

# Welcome to the CCB Executive Meeting

28 April 2021



# Organisational Structure

Stephen Dunshea  
Chief Executive Officer



# Old Structure



## Previously:

- Finance, Corporate & Community Service – Acting Director Jane Lewis
- Planning, Environment & Development Service – Director Phil Costello
- Assets & Works – Director Paul Keech
- Shoalhaven Water – Acting Director Robert Horner

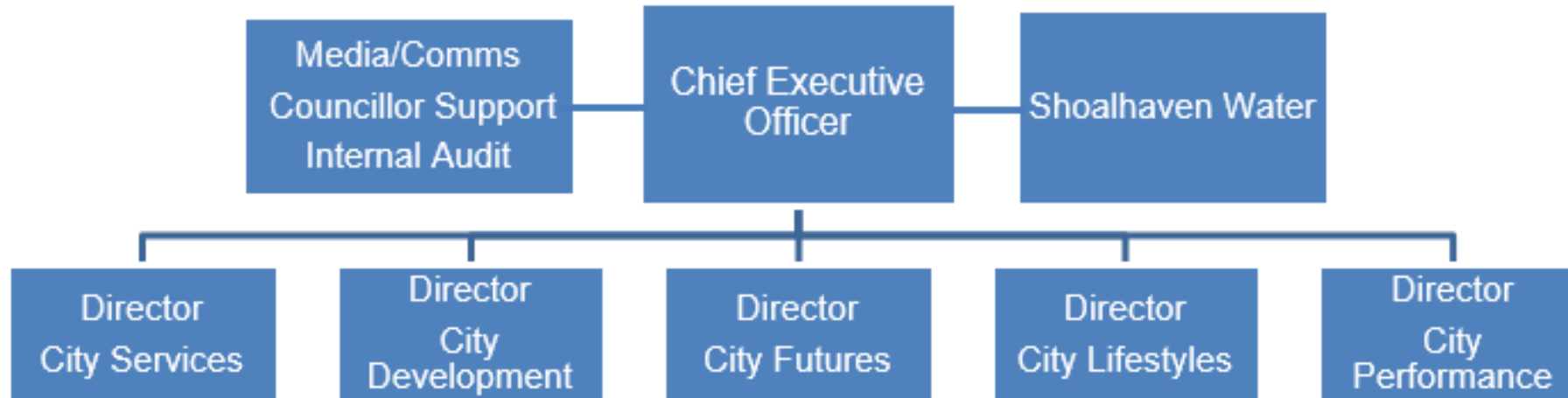
# Why Change the Structure?

- Vacancies existing in two (2) senior staff roles
  - Director – Finance, Corporate & Community Services
  - Director – Shoalhaven Water
- Opportunity to review these roles
- Reviews carried out in 2019 that focussed on Customer Service, DA processing, and Future Directions for the Shoalhaven highlight to me the need to:
  - Make sure the City and the Council are **future ready** to grasp opportunities expected to arise from the completion of the highway upgrades – making us more accessible
  - Harness the opportunity for a **fresh approach** which had been articulated to me my many in the community – including the business community
  - Enhance our capability to turn **plans into reality**
  - Ensure a strong focus on Strategic Planning and Development Assessment to achieve the **best outcomes** for the Shoalhaven
  - Develop a more robust customer engagement strategy and **customer experience** – recognising both external and internal customers
  - Improve **project management and delivery**
  - Strengthen organisational **performance and reporting**
  - Improve **communications and community engagement**



# What is the New Structure?

The following senior staff structure was adopted by Council on 6 August 2020



# Who is Who in the New Structure?

- Chief Executive Office – Stephen Dunshea
- Executive Manager Shoalhaven Water – Robert Horner
- Director City Services – Paul Keech
- Director City Development – Phil Costello
- Director City Futures – Robert Domm
- Director City Lifestyles – Jane Lewi
- Director City Performance – Kevin Voegt

# Functions of the New Directorates

## City Services

Asset Strategy

Maintenance & Construction

Technical Services

Council Buildings & Property Services

Commercial Services

- Waste Services
- Bereavement Services
- Holiday Haven
- Fleet & Mechanical

Natural Areas

- Infrastructure
- Asset Protection Zones
- Environmental Reviews (REFs)

Project Delivery

Parks & Open Space

Energy & Sustainability

Emergency Management

## City Development

Development Assessment

Certification

Building Assessment

Compliance

Ranger Services

Animal Management

Environmental Services

- Policy
- Regulation
- Compliance
- Weeds

Natural Areas

- Waterways
- Beaches
- Bushland

Ulladulla Service Centre

## City Futures

Strategic Land Use Planning

Strategic Infrastructure Planning

Urban Release Areas

Transformational City Projects

City Growth, Advocacy and Tourism

Economic Development

Placemaking & Urban Renewal

Affordable Housing Strategies

Strategic Property Asset Ventures

# Functions of the New Directorates

## City Lifestyles

Library Services

Arts & Culture

Community Development

Social Planning

Community Capacity Building

Community Resilience Planning

Social & Community Infrastructure  
Planning

Shoalhaven Swim Sport & Fitness

- Operations
- Service Provision
- Asset Management Planning
- Management Committees

Community Well-being and Lifestyle  
Strategies

Shoalhaven Entertainment Centre

Family Day Care

## City Performance

Corporate Finance

Long-term Financial Planning

Procurement & Stores

Information Technology &  
Smart Cities Initiatives

Customer Service Strategy &  
Contact Centre

Integrated Planning & Reporting

Corporate Performance Measurement  
& City projects Monitoring

People & Culture

Legal & Governance

Work Health & Safety

Business Assurance & Risk

Shoalhaven Water remains Council's Water Utility and a separate reporting entity with no change to the following existing functions

## **Water Accounts Business Support**

Water Accounts & Business Support

Metering & Services

Projects Compliance & Accounts

Business Operations

## **Water Asset Planning & Development**

Projects Design

Projects Regulations

Projects Development

Projects Assets

Capital Portfolio Operations

Service Provision

Asset Management Planning

Management Committees

## **Water Operations & Maintenance**

Mechanical / Electrical

Waster Operations

Waste-Water Operations

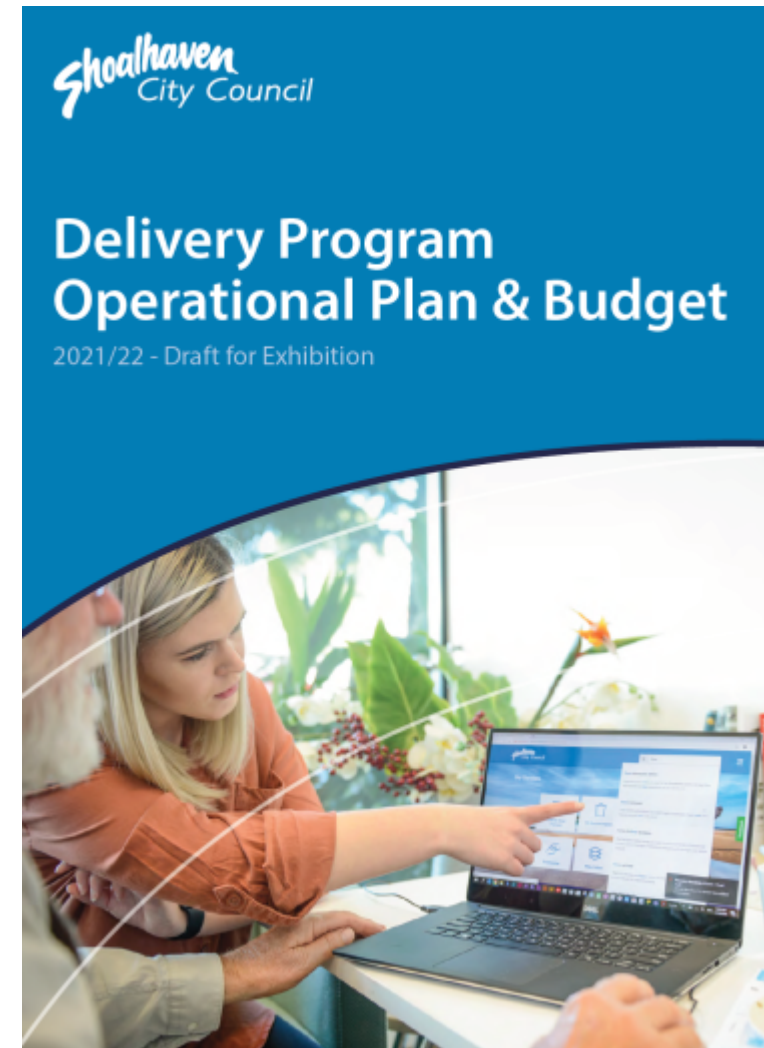
# Delivery Program Operational Plan & Budget (DPOP)

Jim Fraser

Manager Corporate Performance & Reporting

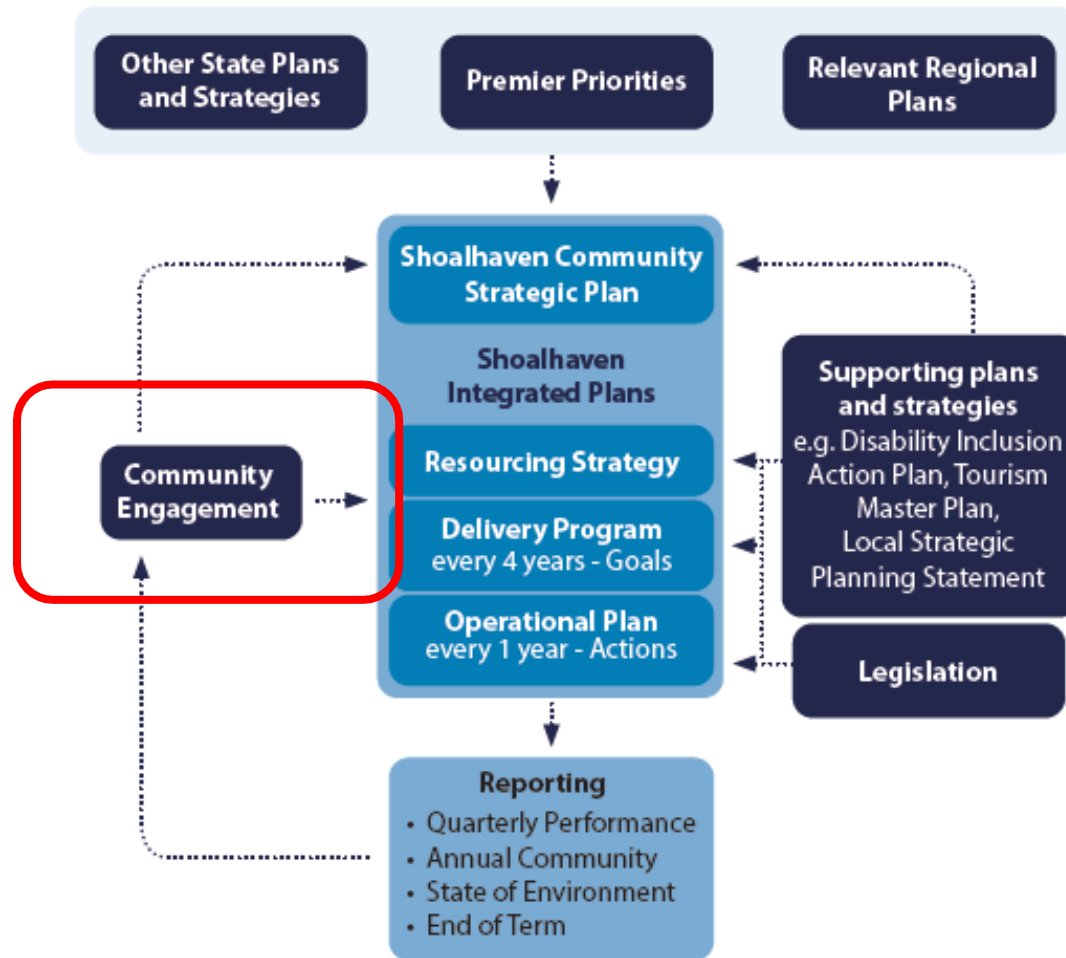


- What is the DPOP & Budget?
- Overview Key Projects
- Next steps in adopting our DPOP & Budget 2021-22
- How to Get Involved





# Integrated Planning & Reporting



# Community Strategic Plan (10 years)

- Shoalhaven 2027
- Reviewed and updated after each election
- What is important to the community?
- Not everything in the plan is Council's responsibility

**Resilient, Safe and Inclusive Communities**

- 1.1 Build Inclusive, safe and connected communities
- 1.2 Activate communities through arts, culture and events
- 1.3 Support active, healthy liveable communities

**Sustainable, Liveable Environments**

- 2.1 Improve and maintain road and transport infrastructure
- 2.2 Plan and manage appropriate and sustainable development
- 2.3 Protect and showcase the natural environment

**Prosperous Communities**

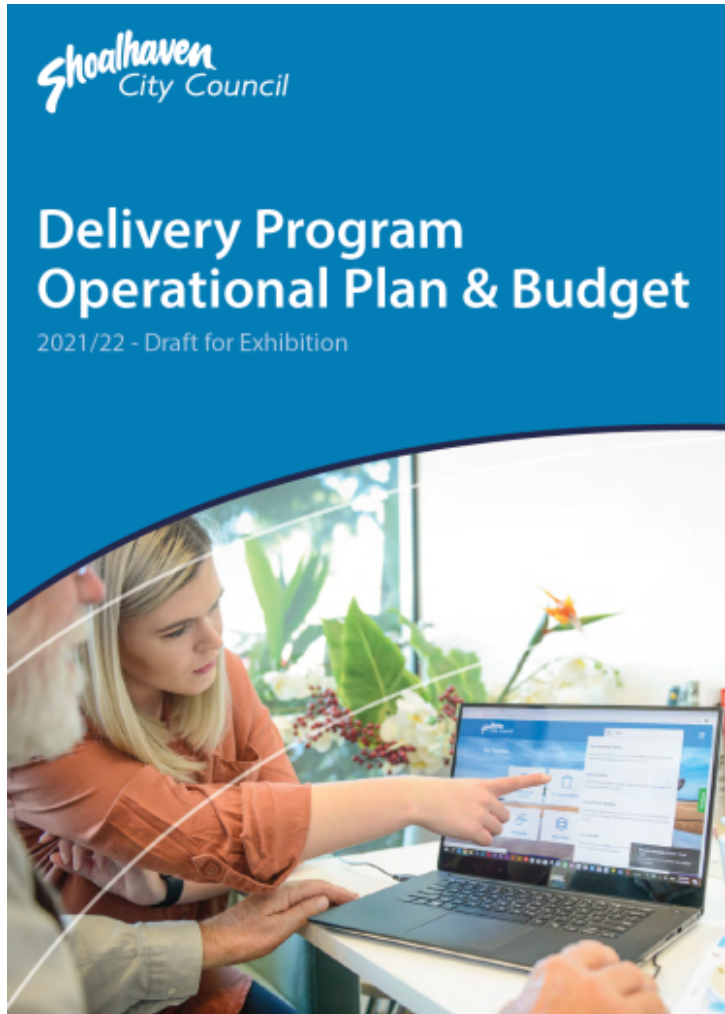
- 3.1 Maintain and grow a robust economy with vibrant towns and villages

**Responsible Governance**

- 4.1 Reliable services that meet daily community needs
- 4.2 Provide advocacy and transparent leadership through effective government and administration
- 4.3 Inform and engage with the community about the decisions that affect their lives



# Delivery Program Operational Plan



- Updated each year – informed through:
  - Adopted Strategic Plans
  - Asset Management Plans
  - Evidence, data, maintenance schedules
- In consultation with Councillors
- Public Exhibition each year

# 2021/22 Budget Overview

|                     | (\$'000)       |               |               |                |
|---------------------|----------------|---------------|---------------|----------------|
|                     | General Fund   | Water Fund    | Sewer Fund    | Consol.        |
| Capital Budget      | 176,531        | 27,129        | 26,554        | 230,214        |
| Operating Budget    | 249,739        | 29,314        | 42,493        | 265,724        |
| <b>Total Budget</b> | <b>426,279</b> | <b>56,435</b> | <b>69,046</b> | <b>495,938</b> |

# Ongoing Major Projects



## Resilient, Safe & Inclusive Communities

- Sanctuary Point Library
- Boongaree
- SCARP – Artie Smith Oval
- Bay and Basin Skate Park
- Materials Recovery Facility (MRF)
- Resource Recovery Facility (RRF)





# Ongoing Major Projects

- Far North Collector Road (photo new roundabout)
- Sewer & Water infrastructure - Moss Vale Road Urban Release Areas
- Nowra Riverfront Precinct
- Coastal Management Program



## Sustainable, Liveable Environment



# Capital Projects Showcase

- Industrial Estates – ongoing stages
- Redevelop Vincentia's Burton Street Mall
- Berthing facility - Ulladulla Harbour
- Bridges Program (\$4.3M)
- Waterways Program (boat ramp improvements)



Prosperous  
**Communities**





# What's on Public Exhibition?

**Shoalhaven City Council**

## Delivery Program Operational Plan & Budget

2021/22 - Draft for Exhibition

A woman with blonde hair, wearing an orange top, is pointing at a laptop screen. Another person's hand is visible near the laptop. The screen displays a website with various icons and text. The background shows a window with plants.

**Shoalhaven City Council**

## DPOP Fees & Charges

2021/22 - Part 1

A person is holding a tablet and showing it to two other people. One person is holding a red card. The background is a plain wall.

**Shoalhaven City Council**

## DPOP Fees & Charges

2021/22 - Part 2

The image shows the exterior of the Shoalhaven Aquatic Park. A sign on the building reads "SHOALHAVEN Swim & Fitn Nowr Aquatic Par". There are people walking on the paved area, and a blue wheelchair symbol is visible on the ground. A large "DRAFT" watermark is overlaid on the image.



# Get Involved

- Public Exhibition 29 April – 27 May
- Submissions collated, considered & Clr Briefing on amendments
- Final Draft DPOP considered at a Council Meeting in June
- **Once Budget adopted Staff continue planning & delivery of 2021-22 program**



Connect  
better ✓

# Capital Works

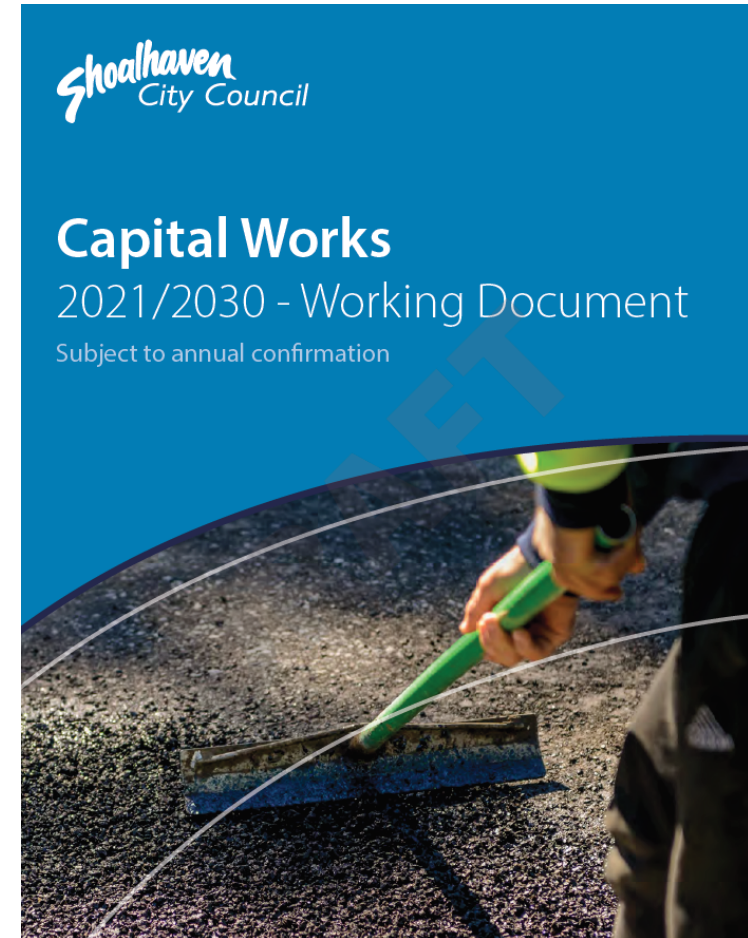
Paul Keech

Director City Services



# Indicative 10 Year Capital Works

- Invest in existing infrastructure with a focus on replacing and renewing infrastructure in poor condition
- Address community needs through the provision of general infrastructure programs and projects
- Deliver key strategic projects subject to State and Federal Government Funding support, as well as borrowings





# Indicative 10 Year Capital Works

- Council only allocates an annual budget, not a 10 year budget
- Indicative list is likely to evolve with projects being added and deleted and reprioritised over time
- Many projects have not been through a detailed design phase which may change the expected timing of delivery



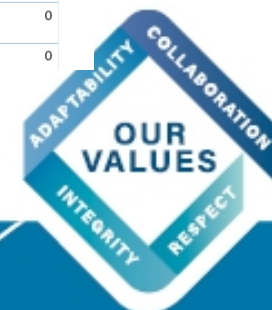
School Creek Bridge Opening

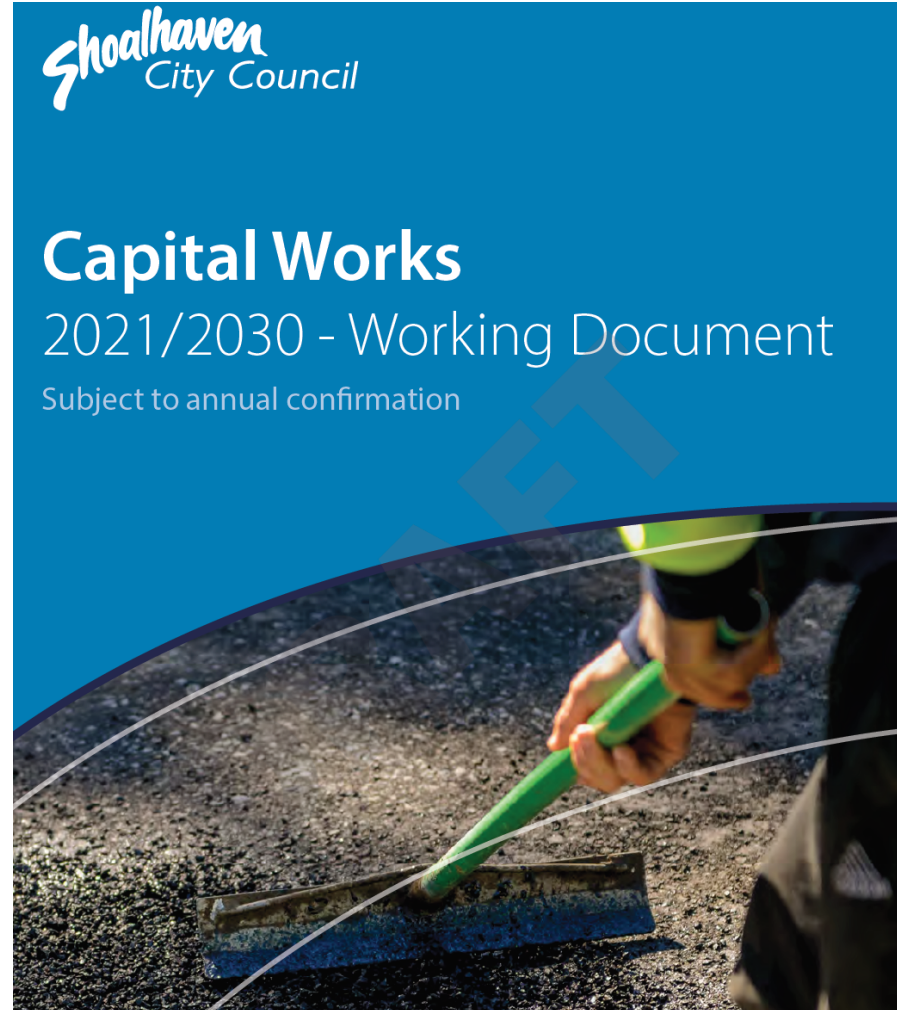
# Indicative 10 Year Capital Works

- Projects are confirmed through the development and adoption by Council of the DPOP and Budget each financial year
- To assist in finding a project of interest use the “Ctrl F” in the PDF electronic version of this plan with the key Road name or Project name

10 Year Proposed Capital Works Programming

| Ref# | Program  | 2021-22<br>\$,'000 | 2022-23<br>\$,'000 | 2023-24<br>\$,'000 | 2024-25<br>\$,'000 | 2025-26<br>\$,'000 | 2026-27<br>\$,'000 | 2027-28<br>\$,'000 | 2028-29<br>\$,'000 | 2029-30<br>\$,'000 | 2030-31<br>\$,'000 | Unfunded<br>\$,'000 |
|------|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|
| 1    | Buildings and Property   | 16,491             | 14,015             | 8,087              | 17,683             | 11,499             | 3,243              | 2,914              | 2,925              | 4,528              | 3,203              | 1,853               |
| 2    | Community, Residential and Commercial Buildings                            |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                     |
| 3    | South Narrawallee Beach - Surfers Ave - New Public Toilet                  | 0                  | 0                  | 0                  | 0                  | 0                  | 20                 | 160                | 0                  | 0                  | 0                  | 0                   |
| 4    | Youth Hall - Nowra Showground - Compliance                                 | 84                 | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                   |
| 5    | Arts Centre  | 24                 | 24                 | 25                 | 25                 | 26                 | 26                 | 27                 | 27                 | 28                 | 28                 | 0                   |
| 6    | Berringer Lake - Cunjurong Reserve - New Public Toilet                     | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 25                 | 0                  | 225                 |
| 7    | Berry District Park - Four Unisex Facilities                               | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 410                | 0                  | 0                  | 0                   |
| 8    | Berry -Mark Radium Park- Twin unisex facilities                            | 0                  | 0                  | 0                  | 0                  | 0                  | 20                 | 200                | 0                  | 0                  | 0                  | 0                   |
| 9    | Bomaderry Depot - renew/construct sheds                                    | 0                  | 45                 | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                   |
| 10   | Buildings Asbestos Removal Programme                                       | 229                | 139                | 142                | 145                | 148                | 151                | 154                | 157                | 160                | 164                | 167                 |
| 11   | Building Fire Compliance - Programmed works to meet compliance regulations | 650                | 650                | 650                | 650                | 650                | 650                | 650                | 650                | 650                | 650                | 0                   |
| 12   | Burrill Lake- McDonald Avenue  | 0                  | 0                  | 20                 | 150                | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                   |
| 13   | Callala Beach-Callala Beach Rd-Twin unisex facilities                      | 0                  | 0                  | 25                 | 175                | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                   |
| 14   | Carpet and furnishings upgrade including minor refurbishment               | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 50                 | 0                  | 0                  | 0                  | 100                 |
| 15   | Commercial Building Component Renewal Programme                            | 105                | 100                | 119                | 280                | 136                | 119                | 138                | 118                | 230                | 235                | 0                   |
| 16   | Community Building Component Renewal Programme                             | 216                | 499                | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                   |
| 17   | Community Buildings - Keyless Electronic Entry                             | 53                 | 53                 | 53                 | 53                 | 53                 | 0                  | 0                  | 0                  | 0                  | 0                  | 0                   |
| 18   | Community Buildings Scheduled Improvements                                 | 278                | 182                | 126                | 180                | 25                 | 236                | 145                | 14                 | 842                | 400                | 0                   |
| 19   | Crookhaven Heads Boat  | 0                  | 0                  | 0                  | 25                 | 200                | 0                  | 0                  | 0                  | 0                  | 0                  | 0                   |







# Recovery Into Resilience Project (RRP) Action Plan

Vince Di Pietro

Recovery Into Resilience Project Coordinator



# Repair, Recovery, Resilience...Readiness

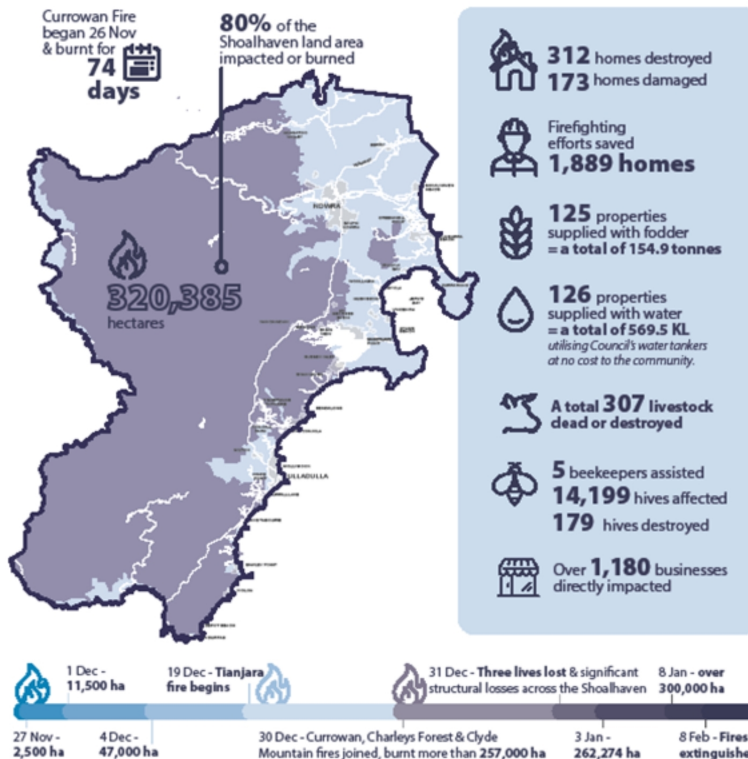


## Shoalhaven Local Government Area Recovery Action Plan

February 2020



## Currowan & Comberton Fires 2019/2020



## Shoalhaven Community Recovery Into Resilience Project (RRP) Action Plan

October 2020



# RRP Summary Page







# Towards a Community Led Adaptation & Resilience Strategy for Shoalhaven

*(A component of the Shoalhaven City Council's "Recovery into Resilience" Project)*

## Initial Project Brief to CCB Executive Meeting

★ Canberra

an Capital Territory

**Emeritus Professor Darryl Low Choy**  
**Ms Pazit Taygfeld**





***Acknowledge the Traditional Owners of the country  
where we are meeting today***



***Acknowledge the Elders past & present and the  
Traditional Owners of the land and sea scapes  
which are the subject of our research***

# **The Brief**

## **(Long Term Community-Led Resilience Stream)**

**The overarching aim of this project is to forge a partnerships between Council, research and academic institutions, business and key community organisations for the purposes of developing a Long Term Community-led Adaptation and Resilience Strategy for Shoalhaven**

**This Activity Stream involves a 10 to 20 year view of Community-led resilience embracing community, human and economic wellbeing, and the community's vision for the local environment, emergency and disaster management. It will be a completion of previous work from Griffith University's research in the Sussex Inlet area and continuing its study through other Shoalhaven Communities.**

# Traditional Approaches to Planning



Planning for communities has traditionally been undertaken by governments



*..... blind faith!*

Planning has only relatively recently attempted to engage the community – largely through consultation and selected and limited participation

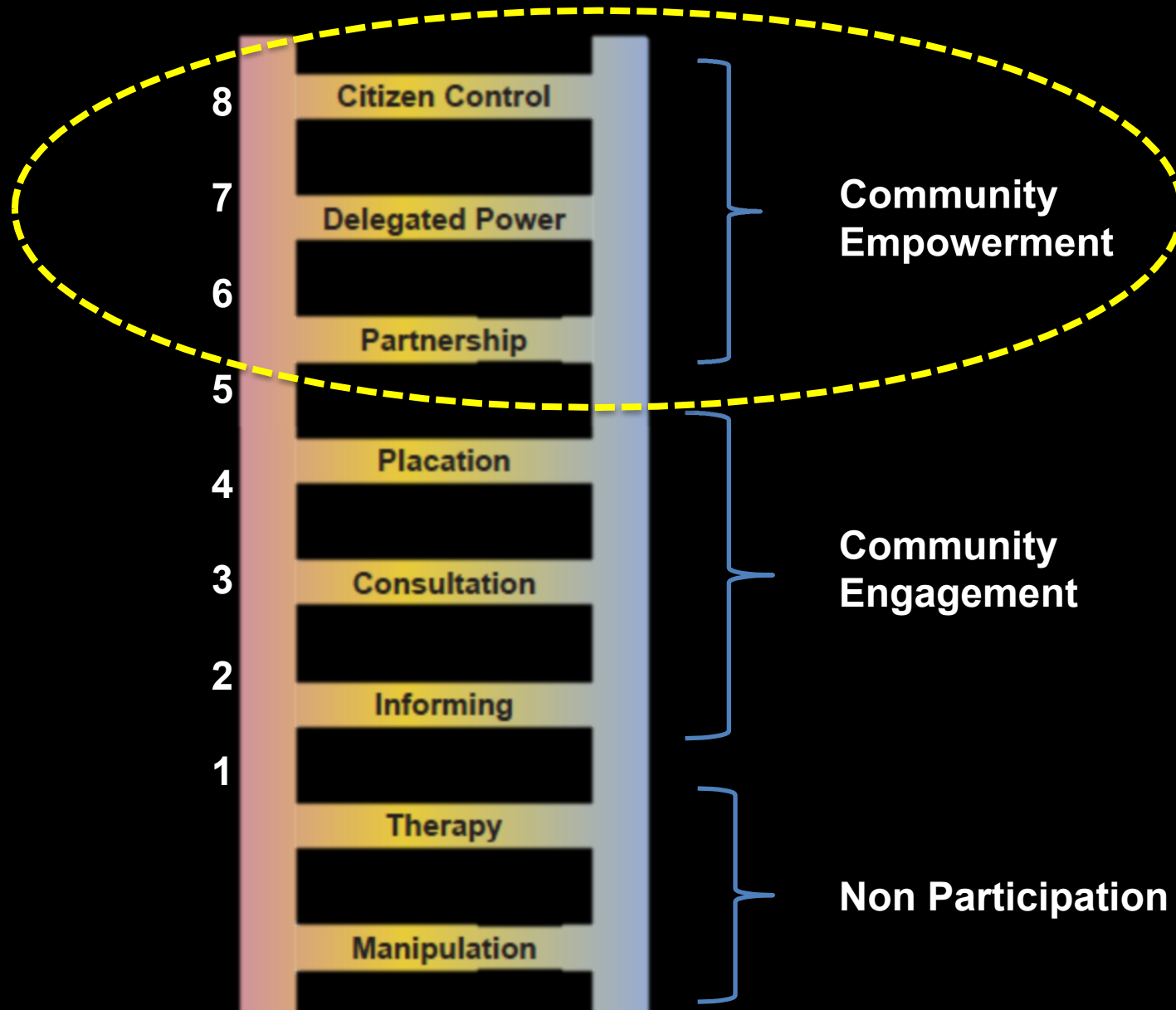
Communities are demanding more involvement in the planning for their communities





**Self Empowerment &  
Community Led  
Planning**

# Arnstein's Ladder of Citizen Participation



(adapted from Arnstein, 1969)

# Defining Self Empowered Communities

**Empowerment** is a mechanism by which people, organizations and communities gain mastery over their affairs, suggesting that empowerment occurs at the individual, group, and community levels

(Rappaport,  
1987)

An **empowered community** is "one that initiates efforts to improve the community, responds to threats to quality of life and provides opportunities for citizen participation"

(Zimmerman, 1995, p.  
25)

# Community Self Empowerment

## **Self Empowerment:**

**When a community has been involved in the identification of problems, solutions to the problems and actions to resolve the problems, a sense of self empowerment can be created. This process assists communities to develop a sense of self-determination and an adaptive capacity to deal with climate change, natural hazards and other major disturbances.**

(Gibbon et al, 2002, 485-491; Lopez-Marreo & Tschakert, 2011, 229-247; Paton et al 2008, 179–188; Norris et al, 2008, 127-150; Chandra et al, 2010, pp. 1-39; Airriess et al 2007, 1333-1346; Airriess et al 2010, 103-118)



# Community Led Planning

*By coming together, evidencing local needs, exploring solutions and implementing a plan of action, they are generating a stronger, more sustainable society that is less reliant on the state to get things done.*

*Community Led Planning (CLP) enables local people to create stronger, more vibrant and more resilient communities, better able to respond to local challenges and opportunities. It represents genuine value for money, as communities across the country take on responsibility for making things happen, rather than waiting for others to do it for them.*



# Levels of Community Engagement

## Levels of Engagement

Informing – Consulting – Involving – Collaborating – Empowering



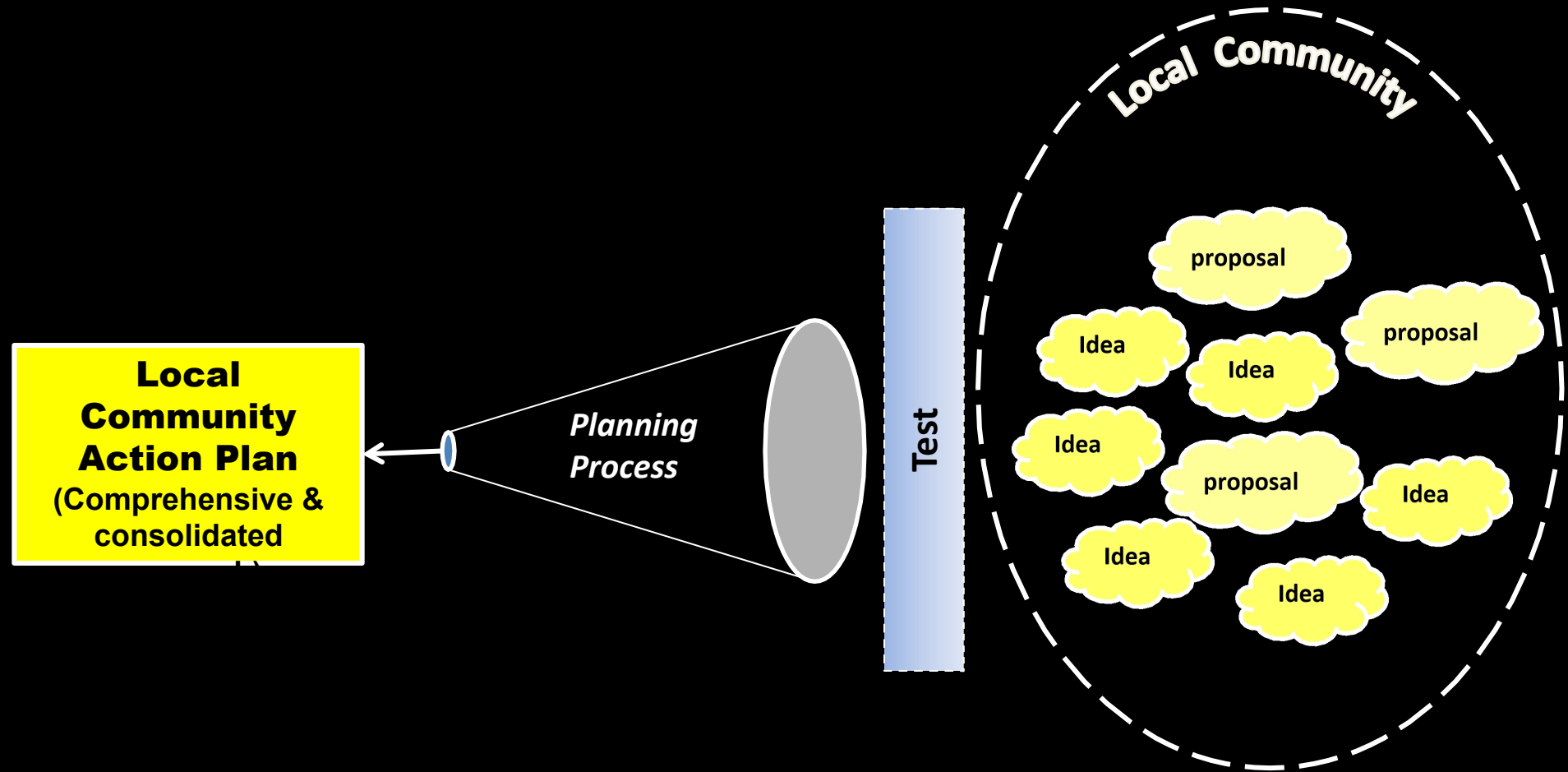
# **Planning Phase**

# *How do we get from “ideas” to “actions”?*



**Ideas by themselves do NOT directly facilitate community development, OR improve the quality of life – a process is needed to bring those ideas into actions.**

# A Planning Process towards Collective Action

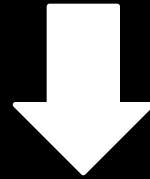


*Collective action has greater weight than individual action*



# Testing Future Management Options

Future Options (including policies & programs etc)



*Scenario 1*

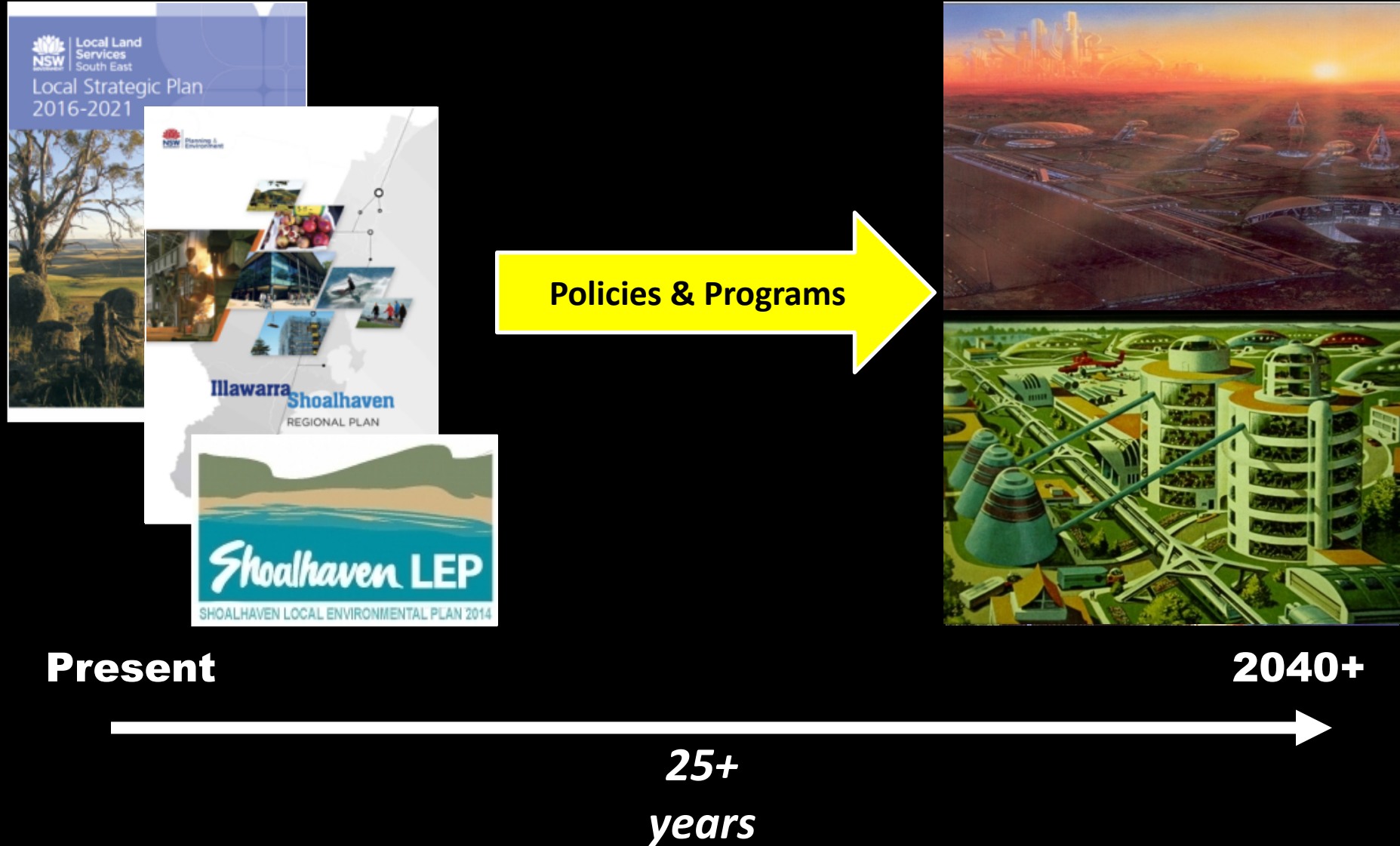


**“Wind Tunnel” Test of  
Future Options**

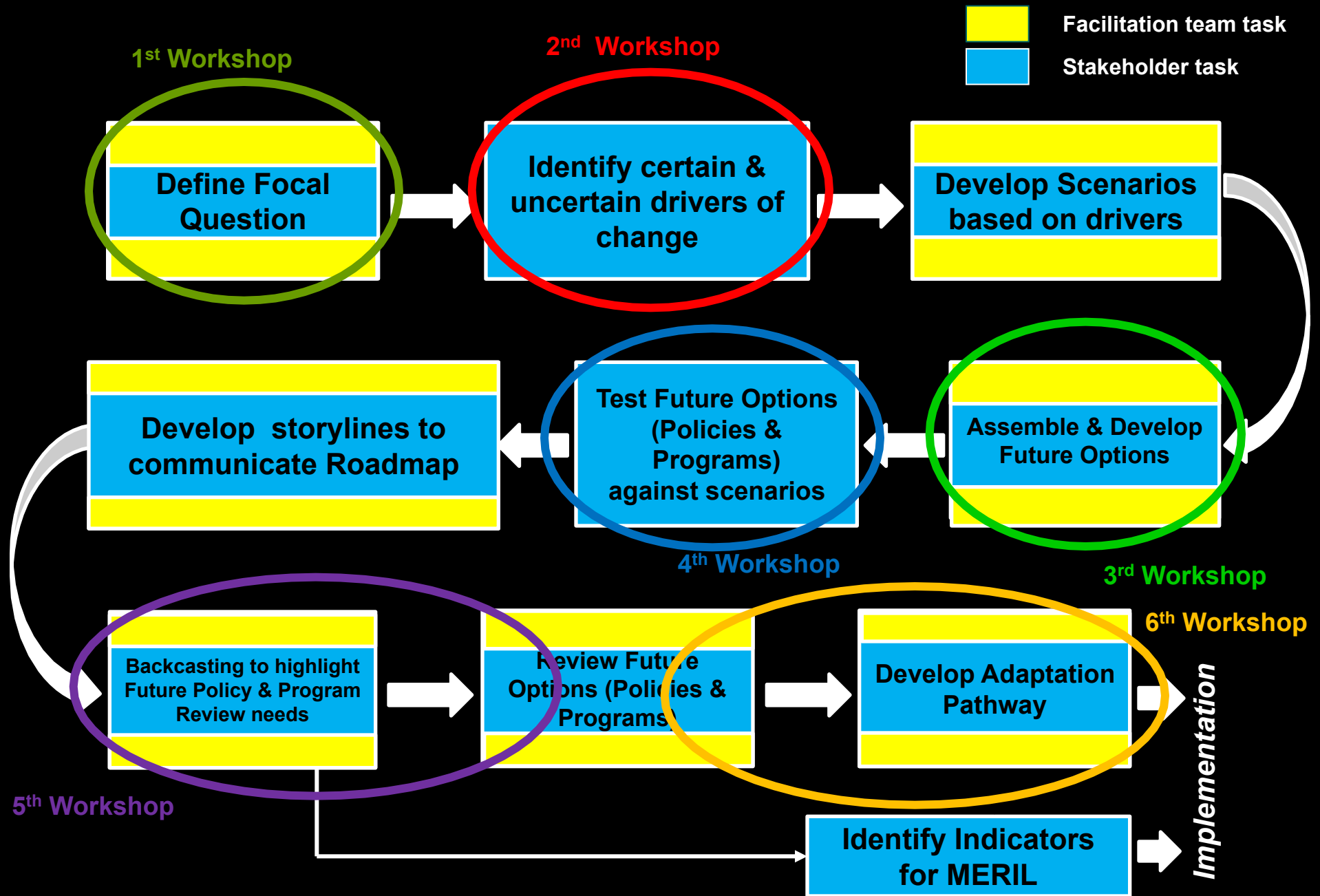


*Scenario 2*

# Typical Timelines for Strategic Plans

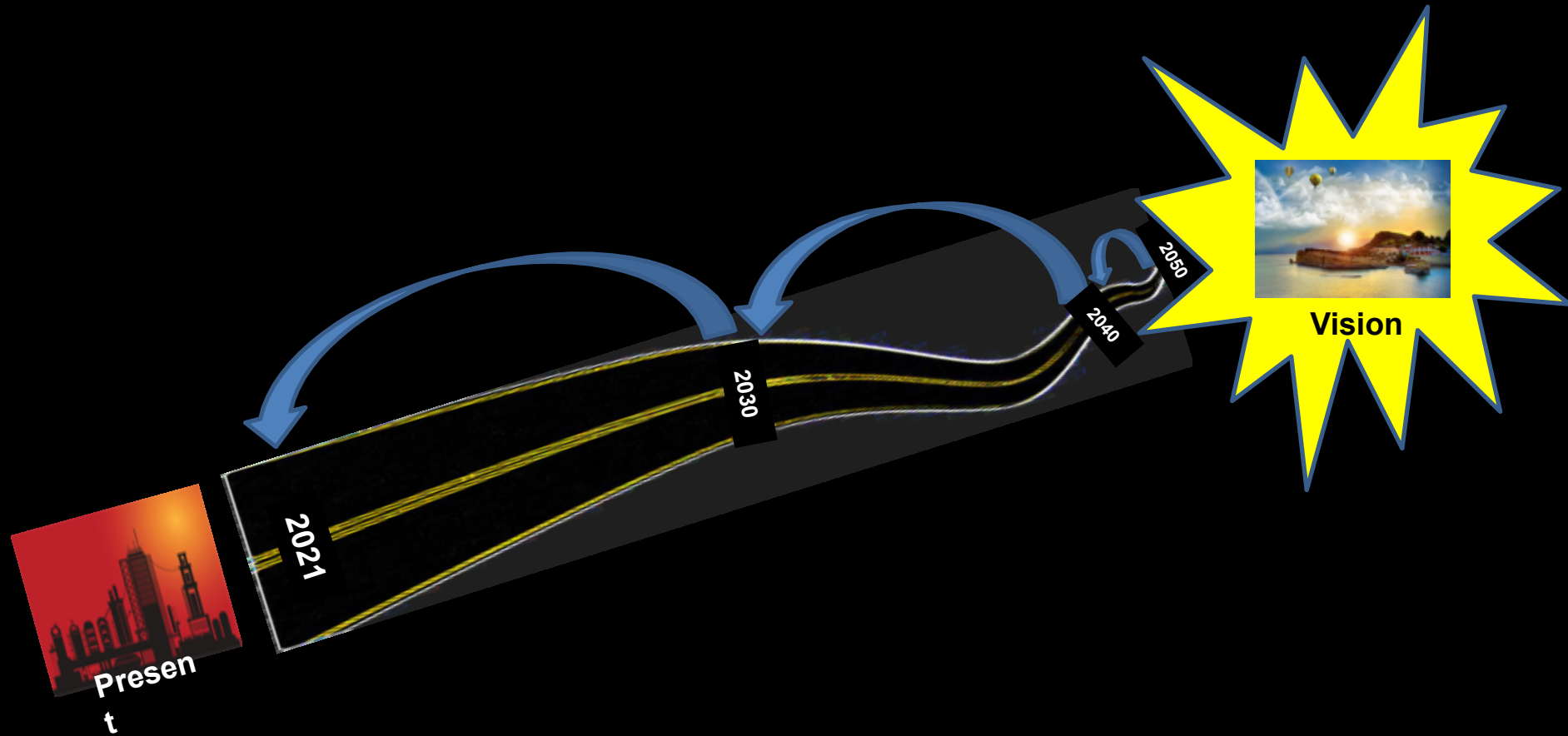


# Scenario Planning & Adaptation Steps



# **Backcasting**

# Backcasting for Adaptation Pathways Planning



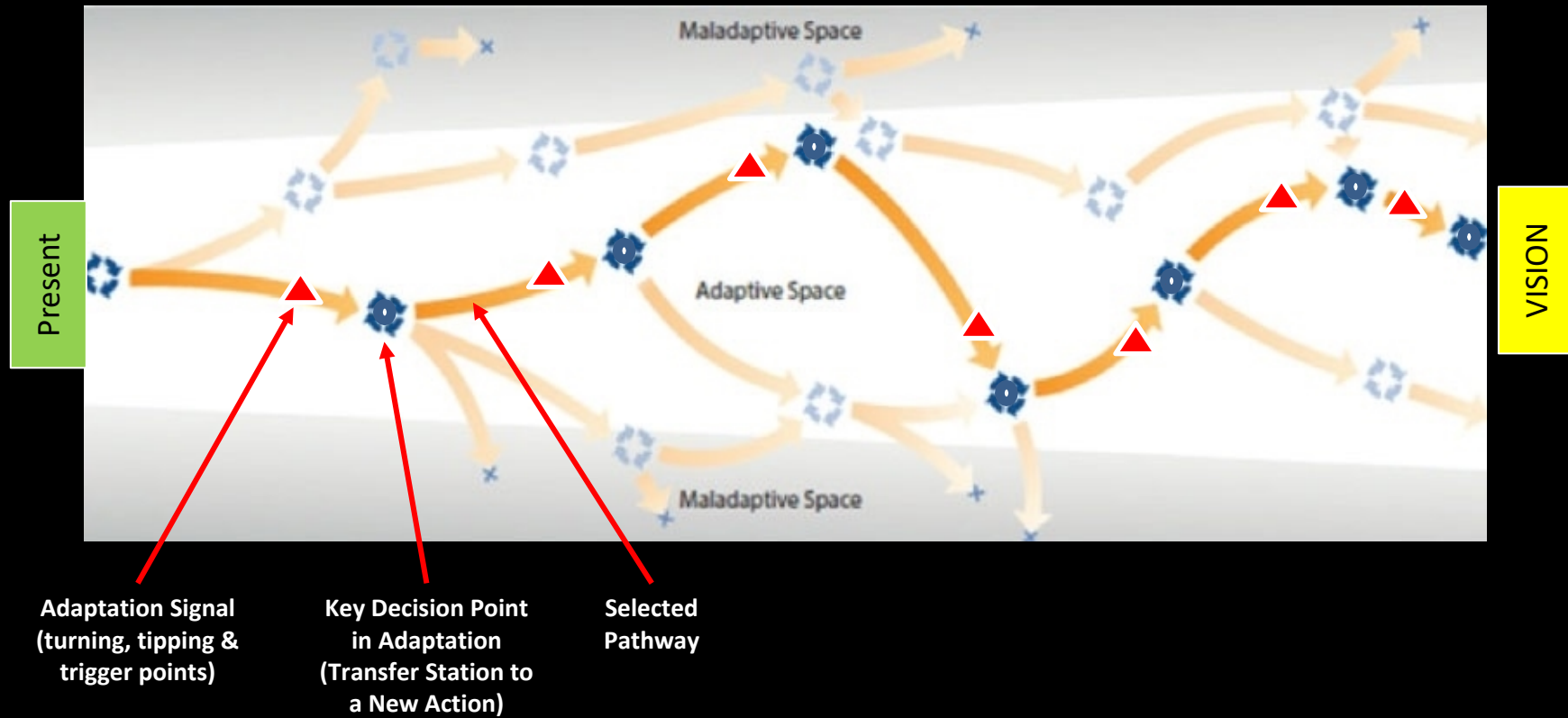


# **Adaptation Pathways Planning**

# Various Pathways to the Future



# An Adaptation Pathway Planning Map



# Signposts

*Indicators that signal the emergence or divergence of characteristics of possible futures (eg events, occurrences or observations that can be scanned from the real world)*



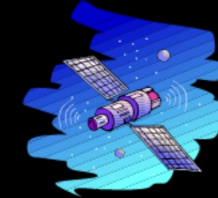
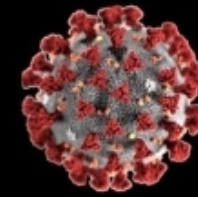
**Changing direction  
(opportunities?)**

*These indicators should prompt the establishment or cessation of particular actions*

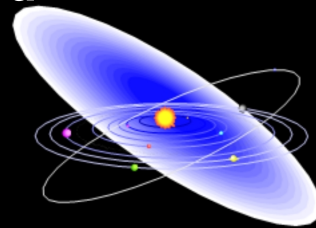
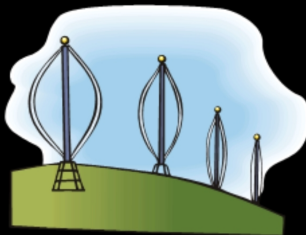


**Dangerous direction  
(threats?)**

# Shocks & Surprises



*Events or situations that are possible yet improbable and that can have a profound impact. Shocks and surprises have the capacity to alter key trajectories affecting the way we do things now, and can generate challenges and opportunities never before encountered*

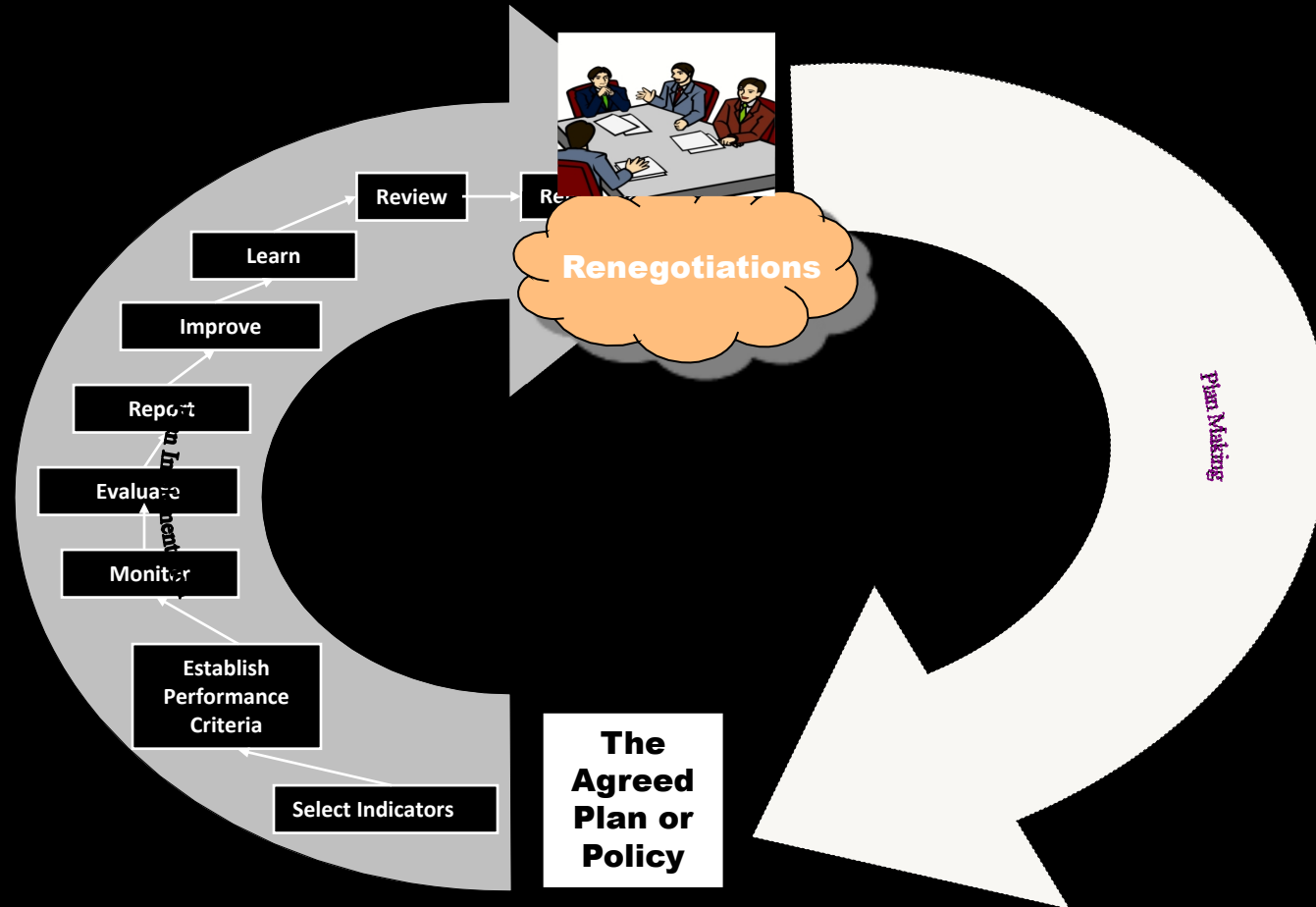




# **MERIL Process**

**(monitoring, evaluation, reporting,  
improvement and learning)**

# Cyclic (Continuous) Planning Process: an Adaptive Management Framework with Steps in the Implementation of Scenario & Adaptation Planning



# Towards a Community Led Adaptation & Resilience Strategy for Shoalhaven

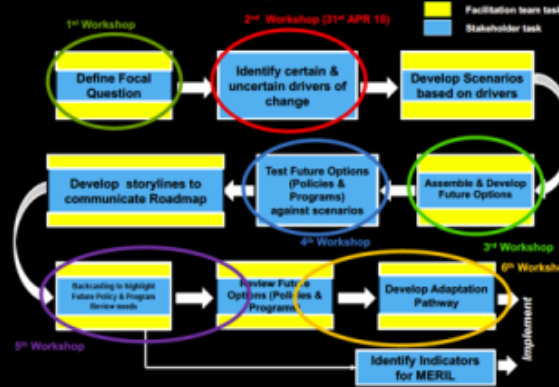
Identify Council Appointments relevant to project

Identify interested Community members

**Establish Project Working Group**

Identify Community & Business leaders relevant to project  
Identify Community leaders willing to develop a Place based Adaptation & Resilience Strategy for their community

## Scenario Planning & Adaptation Steps



**City-wide Shoalhaven Community Led Adaptation & Resilience Strategy**

**Local Community **Complementary** Planning Process**

**City-wide Conference to present and launch Strategy**

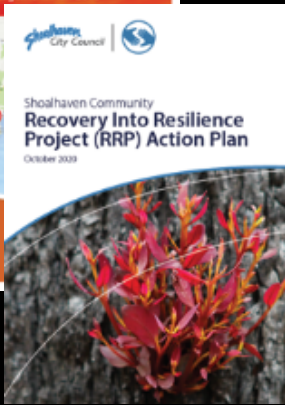
# Local Community **Complementary** Planning Process

*(Complementary: Combining to enhance or emphasize the qualities of each*



# Future Community Engagement Opportunities

**Shoalhaven  
Community-Led  
Adaptation &  
Resilience Strategy**



**Local Government  
Disaster Manar  
Proc**



**Collaboration**



**Collective action has greater weight than individual action**



**Local Government  
Planning Processes**



**State Government Planning  
& EM Processes**



# Call for Community Participants

Shoalhaven  
City Council

## Community-led Resilience Planning

Want to help build  
your community's  
resilience to future  
disasters?



Shoalhaven City Council is inviting community members to join a working group facilitated by experts from Griffith University to develop a Community-led Resilience Plan for the Shoalhaven.

Community-led Planning enables locals to create stronger, more vibrant and resilient communities, better able to respond to local challenges and opportunities.

By joining the working group, members will have a unique opportunity to influence decision making by participating in the planning process.

The planning process will see community involved in identifying the problems, solutions and actions to resolve the problems.

Participants require no experience or knowledge of planning but will be asked to commit to attending at least 8 workshops over 6-8 months.

Register now to attend the Introductory Briefing at [getinvolved.shoalhaven.nsw.gov.au](https://getinvolved.shoalhaven.nsw.gov.au) or scan the QR Code below to find out more.



# Managing Development to contribute to Local Character

Gordon Clark – Section Manager, Strategic Planning

Cathy Bern – Manager Development Services



# Defining ‘Local Character’

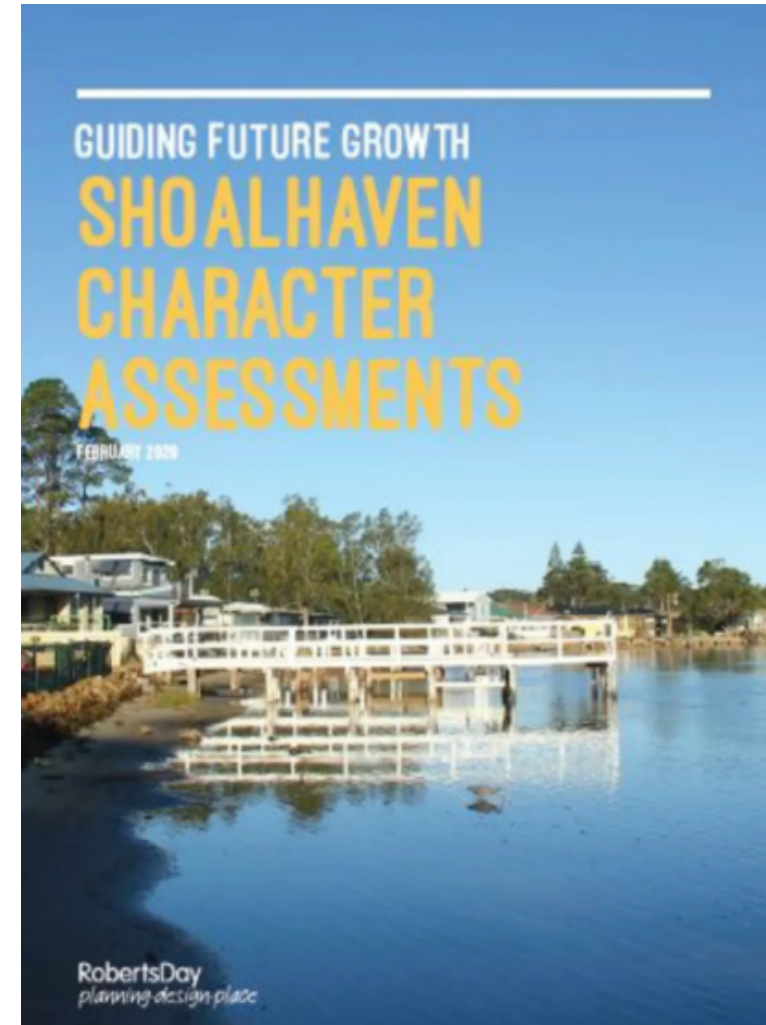
- Not just buildings - way a place “looks and feels”
- Distinctive to each area or place
- Can include many things:
  - Built form, bulk, scale, height of buildings
  - Landscaping, setting, topography
  - Street design, space between buildings
  - Human activity, community interactions
- Character doesn’t “stand still”
  - Growing and increasingly diverse households
  - Building design and efficiency
- Compatible development to respect character
  - Enhancing existing character
  - Creating character in new places

***[Character] is created by the way built and natural elements in both the public realm and private domain interrelate with one another, including the interplay between buildings, architectural style, subdivision patterns, [human] activity, topography, and vegetation.***

***NSW Planning, 2018***

# Council's Current Tools

- Shoalhaven Character Assessments:
  - Funded by NSW Planning
  - Prepared by an urban design consultant
  - Identifies “existing” and suggests “desired” character
  - Recommends change, enhance, maintain, or conserve
- Local Environmental Plan (Planning Controls)
  - Lot size
  - Housing type
  - Height of building
  - Heritage items and places
- Development Control Plan (Development Controls)
  - Building setbacks
  - Materials
  - Landscaping
- All three documents need to be considered





# Exempt & Complying Development Code

- State Policy – The Codes SEPP
  - Save time and money for homeowners and businesses
- Exempt development
  - No development application
  - Minor, low impact works to homes, shops or businesses
- Complying development
  - Combined planning and construction approval
  - New homes, dual occupancies, medium-density housing
  - Fast track assessment by private certifiers
  - Supported with a Design Guide
  - Requires a Design Verification Statement
- State-wide Standards
- Limited opportunities to “turn it off”
  - Environmental sensitivity
  - Heritage values



## The Low Rise Medium Density Housing Code

- The Low Rise Medium Density Housing Code (the Code) will permit three new development types to be approved as complying development: dual occupancies, manor houses and terraces
- The Code:
  - is written in **plain English**, with accompanying diagrams
  - includes tailored **development standards**
  - is accompanied by the **Low Rise Medium Density Design Guide**
- Low rise medium density housing will only be permitted in areas where councils already allow it.





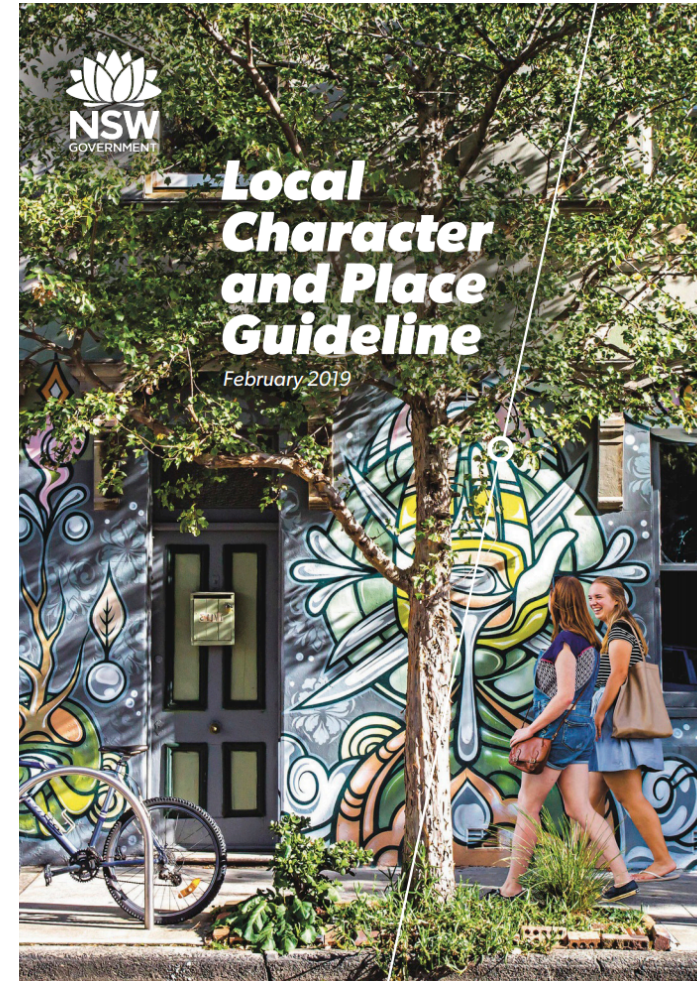
# The Local Challenge

- Scale and nature of the City.
- 49 towns and villages – each one with similar, but often different characterises.
- Different community views.
- Developing local controls can be resource hungry.
- Working within a standardised system, with more standardisation on the way (e.g. Standard DCP Model)
- Previous experiences (e.g. Hyams Beach).



# NSW Planning's Work

- Local Character Planning Circular
  - Identifies character and role it plays
  - To guide councils how to consider character
- Local Character and Place Guideline
  - Tools to define existing and set desired future character
- Local Character Overlay (Draft planning controls)
  - Clause and Map
  - Stand alone Local Character Statement
  - Stronger consideration for new development
  - Exhibited Nov '20 – Jan '21 – awaiting outcomes
  - Opportunity to turn off the Codes SEPP in limited locations
- Design and Place Policy (Draft)
- Standard format Development Control Plans



# Our Planned Work

- Understand strong community desire to respect character
- Starting point: Shoalhaven Character Assessments
- Local Strategic Planning Statement
  - Planning Priority 13: Protecting and enhancing neighbourhoods
  - Planning Priority 14: Heritage items and places
  - Planning Priority 15: Scenic and cultural landscapes
- Proposed Work:
  - Local Character Controls
    - Berry, Kangaroo Valley, Milton
    - Limited opportunities
    - Awaiting outcomes before programming work
  - “Built Form Statements” in the development control plan
    - All approval process – Council’s and Private Certifiers
    - Work to commence later in 2021
    - Not separate chapters





# Questions and Further Information

- For links to online copies of any of the legislation, documents and related information please email us at: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)
- Subscribe to be kept up to date on our proposed work:  
<https://getinvolved.shoalhaven.nsw.gov.au/character-assessments>
- Questions?

# Managing Development to contribute to Local Character

Phil Costello – Director, City Development



# Assessment Pathways

- Exempt development – no approval required
  - Complying Development – Council or a Certifier
  - Local Development – A DA
  - Regional Development – A DA
  - State significant development – A DA lodged with the State
  - No DA – Part 5 matters.
- 
- Development can also be integrated which means an approval is required from another agency in addition to Council.
  - *Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000*



- Section 4.15 Evaluation

(a) the provisions of—

(i) **any environmental planning instrument**, and

(ii) any proposed instrument ...and

(iii) any **development control plan**, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations.....,

(v) (Repealed)

that apply to the land to which the development application relates,

(b) the **likely impacts** of that development.....,

(c) the **suitability of the site** for the development,

(d) any **submissions** made in accordance with this Act or the regulations,

(e) the **public interest**.



# Development Control Plans

In NSW, planning law is hierarchical. State (SEPPs) policies sit over Local Environmental Plans (LEPs) and underpinning these are Development Control Plans (DCPs).

The status of a DCP has been clarified in the Environmental Planning and Assessment Act 1979 (EPA Act). Section 3.42 explains that DCPs are to provide guidance.

Where an application does not comply, the consent authority is required to be flexible in applying those provisions to allow alternative solutions to deal with those aspects of the development.

Stockland Development Pty Ltd v Manly Council [2004] NSWLEC 472 revised - 01/10/2004



# Development Control Plans

- Objectives: For each section or topic of relevance, objectives will clearly state what Council seeks to achieve once the controls or the performance criteria are met.
- Performance Criteria: Identify how a development should perform so that the desired objectives can be achieved.
- Acceptable Solutions: Indicate how the development can achieve the desired performance criteria and objectives

# Planning Principles

- Where there is an absence of a gap in the assessment process, guidance can be sought from planning principles. They are not statutory instruments, exhaustive or binding. They are also “evolutionary”.

*Source: Tim Moore, address to professional development Seminar (NEERG).*

Example:

Height, bulk and scale – Veloshin v Randwick Council [2007] NSWLEC 428 at 32-33.

This decision asks a series of questions to help determine the suitability of height, bulk and scale:



# Planning Principles cont.

The appropriateness of a proposal's height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks. The questions to be asked are:

***Are the impacts consistent with impacts that may be reasonably expected under the controls?*** For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.)

***How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?*** Where the planning controls are aimed at preserving the existing character of an area, additional questions to be asked are:

***Does the area have a predominant existing character and are the planning controls likely to maintain it?***

***Does the proposal fit into the existing character of the area?*** Where the planning controls are aimed at creating a new character, **the existing character is of less relevance**. The controls then indicate the nature of the new character desired. The question to be asked is:

***Is the proposal consistent with the bulk and character intended by the planning controls?*** Where there is an absence of planning controls related to bulk and character, the assessment of a proposal should be based on whether the planning intent for the area appears to be the preservation of the existing character or the creation of a new one. In cases where even this question cannot be answered.....The question then is:

***Does the proposal look appropriate in its context?***



# Requirements for a DA

- This is largely contingent on what is proposed and what type of development pathway. For example, all DAs require a Statement of Environmental Effects but only a Designated Development requires an Environmental Impact Statement.
- Schedule 1 Forms in the Environmental Planning & Assessment Regulation 2000 provides a list of items.



# Notification of DAs

- All DAs are on DA Tracking.
- The Community Consultation Policy guides notification unless otherwise prescribed (e.g. designated development).

• Table 1

| Category | How?   | Example   |
|----------|--|---|
| 1        | Neighbour notification within a buffer of 25m radius in urban areas and 100m in rural. Letters go to owners.                       | Dual occupancy                                    |
| 2        | Neighbour notification within a buffer of 60m in urban areas and 200m in rural. Letters go to owners.<br>CCBs, Chamber of Commerce | Tourist development<br>Medium density development |
| 3        | Neighbour notification within a buffer of 120m radius in urban areas and 500m in rural. CCB's, Chamber of Commerce, newspaper      | Shopping centres<br>Major subdivisions            |



# The Land & Environment Court

- Developers can appeal a Council refusal via the Court. Developers can also seek a Review of a decision.
- A deemed refusal is where the prescribed period has lapsed, and a developer chooses to lodge an appeal with the Court.
- Most appeals concerning DAs are heard as **Class 1** matters. The parties typically pay their own costs.

# The Land & Environment Court – Cont.

- Most matters are the subject of a conciliation conference to either try and resolve the issues or at least narrow them before entering the Court.
- The Court via a Directions Hearing sets a timetable.
- All expert witnesses must assist the Court. Their overriding duty is to the Court and NOT the client. There is a Code of Conduct that sets out the 'rules'. This includes working cooperatively with other experts and endeavouring to reach agreement with other experts.

