**2. Scope**

This policy applies to council-related development.

**3. References**

The following requirements have been introduced into the Environmental Planning and Assessment Regulation 2021 to address conflicts of interest in council related development:

- Councils must adopt and have a policy that specifies how conflicts of interest in connection with council-related development applications will be handled. The policy must comply with the requirements in these Guidelines (section 66A).
- Council-related development applications must now be accompanied by either a management strategy statement, which explains how the council will manage potential conflicts of interest, or a statement that the council has no management strategy for the application (section 36A).
- Councils must record conflicts of interest in connection with each council-related development application, and the measures taken to manage the conflicts, in their existing DA register (section 242A).
- Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process (Environmental Planning and

<b>COLLABORATION</b>	<b>ACCOUNTABILITY</b>	<b>INTEGRITY</b>	<b>RESPECT</b>	<b>SUSTAINABILITY</b>
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Policy Name: Council Related Development Application - Conflict of Interest Policy  
Date of Last Adoption: 4 April 2023  
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Document Set ID: 12047072  
Version: 1, Version Date: 14/04/2023



Assessment Act 1979, schedule 1, clause 9B).

**4. External/Internal Consultations**

To prepare this policy, consultations took place with the following:

**Internal**

- Governance Manager
- Manager Planning and Urban Release
- Manager Building

**External**

Nil

**5. Definitions**

application	application means an application for consent under Part 4 of the Act to carry out development and includes an application to modify a development consent it does not include an application for a complying development certificate.
council	Means Shellharbour City Council
council-related development	means development for which the council is the applicant / developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority
development process	means application, assessment, determination, and enforcement
the Act	means the Environmental Planning and Assessment Act 1979.
A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.	

**6. Variation and Review**

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

**Review History -**

Date Policy first adopted – version 1	4 April 2023
Date amendment adopted – version 2	

COLLABORATION	ACCOUNTABILITY	INTEGRITY	RESPECT	SUSTAINABILITY
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Policy Name: Council Related Development Application - Conflict of Interest Policy  
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**7. Policy**

**7.1. Management Controls and Strategies**

The following management controls may be applied to:

- a. the assessment and determination of an application for council-related development.
  - i. For development with a Capital Investment Value (CIV) of more than \$5 million:
    - Council development assessment staff not involved with preparing the application will assess the application. The staff will remain separated from the project team.
    - The application will be advertised for public comment for a minimum of 28 days.
    - The Regional Planning Panel will determine the application.
  - ii. For development with a CIV equal to or less than \$5 million and Council is the land owner and / or the development is lodged by or on behalf of council:
    - Council development assessment staff not involved with preparing the application will assess the application. The staff will remain separated from the project team.
    - The application will be advertised for public comment for a minimum of 28 days.
    - Prior to determination, the assessment of the application must be vetted by an external independent planning consultant through a development application process audit. The scope of the audit is ensure that the administrative requirement of the Environmental Planning and Assessment Act, 1979 have been met.
    - The application is determined in accordance with council's delegations.

*Note:* The management strategy for the following kinds of development is that no management controls need to be applied:

- Development for commercial fit outs and minor changes to the building façade
- Development for internal alterations or additions to buildings that are not a heritage item
- Development for advertising or signage
- Development for minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services)
- Development where the council might receive a small fee for the use of their land.
- Section 4.55 and Section 4.56 modification applications where the development is substantially the same development as that which is already approved,
- Development where the Council land in question is road reserve.
- Development which is less than or equal to \$5 million CIV, and:
  - The development is only proposing to utilise Council land for an ancillary right of carriageway, easement for services and / or easement for drain water, including associated works, or
  - The development that is consistent with an existing Concept Approval.

**COLLABORATION**

**ACCOUNTABILITY**

**INTEGRITY**

**RESPECT**

**SUSTAINABILITY**

Policy Name: Council Related Development Application - Conflict of Interest Policy

Date of Last Adoption: 4 April 2023

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- The development is for recreation purposes located entirely within a public reserve, is consistent with the relevant plan of management and no objections have been received.

**7.2 Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls**

(a) Development applications lodged with the council that are council-related development are to be reviewed by the Manager of Planning and Urban Release as early in the development process as possible.

Note: Council-related development is defined in section 4.

(b) The Manager of Planning and Urban Release is to:

- i. assess whether the application is one in which a potential conflict of interest exists,
- ii. determine what (if any) management controls should be implemented to address the identified conflict of interest

*Note:* It may be determined that no management controls are necessary in the circumstances.

- iii. document the proposed management approach for the proposal in a statement that is published with the exhibition material for the application.

**8. Related Forms/Documents**

- Code of Conduct.
- Administer a development application process audit.

**Note:** Related forms can be located Online under “Forms”

**9. Financial / Resources Implications**

Where a process audit is required by Section 7(1)(a)(ii), Council will engage with an external independent planning consultant by following the procedure of Administer a development application process.

Once the audit has been finalised the Applicant of the Development Application for a Council related development will be invoiced the full amount required for the service.

**10. Attachments**

Attachment 1: Council-related Development Application Conflict of Interest Guidelines  
Attachment 2: Conflict of Interest Management Strategy Statement Template

**Policy Authorised by:**

Name: Executive Leadership Team

Date: 4 April 2023

COLLABORATION	ACCOUNTABILITY	INTEGRITY	RESPECT	SUSTAINABILITY
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Policy Name: Council Related Development Application - Conflict of Interest Policy  
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**10.3.2 Proposed Planning Agreement for the provision of a District Park, Local Park and Monetary Contributions associated with the subdivision of proposed Lot 100 and Lot 101 (in the subdivision of Lot 1 in DP 608238) Calderwood Road, Calderwood – DA0290/2018 (12047105)**

To the Chief Executive Officer

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

**Manager:** Geoff Hoynes – Group Manager City Planning  
**Author:** Cheryl Lappin – Senior Strategic Planner

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**Summary**

The purpose of this report is to seek the Council's endorsement of a Draft Planning Agreement (**Attachment 1**) to be entered into between Council and Sekisui House Services Pty Ltd (Sekisui) in association with the subdivision of land (Development Application DA0290/2018) and for the Draft Planning Agreement to be placed on public exhibition. In addition, it is recommended that if there are no objections to the Draft Planning Agreement received as a result of the public process that the Chief Executive Officer or his nominated delegate and Mayor be granted delegation to enter into the agreement on Council's behalf.

The Draft Planning Agreement (attached to the Letter of Offer) requires Sekisui to dedicate, embellish and temporarily maintain a District Park and Local Park as well as pay the relevant (per dwelling) monetary contributions for dwellings constructed on the land subject of the Development Application DA0290/2018 (DA0290/2018). These contributions are currently replicated in an existing Planning Agreement, between Lendlease and Council, which currently applies to the entire Calderwood Urban Development Area including land that is not owned or under the control of Lendlease.

The Letter of Offer and Draft Planning Agreement are considered acceptable and will result in a positive outcome for the developer, residents of Calderwood, Council and the wider community.

**Background**

A Planning Agreement is an arrangement between a developer and Council under which the developer is required to dedicate land free of cost, pay a monetary contribution or provide any other material public benefit, or a combination of these, to be used for or applied towards the provision of public infrastructure or another public purpose.

Development Application DA0290/2018 was approved by the Land and Environment Court on 28 June 2021 and proposes a residential subdivision consisting of 455 residential lots, residual parcels for roads, open space and drainage corridors, locations and concept for one district park and one local park. Demolition of the

existing residence, tree removal, site remediation, bulk earth and civil works, riparian corridor rehabilitation/vegetation management and residue lot at proposed Lot 100 and Lot 101 (in the subdivision of Lot 1 in DP 608238 that is the subject of the development consent granted to DA0289/2018). Refer to **Attachment 2** for the approved subdivision layout.

Sekisui has provided a Letter of Offer to enter into a Planning Agreement in accordance with condition B30 of the Land and Environment Court Approval of DA0290/2018, which reads:

*B30 – Planning Agreement*

*Prior to issue of Subdivision Works Certificate, the Proponent must enter into a Planning Agreement with Shellharbour City Council (Council) under the Environmental Planning and Assessment Act 1979. The Planning Agreement must be consistent with the terms of the offer made by the Applicant in connection with the development application as set out in the letter from the Applicant to Council dated 13 May 2021, a copy of which is annexed and marked 'A'.*

In this instance, Sekisui proposes to enter into a separate Planning Agreement with Council, which is applicable to the subject land and adopts the monetary contributions equivalent to the amount per dwelling specified in the existing Calderwood Planning Agreement between Lendlease and Council. These monetary contributions relate to local infrastructure needs generated by the development, which are located outside of the Calderwood Urban Development Project Area and which are to be provided by Council.

In addition, the Draft Planning Agreement proposes the dedication, embellishment and maintenance of both a Local Park and District Park. Both of these areas of open space are located on the proponents land and are required under the Calderwood Concept Approval.

The development is located in the Calderwood Urban Development Area, which was given Major Project Concept Approval for 4800 dwellings in 2010, and more recently, a modification to that approval was granted approving up to 6000 dwellings in the same area. Following the initial Concept Approval and State Government Approval for Stage One of the project in 2015 Council entered into a Planning Agreement with Lendlease. At that time, it was anticipated that Lendlease would be the sole developer of the project and the Planning Agreement contains provisions for Lendlease to provide local infrastructure within the approval area such as passive and active open space (land and embellishments) as well as a community centre. It also specifies monetary payments to be paid on a per dwelling basis to Council to go towards other identified local infrastructure items located outside of the approval area that were specified in the Developer Contributions Plan (Section 7.11 Plan) at the time.

There are a number of properties that are not owned or under the control of Lendlease and are not proposed to be developed by Lendlease. These properties are generally referred to as Non-Core Lands. Refer to **Attachment 3** for the location of the subject land as well as other Non-Core Lands.

The proposed development the subject of this report is located on one of those Non-Core Lands and was the subject of proceedings in the Land and Environment Court in 2021. During those proceedings, a Draft Letter of Offer and Draft Planning Agreement were tabled by the then proponent.

The Court Determination requires that prior to the issue of Subdivision Works Certificate, the Proponent must enter into a Planning Agreement with Shellharbour City Council and the Planning Agreement must be consistent with the terms of the offer made by the Applicant in connection with the development application as set out in the letter from the Applicant to Council dated 13 May 2021.

The Draft Planning Agreement proposed by Sekisui which requires them dedicate, embellish and temporarily maintain a District Park and a Local Park as well as pay the relevant monetary contributions (specified within the existing Lendlease Planning Agreement with Council) as illustrated in **Table 1** below, is considered to be consistent with the terms of the offer made by the previous proponent during the Court Proceedings.

**Table 1: Monetary Contributions proposed to be payable in accordance with the Draft Planning Agreement.**

<b>Tier</b>	<b>Number of Calderwood Urban Development Project (CUDP) Dwellings</b>	<b>Contribution per Dwelling</b>
One	Where the relevant Dwelling is within the first 1,000 CUDP Dwellings (0-1,000 CUDP Dwellings)	\$3,925.16
Two	Where the relevant Dwelling is within the 1,001 <sup>st</sup> CUDP Dwelling and the 2,000 <sup>th</sup> CUDP Dwelling (1,001 – 2,000 CUDP Dwellings)	\$4,399.50
Three	Where the relevant Dwelling is within the 2,001 <sup>st</sup> CUDP Dwelling and the 3,000 <sup>th</sup> CUDP Dwelling (2,001 – 3,000 CUDP Dwellings)	\$4,873.84
Four	Where the relevant Dwelling is within the 3,001 <sup>st</sup> CUDP Dwelling and the 4,000 <sup>th</sup> CUDP Dwelling (3,001 – 4,000 CUDP Dwellings)	\$5,348.18
Five	Where the relevant Dwelling is the 4,001 <sup>st</sup> CUDP Dwelling or greater	\$5,703.93

Note 1: These amounts are required to be indexed from the CPI published for the June 2014 quarter.

Note 2: The Calderwood Urban Development Project has almost exhausted the first two tiers.

It is anticipated that Lendlease will subsequently amend their existing Planning Agreement to remove the subject land (and any dwellings constructed on that land) from their monetary contribution obligations, as well as the relevant provisions requiring the provision and maintenance of the proposed District and Local Park within their Planning Agreement.

It should be noted that during the Court Proceedings the applicant involved was also negotiating a private side deed with Lendlease to facilitate compensation to Lendlease for the provision of other items specified in the existing Planning Agreement such as Sportsfields and a Community Centre, which are located within the Calderwood Urban Development Area and will continue to be provided by Lendlease in accordance with their Planning Agreement. None of these other items are proposed to be located on the subject land and have no impact on the Draft Planning Agreement.

This approach and the subsequent Letter of Offer and Draft Planning Agreement are considered acceptable and will result in a positive outcome for the developer, residents of Calderwood, Council and the wider community.

### **Financial / Resources Implications**

As outlined above the Draft Planning Agreement replicates the monetary contributions that Council would have received from Lendlease. Depending on when the development occurs this approximately equates to a total indexed amount of \$2,217,597 (assuming tier 3) with payments also likely for any additional dwellings on the proposed lots such as secondary dwellings. These monetary contributions relate to local infrastructure needs generated by the development, which are located outside of the Calderwood Urban Development Project Area and which are to be provided by Council. The items correlate with those specified in the Lendlease Planning Agreement and are consistent with the Developer Contributions Plan that was in place at the time of its execution (2014). A breakdown of the amount allocated to each item can be found in Table 1 below.

**Table 1: Breakdown of the allocation of contribution payments to specific Development Contribution Items.**

<b>Development Contribution Item</b>	<b>Allocation</b>	<b>Amount per dwelling</b>	<b>Total amount</b>
City Wide Open Space	11.08%	\$540.02	\$245,709.10
City Wide Community Facilities	38.18%	\$1860.83	\$846,677.65
Albion Park Library Extensions	11.33%	\$552.21	\$251,255.55
Albion Park Bypass	36.95%	\$1800.88	\$819,400.40
PA Administration	2.46%	\$119.91	\$54,554.50
<b>TOTAL</b>	<b>100%</b>	<b>\$4873.85</b>	<b>\$2,217,597.20</b>

The notional value of the required dedicated land, embellishments and temporary maintenance of the proposed parks is \$8,697,976. These passive open space areas (District and Local Park) are required to service the growing population that will occur as a result of the proposed development. The size, location and level of embellishments of each park have been determined during both the Calderwood Concept Approvals as well as the Development Approval for the subdivision of the subject land.

Therefore, the proposed Planning Agreement will continue to maintain Council's financial position in relation to monetary contributions and open space provision for the Calderwood Urban Development Area.

### **Legal and Policy implications**

The proposed Planning Agreement must be prepared in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Regulations.

### **Public / Social Impact**

The existing Calderwood Planning Agreement between Lendlease and Council specifies particular monetary contributions that Lendlease must pay Council to contribute towards relevant local infrastructure as well as nominated areas and embellishments of Open Space and Community Facilities. The proposed Planning Agreement enables those monetary contributions to be paid by the Developer of the subject land, which is Sekisui. Sekisui will also dedicate, embellish and temporarily maintain both the Local Park and District Park that are required to be located on their land. This will ensure that Council is able to provide quality local infrastructure for the community.

### **Link to Community Strategic Plan**

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

Objective: 1.2 We are a liveable community

Strategy: 1.2.2 Promote healthy living and high-quality public spaces that are well maintained and activated

Objective: 2.2 We are a beautiful and connected City

Strategy: 2.2.1 Our planning reflects the unique character of our city and natural environment and is responsive to the evolving needs of our community.

### **Consultations**

#### **Internal**

Development Contribution Contractor

#### **External**

Marsdens Law Group



## **Political Donations Disclosure**

Not Applicable

## **Options**

### Option 1

Council endorse the Draft Planning Agreement between Council and Sekisui House for exhibition and if no valid opposing submissions are received during the public exhibition period, the Planning Agreement be entered into in accordance with the recommendation.

### Option 2

Council not support the proposed Draft Planning Agreement between Council and Sekisui House and resolve as follows:

*That Council receive and note the report 'Proposed Planning Agreement for the provision of a District Park, Local Park and Monetary Contributions associated with the subdivision of proposed Lot 100 and Lot 101 (in the subdivision of Lot 1 in DP 608238) Calderwood Road, Calderwood – DA0290/2018'.*

## **Conclusion**

The Draft Planning Agreement is considered acceptable for exhibition. If no objections are received and the agreement is entered into, this will result in a positive outcome for the developer, residents of Calderwood, Council and the wider community.

## **Recommendation**

**That:**

- 1. Council endorse for the purpose of exhibition, the draft Planning Agreement between Council and Sekisui House Services Pty Ltd. The Planning Agreement is for the provision of Developer Contributions and Community Infrastructure, as required under Condition B30 of Development Consent DA0290/2018.**
- 2. Council place the draft Planning Agreement for proposed Lot 100 and Lot 101 (in the subdivision of Lot 1 in DP 608238) Calderwood Road, Calderwood on public exhibition for a period of at least 28 days in accordance with Section 7.5(1) of the *Environmental Planning and Assessment Act 1979*.**

- 3. Should no valid opposing submissions to the Draft Planning Agreement be received as a result of the public notification process, the Chief Executive Officer or their nominated delegate and Mayor be granted delegation to enter into the agreement on Council's behalf.**
- 4. Should any valid opposing submissions to the Draft Planning Agreement be received as a result of the public notification process, the matter be reported back to Council for further consideration.**

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

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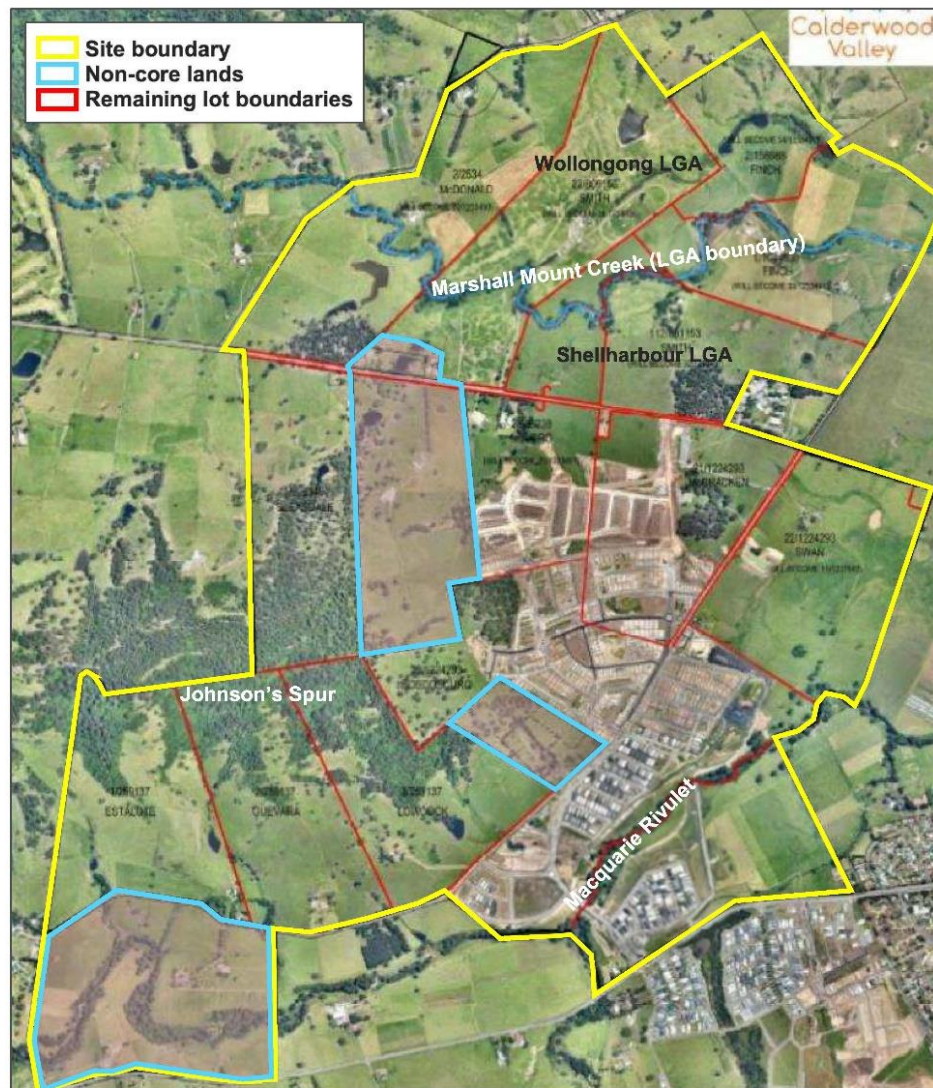
**Date of Meeting:** 9 May 2023

**Attachments**

1. Letter of Offer to enter into a Planning Agreement (including the Draft Planning Agreement) – Under Separate Cover
2. Location Map also showing Non-Core Lands
3. Map - Approved Subdivision DA0290/2018

**Attachment 2. Location Map also showing Non-Core Lands**

Lendlease is the developer for 609 ha of the overall 700 ha site, and there are three parts of the site being developed by other owners, known as the 'non-core' lands (**Figure 2**). Lendlease has commenced development of the site and a number of stages are now occupied or under construction.



**Figure 2 | Aerial view of the site (Base source: EIA)**

**CALDERWOOD STAGE 7**

**NOTE**  
Conversion of Special Riparian Environmental Corridor Subdivision Area to enable connectivity of riparian forest.

**DISTRICT PARK EMBELLISHMENTS**  
As per the approved Calderwood Valley Landscape Master Plan, the following items will be included for the district park:  
• Planting for riparian ecology - 10 trees designed to retain existing trees;  
• Planting for riparian ecology - 10 trees designed to retain existing trees;  
• Interpretive signage regarding vegetation  
• Informational signage regarding trees  
• Planting of native grasses in open areas at northern end of site  
• Open greened area suitable for informal games and recreation  
• Mature playground with provision for shade  
• Planting as required

**POTENTIAL ACCESS POINT**

**JOHNSTON'S SPUR**

**CALDERWOOD ROAD**

**CONNECTION TO CALDERWOOD FUTURE STAGE**

**CALDERWOOD STAGE 3**

**LOCAL PARK EMBELLISHMENTS**  
As per the approved Calderwood Valley Landscape Master Plan, the following items will be included for the local park:  
• Native seedling trees based on ATLAS report  
• Planting of native grasses  
• Open greened area designed to include clear areas suitable for informal games and recreation  
• Native grasses planted in low-lying areas  
• Planting of native grasses that form natural area to allow pedestrian access  
• Interpretive signage regarding riparian forest and wetlands  
• Planting as required

**CONNECTION TO CALDERWOOD STAGE 2**

**EXISTING E3 VEGETATION**

**CONNECTION TO CALDERWOOD STAGE 2**

**LEGEND**

- SHARED PATHWAY (200mm)
- PRIMARY TRAIL IN OPEN SPACE CORRIDORS (200mm)
- FUTURE DISTRICT PARK
- SPECIAL RIPARIAN ENVIRONMENTAL CORRIDOR SUBDIVISION AREA
- FUTURE LOCAL PARK
- DRAINAGE RESERVE
- E3 - IS FUTURE CONSOLIDATION
- MAJOR COLLECTOR ROAD
- MINOR COLLECTOR ROAD
- LOCAL STREET

**ZONING AREA BREAKUP**

DISTRICT PARK (E3)	
- DISTRICT PARK	10,000 m²
- DRAINAGE RESERVE	8,770 m²
- SPECIAL RIPARIAN ENVIRONMENTAL CORRIDOR SUBDIVISION AREA	7,608 m²

**LOCAL PARKS (I)**

- LOCAL PARK	2,275 m²
- DRAINAGE RESERVE	4,708 m²
- SPECIAL RIPARIAN ENVIRONMENTAL CORRIDOR SUBDIVISION AREA	17,873 m²

**E3 LAND**

- E3 LAND EXTENSION	1,880 m²
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**MAJOR COLLECTOR ROAD**

- PEDESTRIAN PATH (2.5M)	841 km
- PEDESTRIAN PATH (1.5M)	878 km

**MINOR COLLECTOR ROAD**

- PEDESTRIAN PATH (2.5M)	441 km
- PEDESTRIAN PATH (1.5M)	398 km

**CALDERWOOD ROAD**

- PEDESTRIAN PATH (1.5M)	388 km
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## **10.4 Amenity and Assets Directorate**

### **10.4.1 Contract 2021/31 – Shellharbour City Council Design Panel – Civil (12048119)**

To the Chief Executive Officer

**Directorate:** Amenity and Assets  
**Group:** Asset Strategy

**Manager:** Daniel Brilsky – Acting Group Manager Asset Strategy  
**Author:** Shomenath Saha - Design Services Officer

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#### **Summary**

The purpose of this report is to request that Council authorises the Chief Executive Officer to take up the option and extend Contract 2021/31 – Shellharbour City Council Design Panel – Civil (Panel) for one year.

#### **Background**

At the ordinary Council Meeting of 31 August 2021 Council received report 10.4.1 Tender 2021/31 Shellharbour City Council Design Panel – Civil.

It was resolved (Resolution 144) that Council:

1. *In accordance with Clause 178 of the Local Government (General) Regulations 2005 (NSW), accept the tenders from the organisations listed in Table 3 of this report and endorse the establishment of the Shellharbour City Council Design Panel – Civil; and*
2. *Authorise the Chief Executive Officer, or his nominated delegate, to approve procurements for the Shellharbour City Design Panel – Civil, execute contracts, authorise variations and associated documents on behalf of Council.*

The report also stated that the Panel was to be established for a period of two years with the option to extend by one year at the discretion of Council. Unless extended, the current two year period is due to expire on 31 August 2023.

The members that are included on the Panel are detailed in **Table 1**.

**Table 1: Shellharbour City Council Design Panel – Civil**

<b>Applicant</b>
Barker Ryan Stewart Pty Ltd
Complete Urban Pty Ltd
Elevate Consulting Engineers Pty Ltd
Footprint NSW Pty Ltd
GHD Pty Ltd
Hugh Bahnert (South Consulting Engineers) Sole Trader
H & H Consulting Engineers Pty Ltd
Indesco Pty Ltd
JHK and Associates Pty Ltd
JJ Ryan Consulting Pty Ltd
Jones Nicholson Pty Ltd
LandTeam Australia Pty Ltd
Leckering Pty Ltd T/A MIEngineers
Maker ENG Pty Ltd
Optimal Stormwater Pty Ltd
SLR Consulting Australia Pty Ltd
The Trustee for Talis Unit Trust (Talis Consultants)
TTW NSW Pty Ltd
Westlake Punnett & Associates Pty Ltd

The panel has provided access to specialist design consultants that have met expectations on delivery and the panel has fast tracked the procurement process. For 2021-22 financial year, 22 technical projects were awarded to several design panel consultants amounting to \$627K in engagement costs. This financial year, Council has utilised the design panel for 5 complex design projects with a total cost of approximately \$232K. The Panel has continually assisted Council in providing expert services for unique capital works projects. Council continues to support in-house design services working closely with the Services team on the delivery of footpaths, roundabouts, drainage and minor works.

Continuing with the Panel will allow Council to effectively and efficiently generate the required detailed designs for future Capital Works Programs.

### **Financial / Resources Implications**

By extending the Deed of Agreement with the existing design panel members, Council is not committing to any expenditure, but rather enables Council to continue to obtain design proposals from reliable consultants at pre-established and competitive rates. The extension of the Panel is without change to the Panel members or the terms of their engagement.

All procurements through the Panel will be carried out in accordance with Council's Procurement Policy and Guidelines.

### **Legal and Policy implications**

The Tender process was undertaken in accordance with the *Local Government Act, Government (General) Regulation 2021 (NSW), Part 7* Tendering and Council's Procurement Policy.

The design panel members have executed a Deed of Agreement with the Council, which sets forth the Panel requirements and the obligations of both parties when procurement is made from the Panel. All procurements made from the Panel will be based on the standard form of contract for consultancy services for construction over \$30,000, as established by the NSW Government.

This contract template is intended for government agencies to manage design contracts valued over \$30,000. The NSW Government website provides access to the consultancy services for construction over \$30,000 standard form of contract template.

The proposed contract conditions do not contain any confidential provisions that would prohibit the release of information relating to the Council's contract. If approved, the existing Deed of Agreement between the Council and current panel members will continue until the end of the 2023-24 financial year.

### **Public / Social Impact**

The establishment of a Panel has ensured that civil infrastructure designs are carried out by proficient and knowledgeable consultants. The continued utilisation of the Panel will aid in meeting the programmed delivery timeframes for the Capital works program.

### **Link to Community Strategic Plan**

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

Objective: 1.2 We are a livable community

Strategy: 1.2.1 Inclusive, accessible and safe spaces for our entire community

Strategy: 1.2.3 Construct and upgrade buildings and infrastructure that meet current and future community needs

### **Consultations**

#### **Internal**

Manager Procurement and Supply

#### **External**

Nil

## **Options**

### Option 1

As recommended Council can accept the proposal and extend contract 2021/31 Shellharbour City Council Design Panel – Civil for one year until 31 August 2024.

### Option 2

Alternatively, Council can conclude the current contract and commence a new tendering process with the objective of establishing a new design panel.

## **Conclusion**

The current design panel members have demonstrated value over the past two financial years, effectively delivering complex designs in a timely manner. The proposed extension of contract 2021/31 - Shellharbour City Council Design Panel will allow Council to continue carrying out Capital program design projects in a cost-effective and timely manner.

## **Recommendation**

### **That Council:**

- 1. In accordance with Clause 178 of the *Local Government (General) Regulation 2021 (NSW)*, approve the extension of the Contract 2021/31 - Shellharbour City Council Design Panel – Civil for a period of one year.**
- 2. Authorise the Chief Executive Officer, or their nominated delegate, to approve procurements for the Shellharbour City Design Panel – Civil, execute contracts, authorise variations and associated documents on behalf of Council.**

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

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**Date of Meeting:** 9 May 2023

## **Attachments**

Nil



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#### **10.4.2 Tripoli Way Extension – Update and consideration of project timeline (12048171)**

To the Chief Executive Officer

**Directorate:**    **Amenity and Assets**  
**Group:**        **Asset Strategy**

**Manager:**       Daniel Brilsky – Acting Group Manager Asset Strategy  
**Author:**        Arvin De Mesa – Acting Manager Projects

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#### **Summary**

The purpose of this report is to respond to the 28 February 2023 Notice of Motion:

*‘That Council Officers prepare a report on the Tripoli Way Bypass with consideration of how the project timeline can be brought forward.’*

This report also aims to inform Council of the progress to date on the Tripoli Way Extension project.

#### **Background**

The Tripoli Way Extension project is a road construction project spanning 2km, featuring four travelling lanes from Terry Street to Calderwood Road and two lanes from Calderwood Road to Broughton Avenue. The project aims to provide a continuous travel route between Terry Street, Albion Park in the east and Broughton Avenue, Tullimbar in the west, reducing traffic congestion in Albion Park Town Centre and enhancing the transport network.

At its meeting of 27 October 2015, Council resolved to accelerate the Tripoli Way Extension project by supporting the commencement of define phase, in an effort to ensure that the Roads and Maritime Services (RMS) (now known as Transport for NSW) incorporate on and off ramps as part of the Albion Park Rail Bypass project. These additional ramps would provide direct connection from the M1 to the Illawarra Highway at Albion Park and the proposed Tripoli Way extension.

In 2017 the RMS chose to refine several aspects of the Albion Park Rail Bypass project which included reconfiguring the interchange at Albion Park, with the reasoning to reduce the project's footprint and refining intersection arrangements following detailed traffic modelling, thus decoupling the major M1 project from the proposed Tripoli Way extension.

Since 2017, the concept design phase has been completed and environmental investigations are nearing finalisation. The next phase involves the development of the detailed design, with the project previously planned to be completed in the 2027/28 financial year as identified within the adopted Local Infrastructure Contribution Plan 2019 (9th review) and therefore aligning with the development of the Calderwood

Urban Development Plan and anticipated growth in the area. Based on this original timeframe it was anticipated that the project would be constructed over two financial years requiring construction from 2025 to 2027.

Council recently secured a State Government grant of \$16.6M on 13 February 2023 from the Accelerated Infrastructure Fund Round 3 (AIFR3), which requires the project to commence construction before 1 July 2025 and be completed by 30 June 2026. Consequently, there is now an approach to expedite the remaining planning and delivery phase of the project, with the aim of bringing forward the construction completion date by approximately 2 years.

Council received the grant funding agreement “Accelerated Infrastructure Fund: Funding Deed – Round 3” on 13 February 2023 and the agreement was executed by the CEO and has been provided to the Department of Planning and Environment.

The current timelines for the project are now being reviewed as the environmental approvals are underway and detailed design is about to commence. The forecast delivery and key milestones are outlined in **Table 1** below.

**Table 1: Major Project milestones (Albion Park bypass)**

<b>Milestones</b>	<b>Dates</b>
Development of Concept Design	Completed - 2022
Design Optimisation and Environmental Approvals (commenced)	June 2022 – ongoing
Acquisition (commenced)	May 2022 – Mar 2024
Early works (service relocations)	April 2024 – 2025
Major construction of road	2025 - 2026
Completion date as per AIFR3 funding deed	30 June 2026

Since Council first resolved to accelerate the project in 2015 the project has continued to move through the concept design and approval phase, a strategy will now be implemented to ensure the delivery phase is also accelerated.

To expedite the project and achieve the revised project milestones several strategies are proposed. It is noteworthy that the first three strategies have been made possible through funding provided earlier. The full list of strategies being proposed include:

Resourcing of the project team: Engaging project professionals who specialise in the delivery of large civil infrastructure projects would enable Council to improve project development, control and supervision.

Land dealings concluded: Continue to negotiate land dealings to ensure timelines are met for the required for construction access.

Fast-tracking the detailed design phase: This strategy involves allocating resources for rapid decision making on the design components, this will accelerate the development of the detailed design, which is the next stage of the project.

Delivery of an early works package: Identifying works that can be carried out earlier or in conjunction with other project milestones. Some of these early works can include the installation and relocation of utility infrastructure (underground and overhead) and bulk earthworks on nominated sections. By completing these works earlier it can reduce the overall construction duration.

Early expression of Interest (EOI) process for Principal Contractors: This is the first step in a selective tendering process. Under this arrangement a contractor can submit a statement of their interest in providing goods and services. The EOI process will help identify qualified and experienced contractors who have the resources and capabilities to deliver the project within the required timeframe and budget.

Optimising the construction schedule: This strategy involves careful planning to minimise construction time. By using construction management software and techniques, the project team can identify critical paths and eliminate inefficiencies to speed up construction.

Accelerating the procurement process: This strategy involves identifying long lead-time items early on and ordering them as soon as possible. By frequently liaising with suppliers, understanding delivery schedules, and proactively addressing potential delays, the project team can ensure that procurement processes are fast tracked.

By implementing these strategies, the project team for the Tripoli Way Extension Project can expedite the construction phase, enhancing the likelihood of achieving the target completion date and staying within the allocated budget. Moreover, during the project's progression, additional methodologies and processes will be considered and formulated to further expedite project delivery, ensuring the desired completion date and budgetary requirements are met.

Notwithstanding the intent to expedite the project, the ability to deliver requires third party approvals from state government agencies. Obtaining timely government agency processing for key components of the project, such as heritage and environmental approvals, intersection designs approvals and utility relocations, will play a significant part in achieving project milestones.

It is recommended to write to state government agencies, highlighting the various statutory requirements and timeframes of the project, in an effort to seek agreement on processing timeframes that will support successful project delivery.

### **Financial / Resources Implications**

Council has recently invoiced the Department of Planning and Environment for the first milestone payment of \$10M under the AIF R3 Grant.

By finding ways to expedite the process, Council can potentially reduce the cost of construction as well as comply with the requirements of the AIFR3. Vital financial information can also be derived from the processes mentioned above, which can support Council in managing the financial status throughout the life of the project.

Funding for the Tripoli Way Extension is included within Council's Log Term Financial Plan (LTFP) and the LTFP will be updated to reflect any changes in the project timelines and cost.

### **Legal and Policy implications**

The EOI and tender process for the detailed design and construction will be undertaken in accordance with the Local Government Act, Government (General) Regulation 2021 (NSW), Part 7 Tendering and Council's Procurement Policy.

### **Public / Social Impact**

Implementation of processes and methodologies that would assist in ensuring an early project delivery would be beneficial to the communities of Tullimbar, Calderwood, and Albion Park residents and businesses, by providing access to improved road access sooner.

### **Link to Community Strategic Plan**

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

Objective: 1.2 We are a Liveable Community

Strategy: 1.2.1 Inclusive, accessible and safe spaces for our entire community

Strategy: 1.2.3 Construct and upgrade building and infrastructure that meet current and future community needs

### **Consultations**

#### **Internal**

Manager Procurement and Supply

#### **External**

Nil

### **Political Donations Disclosure**

Not Applicable

## **Options**

Nil

## **Conclusion**

The Tripoli Way Extension project aims to provide a continuous travel route between Terry Street, Albion Park in the east and Broughton Avenue, Tullimbar in the west.

Recently, Council secured a State Government grant of \$16.6M from the Accelerated Infrastructure Fund Round 3 (AIFR3), which requires the project to commence construction before 1 July 2025 and be completed by 30 June 2026. This timeline requires an acceleration of the project construction date by approximately two years.

To expedite the project, a number of strategies have been proposed, including engaging project professionals, fast-tracking the detailed design phase, and concluding land dealings. The timely processing of environmental approvals, intersection designs on the state highway and utility relocations by relevant agencies is essential for the successful and timely delivery of the project.

Council staff will write to state government agencies seeking agreement on processing timeframes that will support the Tripoli Way Extension project.

Overall, the Tripoli Way Extension project is an essential initiative that will significantly improve the transportation network in the Illawarra region. The project team is committed to delivering the project within the accelerated timeline while ensuring that all project components are completed to the highest quality and safety standards.

## **Recommendation**

### **That Council:**

- 1. Receive and note the Tripoli Way Extension – Update and consideration of project timeline report.**
- 2. Write to State Government agencies advising of the importance of the processing timeframes.**

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

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**Date of Meeting:** 9 May 2023

## **Attachments**

Nil

## **11. Committee Recommendations**

### **11.1 Recommendations from the Aboriginal Advisory Committee Meeting held 7 March and 28 March 2023 recommended for adoption.**

That the Recommendations from the Aboriginal Advisory Committee Meeting held 7 March and 28 March 2023 be adopted.

### **11.2 Recommendations from the Traffic Committee Meeting held 5 April 2023 recommended for adoption.**

That the following Recommendations from the Traffic Committee Meeting held 5 April 2023 be adopted.

## **8. Traffic Reports**

### **8.1. Electric Vehicle Destination Charging Grant**

#### **Committee Recommendation**

That Council approve the proposed conversion of two unrestricted off-street parking spaces to two time restricted 'Electric Vehicle Only While Charging' spaces and installation of associated signage and linemarking within the Shellharbour City Council Civic Centre public carpark (as shown in Attachment 2)

CARRIED with UNANIMOUS SUPPORT

### **8.2. Princes Highway Service Road, Albion Park Rail - Park in Bays signposting**

#### **Committee Recommendation**

That Council approve the installation of 1 x R5-65 'PARK IN BAYS ONLY' signage within the Princes Highway Service Road, Albion Park Rail (as shown in Attachment 2).

CARRIED with UNANIMOUS SUPPORT

### **8.3. Connection Road and Stockman Road, Calderwood - Installation of 'No Stopping' Zone**

#### **Committee Recommendation**

That Council approve the proposed installation of two 'No Stopping' zones and associated yellow No Stopping (C3) linemarking at the T-junction of Connection Road and Stockman Road, Calderwood (as shown in Attachment 2).

CARRIED with UNANIMOUS SUPPORT

### **8.4. Marshall Mount Road, Calderwood - Temporary Full Road Closure - Ken Dinnerville Memorial and Barbara Wyles Handicap Event**

#### **Committee Recommendation**

That Council approve the temporary full road closure of Marshall Mount Road between Calderwood Road, Calderwood and the Shellharbour City Council / Wollongong City Council border from 7:00AM-12:30PM 4 June 2023 as shown in the attached Traffic Guidance Scheme (Attachment 2), subject to the following conditions:

1. The applicant must inform all residents/businesses within or with access/frontage to any property who may be impacted by the temporary partial/full road closures, at least seven days and then one day before the closure via a letterbox drop.
2. The applicant must cater for the access requirements of any resident/business/organisations that will be impacted by the temporary full road closure, with accredited Traffic Controllers at all times while the closure is operational.
3. The applicant must supply and erect any barriers and traffic signs necessary for the road closure as stipulated by the approved Traffic Guidance Scheme (TGS) and remove them at the completion of the works.
4. Council must be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public way during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the event and Council must be listed as an interested party on the insurance.
5. Council must be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
6. The applicant must inform all Emergency Services of the proposed road closures (that is NSW Police, Fire Brigade, Ambulance, State Emergency Services, and Transport for NSW).
7. Shellharbour City Council reserves the right to cancel this approval at any time.

CARRIED with UNANIMOUS SUPPORT

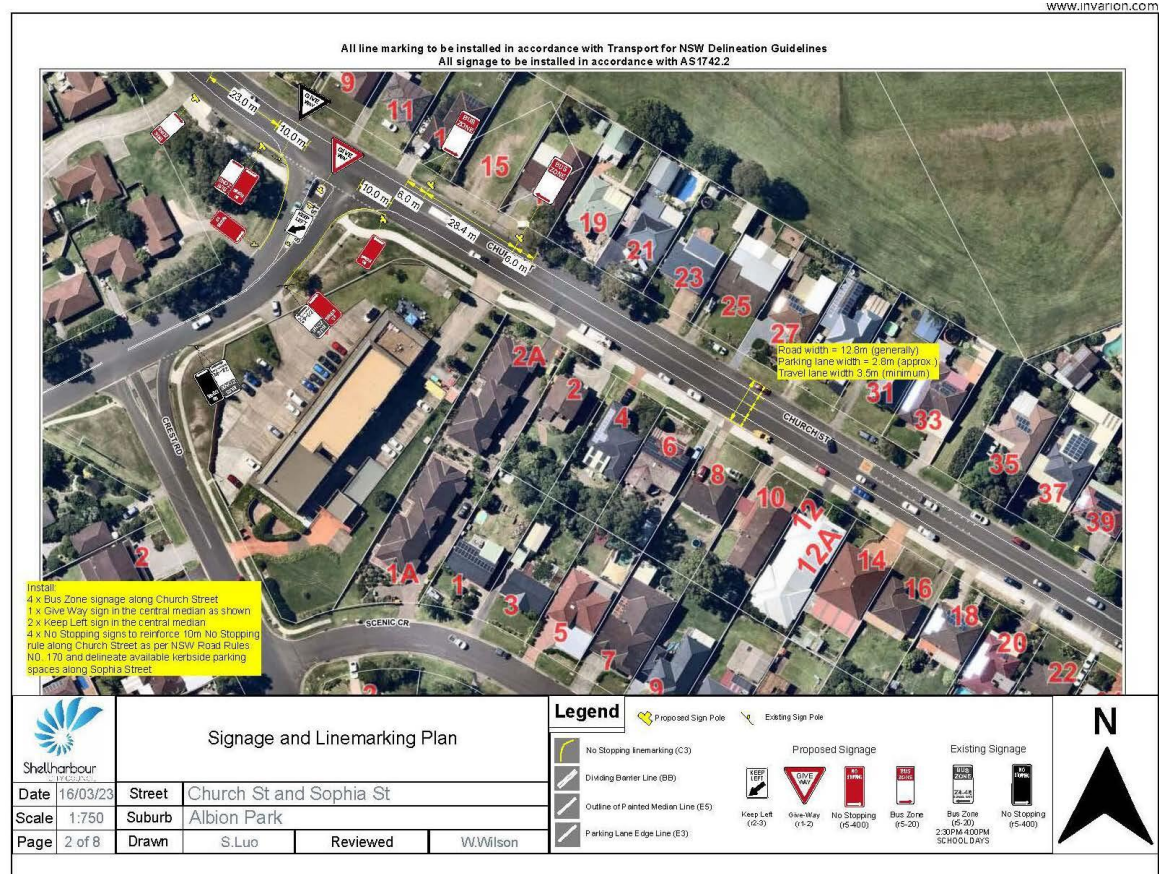
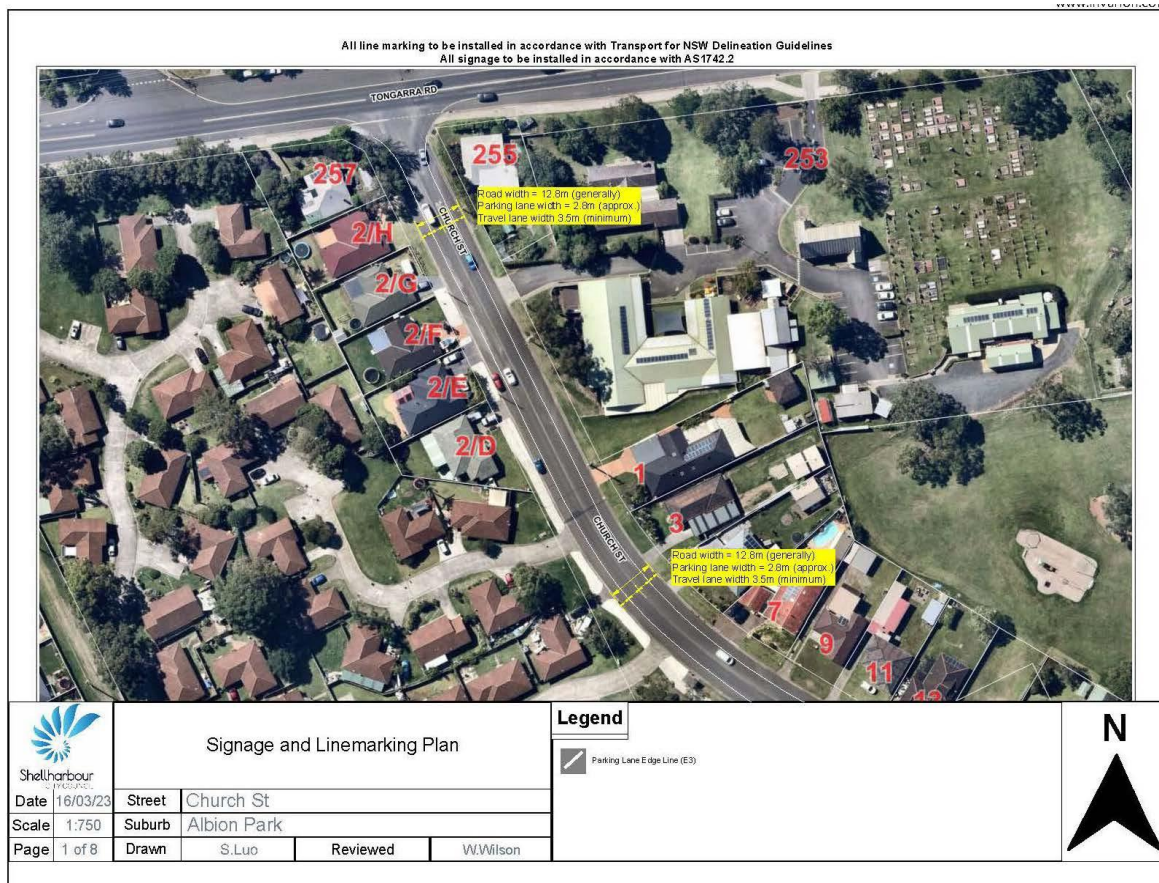


**8.5. Church Street and Sophia Street, Albion Park - Signage and Linemarking**

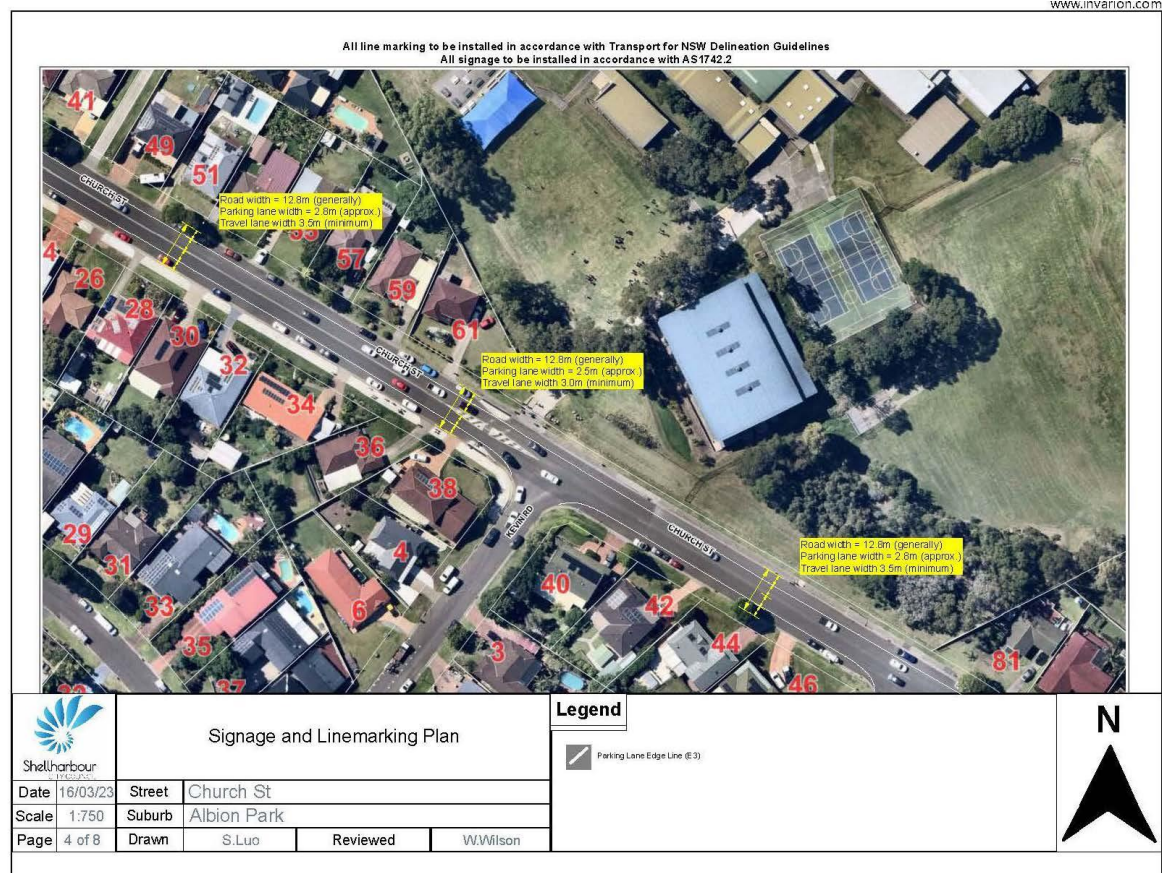
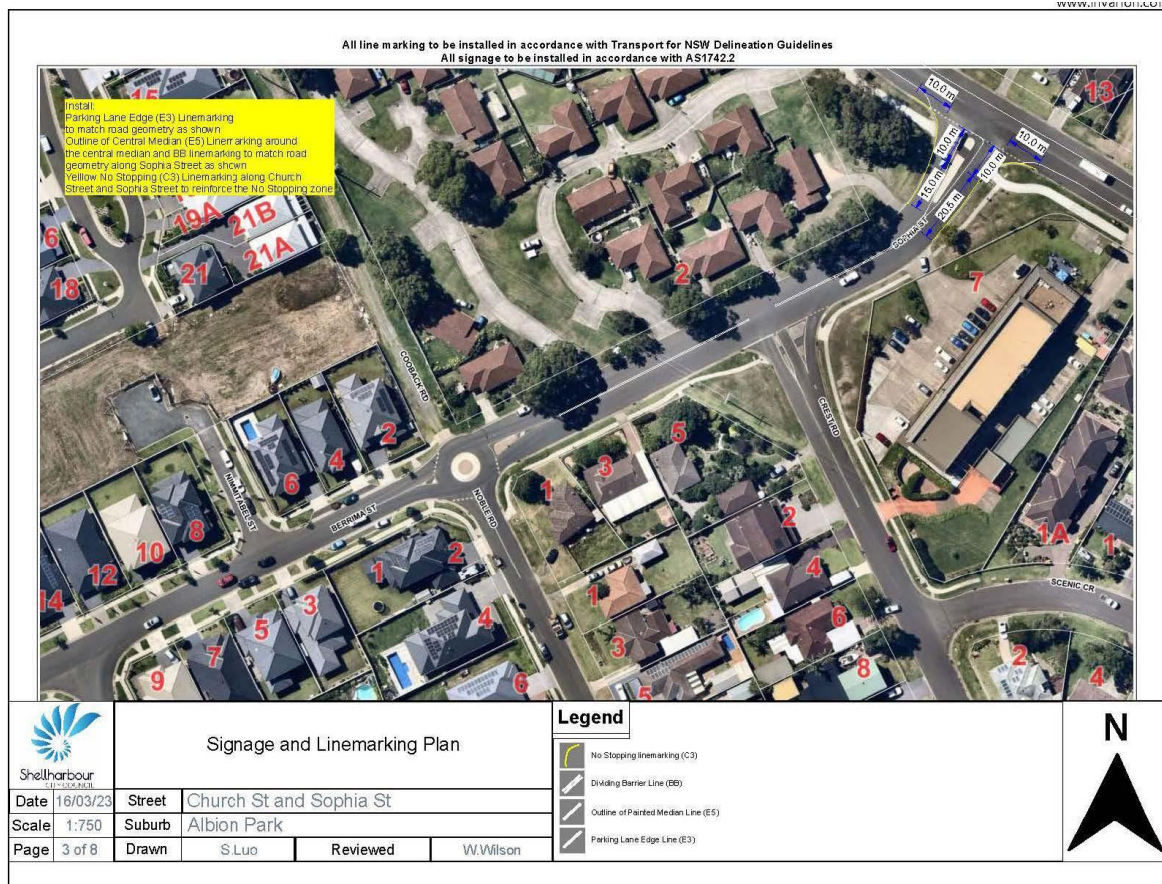
Committee Recommendation

That Council approve the proposed signage and linemarking installation along both Church Street and Sophia Street, Albion Park as shown in Attachment 1.

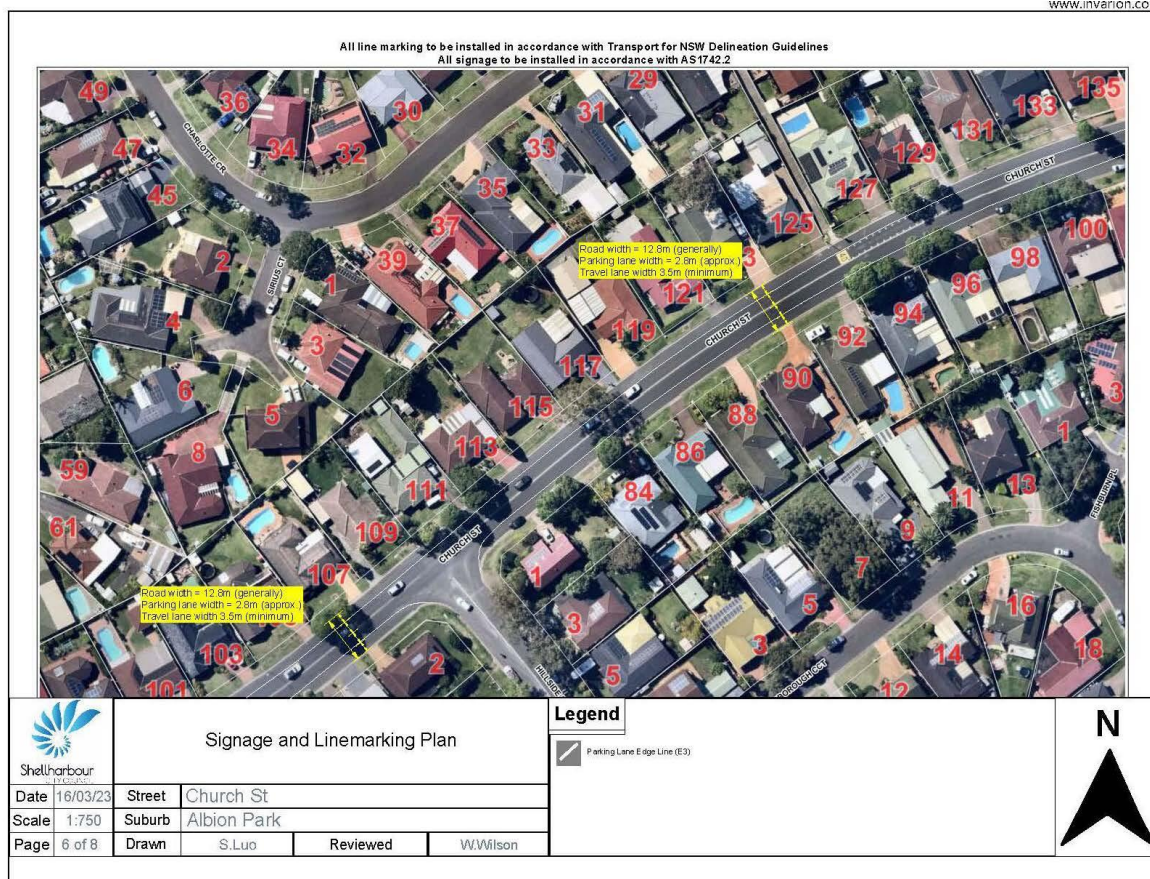
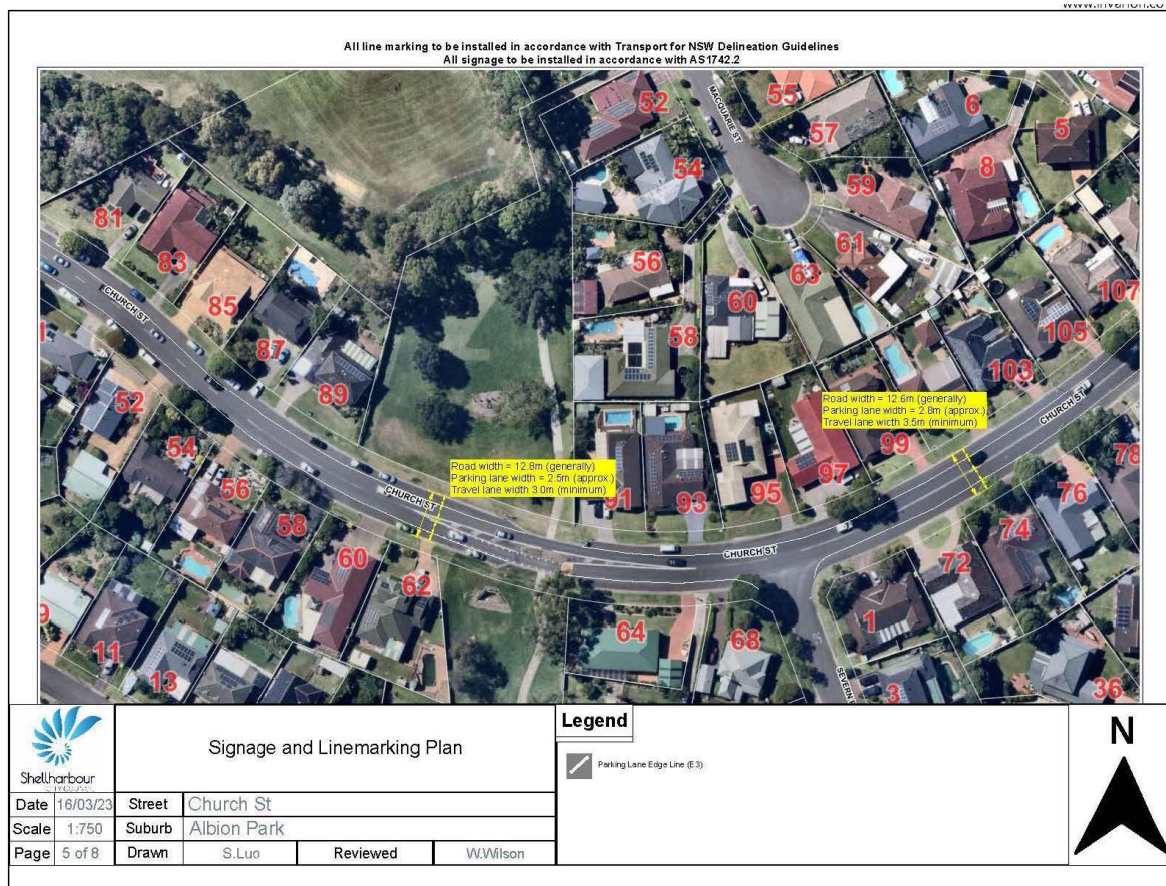
CARRIED with UNANIMOUS SUPPORT



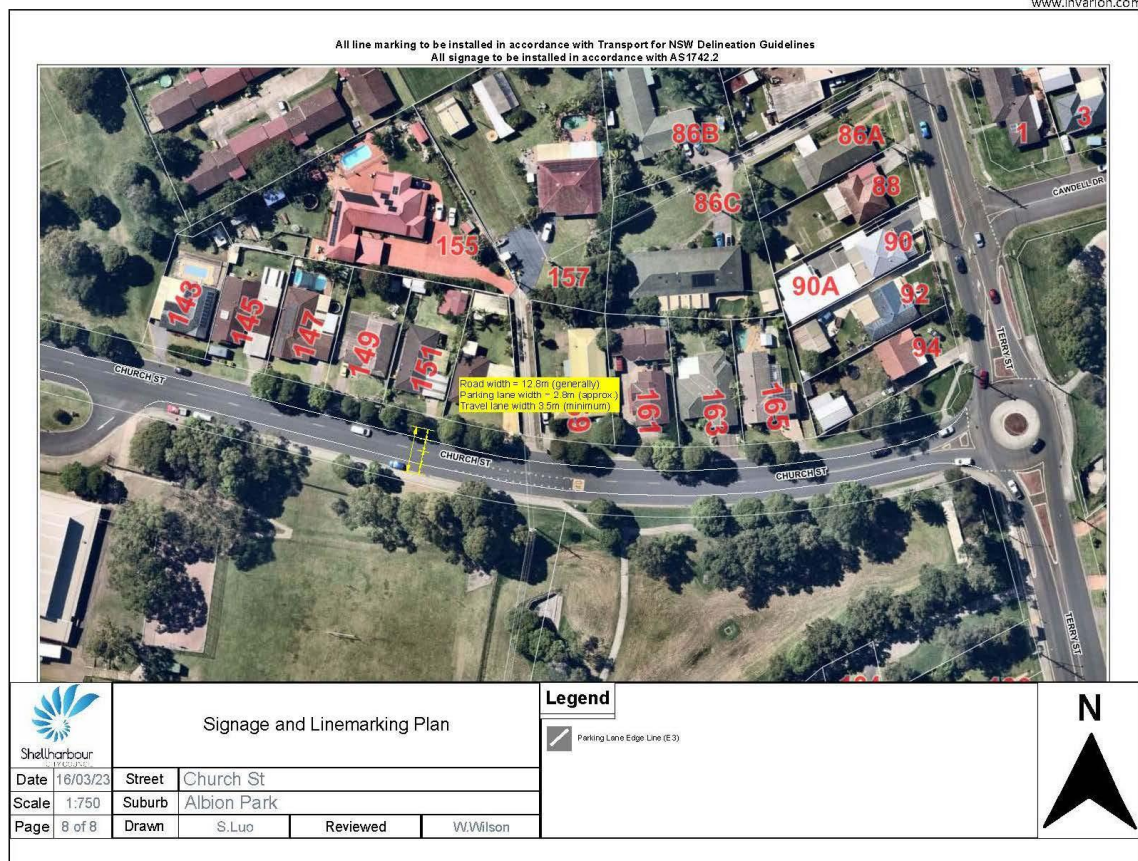
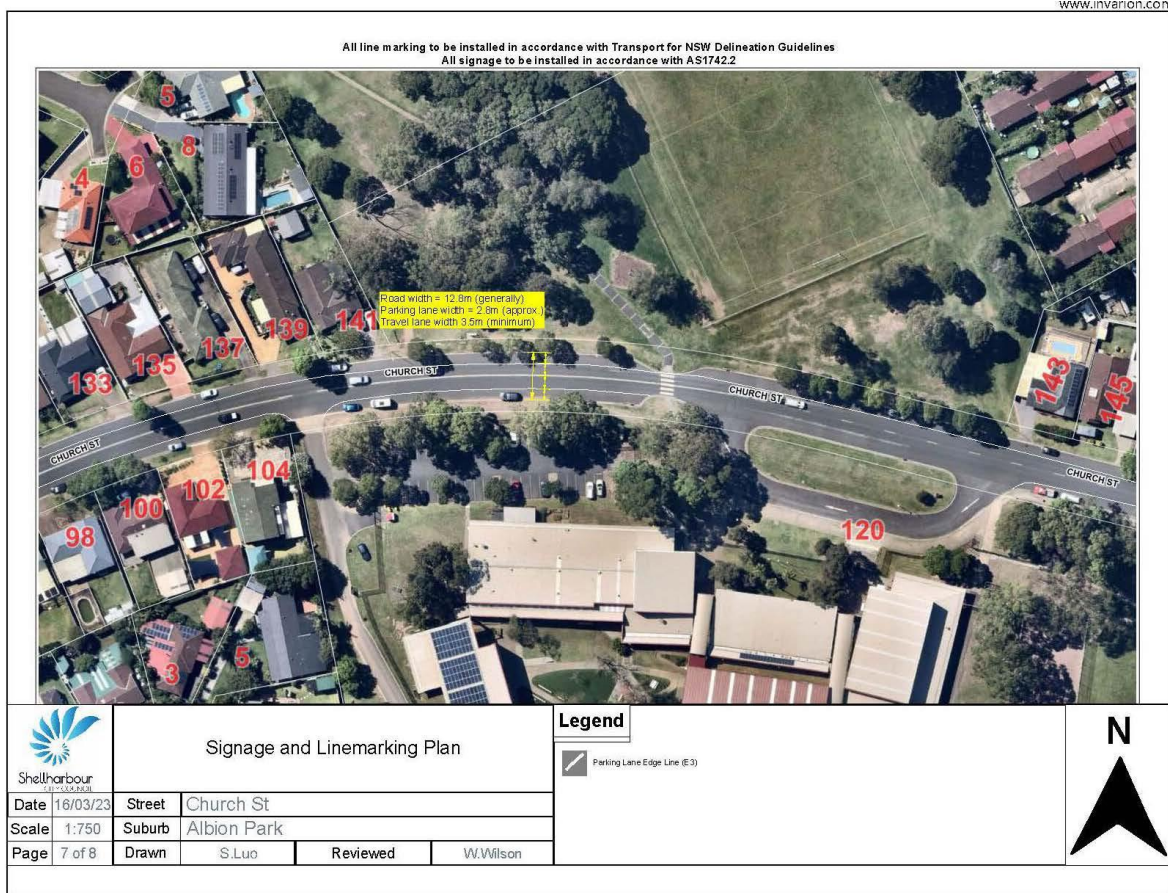












**8.6. Captain Cook Drive, Barrack Heights - Installation of Timed Bus Zone**

Committee Recommendation

That Council approve the proposed conversion of one 'Bus Stop' to one 'Bus Zone 7:30AM - 4:30PM MON-FRI' along the eastern alignment of Captain Cook Drive, Barrack Heights, between the entry and exit point of the Barrack Heights Shopping Centre carpark as shown in Attachment 2.

CARRIED with UNANIMOUS SUPPORT

**8.7. Banks Drive, Shell Cove - Extension of "No Stopping" Zone**

Committee Recommendation

That Council approve the proposed extension of the existing 'No Stopping' zone on the northeast side of Banks Drive, Shell Cove (as shown in Attachment 2).

CARRIED with UNANIMOUS SUPPORT

**8.8. Various Locations - Installation of Signage and Linemarking**

Committee Recommendation

That Council approve the installation of signage and linemarking at the following locations (as shown in Attachment 2):

1. Munmorah Circuit and Jindabyne Road, Flinders
2. Monkhouse Parade and Southern Cross Boulevard, Shell Cove

CARRIED with UNANIMOUS SUPPORT

**8.9. 1 Anchorage Parade, Shell Cove - Carpark Signposting and Linemarking**

Committee Recommendation

That Council approve the proposed signage and linemarking plan for the proposed carpark at 1 Anchorage Parade, Shell Cove (as shown in Attachment 3) subject to the 'No Stopping' signs on Anchorage Parade being double ended arrows between Marina Drive and Bow Lane.

CARRIED with UNANIMOUS SUPPORT

### **8.10. Lapwing Avenue, Shell Cove - Temporary Full Road Closure**

#### **Committee Recommendation**

That Council approve the temporary full road closure of Lapwing Avenue, Shell Cove and the partial road closure of Cormorant Way on Thursday 9 June 2023 between 7:00am and 4:00pm for the dismantling of a tower crane located at the Parkview development on 15 Cormorant Way as shown in Attachment 2 subject to the following conditions:

1. The applicant must inform all residents/businesses within or with access/frontage to any parts of this section of Lapwing Avenue/Cormorant Way at least seven days and then one day before the closure via a letterbox drop.
2. The applicant must cater for the access requirements of any resident/business/organisations with direct access to their properties from this section of Lapwing Avenue and Cormorant Way by managing access for impacted properties, with accredited RMS Traffic Controllers at all times while the closure is operational.
3. The applicant must supply and erect any barriers and traffic signs necessary for the road closure as stipulated by the approved Traffic Control Plan (TCP) and remove them at the completion of the works.
4. Council must be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public way during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the event and Council must be listed as in interested party on the insurance.
5. Council must be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
6. The applicant must inform all Emergency Services of the proposed road closure (that is NSW Police, Fire Brigade, Ambulance and State Emergency Services).
7. Shellharbour City Council reserves the right to cancel this approval at any time.
8. Should the temporary closure not occur on the approved date due to extenuating circumstances, Council's Group Manager Built and Natural Environment be authorised to alter the approved date.

**CARRIED with UNANIMOUS SUPPORT**



**12. Items for Information**

**13. Notices of Rescission/Alteration Motions**

**14. Notices of Motion**

**15. Questions on Notice (must be submitted in writing)**

**16. Urgent Business**

**17. Consideration of Motions to Declassify Reports Considered in Closed Session**

**18. Confidential Business (Committee of the Whole in Closed Session)**

**19. Committee of the Whole in Closed Session (Closed to the Public): Adjournment**

**20. Committee of the Whole in Closed Session: Consideration of Adoption of Decisions Reached in Closed Session**

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**Minutes from the Aboriginal Advisory Committee Meetings on 7 and 28 March 2023**

**SHELLHARBOUR CITY COUNCIL**

Aboriginal Advisory Committee Meetings – 7 March and 28 March 2023

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**Minutes of the Aboriginal Advisory Committee Meetings  
held at Civic Centre Ground Floor Training Room on  
Tuesday 7 March 2023 commencing at 3:03pm  
and Tuesday 28 March 2023 commencing at 3:01pm**

**Present:**

Mayor Chris Homer (Chair)	Shellharbour City Council
Cr Colin Gow	Shellharbour City Council
Cr Robert Petreski	Shellharbour City Council
Cr Lou Stefanovski	Shellharbour City Council

**Community Members:**

Aunty Lindy Lawler	Community Representative
Jodi Edwards	Community Representative (7 March)
Richard Davis	Community Representative (7 March)
James Mulholland	Community Representative (7 March)
Basilia McGaw	Community Representative (28 March)
William Henry	Community Representative (28 March)

**In Attendance**

Bonnie Hittmann	Manager Community Life
Bernadette Sharpe	Recreation Planner (7 March)
Elizabeth Sandoval	Project Delivery Officer
Edith Lume	Graduate Project Delivery Officer
Jeremy Wilshire	Barking Dog Consultants (part: 7 March)
Maiquilla Brown	Aboriginal Community Liaison Officer (28 March)
Allison Bonaz (Minute Taker)	Corporate Meetings Officer

**1. Acknowledgement to Country**

Shellharbour City Council acknowledges the Traditional Custodians of the Dharawal Country and recognise their continued connection to the land we meet on today. We pay our respects to Elders past, present and emerging and the contribution they make to the life of this city and this region and extend our recognition to their descendants who continue to live on country.

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This is page 1 of the Minutes of the Aboriginal Advisory Committee Meetings of the Council of the City of Shellharbour held 7 March and 28 March 2023

**SHELLHARBOUR CITY COUNCIL**

Aboriginal Advisory Committee Meetings – 7 March and 28 March 2023

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**2. Apologies / Leave of Absence**

Nil

**3. Confirmation of Minutes**

**3.1 Aboriginal Advisory Committee Meeting 22 November 2022**

COMMITTEE RECOMMENDATION: Cr Gow / Aunty Lindy Lawler

That the Minutes of the Aboriginal Advisory Committee Meeting held on 22 November 2022 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED

**4. Disclosures of Interest**

Nil

**5. Presentations**

**5.2 Draft Reddall Reserve Plan of Management**

A presentation was provided by Council's Recreation Planner, Bernadette Sharpe on the document that was previously sent to the Committee for comment by 17 March 2023.

**5.3 Aboriginal Interpretive Centre Market Research Findings**

A presentation was provided by Barking Dog Consultants, Jeremy Wilshire with the final document to be distributed in due course.

The option to relocate the Aboriginal Interpretive Centre to Killalea was discussed and Committee members provided initial feedback on this option. The Committee will be consulted on any future updates.

**Meeting adjourned 7 March 2023 at 4.15pm**

**Meeting reconvened 28 March 2023 at 3.01pm**

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This is page 2 of the Minutes of the Aboriginal Advisory Committee Meetings of the Council of the City of Shellharbour held 7 March and 28 March 2023

**SHELLHARBOUR CITY COUNCIL**

Aboriginal Advisory Committee Meetings – 7 March and 28 March 2023

---

**5.1 Bass Point Reserve – Aboriginal Culture and Heritage Assessment**

A presentation was provided by Council's Graduate Project Delivery Officer, Edith Lume.

**6. Staff Reports and General Business**

**6.1 Aboriginal Employment Update**

Manager Community Life, Bonnie Hittmann, introduced Council's Aboriginal Community Liaison Officer, Maiquilla Brown. Maiquilla has been in the role previously and started approximately three weeks ago.

**6.2 Bass Point Interpretive Centre Update**

As per presentation provided.

**6.3 Projects/Assets Update**

As per presentation provided.

**6.4 Reconciliation Action Plan update report (12012701)**

COMMITTEE RECOMMENDATION: Cr Gow / Cr Stefanovski

That the Aboriginal Advisory Committee receive and note the Reconciliation Action Plan update report.

CARRIED

**6.5 Aboriginal Community Events update report (12012973)**

COMMITTEE RECOMMENDATION: Cr Stefanovski / Cr Gow

That the Aboriginal Advisory Committee receive and note the Aboriginal Community Events update report.

CARRIED

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This is page 3 of the Minutes of the Aboriginal Advisory Committee Meetings of the Council of the City of Shellharbour held 7 March and 28 March 2023

**SHELLHARBOUR CITY COUNCIL**

Aboriginal Advisory Committee Meetings – 7 March and 28 March 2023

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**6.6 From the Heart Campaign report (12013005)**

COMMITTEE RECOMMENDATION: Cr Stefanovski / Cr Gow

That the Aboriginal Advisory Committee receive and note the From the Heart Campaign report.

CARRIED

**7. General Business**

Manager Community Life, Bonnie Hittmann mentioned that Council has received a resignation from the Committee from Aunty June Lowe.

The Committee acknowledged the years of service and representation that Aunty June has had as one of the longest members to this Committee.

**8. Items for Information**

Nil

**9. Next Meeting**

Date: 9 May 2023

**Meeting closed at 4:10PM**

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This is page 4 of the Minutes of the Aboriginal Advisory Committee Meetings of the Council of the City of Shellharbour held 7 March and 28 March 2023

**Minutes from the Traffic Committee Meeting on 5 April 2023**



# **Traffic Committee Meeting**

## **MINUTES**

**Wednesday, 5 April 2023**

**Commencing at 9:30 AM**

**Shellharbour Civic Centre**

**SHELLHARBOUR CITY COUNCIL**

Traffic Committee Meeting - Wednesday, 5 April 2023

Page 2

## **1. Attendance**

**Present:**

Cr Maree Duffy-Moon (Chair)	Representative for the Member for Shellharbour
Andy Gaudiosi	Transport for NSW
Daniel Hicking	Representative for the Member for Kiama
Jarrold Thompson	Premier Illawarra

**In Attendance:**

Matthew Apolo	Group Manager Built and Natural Environment
Mark Miller	Manager Compliance and Regulation
Adam de Clouett	Manager Floodplain and Transport
Stephanie Luo	Engineering Technical Officer
Jake Richards	Civil Engineer – Cadet
Ester Nyers	Environment Sustainability Officer
Allison Bonaz (Minute Taker)	Corporate Meetings Officer

## **2. Acknowledgement to Country**

Shellharbour City Council acknowledges the Traditional Custodians of the Dharawal Country and recognise their continued connection to the land we meet on today. We pay our respects to Elders past, present and emerging and the contribution they make to the life of this city and this region and extend our recognition to their descendants who continue to live on country.

## **3. Apologies / Leave of Absence**

Apologies were tendered by Cr John Davey, Craig Gray from NSW Police and Road Safety Officer, Jenny Davies and Senior Transport Engineer, Wayne Wilson.

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This is page 2 of the MINUTES of the Traffic Committee Meeting of the Council of the City of Shellharbour held Wednesday, 5 April 2023



#### **4. Confirmation of Minutes**

##### **4.1. Traffic Committee Meeting 1 March 2023**

That the Minutes from the Traffic Committee Meeting held 1 March 2023 be taken as read and confirmed as a correct record of proceedings.

CARRIED with UNANIMOUS SUPPORT

#### **5. Addresses to Traffic Committee**

Nil

#### **6. Disclosure of Interest**

Nil

#### **7. Presentations**

Nil

## **8. Traffic Reports**

### **8.1. Electric Vehicle Destination Charging Grant**

#### Committee Recommendation

That Council approve the proposed conversion of two unrestricted off-street parking spaces to two time restricted 'Electric Vehicle Only While Charging' spaces and installation of associated signage and linemarking within the Shellharbour City Council Civic Centre public carpark (as shown in Attachment 2)

CARRIED with UNANIMOUS SUPPORT

### **8.2. Princes Highway Service Road, Albion Park Rail - Park in Bays signposting**

#### Committee Recommendation

That Council approve the installation of 1 x R5-65 'PARK IN BAYS ONLY' signage within the Princes Highway Service Road, Albion Park Rail (as shown in Attachment 2).

CARRIED with UNANIMOUS SUPPORT

### **8.3. Connection Road and Stockman Road, Calderwood - Installation of 'No Stopping' Zone**

#### Committee Recommendation

That Council approve the proposed installation of two 'No Stopping' zones and associated yellow No Stopping (C3) linemarking at the T-junction of Connection Road and Stockman Road, Calderwood (as shown in Attachment 2).

CARRIED with UNANIMOUS SUPPORT

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**SHELLHARBOUR CITY COUNCIL**

Traffic Committee Meeting - Wednesday, 5 April 2023

Page 5

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**8.4. Marshall Mount Road, Calderwood - Temporary Full Road Closure - Ken Dinnerville Memorial and Barbara Wyles Handicap Event**

**Committee Recommendation**

That Council approve the temporary full road closure of Marshall Mount Road between Calderwood Road, Calderwood and the Shellharbour City Council / Wollongong City Council border from 7:00AM-12:30PM 4 June 2023 as shown in the attached Traffic Guidance Scheme (Attachment 2), subject to the following conditions:

1. The applicant must inform all residents/businesses within or with access/frontage to any property who may be impacted by the temporary partial/full road closures, at least seven days and then one day before the closure via a letterbox drop.
2. The applicant must cater for the access requirements of any resident/business/organisations that will be impacted by the temporary full road closure, with accredited Traffic Controllers at all times while the closure is operational.
3. The applicant must supply and erect any barriers and traffic signs necessary for the road closure as stipulated by the approved Traffic Guidance Scheme (TGS) and remove them at the completion of the works.
4. Council must be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public way during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the event and Council must be listed as an interested party on the insurance.
5. Council must be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
6. The applicant must inform all Emergency Services of the proposed road closures (that is NSW Police, Fire Brigade, Ambulance, State Emergency Services, and Transport for NSW).
7. Shellharbour City Council reserves the right to cancel this approval at any time.

CARRIED with UNANIMOUS SUPPORT

**8.5. Church Street and Sophia Street, Albion Park - Signage and Linemarking**

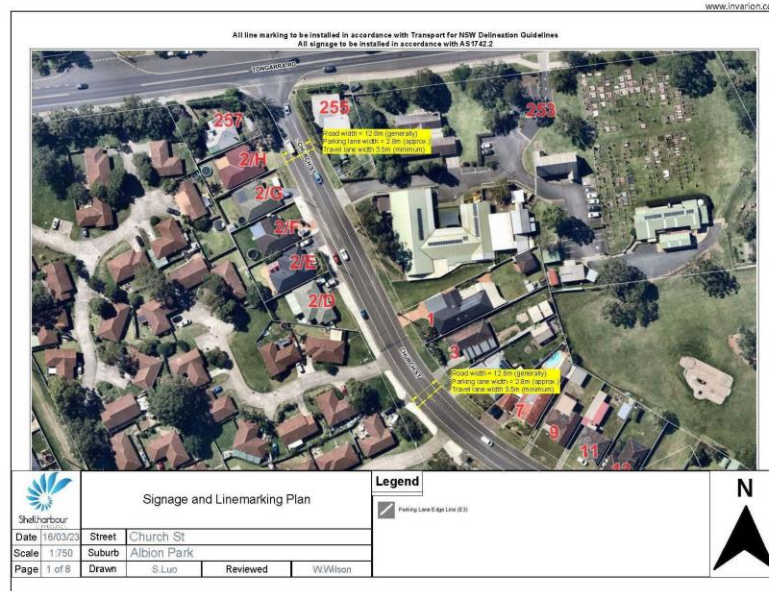
**Committee Recommendation**

That Council approve the proposed signage and linemarking installation along both Church Street and Sophia Street, Albion Park as shown in Attachment 1.

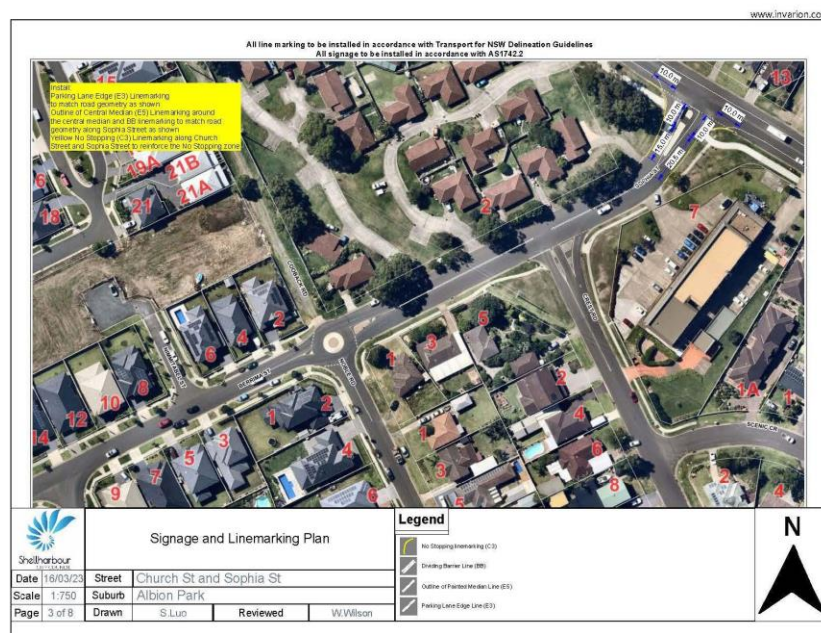
CARRIED with UNANIMOUS SUPPORT

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This is page 5 of the MINUTES of the Traffic Committee Meeting of the Council of the City of Shellharbour held Wednesday, 5 April 2023

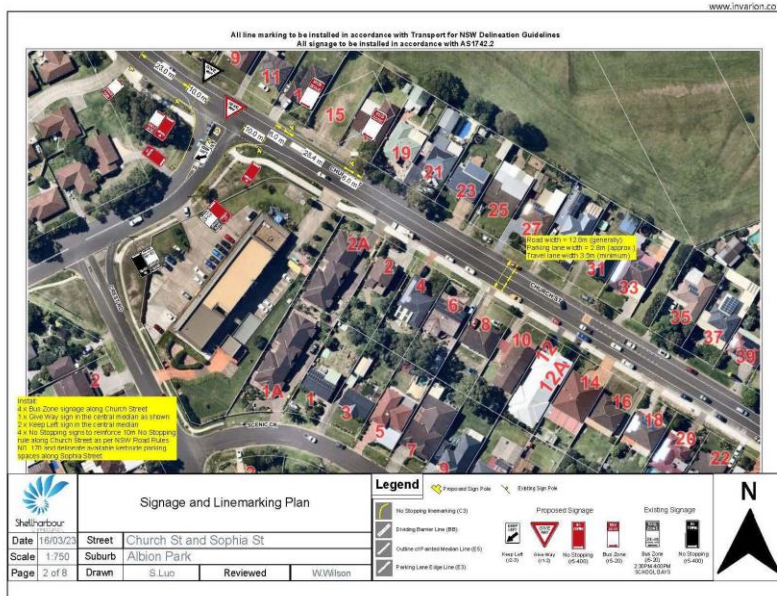


This is page 6 of the MINUTES of the Traffic Committee Meeting of the Council of the City of Shellharbour held Wednesday, 5 April 2023

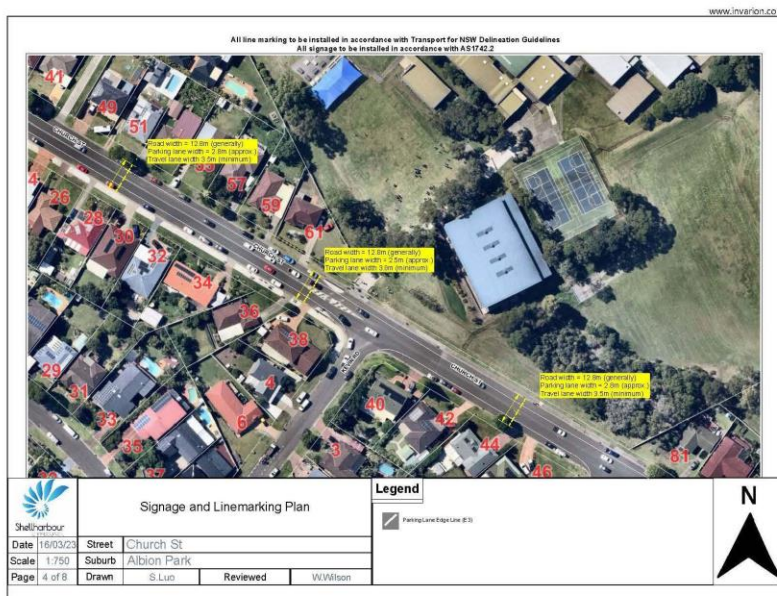


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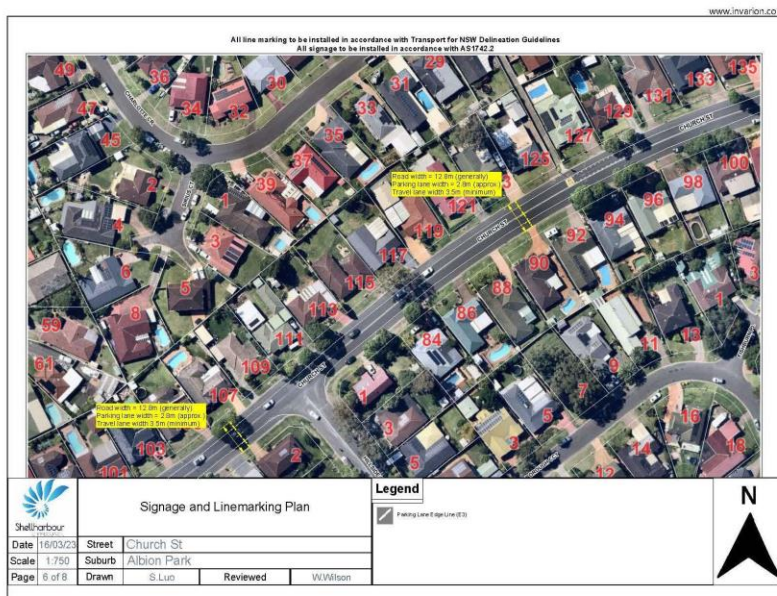
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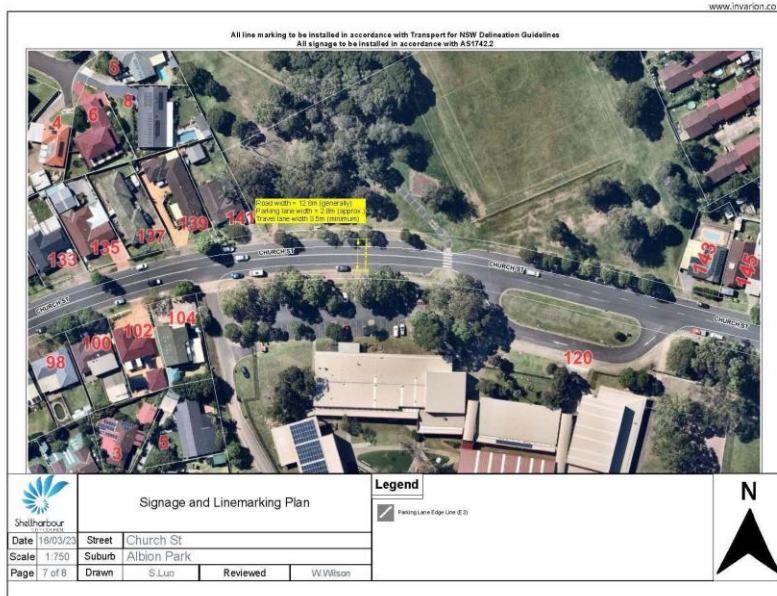


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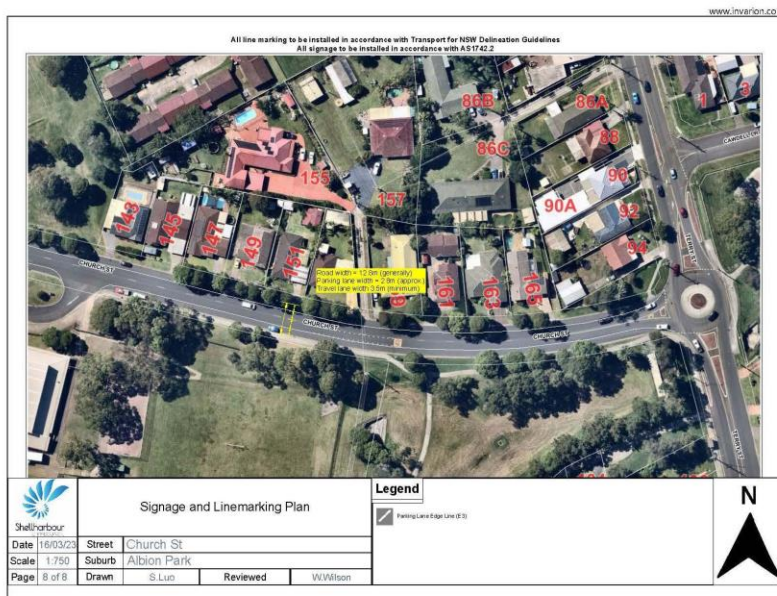


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**SHELLHARBOUR CITY COUNCIL**

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**8.6. Captain Cook Drive, Barrack Heights - Installation of Timed Bus Zone**

Committee Recommendation

That Council approve the proposed conversion of one 'Bus Stop' to one 'Bus Zone 7:30AM - 4:30PM MON-FRI' along the eastern alignment of Captain Cook Drive, Barrack Heights, between the entry and exit point of the Barrack Heights Shopping Centre carpark as shown in Attachment 2.

CARRIED with UNANIMOUS SUPPORT

**8.7. Banks Drive, Shell Cove - Extension of "No Stopping" Zone**

Committee Recommendation

That Council approve the proposed extension of the existing 'No Stopping' zone on the northeast side of Banks Drive, Shell Cove (as shown in Attachment 2).

CARRIED with UNANIMOUS SUPPORT

**8.8. Various Locations - Installation of Signage and Linemarking**

Committee Recommendation

That Council approve the installation of signage and linemarking at the following locations (as shown in Attachment 2):

1. Munmorah Circuit and Jindabyne Road, Flinders
2. Monkhouse Parade and Southern Cross Boulevard, Shell Cove

CARRIED with UNANIMOUS SUPPORT

**8.9. 1 Anchorage Parade, Shell Cove - Carpark Signposting and Linemarking**

Committee Recommendation

That Council approve the proposed signage and linemarking plan for the proposed carpark at 1 Anchorage Parade, Shell Cove (as shown in Attachment 3) subject to the 'No Stopping' signs on Anchorage Parade being double ended arrows between Marina Drive and Bow Lane.

CARRIED with UNANIMOUS SUPPORT

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### **8.10. Lapwing Avenue, Shell Cove - Temporary Full Road Closure**

#### **Committee Recommendation**

That Council approve the temporary full road closure of Lapwing Avenue, Shell Cove and the partial road closure of Cormorant Way on Thursday 9 June 2023 between 7:00am and 4:00pm for the dismantling of a tower crane located at the Parkview development on 15 Cormorant Way as shown in Attachment 2 subject to the following conditions:

1. The applicant must inform all residents/businesses within or with access/frontage to any parts of this section of Lapwing Avenue/Cormorant Way at least seven days and then one day before the closure via a letterbox drop.
2. The applicant must cater for the access requirements of any resident/business/organisations with direct access to their properties from this section of Lapwing Avenue and Cormorant Way by managing access for impacted properties, with accredited RMS Traffic Controllers at all times while the closure is operational.
3. The applicant must supply and erect any barriers and traffic signs necessary for the road closure as stipulated by the approved Traffic Control Plan (TCP) and remove them at the completion of the works.
4. Council must be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public way during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the event and Council must be listed as in interested party on the insurance.
5. Council must be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
6. The applicant must inform all Emergency Services of the proposed road closure (that is NSW Police, Fire Brigade, Ambulance and State Emergency Services).
7. Shellharbour City Council reserves the right to cancel this approval at any time.
8. Should the temporary closure not occur on the approved date due to extenuating circumstances, Council's Group Manager Built and Natural Environment be authorised to alter the approved date.

CARRIED with UNANIMOUS SUPPORT

## **9. General Business**

Transport for NSW, Andy Gaudiosi provided some information regarding some measures being undertaken to lessen the traffic congestion in Albion Park along Tongarra Road between Russell and Terry Streets.

## **10. Items for Information**

### **10.1. Traffic Management and Pedestrian Works Temporary Delegation**

The item for information was discussed and formally NOTED by the Committee.

### **10.2. Police Matters**

The items for information were formally NOTED by the Committee with the addition of an incident of Hooning at Durgadin Drive in Albion Park Rail.

In addition, Group Manager Built and Natural Environment advised an error in the report for information that raised wombat crossings are not being considered for Harbour Boulevard, Shell Cove and that any traffic calming measures would be considered in context of large delivery trucks and cars with trailers needing access along Harbour Boulevard.

## **11. Next Meeting**

3 May 2023

**Meeting Closed: 10:32 am**

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