

SHOALHAVEN CITY COUNCIL
D E V E L O P M E N T C O M M I T T E E

To be held on Tuesday, 2 February, 2016
Commencing at 4.00 pm.

27 January, 2016

Councillors,

NOTICE OF MEETING

You are hereby requested to attend a meeting of the Development Committee of the Council of the City of Shoalhaven, **to be held in the Council Chambers, City Administrative Centre, Bridge Road, Nowra on Tuesday, 2 February, 2016 commencing at 4.00 pm** for consideration of the following business.

R D Pigg
General Manager

Membership (Quorum – 5)

Clr White (Chairperson)
All Councillors
General Manager or nominee

BUSINESS OF MEETING

- 1. Apologies**
- 2. Adoption of Minutes of Previous Meeting**
- 3. Declarations of Interest**
- 4. Mayoral Minutes**
- 5. Deputations**
- 6. Report of the General Manager**
 Planning and Development
- 7. Notices of Motion**
- 8. Addendum Reports**

Delegation:

Pursuant to s377 (1) of the Local Government Act 1993 the Committee is delegated the functions conferred on Council by the Environmental Planning & Assessment Act 1979 (EPA Act), Local Government Act 1993 (LG Act) or any other Act or delegated to Council, as are specified in the attached Schedule, subject to the following limitations:

- i. The Committee cannot make a decision to make a local environmental plan to classify or reclassify public land under Division 1 of Part 2 of Chapter 6 of the LG Act;
- ii. The Committee cannot review a s82A or s96AB EPA Act determination made by the Council or by the Committee itself;
- iii. The Committee cannot exercise any function delegated to the Council which by the terms of that delegation cannot be sub-delegated;
- iv. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot

be delegated by Council; and

- v. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council.

Schedule

1. All functions relating to the preparation, making, and review of local environmental plans (LEPs) and development control plans (DCPs) under Part 3 of the EPA Act.
2. All functions relating to the preparation, making, and review of contributions plans and the preparation, entry into, and review of voluntary planning agreements under Part 4 of the EPA Act.
3. The preparation, adoption, and review of policies and strategies of the Council in respect of town planning and environmental matters and the variation of such policies.
4. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which breaches a development standard by more than 10% and the application is accompanied by a request to vary the development standard under clause 4.6 of Shoalhaven Local Environmental Plan 2014 or an objection to the application of the development standard under State Environmental Planning Policy No. 1 – Development Standards.
5. Determination of variations from the acceptable solutions and/or other numerical standards contained within the DCP or a Council Policy that the General Manager requires to be determined by the Committee
6. Determination of development applications that Council requires to be determined by the Committee on a case by case basis.
7. Review of all determinations of development applications under sections 82A and 96AB of the EP&A Act.
8. Preparation, review, and adoption of policies and guidelines in respect of the determination of development applications by other delegates of the Council.

Note: The attention of Councillors is drawn to the resolution MIN08.907 which states:

- a) That in any circumstances where a DA is called-in by Council for determination, then as a matter of policy, Council include its reasons for doing so in the resolution.
- b) That Council adopt as policy, that Councillor voting in Development Committee meeting be recorded in the minutes.
- c) That Council adopt as policy that it will record the reasons for decisions involving applications for significant variations to Council policies, DCP's or other development standards, whether the decision is either approval of the variation or refusal.

Note: The attention of Councillors is drawn to Section 451 of the Local Government Act and Regulations and Code of Conduct regarding the requirements to declare pecuniary and non-pecuniary Interest in matters before Council.

Cell Phones:

Council's Code of Meeting Practice states that "All cell phones are to be turned off for the duration of the meeting".

LOCAL GOVERNMENT ACT 1993

Chapter 3

Section 8(1) - The Council's Charter

(1) The council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- to keep the local community and the State government (and through it, the wider community) informed about its activities
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
- to be a responsible employer.

TABLE OF CONTENTS

MINUTES OF THE DEVELOPMENT COMMITTEE - 18 JANUARY 2016.....	1
PLANNING AND DEVELOPMENT	11
<i>ITEMS TO BE DEALT WITH UNDER DELEGATED AUTHORITY.....</i>	<i>11</i>
1. The Halloran Trust Planning Proposal (PP008) - Gateway Determination Outcome File 49256e	11
2. NSW Local Development Performance Monitoring Report for 2014-2015: DA Processing Times File 36637E.....	14
<i>ITEM TO BE REFERRED TO ORDINARY MEETING.....</i>	<i>20</i>
3. Bayswood Vincentia Coastal Village File SF9786-12	20

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING HELD ON MONDAY
18 JANUARY 2016 IN THE COUNCIL CHAMBERS, CITY ADMINISTRATIVE CENTRE,
BRIDGE ROAD, NOWRA COMMENCING AT 4.02 PM**

The following members were present:

Clr White - Chairperson
Clr Tribe
Clr Robertson
Clr Kearney
Clr Anstiss
Clr Gash
Clr Baptist
Clr Wells
Clr Findley
Clr Guile
Clr Watson
Clr Kitchener
Clr McCrudden – arrived 4.13pm
Carmel Krogh – Acting General Manager

1. Confirmation of the Minutes of the Development Committee meeting held on Tuesday 1 December 2015 [Index](#)

MOTION:

Moved: Baptist / Second: Kearney

(MIN16.1) RESOLVED that the Minutes of the Development Committee meeting held on Tuesday 1 December 2015 be confirmed.

CARRIED

2. [Deputations](#) [Index](#)

Mr Mark Pashfield/Richard Hall addressed the meeting in relation to Item 8, Page 31 - Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, Berry

Note: Clr McCrudden arrived at the meeting.

Ms Barbara Khalifa addressed the meeting in relation to Item 8, Page 31 - Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, Berry

Mr Will Armitage addressed the meeting in relation to Item 8, Page 31 - Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, Berry

3. Procedural Motion – Bring Forward Item

[Index](#)

MOTION:

Moved: Robertson / Second: Guile

That the matter of Item 8 - Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, Berry be brought forward.

CARRIED

PLANNING AND DEVELOPMENT

4. Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, BerryFile 52163e (PDR) [Index](#)

MOTION:

Moved: Anstiss / Second: Gash

(MIN16.2) RESOLVED That in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Give in principle support for the proposed rezoning of Lot 4 DP 834254, Beach Road, Berry and submit a revised Planning Proposal to the NSW Department of Planning and Environment for Gateway determination, subject to:
 - i) Revision of the proposed minimum lot size to ensure the size of future lots is consistent with adjacent subdivisions and can adequately accommodate on site effluent disposal;
 - ii) Revision of the proposed zoning to ensure appropriate environmental zoning for the swamp and buffer area and other ecologically significant areas on the subject land including, but not limited to, protection of Coomonderry Swamp/SEPP 14 wetland and ecologically significant areas such as the patch of forest known as "Jim's Forest" and Berry Wildlife Corridor.
 - iii) Development to be limited to the north of the ridgeline (i.e. no dwellings south of the ridge) to minimise any potential impact on Coomonderry Swamp, to maintain the integrity of the ridgeline, and to be consistent with the planning outcomes of the adjacent sites
 - iv) Resolution of the proposed transfer of land to National Parks and Wildlife Service, and the possible need for a Voluntary Planning Agreement.
- b) Advise the proponent and those who submitted comments of this resolution, noting the opportunity for formal comment later in the process; and
- c) Receive a further report following the Gateway determination, if necessary.

AMENDMENT:

Moved: Watson / Second: Kitchener

That in accordance with the Committee's delegated authority from Council, that the Committee:

-
- a) Give in principle support for the proposed rezoning of Lot 4 DP 834254, Beach Road, Berry and submit a revised Planning Proposal to the NSW Department of Planning and Environment for Gateway determination, subject to:
 - i) Revision of the proposed minimum lot size to ensure the size of future lots is consistent with adjacent subdivisions and can adequately accommodate on site effluent disposal;
 - ii) Revision of the proposed zoning to ensure appropriate environmental zoning for the swamp and buffer area and other ecologically significant areas on the subject land including, but not limited to, protection of Coomonderry Swamp/SEPP 14 wetland and ecologically significant areas such as the patch of forest known as “Jim’s Forest” and Berry Wildlife Corridor.
 - iii) Development to be limited to the north of the ridgeline (i.e. no dwellings south of the ridge) to minimise any potential impact on Coomonderry Swamp, to maintain the integrity of the ridgeline, and to be consistent with the planning outcomes of the adjacent sites
 - iv) Resolution of the proposed transfer of land to National Parks and Wildlife Service, and the possible need for a Voluntary Planning Agreement.
 - b) Advise the proponent and those who submitted comments of this resolution, noting the opportunity for formal comment later in the process;
 - c) Prior to the proposal being submitted to Gateway for determination, Council seek the view of OEH towards the proposal;
 - d) Receive a further report following the Gateway determination, if necessary.

AMENDMENT LOST

FOR: Watson, Kitchener, McCrudden

AGAINST: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, Findley, Guile, White and Carmel Krogh

PROCEDURAL MOTION:

Moved: Gash / Second: Baptist

That the MOTION be PUT.

PROCEDURAL MOTION CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, White and Carmel Krogh

AGAINST: Findley, Guile, Watson, Kitchener, McCrudden

MOTION CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, White and Carmel Krogh

AGAINST: Findley, Guile, Watson, Kitchener, McCrudden

REPORT OF GENERAL MANAGER

PLANNING AND DEVELOPMENT

5. Illawarra-Shoalhaven Regional Plan - Release

File 29118e [Index](#)

MOTION:

Moved: Wells / Second: Baptist

(MIN16.3) RESOLVED that in accordance with the Committee's delegated authority from Council, that the report on the release of the Illawarra-Shoalhaven Regional Plan be received for information.

AMENDMENT:

Moved: Guile / Second: Findley

That in accordance with the Committee's delegated authority from Council, that:

- a) The report on the release of the Illawarra-Shoalhaven Regional Plan be received for information;
- b) Council notes that the Illawarra-Shoalhaven Regional Plan is not consistent with the State Government plan for a merger of Shoalhaven and Kiama and that on this basis Council resolves to oppose the merger.

The Chairperson advised the meeting that it would be adjourned to allow for clarification of the Code of Meeting Practice.

PROCEDURAL MOTION:

Moved: White / Second: Gash

That the meeting be adjourned.

PROCEDURAL MOTION CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, White and Carmel Krogh

AGAINST: Findley, Guile, Watson, Kitchener, McCrudden

The meeting adjourned for 5 minutes the time being 5.29pm.

The meeting reconvened the time being 5.36pm

The following members were present:

Clr White - Chairperson
Clr Tribe
Clr Robertson
Clr Kearney
Clr Anstiss
Clr Gash
Clr Baptist
Clr Wells
Clr Findley
Clr Guile
Clr Watson
Clr Kitchener
Clr McCrudden
Carmel Krogh – Acting General Manager

Point of Order – Clr Gash advised the Chairperson that Clr Guile said that it is negligent of Council being supported by the Mayor to not pass a resolution on the Council's position on the proposed merger. The Chairperson ruled in favour of the Point of Order and requested that Councillor Guile apologise.

Councillor Guile did not apologise

Point of Order – Clr Findley advised the Chairperson that she was insulted by the comments Clr Wells had made about politicising the issue of the Council merger. The Chairperson ruled in favour of the Point of Order.

Clr Wells apologised.

Note: The Acting General Manager, Carmel Krogh advised the Committee that the proposed amendment may fall outside the delegations of the Development Committee.

AMENDMENT LOST

FOR: Findley, Guile, Watson, Kitchener, McCrudden

AGAINST: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, White and Carmel Krogh

MOTION CARRIED

6. Procedural Motion – Bring Forward Item

[Index](#)

MOTION:

Moved: Robertson / Second: Guile

That the matter of Item 10 - Development Application – 28 Gardner Road, Falls Creek – Micro Distillery Brewery & Machinery Shed be brought forward.

CARRIED

NOTICES OF MOTION

7. Development Application – 28 Gardner Road, Falls Creek – Micro Distillery Brewery & Machinery Shed File DA15/2525 (PDR) [Index](#)

Clr Watson presented a petition containing approximately 51 signatures from residents expressing concern that the owners of 28 Gardner Road have claimed they have “Discussed the proposal with neighbours & local residents and have quite a number on board with the idea”. Local Gardner & Mortimer Road residents disagree with this claim as were not aware of such a proposal until a selected few received the DA application from Shoalhaven City Council on the 24 December 2015.

MOTION:

Moved: Watson / Second: White

(MIN16.4) RESOLVED that DA15/2525 be called in for determination by Council.

CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, Findley, Guile, Watson, Kitchener, McCrudden, White and Carmel Krogh

AGAINST: Nil

PLANNING AND DEVELOPMENT

8. Operational Review - Council’s Planning Proposal Process. File 23426E & 31157E [Index](#)

MOTION:

Moved: Wells / Second: Baptist

(MIN16.5) RESOLVED that in accordance with the Committee’s delegated authority from Council, that the Committee:

- a) Adopt the revised Planning Proposal (Rezoning) Guidelines; and
- b) Establish a panel of suitable planning consultants to help process planning proposals on behalf of Council when required due to staff workload and time constraints.

CARRIED

-
9. Planning Proposal (PP017) – Shoalhaven LEP 2014 – Shoalhaven Animal Shelter Relocation
File 52000E (PDR) [Index](#)

MOTION:

Moved: Wells / Second: Baptist

(MIN16.6) RESOLVED, in accordance with the Committee's delegated authority from Council, the Planning Proposal (PP017) – Shoalhaven Animal Shelter be submitted to the NSW Department of Planning and Environment for initial Gateway determination.

CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Baptist, Wells, Findley, Guile, Watson, Kitchener, McCrudden, White and Carmel Krogh

AGAINST: Nil

10. Shoalhaven LEP 2014 Housekeeping Amendment Stage 3A - Consideration of submissions post exhibition
File 51735e (PDR) [Index](#)

MOTION:

Moved: Baptist / Second: Findley

(MIN16.7) RESOLVED that in accordance with the Committee's delegated authority from Council, that the Committee

- a) Adopt the Planning Proposal with the minor wording change outlined in this report.
- b) Forward the Planning Proposal to the NSW Department of Planning & Environment requesting that they make the resulting amendment to Shoalhaven LEP 2014.

CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, Findley, Guile, Watson, Kitchener, McCrudden, White and Carmel Krogh

AGAINST: Nil

11. Development Application - Proposed Strata Title Subdivision of Attached Dual Occupancy Development at Lot 221 DP1185909 (No 53) Gordon Street, Milton.
Applicant/Owner: Shane P Larsen File DA14/1662 (PDR) [Index](#)

MOTION:

Moved: Findley / Second: Guile

That in accordance with the Committee's delegated authority from Council, that the Committee not support the proposed exception (variation) to the development standard until a policy review has been complete.

LOST

FOR: Robertson, Baptist, Findley, McCrudden

AGAINST: Tribe, Kearney, Anstiss, Gash, Wells, Guile, Watson, Kitchener, White and Carmel Krogh

FORESHADOWED MOTION:

Moved: Watson / Second: Gash

(MIN16.8) RESOLVED that in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Confirm that it supports the proposed exception; and
- b) That Council's policy position on locations where subdivision of dual occupancy can be permitted be reviewed, and that this review include consideration of strata subdivision options where more appropriate; and
- c) The application be determined under delegated authority.

FORESHADOWED MOTION CARRIED

FOR: Tribe, Kearney, Anstiss, Gash, Wells, Guile, Watson, Kitchener, White and Carmel Krogh

AGAINST: Robertson, Baptist, Findley, McCrudden

12. Development Application - Proposed Strata Title Subdivision of Approved Dual Occupancy at Lot 16 DP37996 (No.125) Camden Street, Ulladulla. Applicant: Rygate & West. Owner: Woden. File SF10485 (PDR) [Index](#)
-

MOTION:

Moved: Wells / Second: Gash

(MIN16.9) RESOLVED that in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Confirms support for the proposed exception; and
- b) The application be determined under delegated authority.

CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, Findley, Guile, Watson, Kitchener, McCrudden, White and Carmel Krogh

AGAINST: Nil

13. NSW Government Inquiry into the Regulation of Brothels - Outcomes File 1379e [Index](#)

MOTION:

Moved: Tribe / Second: Anstiss

(MIN16.10) RESOLVED that in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Receive the report on the NSW Government Inquiry into the Regulation of Brothels for information;
- b) That Council write to the State Government to support the recommendations in the report and urge them to include State funded exit strategies for sex workers who want to leave the industry as part of any policy the Government adopts in response to this inquiry/report.

CARRIED

14. Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, BerryFile 52163e (PDR) [Index](#)

This item was brought forward and dealt with earlier in the meeting.

15. Development Application - Proposed Neighbourhood Title Subdivision of Dual Occupancy Development at Lot 3 DP 38171, No. 60 Journal Street, Nowra. Applicant: Allen Price & Scarratts. Owner: David Lovett File SF10484 (PDR) [Index](#)

MOTION:

Moved: Wells / Second: Gash

(MIN16.11) RESOLVED that in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Confirm that it supports the proposed exception; and
- b) The applications be determined under delegated authority.

CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, Gash, Wells, Baptist, Findley, Guile, Watson, Kitchener, McCrudden, White and Carmel Krogh

AGAINST: Nil

NOTICES OF MOTION

16. Development Application – 28 Gardner Road, Falls Creek – Micro Distillery Brewery & Machinery Shed File DA15/2525 [Index](#)

This item was brought forward and dealt with earlier in the meeting.

There being no further business, the meeting concluded, the time being 6.51pm.

Clr White
CHAIRPERSON

REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 2 FEBRUARY 2016

PLANNING AND DEVELOPMENT

ITEMS TO BE DEALT WITH UNDER DELEGATED AUTHORITY

1. **The Halloran Trust Planning Proposal (PP008) - Gateway Determination Outcome**
File 49256e [Index](#)

SECTION MANAGER: Gordon Clark.

PURPOSE:

Detail the outcome of the Gateway determination for The Halloran Trust Planning Proposal to rezone land at Culburra Beach, Callala Bay and Currarong.

RECOMMENDED, in accordance with the Committee's delegated authority from Council that:

- a) **The report on The Halloran Trust Planning Proposal (PP008), Gateway Determination Outcome be received for information; and**
- b) **Council note and acknowledge the proposed Terms of Reference and Membership of the Project Control Group (Attachment "B") that will support the Planning Proposal process**

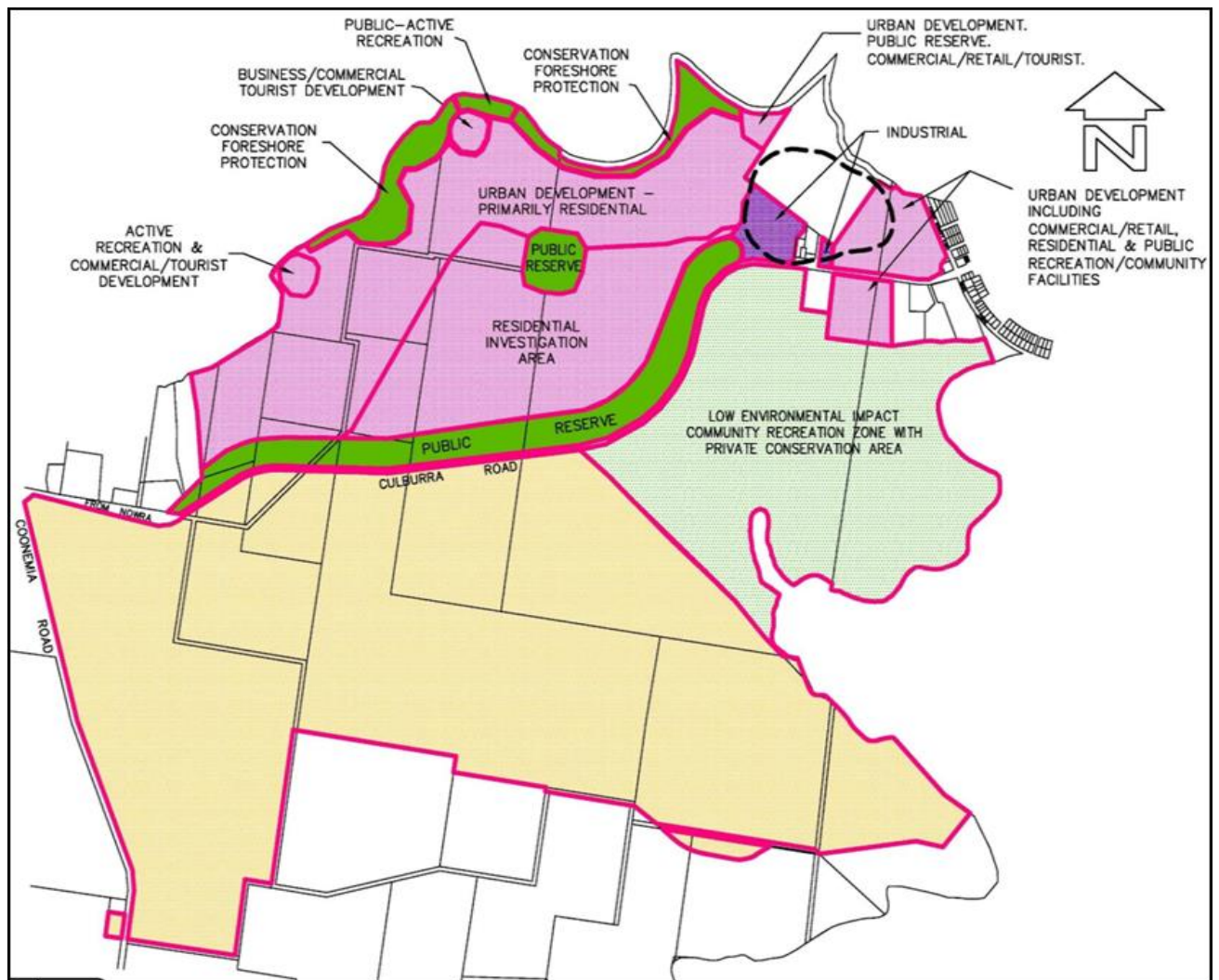
DETAILS

This Planning Proposal (PP) proposes to rezone 1681.5 hectares of land owned by The Halloran Trust in Culburra Beach, Callala Bay and Currarong. The PP was submitted to the Department of Planning & Environment (DP&E) during October 2014. DP&E issued a Gateway determination for the PP on 16 November 2015. A copy of the Gateway determination is provided as **Attachment "A"**.

The Gateway determination includes a number of conditions including the completion of 12 technical studies and a planning agreement for the dedication of lands to NSW National Parks and Wildlife Services. Once the investigations have been completed, the PP must be resubmitted to DP&E for review prior to any public exhibition taking place.

The Gateway determination generally supported the proposed rezoning, however, it did not support the area proposed for 'low environmental impact community recreation and private conservation area' south of Culburra Road and in the catchment of Lake Wollumboola, as shown on the following map. The Gateway determination requires land south of Culburra Road to be zoned environmental protection subject to the outcomes of a biodiversity strategy. The areas proposed for residential purposes within the catchment of

Lake Wollumboola will be subject to investigations to define the catchment and show whether a neutral or beneficial effect on the lake can be achieved prior to determining whether a residential zone will be supported.



Project Control Group

DP&E have also proposed the formation of a Project Control Group (PCG) to help manage this important project. The PCG will provide strategic direction and leadership, and to provide guidance on the PP and the other parallel planning processes.

The PCG will be made up of representatives of DP&E, Council and the NSW Office of Environment and Heritage (OEH), with other state agencies (i.e. Office of Water, RMS, etc.) to be invited on an as needs basis.

DP&E have advised that the PCG may meet with the proponent and community at pertinent points in the process to provide updates and to seek opinion/feedback.

The PCG Terms of Reference are provided as **Attachment “B”**.

Biodiversity Certification

The Gateway determination requires the preparation of a flora and fauna assessment and biodiversity offset strategy to inform an appropriate development footprint and consider the appropriateness of either biodiversity offsets or biodiversity certification of the land. The field study by an accredited biobanking assessor to input into the biodiversity offset strategy has already commenced.

The potential biodiversity certification process will result in any impacts from development being offset by applying conservation measures to land identified for biodiversity protection. As the relevant planning authority, Council will be required to ultimately manage the potential biodiversity certification process.

The water quality investigation work outlined in the Gateway determination will also inform the identification of an appropriate development footprint.

Planning Agreement

The Gateway determination also requires a planning agreement to be prepared for any proposed dedication of land to the NSW Government for addition to the Jervis Bay National Park or other public open space.

Dependent on the outcomes of the Infrastructure Delivery Plan associated with the PP, an additional planning agreement may be required for the delivery of the required infrastructure or dedication of public open space to Council.

Similar to biodiversity certification, this process will run parallel to the PP.

FINANCIAL IMPLICATIONS:

In October 2014, the proponent paid the 'preparing submission for Gateway' fee in accordance with the current fees and charges. At the time, the minor fee was charged as the submission made to DP&E involved relatively minor additional detail from Council, however it was acknowledged that additional fees would be required from the proponent at a later date.

As the Gateway determination has now been issued and Council are required to undertake substantial works to proceed with the PP, the proponent will be required to pay the remainder of the PP Major fee, being \$10,871.

Due to the significant resourcing requirements associated with the PP, Council may consider engaging a dedicated resource to ensure that it is being progressed efficiently and does not take staff away from other important planning projects. The proponent will be charged (at cost) for the engagement of the resource should this be required.

The Gateway determination also outlines 12 separate detail studies/investigations that are required to both inform and support the proposed PP. The cost of these studies, whether undertaken by the proponents in accordance with an agreed scope of works or directly managed by Council, will need to be met by The Halloran Trust.

COMMUNITY ENGAGEMENT:

The Gateway determination requires that the PP is publicly exhibited for a minimum of 60 days. In addition, the biodiversity certification and the planning agreements will also involve their own public exhibition (or this may happen concurrently). The timing of the public exhibition however will not occur until all of the required studies have been completed and the PP is resubmitted to DP&E for review.

As this process has the potential to take up to 24 months, a consultation strategy is being developed to detail how the community can be kept informed regularly throughout the process. As a minimum, the community will have the opportunity to register their email addresses to receive notification when updates are made to Council's 'Current Projects' page on Council's website. The page will provide regular updates on the where the PP is up to, and any relevant outcomes from PCG meetings.

The DP&E have also advised that PCG members will meet with the proponent and community groups at pertinent points of the PP process.

2. NSW Local Development Performance Monitoring Report for 2014-2015: DA Processing Times **File 36637E** [Index](#)

SECTION MANAGER: Catherine Berni

PURPOSE:

The purpose of this report is to brief Council on the NSW Local Development Performance Monitoring (LDPM) Report for 2014-2015 released by the Department of Planning and Environment in December 2015.

RECOMMENDED, in accordance with the Committee's delegation from Council, that this report be received for information.

DETAILS:

Background

Format of the Department's Report

The Department's report this year is via an ePlanning Data Report website as an initiative of the Department to provide public access to various data sets held by the Department. At the time of writing this report, the website indicated that some data sets were 'not yet available'.

The website enables individual users to build various reports based on available data.

Raw data is also accessible which can be used to assemble various comparisons and the like.

The relevant link to the Department's portal is as follows:

What the Report does

The LDPM provides an overview of the performance of the NSW planning system and information on local and regional development determined by Councils, private certifiers and joint regional planning panels.

This year, is the tenth year in the series.

The LDPM provides information for key indicators of performance including the volume and value of various types of applications and determination times. It also provides information on other matters like Council staffing, appeals and reviews.

Terminology

The expressions below are used in the tables produced in this report.

Mean gross, mean net and median net times

The **mean gross time** is the average time taken by a Council to determine a DA or Section 96 modification application when time is measured from the day the application is lodged to the day the application is determined and no days are excluded (days taken by applicants to provide further information, such as flora and fauna studies, or further information from other State agencies, commonly referred to as “stop the clock” or “referral time”).

The **mean net time** is the average time taken by a Council to determine a DA or Section 96 modification application when time is measured from the day the application is lodged to the day the application is determined and stop the clock time and referral time are deducted.

The **median net times** reflect the middle value or time when applications are listed from the lowest to the highest value.

Council Groups

The DLG groups help to indicate the council type. All 152 councils are grouped into one of 11 council types or **groups**. Groups are based on population, size, location and development. Grouping councils according to similar socioeconomic characteristics allows comparison between councils' results and the performance of like councils.

Shoalhaven City is a **Group 5** Council, a Regional City with a population less than 1million.

The **Southern Group** of Councils includes Bega Valley, Bomballa, Eurobodalla, Kiama, Shoalhaven, Kiama, Shellharbour, Wingecarribee, Wollongong, Snowy River and Goulburn Mulwaree.

Key Findings

The State Perspective – A Snapshot

In 2014-2015, the number of development application (DA) determinations and the number of complying development certificates (CDC's) issued increased from last year. Overall determinations (DA, s96 and CDC) increased by 6% from 2013-2014 and the value of approvals (DA and CDC) increased by 19% to \$34.1 billion from \$28.7 billion in 2014-2014.

The number of CDC's increased and now account for 32% of development approvals, up from 29% in 2013-2014.

The overall average gross DA determination time increased slightly by one day to 71 days and the average net DA determination time increased from 45 days to 48 days.

The number of construction, occupation, subdivision and strata certificates issued also increased.

Shoalhaven City Comparisons

Number of Applications

Table 1 – DA numbers compared with previous years
Councils with highest number of applications between 2011/12 to 2014/2015

Council	2011-2012	2012-2013	2013-2014	2014-2015
Blacktown	2166	1892	2013	2206
Lake Macquarie	1819	1764	2062	2144
Sydney City	1926	1840	1822	1757
Shoalhaven	1438	1395	1430	1608
The Hills Shire	1318	1214	1317	1538
Wollongong	1386	1328	1388	1479
Penrith City	1208	1326	1377	1448
Wyong Shire	1015	1429	1561	1411
Newcastle	1442	1336	1543	1387
Warringah	1444	1312	1340	1091

Notes: Blacktown had the highest number of applications in the state, followed by Lake Macquarie then City of Sydney. Shoalhaven City had a marked increase with an additional 178 applications (12% increase), moving from 5th highest (13/14) to 4th highest (14/15).

Overall DA Turnaround Times
Table 2 – Group 5 Councils Turnaround Times.

Council name	Number of DA determined	Mean gross time for DA determined	Median gross time for DA determined	Mean net time for DA determined	Median net time for DA determined
Lake Macquarie City Council	2144	62	39	32	25
Newcastle City Council	1387	78	56	44	38
Maitland City Council	988	56	32	32	25
Tweed Shire Council	956	60	42	41	33
Coffs Harbour City Council	1012	63	29	51	21
Port Macquarie-Hastings Council	897	55	38	31	27
Wollongong City Council	1479	61	44	42	33
Shoalhaven City Council	1608 (1430)	68 (58)	42 (36)	34 (30)	22 (20)

Note: The numbers in brackets are for the previous year.

Council compares favourably with Wollongong and similar sized regional Councils, on DA turnaround figures including mean gross time, median gross time, mean net time, and median net time, as shown in the table above.

Table 3 - Top 10 Councils for DA Determination
Referencing Staff Numbers & Construction Certificates

Council Name	DLG Code	No. of EFT staff allocate to assessment	No. of CC's issued by Council	No. of CC's issued by private Certifiers	No. of DA's Determined	Mean Gross Time DA's Determined	Median Gross time for DA's Determined	Mean Net time for DA's Determined	Median net time for DA's Determined	No. of DA's Determined with Stop the clock days
NSW		1,071.95	2,4447	29,179	62,647	71	46	48	32	22,896
Blacktown City Council	3	21 (105)	1,019	1,010	2,206	84	52	70	43	603
Lake Macquarie City Council	5	31 (69)	758	1,046	2,144	62	39	32	25	986
Council of the City of Sydney	1	46 (38)	165	3,255	1,757	89	73	80	64	279
Shoalhaven City Council	5	17 (94)	774	590	1,608	68	42	34	22	705
The Hills Shire Council	7	22 (69)	591	894	1,538	93	61	51	33	861
Wollongong City Council	5	21 (70)	257	1,007	1,479	61	44	42	33	622
Penrith City Council	7	14.1 (102)	488	716	1,448	85	61	64	48	267
Wyong Shire Council	7	12.4 (114)	692	278	1,411	44	31	29	24	322
Newcastle City Council	5	13.5 (103)	333	868	1,387	78	56	44	38	1,237
Bankstown City Council	3	14 (98)	216	739	1,382	64	36	53	31	462

The above table illustrates the top 10 Councils in NSW for the number of determinations and includes references to Construction Certificates issued both by Council and Private Certifiers.

Shoalhaven City issues a significant number of Construction Certificates, the second highest number in the state.

With respect to staffing numbers, Shoalhaven City has 17 equivalent full time (EFT) staff for 1,608 applications. This means 94.58 (75.2 previously) average applications per EFT staff. The state average is 58 (60 previously). Wollongong is 70 (previously 67.7). This suggests that in general terms, that across the State there has been an increase in the number of assessment staff. The significant increase in DA's relative to the number of assessment staff has been challenging. It should be noted however that the average value per DA is significantly lower in the Shoalhaven compared to other Group 5 Councils.

The turnaround times with respect to Planning and Development Services Group, despite the substantial workload, are reasonable and less than the state averages. However taking into account the workload and customer service expectations demanded by the community, consideration needs to be given to resource levels moving forward.

Legal Appeals

The LDPM report also provides information on appeals by applicants to the Land and Environment Court in relation to DA determinations or deemed refusals. It should be noted that staff often seek a negotiated outcome with appeals; this however is recorded as an upheld appeal.

With respect to appeals determined for the 2013-2014 and 2014-2015 period, Shoalhaven Council had nil as was the case with upheld appeals.

Reviews

Table 4 – Number of Section 82A Reviews
Shoalhaven City compared with the State, Southern Group and Group 5 Councils

Category/Group	Approved	Refused	Withdrawn/Cancelled	Rejected
State	261 (255)	70 (61)	36 (34)	6 (3)
Southern Group	13 (13)	3 (1)	0 (4)	1 (10)
Group 5	11 (24)	1 (2)	1 (4)	1 (1)
Shoalhaven City	0 (0)	0 (0)	0 (0)	0 (0)

The numbers in brackets in table 4 are for the previous year, that is, 2013-2014. Shoalhaven City Council did not undertake any reviews for this or the previous reporting period. With respect to the Southern Group, Wollongong had the highest number of reviews. Out of the Group 5 category, Wollongong also had the highest number.

Value of Development

Table 5 – Value of Development – Southern Group Councils

Council	No. of DA's Determined	Value of DA's Determined \$M	Mean Net Time for DA Processing
Bega Valley Shire Council	478	70,569,391	33
Bombala Council	25	1,822,177	20
Eurobodalla Shire Council	626	97,771,303	26
Goulburn Mulwaree Council	401	80,276,682	52
Shellharbour City Council	493	219,604,678	27
Shoalhaven City Council	1,608	244,245,639	34
Snowy River Shire Council	129	18,393,088	43
Kiama Municipal Council	274	70,164,000	39
Wingecarribee Shire Council	641	141,921,894	5
Wollongong City Council	1,479	572,921,873	42
TOTALS	6154	1,517,690,725 (Billion)	Ave Mean Net Time = 32.1

Referring to Table 5, Shoalhaven had the highest number of applications and second highest value. Wollongong exceeded the Shoalhaven however this is likely to be attributable to the types of applications considered including larger scale developments for residential, commercial and industrial categories. The mean figure for Wingecarribee also appears to be an anomaly, which lowers the group average figure.

Table 6 – Value of Development – Group 5 Councils

Council	No. of DA's Determined	Value of DA's Determined \$M	Mean Net Time for DA Determination
Coffs Harbour City Council	1,012	166,715,129	51
Lake Macquarie City Council	2,144	543,222,476	32
Maitland City Council	988	228,566,670	32
Newcastle City Council	1,387	454,425,838	44
Port Macquarie-Hastings Councils	897	243,559,700	31
Shoalhaven City Council	1,608	244,245,639	34
Tweed Shire Council	956	244,554,042	41
Wollongong City Council	1,479	572,921,873	42
TOTALS	10,471	2,698,211,367 (Billion)	Ave Mean Net Time = 38.3

Table 6 shows that Lake Macquarie has the highest number of applications, followed by the Shoalhaven. Wollongong has the highest value of development noting the type and scale of development in that area.

CONCLUSION

Shoalhaven continues to perform well when compared to surrounding and similar sized regional Councils. Based on current trends and income, Council will continue to face challenges in the next reportable year given the volume and complexity of applications submitted with regard to resources available.

ITEM TO BE REFERRED TO ORDINARY MEETING

3. Bayswood Vincentia Coastal Village

File SF9786-12 [Index](#)

SECTION MANAGER: Cathy Bern

PURPOSE:

This report is in response to Council's resolution of 3 November 2015. It is the third report concerning the Estate. (Refer to the 'Background' section in this report for further details.)

On 3 November, Council's Development Committee resolved to:

Investigate options in relation to the construction standard of the footpath (to the Leisure Centre) and the ongoing maintenance.

RECOMMENDED, that:

- a) **The Development Committee receive the report for information; and**
- b) **Consideration be given to an increase in the operational budget by \$8,000 annually, commencing FY16/17 for the regular maintenance of the gravel pathway as part of the current budget preparation process.**

OPTIONS

- 1. Council to receive and note the report for information.
- 2. In addition to the recommendation, Council request staff prepared a costs estimate to seal the pathway to a concrete or asphalt standard and this be provided for consideration in the FY16/17 budget.
- 3. Council provide an alternative recommendation. The impacts of an alternative recommendation are unknown.

DETAILS

Location

The estate is located in the vicinity of Vincentia, Jervis Bay. It is located near the main intersection of the Wool Rd and Naval College Road about 25 minutes south of Nowra. The estate as constructed is shown on the map below.

**Figure 1 – Location Map
Bayswood**



Background

Council's Resolution of 3 February 2015

Council in its Development Committee Meeting on 3rd February 2015 resolved:

- "a) A report be provided to Council in relation to the status of the development*
- b) After the report is provided to Council, a public meeting be held to inform the community."*

The report was put to Council on 2 June 2015. The report highlighted community concerns with respect to key community concerns, namely outstanding matters pertaining to the construction of a bus bay, modification of an intersection to accommodate the turning path of buses and a pedestrian pathway to the Bay and Basin Leisure Centre (BBLC). The public meeting was held on 23 April 2015 at Vincentia High School.

Council's Resolution of 5 May 2015

On 5 May 2015, the Development Committee resolved:

“the General Manager undertake a full audit of the earlier stages of the Bayswood state (sic) development in respect of the developers compliance with the conditions of development consent and other plans made under the consent such as, but not restricted to traffic management, landscaping and stormwater management plans.”

The report was presented to Council on 3 November 2015.

Council's Role in Bayswood and the District Centre

Council's role in the project approval process was and remains limited. The Department consulted with Council with respect to the original application and the numerous subsequent amendments.

With respect to construction of the estate, Council had various roles. It issued the Construction Certificate (CC) for the early stages but has also acted as a certifier undertaking various inspections. CC's for recent stages were issued by private certifiers.

The Subdivision Certificates (SC's also historically known as 'linen' plans) (enable registration of land title) have been issued by Council.

The Pathway

The delayed construction of the pathway caused considerable community frustration and was ultimately the subject of a bond to facilitate completion. The pathway was eventually constructed over a number of Shoalhaven Water assets following confirmation from the Department of Planning that it remained a requirement of the Concept Approval.

The pathway has only recently been completed with some additional tidying up (seeding adjacent to the pathway, removal of rubbish and enhancement where sections of the pathway were low lying to remove ponding issues undertaken.

The pathway includes a paved section and box culverts over a minor water course. The remainder of the pathway has been constructed to a gravel standard.

Just prior to the Christmas break, a significant local storm event resulted in damage to the pathway. The following photographs, Figures 2 and 3 depict the damage.

Figure 2 – Paved Area
(With gravel deposition shown on the pathway and in the adjoining natural area.)



The storm damage resulted in complaints / concerns being expressed to Council about the pathway and reconsideration of the standard of construction. An email to Council drew attention to earlier comments made by other residents that the *“pathway will be subject to erosion and scouring”* and *“why would Council accept a finish that will require maintenance in the short term?”*

Following the storm event, Council contacted the developer’s agents to attend to the damage. Basic repairs were made and safety signage installed prior to the Christmas break.

In addition to the Council resolution concerning the investigation of ‘options’ for the pathway, there has also been some interest by residents expressing dissatisfaction with the pathway and in seeking an upgrade to a material other than gravel in particular after the storm event. Any upgrading would presumably be either a concrete or bitumen pathway.

Originally, the gravel path was agreed to by Council as a suitable design solution on the basis that it was sympathetic to the natural environment and facilitated easy access to Shoalhaven Water Infrastructure, if maintenance was required.

A Deed of Agreement (which referred to a set of drawings **approved by Council on 19 September 2014**) and engineering design plan (Council reference D14/256290) endorsed this approach.

Any change or upgrade to the pathway as approved or constructed cannot be reasonably or lawfully required by Council (from the developer). If Council was inclined to upgrade the

pathway, it would be at cost to Council and there is currently no budget allocation or specific project for this.

Upgrading the Path

Council's Assets and Works liaised with Shoalhaven Water to reach an agreement for the access track between the Bay and Basin Leisure Centre car park and the pump station. This access track can be improved to facilitate better drainage which in turn will assist in maintaining the nearby pedestrian pathway. The works will include raising the level of the track, constructing and improving associated drainage including a mound to direct and control the flow of stormwater.

Shoalhaven Water has confirmed it has no fixed requirement for a path to access or maintain water or sewer assets. Whilst a gravel pathway was originally supported, concrete and/or bitumen can be easily removed to access infrastructure if required, and is a common structure in the city.

Assets and Works has advised that there is no funding available and is unable to carry out any works with regard to the current program and budget allocation. Funding will however be required to support ongoing maintenance of the gravel pathway.

Upgrading the pathway to a concrete or asphalt standard could be considered in future capital works programs, along with other pathway priorities.

Current Status of the Path

With respect to the current condition of the path, it is understood that the gravel is being cleared by hand and placed back on the pathway as directed by the Department of Planning and Environment's Compliance Officer. Other works are being discussed with the contractor employed by the proponents to assist in preventing future washouts.

During an inspection of the area, it was observed that the existing drainage that traverses the eastern end of the pathway (Council's driveway to the sewer pumping station) is inadequate to carry high volumes of stormwater such as the volume experienced in the recent event. Solutions are being considered and discussed with Council's Works and Assets staff with a view to improving the driveway and drainage arrangement. Shoalhaven Water has indicated that it may assist with funding (the amount has not been determined or confirmed at this stage.)



CONCLUSION

The pathway has been repaired to a basic level and at the time of writing this report, further repairs were warranted and discussions are being held to facilitate this.

The weather event prior to Christmas damaged the pathway and has triggered some community concern that the gravel construction was unsuitable.

A paved surface would be a better long term outcome. Whilst there is some preference for a paved surface, the gravel pathway has been approved and constructed. In light of this, there is no legal avenue to pursue an upgrade via the developer.

With respect to Council undertaking the works, that is constructing a new paved pathway, there are no budget or works programs set aside for this currently.

Tim Fletcher
DIRECTOR PLANNING & DEVELOPMENT SERVICES

R.D Pigg
GENERAL MANAGER