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Councillor and Staff Interaction Policy

Policy Number: POL13/31 • **Adopted:** *[Click here to enter date]* • **Minute Number:** *[Click here to enter Minute number]* • **File:** 13541E • **Produced By:** Assistant General Manager's Group • **Review Date:** Missing TRIM data for Review Date

1. PURPOSE

To clearly define the roles and responsibilities of councillors and staff in relation to professional and acceptable interaction.

2. STATEMENT

A strong relationship between Councillors and staff, based on trust, respect and mutual understanding, is paramount to ensure that the Council acts “as one”, in striving to serve the community with common purpose and aspirations.

These Guidelines set out the positive steps we can take to foster good relationships, but also acknowledges the restrictions imposed by the Local Government Act and the Code of Conduct. Understanding where the “line is drawn” is important; so too the need to ensure that we don't create an “us & them” mentality. These Guidelines are designed to achieve a happy medium.

Council wishes to encourage appropriate interactions between staff and Councillors to achieve:

- Councillor knowledge and understanding of policy, Works Programs and statutory requirements for both staff and Council.
- Staff understanding of political views.
- A greater sense of teamwork between Councillors and staff, to achieve the aims and objectives of the Community Strategic Plan.

3. PROVISIONS

3.1. Councillor Interactions Permitted

- Contact with any staff member on the “Councillor Contacts” list – eg, email/telephone enquiries.
- Arrange meetings with staff on the Councillor Contacts list.
- Facilitating discussions between constituents and the appropriate staff on the Councillor Contacts list, including requesting on-site discussions.

- Spending time (eg, a day) with individual staff or work teams on work sites (but only with their concurrence), to better understand the staff responsibilities and duties – subject to the following requirements –
 - Arrangements being made through the relevant Group Director or a Section Manager.
 - Compliance with the Code of Conduct requirements and restrictions.
 - Compliance with any WHS requirements, as instructed by the staff member or team supervisor, including use of PPE or restricting access to some work sites (eg, confined space area). Note: for construction sites a WorkCover General Induction card may be necessary.
 - Compliance with any legislative requirements re confidentiality or privacy matters that you may become aware of whilst accompanying an employee.
 - Compliance with any legislative prohibition to enter private premises in the company of staff unless the property owner or occupier consents to such entry.
 - The individual staff member or team agreeing to “host” a Councillor during their normal work day.
 - The Councillor not impeding staff undertaking their duties.
 - The Councillor and employee (or “team leader”) providing a short evaluation report of their “host” day to the relevant Section Manager.

3.2. Other Interactions

Staff and Councillors may also interact at other professional levels; i.e., not a “Councillor/staff” relationship.

Examples:

- Interactions when a Councillor is an applicant for a Development Application or other service; i.e., just like any other member of the public.
- Interaction between staff and a Councillor in their normal occupation or business role.

3.3. Councillor Contacts

A list of approximately 50 staff (<http://sccintranet/GM/CouncillorContacts.aspx>) is available for Councillors to contact and discuss issues within their area of responsibility.

3.4. CODE OF CONDUCT restrictions

PART 6 RELATIONSHIP BETWEEN COUNCIL OFFICIALS

Obligations of councillors and administrators

6.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy

6.2 Councillors or administrators must not:

a) direct council staff other than by giving appropriate direction to the general manager in the performance of council’s functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (section 352)

b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (Schedule 6A of the Act)

c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager

d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

Obligations of staff

6.3 The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.

6.4 Members of staff of council must:

- a) give their attention to the business of council while on duty
- b) ensure that their work is carried out efficiently, economically and effectively
- c) carry out lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

Inappropriate interactions

6.7 You must not engage in any of the following inappropriate interactions:

- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
- b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
- c) Council staff refusing to give information that is available to other councillors to a particular councillor.
- d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff only areas of the council.
- e) Councillors and administrators being overbearing or threatening to council staff.
- f) Councillors and administrators making personal attacks on council staff in a public forum.
- g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.

h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.

i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.

j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

3.5. LOCAL GOVERNMENT ACT restrictions

Section 352 Independence of staff for certain purposes

(1) A member of staff of a council is not subject to direction by the council or by a councillor as to the content of any advice or recommendation made by the member.

(2) This section does not prevent the council or the mayor from directing the general manager of the council to provide advice or a recommendation.

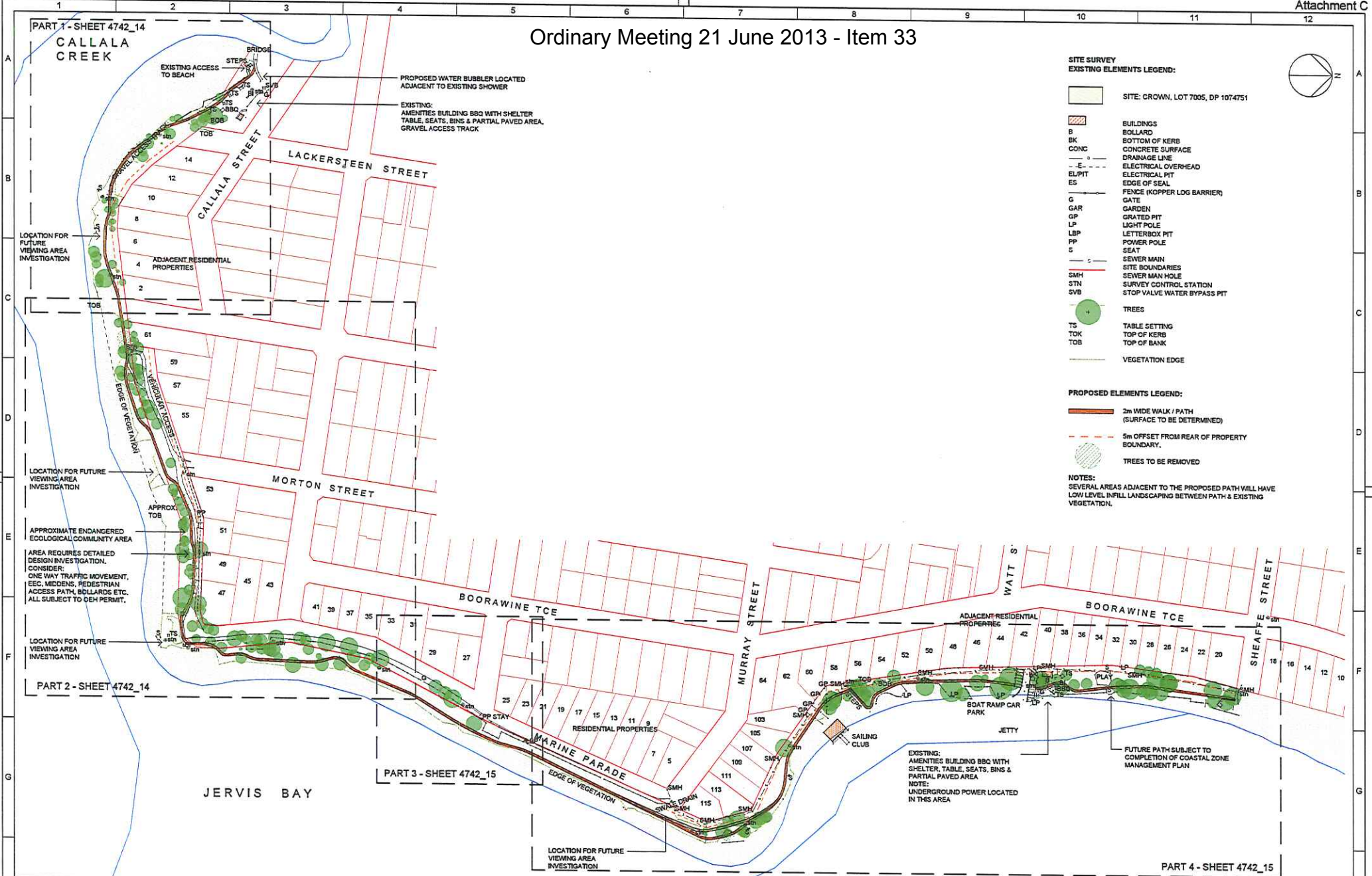
4. REVIEW

This policy will be reviewed every three years, or at the discretion of the General Manager in consultation with the Consultative Committee.

5. APPLICATION OF ESD PRINCIPLES

This Policy will be placed on Council's intranet.

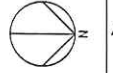
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- SITE SURVEY EXISTING ELEMENTS LEGEND:**
- [Yellow Box] SITE: CROWN, LOT 7005, DP 1074751
 - [Red Box] BUILDINGS
 - [Red Line] BOLLARD
 - [Red Line] BK BOTTOM OF KERB
 - [Red Line] CONC CONCRETE SURFACE
 - [Red Line] DRAINAGE LINE
 - [Red Line] EL/PIT ELECTRICAL OVERHEAD
 - [Red Line] ES ELECTRICAL PIT
 - [Red Line] EDGE OF SEAL
 - [Red Line] FENCE (KOPPER LOG BARRIER)
 - [Red Line] G GATE
 - [Red Line] GP GARDEN
 - [Red Line] GRP GRATED PIT
 - [Red Line] LP LIGHT POLE
 - [Red Line] LBP LETTERBOX PIT
 - [Red Line] PP POWER POLE
 - [Red Line] S SEAT
 - [Red Line] SMH SEWER MAIN
 - [Red Line] SMH SEWER MAN HOLE
 - [Red Line] STN SURVEY CONTROL STATION
 - [Red Line] SVB STOP VALVE WATER BYPASS PIT
 - [Green Circle] TREES
 - [Red Line] TS TABLE SETTING
 - [Red Line] TOK TOP OF KERB
 - [Red Line] TOB TOP OF BANK
 - [Red Line] VEGETATION EDGE

- PROPOSED ELEMENTS LEGEND:**
- [Red Line] 2m WIDE WALK / PATH (SURFACE TO BE DETERMINED)
 - [Red Line] 5m OFFSET FROM REAR OF PROPERTY BOUNDARY.
 - [Green Circle] TREES TO BE REMOVED

NOTES:
SEVERAL AREAS ADJACENT TO THE PROPOSED PATH WILL HAVE LOW LEVEL INFILL LANDSCAPING BETWEEN PATH & EXISTING VEGETATION.



DESIGNED:	SURVEYED: E. VENHUIZEN (AUG 2012)	AMENDMENTS
DRAWN: K. PITTS	FIELD BOOK: TRIMBLE 56	01 FOR COMMUNITY COMMENT 24/01/13
CHECKED: <i>Randy Adams</i>	ORIGIN OF LEVELS: PM62314	02 FOR COMMUNITY COMMENT 20/01/13
APPROVED: <i>Randy Adams</i>	DATUM: AHD	03 REVISED PLANS FOR COMMUNITY COMMENT 15/05/13
DRAWING FILE: 012_10.dwg	CIVILCAD FILE:	04 REVISED PLANS (minor scale amendments) 23/05/13



CITY OF SHOALHAVEN

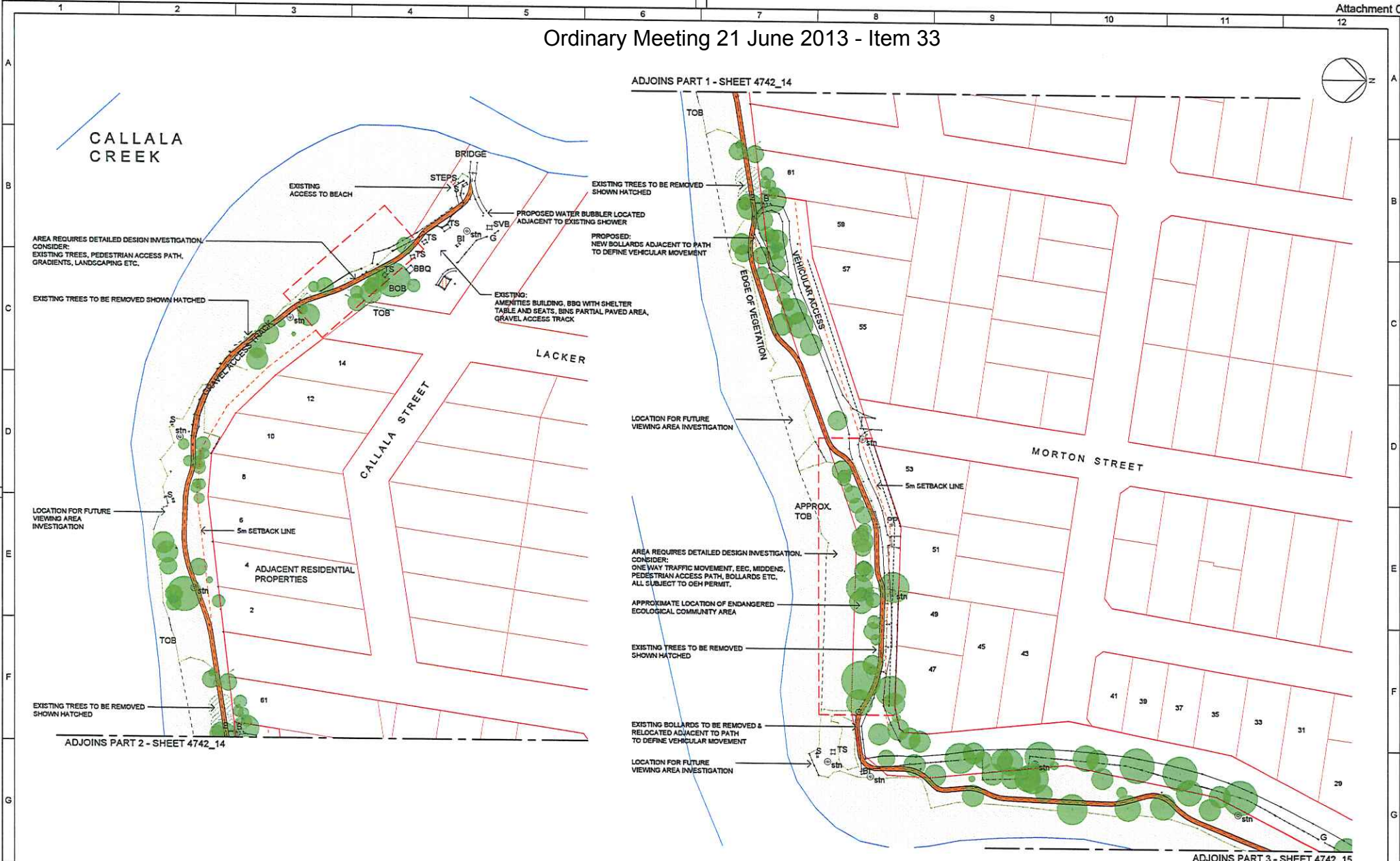
Callala Bay - Headland Reserve
Walk / Path Route
Site Plan

SCALE:
1:1500 for A1 size plot, 1:3000 for A3 size plot
Do not scale off drawings.
Confirm all dimensions on site prior to start of construction.
NOTE:
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1 SITE PLAN - PART 1
SCALE 1:800

2 SITE PLAN - PART 2
SCALE 1:800

NOTE:
- SEVERAL AREAS REQUIRE DETAILED DESIGN INVESTIGATION.
- FURTHER WORKS ARE REQUIRED FOR THE PATH TO BE COMPLIANT WITH AS1428 'DESIGN FOR ACCESS & MOBILITY'.

DESIGNED:	SURVEYED: E. VENHUIZEN (JUNE 2012)	AMENDMENTS
DRAWN: K. PITTS	FIELD BOOK: TRIMBLE 86	01 FOR COMMUNITY COMMENT 24/01/13
CHECKED: <i>[Signature]</i>	ORIGIN OF LEVELS: PM231-4	02 FOR COMMUNITY COMMENT 25/01/13
APPROVED: <i>[Signature]</i>	DATUM: AHD	03 REVISED PLANS FOR COMMUNITY COMMENT 17/02/13
DRAWING FILE: <i>[File Name]</i>	CIVILCAD FILE:	04 REVISED PLANS (incl. top amendments) 22/05/13



CITY OF SHOALHAVEN

Callala Bay - Headland Reserve
Walk / Path Route
Site Plan - Part 1 and 2

SCALE:
1:800 for A3 size plot, 1:1600 for A5 size plot
Do not scale off drawings.
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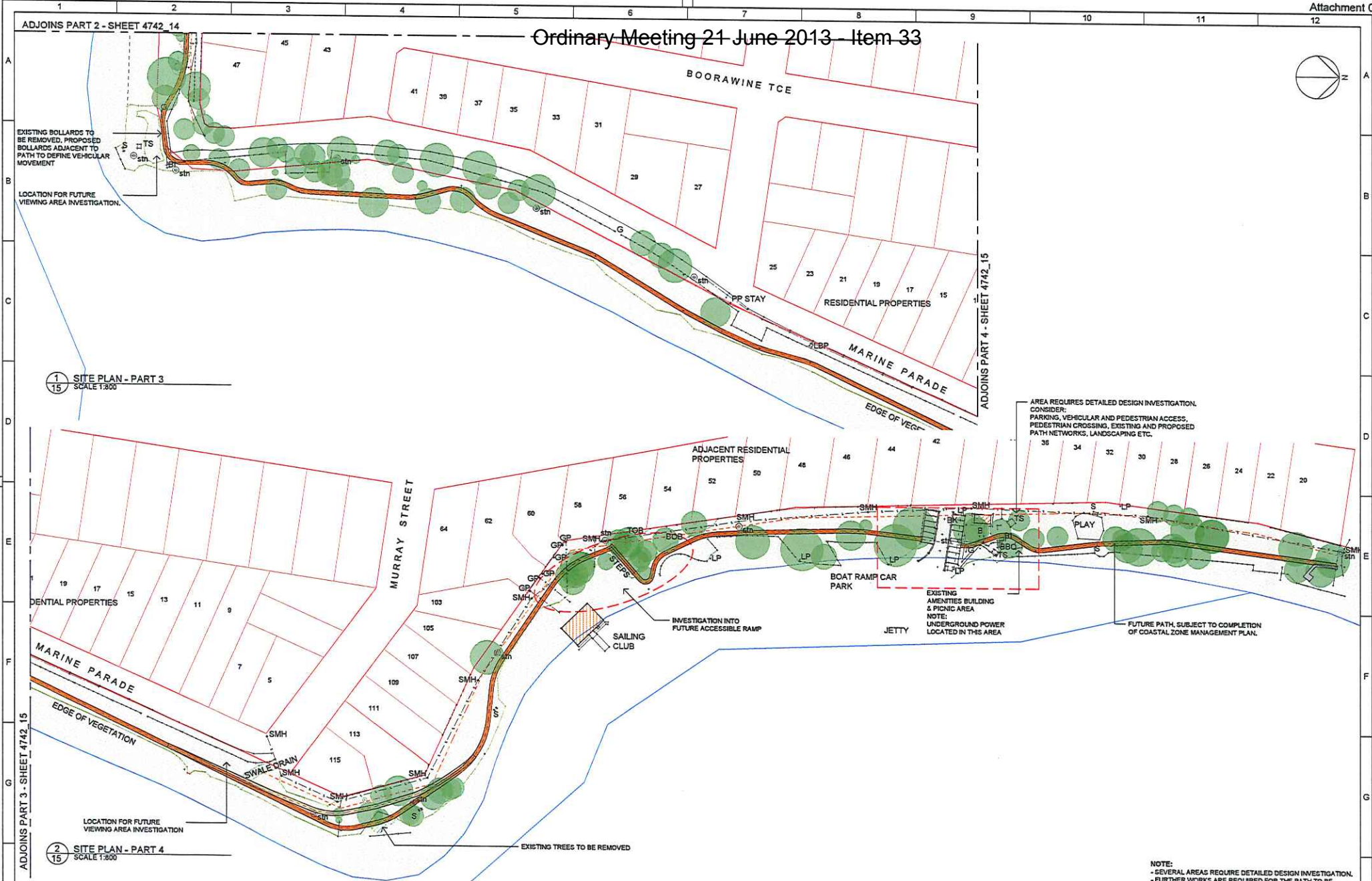
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AREA REQUIRES DETAILED DESIGN INVESTIGATION. CONSIDER: PARKING, VEHICULAR AND PEDESTRIAN ACCESS, PEDESTRIAN CROSSING, EXISTING AND PROPOSED PATH NETWORKS, LANDSCAPING ETC.

EXISTING AMENITIES BUILDING & PICNIC AREA. NOTE: UNDERGROUND POWER LOCATED IN THIS AREA.

FUTURE PATH, SUBJECT TO COMPLETION OF COASTAL ZONE MANAGEMENT PLAN.

NOTE:
- SEVERAL AREAS REQUIRE DETAILED DESIGN INVESTIGATION.
- FURTHER WORKS ARE REQUIRED FOR THE PATH TO BE COMPLIANT WITH AS1428 'DESIGN FOR ACCESS & MOBILITY'.

DESIGNED:	SURVEYED: E. VENHUIZEN (JUNE 2012)	AMENDMENTS
DRAWN: K. PITTS	FIELD BOOK: TRIMBLE 56	01 FOR COMMUNITY COMMENT 24/01/13
CHECKED: <i>[Signature]</i>	ORIGIN OF LEVELS: P4022314	02 FOR COMMUNITY COMMENT 25/01/13
APPROVED: <i>[Signature]</i>	DATUM: AHD	03 REVISED PLANS FOR COMMUNITY COMMENT 11/05/13
DRAWING FILE: <i>[File Name]</i>	CIVILCAD FILE:	04 REVISED PLANS (under minor amendments) 23/05/13



CITY OF SHOALHAVEN

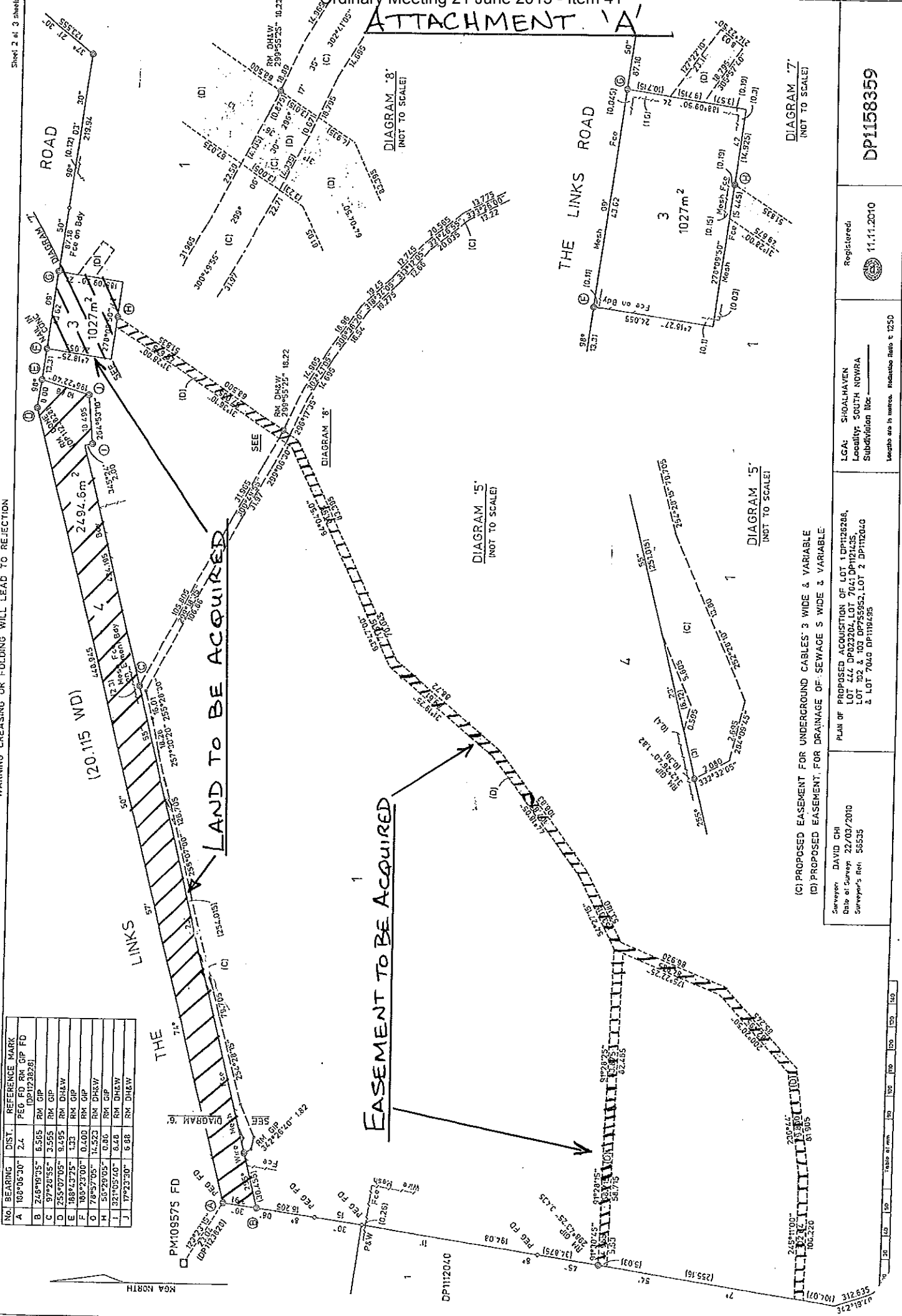
Callala Bay - Headland Reserve
Walk / Path Route
Site Plan - Part 3 and 4

SCALE:
1:800 for A1 size plot, 1:1600 for A3 size plot.
Do not scale off drawings.
Confirm all dimensions on site prior to start of construction.
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ATTACHMENT 'A'



NO.	BEARING	DIST.	REFERENCE MARK
A	108°05'30"	2.4	PEG FD RM GIP FD DP1123028
B	246°49'55"	5.505	RM GIP
C	97°20'55"	3.555	RM GIP
D	255°07'05"	9.495	RM DH&W
E	108°43'25"	1.33	RM GIP
F	108°23'00"	0.400	RM GIP
G	285°27'05"	11.523	RM DH&W
H	50°20'05"	0.60	RM GIP
I	327°05'40"	8.24	RM DH&W
J	177°23'30"	5.88	RM DH&W

(C) PROPOSED EASEMENT FOR UNDERGROUND CABLES: 3 WIDE & VARIABLE
 (D) PROPOSED EASEMENT, FOR DRAINAGE OF SEWAGE 5 WIDE & VARIABLE

Surveyor: DAVID CHI
 Date of Survey: 22/03/2010
 Surveyor's No: 50535

LGA: SHOALHAVEN
 Locality: SOUTH NOWRA
 Subdivision No: _____

Registered:
 11.11.2010

DP1158359

Lengths are in metres. Indicated Ratio 1:250

**White Paper:
A New Planning System for NSW**

INTENDED SUBMISSION POINTS

Include a copy of Council's submission to the Planning Reform Green Paper dated 5th September 2012 (see attachment "A") given that a number of the matters raised are still relevant and need consideration.

1. General Opening Comments

Welcome Improvements:

Strongly support the intent and thrust of the planning reforms, specifically, but not limited to:

- New contemporary Planning Act for NSW embracing E-planning, simple plain English and that is more certain and timely
- Upfront strategic planning commitment, linked to infrastructure planning/commitments. This is seen as critical to creating long term confidence in the new system.
- Early and comprehensive community engagement.
- One stop shop for State Government referrals/comments/approvals
- Cutting red tape - target of 80% development proposals dealt with quickly.
- Difficult development applications still dealt with appropriately
- The linking of social well being with growth (reflected in the draft Bill) is welcomed.

Further Refinement Needed:

The scale of the proposed reforms is massive and all users, including Councils, need to fully understand how it all fits together and works. As such there are things that need further consideration, refinement and dialogue including:

Resource Impacts - The White Paper puts forward far ranging, aspirational reforms, which will require substantial resource allocations if they are to be achieved in the articulated time frames. There will be substantial resource impacts for both State and Local Governments. Yet there is no detailed discussion on how either level of government will provide resources to meet this major reform agenda, particularly at a time when Councils are facing major challenges to minimise operational expenditure as well as adjust to other significant legislative reform (Local Government Act review). Additional revenue will be required drive the ambitious change program.

This is a major issue that needs clarification and resources identified/allocated. Given the scale of the reforms, we need to know where the necessary funding will come from. In this regard it is noted that the '*PlanFirst*' levy is still being collected and sent to the State Government. There needs to be a clear system in place which provides for additional resources to be allocated to Councils where additional work is

required. There is also a huge expectation on the Department of Planning & Infrastructure to deliver and it is uncertain whether this can be achieved.

Without addressing the resourcing issue in a meaningful way, it is highly likely that the new legislation will take much longer to implement than anticipated.

Timeframes & targets – The implementation of the new approach to Complying Development and Code Assessment strives for substantial increases in uptake rates for these forms of streamlined assessments (50% with 3 years and 80% within 5 years). However this new approach is reliant on the preparation of new Local Plans that are informed by State Planning Policies and Regional Growth Plans. Development Guides utilising Form Based Codes also need to be developed in performance formats to direct the assessment process.

Given the crucial need for community participation in all these planning exercises as well as recognising the length of time taken to complete the current template LEP reforms, it is logical to conclude that the only way the development assessment targets can be reached initially is if the State Government dictate a state wide solution to all Councils (possibly without local community input) or alternatively the system must be capable of working with existing template LEPs in a transitional arrangement that could last for some time.

Thus it is critical that realistic Implementation timeframes are considered, particularly where strategic planning is first needed to achieve suggested targets. Timing is a real issue and some of the targets are potentially overly ambitious. Clear and well thought out transitional provisions are also required as we move to the new Act and its requirements.

Community credibility – there is an expectation of greater public participation, however the only way to possibly achieve streamlined development decisions initially in a timely manner is potentially through an imposed one-size fits all approach (see comment on timeframes and targets). The community are likely to become disillusioned if this turn out to be the case.

Local communities have been encouraged to expect greater participation, through the reform documents, specifically an enhanced role through upfront strategic planning and development guidelines which will protect the character of their local neighbourhoods, suburbs and town centres. If the only way to achieve the desired streamlined assessments is through a state imposed one size fits all approach, then it will not take long before the community becomes disillusioned by the lack of timely involvement in upfront strategic planning, while resentment and cynicism will grow with the reality of the loss of consultation through development application processes and decisions based on state wide codes. To achieve the targets articulated there must be an acceptance that the transitional arrangements with existing template LEP's will play a pivotal role in the success of the reform agenda.

Standardised approach - there are positives and negatives in the standardised approach to many of the aspects of the proposed reforms. However there is also a concern that necessary flexibility will also continue to be lost as a result.

E-planning – the appropriate resources need to be available to make this important aspect work. The State Government needs to be capable of leading and supporting the shift toward greater e-planning.

Up front community involvement/consultation – will require a change in community perceptions, particularly the inability to comment on a development next to you if it is dealt with as complying or code assessable development. Ensuring strong and widespread up front involvement and consultation will be a challenge and will be costly, time consuming and may ultimately difficult to achieve.

Less Council involvement in developments – this may generally be a positive, but could restrict the ability of local elected representatives to become involved in proposed developments where there is real community concern and where there is an expectation of local representative involvement.

Link to Local Government Reform – need to clarify or integrate the two reform areas, particularly where they are essentially looking at the same aspect, for example County Councils (Local Government Reform) versus Planning Boards (Planning White Paper) – are they the same? Need to articulate the difference between these two pieces of reform, or clarify how they fit together.

Objectives in Draft Bill – whilst clearly recognising ‘sustainable development’, the Bill would possible be improved by the inclusion of an overall broader objective recognising the need for ‘ecologically sustainable development’. Additionally the need for a specific objective related to ‘timely development assessment’ is questioned.

Inconsistencies between White Paper and draft Bills – the White Paper and draft Bills are difficult to read together and there are potential inconsistencies, differences etc between the two that need to be resolved.

2. Chapter 3 – Delivery Culture

It is acknowledged that this aspect of the reform agenda focuses around problem solving and a “can do” attitude in planning – this approach and the shift is generally supported. However consideration needs to be given to how impartial the system can be. It is agreed that the current system is too complicated, but there is need to be clear on where helping an applicant stops and the impartial assessment starts.

The provision of continued and practical support for the roll out of changes will be required, with the full involvement of local government. Professional guidelines will be provided to support the new legislation and these need to be provided in a timely manner

The performance reporting requirements in regard to ‘Delivery Culture’ should not be onerous and place additional resource burdens on Councils at time when they are also faced with participating in new regional planning work, preparing new local plans, adjusting to a changing development assessment framework etc.

3. Chapter 4 – Community Participation

Up front community involvement in strategic planning is supported and seen as beneficial. However community involvement will be significantly reduced once strategic planning is completed. This is a major shift and may not be well accepted by the community and it will take some time for them to adjust.

Engaging early is perhaps the greatest challenge posed by the reform – specifically who, when and how to engage? Also the community's capacity to engage is likely to be tested given the range of significant matters that may arise from the reforms.

The proposed Community Participation Charter is a positive step and one that is supported, however its roll and enforceability needs to be clarified. The wording of the charter needs to be tightened up so that it does not become a new source of conflict should disputes arise about what is meant by its contents e.g. “the community is to be provided with opportunities to participate in planning” – need to clarify what is meant by opportunities, is that as little as a notice in a paper for example?

Mandatory minimum exhibition periods – these are strongly supported as they provide important certainty.

The proposed Community Participation Guidelines need to be provided quickly by the State Government so Councils can understand the implications and outcomes required.

Community Participation Plans – these will be an additional Council workload that may require the engagement of specialist staff to implement properly. The resourcing implication is a concern and Council will need to consider the relationship to our existing Community Engagement Strategies.

E-planning resources will be important to get the upfront strategic planning message across, particularly helping people visualise potential impacts. This needs to be resourced and clear guidance/direction (potential use of a single package or consistent resources) made available. It is likely that the State Government, specifically the Department of Planning & Infrastructure, may need additional capacity in this area, so that they are able to lead.

4. Chapter 5 – Strategic Planning Framework

Support the focus on good strategic planning that is ‘evidence based’, linked to infrastructure, with upfront engagement. ‘Evidence based’ strategic planning will however only be as good as available data. In this regard, the framework needs to be ‘adaptive’ as new information becomes available

The overarching strategic planning principles are supported, however some of the wording is a concern and should be revised e.g. Part of Principle 8 – Councils and State Agencies will be held accountable for delivering plans through ongoing monitoring and reporting of both results and processes.

The preparation of a number of focused NSW Planning Policies is supported. They should be higher level and it is essential that that they are consistent with other legislation, or alternatively the other legislation is adjusted to be consistent with the new planning policies.

It is acknowledged that Regional Growth Plans will be highly aspirational and focus on growth. The proposed whole of government approach is a strength. It was suggested at the community information sessions that they will identify ‘go’ and ‘no go’ areas – this approach is supported provided the plans are based on sound information and have some flexibility/adaptability. It is essential that the State

Government engage with the Commonwealth Government at this level to ensure that, if possible, any issues surrounding the EPBC Act are resolved early on, as it has been our experience that these issues can be problematic later and impact on growth planning.

There is a need to clarify where and when Sub-Regional Delivery Plans will be used and whether the County Councils proposed as part of Local Government Review will replace the proposed Sub-Regional Planning Boards.

The proposed local plans have the potential to be large documents, an amalgam of existing Community Strategic Plans/Local Environmental Plans/Development Control Plans/Contribution Plans. This may make them unwieldy unless specific guidance is provided on their preparation and contents.

The limited number of zones available for use in the new Local Plans is a potential concern. The community has generally not reacted well to the reduced number of zones under the current Standard LEP Instrument, as such, not sure how the community is going to deal with another change and the lack of flexibility of these changes. The logic of some of the proposed zone transfers is unclear and should be reconsidered or explained further e.g. E3 into 'rural', E4 into 'residential' and RE2 into 'commercial'.

More clarity on the transition into the new system is needed, particularly managing community expectations regarding involvement. There is likely to be a community backlash if current Standard Instrument LEP's are move across into a new format, when one of the main messages coming out of reforms is that people will be involved up front.

There is likely to be extensive work and costs involved in preparing all the things that support or make up the new local plans: local infrastructure plan, development guides etc. and when you add the need for economic testing to underpin everything, there are obvious concerns regarding practicality, cost and timing.

5. Chapter 6 – Development Assessment

The need for quicker development decisions is supported, however is the 80% target (code assessable and exempt/complying) in 5 years really achievable especially given how much strategic work needs to come first?

There is a need to overcome existing interpretation problems with exempt & complying development codes. At present the take up has been limited (23%) and this is possibly one of the reasons.

The language in this chapter is confusing, for example code assessment versus type of development. It is more logical to have code assessment as a development type rather than an assessment path.

Code Assessable development is unlikely to be faster where bushfire etc assessments required. Form based codes will also be difficult to apply in regional areas versus city areas.

There appears to be a conflict between the proposed amber light approach for merit assessment and removal of stop the clock provisions as they appear to be very similar in intent

The code and merit assessment tracks are blurred and this leads to a lack of certainty for applicants/community.

Is the prohibited track really an assessment track? This needs to be clarified, however the Ministers ability to approve prohibited development has always been a feature of planning legislation and needs to be retained for those limited circumstances that are clearly meritorious to the State, but could not be foreseen through earlier planning.

The one stop shop for Government referrals and concurrences is strongly supported as the delays/uncertainty in this regard has been an ongoing frustration for Council.

The tasks required at a State level to set up the new system to facilitate faster development applications are substantial. The timing and resourcing of these tasks should be fully considered and if needed the timeframes/targets adjusted accordingly.

Whilst depoliticising development decisions is supported and is consistent with the approach Council has taken, the loss of Councillor involvement and the potential to be instructed to set up an Independent Hearing & Assessment Panel (IHAP) is a concern.

The proposal for a fast track appeal/review mechanism and mediation for single residential development has merit and is supported as an extension of what is happening now.

6. Chapter 7 - Provision of Infrastructure

The principle of Infrastructure planned and delivered alongside development is strongly supported. Infrastructure planning should be integral to strategic planning so that the most feasible and equitable Greenfield and Infill sites can be identified and housing released accordingly. Infrastructure costs for the development of Greenfield sites should be one measure by which the relative suitability of land for development is assessed.

The State Government implementing a process that will deliver priority infrastructure projects that are State significant in a timely manner is supported, as long as appropriate public consultation is carried out.

A simpler and less complex/standard system for funding infrastructure required for development is also welcomed, but it is not clear that the White Paper really achieves this.

Significant resourcing is needed to transition to the new contributions system e.g. preparation of growth/locality plans. There is no detail on the transitional approach to a new system, for example, will existing arrangements continue, will there be grandfather clauses etc.

The method of reviewing or adjusting Local Infrastructure Contributions when they are part of the Local Plan needs clarification. It appears that Local Plans will essentially be the equivalent of current Local Environmental Plans. Thus Planning Proposals may be required to amend local contribution rates. This is a significant process that takes time and has the potential to create significant delays in funding infrastructure, as the appropriate contributions cannot be charged until such time the new Local Plan or planning proposal is approved.

These delays are currently not present as Councils have the ability under the current system to adopt new contributions plans and set contributions rates without the need for planning proposals.

The legislation should be drafted to allow Local Infrastructure Contributions to be adjusted without the need for Planning Proposals to amend the Local Plan. The relationship between the local plan and the regional and sub-regional plans is unclear and should be clarified.

Having no contributions for small scale developments may affect the ability to fund and undertake town centre improvements.

Contributions infrastructure will be contestable to ensure value for money etc. and this is generally supported. The following aspects of Local Infrastructure Contributions are also supported:

- 100% cost recovery where appropriate
- Nexus based contributions plans (direct contributions) remain
- Indirect (previous S94A) plans remain and the method of deriving a particular Indirect Contribution has expanded to include:
 - Percentage of capital investment
 - Area of proposed development, or
 - In a manner authorised by the regulations
- Voluntary Planning Agreements remain within the system

These provisions will expand the scope to provide an appropriate contribution to particular developments to ensure infrastructure costs are recovered and create certainty for the developers.

However, concern is raised in regards to the following aspects:

- Limitations on the list of essential infrastructure being:
 - Local roads
 - Local drainage works
 - Open space
 - Community facilities

The essential list of infrastructure does not provide any certainty on whether Council will be able to levy contributions towards the acquisition of land where required to provide such infrastructure. If Council cannot raise funds via Local Infrastructure Plans to acquire land for future capital infrastructure to support new development, then other mechanisms need to be made available either via raising rates revenue or preferably accessing funding raised by the Regional Infrastructure Contributions.

Concern is also raised that further definitions of local roads, local drainage works, open space and community facilities will be imposed by the regulations, practice notes or IPART. Those definitions could significantly limit the types of facilities Council can raise funding for under Local Infrastructure contributions. Significant community consultation will be undertaken to inform Local Plans and the subsequent infrastructure required for growing communities. There is the potential for disconnect between what the community identifies as essential infrastructure in its Local Plan and what could be legislated or imposed by IPART. This is important as it may prevent Council from achieving the outcomes identified in the Local Plan and what is expected by the community.

- Benchmarking of Infrastructure Costs - Standardised benchmarking of infrastructure costs will not necessarily result in similar contribution rates for Local Infrastructure Contributions from one local area to another. Nexus based plans will derive a contribution based upon the cost of delivering essential infrastructure in an area and an appropriate apportionments of the future and current population that the infrastructure will serve. Therefore, benchmarking should be based upon a dollar rate per head of population, rather than unit or lineal rates to enable any sort of comparable rate from one region to another.

Further, whilst the White Paper states 'contribution caps' will be removed, the discussion infers that 'contribution caps' will be replaced by 'benchmarks'. It is difficult to determine what financial impacts these benchmarks will have on Council's ability to strike a reasonable contribution rate in respect of the infrastructure it is to provide as determined by the Local Plan and community expectation.

- Timing of Payment of Contributions - the draft Bill states that a Local Plan will include a provision that enables the payment of contributions to be deferred until the transfer of land to which they relate. It is envisaged that such an imposition would only relate to subdivision developments, however that is not specified and needs clarification.
- Local infrastructure contributions funds will only be able to hold for 3 years and could be reassigned. This aspect has the potential to impact both on the delivery of projects and also on Council's budget. If the infrastructure funds are not spent, are these placed into a Council fund to be spent elsewhere or re attributed to a general fund that the Department oversees?
- Limitations on the use of Voluntary Planning Agreements – it is proposed to limit the provision of infrastructure to that identified in a local infrastructure plan or growth infrastructure plan. However, currently a Voluntary Planning Agreement is not limited to works solely identified in Section 94 or Section 94A Plans. This has enabled Councils and also developers to solve planning issues, other than those confined to contributions plans, to enable development, such as the payment of contribution in lieu of carrying out a work originally imposed as a Section 80A condition.

Voluntary Planning Agreements should not be limited to particular infrastructure and the payment of contributions, as they have the ability to be used to solve other planning issues as long as they are not contrary to any

other provision of the Act. It is noted that these may be in the interests of the developer.

- Distinction between Greenfield and infill development - distinctions between Infill and Greenfield developments are discussed in the White Paper, which give the impression that separate contributions rates will need to be calculated and imposed by a Local Plan for the two types of development. For Councils with large land releases, such distinctions may be more obvious, however for regional Councils, Greenfield and Infill development can often combine to create shared needs for essential infrastructure such as roads, drainage, open space and community facilities. The draft Bill does not contain any distinctions between Infill and Greenfield developments, which would allow Council to derive an appropriate nexus, based Local Infrastructure Contribution in the Local Plan that would be applicable to both types of development. This flexibility should be maintained in the Regulations and Practice Notes to accompany the new Act, other contributions for smaller regional growth areas could be over complicated by a rigid requirement to establish a different contributions rate for both infill and Greenfield developments that will share the same infrastructure.
- The requirement to review local infrastructure and contributions plans every 4 years and the increased annual reporting will create an additional resourcing demand on Council.

Given our recent extensive experience in the contributions planning area and the work we have done to move to an acclaimed on line system, Council could play a valuable role on the proposed "Contributions Taskforce" that will be established to provide advice on moving forward with proposed arrangements.

There is also a need to clarify the intended application of water and sewer development contributions given that there are inconsistencies in the White Paper and also the draft Bills? There are two main, but interrelated issues in this regard:

1. Treatment of Section 64 (Water and Sewer Developer Charges)
2. Approval Process linkages with Water Management Act

Clarity is required as to the intended application of water and sewer developer contributions – the scope of charges and the mechanisms for their provision. There appear to be inconsistencies as to the definition and application of water and sewer contributions. It appears that they will continue to be treated separately and differently to other local infrastructure contributions provisions, but the regulatory mechanisms for this are not clear.

In the White Paper, "regional water supply" is included within metropolitan/regional growth plans and "water and sewerage distribution" is given as an example in subregional delivery plans (Pg 155 Table 14). Therefore, no level of water and sewer infrastructure is included in the Local Plans. It is assumed therefore that the 3 forms of infrastructure contributions in the new system as listed on Page 163 do not include water and sewer contributions levied by Council as the Local Water Utility (LWU). The local water and sewer contributions plans therefore sit outside the provisions applied to the local infrastructure contributions plans (e.g. they will not be subject to the 3 year rule).

If this is the case, then the water and sewer contributions application relies on Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 (i.e. Sections 305, 306 and 307 of that Act). Some points to note on these sections follow:

Section 305(1) allows a person to apply for a certificate of compliance, but does not require it

Section 306 allows Council as the LWU to impose conditions (including payment of Section 64 amount) before granting a certificate of compliance.

Section 118 of the Water Management (Water Supply Authorities) Regulation 2004 relates to Section 306 of the Water Management Act and states:

For the purposes of Section 306(1) of the Act, the following kinds of development are prescribed as development to which that section applies:

- (a) The erection, enlargement or extension of a building or the placing or relocating of a building on land*
- (b) The subdivision of land*
- (c) The change of use of land or of any building situated on the land*

However, the Planning Bill Exposure draft only requires an applicant to obtain a certificate of water supply compliance with respect to subdivision of land.

The intention of whether application of water and sewer headwork's charges for development other than subdivisions is intended therefore needs to be cleared up, given the quantum of charges in some areas of the state (e.g. over \$20,000 per ET).

7. Building Regulation & Certification

The inclusion of this area in the White Paper is welcomed as there have been concerns with the quality of certification and safety issues. People's lives are at risk and as such this needs to be taken seriously.

There are a number of initiatives aimed at addressing existing inadequacies in the building area:

- Clarifying minimum acceptable standards and requirements for regulation/certification of buildings, critical building systems and subdivisions
- Improving approval/certification processes and procedures
- Requiring additional qualified professionals to certify building elements and systems
- More effectively linking certification and approved plans with built outcomes
- Improving mandatory critical stage inspections
- Improving the level and quality of documentation and other building information at all phases of approval, construction and ongoing use
- Improving support for building certifiers/Councils in relation to decision making and ongoing compliance
- Enhancing compliance with approvals and standards
- Improving lifecycle performance of important building measures/features

A number of these initiatives are supported, but there is limited detail to assess the full implications of the proposal.

In the subdivision area, Council should remain the only authority able to issue subdivision certificates for assets that will become Councils, for example Public roads. However there could be a role for accredited subdivisions certifiers in the strata or community title area. It is also important to ensure that the existing requirement to submit preliminary engineering drawings with subdivision development applications is retained.

It is also important to consider that, if code assessment is happening at a faster pace will there be a log jam at the certification end?

8. Concluding Comments

Council strongly supports the need for a new planning system in NSW and congratulates the State Government on the contents of the White Paper. It is essential that it is implemented appropriately to ensure community confidence and that Councils (and the Department) are appropriately resourced to deliver it in a timely manner. Thus there may be a need to take a step back and work out what can be achieved in the timeframes.

It is difficult to read the extensive White Paper alongside the draft Legislation and it is apparent from the material and the consultation sessions that some aspects are still up for consideration and could change as a result of comments/feedback. As such it is essential that all users of the new planning system, and particularly Councils, are given a further opportunity to review and if necessary comment on the final draft Legislation before it is introduced into Parliament and becomes law.

It is also essential that there is detailed and continued dialogue with Councils and our representative bodies as the future legislation and supporting material is rolled out. In this regard it is essential that expected timeframes, resourcing and further detailed explanation of how it all fits together and works is provided as soon as practically possible.