



Notice of Ordinary Meeting

To be held at Yalawanyi Ganya, 2 Biripi Way, Taree South

Wednesday, 30 October 2024 at 2:00 PM

The order of the business will be as detailed below (subject to variation by Council):

1. Opening meeting
2. Acknowledgement of Traditional Custodians
3. Acknowledgement of Commitment
4. Special Activity
5. Apologies or Applications for leave of absence
6. Confirmation of Minutes
7. Disclosures of Interest
8. Mayoral Minute(s)
9. Notices of Rescission
10. Notices of Motions
11. Questions with Notice
12. Reports to Council
13. Confidential matters
14. Matters of urgent business
15. Close of meeting

A handwritten signature in black ink, appearing to read "A Panuccio".

Adrian Panuccio

General Manager

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Items 1 to 11 will be contained in the 30 October 2024 Ordinary Meeting Minutes.

1. MINUTES

2. COUNCILLORS PRESENT

3. STAFF PRESENT

4. WELCOME

5. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

6. ACKNOWLEDGEMENT OF COMMITMENT

We, the Councillors of MidCoast Council, will undertake the duties of the office of Councillor in the best interests of the MidCoast community and will faithfully and impartially carry out the functions, powers, authorities and discretions vested in us under the Local Government Act 1993 to the best of our abilities and judgment.

Additionally, Council Officials are reminded of the requirement to declare and appropriately manage any conflicts of interest they may have in relation to matters considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

7. SPECIAL ACTIVITY

8. APOLOGIES OR APPLICATIONS FOR LEAVE OF ABSENCE

9. CONFIRMATION OF MINUTES

10. DISCLOSURES OF INTERESTS

11. MAYORAL MINUTE

12. NOTICE OF MOTIONS

13. QUESTIONS WITH NOTICE

14. CONSIDERATION OF OFFICERS' REPORTS:

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15. GENERAL MANAGER

15.1. MATTERS OUTSTANDING

REPORT INFORMATION

Report Author	Adrian Panuccio, General Manager
Date of Meeting	30 October 2024

SUMMARY OF REPORT

This report provides a list of matters outstanding from Notices of Motion and other Resolutions of Council since 1 January 2018.

RECOMMENDATION

That the information in Attachment 1 - Resolution Register - 30 October 2024 be noted.

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Section 335(b) of the Local Government Act 1993 states that one function of the General Manager is to implement, without undue delay, lawful decisions of the Council.

RISK IMPLICATIONS

Monitoring the timely implementation of Council Resolutions will reduce risks to Council.

DISCUSSION

This report provides a list of matters outstanding from Notices of Motion and other resolutions of Council. It provides details of:

- Resolution number
- Meeting date
- Item name
- Resolution as adopted
- Responsible Directorate
- Current status of implementation
- Expected completion date

CONSULTATION

Relevant Directors and staff of Council.

COMMUNITY IMPACTS

To ensure the decisions of Council are implemented.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading

Attachment 1 - Resolution Register - 30 October 2024

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16. DIRECTOR LIVEABLE COMMUNITIES

16.1. DRIVEWAY AND VEHICLE TURNTABLE WITH ASSOCIATED RETAINING WALLS - 14 KINKA ROAD, SEAL ROCKS (DA-522/2018)

REPORT INFORMATION

Report Author	David Underwood - Coordinator Building Approvals
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

Development Application DA-522/2018 seeks consent for the construction of retaining walls associated with a driveway and a vehicle turntable.

The structures are proposed to facilitate legal and physical access to the existing dwelling at 14 Kinka Road, Seal Rocks.

Seventeen (17) Submissions have been received following neighbour notification of the amended plans and details provided by the applicant.

RECOMMENDATION

That Development Application DA-522/2018 for the construction of retaining walls associated with a driveway and vehicle turntable located on Lot 5 DP 114001, 14 Kinka Road, Seal Rocks be approved subject to the conditions contained in Attachment 1.

DETAILS

Date Received:	11 May 2018
Applicant:	Mr Gregory and Mrs Janice Harrison & Ms Geata Harrison
Owner:	G J Jarrett, J E Harrison, G S Harrison, G J Harrison
Land:	Lot 5, DP 114001, 14 Kinka Road, Seal Rocks
Area	474.3m ²
Property Key:	1017131
Zoning:	RU5 - Village, GLLEP 2014

FINANCIAL / RESOURCE IMPLICATIONS

Cost of defending any appeal against Council's decision.

LEGAL IMPLICATIONS

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

RISK IMPLICATIONS

Nil.

BACKGROUND

The driveway and retaining walls are proposed within the road reserve that crosses in front of properties at 10 and 12 Kinka Road, before entering the subject site.

The proposal also includes a vehicle turntable to facilitate parking and vehicle manoeuvring, so that vehicles can enter and leave the site in a forward direction.

To enable legal access to Kinka Road, a land transfer of a Crown Road segment has also occurred, and commentary on this matter is provided later in this report.

Prior to 2005, vehicular access to 14 Kinka road was gained by driving over a section of land at the front of 10 and 12 Kinka Road, where an informal agreement had been in place between neighbours. At some point in time, the informal agreement was terminated, leading to the lodgement of this development application to enable physical legal vehicular access to the property.

A development application for retaining walls and a driveway, was lodged with Great Lakes Council in 2005, which was subsequently refused based on impacts on Coastal vegetation and an undesirable precedent for the village.

In 2009 a new development application (DA37/2009), was lodged with Great lakes Council, again for retaining walls and driveway. In March 2009, the subject development application was approved by Great Lakes Council.

On 12 November 2010, the Land & Environment Court revoked the consent issued by Great Lakes Council (Consent No. DA37/2009) because the Minister had not provided owners consent to include the triangular parcel of Crown Road in the development proposal.

The owner of 14 Kinka Road has also entered into discussions with the Department of Lands regarding possible lease arrangements for gaining access over a Crown Lot to enable access at the rear of the site, off Horgan Place.

The Department indicated that this option was not available, however; would look to transfer the triangular parcel of land to Council. In December 2017, the Department of Industry transferred vacant crown land (part Reserve 753168) to Council as public road.

In May 2018, the current Development Application was lodged with Council for retaining walls associated with driveway and a vehicular turntable.

To ensure the development could be constructed within the constrained area much of the technical details were required upfront. As a result, the applicant undertook to an extensive re-design of the driveway and retaining wall structures, resulting in extended delays in the assessment of the application.

Following notification of the proposed development in October 2022, and in response to submissions received during this notification period, additional information was sought by Council from the applicant in January 2023.

Shortly after the request for additional information meetings were held with the applicant and his specialist consultants regarding obtaining the updated information.

The final assessment package was provided to Council staff in August 2024 and a further round of consultation has been undertaken, with the amended plans and supporting documents notified to surrounding properties.

SITE DESCRIPTION

The site is located on the southern side of Kinka Road, with ocean views to the north.

The subject site is generally rectangular in shape with a total area of approximately 474.3 m². There are scattered trees throughout the site becoming denser toward the rear portions of the allotment.



Figure 1 – Location map (Mid-Coast Council Mapping)



Figure 2 – Aerial view in detail (Nearmap)

PROPOSAL

The applicant proposes to construct retaining walls associated with a driveway and a vehicle turntable. The intention of the proposed structures is to facilitate legal and physical access to 14 Kinka Road, Seal Rocks.

The proposed works consist of a reinforced concrete retaining wall and driveway slab with a turntable. A stainless-steel balustrade with tensioned wire infill, will be constructed on the high side of the driveway.

The proposed vehicular driveway will be located within Council’s road reserve, however; will run in front of 10 and 12 Kinka Road, before entering the subject site, where a vehicle turntable will facilitate parking and vehicle maneuvering.

An updated site plan (drawing S.8 Rev B – **figure 3** shown below) was provided to Council on 30 April 2024 and shows the location of the proposed development in relation to the road reserve and surrounding properties. Details on safety rail heights in relation to the adjacent, 12 Kinka Road, were also provided, which will be discussed later in the report.

The proposed development being located within Council’s road reserve and the relationship with the previous parcel of crown land within the road reserve is the subject of further discussion within the body of this report.

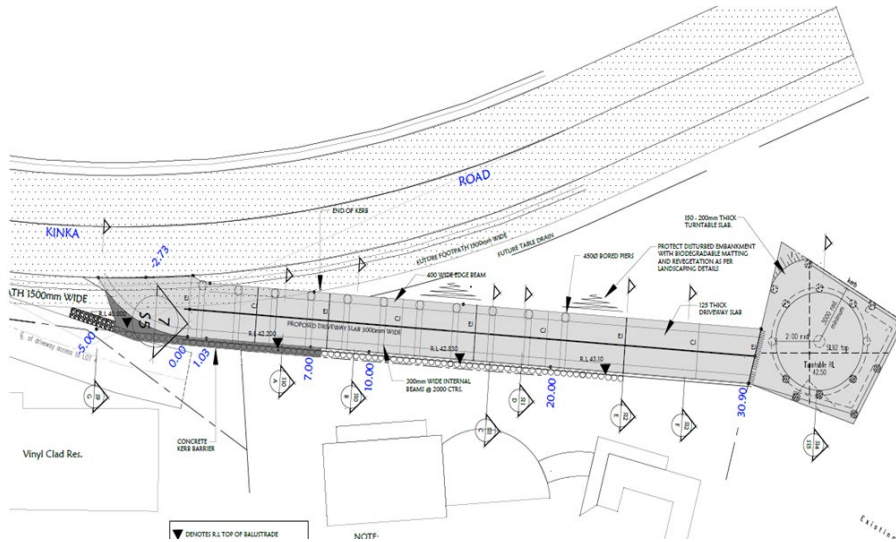


Figure 3 – Site Plan

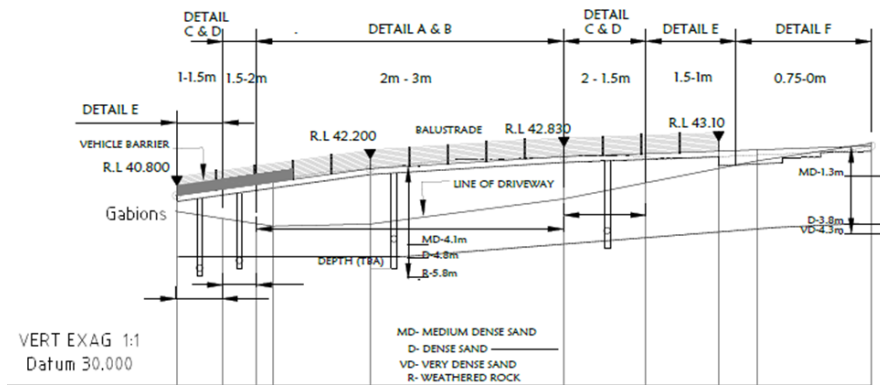


Figure 4 – Proposed Driveway Section



Figure 5 – Current accessway off Kinka Road servicing 10 and 12 Kinka Road, where the previous informal access was gained to the front of 10 and 12 Kinka Road. (Mid-Coast Council)



Figure 6 – Locality photo showing relationship of adjoining properties, previous access track and road reserve (Mid-Coast Council)



Figure 7 – Photo of survey pegs defining front boundary relationship with dwelling located at 12 Kinka Rd, and proposed driveway being located up to the subject boundary.

DISCUSSION

Under S4.15 of the Environmental Planning & Assessment Act 1979 (EP&A Act), a consent authority (the Council) when determining a development application, “*is to take into consideration such of the following matters as are of relevance to the development the subject of the development application*”. The relevant matters for consideration are summarised below:

4.15 (1)(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

The site is not mapped as potentially contaminated land. Based on the available information, the site is not known to have been used for any potentially contaminating land use. The proposed development satisfies the relevant provisions of this Chapter.

State Environmental Planning Policy (Resilience and Hazards) 2021

The site is mapped as being within the ‘coastal environment area’ and the ‘coastal use area’ and Division 3 of Chapter 2 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP) is applicable to the proposed development. Table 1 below lists the matters for consideration prescribed by Clause 2.10 of the Coastal SEPP and details how they relate to the proposed development.

Table 1: Clause 2.10 Coastal SEPP Considerations	
Clause 2.10 (1)	Comment
<i>Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—</i>	Noted
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	The proposed works are generally consistent with other residential development in the immediate area. Given the design of the driveway will result in stormwater runoff being connected to Council’s infrastructure, there is likely to be no detrimental impact to the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment as a result of the development.
(b) coastal environmental values and natural coastal processes,	An Ecologist report has been provided with the application, which has been reviewed and supported by Council’s Ecologist. The proposed development is not likely to compromise any coastal values and will not impact on natural coastline processes.
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	The proposed development is contained both within the road reserve and property boundaries of 14 Kinka Road and is unlikely to cause any detrimental impact to the Marine Estate of NSW. Erosion and sedimentation management will be in place for the duration of the development to ensure impacts to the Marine Estate from the construction of the site are limited.

Table 1: Clause 2.10 Coastal SEPP Considerations	
<i>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i>	An ecological assessment of the locality, particularly the road reserve, has been undertaken and supported by Council's Ecologist. As such, consideration on the impacts of the marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, have been considered.
<i>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	A traffic management plan and construction methodology has been provided with the application. As such consideration has been given, and has been supported subject to conditions, with regards to the impacts on existing public open space or current safe access to and along the foreshore for members of the public, including persons with a disability is present on site, or could be affected by the development of the site.
<i>(f) Aboriginal cultural heritage, practices and places,</i>	No identified items or features of cultural and environmental heritage are located within proximity to the site. Due to the disturbed nature of the site, potential for presence of materials of archaeological significance is very low. During construction stages of the project, if excavation activities on the site unearth any materials of archaeological significance, the works should immediately cease on the site and the representatives of the Local Aboriginal Land Council and National Parks and Wildlife Service should be contacted and work ceased until appropriate management measures are implemented.
<i>(g) the use of the surf zone.</i>	The site is not directly adjoining an active surf zone.

Comment:

As assessed, the proposed development is designed, sited, and will be managed to avoid an adverse impact referred to in subsection (1) and is therefore considered to be consistent with the aims of this Division of SEPP (Resilience and Hazards 2021).

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

The site is located within the former Great Lakes Local Government Area and the objectives and controls of the Great Lakes Local Environmental Plan 2014 (LEP) are applicable to the proposal.

Great Lakes Local Environmental Plan (LEP) 2014		
Clause	Compliance	Comments
<p>Objectives & Land Use Table</p> <p>Definition & permissibility</p>	<p>Complies</p>	<p>The RU5 Village zone objects are as follows:</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> • <i>To provide for a range of land uses, services and facilities that are associated with a rural village.</i> • <i>To provide for a range of land uses, services and facilities that are associated with a coastal village.</i> • <i>To enable non-residential development that does not prejudice the established land use pattern within the village.</i> <p>2 Permitted without consent</p> <p><i>Extensive agriculture; Home occupations</i></p> <p>3 Permitted with consent</p> <p><i>Centre-based childcare facilities; Community facilities; Dwelling houses; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Schools; Tank-based aquaculture; <u>Any other development not specified in item 2 or 4</u></i></p> <p>4 Prohibited</p> <p><i>Agriculture; Air transport facilities; Correctional centres; Electricity generating works; Exhibition villages; Extractive industries; Forestry; Freight transport facilities; Heavy industrial storage establishments; Heavy industries; Open cut mining; Waste or resource transfer stations</i></p>

Great Lakes Local Environmental Plan (LEP) 2014		
		The proposed development is a retaining wall associated with a driveway and vehicle turntable. Comment: This type of development is not specified in item 2 or 4, therefore is permissible with consent in the RU5 Village zone.
<u>Part 4 Development Standards</u>		
4.6 Exceptions to development standards	N/A	No Clause 4.6 variations are proposed as part of this application.
<u>Part 5 Miscellaneous provisions</u>		
5.10 Heritage conservation	N/A.	The proposed development is not located within a heritage conservation area or within proximity to any items of heritage.
5.21 Flood planning	N/A.	The subject site is not mapped as being affected by any known flooding.
<u>Part 7 Additional land provisions</u>		
7.2 Earthworks	Complies.	Earthworks for cut and fill to enable the construction of the driveway are proposed and are to be managed through the imposition of conditions that will ensure all retaining structures are designed by a qualified Engineer, and that soil erosion and sedimentation control measures are implemented. Consideration has been given to matters as listed under Part 7.2 and are supported, subject to conditions, for approval.

Great Lakes Local Environmental Plan (LEP) 2014		
7.11 Essential services	Complies.	<p>The site is presently serviced by electricity; however mains water or sewer are unavailable.</p> <p>There are no issues with the development that warrant further amendment or refusal. There is a private power pole, located on the road reserve, benefiting 2 Kinka Road, which will require removal by a suitably qualified person, prior to construction.</p>

4.15 (1)(a)(iii) any development control plan

The site is located within the former Great Lakes Local Government Area and the objectives and controls of the Great Lakes Development Control Plan 2014 (DCP) are applicable to the proposal.

Great Lakes Development Control Plan (DCP) 2014

Section 3 – Character Statements

3.2.1.1 Seal Rocks

Compliance: Yes

Precinct 3 – Kinka Road Escarpment

- The Kinka Road Escarpment Precinct is characterised by steep housing sites with limited access from Kinka Road within a highly visually sensitive amphitheatre.
- It is the location of the original existing fishing co-op and boat launch area.
- Buildings step with the slope with only one storey visible from Kinka Road.
- Shared pedestrian access (wooden steps) to properties from Kinka Road that blend with the topography.
- Shared vehicle access to comply with Shared Road Access provisions of this Development Control Plan.
- Generally, an exterior finish palette of light and bright colours

Comment: The desired future character of Kinka Road escarpment area is to retain the shared vehicle access to comply with provisions of the DCP. Whilst it is Council's preference to retain shared access arrangements in Seal Rocks, it is not always possible given the constraints of the surrounding locality. In this instance 14 Kinka Road, would require the agreement of 10 and 12, to allow an easement to be created over the front of their sites for vehicle access, or alternatively require the Department of Lands to grant an easement over the rear adjoining site, Lot 7, which adjoins Horgan Place. These scenarios have been explored at length with no success in either instance.

The only alternative left for the owner of 14 is to construct the proposed driveway arrangement within the road reserve, which Crown Lands have transferred to Council to facilitate this option. This issue will be discussed in more detail later in the report.

Section 4 – Environmental

4.1 Ecological Impacts

Compliance: Yes

Comment: Portions of the natural landscape inclusive of native vegetation are proposed to be removed to enable the development proposed.

Council's Senior Ecologist has reviewed the information submitted in support of the above DA including the Flora & Fauna Impact Assessment Report prepared by Wolfpeak and agree that the proposed development can be positively determined in respect to biodiversity issues subject to the adoption of conditions.

4.2 Flooding

Compliance: N/A.

Comment: The site is not mapped as flood affected land.

4.3 Coastal Planning Areas

Compliance: N/A.

Comment: The subject site is not mapped as being within a known coastal risk planning area, per figure 8.



Figure 8 – Coastal Risk Planning Area Map (site marked as star)

Section 5 – Single dwellings, dual occupancies, villas and townhouses

5.2 Views and Privacy

Compliance: Yes

Comment: The proposed driveway will be located approximately 2.7 metres from the existing dwelling, at its closest point, refer to attached photo below. This setback has been determined by calibrating a survey plan of the boundary in front of 12 Kinka Road, see survey below.

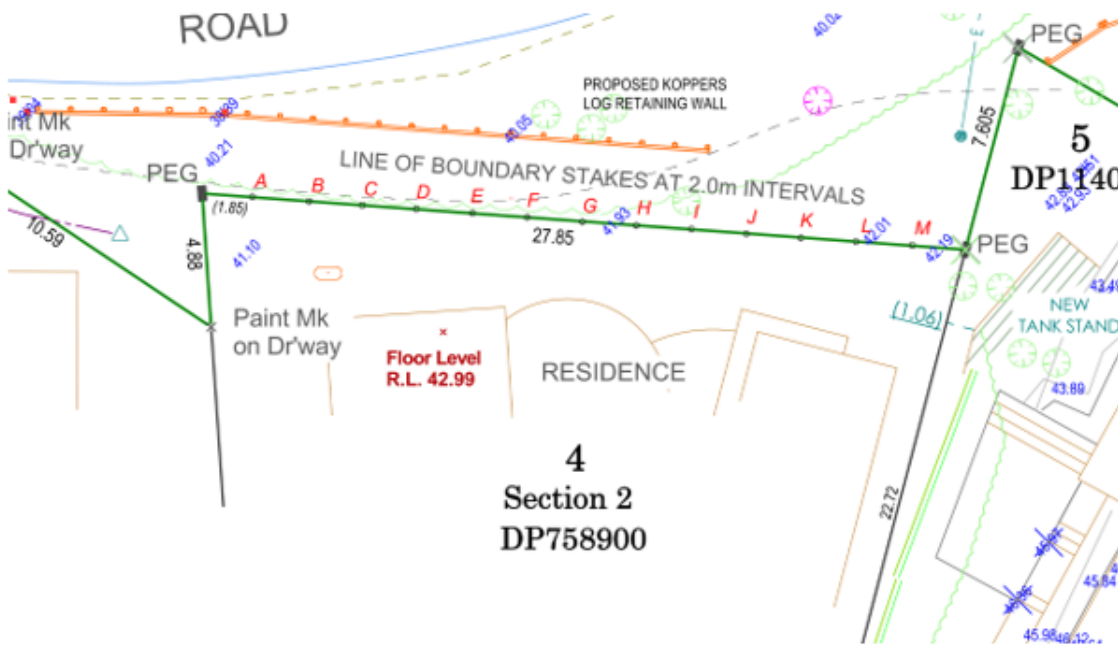


Figure 9 - Survey



Figure 10 - Arrow shows the location of string line showing front boundary, where safety rail/retaining wall will be located.

Given the depth of the driveway located forward of the dwelling at 12, the occupants of the vehicles using the driveway will, for the majority of the dwelling frontage, be lower than ground level when passing by the existing dwelling. Illustrated in Figure 11 and 12 below shows the area where the wall is between 1.985m and 500mm deep, in relation to the adjoining residence.

Based on the levels forward of the existing dwelling it is considered that the impact on privacy will be reasonable, given the proposed depths of the driveway.

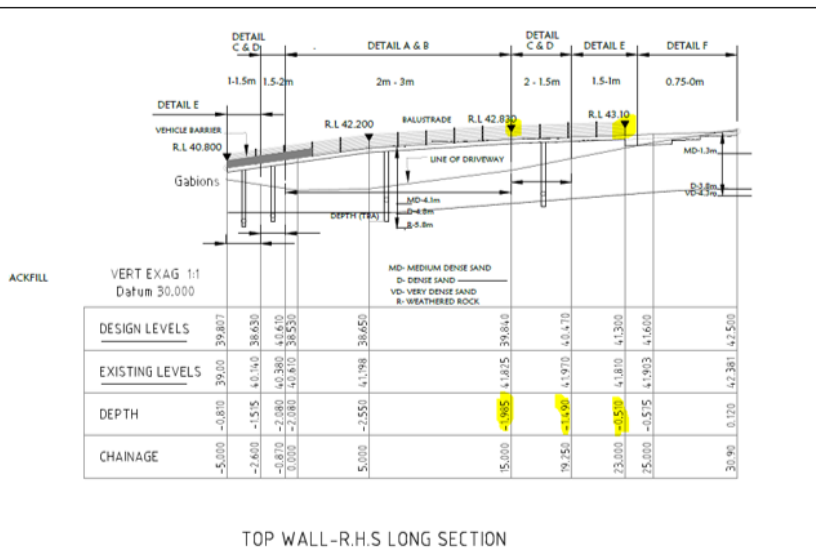


Figure 11

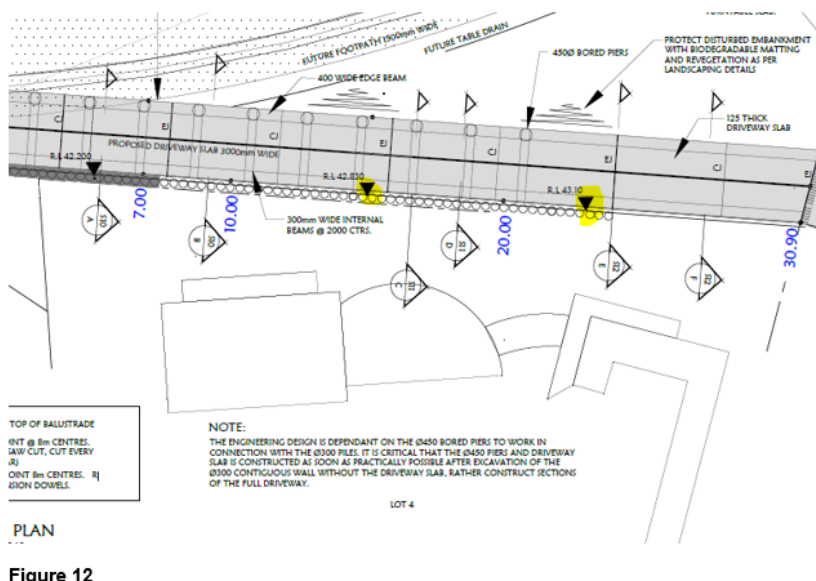


Figure 12

In relation to views, the existing dwelling at 12 has ocean views to the north. Given the lower floor level of the existing dwelling at 12 is 42.99, when compared to the Levels (RL's) of the top of the safety rail forward of the dwelling, being 43.10, it is considered both seated and standing views will be maintained. Further view assessment will be discussed later in the report.

5.7 Cut and Fill

Compliance: Yes

Comment: Whilst the maximum depth of excavation in the Seal Rocks site specific controls is 1.2m, it is considered due to the site constraints and the longstanding issue of providing access, as well as the landscape treatment of retaining walls, it is recommended that a variation in this instance be supported.

5.9 Fencing and Walls

Compliance: Yes

Comment: The safety barrier, being One (1) metre in height, with spaced wire infills, is considered suitable in terms of impact on the surrounding locality. Refer below to detail for safety barrier.

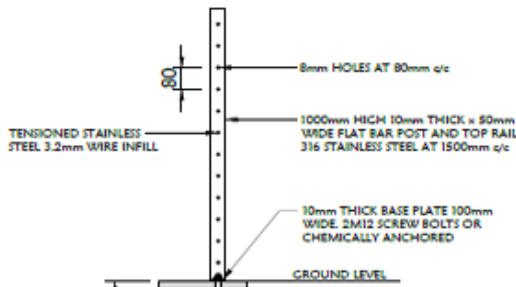


Figure 13

Section 10 - Carparking & Access

10.3.3.4 Seal Rocks – Shared Road Access

Compliance: No

Objectives

To maintain the natural character of the landscape and relaxed arrangement of access ways through this important frontage.

Controls

Kinka Road Seal Rocks shared road access

Driveways must enter the site at right angles and be located so that vehicles turning from the street into the driveway can be readily seen by the driver of an approaching vehicle.

- Retaining materials with road reserve and allotment frontage should be ungrounded local stone.
- Driveways widths should be no wider than 3m at gradients that are sympathetic to the typology.
- Large turning areas for vehicles are to be avoided to reduce the footprint of driveways.

- A geotechnical report is to accompany all applications with a driveway with a slope greater than 1 in 6.
- Seek agreements with adjoining property owners to preserve existing shared access arrangements from Kinka Road. In the event that shared access is required over private property, an easement to legalise access will need to be created under the Conveyancing Act 1919.

Comment: In some instances, neighbours have been able to resolve vehicle access issues where 'relaxed arrangements' have been in place within the Seal Rocks Village. The subject proposal has unfortunately not been one where an agreement could be reached, which would result in a less formal driveway access. On many occasions it was raised with owners of all three sites, to look at options which would be result in a more desired outcome for the locality.

It was also requested that the owner of 14 Kinka Road, liaise with the Department of Lands regarding providing access through the rear Horgan Place, which would require an easement to be created over Lot 7, see image below. The Department of Lands confirmed that this was not a possibility due to a land claim being currently over Lot 7. The owner of 14 exhausted this option, as he was hoping this would be a more cost-effective way of providing access.



Figure 14

In relation to use of local stone, such as Gabian, for the retaining walls. Unfortunately, due to the complexities of the site the Gabian style of wall was not suitable. This has resulted in the design of the higher retaining walls, having mesh installed to allow landscape softening of the retaining

walls. It is noted that a geo tech report has been provided with the application, which has allowed the engineer to design a driveway for the locality.

Whilst the requirements of the DCP have not been met in this instance, it is considered that the proposed design is supported given no other options are available for achieving access to 14.

Section 13 – Landscaping & Open Spaces

Compliance: Yes

Comment: A Landscape and Rehabilitation Plan has been provided with the updated plans. Conditions will be imposed in the development consent, to ensure suitable revegetation of the locality, where possible, will be installed.

Section 14 – Waste Management

Compliance: Yes

Comment: A condition will be imposed in the development consent that a waste management plan is to be submitted for approval, prior to the issue of a construction certificate.

4.15 (1)(a)(iia) any planning agreement or any draft planning agreement

Not Applicable

4.15 (1)(a)(iv) any matters prescribed by the regulations

Applicable Regulation considerations including compliance with the Building Code of Australia, PCA appointment, notice of commencement of works, signage on work sites, critical stage inspections and records of inspections have been considered in the assessment of the proposal.

Relevant conditions will be imposed on any consent granted.

4.15 (1)(b) the likely impacts of that development

Context and Setting

With landscape treatment of the retaining walls, it is considered that the proposed development is consistent with the surrounding village context and setting. With continued pressure on the redevelopment of existing properties within Seal Rocks the proposal will not be out of context with existing development within the locality.

Site Design and Internal Layout

The applicant has provided a driveway design that will achieve compliance with the relevant standards and has incorporated measures, such as Sandstone colour and landscape treatment, that will aid in softening the visual impact of the development.

A vehicle turntable has also been incorporated into the driveway design to ensure vehicles enter and exit in a forward direction, which greatly improves safety of traffic and pedestrian movements within the locality.

Views

As the floor height of 12 Kinka Road will be approximately 110mm lower than the higher section of safety rail, it is considered that both seated and standing views will be maintained from ground floor areas of the existing dwelling.

In addition, the applicant has incorporated safety rails, with 80mm spacing between wire infills, which also allows for viewed through the only structure which will be located above existing natural ground, when viewed from 12 Kinka Road.

Given the height of the safety rails relative to the existing ground floor height of the residence at 12 Kinka Road and the open style nature of the safety rails, it is considered that the impacts on views is reasonable.

Privacy (Aural and Visual)

As discussed, the driveway is predominately lower than the natural ground level of the front yard of 12 Kinka Road, as such the visual privacy of vehicles or pedestrians using the driveway would be considered reasonable.

Overshadowing

No adverse solar access or overshadowing impacts would result from the development proposed.

Visual Impact

Figure 15 below illustrates the landscape design treatment of the proposal, which will ensure the impact of the driveway is reduced. Figure 16 below, also shows other development in the locality, where landscape treatments to structures adjacent to Kinka Road, have been effective.

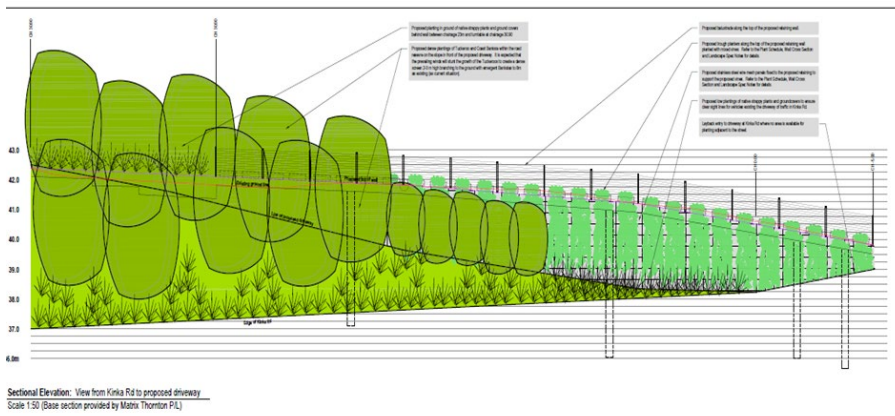


Figure 15 - Landscape design treatment



Figure 16 - Other landscape treatments

Access, Transport and Traffic

Given the issues associated with the proposed driveway access Council’s engineering department have been heavily involved through the evolution of the applicant’s design, to ensure all matters relating to vehicular access was addressed. Below are comments from Council’s engineering department in response to the proposed driveway access design.

“Following a review of the submitted information, the submissions received from the community following the notification period and a site inspection we can provide the following commentary and conditions for the proposed access to 14 Kinka Road.

The application seeks to formalise access to the subject lot via a new vehicle crossing which may be issued under Section 138 of Roads Act 1993.

It is appropriate that given this is tied to the turntable as well as the response received from the community that this is formalised through a Development Application which we are in turn responding to. Each component of the design has been broken down below in addition to responding to the community submissions received.

Construction Management

The applicant has provided details of construction methodologies as previously requested as well as traffic management to complement the proposal. As previously advised, these methodologies will be tied to the consent should an approval be issued to ensure that the impacts on Kinka Road during construction are consistent with the assessment we have completed.

We can confirm that no works are to be undertaken during peak periods or school holidays and as such, will be further detailed in a condition of consent providing these restrictions. The timing of construction is not limited and will be subject to efficiencies of the contractor similar to all other consents issued. A bond will be in place to mitigate any risk associated with damage to Council's infrastructure.

With regard to the assessment of one-way traffic under control on Kinka Road, the widths as assessed are currently compliant with the requirements of AS1742.3 for work sites as will be the preparation and implementation of the traffic management.

Design

The design of the proposed driveway has been supplied with complements to the existing site contours. The proposed design provides the most appropriate access to the site. Any perpendicular access fronting Kinka Road would result in major cut of the dune / embankment and would only be compounded by a reverse movement with no turntable.

Assessing the approach and departure angle of the driveway, we can advise that whilst it does not comply with Council's standard driveway proforma, with the turntable it provides forward entry and exit as requested by AS2890.1. The sight distance for entry and exit has been deemed compliant but this must be read in conjunction with cars entering and exiting from and in a westerly direction. To this effect it can be resolved with a covenant on the lot restricting easterly entry and exit from the driveway.

Turntable Design & Parking

A submission has been received disputing the appropriateness of a turntable in a coastal environment. Whilst noting that the design is subject to each manufacturer's specification, conditions of consent can be included to maintain the turntable in perpetuity as well as a positive covenant placed on the lot to ensure that vehicles must always exit the site in a forward direction.

Responding to the requests regarding parking, we would note that whilst there is only provision for one parking space within the turntable, there is room available for a hard stand area adjacent to the southern side. If it is deemed that the development necessitates a second parking space on site, this area may be formalised which will allow two (or three) parking spaces on site with all cars being able to enter and exit in a forward direction.

Pedestrian Safety

Following consultation with Council's Manager Transport Assets, we can advise that there is no short-term plan for the establishment of formalised pedestrian access adjacent to Kinka Road and that there is no nexus between this development application and the construction of a pedestrian footpath across the frontage as there is no connectivity at either end. Being mindful of the impact that this structure may have on future road widening and construction of a pedestrian path (on either side), the slope of the bank adjacent to the southern side of the road is a limiting factor in allowing this to take place and only limited widening is possible without the need for a significantly large amount of retaining.

In order to maximise Council's ability to widen Kinka Road or construct a footpath in the future, a setback of 1.5m must apply across the frontage from the edge of the existing seal. The proposed design has now been amended to remove all forms of retaining within this set back to address this concern.

It is noted that the provision of this setback has been generated through recent community consultation of the greater Seal Rocks area that Mid Coast Council is currently undertaken. Whilst appreciating the impact that this requirement has on the development application, we cannot ignore the concurrent discussions that have been had in the community and the intent of Kinka Road as a whole.

Retaining Wall / Aesthetics

The applicant will be required to submit a landscaping plan to be approved with the Public Engineering Works Permit. This will confirm the type of species appropriate for the site once the design has been resolved.

Kinka Road

Whilst several objections have been received in relation to the current width of Kinka Road and lack of guard rails / protection, we can advise that these are not related to the construction of the new driveway. Any existing conditions of legacy infrastructure must be referred to the Asset Manager for consideration as part of the Kinka Road study and community consultation.

There is no nexus between the development and any widening of Kinka Road apart from the works associated with the construction of the driveway itself and appropriate transitions. The provision of the new driveway and any future realignment of the road is resolved by the request to provide a 1.5m setback as previously mentioned.

Use of Kinka Road for a Driveway

Several objections have been made regarding the legality of Council to allow such a structure to be constructed within the Road Reservation. Following the transfer of land to Council from Crown Lands the parcel is now legally known as Road Reservation in which Council acting has the Road Authority currently manages.

In response to all submissions of this nature we can advise that Council acting as the Road Authority has delegation to approve such structures under Section 138 to facilitate the right of access as described in Section 6 of Roads Act 1993:

6 Right of access to public road by owners of adjoining land

(1) The owner of land adjoining a public road is entitled, as of right, to access (whether on foot, in a vehicle or otherwise) across the boundary between the land and the public road.

(2) The right conferred by this section does not derogate from any right of access that is conferred by the common law, but those rights are subject to such restrictions as are imposed by or under this or any other Act or law.

Regarding adjoining access for 10 & 12 Kinka Road, we can advise that the proposed driveway is supported as it complements the site contours for access to the site which is permitted under Section 6 of Roads Act 1993, and that legal access is available for both the western lots via a formalised right of carriageway. Whilst construction of this driveway prevents direct access to Kinka Road at the front of each lot, the site contours would prevent this from being facilitated. It is noted that the proposal to cut across the front of both lots is a very similar scenario to the access that is provided to 12 Kinka Road across the front of 10 Kinka Road.

Maintenance of the Driveway & Vegetation

Concerns have been raised as to who will be responsible for the maintenance of the driveway and associated retaining walls following construction. We can advise that under Section 238 of Roads Act 1993, costs may be recovered for any works required such as maintenance on the subject structures that are approved under Section 138. The provision of this section of Roads Act 1993 confirms that any maintenance will be the responsibility of the owner that it serves.

Responding to the commentary surrounding the maintenance of the vegetation, whilst not formal it is of the expectation that the owner of the subject lot will be responsible for this being undertaken. To mitigate the level of maintenance required and site distance concerns, a landscaping plan will be required to be approved by Council as part of the Public Engineering Works Permit with low height and maintenance ground coverage.

Utilities

Power is currently available to the site.

Drainage

The engineering design has suitable provision for the disposal of site stormwater.

Soils

No adverse soil impacts are likely to result.

Flora and Fauna

The development proposes removal of up to 17 heavily-pruned and modified native trees and shrubs from a small area of the Council managed Kinka Road Reserve, and the subject property. The area affected is modified coastal dune / shrubland, with some littoral rainforest elements.

Biodiversity impacts have been reasonably avoided and mitigated and residual impacts are capable of being compensated by the proposed landscaping. The development does not trigger entry to the Biodiversity Offset Scheme.

Climate Change

No impacts relating to climate change are likely to result.

4.15 (1)(c) the suitability of the site for the development

The proposal is located within an established residential village area. It is considered that the proposed driveway has been appropriately designed with consideration to the site constraints and the amenity of the locality.

4.15 (1)(d) any submissions made in accordance with this Act or the Regulations

The revised plans and details were publicly exhibited between 15 August 2024 – 6 September 2024, in accordance with Council's Policy and seventeen (17) submissions were received. One (1) of these submissions was in support of the proposal whilst the remaining sixteen (16) were opposed.

All submissions have been considered as part of Council's assessment and addressed within this report. The issues raised within those submissions are addressed below. Issues have been grouped to avoid repetition.

1. It appears that MidCoast Council is stating that each individual family member's submission will be grouped together as one submission. Surely, everyone has a voice and each person's submission must be counted as an approval or objection.

The procedure of counting one household as one submission is very unfair. Often with family coastal residences, a number of people of various ages use the property.

Officers Comment:

This report has considered each individual family members submission as one submission. This also ensures all matters raised are addressed in the report.

2. From the records available, the Council gave the applicant 60 days to respond. Clearly, this period has lapsed. Furthermore, the lodgement date is 11th May, 2018. A 6 year time frame for a Development Application seems extraordinary. Are all applicants allowed to keep a Development Application active for 6 years?

Please clarify the time frame for Development Applications (from lodgement date to expiry date).

Does the same time frame apply to all applicants under the Development Application Process?

Officers Comment:

Given the complexities of the site a great deal of technical detail was required to accompany the proposal. This has caused extensive delays, particularly during the Covid period, where the owner found it difficult to get specialists engaged to respond to Councils requests for further information.

Given the applicant continuously liaised with Council, by way of meetings, emails and phone calls, regarding the status of obtaining outstanding information requested by Council, it was considered that the assessment of the application was ongoing. In these types of instances where there is constant dialog between the applicant and Council, there is no specific timeframe as to when a DA must be determined.

3. Additionally, I note that one of the details for this Development Application is very misleading. The description of the Development Application states, 'Retaining Walls with associated Driveway and Railing'. The proposed structure is a driveway with retaining walls needed in the construction process. The 'Description' should therefore read, 'Driveway with Retaining Walls and Railing'. I note that the Proposed Driveway is a major construction project with an estimated cost of \$313 000.

Why has the Council allowed an inaccurate description on this Development Application?

Officers Comment:

The description of the proposed development being 'Retaining Walls associated with Driveway and a Vehicle Turntable' is considered an accurate description of the proposed works. There are other aspects of the development which are not specifically mentioned, i.e. concrete driveway, safety rails and landscaping, however; these items are clearly detailed on the plans provided to neighbours during the notification process.

4. The last time this Development Application was submitted, the Council accepted obsolete, incomplete and outdated documents in the Development Application.

Officers Comment:

During consideration of the previous plans notified to affected properties, there were items which required amendment and further clarification, which the applicant was required to address.

5. This Development Application is NOT in the Public Interest:

(Raised as an issue in most Submissions)

- *The Development Application (Private Driveway) is proposed on Council Road Reserve/Public Land and stands to greatly benefit one landowner to the detriment of road users and the broader community.*
- *It appears that the MidCoast Council has acquired this council land for the sole purpose of providing access in the form of a private driveway for Lot 5 (14 Kinka Rd, Seal Rocks). Evidence is listed below.*
- *A document from the Department of Industry accessed under the Freedom of Information Act, states that Crown Land was acquired by MidCoast Council in 2017 for the following key reason:*

'dedicating the subject land as public road will facilitate access to freehold land being Lot 5 Section 2 DP 758900 at Seal Rocks. MidCoast Council has requested transfer of control as Council public road'.

- *Furthermore, when Council acquired this land, six Crown Land Management Principles were outlined in the Transfer of Crown Land as Council Public Road under Section 12 of the Roads Act 1993. Responses for three of those Principles state the land 'will still be available for access as a public road'. If approval is granted for the Proposed Development, these Principles in the Transfer Agreement will have been breached.*
- *The approval of the driveway will prevent road widening in the future.*

Officers Comment:

As previously mentioned under the heading 'Crown Land Transfer of Land', the supporting analysis in the Department of Lands Brief for the transfer of land, stated that *'the most effective and cost-efficient method of finalising this access matter is for the unidentified Crown Land to be gazetted as road. Once gazetted, the administration of the road is to be transferred to Mid Coast Council'.*

Council did not instigate the transfer of the parcel of Crown land, this was undertaken by the Department of Lands and Council accepted the transfer of the land.

The other remaining items in the submission have previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments.

6. Negative Impacts of the proposed development on Kinka Road:

- Seal Rocks is impacted by Coastal; Erosion.
- Council Road Reserve must be set aside for road widening.
- Traffic congestion in Seal rocks.
- Further traffic congestion during times of construction.
- Council rate payers would be paying a huge compensation bill if the subject driveway was required to be removed for road widening.

Officers Comment:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments.

In relation to impacts of Coastal Erosion, as previously mentioned in the report, the subject site and section of Kinka Rd forward of the site is not affected by Coastal Erosion as indicated in Councils 'Coastal Risk Planning Mapping'. In terms of future impacts on other portions of Kinka Road, as a result of Coastal Erosion, this is a wider issue for sections of Kinka Rd, which will require future planning by Councils Engineering Branch.

7. 14 Kinka Road already has vehicle access.

(Raised as an issue in most Submissions)

The current owners purchased the property knowing there was no driveway access.

Furthermore, the fire trail at the rear of the property is well maintained, and although it isn't classified as legal access, many residents including the owner of 14 Kinka Rd, use it to access their properties. Thus, vehicles can drive to the back door of 14 Kinka Road. Therefore, the Proposed Development is unnecessary.

This driveway is not necessary since the proposers of the development already have vehicular access to their land from the rear of their property and they have pedestrian access to Kinka Rd from the front of their property.

Officers Comment:

As previously mentioned in the Great Lakes DCP assessment table, the owner of 14 Kinka Road, liaised with the Department of Lands regarding providing access through the rear Horgan Place, which would require an easement to be created over Lot 7. The Department of Lands confirmed that this was not a possibility due to a land claim being currently over Lot 7. The owner has exhausted all other options, which was requested by Council, before the current proposal would be determined.

8. Impacts/concerns regarding traffic

(Raised in majority of the Submissions)

Traffic Report does not meet the requirements of MidCoast Councils Planning rules.

As it is, Kinka Road is a single carriageway; so there is no way they can build this driveway without blocking Kinka Road entirely. Kinka Road is the only access road to at least 30 dwellings, the Fishing Coop, and Sugarloaf Point Lighthouse.

Right now there are at least 6 major housing renovations planned or underway east of the proposed driveway, so approving this driveway is a recipe for chaos and tension as building is delayed just so one house can build a driveway.

During school holidays this narrow section of road causes problems. By not having a dedicated footpath in this area there are safety concerns for the public.

The roadway outside the property and where the proposed street entry/exit construction is planned, lies on a section of Kinka Rd, Seal Rocks which can, at best be described as narrow and unstable. At worst, the driveway entry/exit is in close proximity to a blind corner to the east. Tourist and holiday-maker traffic flow has increased multi-fold, particularly in recent years as Seal Rocks has become a 'destination'.

The driveways for 8, 10 and 12 Kinka Rd already support large volumes of traffic from and to these residences, day in and day out. To add another driveway entry/exit, literally next to these existing driveways, would be irresponsible and nonsensical.

Officers Comment:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments.

9. Safety Concerns for the general public:

(Raised in majority of Submissions)

- Pedestrian access and safety: The Traffic Report submitted with this Development Application fails to address how road users and pedestrians will be able to safely use the road during construction of the Proposed Development.*
- Furthermore, this Development Application lacks access permission for construction workers and vehicles to use land on properties 10 and 12 Kinka Road. Therefore, construction work will need to be done entirely from Kinka Road. This poses a serious risk to other road users, particularly, pedestrians. For example, children walking to the local shop or the beach will need to pass heavy machinery either parked or operating. Therefore, Council cannot ensure the safety of children and other pedestrians during construction of the Proposed Development.*
- Furthermore, the proposed turntable can only accommodate one vehicle. If multiple vehicles are parked on the driveway, cars will be reversing down the Proposed Driveway on to Kinka Road. This poses a safety risk to all road users as the proposed use of a parabolic mirror will have direct sun on it for a considerable length of time each day. This will create a blind spot for the driver putting the general public at risk. Additionally, cars reversing down the Proposed Driveway at night, will not be able to see images in the parabolic mirror as there is no street lighting. This poses a safety risk for all road users.*
- The Proposed Driveway entrance is just metres from the front yard of 10 Kinka Rd. This residence has people of all ages (85 years of age as well as small children) using the front area to access the property by foot. The Proposed Driveway poses a safety risk to these residents.*
- The Proposed handrail design does not prevent small children from Properties 10 and 12 Kinka Rd from falling onto the driveway below and into the path of a vehicle. This could cause serious harm or death.*
- The construction presents a danger to access to my property in seal rocks. The existing wall is sand and any slip during construction will risk access for all people living further down Kinka Road.*

Officers Comment:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments.

There is a one (1) metre high safety rail located along the high side of the driveway to protect against falls. This safety rail is consistent in design with a balustrade required on a dwelling where falls exceed one metre in height. The safety rail is located along the driveway up until the location where the fall from the yard of 12 Kinka Road to the surface of the driveway is 575mm.

In a residential situation balustrades are not required where falls are less than a metre, and in this instance the location and design of the safety barrier is considered suitable for fall protection.

10. Loss of privacy and exposure to noise:

(Raised as an issue in several Submissions)

- The owners of 12 Kinka Rd, Seal Rocks will experience loss of privacy as the Proposed Development goes across the front of their property, 2.85 metres from bedroom areas. This is totally unacceptable.
- Furthermore, the owners of 12 Kinka Road will also experience noise close to bedrooms (day and night, less than 3 metres away) as vehicles enter and exit 14 Kinka Rd via the Proposed Driveway and Turntable. This is totally unacceptable.
- Vehicles parked on the Proposed Driveway will interrupt the views for the residents of 12 Kinka Road.
- Additionally, at night-time, headlights from vehicles using the Proposed Turntable and Driveway will shine directly into the bedroom and living areas of 12 Kinka Rd.
- The residents of 10 Kinka Rd will also be subjected to the noise of vehicles entering and exiting the driveway both during the day and at night.

Officers Comment:

Given a large portion of the proposed driveway will be excavated at a much lower level than the existing front yard levels of 10 and 12 Kinka Road, it is considered that the privacy impact imposed will be minimal. The plan below shows the area highlighted in yellow where the excavation results in the vehicle being set down below natural ground.

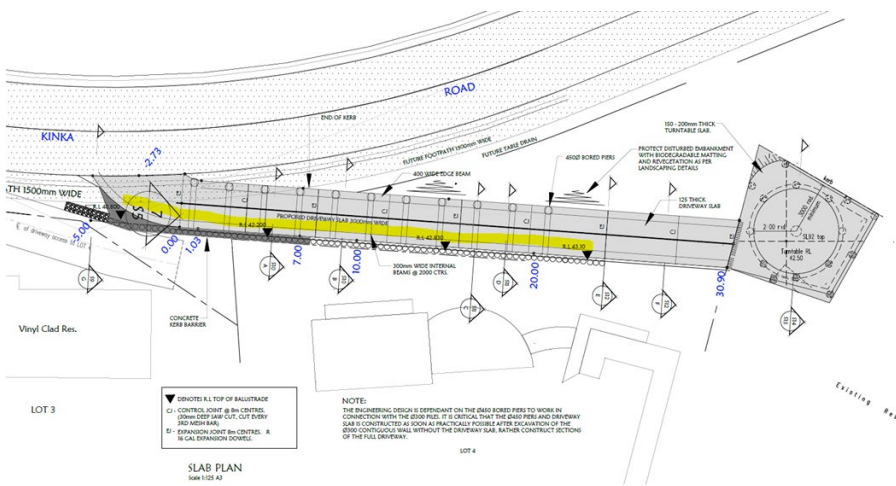


Figure 18

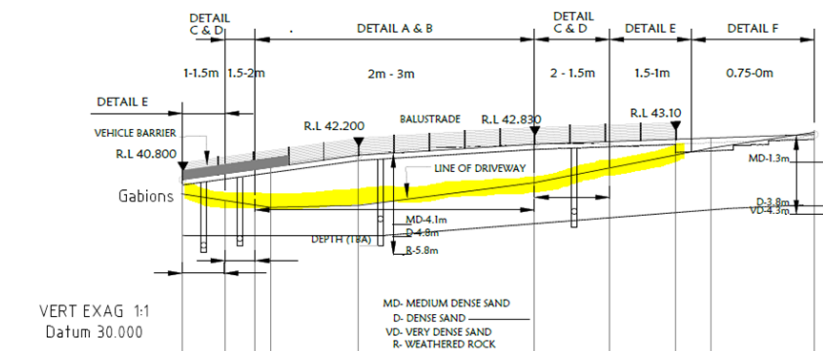


Figure 19

An inspection was undertaken of the area beyond the highlighted section, see Figure 20 below, where the car will be more visible, and no safety rail along this section.



Figure 20 illustrates the blue arrow where the safety rail ends and the car will be closer to ground level height.

Given the rooms adjoining this space are a living room, with a bedroom beyond there will be potential impacts on privacy when vehicles pass by. It is a difficult scenario as any request for added solid privacy screening at this location will also have the potential to impact views. As the subject driveway is for a single private residence it is considered that the volume of traffic will be minimal, and as such is supported.

In regard to noise generated from the driveway, again due to the lowered level of the driveway, the noise will be reduced by the walls on the southern side of the driveway.

11. Environmental Impacts: (Raised in majority of Submissions)

*It appears that Development Application (DA-522/2018) submitted to MidCoast Council has failed to assess and report on the Spotted-tailed Quoll (*Dasyurus maculatus*), listed under the Environmental Protection and Biodiversity Conservation Act as an Endangered Species.*

*Over the past two decades, numerous sightings of the Spotted-tailed Quoll (*Dasyurus maculatus*) have occurred at 10 Kinka Rd Seal Rocks less than 30 metres from the Proposed Development.*

Officers Comment:

The Ecological Assessment submitted with the Development Application described and evaluated the impacts of the proposed development on habitat and threatened species. The application and all supporting material were referred to Council's Senior Ecologist. The Senior Ecologists' evaluation considered threatened species, including both the spotted-tailed quoll and the grey-headed flying-fox, and concluded that a significant or unreasonable impact on these species would not result from the construction or use of this proposed development.

12. Development Control Plan Requirements:

The Statement of Environmental Effects submitted with Development Application DA- 522/2018 states *'the depth of excavation will exceed 1.2 metres in some places.'*

Yet, under Section 5.7- Seal Rocks Site Specific Controls:

The maximum allowable depth of excavation on site is 1.2m and must not extend more than 1.2m beyond the external walls of the building if retaining walls are being used.

Therefore, this Development Application does not meet Development Control Plan requirements.

Officers Comment:

This issue has been discussed in the table under the heading 'Great Lakes Development Control Plan (DCP) 2014' and is recommended to be supported as a variation to Councils DCP.

13. Numerous Flaws in The Statement of Environmental Effects:

This document fails to acknowledge that the Proposed Driveway passes the bedroom area on the eastern wing of the residence at 12 Kinka Road.

The document fails to give the distance of the bedroom on the eastern wing of 12 Kinka Road from the Proposed Driveway. Hence, the document fails to accurately assess the impact of the Proposed Driveway on the owners of 12 Kinka Rd, Seal Rocks.

Officers Comment:

The SEE discusses impacts on noise and scenic amenity of the area. In regard to specific privacy and view impacts a site inspection and further analysis is provided in the specific submissions regarding privacy and view impacts.

14. Negative visual impact on the Seal Rocks Village (Zoned RU5).

(Raised in majority of Submissions)

The proposed driveway is unsightly with large amounts of concrete and retaining which will be to the visual detriment of scenic seal rocks. The current trees and shrubs are beautiful as you wind down the hill and will be replaced by an ugly concrete driveway which is a visual eyesore

The proposed driveway should not be allowed due to the risks and impact to the coastal hamlet of Seal Rocks

The development will be an eyesore on a prominent headland that is visible from Boat Beach. Currently this headland is curated with beautiful natives and mature trees that soften some of the development on that escarpment.

Coming down this road past the shop and not seeing that large beautiful landscaped bank and however seeing a long concrete driveway with a turn table at the moment would 100% change this feeling and moment for the persons enjoyment. The visual impact from the beach viewing back up would also been extremely harsh to the eye.

Officers Comment:

The proposed retaining wall will be sandstone colour with design feature incorporated in the retaining wall top allow for landscape softening, see Figure 21 below. It is concluded that with the proposed sandstone colour of the wall and the landscaping as indicated on the landscape plans, that the impacts of the wall will be reasonable for the setting.

Lightweight trough planter (700mm long x 200mm wide x 200mm high) to be fixed to the top of the retaining wall as detailed in the *Landscape Spec Notes* 0415/8. Each trough planter is to be located just forward of the balustrade wires (towards the driveway). Each trough planter to be located 150mm offset from the nearest flat bar fence post. Refer to the Detail Elevation on sheet 0415/7 for details of spacing.

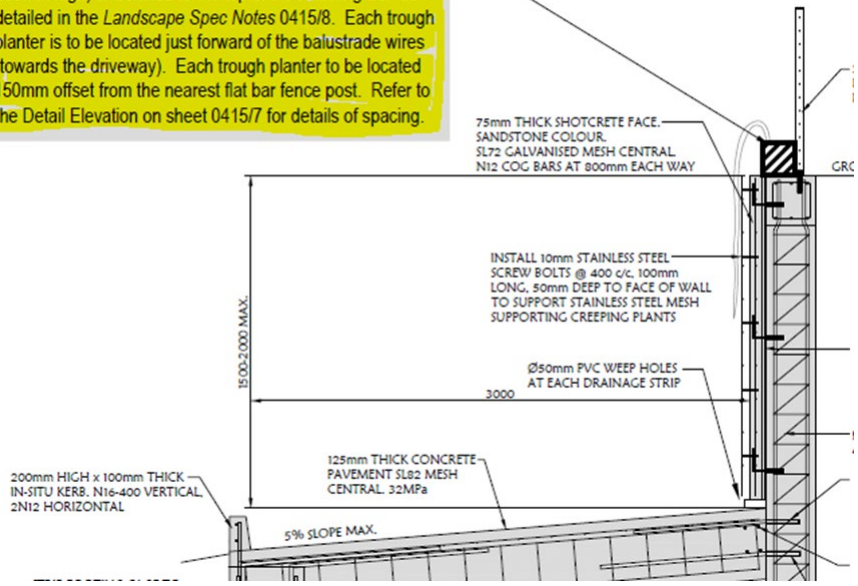


Figure 21

15. The large gum tree is of particular danger with the extensive form work and footings - it should not be put at risk.

(This issue was raised in several of the submissions received)



Figure 22

Officers Comment:

The existing gum tree is located within the road reserve, and its removal has been assessed through Council’s Senior Ecologists review of the site and accompanying Ecological report.

16. Exclusive Use

It is astounding that Council will permit use of its own land for the exclusive use and benefit of one property for a driveway access. Access in the form of this development is a “nice to have” as opposed to essential as the property already has rear access.

To support this development for the convenience of one resident only to the detriment of the whole village character is wrong and not in the public interest. That is what living in Seal Rocks is all about. It's not about replicating drive in/drive out facilities with a turn table like city living.

Officers Comment:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments.

17. Council applying for Crown Land:

Council applied for and bought the sliver of land required for this development from the Commonwealth. It is not proper that Council should act in this way for the benefit of one landholder and to the detriment, in particular, of the immediate neighbour and of the village of Seal Rocks as a whole. By following through with this development Council will be setting a dangerous example for the future.

Officers Comment:

As previous discussed in the report, Council did not instigate the transfer of the small parcel of land from the Crown, however; have accepted its transfer to Councils ownership.

18. Concerns regarding Landslip

Concerns over landslip during construction, especially during heavy rain and given the vegetation will be removed.

Request for a dilapidation report for adjacent property.

Officers Comment:

The proposed engineering design relies on a construction methodology, to construct the engineered designed driveway, which has taken into consideration the Geotechnical report for the locality.

A condition will be imposed on the development consent, that dilapidation reports be prepared for 10 and 12 Kinka Road.

19. Limitations of driveway.

They have used a small sedan as representative of average car. It appears larger vehicles such as vans and delivery trucks would not be able to use this driveway efficiently if at all.

Officers Comment:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments.

20. Landlock 10 and 12 Kinka Road

10 and 12 Kinka have a shared driveway, therefore approval of the subject driveway will landlock the possibility of these properties building their own driveway.

Officers Comments:

10 and 12 Kinka Road have an existing approved vehicular access arrangement, therefore they will not be landlocked by the proposal, as a great deal of consideration has been made in the design to ensure the existing vehicle access to these properties is not impacted.

21. Other driveways used as precedents run at 90 degrees to Kinka Road, whereas the proposal runs parallel.

Officers Comment:

As previously mentioned, the site constraints to the front of 14 Kinka Road prevent the standard 90-degree angle driveway being able to be achieved.

22. The issue of access has been dealt with previously at the Land and Environment Court this reboot may not be viewed kindly by the Court.

Officers Comment:

The issue at the Land and Environment Court related to the triangular parcel of land belonging to the Crown, which the driveway would require access over. Given the Department of Lands have transferred the land to Council the area is now considered as road reserve, which has been addressed previously in the report.

23. Cost of works increased from \$10,000 to \$303,000 in 6 years, please explain the cost increase.

Officers Comment:

Following a review of the value provided with the DA lodgement back in 2018, Council requested a more accurate cost of works. The owner has since provided a more accurate value of works, with Councils system and fees being also updated to match.

24. Clarify why Matrix Thorton has submitted a plan on a 1 way road.

Officers Comment:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments.

25. Concerns with vehicle turntable;

The turntable at the top of 14 Kinka Rd driveway is designed for one vehicle. Any other vehicles associated with the residence and using the driveway for parking, will be forced to then reverse out of the driveway when exiting, onto a narrow section of Kinka Rd

Officers Comments:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Councils engineer's comments. In addition, a condition will be imposed stating that vehicles can only exit and enter in a westerly forward direction.

26. Concerns regarding erosion and runoff.

Officers Comment:

Conditions of the development consent, and the Public Engineering Works Permit, will require full sediment and erosion control plans to be provided before any Permit or construction certificate is approved.

27. The proposal does not lead to a formal car space.

Officers Comment:

The dimensions of the turntable allow for a parking space on site; therefore, provision is made for vehicle parking. This item has also been addressed in Councils Engineering comment.

28. Driveway and Future Footpath design;

The Amended Plans dated August 2024 states the crossfall across the "future footpath" is at 5%. However the NSW Standards for footpaths and Mid Coast Council have the maximum crossfall at 2.5% and a desirable of 2%

The Amended Plans dated August 2024 states the "future footpath" is 1500 mm wide and directly adjacent to the road kerb without any "Kerbside Traffic Buffer" which is a MAJOR safety risk for pedestrians.

However the NSW Road Transport have released new standards dated 2023, called "Walking Space Guide" this states the minimum width of a footpath for a "Type 1 low activity" is 2.0 metres with a kerbside buffer of 1.3 metres in total 3.3 metres. In peak holiday seasons it would fall within the "Type 3 Local footpath high activity, up to 70 people per hour" which stipulates 3.2 metre footpath with 1.3 kerbside buffer in total 4.5 metres.

1.5m future footpath width is too narrow.

Officers Comment:

As previously discussed in Council's engineering comments, 'we can advise that there is no short-term plan for the establishment of formalised pedestrian access adjacent to Kinka Road and that there is no nexus between this development application and the construction of a pedestrian footpath across the frontage as there is no connectivity at either end'. The current design is mindful of the impact that this structure may have on future road widening and construction of a pedestrian path (on either side).

29. No provision for drainage.

Does not have provision for water drainage, so all the run-off from the concrete driveway goes directly onto the road.

Officers Comments:

The proposed engineering design has incorporated drainage to collect water from the driveway.

30. We strongly suggest that DA-522/2018 be placed on hold until a full safety audit and risk assessment is carried out on Kinka Road from the Seal Rocks shop to the Lighthouse gates.

Officers Comments:

Council's Engineering Department have reviewed all details and reports supporting the proposed development. Following the review Council's engineers are supportive of the proposal subject to conditions of consent.

31. No guard rail on the gabion wall adjacent to Number 14 Kinka road. There is a sheer drop of 20 metres to the beach, with no guard rail on the northern side of Kinka Road at this point.



Figure 23 - Blue arrow showing the location the submission is concerned with regarding no safety rail on far side of Kinka Road.

Officers Comments:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Council's engineer's comments.

32. Construction constraints;

If the DA is supported special conditions should be placed on the approval such as;

- A) DA approval is not transferable on the sale of the property.*
- B) Construction must start within 6 months of approval.*
- C) Construction must be completed within 12 months of approval.*

Officers Comments:

This submission has previously been addressed under the heading 'Access, Transport and Traffic', which includes Council's engineer's comments.

33. Impacts on views from 12 and 10 Kinka Road.

Officers Comments:

View Impact – 12 Kinka Road

A submission was received on the application which noted that there were view impacts from the living areas of 12 Kinka Road, looking north toward Boat Beach. The affected view is from the ground floor living areas of the existing residence. A site inspection has identified that the existing view is highly valuable, however the proposed safety rail will result in view loss which is not significant. Noting the minor nature of the view loss, consideration of the impact on this view is assessed as part of this assessment. The details of this are stepped out below in accordance with the principles established through the Land and Environment Court (LEC) decision in *Tenacity Consulting v Warringah (2004)*:

What view is affected:

The view affected can be identified as panoramic ocean views, however there is some existing vegetation within the frontage that obscures small parts of the view. The affected view is a front view, looking over the northern boundary of the site toward Boat Beach and Sugar Loaf Bay beyond.

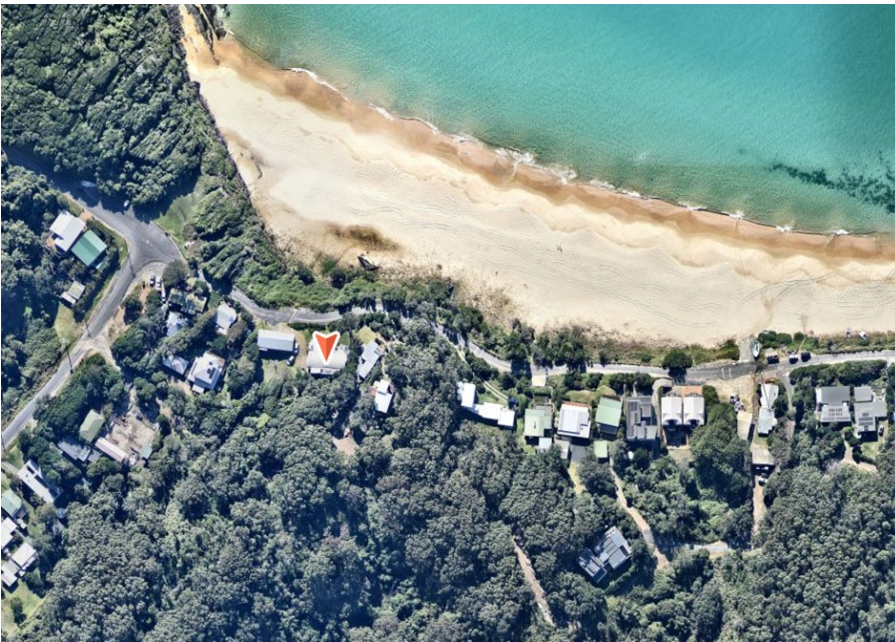


Figure 24: Shows location of property with regards to adjoining Boat Beach and surrounds. (Source – Intramaps).

Where are the impacted views obtained from:

The impacted view is obtained from the lower ground floor living room level of the two-storey dwelling. It is noted that the affected view is also gained from a north facing ground floor deck.

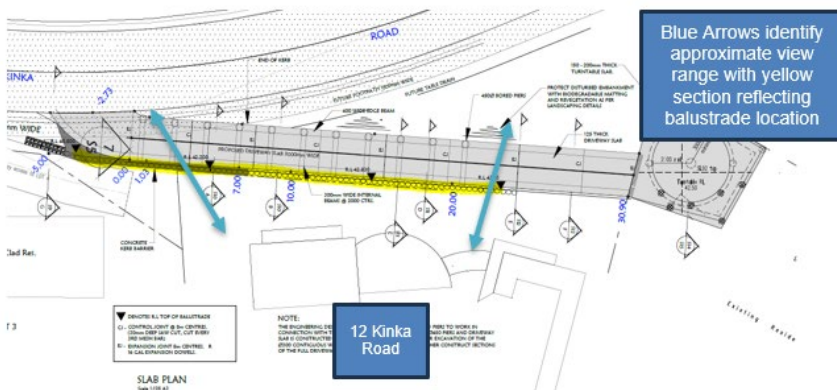


Figure 25 - shows location of dwelling relative to highlighted location of proposed safety rails.

What is the extent of the impact:

The potential loss of view is considered to be minor, given the only structure which will be located above existing ground level will be a balustrade. The balustrade/safety barrier is one metre in height with spaced wire inserts at 80mm centres, and a small planter box at the base of the balustrade. Refer to sections below of safety rails.

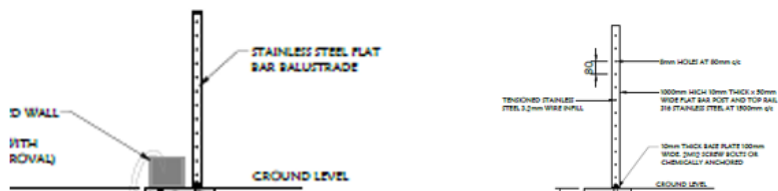


Figure 26 – Safety Rail Sections

Given this form of barrier is generally open in nature and allows for view sharing it is considered the impact will be minimal. Below are photos taken from the ground floor of 12 Kinka Road, which illustrates the impacts.



Figure 27 - View from the raised section of the living area ground floor. The tape measure illustrates the height and approximate location of the safety rail. (Source – Council staff inspection).



Figure 28 - View from the lower western section of the living area ground floor. The tape measure illustrates the height of the safety rail. (Source – Council staff inspection).



Figure 29 - View from the lower ground floor deck. The tape measure illustrates the height of the safety rail. (Source – Council staff inspection).



Figure 30 - View from the lower ground floor eastern side living area. The safety rail finishes at the approximate location of the arrow, therefore with the existing vegetation the barrier will pose minimal impact on the view . (Source – Council staff inspection).

Is the proposed development unreasonable:

The proposed development which has an impact on the view, being the safety rail, is generally of an open nature and will therefore allow for some view through the barrier. The view loss does not result from any non-compliance with planning rules. The development is considered to be reasonable.

View Analysis Summary:

Overall, it is considered that the view impact is minor. The existing panoramic view from the ground floor living area will be generally maintained.

View Impact - 10 Kinka Road

What view is affected:

The view affected can be identified as panoramic ocean views, however there is some existing lower vegetation within a small section of the frontage that obscures small parts of the view. The affected view is a front view, looking over the northern boundary of the site toward Boat Beach and Sugar Loaf Bay beyond.



Figure 31 - shows the front of 10 Kinka Road. Photos were taken standing in front of the eastern most, northern windows, which was a living/dining area.



Figure 32: Shows location of property with regards to adjoining Boat Beach and surrounds. (Source – Intramaps).

Where are the impacted views obtained from:

The impacted view is obtained from the elevated ground floor living room level of the dwelling.

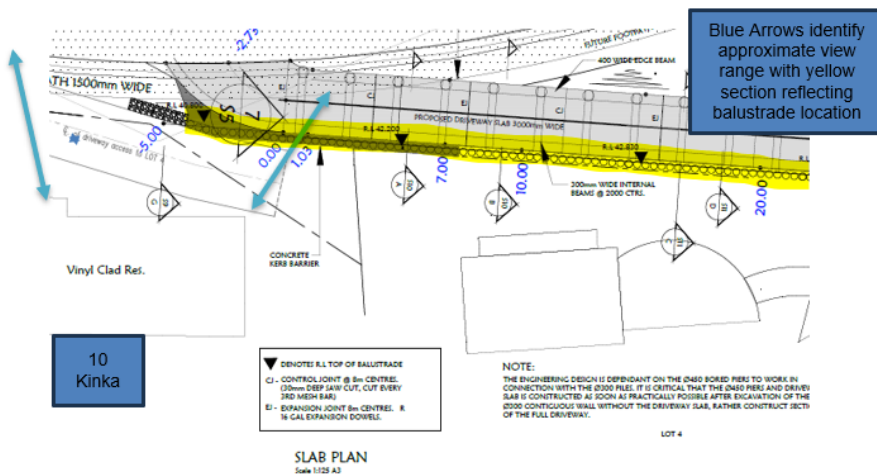


Figure 33 - shows location of dwelling relative to highlighted location of proposed safety rails.

What is the extent of the impact:

The potential loss of view is considered to be minor, given the only structure which will be located above existing ground level will be the open style wire balustrade. In addition, the safety barrier projects along less than half the frontage of 10 Kinka Road, refer to highlighted section in yellow showing relationship of safety barrier to the overall frontage of 10 Kinka Road.

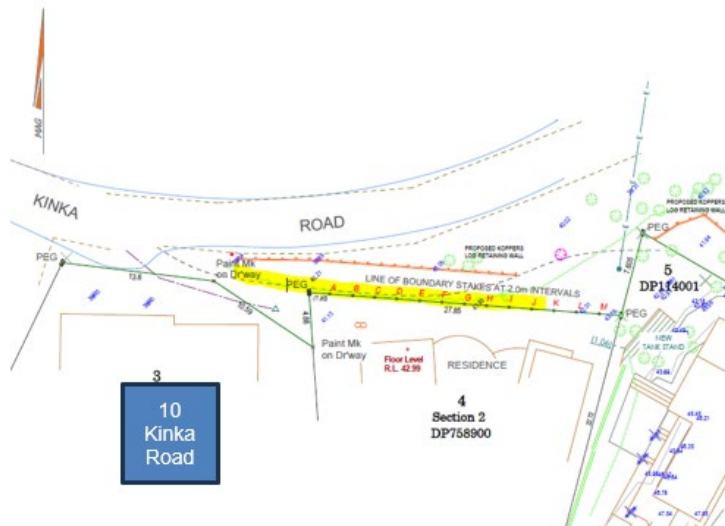


Figure 34 - photos taken from the front of 10, approximately at ground floor height.

The view will improve from the front northern windows, at the eastern end of the dwelling, as the existing vegetation will be removed. The height of the balustrade at this location will be one metre above existing ground level, which is slightly higher than highest section of the existing vegetation.



Figure 35 - View from the raised section of the living area ground floor. This is the approximate location where the barrier will end, however there will be a portion of the barrier above the lower section of the vegetation, however given the open nature of the barrier the view impact will be minimal. (Source – Council staff inspection).



Figure 36 - View from the outside of the elevated ground floor. (Source – Council staff inspection).

Is the proposed development unreasonable:

The proposed development, allows for view through the barrier. The view loss does not result from any non-compliance with planning rules. The development is considered to be reasonable.

View Analysis Summary:

Overall, it is considered that the view impact is minor given the structure being erected is generally of an open nature, with a height of one metre above ground level. The existing panoramic view from the elevated ground floor living area will be generally maintained.

34. Impacts from Climate Change;

Officers Comments:

The impacts regarding Coastal Erosion/Climate Change have been addressed previously in the report.

35. On going management of landscaping.

Officers Comments:

This submission has previously been addressed under the heading '*Access, Transport and Traffic*', which includes Councils engineer's comments.

36. On going management of turntable

Officers Comments:

This submission has previously been addressed under the heading '*Access, Transport and Traffic*', which includes Councils engineer's comments.

One submission in support of the application was received as follows;

37. The Harrison's owners of 14 Kinka Road, have the right to obtaining access to their property, and the Council should support the application.

Officers Comments:

Council has reviewed the information provided with the application and is recommending approval subject to conditions being imposed on the development consent.

4.15 (1)(e) the public interest

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest.

CONCLUSION

The site is described as Lot 5 DP 114001, 14 Kinka Road, Seal Rocks. The proposed development is for the construction of retaining walls associated with a driveway and vehicle turntable.

The proposal is permitted with consent, compliant with the objectives of the zone and in keeping with the existing and desired future character of the land. The proposed development is suitable for the site and does not raise any issues contrary to the public interest.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading. The copy of Attachment 8 on the website has had the personal information redacted to protect the privacy of the members of the public providing the submissions.

Attachment 1 - DA522/2018 - Draft Conditions of Consent (10 pages)

Attachment 2 - DA522/2018 - Plan Set (11 pages)

Attachment 3 - DA522/2018 - Statement of Environmental Effects (38 pages)

Attachment 4 - DA522/2018 - Landscape and Rehabilitation Plans (3 pages)

Attachment 5 - DA522/2018 - Construction Methodology Details (2 pages)

Attachment 6 - DA522/2018 - Traffic Management Plan (2 pages)

Attachment 7 - DA522/2018 - Temporary Construction Zone Plan (1 page)

Attachment 8 - DA522/2018 - Submissions (64 pages)

16.2. DWELLING ADDITIONS - 7 LETHBRIDGE ROAD, ELIZABETH BEACH (DA2023/0722)

REPORT INFORMATION

Report Author	Adam Matlawski – Manager Development Assessment and Building Certification
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

Development Application DA2023/0722 seeks consent for Dwelling Additions at 7 Lethbridge Road, Elizabeth Beach.

The proposal includes requests under Clause 4.6 of the Great Lakes Local Environmental Plan 2014 (LEP) to vary the prescribed height and floor space ratio applicable to the development. The proposal also seeks approval for a number of small variations to the provisions of the Great Lakes Development Control Plan 2014.

The request proposes a variation in excess of 10% of the numerical control for Clause 4.4 Floor space ratio and is therefore referred to Council for consideration.

RECOMMENDATION

That Development Application DA2023/0722 for dwelling additions at 7 Lethbridge Road, Elizabeth Beach be approved subject to the conditions contained in Attachment 1.

DETAILS

Date Received:	14 August 2023
Applicant:	K E Rolls
Owner:	D W & K E Rolls
Land:	7 Lethbridge Road, Elizabeth Beach Lot 7 DP 111562

FINANCIAL / RESOURCE IMPLICATIONS

Cost of defending any appeal against Council's decision.

LEGAL IMPLICATIONS

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

RISK IMPLICATIONS

Nil.

BACKGROUND

The application was submitted through the NSW Planning Portal on 4 August 2023. The application proposes alterations to an existing dwelling house.

Notification and preliminary assessment resulted in a request for additional information, relating to driveway gradients, building design, variations to the GLLEP in regard to height and floor space ratio, and setbacks.

The additional information requested in support of the application was received on 6 August 2024.

SITE DESCRIPTION

The land is zoned R2 Low Density Residential pursuant to the GLLEP 2010.

The site has an area of 461.6m² and is located at 7 Lethbridge Road, Elizabeth Beach. The site slopes west to east and has a frontage to Lethbridge Road. The site has a significant slope of some 25% with falls of 1 in 4 across its 30.48m length.

The site is currently occupied by a two (2) storey fibro clad dwelling house, with garage underneath.

On the east of the site is Lethbridge Road which provides access to a number of properties and Elizabeth Beach. The road is an open loop, separating access for residents from the beach visitors accessing the public car parking at the end of the road.

Adjoining the site to the north is number 6 Lethbridge Road, a three-storey concrete and fibre-cement clad residence.

To the south is number 8 Lethbridge Road, a two-storey weatherboard residence. An existing dense stand of trees along the common property boundary provides visual separation between the houses.

The site is bounded to the west by the Lethbridge fire trail within the Booti Booti National Park.

There are no mature trees on the site of any significance. No vegetation removal is proposed.

The site is not identified as being located on flood prone land. The site is mapped as predominantly within a bushfire buffer with category 2 vegetation at the rear.

The site contains no heritage items, is not in a heritage conservation area, and is not in close proximity to a heritage item, as confirmed through a 200m wide Aboriginal Heritage Information Management System (AHIMS) search which was undertaken on 20 March 2024.

The site is serviced by reticulated water and sewerage and an aboveground electricity supply.

The site is not burdened by any easement, restrictions or covenants.

Development in the vicinity consists of multi-level dwelling houses of various designs and materials of construction.

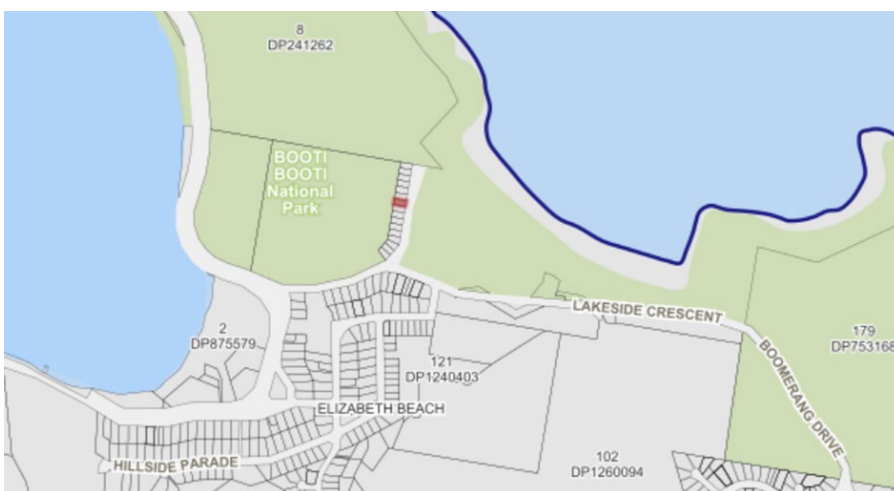


Figure 1 - Locality Map



Figure 2 - Aerial view of site

PROPOSAL

The proposed development consists of alterations and additions to an existing house. The development proposes partially demolishing the existing structure and renovating and extending the building on levels 1 and level 2. An additional storey, level 3, is proposed to be constructed, and a new concrete driveway will replace the existing one to provide access to a new double carport at the front of the property.



Figure 3 - Street view of subject dwelling. (Source: Bourne and Blue Architecture)



Figure 4 - Distant view of proposed dwelling in the streetscape (Source: Google Maps)



Figure 5 - Impression of proposed development. (Source: Bourne and Blue Architecture)

On level 1, the existing garage will be retained and converted into a rumpus room, while the existing sleep-out will become the new entryway, bathroom and stairwell. New landscaped terraced steps are proposed on the south side of the carport to provide access to the new entry and a new secured storage room is proposed on the northside of the carport. New retaining walls and landscaping will provide transition between the existing and new levels at the front of the property.

On level 2, the existing fibro cladding will be removed, and the floor plan reconfigured, extending the building to the east and west. The main living spaces of the house are on this level. The new living room and dining room will be located on the north side, with the new kitchen at the centre of the floor plan, and a new bedroom and bathroom on the south side. The existing narrow balcony on the east side will be demolished and replaced with a larger concrete balcony, and the existing concrete courtyard on the west side will be refurbished. The courtyard will be raised to finish at a higher level and will be connected to the new balcony by a linkway on the north side. The new balcony and courtyard will provide usable external living spaces that can be directly accessed from the new living spaces inside the house. The existing concrete side access stair will be extended, and the existing concrete ramp modified to maintain external access between the different levels on the site.

The proposed level 3 addition will accommodate three new bedrooms, two bathrooms and laundry with a small study area located on the southeast corner next to the stairwell. A new external stair is proposed on the west side to provide access to the upper level of the backyard. On the east side, a new narrow balcony is proposed. The balcony on level 3 works as an architectural element to improve the street façade, articulating the various levels of the building, giving privacy to the main bedroom, and providing weather protection for the doors and windows on the level below.

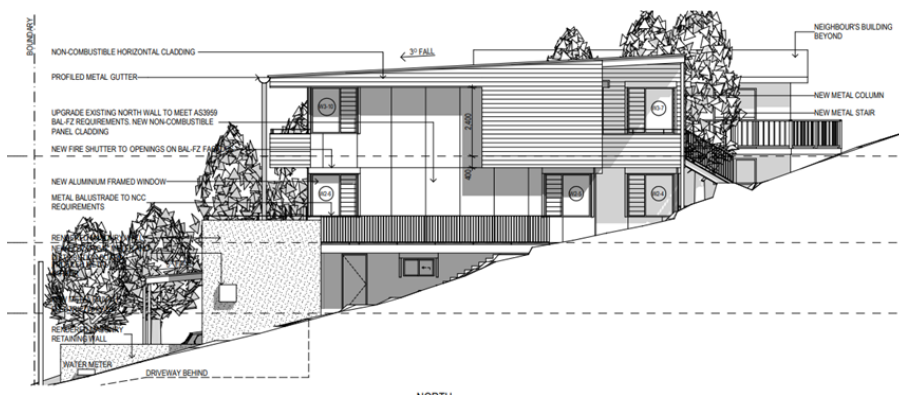


Figure 6 - North elevation. (Source: Bourne and Blue Architecture)

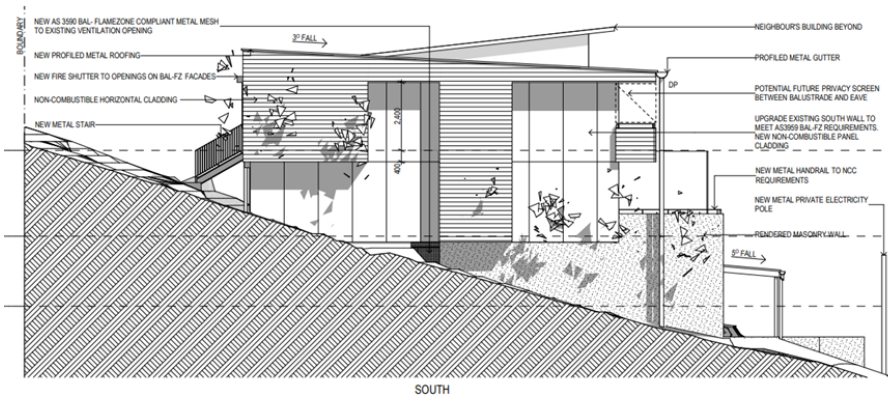


Figure 7 - South elevation (Source: Bourne and Blue Architecture)



Figure 8 - East (Street) elevation. (Source: Bourne and Blue Architecture)

DISCUSSION

Under S4.15 of the Environmental Planning & Assessment Act 1979 (EP & A Act), a consent authority (the Council) when determining a development application, “*is to take into consideration such of the following matters as are of relevance to the development the subject of the development application*”. The relevant matters for consideration are summarised below:

Biodiversity Conservation Act 2016 (BC Act)

The purpose of the BC Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecological sustainable development

The site is not identified on the Biodiversity Values Map (BVM) as being land with high biodiversity value, as defined by the Biodiversity Conservation Regulation 2017.

The site is not likely to have a significant impact on threatened ecological communities, species, or their habitats.

The site will not exceed the extent of native vegetation clearing identified in the BC Act as summarised in the table below.

Table 1 – Biodiversity Conservation Act 2016 Assessment

Minimum lot size associated with the property	Threshold for clearing, above with the BAM and offsets scheme apply
<i>Less than 1 ha</i>	<i>0.25 ha or more</i>

The development would therefore not be considered likely to result in adverse impacts on biodiversity and is consistent with the provisions of the BC Act.

4.15 (1)(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 (BASIX SEPP) applies to the development pursuant to clauses 5 and 6 and aims to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The development is accompanied by BASIX Certificate A502830 dated 2 August 2023 which meets the requirements of the BASIX SEPP. A condition has been recommended requiring the BASIX certificate be complied with.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Coastal Management:

The whole of the site is mapped as 'Coastal Environment Area' and part of the site is identified as being 'Coastal Use Area' in accordance with the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021.

Pursuant to Section 2.10 and 2.11, development consent must not be granted to development on land that is within the Coastal Environment Area and Coastal Use Area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the stated criteria listed in the table below.

Division 4 – Coastal environment area	
Section 2.10(1) <i>Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:</i>	
Subclause	Comment
<i>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i>	The development will have no significant impact on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.
<i>(b) coastal environmental values and natural coastal processes,</i>	The development will have no significant impact on coastal environmental values and natural coastal processes.
<i>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i>	The development will have no impact on any marine estate or sensitive coastal lake.
<i>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i>	The proposal will have minor impacts on native vegetation, fauna or their habitats due to vegetation removal. The proposal does not impact on headlands or rock platforms. Impacts are considered to be minor.
<i>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The proposal will not impact access and public space along the coastal foreshore.
<i>(f) Aboriginal cultural heritage, practices and places, A basic AHIMS search has been conducted on the site.</i>	There are no known items of aboriginal heritage that would be impacted by the development. A basic AHIMS search has been conducted.
<i>(g) the use of the surf zone.</i>	The proposal will not impact on the surf zone

The site is also mapped as being within the ‘coastal use area’ and Division 4 of the Hazards and Resilience SEPP is applicable.

The matters for consideration and how the development relates to these matters is discussed below.

Division 4 – Coastal use area	
Section 2.11(1)(a) <i>Development consent must not be granted to development on land that is within the coastal use area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:</i>	
Subclause	Comment
<i>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	No adverse impacts on the existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability is likely to result from the development.
<i>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	No overshadowing, wind funnelling or loss of views from public places to foreshores is likely to result from the development.
<i>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	The proposed development is not likely to have any significant adverse impact on visual amenity and scenic qualities.
<i>(iv) Aboriginal cultural heritage, practices and places,</i>	There are no known items of aboriginal heritage that would be impacted by the development. A basic AHIMS search has been conducted.
<i>(v) cultural and built environment heritage, and</i>	No identified items or features of cultural and environmental heritage are located within proximity to the site.

Clause 2.12 of the SEPP provides that ‘development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land’. The development is not considered to result in any increased risk of coastal hazards.

Clause 2.13 of the SEPP provides that Council must give consideration to any coastal management provisions applying to land. The proposed development is in keeping with the relevant coastal management provisions applying to the land.

Chapter 4 – Remediation of Land

Under section 4.6 of the SEPP, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

The land does not exhibit any evidence of being contaminated, there does not appear to be evidence of any potentially contaminating land uses previously, and the site is not mapped as being contaminated within Council's system.

A condition of consent will be imposed to require suitable actions should any potentially contaminating materials be discovered during demolition.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter Two: Vegetation in non-rural areas

Chapter Two of the Biodiversity and Conservation SEPP (B&C SEPP) applies to the site pursuant to clause 2.3 and aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 2.3 within Chapter Two states that a Development Control Plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 12 Vegetation Management of Great Lakes Development Control Plan outlines circumstances where development consent is required for vegetation management works.

The development does not propose the removal of any trees in order to facilitate the development. No further consideration of Chapter Two of the B&C SEPP is therefore required.

Great Lakes Local Environmental Plan 2014

The site is located within the former Great Lakes Local Government Area and as such the provisions of *Great Lakes Local Environmental Plan 2014* (LEP) are applicable to the proposal.

The relevant land use zone is R2 Low Density Residential. The proposed development is for alterations to an existing dwelling. This use is permitted in the R2 zone. The objectives of the zone are:

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is considered consistent with the relevant R2 zone objectives as:

The development will provide for housing that will meet the housing needs of the community.

The development has been assessed against all the provisions within the LEP, including development standards, miscellaneous provisions, and local provisions. The following table is a summary of the evaluation of the proposed development pursuant to the provisions of the relevant clauses of the LEP:

Table 3: Consideration of the LEP controls		
Control	Requirement	Proposal
Height of buildings (cl 4.3)	8.5m	The development proposes a maximum height from existing ground levels of approximately 8.75m. The application has been supported with a request to vary the maximum height development standard. Assessment against Clause 4.6

Table 3: Consideration of the LEP controls		
		of the LEP is addressed later in this Report. The applicant has adequately demonstrated that strict compliance with the maximum building height development standard is unnecessary in this particular circumstance and there are sufficient environmental planning grounds to support the variation.
Floor Space Ratio (cl 4.4)	0.5:1	An FSR of approximately 0.595:1 is proposed. The application has been supported with a request to vary the maximum height development standard. Assessment against Clause 4.6 of the LEP is addressed later in this Report. The applicant has adequately demonstrated that strict compliance with the maximum floor space ratio development standard is unnecessary in this particular circumstance and there are sufficient environmental planning grounds to support the variation.
Exceptions to development standards (cl 4.6)		See assessment below.
Heritage conversation (cl 5.10)	Consideration must be given to the effect of the development on heritage significance of Aboriginal objects or places.	The proposed development is not located within a heritage conservation area or within proximity to any items of heritage. A basic AHIMS search was conducted, and the search reveals no known items of aboriginal cultural heritage located within proximity to the proposed development.
Acid Sulfate Soils (cl 7.1)	Consideration must be given to the presence of Actual and/or Potential Acid Sulfate Soils and the impact the development may have on such soils.	The site is identified as containing Class 5 Acid Sulfate Soils. The development is not located within 500m of a land that has an acid sulfate soil class of 1,2,3 and 4 and the development will not lower the water tables by 1.0m.

Table 3: Consideration of the LEP controls		
		The development is not likely to have any impact on acid sulfate soils and an acid sulfate soil management plan is not required.
Earthworks (cl 7.2)	Consideration must be given to impacts arising from earthworks.	<p>The development proposes cut and fill to accommodate the development on the site slope. The Applicant has provided a cut and fill plan which has been reviewed by Council's Development Engineer and is considered acceptable.</p> <p>Maximum cut levels are in the order of 1.8m to accommodate the car parking area (carport) and rumpus room. Elsewhere cut levels are between 0.1m-0.3m.</p> <p>A condition of consent will require external fill to meet the requirements of the relevant Australian standard.</p> <p>Erosion and sediment controls will be in place during construction.</p> <p>The earthworks will not impact the existing and likely amenity of adjoining properties.</p>
Stormwater Management (cl 7.5)	The objective of this clause is to minimize the impacts of stormwater on land to which this clause applies and on adjoining properties, native bushland, groundwater, wetlands and receiving waters	The existing house has a total roof area of 146.6m ² and the proposed development will result in a new total roof area of 196.56m ² , an increase of only 50.5 m ² . The roofs are designed to drain to the existing drainage point on the property and rainwater will be disposed of in the same manner as it currently is.
Essential Services (cl 7.21)	The consent authority is to be satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required	The site has adequate availability of water, sewer, electricity, and telecommunications to service the development.

4.6 Exceptions to development standards

Clause 4.6 of the LEP provides a degree of flexibility in the application of certain development standards where it can be demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the proposed development.

The development proposes a variation to both Clause 4.3 and Clause 4.4 of the LEP. Each of the proposed variations to these clauses is discussed below.

Clause 4.3 Height of buildings

The development proposes a maximum height of 8.75m which constitutes a 3% variation to the maximum height development standard (8.5m).

Subclause 4.6(1)

The variation to Clause 4.3 is considered to be consistent with the objectives of Clause 4.6(1). It is considered reasonable to vary the development standard in this instance as it provides an appropriate degree of flexibility without resulting in unreasonable amenity impacts on adjoining lands and results in a positive outcome for the site. A dwelling built in compliance with this standard would have no lesser impact on adjoining properties or the streetscape.

Subclause 4.6(2)

Clause 4.3 is a development standard which is not excluded from the operation of Clause 4.6. As such, consideration of the variation to the development standard is permitted.

Subclause 4.6(3)

The applicant has provided a written request with justification for the variation, noting that the application of clause 4.3 is unreasonable and unnecessary in this instance, and that there are sufficient planning grounds to support the variation. In relation to Clause 4.3, in summary, the applicant has identified the following:

- The proposal is consistent with the objects of the EP&A Act and the objectives of the R2 zone.
- The development is consistent with the objective in Clause 4.3(1)(a) of the LEP, despite the 250mm (3%) exceedance. The area of roof where the 250mm exceedance occurs equates to about 3% of the total roof area of the top floor of the building.
- The objective in Clause 4.3(1)(b) of the LEP is not applicable to the proposed development.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- Upon completion the perceived height of the building (from pedestrian level) will remain lower than the ridge height of the dwelling to the north and comparable to the dwelling to the south.
- The scale of the proposed development will remain consistent with those of dwellings on adjoining land, compatible with existing environmental character and the desired future urban character of the locality.

Comment:

The rooftop height exceedance contributes minimally to the bulk and scale of the building. The roof structure exceeds the 8.5m height limit by 250mm, which equates to only 3% of the total roof area. This means that any overshadowing or obstructions to existing views attributed to the height exceedance is minor (if at all). The area of exceedance is not obvious from the streetscape due to the topography of the land and no significant visual impacts are likely. The following section plans demonstrate the minimal area of the roof (in blue) that exceed the height limit.

As the height exceedance is confined to a small portion of the roof, with the building assuming a 3-storey appearance it is similar to existing dwellings in the street. The design of the proposed building has been carefully considered and is supported by the height and scale of other neighbouring and nearby developments with similar dimensions within the street.

It is considered that there is an absence of any impact of the proposed variation on the amenity of the area, the environmental values of the locality and the amenity of future occupants.

The applicant's request is detailed in the attached Clause 4.6 Variation request prepared by Accuplan, referenced 24082 and dated July 2024 (Attachment 6).

Clause 4.4 Floor space ratio

Subclause 4.6(1)

The variation to Clause 4.4 is considered to be consistent with the objectives of Clause 4.6(1). It is considered reasonable to vary the development standard in this instance as it provides an appropriate degree of flexibility without resulting in unreasonable amenity impacts on adjoining lands and results in a positive outcome for the site.

Subclause 4.6(2)

Clause 4.3 is a development standard which is not excluded from the operation of Clause 4.6. As such, consideration of the variation to the development standard is permitted.

Subclause 4.6(3)

The applicant has provided a written request with justification for the variation, noting that the application of clause 4.3 is unreasonable and unnecessary in this instance, and that there are sufficient planning grounds to support the variation. In relation to Clause 4.4, in summary, the applicant has identified the following:

That subclauses a) and c) of Clause 4.4 are relevant to this proposal. These subclauses are:

(a) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,

(c) to permit a floor space ratio that will provide a transition in built form and land use intensity,

- The proposed development is compatible with the existing character and the (existing and) desired future urban character of the locality.
- The development is consistent with numerous examples of 3-storey dwellings in the same street, and indeed immediately adjoining.
- The proposed dwelling FSR is in the order of 0.595:1
- The variation does not unreasonably increase the overall bulk and scale of the building.
- As the development is on land in a low-density land use area there is no appreciable transition in built form and land use intensity.
- There are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In this instance the total site area is 467m². With a 0.5:1 allowable Floor Space Ratio the allowable floor space for the proposed dwelling is 230.80m². The subject application proposes a floor area of 274.54m², some 43.74m² in exceedance of this allowance, which equates to a 18.9% variation.

Despite the variation to the FSR development standard, the proposed development will not have any significant adverse impacts on the amenity of adjoining lands particularly in relation to view obstructions or overshadowing. Due to the topography of the land the increase in floor area does not significantly increase the bulk and scale of the dwelling to the extent it is incompatible with the existing streetscape.

The applicant's request is detailed in the attached Clause 4.6 Variation request prepared by Accuplan, referenced 24082 and dated July 2024 (Attachment 7).

Conclusion:

Despite the variations sought, the relevant objectives of Clauses 4.3 and 4.4 are achieved as the scale of the building is compatible with the existing environmental character and the desired future urban character of the locality.

Compliance with the maximum height and maximum floor space ratio development standards is considered unnecessary. The proposed building has been designed with consideration to the steeply sloping site and the surrounding built environment.

The Secretary of the Department of Planning and Environment has previously advised Council that concurrence may be assumed as detailed in Planning Circular PS 17-006. The Secretary has granted concurrence.

The proposal satisfies the established tests for Clause 4.6 variations, is an appropriate form of development for the site. Flexibility in the application of the development standard is justified.

4.15 (1)(a)(ii) the provisions of any draft environmental planning instrument

Draft MidCoast Local Environmental Plan

The Draft MidCoast Local Environmental Plan was on exhibition until 14 July 2024.

Under the Draft instrument the land is to be zoned R2 Low Density Residential. Dwelling house development is to be permitted with consent.

The proposal is compliant with the relevant objectives and provisions of the Draft instrument. Of note, the Draft instrument does not propose any floor space ratio development standard for the land.

4.15 (1)(a)(iii) any development control plan

Great Lakes Development Control Plan 2014

The site is located within the former Great Lakes Local Government Area and the provisions of the *Great Lakes Development Control Plan 2014 (DCP)* are applicable to the proposal. The following Table details the relevant provisions of the DCP and outlines how they relate to the proposed development.

Table 4: Consideration of the DCP controls		
Control	Requirement	Proposal
Part 4 Environmental Requirements		
4.1 Ecological Impacts	Development is to be designed in a manner that avoids, mitigates or offsets negative impacts on biodiversity and the quality and function of the natural environment and responds to relevant ecological constraints and opportunities	The site is located within an existing residential subdivision in an established residential area. The development does not propose the removal of any established trees. The development will not have any significant adverse impact on ecological values and biodiversity of the site.
4.3 Coastal Planning Areas	To ensure that development is designed and located in response to potential coastal hazards and does not adversely impact neighbouring properties or public land.	The site is within the coastal use area. A detailed assessment of the development against the requirements of SEPP (Resilience and Hazards) is provided in this report. The development is considered

Table 4: Consideration of the DCP controls		
		acceptable in respect to potential coastal hazards.
4.7 Bushfire	To ensure that development is designed and located in response to potential coastal hazards and does not adversely impact neighbouring properties or public land.	The site is within the coastal use and coastal environment areas. A detailed assessment of the development against the requirements of SEPP (Resilience and Hazards) is provided in this report. The development is considered acceptable in respect to potential coastal hazards.
Part 5 – Single Dwellings, Dual Occupancies, Villas and Townhouses		
5.1 Solar Access and Overshadowing	Buildings should be designed to allow at least two hours of sunshine upon the internal and outdoor living areas of adjacent dwellings and between 9.00 am and 3.00 pm on 21 June.	The development complies with the solar access requirements of this clause. Overshadowing impacts of the development are addressed in further detail below.
5.2 Views and Privacy*	Buildings are to be designed to minimise the impact on the views enjoyed by neighbours.	The development will have impacts on views obtained from neighbouring properties. As far as possible the impacts of view loss on neighbouring dwellings have been minimized. View loss impacts are discussed in further detail below.
5.3 Energy Efficiency	Residential buildings are to comply with the SEPP (Building Sustainability Index BASIX) 2004.	The development is accompanied by a BASIX Certificate. A condition of consent is provided to ensure the development complies with the BASIX SEPP.
5.4 General Building Design*	Living area or bedroom window fronting primary street.	The development provides for windows from the living room to Lethbridge Road.
	Attached garages and carports 500mm setback from front building line	The carport setback does not achieve the requirements of this control. The carport is proposed to be setback 5.886m from the property boundary with an extension of some 0.4m forward of the building line of the dwelling. While not achieving compliance with this control the forward projection of the carport provides relief to the front façade, responds to the slope of the land and due to the setback from the formed

Table 4: Consideration of the DCP controls		
		roadway does not impinge upon the amenity on the streetscape. This variation is supported.
	Attached garages, carports and open car parking spaces set back at least 6m from front boundary.	The carport setback does not achieve the requirements of this control. The carport is proposed to be setback 5.886m from the property boundary. Given the constraints due to the topography of the site this variation is considered acceptable.
	Maximum total garage door width of 6m and 50% of building width.	The carport opening accounts for less than 50% of the width of the total street frontage. The opening is some 6.1-6.4m wide. This variation is considered acceptable given that the carport also serves as an entry way to the dwelling and provides weatherproof cover.
	Building entries/front doors directly visible from the street, preferably part of dwelling frontage.	The building entry for the dwelling is visible from the street.
	Eaves with a minimum width of 600mm to north, east and west of the external perimeter or 70% of external walls should be considered.	The development has eaves of varying widths from 0mm to 600mm. Bed 2 eave is set to 0 on the north elevation of the dwelling. In this location the bedroom window is to the west and suitably covered by the roof. A 70% perimeter is achieved.
	Colour and materials are to be sympathetic to the existing character of the street and natural setting of the locality. Highly reflective materials should be avoided. On sloping sites in built up areas, reflective, white and other light coloured roof materials should be avoided to reduce glare impacts to adjoining properties.	The chosen materials and colours are considered to be sympathetic to the character of the area.
5.5 Setbacks*	Where there are existing neighbouring houses within 40m, the primary road setback should be an average of the setbacks of the nearest two	The front setback of the development is considered to be consistent with the existing street setbacks and does not

Table 4: Consideration of the DCP controls		
	neighbouring houses, with the same primary road frontage	<p>impact on the character of the streetscape.</p> <p>The proposed setback is 5.886m, with the carport roof extending to 3.9m from the property boundary. The 2 adjoining properties have setbacks of between 0 and 15-17m. Given the topography of the land, the split in the carriageway of Lethbridge Road and the irregular setback pattern in the street, the proposed setback is considered appropriate.</p>
	<p>A residential building must be setback from its side boundaries:</p> <p>900mm + (building height over 3.8m/4)</p>	<p>In accordance with the DCP control a minimum setback of 2.13m is required to the north and south boundaries.</p> <p>The development proposes a minimum setback of 2.3m to the north boundary, compliant with the requirements of the DCP.</p> <p>The setback of the south elevation of the development is predominantly 1.959m, though this is reduced to approximately 1.2m for the bathroom. The setback is generally in accordance with the DCP controls. The variations are not considered to create any adverse impacts, are considered minor and add articulation to the external façade.</p>
	<p>A residential building must be setback from its rear boundary:</p> <p>3m + (building height over 3.8m/4)</p>	<p>In accordance with the DCP control a minimum rear setback of approximately 7.0m is required.</p> <p>The development has a setback in excess of 7.7m from the rear boundary</p>
	<p>Windows, balconies, terraces and decks closer than 3m from a side or rear boundary may require privacy screening, to reduce the impact on the privacy of adjoining buildings</p>	<p>Balconies are located within 3m of side boundaries. Privacy screening should be incorporated into the decks and required as a condition of any consent.</p>
5.8 Private Outdoor Areas	Minimum area 24m ² , width 4m	The development has a POS in accordance with this control.

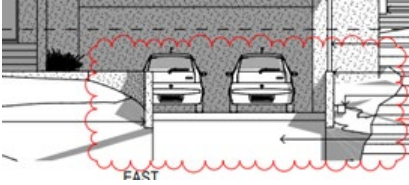
Table 4: Consideration of the DCP controls		
5.9 Fencing and Walls*	<p>Fences within the front setback area from a primary road are to be a maximum 1.2m high and a minimum 50% open construction for the upper two thirds of the fence.</p> <p>Fences behind the building line (front setback) are to be a maximum of 1.8m high.</p>	<p>Due to the slope of the site the height of a retained area adjacent to the driveway is considered acceptable.</p>  <p>Area exists for landscaping forward of the fence and overall, the retaining wall is not considered to have any significant adverse impact on streetscape or amenity of the area.</p>
Chapter 10 – Car Parking, Access, Alternative and Active Transport		
10.3.1 Car Parking Rates	Dwellings >125m ² require 2 parking spaces	The development proposes parking for two vehicles in a carport.
10.3.3 Vehicle Access and Driveways	Vehicle access set back 1m from side boundary	The driveways are at least 1m from the side boundary.
Chapter 13 – Landscaping and Open Space		
13.1 Single Dwellings, Dual Occupancies, Villas and Townhouses	Minimum 30% of site area set aside for landscaping	A total of 31.85% of the site area has been set aside as landscaping.
	50% of landscape area deep soil	The majority of the landscaped area can be made available for deep soil zone
Part 11 Water Sensitive Design		
	To safeguard the environment by maintaining or improving the quality of stormwater run-off.	The development incorporates suitable measures to maintain and improve the quality of storm water run-off.

Table 1 – Biodiversity Conservation Act 2016 Assessment

Despite a number of proposed minor variations to the DCP controls the proposed alterations to the existing dwelling are considered suitable as they are seeking to re-develop an existing dwelling on a physically constrained site within an established residential area. The variations do not diminish the amenity of the neighbouring dwellings, result in a dwelling which constitutes an overdevelopment of the site nor detract from the visual amenity of the streetscape.

4.15 (1)(a)(iia) any planning agreement or any draft planning agreement

The proposed development is not subject to a planning agreement entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.

4.15 (1)(a)(iv) any matters prescribed by the regulations

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulations 2021 (EP&A Regulation). Council has assessed the development in accordance with the relevant provisions prescribed by the Regulations being:

- *Section 61 – Additional matters that consent authority must consider*
- *Section 64 – Consent authority may require upgrade of buildings*

In accordance with Section 61 and 64, consideration of the demolition of the existing structures, and compliance with the Building Code of Australia has been undertaken. Appropriate conditions of consent have been imposed on the consent.

4.15 (1)(b) the likely impacts of that development

Context and Setting

The site is in an existing residential area. Existing development in the locality is comprised mostly of 2 and 3 storey dwellings of varying design and scale. Developed on sloping sites, the dwellings have varied setbacks and scale.

The proposed building is of contemporary design, is generally in keeping with the residential controls and is appropriate given the local context. Despite a number of minor numerical variances, the development will be appropriate in its setting and set a standard for future development in the area.

Site and Internal Design

The slope of the site provides a constraint to development of the land, though the proposal presents a design that responds to the topography of the site.

The building is stepped to follow the topography and provided with suitable articulation to reduce the perceived bulk and scale.

Utilisation of the existing structure and limited earthworks on the site contribute to the overall acceptability of the proposal.

Access and Transport

Vehicular access to site is from Lethbridge Road. The existing road network provides adequate service for the proposed development which is not likely to have any significant adverse impact on this existing road network.

The development provides a carport capable of accommodating two vehicles. The proposal is not likely to result in any adverse parking impacts.

Views

There is not likely to be any significant adverse impacts on views afforded to neighbouring development, noting that views over the site are currently obscured by existing vegetation and primarily obtained across what is currently the roof of the subject dwelling.

Existing views from the subject site and neighbouring properties are achieved in a north-easterly direction towards Elizabeth Beach. These views are only available from the front of each dwelling and provide distant ocean glimpses. The diagram below depicts the view lines currently available across the subject dwelling house.



Figure 9 - Existing view corridors available from 8 Lethbridge Road. (Blue Shading – ocean view from front elevation across front setback. Red- ocean view corridor over roofline of subject site.)

The views currently enjoyed from the adjoining dwelling at 8 Lethbridge Road, which are obtained from the topmost storey across the existing roof and front setback of the dwelling at No. 7, will be minimally impacted.

Of relevance is that the proposed dwelling will have a height consistent with that of the property at No. 8, lower floor levels and a higher roof ridgeline.

North sitting and standing views will be retained from the portions of the desk at No. 8 which presently obtain views past the south-eastern corner of the dwelling on the subject land.

The variation to the numerical standards discussed in this report have no bearing on the degree of view loss in this proposal.

In an analysis of the loss of views in terms of the assessment carried out in *Tenacity Consulting v Warringah Council* in terms of the reasonableness of view impacts it is considered that: the views impacted are not whole views, being obscured by landforms; sitting and standing views to the side of the property are largely retained; the extent of the impact is minimal as not all views are impacted; and the proposal, despite some variations to numerical controls is reasonable.

Overshadowing

The proposed height of the subject dwelling at completion will be higher than the adjoining dwelling at no. 8 Lethbridge. Shadow diagrams submitted with the application illustrate this overshadowing. The degree of additional overshadowing caused by the proposed dwelling will be minor, with the required 2 hours of sunlight available to the internal and outdoor living areas of this neighbouring dwelling remaining available between 9am and 3pm on 21 June. The shadow diagrams below depict the most significant period for loss of sunlight. The diagrams show the impact of overshadowing on the side balcony of the dwelling.

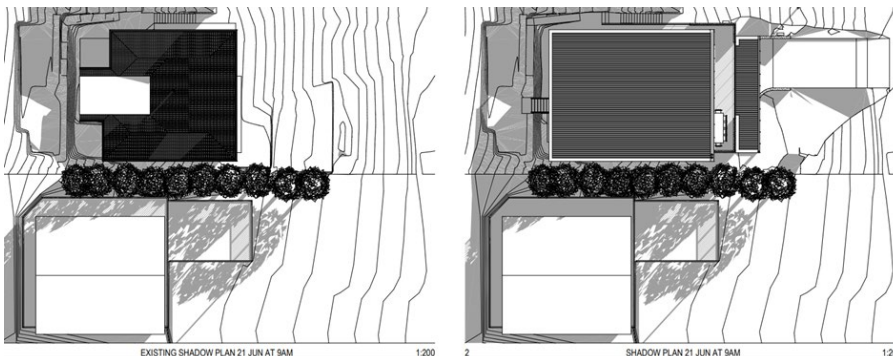


Figure 10 - Shadow diagrams 9am 21 June

Services

The site is currently serviced by telecommunications, reticulated electricity, water and sewerage systems. The existing services are suitable for the proposed development.

Natural Hazards

The subject land is mapped as Bush Fire prone land. The site is constrained and the development falls within the Flame Zone. A Bushfire Threat Assessment was prepared in support of the development and the application was referred to the NSW Rural Fire Service for comment in accordance with s4.14 of the EP & A Act.

The NSW Rural Fire Service have recommended conditions that should apply to the development to mitigate the hazard of bushfire. The recommendations of the NSW Rural Fire Service are to be included as conditions of consent.

The subject land is not flood prone or constrained by other natural hazards.

Climate Change

No impacts relating to climate change are likely to result. The building has been designed to achieve the minimum requirements for sustainability as evidenced in the BASIX certificate discussed earlier in this report.

Heritage

The site is not located within proximity to any registered heritage item, nor is it located within a heritage conservation area. A basic AHIMS search was undertaken which identified no Aboriginal sites or places declared or recorded in or near the above location.

Cumulative Impacts

The development has been assessed against the GLLEP and GLDCP and has considered impacts such as, but not limited to, vehicular access, parking, privacy, solar access, heritage, natural hazards and environmental impacts.

The development is unlikely to generate any notable environmental impacts, with any impacts being associated with construction activities. These impacts will include noise and dust impacts are temporary and minor in nature and will occur during standard construction hours (noise) and will be regulated by conditions of consent. Further consideration of specific impacts is not deemed necessary.

The development is unlikely to have any perceptible social or economic impacts (positive or negative) on the locality with the exception of short-term construction related employment.

4.15 (1)(c) the suitability of the site for the development

The site is located with an existing residential zone on the western side of Lethbridge Road with distant view of Elizabeth Beach. The 467m² lot provides adequate area, despite topographical challenges due to slope and relief, for the proposed alterations to deliver a dwelling that does not represent an overdevelopment of the site. The site is considered suitable for the proposed development.

4.15 (1)(d) any submissions made in accordance with this Act or the Regulations

The subject development application was publicly exhibited between 29 September 2023 – 24 October 2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the MidCoast Council Community Engagement Strategy. A total of two (2) submissions were received from the same person.

The issues raised within those submissions are addressed below. Issues have been grouped to avoid repetition:

Issues	Response
Reduced front setback	<p>The reduced front setback will not in itself have a significant impact on the overshadowing effects on the adjoining dwelling.</p> <p>This matter does not warrant further amendment or refusal of the application.</p>
Reduced side setback compounds overshadowing	<p>Reduced side setbacks are considered unlikely to significantly influence any overshadowing on the land at 8 Lethbridge Rd as the roofline of the dwelling is unaffected by the setbacks.</p> <p>This matter does not warrant further amendment or refusal of the application.</p>
Overshadowing due to upper storey	<p>The proposed height of the subject dwelling at completion will be higher than the adjoining dwelling at no. 8 Lethbridge. Shadow diagrams submitted with the application illustrate this overshadowing. The degree of additional overshadowing caused by the proposed dwelling will be minor, with the required 2 hours of sunlight available to the internal and outdoor living areas of this neighbouring dwelling remaining available between 9am and 3pm on 21 June.</p> <p>This matter does not warrant further amendment or refusal of the application.</p>
Loss of views	<p>Existing views from the subject site and neighbouring properties are achieved in a north-easterly direction towards Elizabeth Beach. These views are only available from the front of each dwelling and provide distant ocean glimpses.</p> <p>The views currently enjoyed from the adjoining dwelling at 8 Lethbridge Road which are obtained from the topmost storey across the existing roof and front setback of the dwelling at No. 7 will be minimally impacted.</p> <p>Of relevance is that the proposed dwelling will have a height consistent with that of the property at No. 8, lower floor levels, a higher roof ridgeline.</p> <p>North sitting and standing views will be retained from the portions of the desk at No. 8 which presently obtain views past the south-eastern corner of the dwelling on the subject land.</p> <p>The variation to the numerical standards discussed in this report have no bearing on the degree of view loss in this proposal.</p> <p>In an analysis of the loss of views in terms of the assessment carried out in Tenacity Consulting v Warringah Council in terms of the reasonableness of view impacts it is considered</p>

Issues	Response
	<p>that: the views impacted are not whole views, obscured by landforms; sitting and standing views to the side of the property are largely retained; the extent of the impact is minimal as not all views are impacted; and the proposal, despite some variations to numerical controls is reasonable.</p> <p>This matter does not warrant further amendment or refusal of the application.</p>
<p>How can two storeys become three storeys</p>	<p>The GLLEP and GLDCP do not specify any controls relating to the number of stories that can be contained within a dwelling.</p> <p>The controls nominate a height limit above natural ground level.</p> <p>In this instance the 8.5m limit applies.</p> <p>The applicant has sought approval to exceed the height limit by 250mm (a 3% variation), and commentary on this variation has been provided in this report</p> <p>This matter does not warrant further amendment or refusal of the application.</p>

4.15 (1)(e) the public interest

The proposal is compatible with the existing streetscape by maintaining a similar bulk and scale with existing development located along Lethbridge Road.

The proposal is consistent with the objectives of the relevant zone and will not have an unreasonable impact upon neighbouring properties.

The proposed development is not likely to raise any matters contrary to the public interest.

Approval of the development would be in the public interest.

CONCLUSION

The proposed development involves the alteration of an existing dwelling at No. 7 Lethbridge Road, Elizabeth Beach.

The proposed development achieves the objectives contained within the Great Lakes Local Environmental Plan and Development Control Plan.

The variations to development standards of height and floor space ratio in the Great Lakes Local Environmental Plan and minor variations to controls within the Development Control Plan are suitable for the site.

The development does not raise any issues contrary to the public interest and is recommended for approval.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading. The copy of Attachment 5 on the website has had the personal information redacted to protect the privacy of the members of the public providing the submission.

Attachment 1 - DA2023/0722 - Conditions of Consent (11 pages)

Attachment 2 - DA2023/0722 - Development Plans (20 pages)

Attachment 3 - DA2023/0722 - Variation to development standard Height (9 pages)

Attachment 4 - DA2023/0722 - Variation to development standard- FSR (10 pages)

Attachment 5 - DA2023/0722 – Submission (2 pages)

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16.3. DEMOLITION AND CONSTRUCTION OF SUPERMARKET - 50 COWPER STREET, STROUD (DA2023/0836)

REPORT INFORMATION

Report Author	Ben Lim-Cooper - Senior Development Planner
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

Development Application DA2023/0836 seeks consent for demolition and the construction of a supermarket at No. 50 Cowper Street, Stroud.

The application includes a request to vary the maximum building height development standard. The variation arises from the proposed building being 950 millimetres above the maximum building height which constitutes a variation of 11.18%. Therefore, the application is referred for Council's consideration.

Five submissions have been made in relation to the application. All issues raised in the submissions have been addressed through the assessment of the application with appropriate conditions of consent applied where necessary.

RECOMMENDATION

That Development Application DA2023/0836 for demolition and the construction of a supermarket on Lot 1 DP 797359, No. 50 Cowper Street, Stroud be approved subject to the conditions contained in Attachment 1.

DETAILS

Date Received:	21 September 2023
Applicant:	Perception Planning Pty Ltd
Owner:	Sangha Group Pty Ltd
Land:	Lot 1 DP 797359, No. 50 Cowper Street, Stroud Area: 1686m2 Zoning: RU5 - Village

FINANCIAL / RESOURCE IMPLICATIONS

Cost of defending any appeal against Council's decision.

LEGAL IMPLICATIONS

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

RISK IMPLICATIONS

Nil.

SITE DESCRIPTION

The site is located within the local commercial centre of Stroud. A site locality map is provided in Figure 1 below.



Figure 1: Site Locality Map (Source – Intramaps)

The site is rectangular in shape and has a total area of 1686m².

The land within the site maintains a northerly aspect, with the land sloping away from the southern corner toward the northern corner of the site.

The land is predominately clear of any significant vegetation, with the exception of three small trees located within the north-eastern (rear) portion of the site.

The site is currently occupied by a single-storey building constructed to the south-western (primary) boundary of the site. The building is currently occupied by a supermarket. A gravel driveway extends from Cowper Street to a small hardstand space located behind the existing building. This hardstand area is used as informal car parking for staff. The existing supermarket provides no on-site car parking for customers.

The site is located within the Stroud Heritage Conservation Area.

Land adjoining the south-eastern (side) boundary is occupied by the *Central Hotel Stroud* which is a registered heritage item.

Land located on the south-western (opposite) side of Cowper Street contains the *Stroud Courthouse* which is also a registered heritage item.

Land adjoining the north-western (side) and north-eastern (rear) boundary contains single-storey residential dwellings.



Figure 2: Site Map (Source – Intramaps)



Figure 3: Existing Supermarket on the Site (Source – Google Streetview)



Figure 4: Existing Central Hotel Stroud Adjoining the Site (Source – Google Streetview)



Figure 5: Existing Stroud Courthouse Located on the Opposite Side of Cowper Street (Source – Google Streetview)

APPLICATIONS HISTORY

DA2022/0595: Alterations and Additions to Existing Supermarket

A Development Application for alterations and additions to the existing supermarket on the land was lodged on the 23 June 2022 under DA2022/0595.

This application proposed car parking spaces within the rear of the site which were to be accessed by a new driveway. This driveway was also intended to be used for deliveries. This arrangement presented unreasonable internal traffic impacts and safety concerns due to conflicts between customer and delivery vehicles.

The design of the additions were also considered to have unreasonable impacts on adjacent heritage items and the heritage character of the Stroud locality more generally.

DA2022/0595 was withdrawn by the applicant on the 23 February 2023.

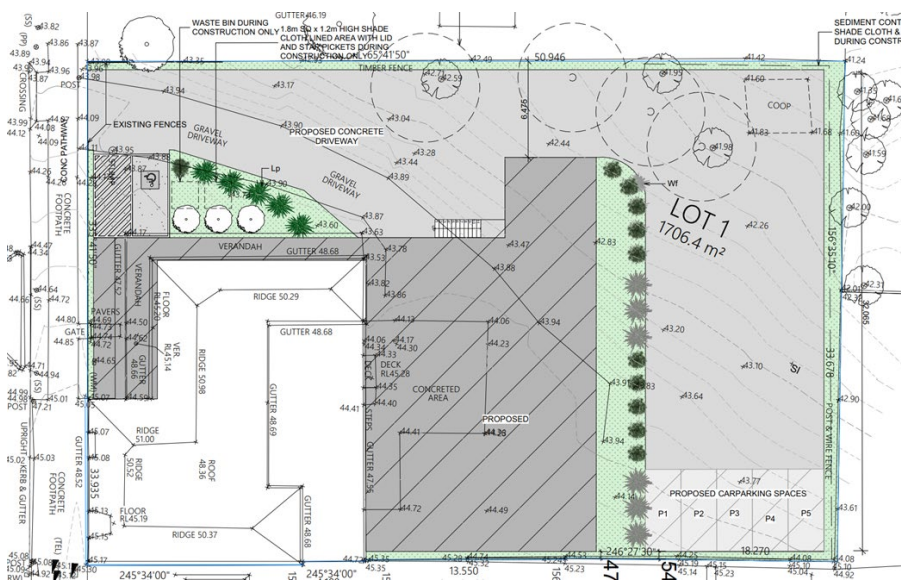


Figure 6: Proposal Submitted Under DA2022/0595 (Source – Sorensen Design and Planning)

DA2023/0836: Demolition and Construction of New Supermarket

A Development Application for demolition and construction of a new supermarket on the land was lodged on the 21 September 2023 under DA2023/0836.

Several issues were raised by both the community and Council officers with the initial design. These issues were addressed by the applicant through the submission of additional information including revised architectural plans. Issues with the initial design and how they were addressed by the applicant are outlined in the following table.

<i>Issue</i>	<i>Actions by the Applicant</i>
Heritage Impacts: Council's Heritage Officer identified several issues with the design from a heritage perspective. More specifically, the presence of a bulky fascia above the hipped roof was not supported, nor was the use of manufactured board cladding. Additional information about signage design was also requested.	The applicant submitted revised plans with design amendments that resolved the issues identified by Council's Heritage Officer. Additionally, details of the proposed signage were also submitted.
Impacts on Sewer Infrastructure: Council's Water Services Team raised concerns with the location of the proposed development and existing sewer infrastructure located within the rear of the site.	The applicant submitted revised plans indicating that existing sewer infrastructure would be re-diverted to remove conflicts. Council's Water Services Team have confirmed this re-diversion addresses their previous concerns.
Floor Space Ratio: The assessing officer identified potential non-compliance with the proposed floor area when assessed against the maximum floor space ratio development standard.	The applicant submitted revised plans showing floor area calculations which demonstrate compliance with the maximum floor space ratio development standard.
Insufficient Car Parking: The initial design proposed only 11 car parking spaces which was not considered sufficient by the assessing officer.	Revised plans were submitted increasing the total number of car parks to 14 which, as addressed later in this Report, is considered acceptable.
Stormwater: Council officers requested additional information in relation to proposed stormwater arrangements to ensure drainage would work on the site and achieve Council's water quality targets.	Additional information was submitted by the applicant which satisfied the concerns of Council officers.
Servicing: Council's Engineers requested additional information relating to potential traffic impacts associated with servicing.	Additional information including truck specifications and turning circles were submitted.

PROPOSAL

The proposed development seeks demolition of the existing structures and construction of a new supermarket on the land. This is discussed in further detail below.

Demolition and Site Preparation

The development involves demolition of the existing building currently occupying the land. In preparing the site, the existing driveway will also be removed and existing sewer infrastructure relocated. A total of three trees on the site will be removed. Seven trees on the adjoining land will also be removed for the purposes of installing drainage infrastructure.

Supermarket

The proposal seeks the construction of a single-storey building which will be used as a supermarket. The building will contain a large area with several aisles and shelves for the stocking of groceries. The north-western section of the building will be used for liquor sales. The north-eastern portion of the site will contain an office, storage, toilets and loading dock/area.

The maximum building height of the building will be 9.45 metres above natural ground level and will have a total area of 679m².

Signage

Two business identification signs will be erected on the roof. One sign will face the street and another directed in a north-westerly direction. Each sign will be 3m x 1.2m.

Car Parking, Access and Servicing

Car parking will be provided by a hardstand area located forward of the front building line. This area will provide a total of 14 car parking spaces, including one accessible space.

The car park will be accessed by a new driveway extending from Cowper Street. The new driveway will provide a single vehicle entry and exit point at the western corner of the site.

The driveway will also provide service vehicles access to the loading dock.

Ancillary Development

Filling of the land will be required for the driveway access and car parking areas. The maximum extent of fill will be approximately 1.8 metres and will be accommodated through the erection of retaining walls. The filling of the land is required to provide appropriate driveway and car parking gradients in addition to ensuring a consistent floor level between the loading dock and the remainder of the supermarket.

Stormwater generated by the roof and hardstand areas will be directed to an on-site detention tank prior to dispersal into a bio-retention basin for treatment. Overflow from the bio-retention will be conveyed into drainage infrastructure within adjoining Lot 1 DP797686. This infrastructure will be located within an easement benefitting the subject site and has been supported by the adjoining landowner.

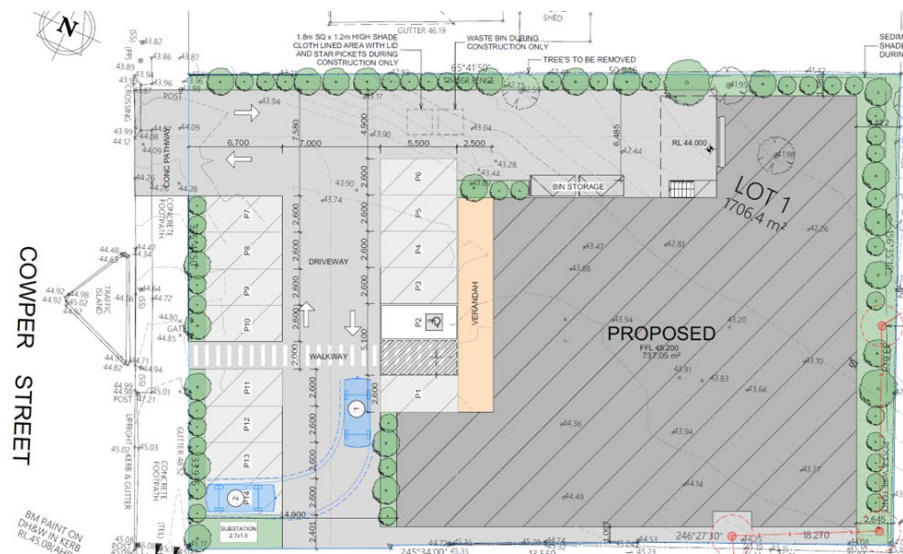


Figure 7: Proposed Site Plan (Source – Sorensen Design and Planning)

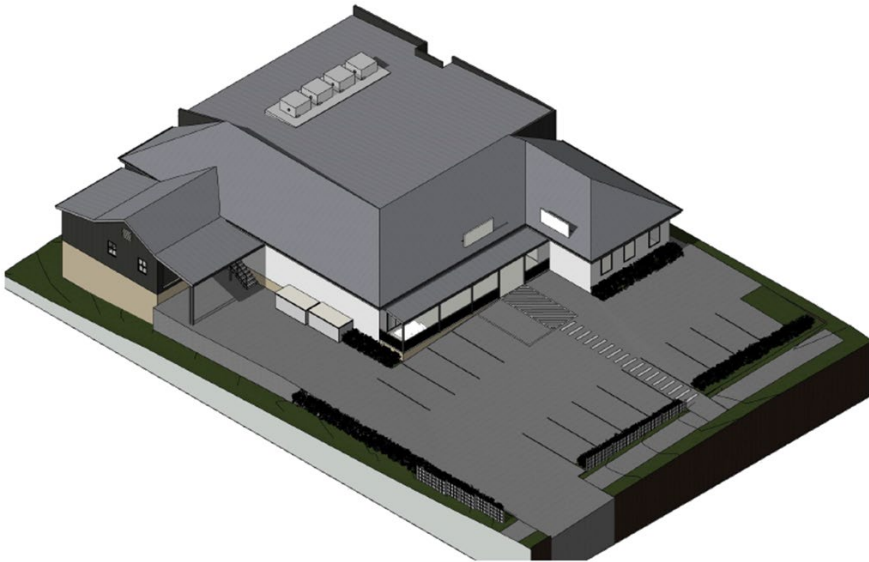


Figure 8: Perspective (Source – Sorensen Design and Planning)

DISCUSSION

Under Section 4.15 of the *Environmental Planning & Assessment Act 1979* (EP & A Act), a consent authority (the Council) when determining a development application, “is to take into consideration such of the following matters as are of relevance to the development the subject of the development application”. The relevant matters for consideration are summarised below:

4.15 (1)(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy

State Environmental Planning Policy (Planning Systems) 2021

The *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP) provides that certain development is ‘regionally significant development’ if it meets the criteria provided in Schedule 6.

Schedule 6 provides that development with a capital investment value of \$30 million dollars is regionally significant development. The proposed development has a capital investment value of <\$30 million dollars.

The proposed development is not regionally significant development as classified by the Planning Systems SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Under section 4.6 of the SEPP, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

The site is not identified as ‘contaminated land’ based on Council’s records, nor has the site been used for any potentially contaminated land use.

The assessment satisfies Section 4.6 of the Hazards and Resilience SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Essential Energy were invited to provide comments pursuant with Section 2.48 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. Essential Energy raised no safety concerns with the proposal.

State Environmental Planning Policy (Industry and Employment) 2021

The proposed development involves installation of business identification signage and Chapter 3 of the *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP) is applicable to the proposal.

Section 3.11 of the Industry and Employment SEPP states:

(1) A consent authority (other than in a case to which subsection (2) applies) must not grant consent to an application to display an advertisement to which this Chapter applies unless the advertisement or the advertising structure, as the case requires—

(a) is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and

(b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and

(c) satisfies any other relevant requirements of this Chapter.

The relevant objectives of Chapter 3 of the Industry and Employment SEPP are as follows:

(1) This Chapter aims—

(a) to ensure that signage (including advertising)—

(i) is compatible with the desired amenity and visual character of an area, and

(ii) provides effective communication in suitable locations, and

(iii) is of high-quality design and finish

The signage is not incompatible with the visual character of the area or the built form context of the site and surrounds. The site is located within proximity to commercial developments and public administration buildings which are identified by signage of similar design and dimension as the signage proposed under this application. It is also noted that the site is currently occupied by a supermarket which incorporates similar signage.

The proposed signage is orientated and designed in a way that will achieve effective communication and is of high-quality design and finish.

The table below outlines the assessment criteria contained within Schedule 5 of the Industry and Employment SEPP and details how they relate to the proposed development.

Schedule 5 Compliance Table	
Assessment Criteria	Comments
1 Character of the area	
<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	<p>The bulk and scale of the proposed development is not incompatible with the built form context of the site and surrounds.</p> <p>The site is located within proximity to commercial developments and public administration buildings which are identified by signage of similar bulk, scale and design as the proposed signage.</p> <p>It is also noted that the site is currently occupied by a supermarket which incorporates signage similar to that proposed under this application.</p> <p>The proposed signage is not incompatible with the existing or desired future character of the area or locality</p>

Schedule 5 Compliance Table	
<i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	The signage is not for the purposes of off-site promotion or advertising. The signage will be for business identification purposes only and is not inconsistent with existing signage within the immediate locality.
2 Special areas	
<i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	The site is not located within proximity to environmentally sensitive areas. As detailed above, the signage is not dissimilar with existing signage close to the site.
3 Views and vistas	
<i>Does the proposal obscure or compromise important views?</i>	The signage will not obstruct existing views or vistas.
<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	The signage will not dominate the skyline or reduce the quality of vistas.
<i>Does the proposal respect the viewing rights of other advertisers?</i>	Proposed signage is provided with sufficient separation distances from existing signage and does not impede on the viewing rights of other advertisements.
4 Streetscape, setting or landscape	
<i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i>	The proportion and form of the signage is considered to be appropriate for the streetscape, setting and landscape.
<i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i>	The proposed signage is of high-quality design and will contribute to the visual interest of the site.
<i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i>	N/A
<i>Does the proposal screen unsightliness?</i>	N/A
<i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i>	The signage does not protrude above buildings, structures or tree canopies.
<i>Does the proposal require ongoing vegetation management?</i>	The signage is clear of any significant vegetation and will not require ongoing vegetation management.
5 Site and building	
<i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i>	The signage is compatible with proposed buildings and other site attributes.
<i>Does the proposal respect important features of the site or building, or both?</i>	The signage does not have any significant adverse impacts on the heritage character of the building.
<i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i>	N/A

Schedule 5 Compliance Table	
6 Associated devices and logos with advertisements and advertising structures	
<i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i>	The signage does not require any safety device to be implemented.
7 Illumination	
<i>Would illumination result in unacceptable glare?</i>	The signage will be illuminated. Conditions of consent will be imposed requiring lighting to be designed in a way to minimise light spill and not cause light pollution. A further condition will ensure that the illumination be adjustable to minimise light impacts on nearby residential development.
<i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i>	Conditions of consent will be imposed requiring light to be directed and illumination be adjusted to not result in impacts on vehicles. No impacts on aircraft is likely.
<i>Would illumination detract from the amenity of any residence or other form of accommodation?</i>	Conditions of consent would be imposed requiring that the illumination be manually adjustable and any lighting designed and directed in a way it does not cause unreasonable light pollution or light spill. The illumination is not likely to detract from the amenity of surrounding residences.
<i>Can the intensity of the illumination be adjusted, if necessary?</i>	A condition of consent will be imposed requiring that the illumination be adjustable to minimise light impacts on adjoining residential development.
<i>Is the illumination subject to a curfew?</i>	The illumination would not be subject to a curfew. However, conditions of consent will ensure no impacts on surrounding development.
8 Safety	
<i>Would the proposal reduce the safety for any public road?</i>	The signage is typical of that associated with a supermarket and will not reduce the safety of any public road.
<i>Would the proposal reduce the safety for pedestrians or bicyclists?</i>	The signs do not pose any unnecessary safety risk to vehicles or pedestrians using the public domain.
<i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i>	The location of the signage does not obstruct sight-lines of exiting traffic.

State Environmental Planning Policy (Sustainable Buildings) 2022

The *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Buildings SEPP) came into effect on the 1 October 2023.

The Sustainable Buildings SEPP is applicable for non-residential development with an estimated development cost of >\$5 million. The estimated cost of the development is <\$5 million and this SEPP is not applicable.

Great Lakes Local Environmental Plan 2014

The site is zoned RU5 - Village under the provisions of the *Great Lakes Local Environmental Plan 2014* (LEP).

The proposed development is for a 'neighbourhood supermarket', which is permitted with the consent of Council in the RU5 Zone.

The objectives of the RU5 Zone are as follows:

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To provide for a range of land uses, services and facilities that are associated with a coastal village.*
- *To enable non-residential development that does not prejudice the established land use pattern within the village.*

The proposed development satisfies the relevant objectives of the RU5 Zone in that it:

- Provides access to goods essential to the community in a rural village; and
- Will not prejudice the established land use pattern within the village, noting the land has historically been used for retail and will continue to be used for such purposes;

The relevant provisions of the LEP are addressed below.

4.3 Height of buildings

The maximum building height prescribed by Clause 4.3 of the LEP is 8.5 metres.

The proposed development has a maximum building height of 9.45 metres above natural ground level which is 950 millimetres above the maximum building height and constitutes a variation of 11.18%.

The applicant is seeking a variation to the maximum building height development standard pursuant with Clause 4.6 of the LEP. Assessment against Clause 4.6 of the LEP is addressed later in this Report.

The applicant has adequately demonstrated that strict compliance with the maximum building height development standard is unnecessary in this particular circumstance and that there are sufficient environmental planning grounds to support the variation.

Clause 4.4 Floor Space Ratio

Clause 4.4 of the LEP prescribes a maximum floor space ratio (FSR) of 0.4:1 for the site.

The proposed FSR is 0.39:1 based on a total gross floor area of 679m².

The proposal satisfies the maximum FSR prescribed by Clause 4.4.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the LEP provides a degree of flexibility in the application of certain development standards where it can be demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the proposed development.

The development seeks a variation to Clause 4.3. As detailed above, the development is subject to a maximum building height of 8.5 metres. The proposed development has a maximum building height of 9.45 metres above natural ground level which is 950 millimetres above the maximum building height and constitutes a variation of 11.18%.

Subclause 4.6(1)

The variation to Clause 4.3 is considered to be consistent with the objectives of Clause 4.6(1). It is considered reasonable to vary the development standard in this instance as it provides an appropriate degree of flexibility and a positive outcome for the site.

This is achieved through a development which results in a design which is sympathetic of the heritage character of nearby buildings and the Stroud locality more broadly and appropriately responds to the topography of the site.

Subclause 4.6(2)

Clause 4.3 is a development standard which is not excluded from the operation of Clause 4.6. As such, consideration of the variation to the development standard is permitted.

Subclause 4.6(3)

In accordance with Clause 4.6(3), the applicant has provided a written request with justification for the variation, noting that the application of Clause 4.3 is unnecessary and unreasonable in this instance, and that there are sufficient planning grounds to support the variation.

Some of the pertinent points raised by the applicant include the following:

The height of the proposed addition is compliant with the 8.5m HOB standard at the street level (Cowper Street), aligning with the existing building it is proposed to replace and remaining well below the height of the adjacent building to the South, thus the height exceedance is not noticeable by eye. Given the slope of the site to the rear, the maximum HOB is exceeded, with the greatest element being 0.950m, resulting in a total HOB above the existing ground level of 9.45m at the building's highest point.

It is also noted that the height exceedance is a result of discussions with Mid Coast Council and a Further Information Request, requesting that "the pitch of the hipped roof should be increased such that the ridge meets or sits higher than the low pitched roof beyond" in order to meet the objectives of heritage design controls.

The exceeding element does not result in the building being visually obtrusive when viewed from Cowper Street, Memorial Avenue, or Gidley Street. When viewing the site from Cowper Street from the west towards the east, the exceeding element sits behind the frontmost section of roof ridge and cannot be seen by pedestrians or vehicles. No visual impact results from this viewpoint.

The building (including exceeding element) will sit within the confines of the site and will not protrude above the adjacent building to the South with which it has a visible association with, being an adjacent commercial building. In addition to this, the location of the proposed development is screened by existing vegetation to the North and East, providing a visual barrier between the subject site and the existing dwellings to the North and East.

As shown within the shadow diagrams, the exceeding element, nor the proposed development overall, will not generate any overshadowing onto habitable or regularly occupied spaces either to the existing dwelling to the North or the existing Central Hotel to the South.

The proposed development includes visually compatible elements within the streetscape and results in a positive impact to the site and surrounds. Given the number of substantial buildings within the town centre, such as the adjacent Central Hotel directly to the South, Stroud Courthouse to the West, and Stroud Milk Bar and Café to the South, the proposed development inclusive of the exceeding element will remain compatible with the existing character of the area and remain lower than these existing buildings of heritage significance. Given the nearby and adjacent substantial heritage buildings along Cowper St, the proposed development will sit comfortably amongst these, resulting in a similar streetscape form to what is existing, although with increased visual amenity which is achieved through an increased front setback and landscaping.

In addition, the proposed development utilises piers and a sub floor construction rather than extensive excavation and a large concrete foundation, maintaining consistency with the existing construction methods within the Heritage Conservation Area. As a result, and in conjunction with the slope of the site, the exceeding element of roof structure has been created. Given the exceeding element has been demonstrated to have no identifiable adverse impacts, this is considered a favourable outcome in terms of both design and construction, as it will uphold the historic construction and design methodologies used within the historic town centre and will limit extensive excavation on site and the adverse environmental impacts associated with this.

The architectural design proposed, of which the exceeding element forms a key contributing component of, will ensure that the existing environmental character and desired future urban character of the Heritage Conservation Area is maintained. The exceeding element, which consists of a small area of roof ridgeline, contributes to the desired architectural design which aligns with the objectives of the Heritage Conservation Area and does not create any perceived dominance. The building is not found to dominate the skyline due to the exceeding element and respects the scale and setting of the existing built environment in which it is located, with particular attention being paid to maintaining consistency with the Heritage Conservation Area in which it resides. Despite the minor height variation proposed, the exceeding element maintains consistency with the DCP controls and objectives relating to overshadowing, privacy, the amenity of the adjacent properties, and the Stroud Heritage Conservation Area.

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 4.6(3) as demonstrated below.

The section of the building which proposes a height exceedance is well setback within the site and is somewhat obscured by the portions of the building located closer to the street. As can be observed in Figure 9, the area of height exceedance is minimal. Ultimately, given that only a minor portion of the building will exceed the maximum height it is not likely to be greatly discernible.

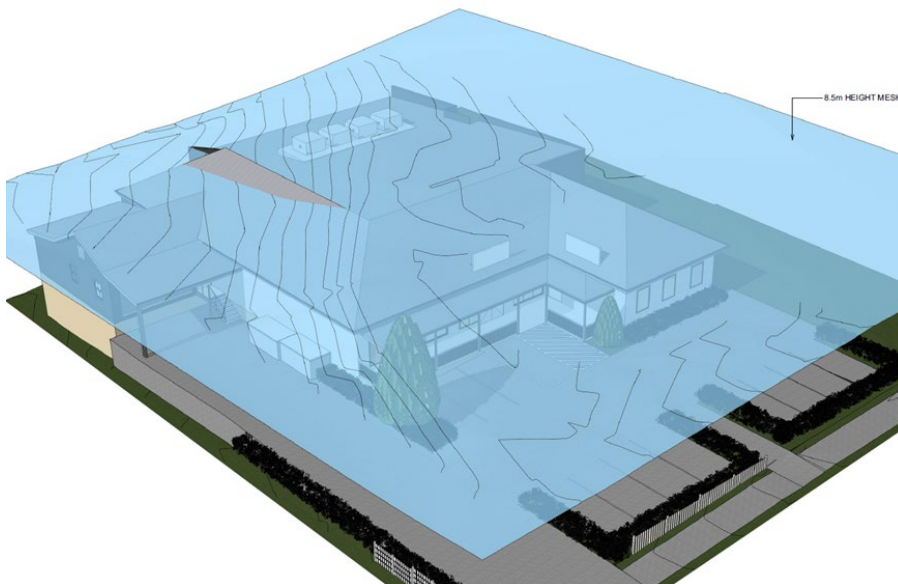


Figure 9: Extent of Height Exceedance (Source – Sorensen Design and Planning)

The Stroud commercial centre, in which the site is located, is partially characterised by tall buildings including the two-storey hotel adjoining the south-eastern boundary, the two-storey Court House on the opposite side of Cowper Street and tall buildings located on the corner of Cowper Street and Memorial Avenue located approximately 60 metres from the site. The proposed development has a height well below these existing buildings and, therefore, the height exceedance is not likely to be visually incompatible with the character of the immediate locality.

The initial design proposed a building which maintained a compliant building height. However, as detailed earlier in this Report, concerns were raised by Council's Heritage Officer in relation to potential heritage impacts associated with the previous design. More specifically, the officer provided the following design advice to address their heritage concerns:

“The bulk of the building is largely concealed by the hipped roof facing the street. However the presence of a fascia to that larger volume, above the hipped roof is not supported. The pitch of the hipped roof should be increased such that the ridge meets or sits higher than the low pitched roof beyond.”

In response, the applicant provided revised plans which addressed the concerns of the heritage officer. Consequently, the increased height of the hipped roof resulted in the proposal no longer complying with the maximum building height development standard.

Therefore, one of the main influences of the non-compliance with the maximum building height development standard is due to the design better responding to the heritage context in which the building is located.

Another contributor to the height exceedance is the topography of the land. The land within the site slopes away from the southern corner to the northern corner of the site. Stepping the building to follow the contours of the land would reduce its functionality. The supermarket relies on a single-level building with a consistent floor-level. The floor level of the building, particularly the loading dock, is commanded by the driveway and required gradient. Finally, in order to maintain a single-level at a height below the maximum would require significant cut and would complicate vehicle access and pedestrian entry to the building.

The development as proposed responds to both the heritage and topographical constraints of the land which unfortunately results in a minor height exceedance. Despite this exceedance, the proposal does not result in any significant adverse amenity impacts on adjoining lands. Shadow diagrams submitted in support of the application demonstrate the adjoining dwelling to the north-west receives adequate solar access despite the maximum height of the building. Furthermore, no visual impacts or privacy issues arise from the design of the development as detailed in this Report.

Subclause 4.6(4)

A copy of this assessment report will be saved to Council's corporate record system.

5.4 Controls relating to miscellaneous permissible uses

Clause 5.4(7AA) provides the following:

"If development for the purposes of a neighbourhood supermarket is permitted under this Plan, the gross floor area must not exceed 1,000 square metres."

The proposed supermarket has a total gross floor area of 679m² and complies with Clause 5.4 of the LEP.

5.10 Heritage conservation

The site is located within a Heritage Conservation Area and adjacent a registered heritage item.

The existing building on the land is not a registered heritage item, however, is considered to partly contribute to the historical fabric of Stroud. Retaining the existing building in-situ was explored by the applicant. Due to the issues previously outlined in this Report, retention of the existing building was problematic. The existing building is becoming dilapidated, and structural rectification issues required to accommodate additions to the building were considered cost prohibitive.

The design of the development has been informed by a Heritage Impact Assessment (HIA) prepared by a suitably qualified consultant. The HIA provides the following conclusions:

"The proposed new building is shown set well back, using hipped and pitched roofs, includes a verandah, weatherboard cladding at the front and vertical ribbed metal cladding at the back (note recommendations Section 3). The scale, massing and built form, as proposed consider the HCA and local diversity in the streetscape. The proposed redevelopment will not impact on the heritage significance of listed heritage items within its vicinity."

"The proposed demolition will have a minor impact given the loss of original form and fabric in the street. This is considered an acceptable minor impact, given the street-facing scale, the roofs, massing and detail shown for the replacement building. The new building, set back from the street and as documented will not have an impact on the heritage values of the Stroud Heritage Conservation Area."

The design of the development and the submitted HIA has been reviewed by Council's Heritage Officer who has advised that the proposed design is reflective of the heritage design elements within Stroud. Council's Heritage Officer is in support of the proposal and has confirmed that no significant adverse heritage impacts are likely provided conditions of consent are complied with. These conditions include a requirement to submit further details surrounding the materials, finishes and landscaping elements.

A basic AHIMS search has been conducted and no known items of Aboriginal heritage within proximity to the site have been identified.

The proposed development satisfies Clause 5.10 of the LEP.

7.2 Earthworks

Clause 7.2 of the LEP prescribes several matters which must be considered prior to the granting of development consent for earthworks. These matters and how they have been considered in the assessment, is detailed in the following Table.

Clause 7.3 – Matters for Consideration	
Matter	Comment
<i>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</i>	<p>Stormwater generated from impervious areas will be connected to on-site detention and will be disposed from the site at a rate which matches pre-development flows.</p> <p>Overland flow will be captured by proposed drainage pits within the development and drainage infrastructure located within retaining walls.</p> <p>No significant impacts on existing drainage patterns are likely.</p> <p>No impacts on soil stability in the locality is likely.</p>
<i>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</i>	The earthworks are not a standalone development, but rather proposed in association with a redevelopment of the site.
<i>(c) the quality of the fill or the soil to be excavated, or both,</i>	Any imported fill will be required to be classified VENM or other suitably qualified material.
<i>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</i>	<p>The proposal includes filling which will result in a retaining wall with a maximum height of approximately 1.8 metres near the north-western (side) boundary of the site. It is worth noting that this maximum height is confined to the lowest portion of the land, with the height of the wall decreasing closer to the street frontage.</p> <p>Whilst it is appreciated that this retaining wall has the potential to create visual impacts on adjoining lands, it is noted that the filling of the land is due to the topography. The proposed fill provides appropriate driveway and car parking gradients in addition to providing a consistent floor level throughout the building.</p> <p>The fill is a consequence of the continuation of a commercial use on the land, a use which provides a significant community benefit.</p> <p>The retaining wall facing the north-western boundary of the site will be appropriately screened through proposed landscape plantings on the site. The wall is further screened from the adjoining dwelling by existing vegetation on the adjoining land.</p> <p>No significant adverse visual impacts are likely.</p>

Clause 7.3 – Matters for Consideration	
<i>(e) the source of any fill material and the destination of any excavated material,</i>	Any imported fill will be required to be classified VENM or other suitably qualified. Any exported material will also need to be classified prior to removal from the site.
<i>(f) the likelihood of disturbing relics,</i>	A basic AHIMS search was conducted and the search reveals no known items of aboriginal cultural heritage located within proximity to the proposed development.
<i>(g) proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</i>	The site is not located within proximity to any watercourse, drinking water catchment or environmentally sensitive area.

7.5 Stormwater management

Proposed stormwater arrangements integrate both detention and a raingarden. This means that the quantity and quality of stormwater leaving the site will match pre-development scenarios.

Stormwater will be conveyed through adjoining Lot 1 DP797686. Infrastructure will be constructed on the adjoining land with an easement registered. Consent of the adjoining landowner has been provided.

Both Council's Development Engineer and Water Quality Team have reviewed the proposal and are in support of the proposed drainage arrangements.

7.21 Essential services

The site is adequately serviced by all public utility infrastructure including electricity, sewer, water and communications.

4.15 (1)(a)(ii) the provisions of any draft environmental planning instrument

The proposed development has been assessed against the Draft MidCoast Local Environmental Plan. The development would not undermine the relevant aims, objectives or provisions of the Draft Local Environmental Plan.

4.15 (1)(a)(iii) any development control plan

Great Lakes Development Control Plan 2014

The following identifies the relevant sections contained within the *Great Lakes Development Control Plan 2014* (DCP) and details how they relate to the proposed development.

Section 3 – Character Statements

The vision for the Stroud locality is that *“Future development within Stroud is to encourage development that makes a positive contribution to the historic character of Stroud.”*

The design of the proposed development has been informed by both a Heritage Impact Assessment prepared by a suitably qualified consultant and advice by Council's Heritage Officer. The design is sympathetic of surrounding heritage items and positively contributes to the historical fabric of the Stroud locality.

The proposed development achieves the vision of Section 3 of the DCP.

Section 4 – Environmental Considerations

4.1 Ecological Impacts

The proposal requires the removal of three small trees located within the north-eastern (rear) portion of the site. Seven trees on the adjoining land will also be removed for the purposes of installing drainage infrastructure.

The application was initially referred to Council's Natural Systems Team. In certain circumstances where the likely ecological impacts are low, Council's Natural Systems Team defer ecological consideration to Council's Tree Officer.

Council's Tree Officer has supported the proposal subject to conditions of consent.

It is worth noting that those trees proposed to be removed contain no significant ecological value. They are not known Koala feed trees, nor do they provide any significant habitat value such as hollows. Those trees proposed to be removed are well represented on adjoining lands. Any ecological impacts are likely to be negligible and would be appropriately offset through landscape plantings.

4.2 Flooding

The site is located outside the mapped flood planning area.

4.3 Coastal Planning Areas

The site is not subject to any coastal erosion impacts.

4.4 Effluent Disposal

The site is connected to reticulated sewer.

4.5 Poultry Farms Buffer

The site is not located within proximity to any poultry farm.

4.6 Contaminated Land

Contamination is addressed elsewhere in this Report. No contamination issues are likely.

4.7 Bush Fire

The site is not mapped as bush fire prone land.

Section 5 Single Dwellings, Dual Occupancies, Villas and Townhouses

The development is not for residential purposes and controls contained within Section 5 of the DCP are not necessarily applicable to the proposal. Notwithstanding, the site is located within a residential zone and adjoins residential development, therefore, some consideration of Section 5 of the DCP is considered appropriate.

5.1 Solar Access and Overshadowing

Shadow Diagrams have been submitted in support of the application and provided in Attachment 3.

Given the orientation of the site, the proposal is not likely to have any significant overshadowing impacts on residential development to the north and east.

Some sustained overshadowing to parts of the ground-floor of the adjoining land to the south is likely, however, adequate solar access to this development will be maintained through the eastern elevation. No restriction on solar access to the accommodation on the first-floor of the adjacent building is likely.

The proposed development complies with Section 5.1 of the DCP.

5.2 Views and Privacy

No impacts on existing views is likely.

Given the commercial nature of the proposal, no unreasonable visual privacy impacts on adjoining lands is likely.

5.3 Energy Efficiency

As detailed elsewhere, the proposal is exempt from the provisions of the *State Environmental Planning Policy (Sustainable Buildings) 2022*.

Given the building classification, the proposal will be subject to Part J of the National Construction Code which specifies sustainability requirements.

5.4 General Building Design

Whilst the land is zoned residential, the site is located within the existing Stroud CBD. Given the commercial nature of the building, the controls contained within Section 5.4 of the DCP are not relevant.

Notwithstanding, the building design appropriately integrates with the character of the site and immediate surrounds.

5.5 Setbacks

As above.

5.6 Building Heights

Whilst the proposed development does not comply with the maximum building height development standard prescribed by the LEP, the applicant has adequately demonstrated that strict application of the maximum building height development standard is not necessary in this particular circumstance.

5.7 Cut and Fill

Proposed retaining walls will exceed the maximum height of 1.2 metres prescribed by the DCP and a variation to this control is sought.

These controls are intended to guide residential development in residential zones. The site is located at the commercial interface and is for commercial purposes.

Despite the maximum height of the retaining walls, visual impacts will be reduced through the presence of both existing vegetation and proposed landscaping.

A variation to this control is supported in this particular circumstance.

5.9 Fencing and Walls

Whilst the submitted perspectives show front fencing, it is understood this is for illustrative purposes only and no front fencing is proposed under this application.

5.10 Detached Garages, Carports, Sheds and other Outbuildings

No detached garages, carports, sheds or other outbuildings are proposed.

Section 6 – Residential Apartment Buildings, Mixed Use Development and Business Premises

Whilst Section 6 contains controls for commercial development, the controls intend to guide high-density, mixed use development such as shop-top housing. Therefore, the controls contained within Section 6 are not relevant to the proposal.

Section 8 – Heritage

Heritage is addressed elsewhere in this Report.

No heritage impacts are likely.

Section 10 - Car Parking, Access, Alternative and Active Transport

It is acknowledged that the existing supermarket has historically operated without any formalised on-site car parking. In appreciation of this, a car parking credit for the existing floor space on the land has been applied.

The proposed development will result in a net increase in floor area on the site of 350m². In accordance with Section 10 of the *Great Lakes Development Control Plan 2014* (DCP), the proposed development requires a total of 14 car parking spaces.

The development initially proposed a total of 11 car parks, resulting in a shortfall of on-site car parking. This car parking shortfall was not considered acceptable.

The applicant submitted revised plans with an additional three spaces, totalling 14 on-site car parking spaces which is considered to satisfy the car parking requirements prescribed by Section 10 of the DCP.

Section 11 – Water Sensitive Design

The proposed drainage arrangements integrate a water quality treatment train which includes bio-retention prior to dispersal into drainage infrastructure serving the site.

Council's Water Quality Team have reviewed the proposed drainage arrangements and confirmed the treatment will achieve the required nutrient reduction targets set by Section 11 of the DCP.

Section 13 - Landscaping and Open Space

Landscaping is integrated into the development effectively. The landscape design provides a reasonable balance between built and unbuilt portions of the land, enhances the aesthetics of the streetscape and appropriately dilutes the built form.

Section 14 – Waste Management

Demolition will be carried out in accordance with a Site Waste Minimisation Plan prepared in accordance with Council's Waste Policy.

Servicing arrangements, including waste generation are considered appropriate. No operational waste management issues have been identified.

4.15 (1)(a)(iiia) any planning agreement or any draft planning agreement

The site is not subject to any planning agreement.

4.15 (1)(a)(iv) any matters prescribed by the regulations

Consideration has been given to the relevant provisions prescribed by the regulations being:

- *Section 61 – Additional matters that consent authority must consider*

In accordance with Section 61, consideration of the demolition of the existing structures has been undertaken. Appropriate conditions of consent have been imposed on the consent.

Section 35B(2) of the EP&A Regulation 2021 states the following:

(2) The development application must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

As detailed elsewhere in this Report, the applicant has provided a document which adequately demonstrates that strict compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the variation.

4.15 (1)(b) the likely impacts of that development

Access, Transport and Traffic

Historically, servicing of the supermarket was sometimes conducted from the street which presented traffic impacts. The proposal seeks to minimise traffic impacts through formalising servicing arrangements. The largest truck proposed to service the new development will be approximately 15 metres. The applicant has demonstrated that this truck is able to reverse into the loading dock within the site, which is facilitated through upgrades to the existing driveway and vehicle crossover. A Truck Operational Plan will also be required to be prepared and implemented during servicing. Whilst some encroachment into the southbound land is likely, the proposed new servicing arrangements are considered to be a better outcome than current arrangements in relation to reduced traffic impacts and obstructions.

The applicant has submitted a Traffic Impact Assessment in support of the proposed development. The assessment concludes that:

'using RTA traffic generation rates based on floor area the development has the potential to generate up to 43 vph. This additional traffic if it does occur would not adversely impact on the local road network which is currently operating well within its technical capacity.'

Council's Engineering Team have reviewed the proposal and are in support of the proposal.

Economic and Social Impacts

The current supermarket is dilapidated and requires additional space to meet the demand of the growing population within Stroud and its surrounds. The proposed development will ensure the communities' needs are continued to be met and is likely to result in positive social impacts.

The proposed development will ensure the ongoing economic viability of an existing business and increase employment opportunities in the area. In this respect, the proposal is likely to result in positive economic impacts.

Noise

Whilst the site is located within the Stroud CBD, the development does adjoin residential development and consideration of potential noise impacts is necessary.

It is acknowledged that existing background noise levels are likely to be above that normally experienced in a residential area. This is due to the historic use of the site as a supermarket and other noise generating development such as the adjoining hotel.

The proposed hours of operation, including delivery times, are:

- 08:00am - 7:00pm Monday to Saturday; and
- 8:30am – 6:00pm Sunday and public holidays.

The hours of operation are considered reasonable for a development within an existing CBD.

A condition of consent has been imposed requiring mechanical equipment be appropriately sound proofed.

Council's Environmental Health Team have reviewed the proposal and have identified no significant adverse noise impacts associated with the proposal.

4.15 (1)(c) the suitability of the site for the development

The site has historically been used as a supermarket and will continue to be used in this capacity.

The proposed development is likely to better the current servicing arrangements.

The design of the development is sympathetic of nearby heritage items and the heritage character of the Stroud locality more broadly.

The site is considered suitable for the proposed development.

4.15 (1)(d) any submissions made in accordance with this Act or the Regulations

The application was initially notified and advertised in accordance with Council's notification procedures and legislative requirements from 11 October 2023 to 17 November 2023.

Following the design being amended, the application was re-notified and re-advertised between 8 July 2024 – 15 August 2024.

A total of five submissions were submitted in objection to the application, excluding multiple submissions made from a single household.

Concerns raised in submissions and how they were considered or addressed in the assessment of the application are detailed in the table below.

Submissions Received During Exhibition	
Concern	Comment
Servicing Arrangements	<p>It is understood that there are issues with the current servicing arrangements including reversing vehicles blocking traffic along Cowper Street or unloading occurring from the street.</p> <p>It is acknowledged that the best way to address impacts associated with servicing would be to accommodate turning on-site. However, this arrangement is not feasible due to the minimal site area, the need to provide sufficient customer car parking and floor space which adequately serves the retail needs of the community.</p> <p>The proposed development seeks to better servicing arrangements through a new driveway and vehicle access upgrades. A Truck Management Plan will also be implemented during servicing, Proposed servicing arrangements have been reviewed and supported by Council's Engineers.</p>
Stormwater	<p>The concept stormwater plans have been reviewed by Council's Drainage Engineer who has determined these stormwater arrangements will ensure stormwater flow from the site will match pre-development scenarios. More technical details, such as on-site detention capacity, will be required via conditions of consent.</p>
Car parking	<p>Car parking for the additional retail floor area has been accommodated through the provision of 14 on-site car parking spaces. This car parking is considered to satisfy the car parking requirements prescribed by Council's Development Control Plan.</p>
Removal of Vegetation	<p>The application was initially referred to Council's Natural Systems Team. In certain circumstances where the likely ecological impacts are low, Council's Natural Systems Team defer ecological consideration to Council's Tree Officer.</p> <p>Council's Tree Officer has supported the proposal subject to conditions of consent.</p> <p>It is worth noting that those trees proposed to be removed contain no significant ecological value. They are not known Koala feed trees, nor do they provide any significant habitat value such as hollows. Those trees proposed to be removed are well represented on adjoining lands. Any ecological impacts are likely to be negligible and would be appropriately offset through landscape plantings.</p>

Submissions Received During Exhibition	
Acoustic Impacts from Plant	A condition of consent has been imposed requiring mechanical equipment be appropriately sound proofed.
Heritage Impacts	<p>A previous application sought alterations and additions whilst retaining the existing building in-situ. As detailed earlier in this Report, there were issues associated with this approach which resulted in the application being withdrawn. A further point to note is the current state of the existing building which is somewhat dilapidated, making retention of the existing building cost-prohibitive given the necessary rectification works required to accommodate an addition to the building.</p> <p>The design proposed under this application has been informed by a Heritage Impact Assessment (HIA) prepared by a suitably qualified consultant.</p> <p>The design of the development and the submitted HIA has been reviewed by Council's Heritage Officer. In their assessment, this officer has also sought advice from an independent heritage consultant.</p> <p>Council's Heritage Officer is in support of the proposal and has confirmed that no significant adverse heritage impacts are likely provided conditions of consent are complied with. These conditions include a requirement to submit further details surrounding the materials, finishes and landscaping elements.</p>
Location of Car Park and Streetscape Impacts	<p>Concerns have been raised about the location of the car park forward of the building line and associated streetscape impacts.</p> <p>It is appreciated that existing commercial developments within Stroud are constructed to the front boundary with little or no car parking provided on-site.</p> <p>In the case of this proposal, there are several competing interests at play. These include the provision of adequate on-site car parking, managing internal vehicle conflicts, ensuring appropriate driveway and car parking gradients and providing a new building design which respects the heritage features of Stroud (noting that retaining the existing building is not feasible). It is considered that proposal strikes a reasonable balance in addressing all these matters.</p>

4.15 (1)(e) the public interest

The proposal is not incompatible with the existing streetscape or heritage character of the Stroud locality.

The proposal will not undermine any of the social or economic values of the site or surrounding area.

The proposal is considered to be consistent with the objectives of the relevant zone and will not have an unreasonable impact upon neighbouring properties.

The proposed development is not likely to raise any matters contrary to the public interest.

OTHER MATTERS

Section 7.11 Developer Contributions

The proposed development is subject to developer contributions in accordance with Section 7.11 of the EP & A Act 1979.

Developer contributions are calculated based on 0.001% of the estimated cost of works which have been nominated as \$2,702,700.

The payable contribution amount is \$2,702.70.

CONCLUSION

The site comprises land identified as Lot 1 DP 797359, No. 50 Cowper Street, Stroud. The site is located within the local commercial centre of Stroud.

The design of the proposed development has been informed by a Heritage Impact Assessment prepared by a suitably qualified consultant. Council's Heritage Officer, with advice from an independent consultant, has confirmed that the design appropriately responds to the heritage context in which it is located.

The proposed development has demonstrated compliance with the provisions contained within the relevant environmental planning instruments, with the exception of the maximum building height development standard prescribed by the *Great Lakes Local Environmental Plan 2014*.

The applicant has demonstrated that strict compliance with the maximum building height development standard is unnecessary in this particular case and that there are sufficient environmental planning grounds to support the variation.

The proposed development is consistent with the controls contained within the *Great Lakes Development Control Plan 2014*.

The proposed development is suitable for the site and does not raise any issues contrary to the public interest.

Five submissions have been received. All concerns highlighted in the submissions have been considered and appropriately addressed through the assessment.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading. The copy of Attachments 7 & 11 on the website have had the personal information redacted to protect the privacy of the members of the public providing the submissions and consent.

Attachment 1 - Conditions of Consent (18 pages)

Attachment 2 - DA2023/0836 - Statement of Environmental Effects (36 pages)

Attachment 3 - DA2023/0836 - Architectural Plans (18 pages)

Attachment 4 - DA2023/0836 - Civil Plans (8 pages)

Attachment 5 - DA2023/0836 - Traffic and Parking Assessment (20 pages)

- Attachment 6 - DA2023/0836 - Clause 4.6 Request (20 pages)
- Attachment 7 - DA2023/0836 - Adjoining Landowner's Consent (1 page)
- Attachment 8 - DA2023/0836 - Aboricultural Impact Assessment (22 pages)
- Attachment 9 - DA2023/0836 - Landscape Plans (5 pages)
- Attachment 10 - DA2023/0836 - Statement of Heritage Impact (19 pages)
- Attachment 11 - DA2023/0836 - Submissions (37 pages)

16.4. TELECOMMUNICATIONS FACILITY - RICHARDSON ROAD, WINGHAM (DA2024/0409)

REPORT INFORMATION

Report Author	Bruce Moore - Coordinator Major Assessments
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

Development Application DA2024/0409 seeks consent for a Telecommunications Facility (Mobile Phone Tower) at Richardson Street, Wingham.

Consent has been sought pursuant to State Environmental Planning Policy (Transport and Infrastructure) 2021 as the development is prohibited in the R1 General Residential zone of Greater Taree Local Environmental Plan 2010.

The development proposal was notified to adjoining property owners and a total of 12 submissions objecting to the proposal were received.

The development is considered inappropriate on residentially zoned land in this locality.

RECOMMENDATION

That Development Application DA2024/0409 for a Telecommunications facility (Mobile Phone Tower) on Lots 246 and 270 DP754454, Cnr Richardson Street and Murray Rd, Wingham be refused subject to the reasons for refusal contained in Attachment 1.

DETAILS

Date Received:	18/06/2024
Applicant:	Service Stream Limited
Owner:	Wingham Baptist Church
Land:	Lots 246 and 270 DP754454

FINANCIAL / RESOURCE IMPLICATIONS

The cost of defending any appeal against the Council's decision.

LEGAL IMPLICATIONS

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

RISK IMPLICATIONS

Nil.

SITE DESCRIPTION

The site is located approximately 1.2km west of Wingham CBD. The surrounding area is primarily residential in nature.

Lot 246 has an area of 6550 m² and is rectangular in shape with frontage to Murray Road. The land is undeveloped, largely devoid of vegetation and adjoins the Wingham Baptist Church to the west. The site is surrounded by land zoned R1 General Residential. Further to the north of the site is land zoned C2 Environmental Conservation and is made up of patches of vegetation following a watercourse and open grassland.



Figure 1 - Locality Map



Figure 2 - Site

PROPOSAL

The proposal is for the installation of a 36.3m Telecommunications tower and associated infrastructure at the subject site. The tower is proposed to be located in the north-western corner of the site, with access arrangements to the facility across the Baptist Church site, legally known as Lot 270, DP754454.

Overall, the development will comprise:

- One (1) 35 metre monopole with antennas mounted on a triangular headframe (overall height 36.3 metres including the antennas);
- Nine (9) panel antennas (dimensions: 2533mm H x 349mm W x 208mm D) will be mounted to the monopole via the triangular headframe;
- One (1) new Telstra standard equipment shelter mounted on concrete piers adjacent to the monopole (dimensions 3000mm L x 2380mm W x 2950mm H). The equipment shelter units will be finished in a 'pale eucalypt' colour or a neutral colour nominated by Council. These will house the necessary electronic equipment required to operate the base station; and
- Ancillary equipment associated with operation of the facility, including remote radio units, cable trays, cabling, safe access methods, earthing, electrical works and air-conditioning equipment.

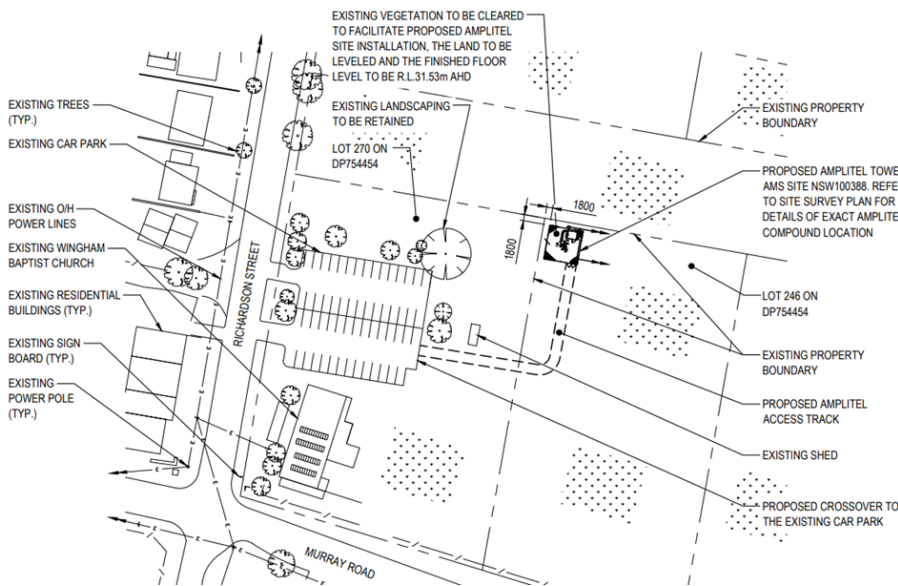


Figure 3 - Plan of Development



Figure 4 - Approximate location of Tower from Richardson St

The photograph above depicts the tower location when viewed by residents in Richardson Street. No photomontages of the tower in the landscape were provided to demonstrate the impact of a 36.3m structure on the skyline.

The photograph below depicts the approximate location of the base of the facility when viewed from Murray Road. Despite any future residential development on this land the natural ridgeline would be interrupted by the communication structure.



Figure 5 - Approximate location of tower base viewed from Murray Road

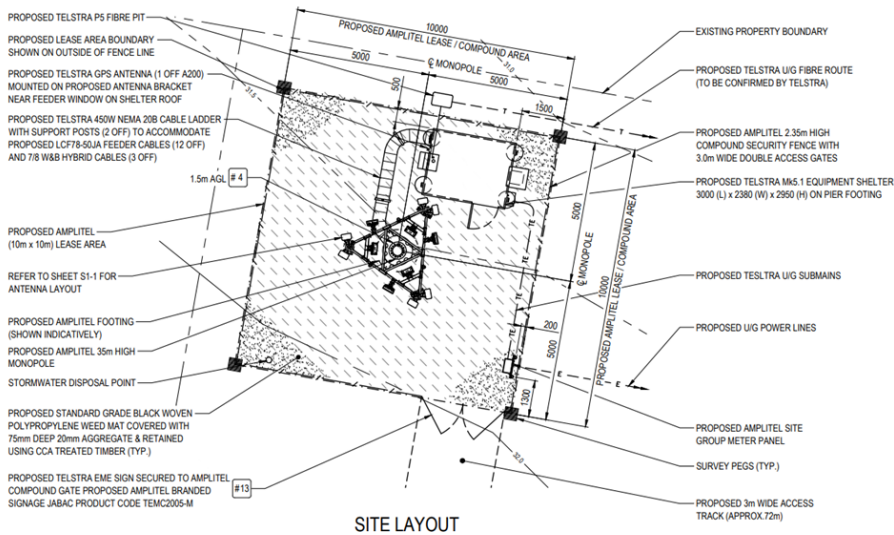


Figure 6 - Site Layout Plan

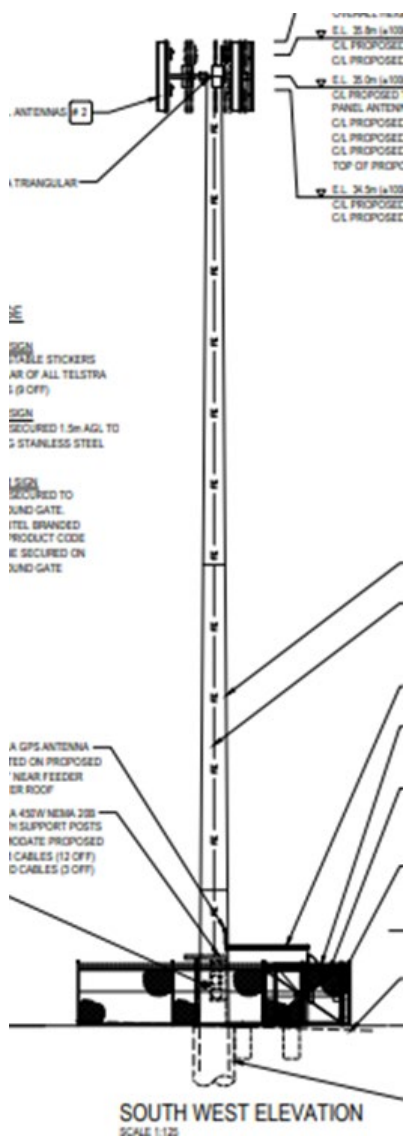


Figure 7 - Tower Elevation Plan

DISCUSSION

Under S4.15 of the Environmental Planning & Assessment Act 1979 (EP & A Act), a consent authority (the Council) when determining a development application, “*is to take into consideration such of the following matters as are of relevance to the development the subject of the development application*”. The relevant matters for consideration are summarised below:

4.15 (1)(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy

SEPP (Transport and Infrastructure) 2021

SEPP (Transport and Infrastructure) 2021 was gazetted on 21 December 2021, providing a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process.

Division 21 of the SEPP applies to telecommunications and other communication facilities, establishing the approval pathways for telecommunications in NSW.

Clause 2.143(1) states:

“Development for the purposes of telecommunications facilities, other than development in section 2.141 or development that is exempt development under section 2.20 or 2.144, may be carried out by any person with consent on any land.”

The proposed development is not listed in section 2.141, nor is it exempt development under section 2.20 or 2.144.

Clause 2.143(2) provides that the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.

Comment: In this regard the 'NSW Telecommunications Facilities Guidelines Including Broadband-2020' is applicable. An assessment of the proposed development against this guideline is provided later in this report.

Further, clause 2.147(1) provides that the TISEPP does not permit the carrying out of development, other than in accordance with the authority given by the *Telecommunications Act 1997*.

Telecommunications Act 1997

The Telecommunications Act 1997 (TA) came into operation in July 1997. The TA sets up a framework for regulating the actions of telecommunications carriers and service providers. Telstra is a licensed carrier under the TA.

Schedule 3 -Carriers' powers and immunities, of the TA, specifies 'authorised activities' that a carrier is empowered to carry out without approval under NSW legislation. These activities include the inspection of land, and the installation and maintenance of certain facilities.

Clause 6 of Division 3 of part 1 of Schedule 3 of the TA specifically provides

6 Installation of facilities

(1) A carrier may, for purposes connected with the supply of a carriage service, carry out the installation of a facility if:

(a) the carrier is authorised to do so by a facility installation permit; or

(b) the facility is a low-impact facility (as defined by subclause (3)); or

(c) the facility is a temporary facility for use by, or on behalf of, a defence organisation for defence purposes.

Note: If the installation of a facility is not authorised by this clause, the installation may require the approval of an administrative authority under a law of a State or Territory.

A Carrier's power to install a facility is contingent upon:

"the facility being a low-impact facility (as defined by the Telecommunications (Low-Impact Facilities) Determination 1997 (as amended))".

In this case, the proposal involves the installation of a new monopole structure, and therefore does not constitute a low-impact facility under the Telecommunications (Low-Impact Facilities) Determination 1997 (as amended). The proposed facility does not meet the criteria mentioned above.

The provider (Telstra) is therefore not empowered to undertake the proposed works without approval under NSW State legislation and must obtain development consent from the consent authority.

The consent authority in this instance is Mid-Coast Council.

Greater Taree Local Environmental Plan 2010

The site is located within the former Greater Taree Local Government Area and as such the provisions of *Greater Taree Local Environmental Plan 2010* (LEP) are applicable to the proposal.

The aims of the LEP are:

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

(a) to promote and encourage the ecologically sustainable development of Greater Taree City,

(b) to encourage the proper management, development and conservation of natural and human made resources (including natural areas, forests, coastal areas, water, groundwater dependent ecosystems, agricultural land, extractive resources, towns, villages, and cultural amenities) for the purpose of promoting the social and economic welfare of the community, protecting ecological and cultural heritage and achieving a better environment,

(c) to promote and co-ordinate the orderly and economic use and development of land, and to minimise conflict between adjacent land uses,

(d) to facilitate the provision and co-ordination of community services and facilities,

(e) to encourage the protection of the environment, including the protection and conservation of native animals and plants, threatened species and endangered ecological communities and their habitats,

(f) to minimise the exposure of development to natural hazards and natural risks,

(g) to seek the provision of adequate and appropriate infrastructure to meet the needs of future development,

(h) to encourage a strong, growing and diversified economy that promotes local self-reliance, and recognises and strengthens the local community and its social capital in ways that safeguard the quality of life of future generations.

The proposal provides a community benefit for Wingham within an existing urban area with capacity for significant future residential development. The proposed development does not fully satisfy aim (c) as it will not promote the orderly development of land and minimise the conflict between adjacent uses. The development will detract from the character of the urban setting, punctuate the landscaped backdrop, and create adverse visual clutter.

The relevant land use zone is R1 General Residential zone.

The development is defined as a telecommunications facility. The LEP defines a telecommunications facility to mean:

telecommunications facility means—

(a) any part of the infrastructure of a telecommunications network, or

(b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or

(c) any other thing used in or in connection with a telecommunications network.

Telecommunication facilities are prohibited development in the R1 General Residential zone.

The objectives of zone R1 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is not considered to comply with the objectives of the zone in that it does not provide for a variety of housing needs and could limit the future development potential of the subject and surrounding land.

The development has been assessed against all the provisions within the LEP, including development standards, miscellaneous provisions, and local provisions. The following table is a summary of the evaluation of the proposed development pursuant to the provisions of the relevant clauses of the LEP:

Table 1: Consideration of the LEP controls		
Control	Requirement	Proposal
4.3 Height of buildings	<p>The objectives of this clause are as follows—</p> <p>(a) to ensure that the height of a building is appropriate for the site,</p> <p>(b) to ensure that the height of a building complements the streetscape or rural character of the area in which the building is constructed.</p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <u>Height of Buildings Map</u>.</p>	<p>While the objectives of this clause are intended to relate to residential development consideration must be given to whether the height is compatible with the heights of other buildings in the vicinity or locality and is compatible with the site and streetscape.</p> <p>There are no buildings or structures in this area of a similar height. The proposed structure is not compatible with existing heights in the area and will be highly visible from the adjacent public areas.</p> <p>The LEP Height of Buildings Map nominates the site with a maximum building height of 8.5m. The tower is proposed to have a height of 36.3m.</p>
5.10 Heritage conservation	<p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</p>	<p>The subject site is not a listed heritage under per Schedule 5 of the LEP, nor within a heritage conservation area. The proposed tower is not considered to have an adverse impact on the heritage significance of heritage items in the broader locality.</p>
7.4 Airspace operations	<p>This clause seeks provide for the effective and ongoing operation of the Taree Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,</p>	<p>The proposed tower is not in proximity to the Taree airport and will not penetrate the Limitation or Operations Surface.</p>
7.11 Essential services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required</p>	<p>All required services are available to the site.</p>

4.6 Exceptions to development standards

Clause 4.6 of the LEP provides a degree of flexibility in the application of certain development standards where it can be demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the proposed development.

As prohibited development pursuant to GTLEP 2010, application for the proposed telecommunications tower is sought through the facultative provisions of Part 2.3 Development controls Division 21 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The application of clause 4.6 is considered irrelevant and therefore unnecessary for the assessment of this proposal. The clause does however speak of considering a development that does not meet a development standard in terms of the potential unreasonable amenity impacts on adjoining lands or the site.

The suitability of the development on this site and in terms of its impact on the amenity of the area are discussed later in this report.

4.15 (1)(a)(ii) the provisions of any draft environmental planning instrument

Draft MidCoast Local Environmental Plan

The Draft MidCoast Local Environmental Plan was on exhibition until 14 July 2024.

Under the Draft instrument the land is to be zoned R1 General Residential. Telecommunications facilities will be prohibited development in this zone.

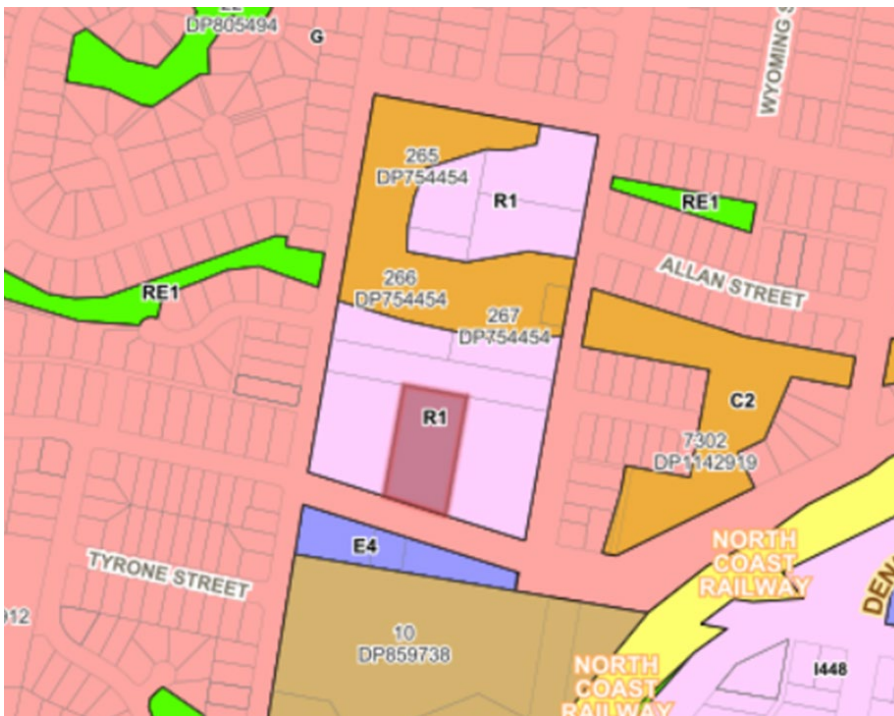


Figure 8 - Draft Midcoast LEP(Extract)

4.15 (1)(a)(iii) any development control plan

Greater Taree Development Control Plan 2010

The site is located within the former Greater Taree Local Government Area and the provisions of the *Greater Taree Development Control Plan 2010 (DCP)* are applicable to the proposal.

The following Table details the relevant provisions of the DCP and outlines how they relate to the proposed development.

Table 2: Consideration of the DCP controls		
Control	Requirement	Proposal
Part D3 Earthworks, Erosion and Sedimentation		
D3.1 Earthworks	<p>1. Minimise cut and fill through site sensitive subdivision, road layout, infrastructure and building design.</p> <p>12. All retaining walls shall be constructed in a manner that is aesthetically compatible with the surrounding environment</p>	The proposed facility will not require significant earthworks. No retaining works are proposed.
D3.3 Erosion and sediment control requirements	1. All development shall incorporate soil conservation measures to control soil erosion and siltation during and following completion of development	A condition of consent will ensure the integrity of the site.
D4.1 Vegetation management	Removal or pruning of vegetation on land to which the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 applies, must comply with the process outlined in the Vegetation Management Policy	No vegetation removal is required or proposed. Whilst the development will have a visual impact, its impact on the ecological value of the land will be minimal.
Part G Car Parking and Access		
	8. Access roads and internal roadways should be constructed to a level adequate for the largest vehicle anticipated to use the site. Internal road networks are to have a minimum width of 6 meters for two-way traffic with 7.5m being desirable.	The internal access road will be an informal track. Access to the site is proposed across the adjoining lot 270 (Baptist Church). A suitable right of carriageway will be required to be created across this land in favour lot 246 to ensure ongoing access should either lot transition into separate ownership.

4.15 (1)(a)(iia) any planning agreement or any draft planning agreement

The proposed development is not subject to a planning agreement entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.

4.15 (1)(a)(iv) any matters prescribed by the regulations

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulations 2021 (EP&A Regulation). Council has assessed the development in accordance with all relevant matters prescribed by the EP&A Regulation and there are no provisions relevant to the development.

4.15 (1)(b) the likely impacts of that development

Context and Setting

A number of residential dwellings (approximately 13) are located nearby the proposed tower. The applicant has advised that while co-location of this facility has been investigated, no appropriate shared site was suitable in this case. The EME report submitted with the application states that the maximum level of emissions from this site will be 1.53% of the Australian Radiation Protection and Nuclear safety Agency public exposure limits at a distance of 173m. A copy of the report is provided as *Attachment 2*.

While the tower will be visible and have some negative impact on scenic quality in the locality, its slimline design and colour will in part minimise this impact.

Access and Transport

The internal driveway (including turning movements) appears adequate for the development.

Visual Impact

The tower will be visible and is considered likely to have negative impacts on scenic quality in the locality, its slimline design and colour will help minimise this impact. The visual impacts and visual prominence from both the public and private domain are considered unsatisfactory. The adverse visual impact of the facility is unable to be minimised on this site.

Services

The site is serviced with essential infrastructure.

Ecology

The proposed development is nearby an ecological corridor. This corridor, located to the north, covers a significant area and contains a waterway. Whilst the development will have a visual impact on the backdrop of the vegetation, it will have minimal impact on the integrity of the corridor.

Technological Hazards

The report submitted with the application indicates the expected highest level of electromagnetic energy at ground level will be 1.53% of the Australian Radiation Protection and Nuclear Safety Agency. While the EME/EMR is a public concern, the proposal will be well under the public exposure limits set by the ARPNSA.

For telecommunications infrastructure such as mobile phone base stations the limits for whole body exposure are expressed in a quantity called 'power density' and for the general public they range from 2 to 10 watts per square meter (W/m²) depending on the operating frequency. For 5G mobile phone base stations the public exposure limit is 10 W/m².

The [Australian Communications and Media Authority](#) (ACMA) regulates the emissions of RF EME from base stations, small cells and any other communications installations. ACMA's regulatory arrangements require base stations to comply with the exposure limits in the ARPANSA RF Standard.

Exposure levels to RF EME from both mobile phone base stations and small cells is extremely low. ARPANSA conducted a mobile phone [base station measurement survey](#) and found that RF EME emissions were well below the public exposure limit in the ARPANSA RF Standard. Survey results for the sites ranged between <0.001 to 3.433 for sites at Bathurst and Lennox Head respectively.

4.15 (1)(c) the suitability of the site for the development

The site is considered unsuitable for the proposed development, on the basis that it is proposed to be located on a visually prominent parcel of land where the visual impact of the facility is unable to be minimised.

4.15 (1)(d) any submissions made in accordance with this Act or the Regulations

The subject development application was publicly exhibited between 20 June and 25 July 2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the MidCoast Council Community Engagement Strategy. A total of twelve (12) submissions were received. Copies of the submissions are provided as *Attachment 4*.

The issues raised within those submissions are addressed below. Issues have been grouped to avoid repetition:

Issues	Response
Proximity to residential development	<p>As previously mentioned, the subject site is itself zoned Residential and adjoins residentially zoned land to the north and east.</p> <p>Several dwellings along Richardson Street will look directly at the tower which is unable to be screened due to its height.</p> <p>Despite the science which dispels many concerns around the negative health impacts of such facilities, the imposing size and scale of the tower will be an intimidating feature of the residential landscape.</p>
Visual impact	<p>The location of the tower does not afford it the ability to be screened from view or placed out of direct sightlines of the residential locality in which it is proposed.</p> <p>While the topography does fall in the exact location of the tower, future developments on the adjoining land would be directly impacted by the imposing form of the tower which is proposed at 1.8 metres from the boundary to this land.</p>
Reduce property values	<p>There is no evidence to support that property values fall as a result of development of this kind. The existence of the tower may however be a deterrent to potential purchasers.</p>
Overshadowing effects	<p>The overshadowing impacts of the development are not considered significant. Future residential developments on the surrounding land would likely have greater overshadowing impacts and negate the effects of the facility. Shadow diagrams were prepared for the development and are provided as <i>Attachment 3</i>.</p>
Perceived health and safety concerns	<p>Much of the public concern relates to the possibility of health hazards from long term exposure at levels too low to produce measurable heating. The international consensus is that current limits are based on all the available scientific evidence, incorporate large safety factors and are highly protective of health.</p>

Issues	Response
	<p>The transmit pattern of the antennas is narrow vertically, but broad horizontally, so that the radio signal level directly beneath the antennas is very low. Typical levels in publicly accessible areas are 50-50,000 times below international safety recommendations.</p> <p>There has been speculation regarding claims of illness clusters (particularly cancer) near base stations. However, subsequent examinations by independent health authorities have not identified any true clusters linked with either proximity to the base stations or the low-level radio signals they transmit.</p>
<p>No assessment of adjoining Lot 4 which is zoned Residential and has future development potential.</p>	<p>The proposed development application has not adequately assessed the impacts of the tower on any adjoining residential land.</p> <p>The proposed site is surrounded by residential land with significant residential development potential.</p> <p>A telecommunications facility at this location would likely diminish the desirability of land in this area for residential subdivision and ultimately housing development. It is likely that the existence of the facility would create an undesirable conflict and potentially sterilise this land.</p>

4.15 (1)(e) the public interest

The development does not satisfactorily address Council's criteria and would provide a development outcome that, on balance, would result in a negative impact for the community. Approval of the development would not be in the public interest.

OTHER MATTERS

NSW Telecommunications Facilities Guideline, Including Broadband - 2022


The NSW Telecommunications Facilities Guideline Including Broadband supports the roll out of broadband in NSW and aims to ensure that both wireline and wireless telecommunications infrastructure, including for broadband, can be provided in an efficient and cost-effective manner to meet community needs for telecommunications services.

The guideline covers principles for the design, siting, construction and operation of telecommunications facilities, which aim to minimise the impacts of facilities.

Part 3 of this guideline requires the site selection, design, construction and operation of telecommunication facilities in NSW to be consistent with the principles of the chapter. Each of the principles are addressed below.

Principle 1: Design and site telecommunications facilities to minimise visual impact	
	Comment:
a. As far as practical, integrate a telecommunications facility that is mounted on an existing building or structure with the design and appearance of the building or structure.	These principles generally relate to facilities that are located on an existing building or structure and are not directly applicable to a freestanding monopole such as proposed in this instance. The proposal is for a new monopole. The antennas will not be 'attached' to an existing structure or building. As such, it will be highly visible from a number of locations.
b. Minimise the visual impact of telecommunications facilities, reduce visual clutter (particularly on tops of buildings) and ensure physical dimensions (including support mounts) are sympathetic to the scale and height of the building to which it is to be attached and to adjacent buildings.	
c. If a telecommunications facility protrudes from a building or structure and is predominantly seen against the sky, either match the prevailing colour of the host building or structure or use a neutral colour such as pale grey	
d. Where possible and practical, screen or house ancillary facilities using the same colour as the prevailing background and consider using existing vegetation or new landscaping.	A neutral colour is proposed for the equipment shelter. No new landscaping is proposed.
e. Locate and design a telecommunications facility in a way that responds to its setting (rural, residential, industrial or commercial).	Given the predominantly open setting, locating the facility in a responsive way is challenging. The selected location is at the rear corner of a residentially zoned parcel of land in close proximity to an existing church.
f. Site and design a telecommunications facility located on or adjacent to a listed heritage item or within a heritage conservation area with external colours, finishes and scale sympathetic to the heritage item or conservation area.	Not applicable to this proposal.
g. Locate telecommunications facilities to minimise or avoid obstructing significant views of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land	No significant views will be impacted by the facility.
h. Consult with relevant council when proposing pruning, lopping or removing any tree or vegetation. Obtain a tree preservation order, permit or development consent if required	Not applicable to this application.
i. Remove redundant telecommunications facilities and restore the site to the condition it was in prior to the facility's construction.	Not applicable to this application.

j.	Remove redundant components of existing facilities after upgrades.	Not applicable to this application.
k.	Where possible, consolidate telecommunications facilities to reduce visual clutter and work with other users on co-location sites to minimise cumulative visual impact.	Consolidating with existing infrastructure was not considered suitable in this instance.
l.	Accord with all relevant industry design guides when siting and designing telecommunications facilities	The proposal will comply with the BCA and complies with relevant Industry Design Guides
m.	Assess potential visual impact in alternative site assessments.	Limited alternative sites were investigated. The potential visual impact, disruption of views and contribution of unsightly elements into the residential landscape was not a consideration for the alternate sites.
Principle 2: Co-locate telecommunications facilities wherever practical		
a.	As far as practical, locate telecommunications lines underground or within an existing underground conduit or duct.	The fibre and power network connections will be taken from the nearest available points underground to the facility
b.	Where practical, co-locate or attach overhead lines, antennas and ancillary telecommunications facilities to existing buildings, public utility structures, poles, towers or other radiocommunications equipment to minimise clutter.	The current proposal location was selected after co-location opportunities on existing telecommunications facilities had been exhausted. The proposal has been designed to retain the smallest, slimmest and neatest visual profile possible to minimise any visual amenity impacts on the surrounding area while achieving the required coverage.
c.	Consider extending an existing tower as a practical co-location solution to new towers	The openness of the site and its proximity to existing and future residential development however make it unsuitable for this form of development.
d.	Demonstrate that co-location is not practicable if choosing not to co-locate a facility.	
e.	If choosing to co-locate, design, install and operate a telecommunications facility so that resultant cumulative levels of radio frequency emissions are within the maximum human exposure levels set out in RPS S-1	
Principle 3: Meet health standards for exposure to radio emissions		
a.	Design, install and operate a telecommunications facility so that maximum human exposure levels to radiofrequency emissions comply with RPS S-1 (see Attachment 5).	The proposed facility will comply with the ARPANSA standard in relation to human exposure to EME. An EME report has been completed and is found in <i>Attachment 2</i> . This report demonstrates compliance with the ARPANSA standard for the operation of a radio communications facility in Australia.
b.	Using the format required by ARPANSA, report on predicted levels of EME surrounding any development covered by the Industry Code C564:2020 Mobile Phone Base Station Deployment, and how the development will comply with ACMA safety limits and RPS S-1	The Electromagnetic Emissions (EME) is 1.53% (at 173m from the location) of the maximum public exposure limits set by the Australian Radiation Protection and Nuclear Safety Agency. A level of 0.31% is achieved at the nearby Wingham Pre-school. The plan below depicts the location of the pre-school (red dot) compared to the site of the tower.

	 <p>The separation distance between the 2 properties is approximately 470m.</p>
Principle 4: Minimise disturbance and risk, and maximise compliance	
<p>a. Ensure the siting and height of a telecommunications facility complies with the of the Commonwealth Civil Aviation Regulations 1998 and Airports (Protection of Airspace) Regulations 1996. Avoid penetrating any obstacle limitation surface (OLS) shown on a relevant OLS plan for an aerodrome or airport (as reported to the Civil Aviation Safety Authority) within 30 km of the proposed development.</p>	<p>The provisions of the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 were considered during the design and siting process.</p> <p>The facility is not expected to be an aviation hazard.</p>
<p>b. Ensure no adverse radio frequency interference with any airport, port or Commonwealth defence navigational or communications equipment, including the Morundah Communication Facility, Riverina</p>	
<p>c. Carry out the telecommunications facility and ancillary facilities in accordance with any manufacturer's installation specifications</p>	<p>The facility will be established and operated within the applicable specifications (if any) of the manufacturers.</p>
<p>d. Protect the structural integrity of any building or structure on which a telecommunications facility is erected</p>	<p>Not applicable to this application.</p>
<p>e. Erect the telecommunications facility wholly within the boundaries of a property as approved by the relevant landowner.</p>	<p>The proposed facility will be erected wholly within the boundaries of the property. Access is sought across adjoining land in the same ownership.</p>
<p>f. Ensure all construction of a telecommunications facility accords with Managing Urban Stormwater: Soils and Construction – Volume 1 (Landcom 2004), or its replacement</p>	<p>The activities associated with construction and installation will be conducted in accordance with sediment controls, erosion controls, stormwater controls and other controls outlined in the Blue Book</p>
<p>g. Mitigate obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction</p>	<p>The majority of construction activities will take place within the lot. There will be no risks to traffic or pedestrians during the operation of the proposal. Traffic management shall be employed during construction.</p>
<p>h. Where practical, carry out work at times that minimise disruption to adjoining properties and public access and restrict hours of work to 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays</p>	<p>This requirement is to be conditioned on any development consent for the proposal.</p>

i.	Employ traffic control measures during construction in accordance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads	This requirement is to be conditioned on any development consent for the proposal
j.	Guard open trenching in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.	This requirement is to be conditioned on any development consent for the proposal
k.	Minimise disturbance to flora and fauna and restore land to a condition similar to its condition before the work was carried out	This requirement is to be conditioned on any development consent for the proposal
l.	Identify any potential impacts on threatened species and communities in consultation with relevant authorities and avoid disturbance to identified species and communities where possible	The site is largely devoid of vegetation. No adverse impacts are anticipated.
m.	Identify the likelihood of harming an Aboriginal place and/or Aboriginal object and obtain approval from the Department of Premier and Cabinet if the impact is likely, or Aboriginal objects are found	A search of the AHIMS has been completed and there are no known items or places of archaeological significance on the site or in the immediate surrounding area
n.	Reinstate, at your expense, street furniture, paving or other facilities removed or damaged during construction to at least the same condition as that prior to installation	Not applicable
Principle 5: Undertake an alternative site assessment for new mobile phone base stations		
a.	Include adequate numbers of alternative sites in the alternative site assessment as a demonstration of good faith.	The proponent provided details of colocation opportunities with existing Telstra, Optus and NBN infrastructure in the area. Distance and topography challenges deemed each of these unsuitable. The photograph below this table depicts the facilities considered.
b.	In addition to the new site selection matters in Section 4 of the Industry Code C564:2020 Mobile Phone Base Station Deployment: <ul style="list-style-type: none"> only include sites that meet coverage objectives, and that have been confirmed as available, with an owner agreeable to having the facility on their land if the preferred site is a site owned by the Carrier, undertake a full assessment of the site indicate the weight placed on selection criteria undertake an assessment of each site before any site is dismissed 	Two (2) additional greenfield sites were considered, however each of these had owners reluctant to having the facility on their land. This principle was therefore not satisfied in the alternative site assessment process.

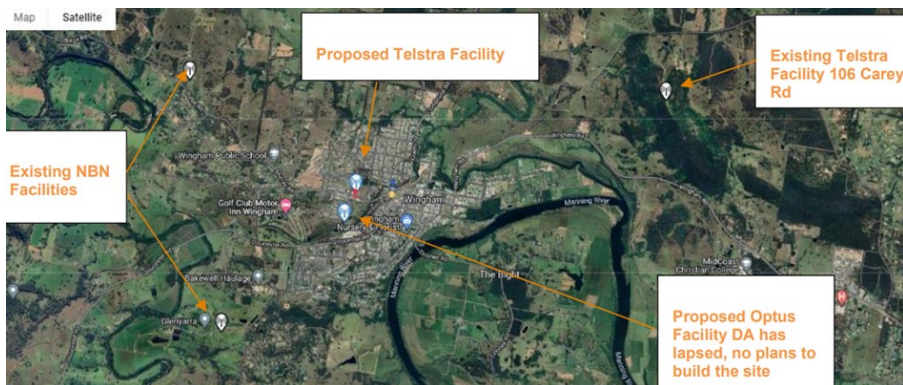


Figure 9 - Colocation opportunities

The proposed facility is not considered to be consistent with these guidelines. The proposed development is not consistent with Principle 1 in that it does not minimise the visual impact from the facility or respond appropriately to its setting. The proposed development is not consistent with Principle 2 in that it has not demonstrated that the need for improved coverage in the Wingham area cannot be met by co-location or would not be better served by providing a facility or facilities at an alternative site or sites.

CONCLUSION

The proposed development involves installation of a telecommunications facility (mobile phone tower) on land within a residential area of Wingham known as Lots 246 and 270 DP754454, Richardson Street, Wingham.

The proposed development does not suitably comply with the aims of the Greater Taree LEP and is development prohibited in the R1 General Residential zone of that LEP. Approval is therefore sought pursuant to the provisions of the State Environmental Planning Policy (Transport and Infrastructure)2021. The development is not consistent with the principles of the NSW Telecommunications Facilities Guideline, Including Broadband – 2022. The application has failed to demonstrate that suitable alternative sites were properly investigated and has not demonstrated that the development is suitable for the chosen site. The development has raised numerous issues of concern to the community and the development is considered contrary to the public interest. Refusal of the proposal is recommended. Proposed Reasons for Refusal are provided as *Attachment 1*.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading. The copy of Attachment 4 on the website has had the personal information redacted to protect the privacy of the members of the public providing the submissions.

Attachment 1 - DA2024/0409 - Reasons for Refusal (1 page)

Attachment 2 - DA2024/0409 - EME Report (2 pages)

Attachment 3 - DA2024/0409 - Shadow Diagram (1 page)

Attachment 4 - DA2024/0409 – Submissions (24 pages)

Attachment 5 - DA2024/0409 - Standard for Limiting Exposure to Radiofrequency Fields (46 pages)

16.5. BOUNDARY ADJUSTMENT - 32 CHURCH STREET, MOORLAND (DA2024/0436)

REPORT INFORMATION

Report Author	Bailey Dark - Development Planner
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

Development Application DA2024/0436 seeks consent for a subdivision (boundary adjustment) between 20, 25 & 32 Church Street, Moorland, with a total area of 1.68ha proposed to be exchanged.

The application seeks a variation to Clause 4.1A of the *Greater Taree Local Environmental Plan 2010* which requires the subdivision of residential land to be connected to reticulated water and sewer. A written request to vary the development standard in accordance with clause 4.6 of the *Greater Taree Local Environmental Plan 2010* was submitted and assessed.

The application seeks a variation to a non-numerical development standard, therefore is referred to Council's elected body for determination.

RECOMMENDATION

That Development Application DA2023/0436 for a subdivision (boundary adjustment) between 32, 20 and 25 Church Street, Moorland, be approved subject to the conditions contained in Attachment 1.

DETAILS

Date Received:	4 July 2024
Applicant:	K A Marlin c/o King & Campbell Pty Ltd
Owner:	Karen Ann Marlin & Jason Matthew Marlin, Katelin Elouise Mallett
Land:	Lot 12 DP 1180083, Lot 45 DP 1007935 & Lot A DP 364761, known as 32, 20 and 25 Church Street, Moorland NSW 2443

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Nil.

SITE DESCRIPTION

The subject sites are Lot 12 DP 1180083, Lot 45 DP 1007935 & Lot A DP 364761, known as 32, 20 and 25 Church Street, Moorland, respectively.

32 Church Street is zoned RU1 - Primary Production and comprises an area of 10.34ha. It is accessed via the end of Church Street and mainly accommodates primary production / horticultural activities and is generally devoid of significant native vegetation. Two dwellings occupy the land, being a manager's residence nearby the entrance from Church Street and a primary dwelling further north.

20 Church Street is zoned RU5 - Village and comprises an area of 1,500m². It shares a common boundary with land at 32 Church Street to the north, east and west. A dwelling exists on the site.

25 Church Street is also zoned RU5 – Village and comprises an area of 474.2m². It has a frontage to the eastern side of Church Street. A dwelling exists on the site.

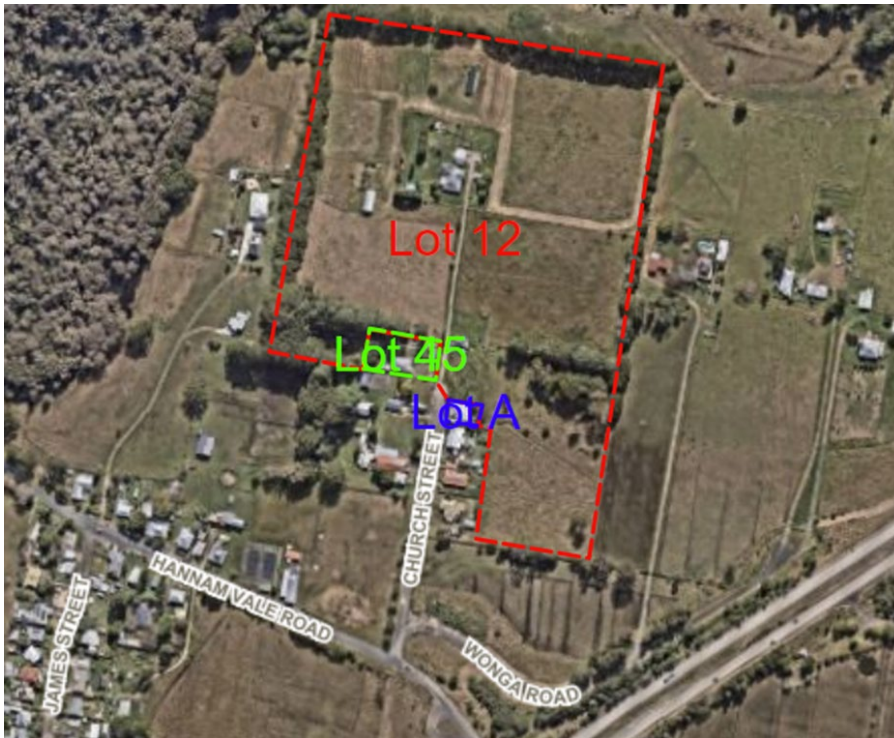


Figure 1: Site Context (Source: Nearmaps)

PROPOSAL

The proposal involves a 3 lot to 3 lot subdivision (boundary adjustment) between Lot 12 DP 1180083, Lot 45 DP 1007935 & Lot A DP 364761, known as 32, 20 and 25 Church Street, Moorland, respectively. Overall, a total area of exchange of 1.68ha is proposed from Lot 12 DP 1180083 benefitting Lot 45 DP 1007935 and Lot A DP 364761. The proposal is to be achieved by shifting the existing common boundaries between Lot 12 DP 1180083 and the other lots subject to this development application as depicted in Figure 2.

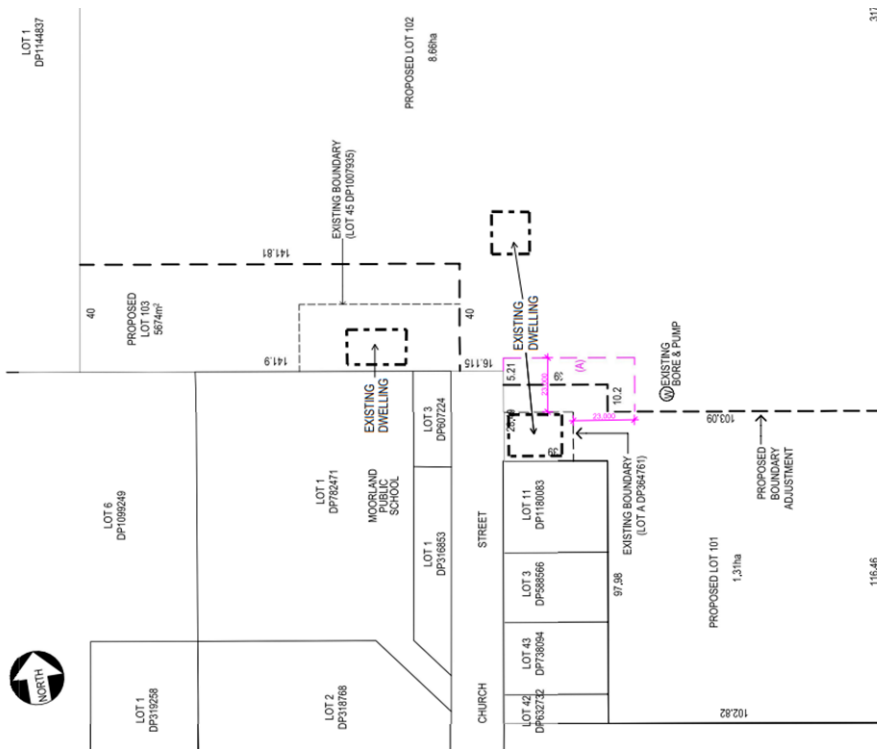


Figure 2: Proposed Subdivision Plan (Source: King & Campbell)

The resultant changes to the areas of each lot are summarised in the table below:

Proposed Lot	Lot	Existing Size	Proposed Size	% Change
102	Lot 12 DP 1180083	10.34ha	8.66ha	-16.25
103	Lot 45 DP 1007935	1,500m ²	5,672m ²	278.13
101	Lot A DP 364761	474.2m ²	1.31ha	2662.55

The proposed boundary adjustment intends to achieve improved bush fire safety for the village zoned lots by providing improved curtilage around the existing dwellings and the proposed creation of an easement for maintenance of an asset protection zone benefitting proposed lot 101.

No removal of trees or other vegetation is proposed.

DISCUSSION

Under s4.15 of the Environmental Planning & Assessment Act 1979 (EP & A Act), a consent authority (the Council) when determining a development application, “*is to take into consideration such of the following matters as are of relevance to the development the subject of the development application*”. The relevant matters for consideration are summarised below:

4.15 (1)(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

Pursuant to Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

The land is not identified as contaminated or likely to be contaminated. Noting a long history of use of the sites for residential and general agricultural purposes, that there are no features indicative of contamination and there does not appear to be evidence of any potentially contaminating land uses previously.

Greater Taree Local Environmental Plan 2010

The site is zoned RU5 Village (Lot A and Lot 45) and RU1 (Lot 12) under the provisions of the Greater Taree Local Environmental Plan 2010.

The proposal is for a subdivision. Subdivision is permitted with consent in accordance with Clause 2.6 of the GTLEP 2010.

The objectives of the RU5 Zone are as follows:

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To promote businesses and neighbourhood activities that serve the needs of the local community.*
- *To enhance the village character and amenity.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The proposed development is consistent with the objectives of the RU5 zone as it accommodates a range of land uses associated with the rural village without compromising the village character and amenity.

A portion of the site is also zoned RU1 – Primary Production under the provisions of the Greater Taree Local Environmental Plan 2010.

The objectives of the RU1 Zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To permit small scale rural tourism uses associated with primary production and environmental conservation with minimal impact on primary production and the scenic amenity of the area.*
- *To maintain the rural landscape character of the land.*
- *To protect and enhance the native flora, fauna and biodiversity links.*
- *To secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity.*

The proposed development is also consistent with the objectives of the RU1 zone as it does not contribute to the fragmentation and alienation of resource lands, maintains the rural landscape character and minimises conflict between land uses with the zone by maintaining the overall rate of residential occupation of the land and rationalising the boundary interface of rural and village lands.

The development has been assessed against all provisions within the LEP, including development standards, miscellaneous provisions, and local provisions. The following table is a summary of the evaluation of the proposed development pursuant to the provisions of the relevant clauses of the LEP:

Clause	Compliance
<p>4.1 Minimum Lot Size</p>	<p>Not compliant.</p> <p>Note: Clause 4.1D provides for exception to the minimum subdivision lot size for boundary adjustments in certain circumstances. Refer to assessment under that provision below.</p>
<p>4.1A Subdivision of certain residential lots</p>	<p>Not compliant.</p> <p>Note: The subdivision will not be connected to a reticulated water and sewerage system.</p> <p>A request to vary the development standard will need to be submitted in accordance with Clause 4.6.</p>
<p>4.1B Exceptions to minimum subdivision lot sizes for certain split zones</p>	<p>Not Applicable.</p> <p>Note: While not directly applicable, the extent to which the provisions of this clause enable the potential for further subdivision and residential occupation of the land subject to this development application has been considered. As the lot sizes of village zoned lots do not allow for the creation of another lot under the existing and proposed states, the ability to excise further land, including the primary production zoned components of each, from the proposed lots is not facilitated by this clause.</p>
<p>4.1D Exceptions to minimum subdivision lot size for boundary adjustments</p>	<p>Complaint.</p> <p>Note: No additional lots are created and no further dwellings are permitted as a result of the boundary adjustment (refer to discussion on the applicability of Clause 4.2A below and Clause 4.1B above).</p> <p>The existing use of the land subject to exchange is primary production. There are no further approved or otherwise permitted uses of the land subject to exchange.</p> <p>The proposed boundary adjustment is not likely to have a significant adverse effect on the agricultural viability of the land. The areas subject to exchange do not form integral parts of the existing primary production activities conducted on the land. The boundary dimensions and land features that define these areas are not conducive to efficient and effective use of the land in connection with these activities. Land use conflict between village and rural areas is minimised under the proposal by the simplification of the interface between the zones and affording additional space to buffer activities.</p> <p>Further, the subdivision is unlikely to:</p>

Clause	Compliance
	<ul style="list-style-type: none"> • have a significant impact on the preferred and predominant land use, being primary production, • incompatible with use of land in an adjoining zone, and • have an adverse impact on the environmental values of the land. <p>The subdivision and consequential boundaries are generally responsive to natural and physical constraints.</p>
4.2A Erection of dwelling houses on land in certain rural and environment protection zones	<p>Not Applicable.</p> <p>Note: No further dwellings are permissible as a result of the boundary adjustment.</p>
4.6 Exceptions to development standards	<p>See comment below.</p>
5.10 Heritage conservation	<p>Complaint.</p> <p>Note: The proposed development is not located within a heritage conservation area or within proximity to any items of heritage.</p> <p>A basic AHIMS search was conducted and the search reveals no known items of aboriginal cultural heritage located within proximity to the proposed development.</p>
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	<p>Complaint.</p> <p>Note: The proposal is consistent with the matters for consideration outlined in Clause 5.16(4) of the LEP. Consistent with the application of Clause 4.1D and the objectives of the respective zoned impact by the proposal, the existing and approved uses of the lands are not significantly impacted.</p> <p>Further, larger village lot sizes in this case support improved bushfire safety, separation from land uses and activities, and have a greater capacity to contain on-site sewage management systems. The scale and form of agricultural activities undertaken are likely to continue to be responsive to the land's existence along the interface of village and rural lands.</p>
7.11 Essential services	<p>Complaint.</p> <p>Note: The site is serviced by essential infrastructure including electricity. The exiting services are not likely to require any adjustment as a result of the proposed boundary adjustment.</p>

4.6 Exceptions to development standards

Clause 4.6 of the LEP provides a degree of flexibility in the application of certain development standards where it can be demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the proposed development.

The development proposes a variation to Clause 4.1A of GTLEP 2010, which requires subdivision of residential land to be connected to reticulated water and sewer.

Water and sewer is not provided to the sites subject to the development application, nor available or likely to be available in the locality within the future, and lots will not be connected to water and sewer following subdivision.

Subclause 4.6(1)

The variation to Clause 4.1A is considered consistent with the objectives of Clause 4.6(1).

It is considered reasonable to vary the development standard in this instance as it provides an appropriate degree of flexibility and results in a positive outcome for the site by increasing land supply without resulting in adverse environmental or amenity impacts.

Subclause 4.6(2)

Clause 4.1A is a development standard which is not excluded from the operation of Clause 4.6. As such, consideration of the variation to the development standard is permitted.

Subclause 4.6(3)

In accordance with Clause 4.6(3) the Applicant has provided a written request to justify the variation. The request nominates that the application of Clause 4.1A is unreasonable and unnecessary in this instance, and that there are sufficient planning grounds to support the variation.

The Applicant has identified the following:

- *No reticulated sewer or water is currently available within Church Street which is currently occupied by a number of dwellings and a primary school.*
- *Section 4.1A of the Greater Taree Local Environmental Plan 2010 requires that consent must not be granted to the subdivision of land zoned RU5 village unless the land is connected to the reticulated water and sewer system.*
- *As outlined above, no reticulated water or sewer is available within Church Street, or Moorland, and hence, no connection to the land can be readily provided.*
- *In addition, the proposal seeks to make both of the RU5 zoned allotments the subject of this application, being Lot A and Lot 45 (or Proposed Lots 1 and 3), larger than they currently are. This will provide greater land area to manage on-site waste water as well as provide additional bushfire protection by providing greater curtilage around the dwelling.*
- *Given that no changes to the existing services connections will occur as a result of the proposal, compliance with the standard [sic]*
- *The underlying objectives aim to ensure RU5 Village allotments are connected to the services necessary for their minimum land size. However, as outlined above, no reticulated water or sewer services are available and, hence, compliance with this standard is unable to be achieved and is therefore not considered relevant.*
- *No reticulated sewer or water is currently available within Church Street and hence, the standard has virtually been abandoned by the lack of services being present within the immediate area*

The nominated environmental planning grounds are as follows:

- *Whilst the age of the existing dwellings is unknown, the site inspection carried out by the author suggests that the existing dwellings are likely to have been constructed significantly earlier than the imposition of the development standard. Deposited Plan (DP) 364761 was registered on 11 September 1978 and DP 1007935 was registered on 9 November 1999. It is considered likely that dwellings were constructed shortly thereafter.*
- *As a result, the existing dwellings, and lack of reticulated water and sewer services to them, is likely to have been in place prior to the standard being introduced with the GTLEP in 2010.*
- *The imposition of the standard, being the connection of the site to the reticulated water and sewer, is not considered justified, given that these services are not available to the site and adjoining RU5 zoned land and therefore cannot be provided.*

Subclause 4.6(4)

The Applicant's written request has adequately addressed the matters required to be demonstrated pursuant to subclause 4.6(3), however justification on the basis that Council has virtually abandoned the development standard has been excluded from consideration.

There is no explicit objective of Clause 4.1A, however the objective of the Clause is interpreted as to minimise cumulative adverse environmental and amenity impacts associated with on-site wastewater disposal systems on newly created lots in residential zones that are not capable of accommodating effective land application areas. It reflects that minimum subdivision lot sizes for residential lots are specified on the assumption that land is not required to accommodate these systems. The absence of reticulated water and sewage services, which is generally infrastructure provided by local government entities such as Council, is an existing state for the subject lots and other land in the vicinity. Despite this, the lack of available infrastructure does not itself reflect a conduct of Council whereby restrictions on the creation of lots in certain zones have not been consistently upheld. In these instances exceptions to the application of Clause 4.1A pursuant to Clause 4.6 have been accepted by Council.

Recent exceptions to the application of Clause 4.1A pursuant to Clause 4.6 have been accepted by Council on the grounds that the proposed lot sizes are able to effectively accommodate on-site sewage management systems. These assessments are site-specific and support of the use of on-site effluent disposal systems is merit based, noting that the area and soil characteristics of the proposed lots are sufficient to accommodate such systems.

The proposed boundary adjustment is consistent with minimising adverse impacts from the creation of residential lots reliant on on-site sewage management systems as there is no intensification of residential occupation in the locality as a result of the proposed boundary adjustment. The submission of environmental planning grounds attesting to a past acceptance of the intensity of residential occupation in the locality is considered reasonable and sufficient to justify that the application of the development standard is unreasonable and unnecessary.

The proposal has been reviewed by Council's On-site Sewer Management Team who have supported the proposal, noting that if the existing systems were to fail, there is an enhanced land capacity to accommodate a Land Application Area for a replacement on-site sewage management system for village zoned lots subject to the development application.

The Director General's office has previously advised Council that concurrence may be assumed as detailed in Planning Circular PS 20-002.

4.15 (1)(a)(iii) any development control plan

Greater Taree Development Plan 2010 (GTDCP 2010)

The site is located within the former Greater Taree Local Government Area and as such the provisions of the *Greater Taree Development Control Plan 2010* (DCP) are applicable to the proposal.

The proposal has been assessed against all sections and controls contained within the DCP.

The following table is a summary of the evaluation of the proposed development pursuant to the provisions of the relevant sections and controls of the DCP:

Part C – Subdivision

Generally, the proposed boundary adjustment is consistent with performance criteria and objectives of this part, where applicable, noting that no new lots are created.

C2.1 General design principles

The proposed boundary adjustment is a rational lot arrangement that does not impact the provision of services, reduce scenic or environmental value of the lands and adjoining lands.

C3.1 Site Hazards

The proposed boundary adjustment does not relate to contaminated land. It is recognised as bushfire prone land. However, the proposed boundary adjustment does not facilitate a greater intensity of land use or permit additional land uses that would be more susceptible to hazards impacting people, property and the environment.

3.2 Road Design

No roads are to be constructed.

C3.3 Filling and leveling

Not filling or leveling is proposed.

C3.4 Services

The provision of services is generally unaffected by the boundary adjustment. As detailed elsewhere, the proposed lots are capable of accommodating on-site effluent disposal without any adverse environmental impacts.

C3.5 Drainage

Existing drainage patterns are unaffected by the proposal.

C3.6 Existing development and heritage

Land use conflict and impact to the heritage value of adjoining lands, of which none is identified, is likely a result of the proposed development.

C3.7 Environmental Protection

Vegetation on the subject lands is not impacted by the proposed boundary adjustment.

C3.8 Landscaping

No landscaping is proposed.

C4.2 Rural and environmental areas

The proposed boundary adjustment will not have an impact on significant views and vistas.

Part D – Environmental

The proposed boundary is generally compliant with the relevant objectives and performance criteria of this part.

D1 – Coastline Management

Not applicable

D2 – Environmental Buffers

Not applicable

D3 – Earthworks, erosion and sedimentation

Not applicable.

D4 Vegetation Management

Not applicable.

4.15 (1)(a)(iia) any planning agreement or any draft planning agreement

Provisions of the draft MidCoast Local Environmental Plan have been considered in this assessment. There are no draft provisions that are considered to materially impact the assessment reflected in this report, noting that key development standards, zones and exception to the minimum subdivision lot size for boundary adjustments between certain zones are generally unchanged for the subject land.

4.15 (1)(a)(iv) any matters prescribed by the regulations

Consideration has been given to the provisions of the regulations and there are no provision relevant to the development.

4.15 (1)(b) the likely impacts of that development

Context and Setting

The proposed development is not likely to detract from the existing rural village character of the locality. The reconfigured boundaries for 20 and 25 Church Street are not inconsistent the size, orientation and dimensions of existing lots within Church Street and Moorland village generally.

Site Design and Internal Layout

The proposed boundary adjustment supports a practical alignment of the boundaries with existing land features and attributes.

Views

The proposed development is not likely to adversely affect views.

Privacy (Aural and Visual)

It is likely that visual and aural privacy for the subject lots is enhanced under the proposed boundary adjustment. To the minimal extent that it applies given the sites comprise the interface between the village and rural areas of the locality, any future development on 20 and 25 Church Street will achieve is afforded greater opportunity for separation from adjoining developments without compromising the visual and aural privacy of dwellings at 32 Church Street.

Visual Impact

The proposed development is not likely to have an adverse visual impact.

Access, Transport and Traffic

No access, transport or traffic issues are likely.

Utilities

The proposed development is not likely to have an adverse impact on the provision and/or connection of utilities. Reticulated sewage and water services are not available to the site. Adequate arrangements for an on-site sewage management system has been confirmed by Council.

Soils

The proposed development is not likely to have a significant impact on soils.

Flora and Fauna

The proposed boundary adjustment is not likely to require the removal of any significant flora or fauna habitat.

Cumulative Impacts

Having regard to the cumulative impact of any or all the matters discussed, the proposed development is unlikely to have adverse consequences.

4.15 (1)(c) the suitability of the site for the development

The site is considered suitable for the development, despite non-compliance with the numerical constraint on the proposed subdivision. The proposed boundary adjustment does not significantly impact the existing land use pattern, allotment pattern and the resulting land sizes are appropriate.

4.15 (1)(d) any submissions made in accordance with this Act or the Regulations

The application was not notified as it is considered likely to detrimentally affect the amenity of person on adjoining and neighbouring land.

4.15 (1)(e) the public interest

Having regard to the matters discussed in this report, the proposed development is considered to be in the public interest.

OTHER MATTERS

Section 7.11 Contributions Plan

In accordance with Council's *Greater Taree 94 Development Contributions Plan* the development is not required to pay contributions associated with the proposed development. It does not and is not likely to require the provision of or increase the demand for public amenities and services.

S100B of the Rural Fires Act

The subject site is mapped as containing bushfire prone land and involves a development which is classified as a special fire protection purpose, subsequently the development is considered integrated development as per Section 4.46 of the EP&A Act 1979. As such, and in accordance with Section 100B of the Rural Fires Act 1997, the application was referred through to NSW Rural Fire Service (RFS) for concurrence.

NSW RFS issued a Bush Fire Safety Authority on 27 August 2024 which provided support for the development subject to general terms of approval. The general terms of approval have been incorporated into the consent.

CONCLUSION

Development Application DA2024/0436 seeking consent for a subdivision (boundary adjustment) at 32 Church Street is recommended for approval.

Assessment considering the submitted plans, Statement of Environmental Effects, all other documentation supporting the application, against the provisions of the *Environmental Planning and Assessment Act 1979*, the regulation, relevant environmental planning instruments, and Council's Codes and Policies shows that it does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions recommended.

The development standard at Clause 4.1A, restricting subdivision of land in certain zones unless reticulated water and sewage services are provided, was found to be unreasonable and unnecessary in this instance in accordance with clause 4.6 of the Greater Taree Local Environmental Plan 2010.

It is considered that the proposed subdivision satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

Attachment 1 - DA2024/0436 - Conditions of Consent (4 pages)

Attachment 2 - DA2024/0436 - Plans (4 pages)

Attachment 3 - DA2024/0436 - Statement of Environmental Effects (85 pages)

Attachment 4 - DA2024/0436 - Clause 4.6 Request (8 pages)

16.6. VOLUNTARY PLANNING AGREEMENT - MINIMBAH ROAD, MINIMBAH

REPORT INFORMATION

Report Author	Bruce Moore – Coordinator Major Assessment
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

The purpose of this report is to inform Council of a letter of offer from the proponent of a Development Application for the subdivision rural land into eight (8) lots under the provisions of Clause 4.1B of the Great Lakes Local Environmental Plan 2014 (exceptions to minimum lot sizes for ecological protection clause).

The proponent is formally requesting to enter into a Voluntary Planning Agreement with MidCoast Council that will enable the conservation of 194.4 hectares of environmentally sensitive land.

RECOMMENDATION

1. That the draft Voluntary Planning Agreement as shown in Attachment 1 to this report between MidCoast Council and M & S Hawkins be exhibited for a period of 25 working days in accordance with the requirements of the *NSW Environmental Planning and Assessment Act 1979*.
2. Should no objections be received during the exhibition period of the draft Voluntary Planning Agreement, that the Voluntary Planning Agreement be adopted as exhibited and registered on the property affected.
3. That the General Manager be delegated the function of authorising the Voluntary Planning Agreement.
4. That should objections be received during the exhibition period of the draft Voluntary Planning Agreement, or changes are proposed to the document (other than editorial), that this matter be reported to Council for its consideration.

DETAILS

Date Received:	11 January 2024
Proponent:	M & S Hawkins
Owner:	M & S Hawkins
Land:	Lot 3 DP 1009015, Minimbah Rd, Minimbah
Area	209.4 Ha
Property Key:	1030534
Zoning:	RU2 - Rural Landscape, Great Lakes LEP 2014

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

The Voluntary Planning Agreement (VPA) is being processed in accordance with the *Environmental Planning and Assessment Act 1979* and associated *Environmental Planning and Assessment Regulation 2021*.

RISK IMPLICATIONS

Nil.

BACKGROUND

On 6 December 2022 Council received an application for an eight (8) lot rural subdivision seeking a variation to the minimum lot size applicable to the land.

The applicant is seeking to use Clause 4.1b of the Great Lakes Local Environmental Plan to vary the minimum lot size by conserving a portion of environmentally sensitive land.

Assessment of the application continues, with one of the outstanding matters being the formalisation of a voluntary planning agreement to conserve a portion of the subject land.

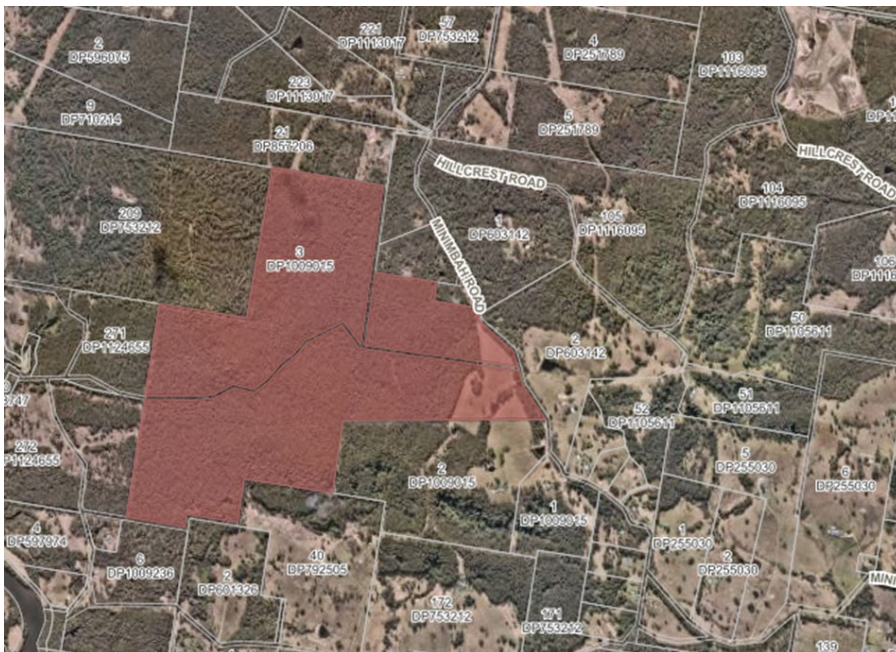


Figure 1 – Subject Site

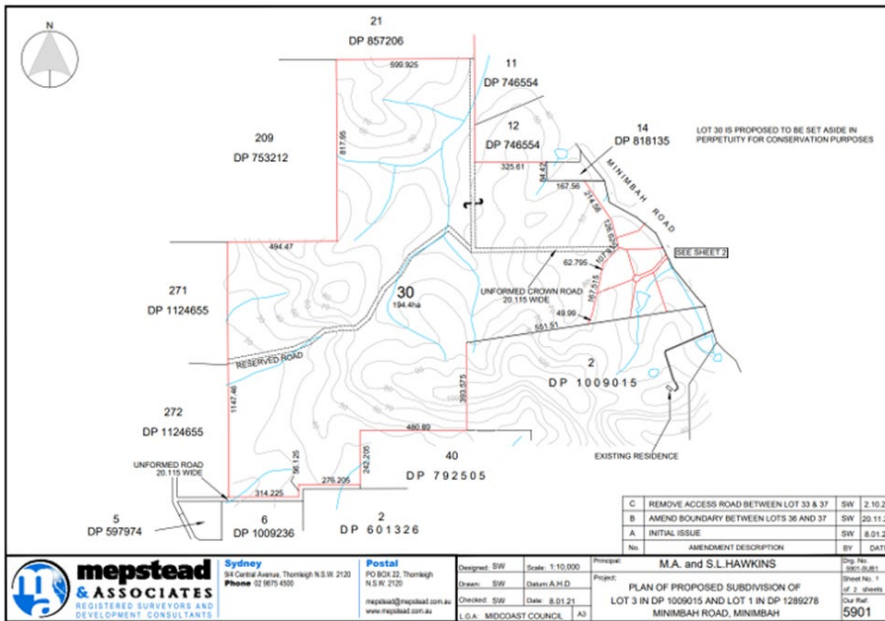


Figure 2 – Plan of proposed Subdivision

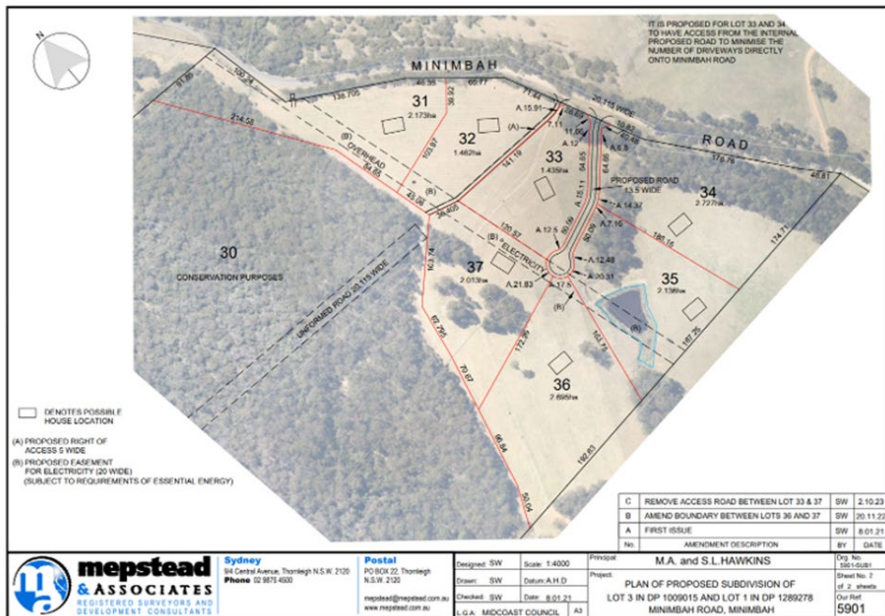


Figure 3 – Plan of proposed Subdivision (Detailed)

DISCUSSION

A letter of offer dated 11 January 2024 has been received from the proponent (see Attachment 3) which follows the intent of the original and on-going conversations with Council staff on this matter.

This offer is seen as a genuine attempt to offset any potential initial adverse impacts of their proposed development. It is important to remember that such agreements are voluntary, that there is a willing proponent and that the VPA will be placed on the title of the land and hence be an obligation on any future landowner.

Terms

A draft VPA has been reviewed by Council’s Legal Services Coordinator and is included as Attachment 1 to this report.

The VPA also includes an Explanatory Note (Attachment 2) required for public exhibition which is intended to be a plain English summary of the document.

The proponent has agreed to the wording of both.

CONSULTATION

It is intended to exhibit the draft VPA for a 25-working day period during November – December 2024.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

This report is in alignment with the MidCoast 2030 Shared Vision, Shared Responsibility – Community Strategic Plan.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

Attachment 1 - Draft Voluntary Planning Agreement - Minimbah Road (16 pages)

Attachment 2 - Explanatory Note to Planning Agreement – Minimbah Road (2 pages)

Attachment 3 - VPA Letter of Offer – Minimbah Road (2 pages)

16.7. DEVELOPMENT ACTIVITY & ASSESSMENT PERFORMANCE (JULY-SEPTEMBER 2024)

REPORT INFORMATION

Report Author	Adam Matlawski - Manager Development Assessment & Building Certification
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report provides a summary of development assessment and building certification activities for the period 1 July 2024 to 30 September 2024.

RECOMMENDATION

That the content of the report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

The report reflects the level of development activity that impacts the Council's application fee income. Budget estimates are adjusted to reflect development activity trends.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Nil.

BACKGROUND

The development activity and assessment performance report is provided for the information of Council on a quarterly basis.

DISCUSSION

Development and building construction activity has followed recent trends, which indicate that application volumes are returning to the numbers received in the 2019 and 2020 calendar years.

During the reporting period Council received 1623 individual customer requests in relation to Development Assessment and Building Certification. This equates to 12% of all of the requests lodged during the quarter.

The number of applications determined and application determination times are shown in the following tables:

Table 1 – Number of Applications Determined by Council Staff

Application Type	2022/23 - Yearly	2023/24 - Yearly	2024/25 - Q1
DAs & Modifications	1453	1304	291
Complying Development & Construction Certificates	222	243	40

Table 2 – Determination Times

DA & Modification Determination Timeframes	2022/23 - Yearly	2023/24 - Yearly	2024/25 - Q1
Average (Days)	88	88	88
Medium (Days)	51	45	47

Council League Tables

Planning NSW has made changes to the way it is publishing performance data for Councils.

Council League Table data replaces data on the Planning Performance Dashboard. The Planning Performance Dashboard is currently being revised and will be available again soon on the NSW Planning website.

With this change, Planning NSW has grouped our Council in the broader Regional NSW reporting category.

For the 2024/2025 financial year to date, the average time to determine a development application across all NSW Councils is 105 days.

The average assessment time for all Regional Councils year to date is 99 days and for Large NSW Regional Councils it is 113 days.

The average DA processing time for MidCoast Council for the same period was 88 days, which is consistent with the previous 2 financial years.

It is important to note that the median determination time is 47 days for the same period which is a more accurate reflection of how assessment times are tracking.

Table 3 – Comparative Data for Large NSW Regional Councils – Approvals ranked by Average Assessment Days

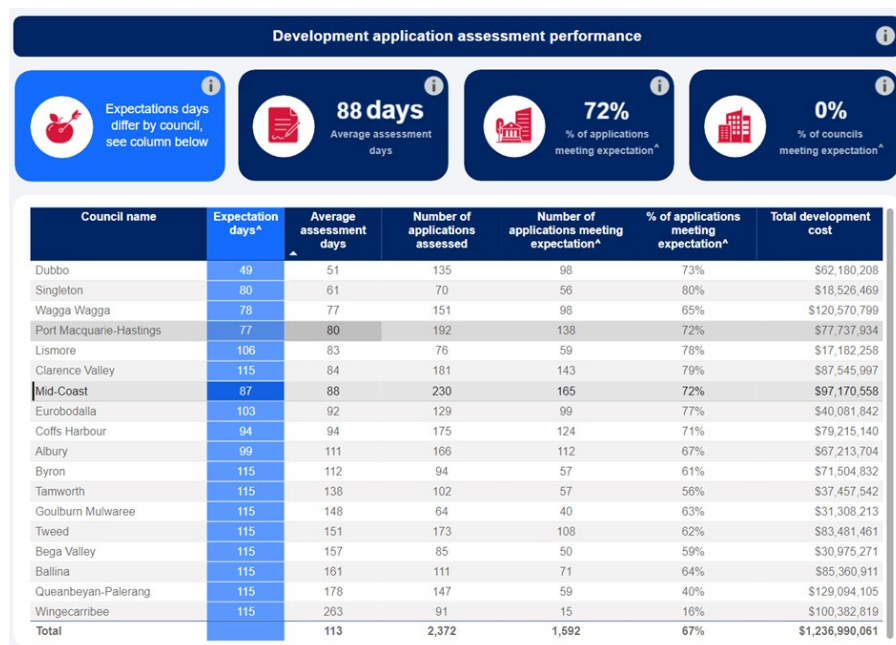
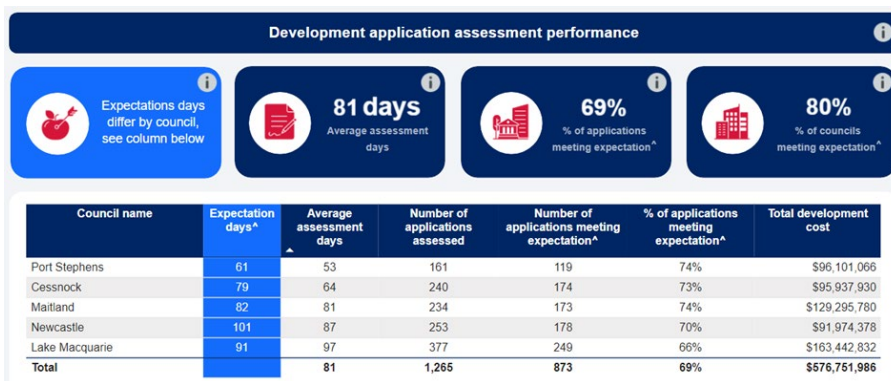


Table 4 – Comparative Data for Lower Hunter and Greater Newcastle Councils – Approvals ranked by Average Assessment Days



Council's average assessment days has exceeded the Planning Ministers target by one day for the reporting period. This assessment time does however need to be weighed up against the total number of applications that are lodged with Council and the total number which have been determined.

Data from Lower Hunter and Greater Newcastle Councils has also been provided for comparative purposes.

It is acknowledged that further work is required to reduce development assessment times which would have a direct benefit for the MidCoast economy.

Table 5 – Comparative Data for Large NSW Regional Councils – Ranked by Average Lodgement Days

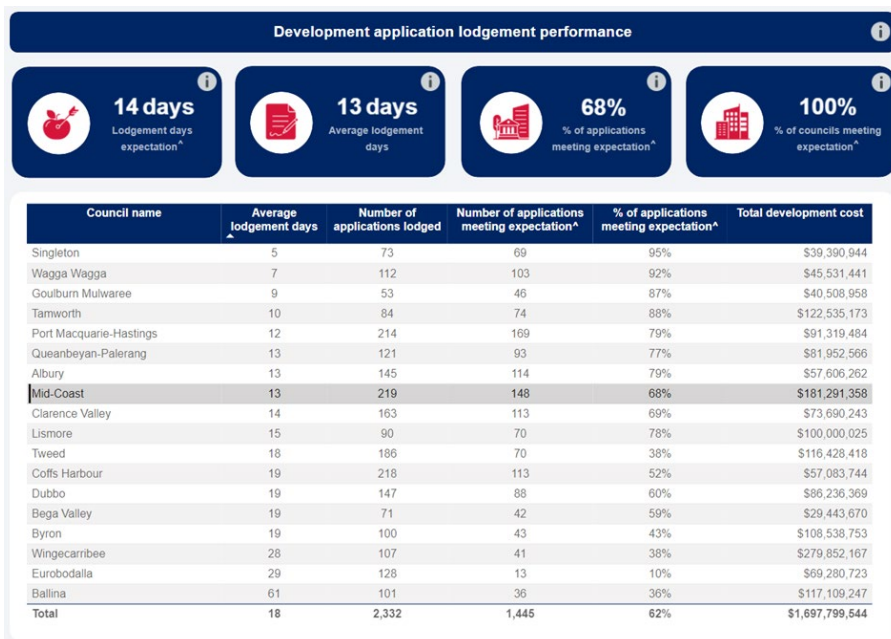
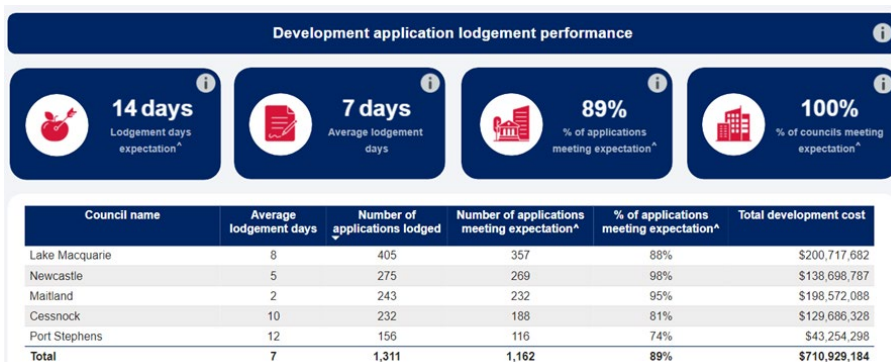


Table 6 – Comparative Data for Lower Hunter and Greater Newcastle Councils – Ranked by Average Lodgement Days



Councils lodgement time of 13 days meets the statement of expectations requirement and is lower than the large regional council average of 18 days.

This data shows that MidCoast Council has had the highest number of development applications (219) lodged of all Councils in regional NSW for the qtr.

Source : [NSW Council League Tables | Department of Planning Housing and Infrastructure](#)

Current Activity

44 fast track development applications were determined for the quarter with an average determination time of 12 days.

The following table provides data on development and building activity for the information of Councillors.

Table 7 – Development Activity Data

Other Development Activity Data	July – September 2024
Complying Development Certificates determined (Council)	2
Complying Development Certificates determined (Private Certifier)	74
Construction Certificates (building) determined (Council)	38
Construction Certificates (building) determined (Private Certifier)	208
Subdivision Certificates issued	19
Number of reviews on planning matters	0

Internal Referrals

A key component in the assessment of development applications, excluding “straight-forward” applications, is the internal referral process.

Internal referrals involve applications that are referred to other sections of Council for specialist advice and input, including Transport Assets, Ecology, Environmental Health, Building Services and other specialist areas of Council depending upon the nature and scale of the proposal.

Between 1 July 2024 to 30 September 2024 there were a total of 394 internal referrals raised.

521 referrals were actioned for the same period, with the average time to complete being 21 days, with a median completion time of 9 days.

External Referrals

During the reporting period, there were a total of 64 external referrals returned to Council by external agencies.

The average referral assessment times are provided in Table 8 below

Table 8 - Processing times for referrals to Council between 1 July 2024 and 30 September 2024.

Agency	Average assessment days
✓ALL	34.61
Department of Planning and Environment-Water	66.77
Department of Primary Industries (Fisheries)	42.35
Essential Energy	19.87
Rural Fire Service	33.13
Transport for NSW	7.72
WaterNSW	11.66

LIST OF ATTACHMENTS

Nil.

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16.8. MIDCOAST ASSIST

REPORT INFORMATION

Report Author	Paul Martin - MidCoast Assist Business Manager
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report presents the outcomes of Council's transition out of aged care and disability services through the divestment of MidCoast Assist.

RECOMMENDATION

That the information in the report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

At the time of preparation of this report, financial transactions were still being processed in respect of the operations of MidCoast Assist. As such it is not possible to provide a final 'wash-up' of the divestment in terms of the final impact on Council's General Fund.

The determination of the MidCoast Assists financial position will occur in the coming months as all remaining items (expenses, debtors, income, reconciliations etc) are finalised and confirmed and will be reported as part of future finance reports.

The following information provides updates on payments and expenses to date.

Project costs

As at 30 June 2023, MidCoast Assist had retained earnings of \$1.414m. For the year ended 30 June 2024, MidCoast Assist realised a pre-tax operating deficit of \$1.772m, noting that a provision in respect of the divestment of MidCoast Assist valued at \$2.089m was included as an employee benefit expense. This left a closing accumulated surplus of \$87k.

Table 1 shows the net one-off costs resulting from the divestment of aged care and disability services and compares these against the estimates provided to Council in May 2024.

Table 1 – MidCoast Assist divestment project costs

Item	Estimated May 2024 Amount (\$)	Actuals as at 25 October 2024 Amount (\$)
Project costs	\$253,353	\$184,135
Redundancy and other termination payments	\$1,955,914	\$2,183,597
Payment of accrued and unused employee leave *	\$621,655	\$645,939
Estimated one-off cost resulting from divestment	\$2,830,922	\$3,013,671
LESS Estimated one-off benefit resulting from divestment	\$396,000	\$505,885

Item	Estimated May 2024 Amount (\$)	Actuals as at 25 October 2024 Amount (\$)
Estimated net one-off cost resulting from divestment	\$2,434,922	\$2,497,786

** Payment of accrued and unused annual and long service leave is an expense Council incurs every time an employee ceases employment, whether by resignation, redundancy or other means.*

Ongoing savings

In the confidential MidCoast Assist report of 7 February 2024, it was noted that the divestment of MidCoast Assist would result in IT cost savings of approximately \$140,000 per annum.

Additional savings of proportions of FTE were identified in Finance, IT Support and HR estimated at approximately \$400,000 per annum. While most of this may not be realised in direct savings, it does enable staff time to be reinvested in core activities.

LEGAL IMPLICATIONS

Council has advised the Aged Care Quality and Safety Commission that it is no longer delivering aged care services and has requested to relinquish its status as a registered aged care provider.

Council has advised the NDIS Quality and Safeguarding Commission that it is no longer delivering services and has requested that it wishes to relinquish its status as a registered NDIS provider.

RISK IMPLICATIONS

Nil.

BACKGROUND

On 7 February 2024, Council resolved (resolution 28/2024) to:

1. *Begin a process to transition out of providing Aged Care and Disability Services;*
2. *Explore divestment options for MidCoast Assist by way of an open 'Request for Proposal' process in order to seek alternate providers for the Ageing and Disability Services operated by Council;*
3. *Ensure that continuity of service for clients (recipients of aged care services) and participants (recipients of disability services and supports) and continuity of employment for staff are the primary objectives of any transition through an open 'Request for Proposal' process; and*
4. *Cease the provision of Aged Care and Disability Services by 30 September 2024 (or whenever practical after this date) if no alternate providers or only one alternate provider are deemed suitable.*

On 22 May 2024, Council resolved (resolution 158/2024) that:

1. *In accordance with Section 178 of the Local Government (General) Regulation 2021, Council resolve to:*
 - a. *decline all proposals received for Request For Proposal MCC-24-007.01 following the equitable evaluation of the proposals;*
 - b. *enter into negotiations with Kirinari Community Services Ltd in relation to the provision of the aged care services currently provided by MidCoast Assist; and*
 - c. *provide a report on the negotiations to a future Council meeting.*

2. *In accordance with Section 178 of the Local Government (General) Regulation 2021, Council resolve to:*

a. decline all proposals received for Request For Proposal MCC-24-007.02 following the equitable evaluation of the proposals;

b. enter into negotiations with Ability Options Ltd in relation to the provision of the disability services currently provided by MidCoast Assist; and

c. provide a report on the negotiations to a future Council meeting.

3. *MidCoast Assist staff and volunteers be recognised for their efforts in ensuring that MidCoast Assist's clients and participants have continued to receive high quality services.*

On 21 August 2024, Council was provided with an update on the status of the transition of aged care services to Kirinari Community Services and the transition of disability services to Ability Options. Council was also provided with the Memorandums of Understanding that Council had entered into with each party to facilitate the transitions.

DISCUSSION

Aged Care transition

On 24 May 2024 Council entered into negotiations with Kirinari Community Services (Kirinari) in relation to the provision of the aged care services currently provided by MidCoast Assist.

In July 2024 the parties entered into a Memorandum of Understanding to facilitate the transition of the aged care services provided by Council to Kirinari.

In late July 2024 Council and Kirinari were advised that the Department of Health and Aged Care had directly selected Kirinari to be offered the CHSP funding and outputs being relinquished by MidCoast Assist after 30 September 2024.

In September 2024 the parties entered into a Deed of Agreement in relation to the transfer of assets. The parties also, in accordance with Council's Leasing and Licencing of Council Land and Buildings Policy, finalised leasing arrangements in relation to council-owned premises currently occupied by MidCoast Assist (Aged Care) in Forster (Community Centre), Hawks Nest (Community Hall) and Stroud (District Office).

30 September 2024 was MidCoast Assist's final day delivering aged care services. Kirinari commenced delivery of aged care services in Forster-Tuncurry, Tea Gardens-Hawks Nest, Bulahdelah and Stroud on 1 October 2024.

Whilst a small number (<5) of clients elected to move to another provider prior to the transition, the majority elected to transition across to Kirinari.

Disability Services transition

On 24 May 2024 Council entered into negotiations with Ability Options in relation to the provision of the disability services currently provided by MidCoast Assist.

In July 2024 the parties entered into a Memorandum of Understanding to facilitate the transition of the disability services provided by Council to Ability Options.

In August 2024 the parties entered into a Deed of Agreement in relation to the transfer of assets. In September 2024, the parties, in accordance with Council's Leasing and Licencing of Council Land and Buildings Policy, finalised leasing arrangements in relation to council-owned premises currently occupied by MidCoast Assist (Disability Services) in the Forster (Community Centre).

18 August 2024 was MidCoast Assist's final day delivering disability services (community supports and supported living). Ability Options commenced delivering these services on 19 August 2024.

Whilst a small number of participants elected to move some or all of their services to other providers prior to the transition date, the majority elected to transition across to Ability Options.

Staff transition

One of Council's objectives for the divestment of MidCoast Assist was to secure ongoing employment for the staff of MidCoast Assist to the extent possible through negotiations with the incoming providers.

This objective was achieved, with all parties realising the value associated with existing staff being able to continue to provide services and support to aged care clients and disability participants.

MidCoast Assist staff	Number
Headcount as at 1 August 2024	91
Opted-out of transitioning to one of the incoming providers	12
Opted-in to transition to one of the incoming providers	79
Offered and accepted a role with one of the incoming providers	70

CONCLUSION

MidCoast Assist was a legacy function of the former Great Lakes Council and began in the 1990s when other government funded providers withdrew from the Local Government Area. At the time, the objective was to provide services to the community which were otherwise not being provided by the community services sector. Today there are multiple other providers (large and small) of both aged care and disability services located in the MidCoast.

The number and quality of responses to the Request For Proposal process undertaken by Council in early 2024, and the subsequent transition of services to preferred providers Ability Options and Kirinari Community Services demonstrates that Council's decision to cease the delivery of aged care and disability services will not have an undue negative impact on the community.

Through the transition process Council has achieved its stated objectives of ensuring:

- continuity of service for aged care clients and disability participants, and
- continuity of employment for the staff of MidCoast Assist.

Finally, the staff of MidCoast Assist deserve recognition for the professional manner in which they have conducted themselves during the transition period. Their efforts in ensuring that MidCoast Assist's clients and participants continued to receive services without interruption are to be commended.

LIST OF ATTACHMENTS

Attachments 1 & 2 have been classified as confidential and circulated to the Councillors and Senior Staff only. The Attachments have been classified as **CONFIDENTIAL** in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

(d) commercial information of a confidential nature that would, if disclosed

(i) prejudice the commercial position of the person who supplied it

Attachment 1 – CONFIDENTIAL – Deed of Agreement between MidCoast Council and Ability Options 190824 (16 pages)

Attachment 2 – CONFIDENTIAL – Deed of Agreement between MidCoast Council and Kirinari Community Services 170924 (15 pages)

16.9. MIDCOAST COUNCIL ANNUAL CARBON EMISSIONS REPORT

REPORT INFORMATION

Report Author	Zac Aliberti - Senior Sustainability & Climate Change Officer
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report presents data on the carbon emissions that were generated from Council's operations during 2023-24 and summarises the key initiatives that are currently being implemented by Council to lower its emissions.

Council continues to invest in projects that will decrease our operational costs, lower carbon emissions and improve our environmental performance.

RECOMMENDATION

That the annual carbon emissions report be noted and endorsed for inclusion in Council's 2023/24 Annual Report.

FINANCIAL / RESOURCE IMPLICATIONS

Projects outlined in the Climate Change Strategy were assessed for costs and benefits at the time of the strategy development. Projects with the best financial returns, such as simple roof top solar installations will be prioritised to advance Council's financial sustainability. Various financial options are being assessed by Council's Finance team to determine how to best deliver projects on Council owned assets. The Aquatic Centre Solar projects have been designed so that energy savings created by the roof top solar will be re-invested in ongoing maintenance at the centres.

Access to grant funding will be another important element of Council's Climate Change Strategy. Several State and Federal grant funding opportunities are expected to become available in the near future to assist Council in delivering these key projects. Council will assess these opportunities as they arise.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Nil.

BACKGROUND

MidCoast Council adopted its Climate Change Strategy in June 2021 which includes targets to achieve net zero emissions by 2040 and 100% renewable energy by 2040. Council has also adopted an updated Waste Management Strategy which includes a revised target to divert 70% of waste (including 50% organic waste) from landfill by 2030 in order to reach net zero emissions.

The Climate Change Strategy (June 2021) analyses Council's carbon footprint and identifies the actions Council can undertake to reduce its greenhouse emissions and adapt its practices and infrastructure to become more resilient to the impacts of climate change. These actions include:

- investing in renewable energy
- buying clean energy
- becoming more energy efficient
- sequestering carbon and offsetting
- sustainable procurement
- transitioning to more sustainable transport options; and
- reducing our waste to landfill.

In adopting the Strategy, Council committed to achieving net zero emissions from its operations (including electricity, fleet and waste) and 100% renewable energy for its operations by 2040.

Over 150 actions are proposed in the Strategy to meet these targets and Council will offset those emissions that can't be mitigated by purchasing renewable energy and investing in local carbon sequestration initiatives such as tree planting programs and the restoration of degraded coastal wetlands (Blue Carbon).

Specifically, the Strategy focuses Council's efforts on increasing the uptake of on-site solar photovoltaic (PV) systems and batteries (particularly for its water and sewer assets), energy efficiency, and purchasing renewable energy in the short to medium term, to progressively increasing its renewable energy supply as batteries and electric vehicles become more cost effective over time.

This report provides a summary of Council's resource consumption and associated carbon emissions during the 2023-24 financial year to show how Council is tracking towards the net zero emissions target. It also provides a summary of the major initiatives undertaken by Council during this period to reduce its carbon footprint.

DISCUSSION

Council staff are currently modelling future carbon emissions to project how expected changes to waste management, a cleaner electricity grid and expected uptake of electric vehicles will impact our emissions profile. Major changes include;

- the trial and implementation of landfill gas flaring,
- implementation of Food Organics & Garden Organics (FOGO) in waste management,
- increased uptake of behind-the-meter solar at Council owned sites,
- increased grid-scale renewable energy,
- planned closures of coal fired power stations and
- projected uptake of electric vehicles.

Council's 2023-24 Carbon Emissions

Council currently subscribes to Azility's energy efficiency software platform to help monitor its water, electricity and fuel consumption and the associated costs, waste to landfill, and carbon emissions. Council continues to improve its understanding of sources of emissions and is improving the methodologies for calculating emissions from the landfill sites and sewage treatment plants.

Greenhouse gas emissions are expressed as carbon dioxide equivalent (CO₂-e). CO₂-e expresses the warming effect of different greenhouse gases as an equivalent amount of carbon dioxide. It is the amount of carbon dioxide that would give the same warming effect as each greenhouse gas that is emitted or stored by an activity. For example, methane (CH₄) has a global warming potential (GWP) of 25, which means 1 tonne of CH₄ is 25 tonnes of CO₂-e.

Council is now using the Clean Energy Regulator (CER) approved National Greenhouse and Energy Reporting (NGER) Solid Waste calculator. Previously, Council have relied on the NGER scope 3 method for calculating landfill emissions.

The change in methodology has not resulted in a significant change in the total emissions reported by Council, however, changing the calculation method allows Council to more accurately track and report landfill emissions, especially as we prepare for landfill gas flaring which will reduce landfill emissions.

Council's total carbon emissions for 2023/24 was 117,056 t CO₂-e and are presented in the table 1 and figures 1 and 2 below. Council's annual carbon emissions since the baseline year of 2018/19 are also included in Table 1 below. 2023/24 is the first year where sewage treatment emissions are included in the annual total.

Emissions from sewage treatment have previously been excluded from the annual emissions report, despite being included in the Climate Change Strategy. There has previously been an inconsistency in the methodology for calculating sewage treatment emissions, as such the total emissions from sewage treatment increased from 2020/21 to 2021/22. For consistency with previous reporting, annual emissions have not been changed from 2018/19 – 2022/23.

Council will continue to implement improvements in the reporting of emissions to ensure that the most accurate and transparent calculation methods are used in alignment with the CER and NGER guidelines.

Table 1: Annual CO₂-e emissions by source

Source (t CO ₂ -e)	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Fuel	4,383	3,729	5,574	4,741	4,708	4,668
Electricity	25,037	22,737	24,224	22,503	18,008	15,494
Landfill	75,228	88,326	96,258	110,469	85,423	80,126
Waste Water Treatment	1628	1,649	2,344	20,217	19,475	16,768
Total	104,649*	114,792	126,058	137,714	108,138	117,056

*note, Waste water emissions are included in the Climate Change Strategy but have previously been excluded from the annual emissions reporting (previously excluded data is displayed in red).

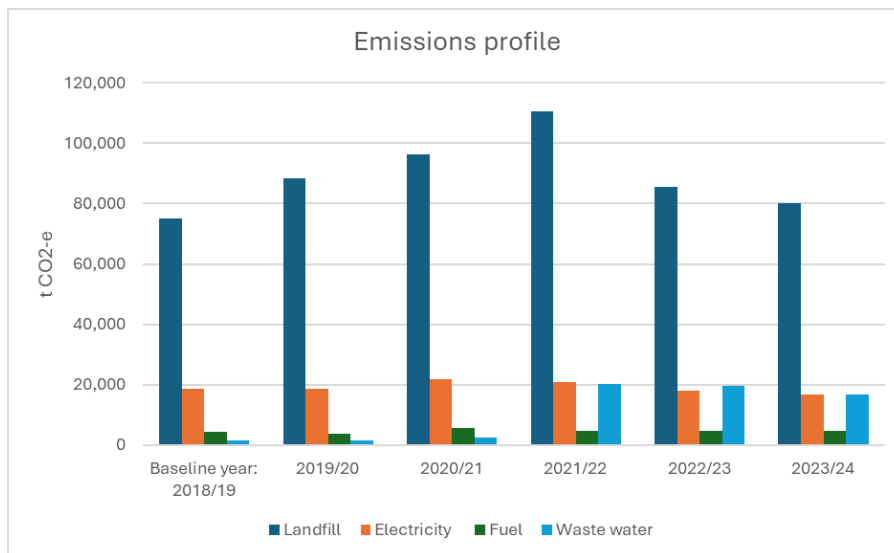


Figure 1: Annual CO₂-e emissions by source.

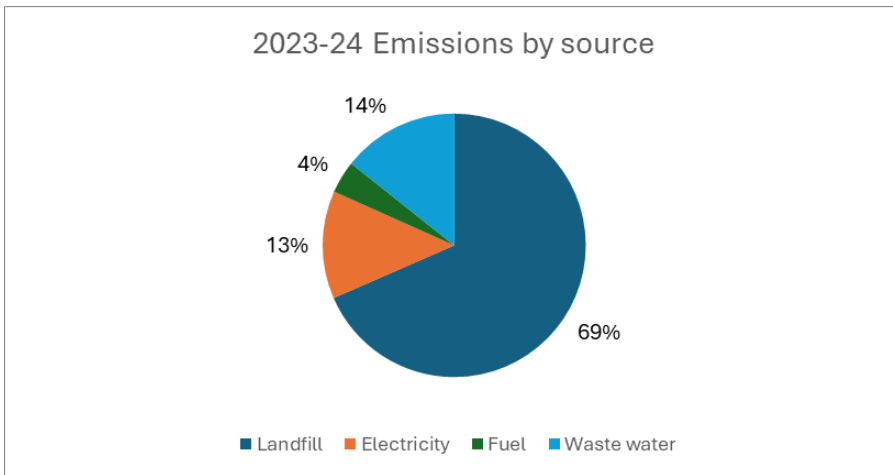


Figure 2: 2023/24 Emissions breakdown

Landfill emissions

Approximately 69% of Council’s carbon emissions are a direct result of waste sent to landfill. Although the waste is generated by the community, Council is the owner of the landfill sites where the emissions are produced. Council’s adopted Waste Strategy and Climate Change Strategy outline a range of projects and objectives to decrease the emissions generated by waste, as well as identify opportunities to offset the emissions that cannot be reduced.

When organic material enters a landfill, it is compacted and buried. The landfill site is compacted to reduce the space required to store waste and maximise how much waste can fit into the cell. When organic material breaks down in the presence of oxygen, it releases the carbon dioxide that was stored within the material. But when organic material breaks down in an anaerobic (without oxygen) environment such as a landfill site, methane is produced rather than carbon dioxide. Methane is 25 times more potent as a greenhouse gas compared to carbon dioxide.

The Waste Strategy has set an ambitious target of diverting 70% of waste from landfill. This target requires a multi-pronged approach to change the composition of what the community sends to landfill, how Council processes this waste and how it deals with the emissions from the landfill sites.

Landfill gas flaring

Council will be implementing a trial of landfill gas flaring. This trial will determine the commercial viability of gas flaring. The trial will also inform how much gas can be captured for flaring and the quantity of carbon-offsets that can be generated by this process. Flaring methane at a landfill site can generate Australian Carbon Credit Units (ACCUs) that can be sold, traded or retired depending on volume, price and business needs.

Organic materials have embodied carbon that has been absorbed from the environment while the organism was living. When organic material breaks down in a natural aerobic environment, it releases the stored carbon back into the atmosphere. This short-term carbon cycle operates in a 1-for-1 exchange and is therefore carbon-neutral. When organic material breaks down in an anaerobic setting, methane is produced instead of carbon dioxide, increasing the potency of the gas exchange by 25 times. By flaring (burning) the methane gas, the methane is turned back into carbon dioxide and ‘corrects’ the carbon exchange.

FOGO

Council already has a successful green waste program for garden organic material and will be implementing Food Organics & Garden Organics (FOGO) to further divert organic material from entering the landfill sites. FOGO will mean that residents will be able to place their kitchen scraps into their green bin rather than the red bin. The contents of the green bin will then be composted in a new purpose-built facility that treats the organic material to reduce the production of methane and produce a rich organic material that can be used as a soil conditioner. For every tonne of organic material that is diverted from landfill, it is expected that 1.9 tonnes of CO2-e is avoided.

A 2021 audit of Council's kerbside waste collection scheme indicated that approximately 50% of red bin contents could be collected and recycled by the FOGO service if sorted correctly at the household. This would significantly decrease the quantity of organic matter breaking down in landfill and reduce landfill emissions. In the lead up to FOGO being implemented, Council will increase community engagement to help residents understand how to use the new services.

Sustainability Centre

MidCoast Council has recently completed the construction of the MidCoast Sustainability Centre, jointly funded through the Bushfire Local Economic Recovery Fund and MidCoast Council Waste Services. Located at Tuncurry Waste Management Facility, the building showcases sustainable architecture principles including solar passive design, recycled brick, timber and low emissions concrete. The landscape has been planted with bushfire resilient species and will act as a living plant library, complete with plant identification plaques, for visitors to view.

The purpose of the facility is to provide education to the community aligned with sustainability initiatives, circular economies, waste reduction and recycling. The facility has workshop spaces where information sessions will be held. The Sustainability Centre also has a small office for MCC staff and a food safe kitchen for catering.

The centre is due to open officially on Monday the 11th of November in alignment with the commencement of National Recycling Week. On Saturday the 16th of November, a community open day will be held. During this event the Sustainability Centre will be used to run a series of workshops for the community including composting and permaculture, DIY bees wax wraps and Insects and ecosystems. There will also be waste facility tours, activities and a showcase of information and pop-up stalls.

Community Engagement

Community engagement is essential to improving recycling practices and identifying areas for improvement in waste diversion. Current data indicates that approximately 9% of materials in kerbside red landfill bins are recyclable, while kerbside yellow recycling bins contain about 12% contamination. Contamination rates hinder recycling efforts and threaten MidCoast Council's 2030 target to reduce waste to landfill by 70%.

Envirocom has been engaged to support the Waste Team to deliver an engagement plan designed to both improve the recovery rate of recyclables and prepare the community for the future transition to FOGO. This plan includes a broad range of actions from waste audits, surveys, improved educational material, business waste reduction plans, school education and media campaigns.

Waste and recycling pop-up stalls will continue across the LGA, led by the Waste Team. These stalls are designed to educate the community on waste management and improve recycling practices. The stalls also serve as a platform to address community inquiries regarding waste collection services, such as bulky waste disposal, bin collection schedules, and navigation of the MidCoast Council website for waste-related information. Over 2,633 people have been engaged over six months with the intent to continue to improve and adapt to community needs.

Energy emissions

In 2023/24 Council consumed 26,056 MWh of electricity from the grid. This figure has been relatively consistent for the last four years. Water & Systems consume approximately 70% of Council's electricity use for water and sewer. Electricity consumption contributes approximately 13% of Council's total emissions with a total of 15,494 t CO₂-e from electricity consumption.

Water treatment and pumping requirements do not tend to change significantly from year to year. Sewage treatment energy needs also remain consistent, even as the population grows, the treatment plants tend to operate relatively consistently.

The National Energy Market (NEM) continues to become cleaner, meaning more and more of the electricity that Council consumes is coming from renewable energy sources.

In the 2023/24 financial year, Council installed 84.4 kW of roof top solar at two Water & Systems sites and a Waste Management Facilities sites. The Water & Systems team also continued purchasing 100% renewable energy for the Water & Systems small site contract accounts.

The purchase of 100% renewable energy for Water & Systems small contract accounts has decreased the emissions by 1,951 t CO₂-e this financial year. In the graph below we can see that the gap between the electricity consumption and the associated emissions is growing. This gap will increase as the grid gets cleaner and Council purchases more renewable electricity.

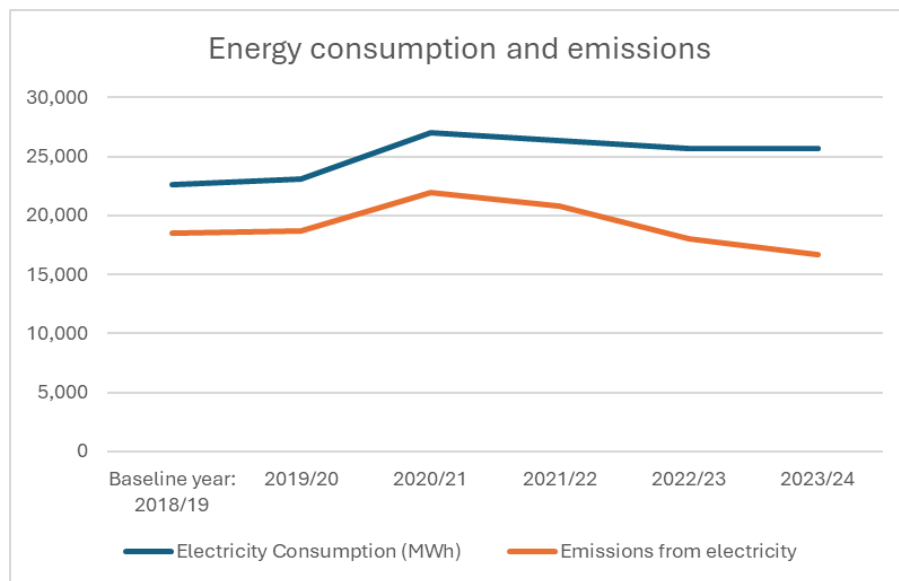


Figure 3: Electricity consumption data measured by our electricity retailers and associated CO₂-e emissions, the gap between consumption (measured in MWh) and emissions (measured in CO₂-e) will continue to grow as the grid becomes cleaner and Council purchases more renewable electricity.

Council is preparing to install rooftop solar at the Manning Aquatic & Leisure Centre as well as the Great Lakes Aquatic Centre. The new rooftop systems will provide most of the energy required to operate the centres during the middle of the day. Aquatic Centres consume significant amounts of electricity for pumping, filtering and heating water. Detailed system designs have been developed for the installation of these systems and work is expected to be completed in the 2024/25 financial year.

The Water & Systems Team have also undertaken a study on an improved filter cleaning process at Tea Gardens Water Treatment Plant. The study resulted in an improved pumping efficiency of 23% and will result in 38.9 MWh per year in energy savings when one filter has been cleaned. A second filter onsite is due to be cleaned in coming months and will further improve efficiency and energy savings.

It is likely that despite energy efficiency and behind the meter renewable energy projects, Council's total electricity consumption will increase in the medium and long term. Electrification of vehicles and an increase in population will continue to drive energy consumption up. Purchasing renewable electricity will mean that even if Council's electricity consumption grows, the emissions from electricity will not grow.

Fugitive emissions from sewage treatment

The treatment of sewage at Council's sewage treatment plants results in greenhouse gas emissions. During the process of treating sewage, nitrous oxides, methane and carbon dioxide are released as gases. The term Fugitive Emissions is used to describe emissions that 'leak' from a site, rather than as a result on burning a fossil fuel. (landfill gas emissions are also a fugitive emission). These gases are released into the atmosphere and contribute to the enhanced greenhouse gas effect. Due to the nature of Council's sewage treatment network, most of the treatment plants are relatively small in scale and greenhouse gas reduction technologies are not technically or financially viable. Council will continue to monitor the industry for new and improved technologies that could assist in the future to reduce greenhouse gas emissions from these sites.

Fuel emissions

The CO₂-e emissions from Council's fleet (including passenger vehicles, light commercial vehicles [LCVs] and trucks) has remained steady over the last 12 months. The Fleet Team is continuing to consider CO₂-e emissions in fleet asset procurement decisions. Currently there is a very limited range of lower emission options for LCVs and trucks with none considered suitable for Council. Electric and hydrogen trucks are not considered to be practical at this stage.

There is continued development of vehicle technology to support fleet emissions reduction. Ongoing industry monitoring by Council including involvement in relevant industry associations will help identify suitable opportunities. This includes trialling EVs that could replace ICE vehicles.

In the passenger vehicle fleet there has been an increase in the selection of hybrid vehicles. The proportion of the passenger fleet comprised of BEV, HEV and PHEV vehicles has more than doubled (from 6% to 14% in the last reporting period) and work is in progress to support the ongoing increase of this metric through improved staff awareness and appropriate policy changes. This transition will contribute to reduced fuel use and emissions.

Council's operational staff are increasingly using battery powered electric power tools. These tools do not rely on petrol for power and as such, are quieter, safer and easier to use. Battery technology continues to improve and become available in more and more commercial applications. Some of the benefits to staff include no fumes, less vibration, less noise, easier to start, no need to carry fuels, reduced disturbance to residents and businesses and the ability for the batteries to be used on multiple tools.

The batteries for these tools are charged overnight and last the full day while staff work. Chainsaws, leaf blowers, hedgers, pole pruners and whipper snippers are all being used with very positive feedback from the staff who are using them.

WATER CONSUMPTION

Water consumption at Council assets has been declining since the 2018/19 baseline. Weather conditions have contributed to a decrease in water consumption through a decrease in irrigation requirements and reduced evaporation. Council has also increased smart metering which helps detect leaks and prevent wastage. Although the 2023/24 financial year saw an increase from 2022/23, the overall trend is still decreasing.

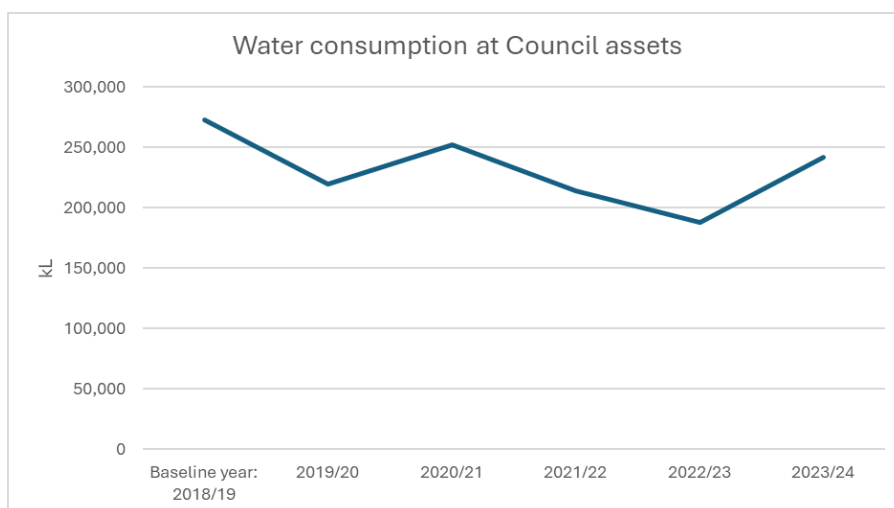


Figure 4: Downward trend in water consumption driven by weather conditions and water efficiency measures.

Water Conservation – Leak Detection

As part of the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Regional Leak Detection Program, Council completed its second annual review across approximately 500 km of mains assets. Theoretical system wide leaks in the magnitude of 7.4 ML / week were identified through the use of audible leak detection technology. As at the end of August 2024, 110 of 112 identified leaks had rectification works completed. Some 52 private leaks were also identified, with over half having been confirmed repaired by customers.

As part of the MidCoast Council Holiday Park Community of Practice, its 22 member parks are engaged with water conservation, efficiency and awareness programs. Leveraging data loggers to track their water consumption, they are also alerted of leaks; the average leak rate ending June 2023 was 4.6L / min / site from the high in January of 14.3 L / min / site. This significant reduction was largely achieved through two holiday parks finding and repairing several large leaks, alongside the continued incremental improvements in several other parks.

A reduction in water leaks indirectly results in a reduction in emissions as less potable water is required to be produced at the water treatment plants, saving energy at the treatment plant and pumping stations.

CONSULTATION

This report was prepared in consultation with the members of Council's Climate Change Project Control Group and Sustainability Working Group.

COMMUNITY IMPACTS

While the Climate Change Strategy largely focuses on addressing Council's carbon emissions and climate change risks, Council does recognise through its June 2019 resolution and climate emergency declaration the important role of government in building the capacity of the community and households to take their own action. The first step in influencing the community to take action is for Council to lead by example which can be demonstrated by adopting emission reduction and renewable energy targets and undertaking measures to reduce its own carbon footprint.

Council has facilitated the installation of electric vehicle charging stations at Wynter Street, Taree. The 12 electric vehicle charging bays will attract travellers from the Pacific Highway to visit Taree. The location for these chargers was selected based on available space for the supporting transformers and proximity to shops.

Council will focus on supporting the community to reduce its own emissions as part of its Phase 2 work on the community's climate change response. This will encompass action around strategic planning, education and capacity building, advocacy and collaboration, infrastructure development and land use planning.

Council's Senior Sustainability and Climate Change Officer has recently undertaken a community workshop at the Taree University Campus. The workshop discussed climate change, the carbon cycle and actions that Council and the community can take to address the current carbon imbalance.

GOVERNANCE

The Climate Change Project Control Group has been working within Council to better coordinate Council's response to climate change including the implementation of the Climate Change Strategy.

Council has recently undertaken an Internal Audit process to review our response to climate change and climate risks. Outcomes of this process are guiding our ongoing response to climate change and the risks posed to Council assets and the community.

During 2023-24 Council continued its participation in the NSW Government's Sustainability Advantage and Sustainable Choice Programs. Council has also been working closely with the Hunter JO on several sustainability working groups that will strengthen our sustainability performance.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Actions to reduce Council's carbon emissions align with the outcomes and strategies outlined in Council's Community Strategic Plan, specifically:

Community Outcome 2: An integrated and considered approach to managing our natural and built environments.

Our natural environment is protected and enhanced while we maintain our growing town centres and manage our resources wisely.

Strategic Objective 2.3: Council works towards net zero emissions.

2.3.1 Incorporate renewable energy and energy efficiency in future design and planning

2.3.2 Promote energy and resource efficiency initiatives to our community

2.3.3 Invest in renewable energy efficient measures, power purchasing agreements and carbon sequestration

2.3.4 Minimise waste through education, reduction, reuse, recycling and repurposing

Climate Change is also one of five key areas of importance that are addressed in the service statements throughout Council's current Delivery Program and Operational Plan, particularly in relation to waste, fleet, energy efficient streetlighting and the installation of renewable energy systems such as solar PV.

TIMEFRAME

Council's carbon emissions will continue to be reported annually and included in Council's Annual Report.

LIST OF ATTACHMENTS

Nil

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16.10. EVENTS AND FESTIVALS SPONSORSHIP - 2024 ROUND 2

REPORT INFORMATION

Report Author	Tanya Lipus - Manager Economic and Destination Development
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report provides an overview of the sponsorship applications received and allocated under Round Two of Council's Events and Festivals Sponsorship Program.

RECOMMENDATION

That Council note the allocation of event sponsorship under Round Two of the Events and Festivals Sponsorship Program totalling \$89,000 as shown in Attachment 1 of this report.

FINANCIAL / RESOURCE IMPLICATIONS

Funds distributed as part of Round Two of the 2024 Events and Festival Sponsorship Program have been sourced from within the existing event sponsorship budget allocation.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Support for events is considered as part of the risk controls for the Liveable Communities Division *Risk Number 11: Failure to facilitate economic growth and development opportunities.*

BACKGROUND

Council is committed to attracting and supporting events that capitalise on the strengths of the region to create a vibrant, connected community. The Events and Festivals Sponsorship Policy was recently reviewed and adopted by Council on 24 July 2024. The policy identifies three (3) categories of sponsorship:

- Community and Local Events (maximum funding amount up to \$1,500)
- Events and Festivals (maximum funding amount up to \$10,000)
- Regionally Significant Events (discretionary in-kind and monetary value)

The policy applies to monetary sponsorship made by Council to eligible applicants for the delivery of events in the MidCoast Council Local Government Area. The policy specifies the sponsorship categories and application periods.

Applications for Round Two 2024 opened on 1 August 2024 and closed on 30 August 2024. Council advertised the sponsorship opportunity via the Council website, direct email to existing event organisers, print and social media. Events eligible for sponsorship in Round Two under the policy are:

- Events and Festivals Category – events proposed to be hosted between 1 January 2025 – 30 June 2025

Payment of event sponsorship is made post each event and on receipt of evidence of the event organiser meeting agreed outcomes such as recognition of Council as an event sponsor, inclusion of Council logos in marketing material and the event contributing to increases in overnight stays and/or activation of public spaces. Event organisers are advised via their sponsorship agreement that payment of event sponsorship will not be provided if an event is cancelled.

DISCUSSION

Due to the Local Government elections, Council resolved to delegate authority to approve the allocation of funds to the General Manager at its meeting on 22 May 2024, as follows:

1. *Amend Attachment One of the report to partially fund Anderson Art Award and Great Lakes Art Society to the sum of \$300 each.*
2. *Endorse the allocation of event sponsorship under Round One of the Events and Festivals Sponsorship Program totalling \$88,850 as shown in Attachment One of the amended report.*
3. *Delegate authority to staff to assess and make recommendation for Round Two of the 2024 Event and Festivals Sponsorship Program.*
4. *Delegate authority to the General Manager to approve the allocation of funds based on staff recommendations for Round Two of the 2024 Events and Festivals Sponsorship Program.*

A total of 32 applications were received for 2024 Round Two event sponsorship, with a total request value of \$197,100. Applications were assessed by Council staff to determine eligibility and alignment with the criteria for the sponsorship category as detailed in the Events and Festivals Sponsorship Policy. Approval of the final allocation was provided by the General Manager as per the Council resolution.

	Number of applications received	Value of applications	Number of events recommended to receive sponsorship	Value of applications supported
Events & Festivals category	32	\$197,100.00	25 (8 unsuccessful)	\$89,000

CONSULTATION

Round Two of the 2024 event sponsorship program was promoted widely via:

- Council website.
- Council social media.
- Media release.
- Direct emails to existing event organisers; and
- One-to-one discussion with event organisers on request.

COMMUNITY IMPACTS

The Events and Festivals Sponsorship Program supports the delivery of events across the MidCoast Local Government Area.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

The recommendation positively supports MidCoast Council's Community Strategic Plan – Community Outcome 3: A Striving and Growing Economy.

Strategy 3.1.4 – Support and encourage the development and attraction of strategic events.

LIST OF ATTACHMENTS

Attachment 1 is available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

Attachment 1 - List of Event Sponsorship Recommendations 2024 - Round 2 (4 pages)

Attachment 2 - CONFIDENTIAL - Event Sponsorship Applications 2024 - Round 2 (258 pages)

Attachment 2 has been classified as confidential and circulated to Councillors and Senior Staff. The attachment has been classified as CONFIDENTIAL in accordance with *Section 10A(2)(d)(i)(ii)* of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

(d) commercial information of a confidential nature that would if disclosed:

(i) prejudice the commercial position of the person who supplied it, or

(ii) confer a commercial advantage on a competitor of the council.

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16.11. MONTHLY CAPITAL WORKS PROJECT STATUS REPORT - PUBLIC SPACES

REPORT INFORMATION

Report Author	Amanda Hatton – Manager Strategy and Projects
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell – Director Liveable Communities

SUMMARY OF REPORT

This report provides a status update on key projects delivered by the Public Spaces Team and highlights potential issues with schedule, cost or impacts on delivery.

RECOMMENDATION

That the Public Spaces Monthly Project Status Report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

Projects identified within the report are included in the Operational Plan. Funding for these projects is budgeted in the Capital Works Program or via Grants. Projects are currently progressing within their allocated budget unless noted otherwise.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

The risks associated with each infrastructure project are identified and managed within individual project plans in accordance with the risk management framework.

DISCUSSION

A brief overview of current project status to 30 September 2024 is as follows:

Public Spaces - Capital Renewal Works Projects:

Five (5) projects funded from allocated budget.

Public Spaces - Beach Permit Revenue Projects:

One (1) project funded from beach permit revenue.

Public Spaces - Grant Funded Projects:

Eighteen (18) projects across multiple grant funding streams listed below, including projects with additional funding from Council budget and developer contributions.

- BNP – Boating Now Project (State)
- CLIRP – Community Local Infrastructure Recovery (State)
- LRCI – Local Roads & Community Infrastructure Rounds 3 & 4 (Federal)
- LSCA – Local Small Commitments Allocation Program (State)
- PLIG – Public Libraries Infrastructure Grant (State)
- RTAF2 – Regional Tourism Activation Fund (State)

- SCCF – Stronger Country Communities Funds Rounds 2 & 5 (State)
- SSFP – Showground Stimulus Funding Program (State)

Flood Recovery - Grant Funded Projects:

Five (5) projects funded under Community Local Infrastructure Recovery Package (State).

Public Spaces – Completed or withdrawn Projects:

Four (4) completed project for this period.

Aquatic Facilities

- **Allworth Swimming enclosure** – Materials ordered with works expected to commence when received.
- **Coomba ParkSwimming Enclosure** – Works expected to commence mid-October 2024.
- **Gloucester Pool Shade** – Works continuing as planned.
- **Tea Gardens Pontoon & Jetty (Apex Park)** – **Project complete.**

Boardwalks, Platforms & Pathways

- **Forster Pelican Boardwalk – Suspended Boardwalk** –Tender documentation prepared. ACHA/AHIP Reports underway.

Cultural

- **Stroud Quambi House Remediation** – State Heritage Investigations prepared. DA application pending lodgement.
- **Tea Gardens Library** – Tender documents prepared. CC approval expected shortly.

Halls

- **Barrington Hall Upgrades** – Roofing and painting contracts awarded, works commencing shortly.
- **Pacific Palms Hall Upgrades** – Asphalt scheduled for 7 Oct 2024 - 18 Oct 2024.

Other Facilities

- **North Arm Cove – Heros Bay Upgrades** – Community review of design underway. Council will consider community feedback in finalisation of project scope.
- **Taree Albert Street Amenities Upgrade** – Project initiation to commence.

Playgrounds, Parks & Reserves

- **Forster Heights Playground Replacement** –Project Procurement commenced.
- **Krambach Leo Carney Amenities Upgrade** –Structural foundation works, and roof replacement completed. Works to provide rear access to the building for pool users to commence shortly.
- **Taree Stokes Park Playground Replacement** –Project Procurement commenced.
- **Seal Rocks #1 Beach Reserve – Upgrade** –Concreting works completed. Landscaping works have commenced.
- **Black Head Skatepark** – Awaiting final construction documentation and tender package for review. REF being reviewed and finalised.
- **Diamond Beach Park Pathways and Drainage Upgrade** – Detailed drawings completed, RFQ and REF to be completed in the coming months.
- **Harrington – Dolphin Park Fenced Off Leash Area Upgrade** – Project Procurement commenced.
- **Wingham Fenced Off Leash Area** – Project Procurement commenced.

Showgrounds

- **Bulahdelah Showground Power upgrades** – Designs complete. Procurement to be commenced.
- **Stroud Showground Clubhouse Amenities** – **Project complete.**

Sporting Facilities

- **Tuncurry Harry Elliott Grandstand Repairs** – Expected to commence mid-October 2024 for rust rectification and water proofing works with painting to follow.
- **Bulahdelah Tennis Courts Upgrade** – Project initiation to commence.
- **Cundletown Sports Field Amenities Upgrade** – **Project complete.**
- **Gloucester Grandstand** – Project completion expected in October 2024 dependant on weather.
- **Harrington Esmond Hogan Clubhouse & Amenities** – Works continuing as planned and expected to be complete by mid-Nov 2024.
- **Taree Rec Ground Danny Buderus Amenities Refurb** – Re-design required as a result of structural issues associated with this facility. Consultation with key stakeholders is underway.
- **Stratford Reserve Upgrade** – **Project complete.**

Flood Recovery

- **Aquatic Infrastructure - Repairs and Replacement** – Detailed design, survey, structural drawings and investigation complete. Manning River approvals/licences in place. Demolition & piling complete at Tinonee, Wingham Reserve, Croki, Manning Rowing Club, Queen Elizabeth Park. Seawall demolition and repairs complete at Croki and Manning Rowing club. Pontoon production commenced.
- **Boat Ramp Repair and Upgrade works** – Works commenced as planned. Civil works at Manning Waters, Bohnock, Andrews Reserve, Tinonee and Manning Point complete. Reserve works at Croki expected to commence in early October 2024.
- **Recreation - Reserve and Park Repair & Reconstruction Works**
 - **King George IV** - Tender closed 26 September 2024.
 - **Billabong Playground Softfall** - Tender closed, to be awarded early October 2024.
 - **Billabong Swing Bridge** – RFT closed and awarded.
- **Taree Riverside - Repairs & Replacement of Recreation Assets**
 - **Endeavour Reserve** – Works expected to commence early October 2024.
 - **Queen Elizabeth Park** – Works expected to commence in October/November 2024.
 - **Harry Bennet Park** – Tender closed 26 September 2024.
- **Wingham Riverside - Repairs and Reconstruction**
 - **Wingham Riverside Reserve (Stage 2)** - Contractor procurement underway. Footpath works due to commence in October 2024 and pavement resilience works on car park to commence in March 2025 due to ecological constraints being the breeding season for the local Flying Fox colony.
 - **Wingham Tennis/Landslip** – Fencing, concrete works and footpath underway, due for completion by mid-October. Tennis court resurfacing to commence mid-October 2024 and expected completion late October 2024.

COMMUNITY IMPACTS

Community impacts are considered and managed in accordance with project plans tailored to individual projects. Regular reporting of progress and advanced notice of issues is coordinated through the Liveable Communities Communications and Engagement Team.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

These activities align with the following objectives of MidCoast Council's Community Strategic Plan:

Strategic Objective 1.2, Strategy 1.2.1

Provide accessible and safe local community spaces and facilities.

Strategic Objective 1.2, Strategy 1.2.4

Provide learning hubs to support learning opportunities.

Strategic Objective 1.4, Strategy 1.4.3

Encourage physical health and fitness and social correctness by providing safe and appropriate recreational facilities.

Strategic Objective 2.5, Strategy 2.5.1

Practice integrated land use planning that balances the environmental, social and economic needs of present and future generations and our existing natural, heritage and cultural assets.

Strategic Objective 3.2, Strategy 3.2.1

Implement innovative programs and projects to support business precincts in creating and maintaining vibrant spaces.

Strategic Objective 4.1, Strategy 4.1.2

Provide clear, accessible, timely and relevant information to the community about council projects and services.

Strategic Objective 4.2, Strategy 4.2.2

Use business improvement, project management and risk management methodologies to ensure best outcomes.

TIMEFRAME

The timeframes associated with each project are outlined in Attachment 1.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

The copy of the attachment on the website has had some information redacted as it classified as CONFIDENTIAL in accordance with Section 10A(2)(d)(ii) of the Local Government Act 1993, as the information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Attachment 1 - Public Spaces - Capital Projects Status Report - 30 Sept 2024

16.12. MONTHLY PROJECTS STATUS REPORT - NATURAL SYSTEMS

REPORT INFORMATION

Report Author	Gerard Tuckerman - Manager Natural Systems
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report provides a status update on key projects delivered by the Natural Systems Team and highlights potential issues with schedule, cost or impacts on delivery.

RECOMMENDATION

That the Natural Systems Monthly Project Status Report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

Projects identified within the report are either included in the Operational Plan (major projects) and/or in the Natural Systems Business Plan (minor and day-to-day projects) which contribute to the implementation of adopted strategies and plans and in the case of weed biosecurity, Council's obligations under the Biosecurity Act. Funding for these projects is budgeted in the Environmental Allocation, Weed Biosecurity budget, stormwater services charge and via grants. Projects are currently progressing within their allocated budgets.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

The risks associated with each project are identified and managed within individual project plans in accordance with Council's risk management framework.

DISCUSSION

The Natural Systems Team delivers projects in four key focus areas being:

- Capital Works
- Catchment management, estuary and water quality
- Biodiversity, natural assets and sustainability
- Weed biosecurity

A brief overview of the current projects follows:

Natural Systems – Capital Works Projects

Most of Natural Systems' projects are strategic or operational. There are only 2 capital works projects currently in progress:

1. Installation of a stormwater treatment wetland to improve the quality of stormwater discharge from urban areas in the Dunns Creek catchment flowing to Wallis Lake is approaching the construction phase. Council is awaiting the results of a geotechnical assessment to determine the extent of acid sulfate soils to calculate the volume of material for treatment. Once calculations are complete, quantities can be specified in the tender documents and the project can progress.
2. Wingham wetland re-design will improve the quality of stormwater to the Manning River. The project has substantially commenced, consultants have completed the concept designs and provided a draft bill of quantities. This information has been used to apply for funding for the wetland reconstruction.

Catchment Management, Estuary and Water Quality Projects

Projects in this area focus on managing our waterways and estuaries through improving the quality of urban stormwater runoff, restoring degraded areas such as riverbanks and wetlands and collaborating with private landholders to improve catchment water quality. Projects implement adopted plans such as the Smiths Lake and Wallis Lake Coastal Zone Management Plans, Karuah Catchment Plan, Managing Estuary and Catchment Management Program and the Great Lakes Water Quality Improvement Plan.

- 15 projects are currently underway in this focus area, which have attracted grant funds to value add to the Environmental Rate funds.
- All projects contribute to the implementation of high or medium priorities within adopted plans.
- River Revival – on track and into final stages of project implementation.
- Rural Community-based Bushfire Resilience Pilot Program is now complete, pending reporting. This project has involved partnerships with Mid coast 2 Tops Landcare Connection, RFS and Western Sydney University to deliver an extension program to assist rural landholders manage biodiversity and fire on their properties.

Final *Community Demonstration Burn* workshops were held on 27th and 28th of July in Stroud and Bungwahl respectively. These workshops were an excellent opportunity to expand the program to more Rural landholders in these target areas.

- MidCoast Feral Deer Partnership program is nearing completion. This project has been a partnership between MCC, HLLS and the NSW National Parks and Wildlife Service. Council's Deer Project Officer has been fully funded via two linked funding agreements with HLLS, primarily for targeting of feral *Rusa* deer to reduce their impacts on coastal wetlands and littoral rainforest in the area from Coomba north to Old Bar, with a particular focus around Forster and the islands in Wallis Lake. 290 deer have been controlled by Council contractors during the project.
- Southern Estuaries Coastal Management Program – The Coastal Management Program sets the strategic direction for managing estuaries to protect the environmental, social, economic and cultural values of the southern estuaries. The Coastal Management Program is a requirement under the Coastal Management Act with a step-by-step process set out by the State Government. Stage 1 and all Stage 2 studies are complete including a tidal inundation study, wetland habitat mapping, human health monitoring and the application of the risk-based framework to Blackhead and Khappinghat Lagoons. Stage 3 involves identifying management options to address issues known to be impacting on estuary values. To identify management options, fifteen multi stakeholder issue workshops have been completed. Engagement with the Aboriginal community is ongoing and the project reference group have provided input on all issues papers.
- To address one of key threats to waterway health, an erosion and sediment control improvement program is underway across Council. This program will identify opportunities to improve erosion and sediment control practices both within Council and in the community.

- An independent baseline audit of erosion and sediment control practices across public and private development has been completed. Audits have built capacity of staff and established a baseline understanding of current erosion and sediment control practices. Results from the audit have been presented to staff across Council and a workshop has been held to identify improvement opportunities.
- All other projects on track.

Biodiversity and Natural Assets Projects

Projects in this area help to maintain priority bushland reserves predominantly within peri-urban areas. These areas contribute to the liveability of our communities by providing character, reducing urban sprawl and managing local biodiversity. Other projects contribute to the delivery of on-ground actions as part of the implementation of adopted strategies and plans including the MidCoast Biodiversity Framework, Manning River Catchment and Estuary Management Program, Karuah River Catchment Management Plan, Smiths Lake Coastal Zone Management Plan and the Wallis Lake Coastal Zone Management Plan.

Twenty-one (21) major projects are underway. Most projects are grant-funded which value adds to the Environmental Allocation. Many grant projects are delivered over a multi-year timeframe.

Seven (7) of these projects with a combined budget of \$4,300,000 are related to Council's 4-year Regional Koala Partnership with the NSW Government and the delivery of the Koala Conservation Strategy.

Another major project currently in the planning phase is the Myall River Dredging Project. In March 2024 Council entered into a funding agreement with Transport for NSW to dredge three areas within the Lower Myall River affecting safe boat navigation.

Funding of \$2,500,000 has been provided under the NSW Boating Now Program (BNP) with no cash contribution required from Council.

The three areas requiring dredging are all at different stages of project planning and obtaining approvals. The area between the 'Singing Bridge' and Corrie Island has not been dredged previously but is the priority for dredging given current navigation issues being experienced in this part of the river. Investigations including aquatic surveys are currently being finalised to determine disposal options for the dredge spoil. It is expected that this area of the river and the Corrie Island navigation channel will be dredged concurrently once the relevant approvals are obtained.

The Eastern Channel (natural channel) is the largest channel requiring dredging with the spoil to be stockpiled for the renourishment of Jimmy's Beach. Approvals are already well progressed, however there is an exclusion period on dredging to protect threatened migratory shorebirds between November and April each year. Given the lengthy duration of the dredging campaign in the Eastern Channel, which can take as long as 4-5 months, works are not proposed until 2025.

Almost all projects are on track for completion by their due date. Some delays have been experienced in sourcing suitable contractors to undertake specialist bush regeneration works due to the limited availability of local suppliers and high workloads. A tender panel for bush regeneration services is currently being established to increase the number of suppliers and improve the procurement process for these types of projects.

An asset management system is currently being developed for Council's public reserves managed as natural assets such as bushland and wetland areas. This involves the audit of all sites to determine their condition rating, and the allocation and prioritisation of resources to achieve agreed maintenance levels for each reserve. Site action plans are also being developed for high priority reserves including sites being co-managed by community volunteers. The asset management system will inform the 10-year financial plan to ensure the condition of these reserves are maintained. This important body of work is due to be completed by the end of 2024.

Weed Biosecurity Projects

The Biosecurity Team delivers the implementation of the NSW Weed Action Program (WAP) and the Hunter Region Strategic Weed Management Plan to meet Council's responsibilities under the NSW Biosecurity Act. The program is funded through the NSW Government (DCCEEW and Hunter LLS) and MidCoast Council through the General Fund.

An extensive program of weed biosecurity management occurs through the WAP. This report focuses on the projects which have received grant funding matched by Council project funds allocated within the Biosecurity budget. Two (2) key projects are currently being delivered with grant funding:

1. Tropical Soda Apple (TSA) control: This project involves a hierarchy of actions from publicity, engagement, on-ground assistance, encouragement and ultimately compliance in the few incidences where landholder cooperation and action has not been forthcoming.
2. Priority weeds partnership: This project involves management of a number of regional priority weed species including Senegal tea, Camphor laurel and aquatic weeds in identified in the Hunter Aquatic Weeds Eradication Strategy (Water lettuce, Frogbit, Cabomba and Ox-eye daisy).

Other projects include the monitoring and evaluation of Groundsel bush management program. Continual wet conditions are impacting on delivery treatments. Aerial spraying has been postponed awaiting suitable conditions.

Several land management field days, grass I.D workshops and presentations for garden clubs have been undertaken to educate the community on weeds including Tropical soda apple, Cats claw creeper, African olive and other priority species

Inspections to monitor and detect Frogbit have from been completed for the September period with no frogbit being detected in the MidCoast area. Inspections are conducted at four – six-week intervals.

African olive delineation and treatment across the LGA has been undertaken, with focus areas in Bundabah, Pindimar, Hawks Nest.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

These activities align with the following objectives of Council's Community Strategic Plan:

- 2.1 We protect, manage and restore our natural environment and our biodiversity.
- 2.2 We understand and manage environment and climate change risks and impacts.
- 2.5 We balance the needs of our natural and built environment.

TIMEFRAME

The timeframes associated with each project are outlined in Attachment 1.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

The copy of the attachment on the website has had some information redacted as it classified as CONFIDENTIAL in accordance with Section 10A(2)(d)(ii) of the Local Government Act 1993, as the information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Attachment 1 - Natural Systems Monthly Project Report - Oct 2024 (2 pages)

16.13. MONTHLY CAPITAL WORKS PROJECT STATUS REPORT - WASTE SERVICES

REPORT INFORMATION

Report Author	Lewis McDonald - Project Manager Waste Services
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report provides a status update on key projects delivered by the Waste Team and highlights potential issues with schedule, cost or impacts on delivery.

RECOMMENDATION

That the Waste Services Monthly Project Status Report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

The projects outlined in this report form essential components of the Operational Plan and receive funding from the Capital Works Program or various Grants. Currently, these projects are advancing within their designated budgetary allocations, barring any explicitly highlighted deviations.

LEGAL IMPLICATIONS

There are no legal ramifications associated with the projects outlined in this report.

RISK IMPLICATIONS

The risks linked with each infrastructure project are methodically identified and effectively managed through dedicated project plans, aligning with a pre-defined risk management framework. This approach ensures comprehensive scrutiny and mitigation of potential risks within the project's operational scope, adhering to established standards and protocols in risk governance.

DISCUSSION

A brief overview of the current projects as follows:

Waste Services - Capital Works Projects:

Four (4) projects as stated in the attachment:

- One (1) funded from allocated budget
- Two (2) funded from landfill remediation reserve
- One (1) royalty-based revenue source

Tuncurry Waste Management Centre Projects

- FOGO (Food Organics and Garden Organics) – Contract negotiations remain ongoing. Negotiation outcome and recommendation report to be presented to future Council meeting pending advice from the Office of Local Government regarding a potential Public Private Partnership (PPP).
- Tuncurry Landfill Remediation – Preparation of tender documents underway to allow for the procurement of contractor to complete remediation works. EPA approved proposed remediation design.

- Tuncurry Landfill Gas Capture – Contract awarded; site mobilisation expected first quarter 2025 with final design coordination with the remediation project to occur.

Taree Waste Management Centre Projects

- Taree Landfill Gas Capture – Contract awarded; site mobilisation expected first quarter 2025 with final design coordination with the remediation project to occur

Gloucester Waste Management Centre Projects

- No current Projects

Stroud Waste Management Centre Projects

- Stroud Landfill Remediation – Analogous to the requirements at Tuncurry, the remediation process at this landfill necessitates the implementation of a capping system designed in accordance with the specifications outlined in the Solid Waste Landfill Guidelines of 2016. This system is crucial to safeguard the environment from potential pollution post-closure, aligning with established regulatory standards for landfill management

Tea Gardens Waste Management Centre Projects

- No Current projects

Completed Projects

- MidCoast Sustainability Centre – Construction completed within budget and timeframes. Centre to be officially opened early November 2024
- Green Waste Processing & Storage Area – Due to operational efficiencies and liaison with contractors, improvements to existing processes have negated the need for upgrades to the existing facility and infrastructure

COMMUNITY IMPACTS

Community impacts are considered and managed in accordance with project plans tailored to individual projects. Regular progress reporting and advanced notice of issues are coordinated through the Liveable Communities Communications and Engagement Team.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

These activities align with the following objectives of MidCoast Council's Community Strategic Plan:

Community Strategic Plan 1.4.1, Project Name – Waste Management Strategy 2030

Food Organics and Garden Organics (FOGO) feasibility study to inform planning and development for food and organic service for the community.

Community Strategic Plan 1.4.1, Project Name – Waste Management Strategy 2030

Remediation of Taree, Stroud, and Tuncurry Landfills

Community Strategic Plan 1.4.1, Project Name – Waste Management Strategy 2030

Construction of new landfill cell at Taree Waste Management Centre

Community Strategic Plan 2.3.3, Project Name – Climate Change Strategy & Action Plan

Install 50kw solar system at the Taree Waste Management Centre

Community Strategic Plan 2.3.3, Project Name – Climate Change Strategy & Action Plan

Undertake Landfill Gas Capture Trial

TIMEFRAME

The timeframes associated with each project are outlined in Attachment 1.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

The copy of the attachment on the website has had some information redacted as it classified as CONFIDENTIAL in accordance with Section 10A(2)(d)(ii) of the Local Government Act 1993, as the information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Attachment 1 - Waste Services - Monthly Project Report - 30 Sept 2024 (1 page)

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16.14. DEVELOPMENT DETERMINATIONS - AUGUST & SEPTEMBER 2024

REPORT INFORMATION

Report Author	Michelle Jobson – Executive Assistant Liveable Communities
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report outlines each of the development determinations which have been issued during August & September 2024.

RECOMMENDATION

That the report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Nil.

DISCUSSION

208 development determinations were made during August & September 2024. Details of these determinations are contained in Attachment 1.

Should any Councillor have a query regarding the attachment, please contact the Director Liveable Communities so that the appropriate documentation may be brought to the meeting for clarification.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

Attachment 1 - Development Determinations report – August & September 2024

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16.15. MATTERS CURRENTLY BEFORE THE LAND AND ENVIRONMENT COURT

REPORT INFORMATION

Report Author	Michelle Jobson - Executive Assistant Liveable Communities
Date of Meeting	30 October 2024
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report both lists and provides an update on matters that are currently before the Land and Environment Court.

RECOMMENDATION

That the report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

As identified in Attachment '1'

LEGAL IMPLICATIONS

As identified in Attachment '1'

RISK IMPLICATIONS

Nil.

DISCUSSION

This report both lists and provides an update on the matters that are currently before the Land and Environment Court. The information is provided for the consideration of Council.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading.

Attachment 1 - Matters before Court - October 2024 update

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17. DIRECTOR OF INFRASTRUCTURE & ENGINEERING SERVICES

17.1. INFRASTRUCTURE AND ENGINEERING SERVICES MONTHLY CAPITAL WORKS PROJECT STATUS REPORT

REPORT INFORMATION

Report Author	John Daoud, Manager, Projects and Engineering Mitch Stace, Manager, Water Project Delivery – Water/Sewer
Date of Meeting	30 October 2024
Authorising Director	Robert Scott, Director, Infrastructure & Engineering Services

SUMMARY OF REPORT

This monthly report provides the status of major infrastructure and engineering projects and highlights potential issues with schedule, cost or impacts on delivery.

RECOMMENDATION

That the Monthly Project Status Report & Project Gateway Reports be received and the recommendations endorsed.

FINANCIAL / RESOURCE IMPLICATIONS

Projects within the report are included in the 2024/25 Operational Plan and/or the 30-year capital works plan (long-term financial plan). Funding for these projects is budgeted in either the Capital Works Plan and 2024/25 budget, by grants or by Council's Road Maintenance Council Contract (RMCC) with Transport for NSW.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

The risk associated with each infrastructure project are identified and managed within the individual management plans in accordance with the risk management framework.

DISCUSSION

Transport & General Projects FY 24/25

Regional Rehabilitation

- Old Bar Road, Old Bar – Saltwater Road to Wyden Street. This project was successfully completed and opened to traffic in early October 2024.
- Church St, Gloucester – Hume St to Philip St. Road Reconstruction works commenced in late August and are progressing well. The granular pavement rehabilitation between Hume St and Bent St is nearing completion, with asphaltting and finishing works to be completed before this area is fully reopened. Work will then focus on the section between Bent St and Philip St, with stormwater drainage renewals and rehabilitation of the granular pavement.

Rural Construction

- Betterment Program – Lansdowne Road. Significant progress has been made with the section at Melinga being completed. Two of the eight segments are now complete. Another two are currently under construction and the remaining four projects are in various stages of design. The construction completion end date for the program (all eight segments) is October 2025.

Bridge Renewals

- Cedar Party Creek Bridge, Wingham – Works progressed well throughout September/October period with the opening of the detour road. This involved the completion of Kerb and Gutter, asphalt and linemarking on the detour road and its opening on Monday the 23rd of September. Demolition works have now commenced on the bridge with the contractor starting with removal of the existing asphalt and guardrails. Sewer and water rising main relocation works are now able to commence, along with protection works for the gravity sewer main. Once the demolition of the bridge is completed, piling works at the bridge will commence.
- Latimore's Bridge Renewal, Burrell Creek & Tipperary Bridge, Tipperary – Construction works on both bridge renewals are progressing well, with piling work complete. Associated substructure works are also nearing completion and are ready for girder installation. Both bridges are funded through the Natural Disaster Program.

Water & Wastewater Asset Renewal Programs FY 24/25

- Water Reticulation Renewals Program – Works are progressing on the Lantana Crossing Rd valve refurbishment and the Kolodong reservoir flowmeter relocation. The renewal of water mains in Lake St Forster was completed. Renewals have commenced for the relocation of the water main near Cedar Party Creek Bridge, Wingham, to suit the roads project, as well as a standard renewal on Commerce St, Taree.
- Sewer Reticulation Renewals Program – Works are progressing on the manhole relining program at Stroud, Tea Gardens and Hawks Nest. Sewer gravity main relining works are scheduled to begin for several sewer catchments in Forster.
- Water Meter Renewals Program – Over the month of September, 122 standard water meter replacements were completed bringing the yearly total to 333.
- Sewer Pump Station Remote Telemetry Unit (RTU) Replacement Program – Prewiring and steel casing work was carried out for the following pump station sites: Harrington No.04, Taree No.10, Taree No.32, Forster No.25 and Forster No.26. Works were completed for the RTU replacement at Taree No.23.

Flagged Updates Water & Wastewater Capital Projects

- Hawks Nest Sewer Treatment Plant Upgrade – The final contract negotiations were completed, and a construction contract has been signed with Gongues Construction Pty Ltd. Contractor is expected to mobilise to the site in the next 4 weeks. Construction is expected to be completed in April 2027. The Pre-Execution Project Gateway Report is attached to this month's report highlighting the allocation of additional budget required for this project following acceptance of the tender by Council.
- Nabic Water Treatment Plant Upgrade - The aboveground pipework and fittings were started on the pretreatment tank. Roof sheeting was installed to the treated water reservoir with works continuing on the access walkway and supporting frame. Pipework and cabling installation commenced for the lamella clarifier. Construction is expected to be completed in March 2025.
- Nabic Borefield Expansion – The Water Supply Works Approval for dewatering was obtained to complete the watermain construction.

The pipelaying contractor is scheduled to recommence works in January 2025. Work on the borehut inground pipework interconnections have commenced and the remaining five concrete bore huts have been erected. A high voltage transformer has been installed and energised. Construction is expected to be completed in March 2025.

- Gloucester & Bulahdelah Off river storages – Agreement was reached to amend the State Government Funding Deed Milestones. Overall concept design completion is scheduled for June 2025. Geotechnical investigations for preferred sites are scheduled for late 2024. Additional river flow gauge installation and monitoring program for Bulahdelah has also commenced.
- Old Bar SPS 8 & Gravity System – Verbal agreement from the landowner for the proposed location of the pump station has been finalised. Confirmation of road widths and road intersection requirements for future development applications are in process to enable pump station design to be completed. Finalisation of pump station and rising main is scheduled for completion later 2024. Overall project completion for new pump station construction is scheduled for late 2025 pending finalising agreements to deviate from existing development control plan for Old Bar and land acquisition process.
- Tea Gardens Rising Main – Design activities have continued with the pump station and rising main route drawings. The pump station's existing ventilation and odour system are being assessed. An alternate route around a recently approved subdivision has been finalised, with changes in review of environmental factors assessment. The detailed design is expected to be completed in late 2024. Further works on obtaining dewatering licence approval and hydraulic modelling is underway and may delay construction works. Completion of project is expected in late 2026.

CONSULTATION

The management and coordination of all aspects of infrastructure and engineering projects are undertaken in consultation with a range of internal and external stakeholders.

The internal stakeholders who have contributed to the preparation of this monthly report include:

- Transport Assets	- Transport Operations (North & South)
- Projects and Engineering	- Water Operations
- Water Assets & Planning	- Water Management & Treatment
- Water Project Delivery	- Finance

COMMUNITY IMPACTS

Community impacts are considered and managed in accordance with communication plans tailored to individual projects. Regular reporting of progress and advanced notice of issues is coordinated through our Communications Team.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

These activities align with the following objectives of MidCoast Council's Operational Plan 2024-25 and Delivery plan 2022 to 2026:

Community Outcome 1 Strategy 1.4.2:

We protect the health and safety of our communities - Provide Safe and sustainable networks of water, sewer, and stormwater systems to meet community needs and health and safety standards.

Community Outcome 2 – Strategy 2.2.1 and 2.2.2:

We understand and manage environment and climate change risks and impacts:

- *Promote understanding of place - based risks and vulnerabilities and develop resilience and adaption plans,*
- *Climate change risk management planning and adaption frameworks are applied in development proposals, infrastructure planning and land use planning.*

Community Outcome 2 - Strategy 2.3.3:

Council works towards net zero emissions – Invest in renewable energy efficient measures, power purchasing agreements and carbon sequestration.

Community Outcome 2 - Strategy 2.4.1:

We have an adequate and reliable water supply - Manage all elements of the water cycle to deliver an adequate and reliable water supply that meets community needs now and into the future.

Community Outcome 2 – Strategy 2.5.1and 2.5.2:

We balance the needs of our natural and built environment:

- *Practice integrated land use planning that balances the environmental, social, and economic needs of present and future generations and our existing natural, heritage and cultural assets*
- *Plan, provide, manage, and advocate for infrastructure that continues to meet the needs of our community.*

Community Outcome 2 – Strategy 2.5.1and 2.5.2:

We balance the needs of our natural and built environment:

- *Practice integrated land use planning that balances the environmental, social, and economic needs of present and future generations and our existing natural, heritage and cultural assets*
- *Plan, provide, manage, and advocate for infrastructure that continues to meet the needs of our community.*

Community Outcome 3 - Strategy 3.3.1and 3.3.2:

Our integrated transport networks meet the needs of our businesses and the community:

- *Plan, provide and advocate for safe and efficient regional transport networks.*
- *Design, construction and maintain safe and efficient local transport and mobility networks.*

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1 - Project Status Report Transport

Attachment 2 - Project Status Report Water

Attachment 3 - Hawks Nest STP Upgrade - Pre-Execution Project Gateway Report

17.2. WATER & SYSTEMS MONTHLY PERFORMANCE REPORT

REPORT INFORMATION

Report Author	Marnie Coates, Executive Manager Water & Systems
Date of Meeting	30 October 2024
Authorising Director	Robert Scott, Director Infrastructure & Engineering Services

SUMMARY OF REPORT

The report provides key information on the performance of our water and wastewater services.

RECOMMENDATION

That the Water and Systems Monthly Performance Report be received and that compliance with the guidelines and license conditions be noted.

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

The report details treatment plant licence compliance, drinking water quality and any environmental impacts from sewage spills which occurred during the reporting month.

BACKGROUND

The report provides a snapshot of water and wastewater performance metrics as well as the Water & Systems team's performance against strategic objectives. This enables management to identify and take appropriate action on a timely basis.

DISCUSSION

Last month, several important milestones were achieved in the performance of the water and systems teams. The scheduling function successfully went live, marking a key step in improving operational efficiency. In addition, long-term renewals planning was completed, helping ensure the future sustainability of infrastructure. New recycled water agreements were also adopted to support water reuse initiatives

Water security across the region remains stable, with all schemes showing very low chances of water restrictions over the next three months. The Manning, Gloucester, Stroud, and Bulahdelah schemes reported sufficient storage and capacity. The outlook is further supported by a **La Niña Watch**, indicating a 65-70% chance of above-average rainfall for NSW over spring and summer. This weather pattern should bolster water reserves and reduce the likelihood of drought conditions.

Water quality compliance remained very high, with **99.9% compliance** achieved, and effluent quality at a full **100%**. There was a minor water quality incident in the Tea Gardens scheme, where dichloroacetic acid levels slightly exceeded the limit due to high dissolved organic carbon.

This issue was closely monitored and is under control. Ongoing work to improve water quality and address the generation of disinfection byproducts in the Tea Gardens-Hawks Nest system continues to produce great results.

Importantly, the month saw **no reportable surcharge events**, injuries, or major incidents, reflecting the team's strong focus on safety and compliance.

Operationally, there was a shift towards more unplanned work this month, with **64% of work orders** classified as unplanned, compared to **36% planned**. Despite this, the team remained agile and responsive. Depot visits and operational works planning were initiated, supporting ongoing field activities. The improvements made in water sampling procedures at North Karuah, particularly with chlorine monitoring, will enhance the team's ability to address issues promptly and maintain water quality.

Field sampling equipment stored at the Muldoon St depot was recently reviewed identifying a small number of reagents that were being stored but no longer used due to changes in testing technologies. These chemicals have now been sent for appropriate disposal, limiting the number of reagents stored onsite and reducing WHS risks.

All of the planned maintenance schedules for Water & Sewer have been updated in MC1. Positive feedback has been received from the Operations team. CCTV inspections in the Forster 18 and Forster 05 catchments are currently being undertaken.

In summary, the past month demonstrated strong progress across key projects, compliance, and financial management. Water security remains stable, and the team has continued to deliver high levels of service while managing challenges such as unplanned work and minor water quality issues. With a positive forecast for rainfall and solid financial tracking, the outlook for the coming months remains promising.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

This report aligns with:

- Strategy 6.2 - Continue to develop a sustainable network of water, sewer and storm water systems to meet community needs and health and safety standards.
- 3 Year Focus - 6.2.4 - Deliver ongoing service quality and continuity with increasing efficiency and better performance for Water Services
- Strategy 15.1 – Provide clear, accessible, timely and relevant information to support and inform the community.
- 3 Year Focus - 15.1.5 - Maintain existing reporting capability in Water Services for capital projects and operations.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1 - Water and Systems Monthly Performance Report

17.3. APPLICATION TO CLOSE A COUNCIL PUBLIC ROAD - LOT 2 DP1129077, OFF DIXONS CROSS RD, MONKERAI - APPLICANT: RIVERWOOD DOWNS PTY LTD (RD39054)

REPORT INFORMATION

Report Author	Rob Langdon – Senior Surveyor, Transport Assets
Date of Meeting	30 October 2024
Authorising Director	Robert Scott, Director Infrastructure and Engineering

SUMMARY OF REPORT

This report seeks a resolution to proceed with the closure and sale of Council public road at Monkerai.

RECOMMENDATION

1. That Council proceed with the closure, in two parts being proposed Lots 4 and 5, including the creation of a Right of Carriageway over Lot 513 DP95723 and proposed Lot 4.
2. That Council's common seal be attached to the Plan of Proposed Road Closure and Right of Way, and the plan registered with NSW Land Registry Services (LRS).
3. That proposed Lots 4 and 5 be sold to the applicant in accordance with valuation data and/or advice.
4. That the General Manager be granted delegated authority to sign and execute any documentation as necessary.

FINANCIAL / RESOURCE IMPLICATIONS

All costs associated with the closure and sale of the closed road will be covered by the applicant. The purchase price of the closed road will be determined by valuation. Under s43 of the Road Act 1993, proceeds from the sale of the closed road are restricted to being used for acquiring land for public roads or for carrying out work on public roads. It is appropriate that this money be retained within the roads program to fund survey and property work necessary to resolve public road reserve anomalies.

LEGAL IMPLICATIONS

A Council resolution is required to close a Council public road under the provisions of the Roads Act 1993 and sell the closed road (operational land) under the provisions of the Local Government Act 1993.

RISK IMPLICATIONS

All road closures are potentially subject to appeal to the NSW Land & Environment Court (NSW L&EC) under s38F of the Roads Act 1993. Considering that no objection was received when the proposed closure was advertised, and that the directly affected property owners provided their agreement to the closure, it is expected that no appeal would be lodged with the NSW L&EC.

BACKGROUND

The subject road was dedicated to Council by the Australian Agricultural Company in 1908, and is the remaining part of a public road which connected Dixons Cross Rd to Moores Rd, located approximately 1.8 kms to the west. The former Crown public road connection to Moores Rd was closed in 2015.

DISCUSSION

The approximate length and area of the road is 700 metres and 1.4 ha respectively. A grassed-over gravel formation lies within the road reserve and serves as a dry-weather private driveway from Dixons Cross Rd to the eastern boundary of Lot 2 DP1214282.

No Council infrastructure is affected by the proposed closure. The applicant, who owns the land on the southern and northern side of the subject road, is pursuing the closure of the road to consolidate farming operations and the existing holding.

The owner of land which adjoins the western boundary of the applicant's land and the western end of the subject road, being Lot 2 DP1214282 & Lot 32 DP800610, is directly affected by the proposed closure. However, that adjoining landowner has provided agreement to the closure subject to a Right of Carriageway (ROC) being created over Lot 513 DP95723 and proposed Lot 4 to benefit several properties (listed below). A diagram showing the proposed road closure and proposed ROC is shown in **Attachment 1**.

Additional properties, further west of Lot 2 DP1214282 & Lot 32 DP800610 (but not shown in Attachment 1), also have the benefit of access via the subject road and will need to be included as beneficiaries of the proposed ROC through Lot 513 DP95723 and proposed Lot 4.

Closure of the subject road will require creation of the ROC as an alternative legal access to Dixons Cross Road for the following properties:

Proposed Lot 4 (road to be closed),

Lots 31, 32 & 33 DP800610,

Lots 1 & 2 DP1214282,

Lot 3 DP1214283, and

Lot 271 DP1247145.

Mid-Coast Council will be nominated as the sole authority to release, vary or modify the proposed ROC within Lot 513 DP95723 and proposed Lot 4.

CONSULTATION

The following were consulted:

- Owner of Lot 2 DP1214282 & Lot 32 DP800610
- Owners of Lots 31 & 33 DP800610, Lot 1 DP1214282, Lot 3 DP1214283, and Lot 271 DP1247145
- Public advertising (Roads Act 1993, Roads Regulation 2018)
- Notifiable Authorities (Roads Act 1993, Roads Regulation 2018)
- MCC - Numerous Internal Referrals
- MCC Team Leader Strategic Road Assets

No objection to the closure was raised, and no submission was received from the public.

COMMUNITY IMPACTS

Proceeds from the sale of the road will assist Council in resolving boundary anomalies in the public road reserve network.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1 - Plan showing proposed Road Closure, off Dixons Cross Rd, Monkerai

17.4. APPLICATION TO CLOSE A COUNCIL PUBLIC ROAD - LOT 141 DP754440, OFF OXLEY ISLAND RD, OXLEY ISLAND - APPLICANT: OXLEY FARMING PTY LTD (RD23580)

REPORT INFORMATION

Report Author	Rob Langdon – Senior Surveyor, Transport Assets
Date of Meeting	30 October 2024
Authorising Director	Robert Scott, Director Infrastructure and Engineering Services

SUMMARY OF REPORT

This report seeks a resolution to proceed with the closure and sale of Council public road on Oxley Island.

RECOMMENDATION

1. That Council proceed with the closure and sale of the subject road.
2. That Council's common seal be attached to the Plan of Proposed Road Closure and the plan registered with NSW Land Registry Services (LRS).
3. That the General Manager be granted delegated authority to sign and execute any documentation as necessary.

FINANCIAL / RESOURCE IMPLICATIONS

All costs associated with the closure and sale of the closed road will be covered by the applicant. The purchase price of the closed road will be determined by valuation. Under s43 of the Road Act 1993, proceeds from the sale of the closed road are restricted to being used for acquiring land for public roads or for carrying out work on public roads. It is appropriate that this money be retained within the roads program to fund survey and property work necessary to resolve other road reserve anomalies.

LEGAL IMPLICATIONS

A Council resolution is required to close a Council public road under the provisions of the Roads Act 1993 and sell the closed road (operational land) under the provisions of the Local Government Act 1993.

RISK IMPLICATIONS

All road closures are potentially subject to appeal to the NSW Land & Environment Court (NSW L&EC) under s38F of the Roads Act 1993. Considering that no objection was received when the proposed closure was advertised, and that the directly affected property owners provided their agreement to the closure, it is expected that no appeal would be lodged with the NSW L&EC.

BACKGROUND

The subject road was dedicated as public road by the NSW Government in 1904. The road was then transferred to Council in 1908 at the commencement of local government in NSW. The road connects between Oxley Island Rd to Murdochs Lane. However, two alternative connecting public roads remain nearby, they being Polsons Road located 1.69 kms to the south and Ferry Road located 0.74 kms to the north.

DISCUSSION

The applicant owns the land on the southern and northern side of the subject road.

The approximate length and area of the road is 1 km and 2.0 ha respectively. An overgrown road formation is evident, and the road has not been used by the public for some 50 years. The road is not maintained by Council and serves as a fenced laneway for the movement of stock between the applicant's properties being Lot 1 DP1046529 and Lot 2 DP700939 on the northern side and Lot 141 DP754440 on the southern side.

No Council infrastructure is affected by the proposed closure. The applicant is pursuing the closure of the subject road to consolidate farming operations and the existing holding.

A diagram of the proposed road closure is shown in **Attachment 1**.

CONSULTATION

The following were consulted:

- Public advertising (Roads Act 1993, Roads Regulation 2018)
- Notifiable Authorities (Roads Act 1993, Roads Regulation 2018)
- MCC - Numerous Internal Referrals
- MCC Team Leader Strategic Road Assets

No objection to the closure was raised, and no submission was received from the public.

COMMUNITY IMPACTS

Proceeds from the sale of the road will assist Council in resolving boundary anomalies in the public road reserve network.

LIST OF ATTACHMENTS

The following attachment is available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1 - Plan showing proposed Road Closure, off Oxley Island Rd, Oxley Island

17.5. RENAMING OF SCOTT STREET CARRINGTON

REPORT INFORMATION

Report Author	Karen Whitton, Executive Assistant Infrastructure & Engineering Services
Date of Meeting	30 October 2024
Authorising Director	Robert Scott, Director Infrastructure & Engineering Services

SUMMARY OF REPORT

This report seeks approval from Council to rename Scott Street in Carrington, near North Arm Cove, to Dawson Lane.

RECOMMENDATION

That Council approves the proposed renaming of Scott Street in Carrington, near North Arm Cove, to Dawson Lane.

FINANCIAL / RESOURCE IMPLICATIONS

The financial implications are minimal. The only additional cost is to replace the street name blade sign. Other administrative tasks are funded from the operational budget.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Resolving the potential property address duplication with Scott Street, Carrington in nearby Newcastle will greatly reduce the risks for emergency services and postal/courier services.

BACKGROUND

In late 2022, the NSW Surveyor General and the Chair of the Geographical Names Board (GNB) raised concerns about the duplication of locality names between Carrington (postcode 2324) near North Arm Cove and Carrington (postcode 2294) in Newcastle. This duplication posed a risk for emergency services and caused issues with undelivered mail.

An initial consultation was held with the Carrington community near North Arm Cove to discuss the possibility of changing their locality name. However, opinions were divided, with just over half of the respondents expressing concerns about emergency services' ability to respond accurately.

Further investigation revealed that only **Scott Street** was duplicated in both localities, narrowing the issue to renaming the street rather than the entire locality. The original complaint to the GNB was lodged by a resident of Scott Street.

A consultation process followed, inviting the five property owners of Scott Street, along with local community groups, to submit suggestions for renaming the street. Seven name suggestions were received but only two were accepted by the GNB: **Dawson** and **Allambi**. Ultimately, the name **Dawson Lane** was selected in recognition of Robert Dawson who named Carrington in 1828 and served as the first Commissioner of the Australian Agricultural Company.

DISCUSSION

Scott Street at Carrington is a local road that is only formed for part of its length. It is marked in red on the map below.



As the default road authority for public roads, the renaming of Scott Street is a matter for Council to resolve. The GNB have reviewed the proposal and found both **Dawson** and **Allambi** to be compliant with their policy.

The renaming process involves notifying property owners, updating services and replacing street signs.

As no objections were received, the following steps would need to be undertaken to finalise the renaming process:

- New addresses allocated to the five affected properties.
- Relevant services (postal, emergency, etc.) updated.
- Letters to property owners advising them of their new addresses.
- Street signs replaced.
- Council asset databases updated.
- The GNB informed for official gazettal.

The renaming resolves the confusion caused by the duplicated locality names, ensuring more accurate emergency services responses while recognising the historical significance of Robert Dawson.

CONSULTATION

An initial consultation was held with the Carrington community, followed by individual engagement with the five property owners of Scott Street, as well as local community groups, for suggested names. Ultimately, the name **Dawson Lane** was selected based on the feedback.

LIST OF ATTACHMENTS

Nil

18. DIRECTOR OF CORPORATE SERVICES

18.1. TREE SERVICES PANEL

Report Author	Chris Murray, Contracts Officer
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

This report provides the outcomes of the Open Request for Tender process to establish a Tree Services Panel, between the periods of 30 October 2024 to 30 June 2027.

RECOMMENDATION

That Council:

1. Receive and note the report.
2. Accepts the recommendation of panellists for the Tree Services Panel, proposed to run from 30 October 2024 to 30 June 2027, with two (2) possible contract extensions of twelve (12) months each dependent on satisfactory contractor performance.
3. Delegate to the General Manager the authority to execute an individual Deed of Standing Offer between Council and panellists.

FINANCIAL / RESOURCE IMPLICATIONS

This Panel incorporates a scope of works for planned and unplanned (emergency) tree services. This Panel will be available to staff across the organisation to select pre-qualified Tree Service contractors. Staff will be required to ensure the works are included in the current budget prior to engagement.

This Panel will be centrally managed by the Procurement Team, in accordance with the MCC-24-001 Tree Services Panel Rules, refer Confidential Attachment 2.

LEGAL IMPLICATIONS

This Open Request for Tender was conducted on behalf of Council by Regional Procurement in accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.

A Deed of Standing Offer will be issued to each successful Tenderer.

RISK IMPLICATIONS

As part of the evaluation process, potential risks were identified and mitigating solutions were developed.

BACKGROUND

Council currently has a Tree Services Panel in operation which was due to expire 01 July 2024. This contract was extended whilst the process was being undertaken.

An Open Request for Tender was conducted on behalf of Council by Regional Procurement. Tenders closed at 10 am on Friday 10 May 2024. Tenders were received from:

- Ability Tree Services Pty Ltd (Tree Service Unit Trust)
- Andy's Tree Service
- Irwin Tree Group Pty Ltd
- MME (Marksman Earthworks)
- Summit Open Space Services (Asplundh Tree Expert Australia) – LATE SUBMISSION
- Tree Solutions NSW Pty Ltd
- Treecologica Pty Ltd
- TreeServe Pty Ltd

DISCUSSION

The Tender evaluation was conducted in accordance with the Local Government Tendering Guidelines by Regional Procurement using the following methodology:

- Pricing
- Referees
- Quality Assurance
- WHS
- Ecologically Sustainable Development
- Previous Experience

MidCoast Council's Procurement Team reviewed the evaluation process and developed Panel Rules to ensure attention to the following key areas;

- Previous experience
- Quality Management Systems, Work Health & Safety and Ecologically Sustainable Development documentation with numerous suppliers, taking into consideration this is a panel involving high risk work.

At a working group with key internal Panel users held on 01 July 2024, the draft Panel Rules were presented and discussed. The key aspects of the Panel Rules documentation is to provide suitable risk management following identification of areas of concern, noted above. Further controls were workshopped and implemented into the documentation and templates, forming the framework of the Panel Rules proposed to be rolled out for all Panel contracts available to staff. This proposal was adopted by the Leadership Group on 27 August 2024.

This Tree Services Panel will allow Open Spaces and Recreation to maintain vegetation and its immediate environment in open spaces and passive recreation areas as prescribed in MidCoast Council's Operational Plan for 2024-2025.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Community Strategic Plan - Strategy 3.1.1. Identify and harness opportunities for businesses and economic development.

Community Strategic Plan - Strategy 4.2.2. Use business improvement, project management and risk management methodologies to ensure best outcomes.

TIMEFRAME

The Tree Services Panel will operate for three (3) years from 30 October 2024 until 30 June 2027 with two (2) possible twelve (12) month extensions each dependent on satisfactory contractor performance.

LIST OF ATTACHMENTS

1. Attachment 1 - CONFIDENTIAL - Regional Procurement Evaluation Report - Tree Services Panel
2. Attachment 2 - CONFIDENTIAL - Panel Rules - MCC-24-001 Tree Services Panel

The two (2) attachments have been classified as confidential and circulated to Councillors and Senior Staff only. The attachments have been classified as CONFIDENTIAL in accordance with Section 10A(2)(d)(i) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following;

(d) commercial information of a confidential nature that would, if disclosed-

(i) prejudice the commercial position of the person who supplied it

Tender details, should they be revealed, may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence.

It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

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18.2. MCC-24-014 EXTERNAL PLANT & EQUIPMENT HIRE PANEL

REPORT INFORMATION

Report Author	Chris Murray, Contracts Officer
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

This report provides the outcomes of the Open Request for Tender process to establish an External Plant and Equipment Hire Panel, between the periods of 30 November 2024 to 01 December 2027

RECOMMENDATION

That Council:

1. Receive and note the report.
2. Accepts the recommendation of panellists for the External Plant and Equipment Hire Panel, proposed to run from 30 November 2024 to 01 December 2027, with two (2) possible contract extensions of twelve (12) months each dependent on satisfactory contractor performance.
3. Authorise the General Manager to execute Deeds of Standing Offer between Council and individual panellists.

FINANCIAL / RESOURCE IMPLICATIONS

This Panel incorporates scope of works for planned and unplanned (emergency) hire of plant and equipment, with or without operators. This Panel will be available to staff across the organisation to select pre-qualified plant, equipment and contractors.

Staff will be required to ensure the works are included in the current budget prior to engagement.

This Panel will be centrally managed by the Procurement Team, in accordance with the MCC-24-014 External Plant and Equipment Hire Panel Rules.

LEGAL IMPLICATIONS

This Open Request for Tender was conducted in accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.

A Deed of Standing Offer will be issued to each successful Tenderer.

RISK IMPLICATIONS

As part of the evaluation process, potential risks that exist within this Panel were identified and a minimum acceptable score of 50% for Technical Criteria was established. Technical Criteria included Work Health and Safety Management, demonstrated key personnel experience and overall compliance with the Tender Response.

Failure to meet the minimum acceptable score of 50% for Technical Criteria, offered potential risks to Council and excluded the Respondent from further evaluation.

BACKGROUND

Council currently has an External Plant and Equipment Hire Panel in operation that was due to expire 30 September 2024. This Panel allows Liveable Communities and Infrastructure and Engineering to hire pre-qualified plant, equipment and engage contractors, enabling them to conduct business as usual and deliver services to the MidCoast Council Local Government Area.

An Open Request for Tender was issued on 01 August 2024 with Tenders closed at 2pm on Thursday 29 August 2024. Due to the Local Government Elections being held on 14 September 2024 and Council operating in Caretaker Mode the extension clause in the current Panel Contract was activated for a period of three (3) months.

There were 106 Respondents to the Open Request for Tender, offering a broad range of Plant and Equipment with (wet) and without (dry) operators.

DISCUSSION

The Tender Evaluation was conducted in accordance with the Local Government Tendering Guidelines by a MidCoast Council Evaluation Panel. The Evaluation process involved staff from Water Operations, Waste Operations, Liveable Communities Public Spaces and Procurement using the following methodology:

- Schedule of Rates
- Financial Viability
- WHS Management
- Key Personnel Experience
- Overall Compliance to the Request for Tender documents

Technical Criteria carried a 60% weighting and Pricing Criteria a weighting of 40%.

The External Plant and Equipment Hire Panel will operate utilising the Panel Rules framework that was adopted by the Leadership Group on 27 August 2024. These rules will assist with risk mitigation as well as streamline the RFQ and engagement process for MidCoast Council staff and give the Procurement Team greater visibility of Panel usage and Contractor performance.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Operational Plan - Community Outcome Strategy 3.1.1 - Identify and harness opportunities for business and economic development.

Operational Plan - Community Outcome Strategy 4.2.2 - Use business improvement, project management and risk management methodologies to ensure best outcomes.

Operational Plan - Key Focus Area - Economic Development - We will give due consideration to the local economy when sourcing goods and services, sourcing locally where possible while maintaining a value for money approach.

TIMEFRAME

The External Plant and Equipment Hire Panel will operate for three (3) years from 30 November 2024 until 01 December 2027 with two (2) possible twelve (12) month extensions each dependent of satisfactory contractor performance.

This Panel at Council's discretion has the option for an annual refresh to allow further contractors and businesses to be added to the panel potentially offering competitive rates and new or alternate equipment. The same Tender Documents will be issued, and respondents evaluated against the same criteria.

LIST OF ATTACHMENTS

CONF - Attachment 1 External Plant & Equipment Hire Panel Tender Compliance and Evaluation Scorecard

CONF - Attachment 2 MCC-24-014 External Plant & Equipment Hire Panel Evaluation Report

Attachments 1 and 2 have been classified as confidential and circulated to the Councillors and Senior Staff only. The attachments have been classified as CONFIDENTIAL in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

(d) commercial information of a confidential nature that would, if disclosed

(i) prejudice the commercial position of the person who supplied it

Tender details, should they be revealed, may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence.

It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

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18.3. PROPOSED ACQUISITION OF LAND FOR PUBLIC ROAD, 411 BLACKHEAD ROAD, HALLIDAYS POINT

REPORT INFORMATION

Report Author	John White, Roads Property Officer
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

Council's Capital Works Program includes the construction of a two metre wide shared path along Blackhead Road between Tallwoods Village and Diamond Beach Road. The project supports Council's delivery of services outlined in the *Pedestrian Access and Mobility Plan* for Hallidays Point.

This report addresses the required land acquisition at 411 Blackhead Road, Hallidays Point.

RECOMMENDATION

That Council:

1. Proceed with the acquisition of approximately 201m² of land identified in the Attachments, being part of existing Lot A DP 368477 known as 411 Blackhead Road, Hallidays Point (the relevant area) in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*, by agreement or by compulsory process,
2. Pay compensation to the owner of Lot A DP 368477 in accordance with the Compensation Terms set out in the Attachments - **Confidential (Section 10A(2)(c) Local Government Act 1993)**,
3. In the event that acquisition by agreement cannot be negotiated, Council make an application to the Minister and the Governor for approval to acquire the relevant area by compulsory process under section 177(1) of the Roads Act 1993,
4. Once acquired, dedicate the relevant area as public road in accordance with Part 2 of the Roads Act 1993, and
5. Delegate authority to the General Manager to execute all documents associated with the acquisition of the relevant area and dedication thereof as public road.

FINANCIAL / RESOURCE IMPLICATIONS

All costs associated with the acquisition of the subject property will be accommodated by the project budget.

LEGAL IMPLICATIONS

There are no legal implications relating to the proposed acquisition, other than the required Council resolution for the acquisition of land under the provisions, and for the purposes, of the relevant Act/s.

RISK IMPLICATIONS

As the property owner has provided a Permit to Enter the project works have commenced. There is therefore little risk involved in this transaction which can proceed following approval by Council resolution.

BACKGROUND

The project will provide pedestrian access from Tallwoods Village through to the Diamond Beach Road intersection, connecting to existing pedestrian infrastructure through to Black Head beach.

Budget for this project is \$3.0m. Council has attracted NSW Government grant funding from the *Accelerated Infrastructure Fund* (\$1.76m) and the *Get NSW Active Program* (\$1.20m + contingency) to cover.

Design work identified the need to acquire small portions of private land adjoining Blackhead Road to provide sufficient space for the path as well as appropriate separation from the roadway. Negotiations have taken place with the affected landowners and this report sets out the outcome currently agreed with the owner of 411 Blackhead Road. Separate reports will be provided for the other affected properties.

DISCUSSION

Detailed discussions were held between Council Officers and the landowner.

The landowner has provided a Permit to Enter, which has allowed Council to utilise the subject land and progress the works pending completion of the acquisition. To date, new fencing on the proposed boundary has been installed in readiness for construction of the path. Appropriate rectification works in respect to entrances, driveways, relocation of services etc. will also be completed as part of the project.

A valuation and negotiation process has also taken place in accordance the *Land Acquisition (Just Terms Compensation) Act 1991* and resulted in the acquisition agreement set out in this report.

A survey has been commissioned which will provide the required plan of acquisition suitable for registration.

CONSULTATION

- Landowner
- MCC Survey Designer
- MCC Project Manager
- First State Property Valuers
- Zenith Surveyors

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Community Strategic Plan

It is safe and easy to get around our region - Plan for, provide and maintain a safe road network that meets current and future needs.

TIMEFRAME

There is no legislative timeframe with which to comply regarding the proposed acquisition of the land. However, given that Council has received cooperation from the affected landowner and that the proposed acquisition has been negotiated and agreed by the parties it is considered appropriate to proceed without delay.

LIST OF ATTACHMENTS

Attachment 1 is available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1: Plan and Details Proposed Land Acquisition Lot A DP 368477

Attachment 2 has been classified as confidential and circulated to the Councillors and Senior Staff only. The attachment has been classified as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits this attachment and any discussion with respect to this attachment to be closed to the public as it contains information relating to:

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Attachment 2: Compensation Terms - **Confidential - Section 10A(2)(c) Local Government Act 1993**.

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18.4. PROPOSED ACQUISITION OF LAND FOR PUBLIC ROAD, 415 BLACKHEAD ROAD, HALLIDAYS POINT

REPORT INFORMATION

Report Author	John White, Roads Property Officer
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

Council's Capital Works Program includes the construction of a two metre wide shared path along Blackhead Road between Tallwoods Village and Diamond Beach Road. The project supports Council's delivery of services outlined in the *Pedestrian Access and Mobility Plan* for Hallidays Point.

This report addresses the required land acquisition at 415 Blackhead Road, Hallidays Point.

RECOMMENDATION

That Council:

1. Proceed with the acquisition of approximately 1,090m² (in two portions) of land identified in the Attachments, being part of existing Lot 21 DP 1150979 known as 415 Blackhead Road, Hallidays Point (the relevant area) in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*, by agreement or by compulsory process,
2. Pay compensation to the owner of Lot 21 DP 1150979 in accordance with the Compensation Terms set out in the Attachments - **Confidential (Section 10A(2)(c) Local Government Act 1993)**,
3. In the event that acquisition by agreement cannot be negotiated, Council make an application to the Minister and the Governor for approval to acquire the relevant area by compulsory process under section 177(1) of the Roads Act 1993,
4. Once acquired, dedicate the relevant area as public road in accordance with Part 2 of the Roads Act 1993, and
5. Delegate authority to the General Manager to execute all documents associated with the acquisition of the relevant area and dedication thereof as public road.

FINANCIAL / RESOURCE IMPLICATIONS

All costs associated with the acquisition of the subject property will be accommodated by the project budget.

LEGAL IMPLICATIONS

There are no legal implications relating to the proposed acquisition, other than the required Council resolution for the acquisition of land under the provisions, and for the purposes, of the relevant Act/s.

RISK IMPLICATIONS

As the property owner has provided a Permit to Enter the project works have commenced. There is therefore little risk involved in this transaction which can proceed following approval by Council resolution.

BACKGROUND

The project will provide pedestrian access from Tallwoods Village through to the Diamond Beach Road intersection connecting to existing pedestrian infrastructure through to Black Head beach.

Budget for this project is \$3.0m. Council has attracted NSW Government grant funding from the *Accelerated Infrastructure Fund* (\$1.76m) and the *Get NSW Active Program* (\$1.20m + contingency) to cover.

Design work identified the need to acquire small portions of private land adjoining Blackhead Road to provide sufficient space for the path as well as appropriate separation from the roadway. Negotiations have taken place with the affected landowners and this report sets out the outcome currently agreed with the owner of 415 Blackhead Road. Separate reports will be provided for the other affected properties.

DISCUSSION

Detailed discussions were held between Council Officers and the landowner.

The landowner has provided a Permit to Enter, which has allowed Council to utilise the subject land and progress the works pending completion of the acquisition. To date, new fencing on the proposed boundary has been installed in readiness for construction of the path. Appropriate rectification works in respect to entrances, driveways, relocation of services etc. will also be completed as part of the project.

A valuation and negotiation process has also taken place in accordance the *Land Acquisition (Just Terms Compensation) Act 1991* and resulted in the acquisition agreement set out in this report.

A survey has been commissioned which will provide the required plan of acquisition suitable for registration.

CONSULTATION

- Landowner
- MCC Survey Designer
- MCC Project Manager
- First State Property Valuers
- Zenith Surveyors

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Community Strategic Plan

It is safe and easy to get around our region - Plan for, provide and maintain a safe road network that meets current and future needs.

TIMEFRAME

There is no legislative timeframe with which to comply regarding the proposed acquisition of the land. However, given that Council has received cooperation from the affected landowner and that the proposed acquisition has been negotiated and agreed by the parties it is considered appropriate to proceed without delay.

LIST OF ATTACHMENTS

Attachment 1 is available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1: Plan and Details Proposed Land Transfer Lot 21 DP 1150979

Attachment 2 has been classified as confidential and circulated to the Councillors and Senior Staff only. The attachment has been classified as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits this attachment and any discussion with respect to this attachment to be closed to the public as it contains information relating to:

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Attachment 2: Compensation Terms

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18.5. PROPOSED ACQUISITION OF LAND FOR PUBLIC ROAD, 371 BLACKHEAD ROAD, HALLIDAYS POINT

REPORT INFORMATION

Report Author	John White, Roads Property Officer
Date of Meeting	30 October 2024
Authorising Director	Steve Embry

SUMMARY OF REPORT

Council's Capital Works Program includes the construction of a two metre wide shared path along Blackhead Road between Tallwoods Village and Diamond Beach Road. The project supports Council's delivery of services outlined in the *Pedestrian Access and Mobility Plan* for Hallidays Point.

This report addresses the required land acquisition at 371 Blackhead Road, Hallidays Point.

RECOMMENDATION

That Council:

1. Proceed with the acquisition of approximately 140m² of land identified in the Attachments, being part of existing Lot 152 DP 817993 known as 371 Blackhead Road, Hallidays Point (the relevant area) in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991, by agreement or by compulsory process,
2. Pay compensation to the owner of Lot 152 DP 817993 in accordance with the Compensation Terms set out in the Attachments - ***Confidential (Section 10A(2)(c) Local Government Act 1993)***,
3. In the event that acquisition by agreement cannot be negotiated, Council make an application to the Minister and the Governor for approval to acquire the relevant area by compulsory process under section 177(1) of the Roads Act 1993,
4. Once acquired, dedicate the relevant area as public road in accordance with Part 2 of the Roads Act 1993, and
5. Delegate authority to the General Manager to execute all documents associated with the acquisition of the relevant area and dedication thereof as public road.

FINANCIAL / RESOURCE IMPLICATIONS

All costs associated with the acquisition of the subject property will be accommodated by the project budget.

LEGAL IMPLICATIONS

There are no legal implications relating to the proposed acquisition, other than the required Council resolution for the acquisition of land under the provisions, and for the purposes, of the relevant Act/s.

RISK IMPLICATIONS

As the property owner has provided a Permit to Enter the project works have commenced. There is therefore little risk involved in this transaction which can proceed following approval by Council resolution.

BACKGROUND

The project will provide pedestrian access from Tallwoods Village through to the Diamond Beach Road intersection, connecting to existing pedestrian infrastructure through to Black Head beach.

Budget for this project is \$3.0m. Council has attracted NSW Government grant funding from the *Accelerated Infrastructure Fund* (\$1.76m) and the *Get NSW Active Program* (\$1.20m + contingency) to cover.

Design work identified the need to acquire small portions of private land adjoining Blackhead Road to provide sufficient space for the path as well as appropriate separation from the roadway. Negotiations have taken place with the affected landowners and this report sets out the outcome currently agreed with the owner of 371 Blackhead Road. Separate reports will be provided for the other affected properties.

DISCUSSION

Detailed discussions were held between Council Officers and the landowner.

The landowner has provided a Permit to Enter, which has allowed Council to utilise the subject land and progress the works pending completion of the acquisition. To date, new fencing on the proposed boundary has been installed in readiness for construction of the path. Appropriate rectification works in respect to entrances, driveways, relocation of services etc. will also be completed as part of the project.

A valuation and negotiation process has also taken place in accordance the *Land Acquisition (Just Terms Compensation) Act 1991* and resulted in the acquisition agreement set out in this report.

A survey has been commissioned which will provide the required plan of acquisition suitable for registration.

CONSULTATION

- Landowner
- MCC Survey Designer
- MCC Project Manager
- First State Property Valuers
- Zenith Surveyors

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Community Strategic Plan

It is safe and easy to get around our region - Plan for, provide and maintain a safe road network that meets current and future needs.

TIMEFRAME

There is no legislative timeframe with which to comply regarding the proposed acquisition of the land. However, given that Council has received cooperation from the affected landowner and that the proposed acquisition has been negotiated and agreed by the parties it is considered appropriate to proceed without delay.

LIST OF ATTACHMENTS

Attachment 1 is available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1: Plan and Details Proposed Land Transfer Lot 152 DP 817993

Attachment 2 has been classified as confidential and circulated to the Councillors and Senior Staff only. The attachment has been classified as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits this attachment and any discussion with respect to this attachment to be closed to the public as it contains information relating to:

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Attachment 2: Compensation Terms

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18.6. TEMPORARY DELEGATION TO THE GENERAL MANAGER OF POLICY MAKING FUNCTIONS - UPDATE

REPORT INFORMATION

Report Author	Rob Griffiths, Manager Governance
Date of Meeting	30th October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

To report that in alignment with Council Resolution 362/2024, the General Manager did not exercise policy making functions of the governing body of Council between 14 September 2024 and 9 October 2024.

RECOMMENDATION

That the report be noted.

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Nil.

BACKGROUND

At the 4th September Ordinary Meeting, Council resolved:

362/2024 RESOLUTION

(Moved Cr J Miller/Seconded Cr T Fowler)

1. That Council delegate to the General Manager under section 377 of the *Local Government Act 1993* to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between 14 September 2024 and 9 October 2024.
2. That a report be brought to the first meeting of the new Council term detailing any instances where this delegation has been used.

Under section 226(d) of the *Local Government Act 1993* (the Act), the Mayor may exercise, in cases of necessity, the policy-making functions of the governing body between Council meetings. The NSW Local Government Election was held on the 14th September, 2024, at which all Councillors including the Mayor ceased to hold office. The above resolution enabled the General Manager to exercise, in cases of necessity, the policy-making functions of the governing body until the election of the current Mayor, which occurred on the 9th October, 2024.

DISCUSSION

In alignment with Resolution 362/2024, the General Manager was not required to exercise the policy making functions of the governing body between the 14th September 2024, and the 9th October 2024.

LIST OF ATTACHMENTS

Nil.

18.7. CASH INVESTMENTS REPORT - AUGUST 2024

REPORT INFORMATION

Report Author	Phil Brennan, Manager Finance
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

This report provides details of the funds invested by Mid-Coast Council under section 625 of the Local Government Act 1993 as required by clause 212 of the Local Government (General) Regulation 2021.

RECOMMENDATION

That the report be received and noted.

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

A monthly report on Investments made and held by Council together with a statement by Council's Responsible Accounting Officer is required by legislation.

RISK IMPLICATIONS

Nil.

BACKGROUND

Section 625 of the Local Government Act 1993 permits a Council to invest money that is not, for the time being, required for any other purpose. This money may only be invested in a form of investment that has been notified in an Order by the Minister for Local Government.

Clause 212 of the Local Government (General) Regulation 2021 requires that the Responsible Accounting Officer of Council must provide Council with a written report setting out all money invested under section 625 of the Local Government Act, at the last day of the month immediately preceding the meeting.

It also requires that the Responsible Accounting Officer must include a certificate as to whether or not the investments have been made in accordance with the Act, Regulations and Policies. The Responsible Accounting Officer's Certificate is included as Attachment 1.

Council last reviewed and adopted a revised Investment Policy at its Council Meeting held on 22 May 2024. The Policy is subject to annual review.

The Policy provides the following guidance:

"When investing Council's funds consideration should be given to:

- *Minimising the risk to capital. Preservation of capital is the principal consideration of the investment policy and portfolio construction.*
- *Ensuring that there are sufficient liquid funds to meet all reasonably anticipated cash flow requirements.*
- *Providing Council with the best possible returns while preserving capital.*

- *Compliance with legislation, regulations, the prudent person test of the Trustee Act and best practice guidelines.”*

DISCUSSION

As at 31 August 2024, Council had \$343,307,182 in invested funds with financial institutions.

Those funds consist of:

Product	Amount Invested
At-Call Accounts	\$18,325,613
6 Month Notice Accounts	\$11,081,569
Term Deposits	\$256,000,000
Floating Rate Notes*	\$40,900,000
Government Issued Bonds	\$17,000,000
Total	\$343,307,182

*Note: Floating Rates Notes are reported within this report at purchase value. There is a market for these products and the current valuation of these products is included in Attachment 3.

In addition to the invested funds with financial institutions, Council also has \$36,400,893 cash at bank as at 31 August 2024 held in its operating accounts.

The Investment Policy requires that this report include the following matters:

1.Details of each investment

These details are shown in Attachment 2 to this report. That report provides the following detail for each investment held by Council:

Investment Date, Interest Rate, Security Type, Duration, Amount Invested, Maturity Date, Counter Party (who holds the investment), Credit Rating

2. Counterparty Holdings

The Policy provides for the following Counterparty Limits (maximum amount to be held with any one institution):

Credit Rating	Individual % of Portfolio
AAA	40%
AA Category or Major Bank	40%
A Category	20%
BBB+ or BBB	10%
BBB- / Unrated	2%
TCorp IM Funds	10%

Additionally, the total investments held in BBB- rated and ADI / unrated financial institutions are not to exceed 5.00% of the total portfolio.

The position at 31 August 2024 with respect to Counterparty compliance is as follows:

Counterparty	Rating	Amount Invested	% Invested	Max % Limit	Comply (Y / N)
ANZ	AA-	\$6,500,000	1.89%	40.00%	Y
CBA	AA-	\$25,825,613	7.52%	40.00%	Y
NAB	AA-	\$53,500,000	15.58%	40.00%	Y

Counterparty	Rating	Amount Invested	% Invested	Max % Limit	Comply (Y / N)
Westpac	AA-	\$47,500,000	13.84%	40.00%	Y
NTTC	AA-	\$17,000,000	4.95%	40.00%	Y
Suncorp	A+	\$40,100,000	11.68%	20.00%	Y
UBS AG	A+	\$2,600,000	0.76%	20.00%	Y
Macquarie Bank	A+	\$3,000,000	0.87%	20.00%	Y
ICBC	A	\$7,500,000	2.19%	20.00%	Y
ING	A	\$36,700,000	10.69%	20.00%	Y
BoQ	A-	\$27,000,000	7.86%	20.00%	Y
Bendigo	A-	\$6,700,000	1.95%	20.00%	Y
AMP Bank	BBB+	\$18,581,569	5.41%	10.00%	Y
Aus. Military	BBB+	\$7,500,000	2.19%	10.00%	Y
Aus. Unity	BBB+	\$7,000,000	2.04%	10.00%	Y
Bank Australia	BBB+	\$4,100,000	1.19%	10.00%	Y
Defence Bank	BBB+	\$2,500,000	0.73%	10.00%	Y
Great Southern	BBB+	\$1,250,000	0.36%	10.00%	Y
Newcastle Perm	BBB+	\$7,000,000	2.04%	10.00%	Y
Heritage	BBB+	\$1,200,000	0.35%	10.00%	Y
Police Bank	BBB+	\$2,250,000	0.66%	10.00%	Y
RACQ Bank	BBB+	\$2,500,000	0.73%	10.00%	Y
Auswide Bank	BBB	\$2,000,000	0.58%	10.00%	Y
Judo Bank	BBB	\$5,000,000	1.46%	10.00%	Y
MyState	BBB	\$8,500,000	2.48%	10.00%	Y
Total		\$343,307,182	100.00%		

The percentage of the portfolio held in BBB- rated and ADI / unrated financial institutions at 31 August 2024 is 0.00% which is within the limit.

Council is within counterparty limits for all holdings at the end of August 2024.

3. Dissection based on Maturity Horizon

The policy requires that Council maintain sufficient funds in on-call accounts and short-term investments to ensure that liquidity and income requirements are met. Once liquidity requirements are met, the portfolio maturity profile will aim to spread risk across the investment horizon.

The current positioning of the portfolio based on the remaining term to maturity is as follows:

Investment Maturity	Amount	% of Portfolio	Policy Limits
Cash	\$29,407,182	8.57%	
0 - 3 months	\$33,000,000	9.61%	10% - 100%
3 - 12 months	\$103,100,000	30.03%	0% - 90%
12 - 24 months	\$98,750,000	28.76%	0% - 70%

Investment Maturity	Amount	% of Portfolio	Policy Limits
24 - 60 months	\$79,050,000	23.03%	0% - 60%
Greater than 5 years	\$0	0.00%	0% - 25%

This indicates that Council has acceptable levels of funds maturing over the short-term to meet liquidity requirements (48.21% as cash or maturing within 12 months).

The above indicates that Council still has capacity to increase its holdings in longer dated maturities. This is reflected in the weighted average duration of the portfolio of around 476 days or 16 months.

The 12 - 24 months are spread broadly evenly across the maturity range. The 24 - 60 months are mostly held across the 24 – 36 month range.

The following table shows the current break-up of the portfolio based on the investment term at the time of purchase of the investment.

Investment Term	Amount	% of Portfolio	Policy Limits
Cash	\$29,407,182	8.57%	
0 - 3 months	\$0	0.00%	10% - 100%
3 - 12 months	\$7,500,000	2.18%	0% - 90%
12 - 24 months	\$117,000,000	34.08%	0% - 70%
24 - 60 months	\$180,400,000	52.55%	0% - 60%
Greater than 5 years	\$9,000,000	2.62%	0% - 25%

4. Portfolio by Credit Rating

The table below shows the diversification of the portfolio by credit rating:

Credit Rating	Amount	% of Portfolio	Policy Limits
AAA Category	\$0	0.00%	0% - 100%
AA Category or Major Bank	\$150,325,613	43.79%	20% - 85%
A Category	\$123,600,000	36.00%	15% - 60%
BBB Category	\$69,381,569	20.21%	0% - 45%
BBB- / Unrated ADIs	\$0	0.00%	0% - 5%
Total	\$343,307,182	100.00%	

Council is within the policy limits across the credit ratings at the end of August 2024.

At the end of August 2024, 79.79% of the portfolio is held with institutions that are rated at A or higher. Council holds no BBB- investments (the lowest investment grade rating) or unrated ADIs at the present time.

At present there has been little offered by the market to warrant a significant move of investments into the BBB rated categories.

5. Comparison of Returns to Benchmarks

Council's performance for the month ending 31 August 2024 is summarised below:

As at the end of August 2024, Council's deposit portfolio has an average running yield of 4.54% p.a. which is up 9 basis points from the previous month.

Notwithstanding the comments below under the monthly performance heading, with the transfer to a new Investment Advisory service from 1 July 2024 work has continued to confirm the performance reporting against benchmark, with further work required to understand the methodology being used to calculate these figures. As such, performance reporting against benchmark has not been included within this report.

Monthly performance reporting will resume once these variances are understood.

Investment Advisor Commentary

Council's Investment Advisor, Laminar Capital, provides the following comments in respect of the investment portfolio.

Monthly Performance:

"The portfolio achieved a return of 0.31% for the month of August which was 0.07% below the benchmark AusBond Bank Bill Index return of 0.38%. The weighted average running yield on the portfolio is 4.54%."

Portfolio Commentary:

"We see fixed rates steady but with risks tilted towards higher rates limiting appetite for extending duration in the very near term while the RBA plays down rate cut expectations on elevated underlying inflation excluding government cost of living subsidies. We see highly rated bank credit spreads steady in the near term while structured credit is likely to outperform. We continue to maintain a positive view on adding additional long dated floating rate investments to portfolios with tactical interest in shorter dated fixed rate investments."

Economic Impacts on Council's Portfolio

"The RBA left the cash rate unchanged at 4.35% at its early-August policy meeting indicating again that the committee had considered hiking the cash rate because of the stickiness of inflation. In the Monetary Policy Statement published at the same time as the policy decision, the RBA now forecasts that within target inflation will occur 6 months later than previously forecast, out in the first half of 2026. The stickiness of inflation led RBA Governor, Michelle Bullock, to counter some market forecasts of a rate cut later this year indicating that the current 4.35% cash rate would not be cut for six months at least. The push back against market expectations of a late 2024 rate cut comes against a backdrop of official interest rates starting to be cut overseas, but in those countries official rates were higher than in Australia to start and inflation has fallen more. In Australia, the RBA remains concerned that demand continues to grow more strongly than output implying slow and patchy progress reducing inflation. The Q2 CPI report showed inflation down to 3.8% y-o-y from 4.1% y-o-y in Q1 but with underlying inflation still near 4.0% y-o-y, far too high for the RBA to consider reducing the cash rate. Government bonds have rallied over the past month, mostly because of a sell-off in risk assets late in July and in early August as well as because of expectations of falling official interest rates overseas. Both the 2 and 10-year bond yields have fallen around 40bps over the past month to respectively around 3.65% and 3.90%. These yields look low against the RBA's commitment to keep the cash rate where it is, at 4.35%, through to next year. Our view remains that local growth and inflation data will not provide leeway for the RBA to cut the cash rate until mid-2025.

In terms of the yield curve, sticky and high inflation close to 4% y-o-y means that further Australian cash rate hikes, although unlikely in our view, cannot be ruled out. What remains more certain is that the official interest rate will need to stay at least at 4.35% for longer. Short-term bond yields should lift more than long-term bond yields over the next month or two flattening the curve. A higher for longer forecast cash rate implies a risk of weak Australian growth bordering recession persisting into 2025. It is likely that long bond yields will start to fall more consistently from late 2024, but from a yield above 4.00% again over the next six months.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1 - Responsible Accounting Officer's Certificate

Attachment 2 - MidCoast Council Investments at 31 August 2024

Attachment 3 - Floating Rate Note Holdings - Valuation at 31 August 2024

18.8. CASH INVESTMENTS REPORT - SEPTEMBER 2024

REPORT INFORMATION

Report Author	Phil Brennan, Manager Finance
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

This report provides details of the funds invested by Mid-Coast Council under section 625 of the Local Government Act 1993 as required by clause 212 of the Local Government (General) Regulation 2021.

RECOMMENDATION

That the report be received and noted.

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

A monthly report on Investments made and held by Council together with a statement by Council's Responsible Accounting Officer is required by legislation.

RISK IMPLICATIONS

Nil.

BACKGROUND

Section 625 of the Local Government Act 1993 permits a Council to invest money that is not, for the time being, required for any other purpose. This money may only be invested in a form of investment that has been notified in an Order by the Minister for Local Government.

Clause 212 of the Local Government (General) Regulation 2021 requires that the Responsible Accounting Officer of Council must provide Council with a written report setting out all money invested under section 625 of the Local Government Act, at the last day of the month immediately preceding the meeting.

It also requires that the Responsible Accounting Officer must include a certificate as to whether or not the investments have been made in accordance with the Act, Regulations and Policies. The Responsible Accounting Officer's Certificate is included as Attachment 1.

Council last reviewed and adopted a revised Investment Policy at its Council Meeting held on 22 May 2024. The Policy is subject to annual review.

The Policy provides the following guidance:

"When investing Council's funds consideration should be given to:

- *Minimising the risk to capital. Preservation of capital is the principal consideration of the investment policy and portfolio construction.*
- *Ensuring that there are sufficient liquid funds to meet all reasonably anticipated cash flow requirements.*
- *Providing Council with the best possible returns while preserving capital.*

- *Compliance with legislation, regulations, the prudent person test of the Trustee Act and best practice guidelines.”*

DISCUSSION

As at 30 September 2024, Council had \$361,925,240 in invested funds with financial institutions.

Those funds consist of:

Product	Amount Invested
At-Call Accounts	\$18,393,318
6 Month Notice Accounts	\$11,131,922
Term Deposits	\$275,000,000
Floating Rate Notes*	\$40,400,000
Government Issued Bonds	\$17,000,000
Total	\$361,925,240

*Note: Floating Rates Notes are reported within this report at purchase value. There is a market for these products and the current valuation of these products is included in Attachment 3.

In addition to the invested funds with financial institutions, Council also has \$19,202,437 cash at bank as at 30 September 2024 held in its operating accounts.

The Investment Policy requires that this report include the following matters:

1.Details of each investment

These details are shown in Attachment 2 to this report. That report provides the following detail for each investment held by Council:

Investment Date, Interest Rate, Security Type, Duration, Amount Invested, Maturity Date, Counter Party (who holds the investment), Credit Rating

2. Counterparty Holdings

The Policy provides for the following Counterparty Limits (maximum amount to be held with any one institution):

Credit Rating	Individual % of Portfolio
AAA	40%
AA Category or Major Bank	40%
A Category	20%
BBB+ or BBB	10%
BBB- / Unrated	2%
TCorp IM Funds	10%

Additionally, the total investments held in BBB- rated and ADI / unrated financial institutions are not to exceed 5.00% of the total portfolio.

The position at 30 September 2024 with respect to Counterparty compliance is as follows:

Counterparty	Rating	Amount Invested	% Invested	Max % Limit	Comply (Y / N)
ANZ	AA-	\$6,500,000	1.80%	40.00%	Y
CBA	AA-	\$25,893,318	7.15%	40.00%	Y
NAB	AA-	\$52,000,000	14.37%	40.00%	Y
Westpac	AA-	\$50,500,000	13.95%	40.00%	Y
NTTC	AA-	\$17,000,000	4.70%	40.00%	Y
Suncorp	A+	\$40,100,000	11.08%	20.00%	Y
UBS AG	A+	\$2,600,000	0.72%	20.00%	Y
Macquarie Bank	A+	\$3,000,000	0.83%	20.00%	Y
ICBC	A	\$7,500,000	2.07%	20.00%	Y
ING	A	\$44,200,000	12.21%	20.00%	Y
BoQ	A-	\$27,000,000	7.46%	20.00%	Y
Bendigo	A-	\$9,200,000	2.54%	20.00%	Y
AMP Bank	BBB+	\$20,631,922	5.70%	10.00%	Y
Aus. Military	BBB+	\$5,000,000	1.38%	10.00%	Y
Aus. Unity	BBB+	\$7,000,000	1.94%	10.00%	Y
Bank Australia	BBB+	\$4,100,000	1.13%	10.00%	Y
Defence Bank	BBB+	\$2,500,000	0.69%	10.00%	Y
Great Southern	BBB+	\$1,250,000	0.35%	10.00%	Y
Newcastle Perm	BBB+	\$7,000,000	1.94%	10.00%	Y
Heritage	BBB+	\$1,200,000	0.33%	10.00%	Y
Police Bank	BBB+	\$2,250,000	0.62%	10.00%	Y
RACQ Bank	BBB+	\$2,500,000	0.69%	10.00%	Y
Auswide Bank	BBB	\$4,500,000	1.24%	10.00%	Y
Judo Bank	BBB	\$5,000,000	1.38%	10.00%	Y
MyState	BBB	\$8,500,000	2.35%	10.00%	Y
Rabobank	BBB	\$5,000,000	1.38%	10.00%	Y
Total		\$361,925,240	100.00%		

The percentage of the portfolio held in BBB- rated and ADI / unrated financial institutions at 30 September 2024 is 0.00% which is within the limit.

Council is within counterparty limits for all holdings at the end of September 2024.

3. Dissection based on Maturity Horizon

The policy requires that Council maintain sufficient funds in on-call accounts and short-term investments to ensure that liquidity and income requirements are met. Once liquidity requirements are met, the portfolio maturity profile will aim to spread risk across the investment horizon.

The current positioning of the portfolio based on the remaining term to maturity is as follows:

Investment Maturity	Amount	% of Portfolio	Policy Limits
Cash	\$29,525,140	8.16%	
0 - 3 months	\$33,000,000	9.12%	10% - 100%
3 - 12 months	\$109,100,000	30.14%	0% - 90%
12 - 24 months	\$106,250,000	29.36%	0% - 70%
24 - 60 months	\$84,050,000	23.22%	0% - 60%
Greater than 5 years	\$0	0.00%	0% - 25%

This indicates that Council has acceptable levels of funds maturing over the short-term to meet liquidity requirements (47.42% as cash or maturing within 12 months).

The above indicates that Council still has capacity to increase its holdings in longer dated maturities. This is reflected in the weighted average duration of the portfolio of around 479 days or 16 months.

The 12 - 24 months are spread broadly evenly across the maturity range. The 24 - 60 months are mostly held across the 24 – 36 month range.

The following table shows the current break-up of the portfolio based on the investment term at the time of purchase of the investment.

Investment Term	Amount	% of Portfolio	Policy Limits
Cash	\$29,525,240	8.16%	
0 - 3 months	\$0	0.00%	10% - 100%
3 - 12 months	\$15,000,000	4.14%	0% - 90%
12 - 24 months	\$124,500,000	34.40%	0% - 70%
24 - 60 months	\$183,900,000	50.81%	0% - 60%
Greater than 5 years	\$9,000,000	2.49%	0% - 25%

4. Portfolio by Credit Rating

The table below shows the diversification of the portfolio by credit rating:

Credit Rating	Amount	% of Portfolio	Policy Limits
AAA Category	\$0	0.00%	0% - 100%
AA Category or Major Bank	\$151,893,318	41.97%	20% - 85%
A Category	\$133,600,000	36.91%	15% - 60%
BBB Category	\$76,431,922	21.12%	0% - 45%
BBB- / Unrated ADIs	\$0	0.00%	0% - 5%
Total	\$361,925,240	100.00%	

Council is within the policy limits across the credit ratings at the end of September 2024.

At the end of September 2024, 78.88% of the portfolio is held with institutions that are rated at A or higher. Council holds no BBB- investments (the lowest investment grade rating) or unrated ADIs at the present time.

At present there has been little offered by the market to warrant a significant move of investments into the BBB rated categories.

5. Comparison of Returns to Benchmarks

Council's performance for the month ending 30 September 2024 is summarised below:

As at the end of September 2024, Council's deposit portfolio has an average running yield of 4.55% p.a. which is up 1 basis point from the previous month.

Notwithstanding the comments contained below under the monthly performance heading, with the transfer to a new Investment Advisory service from 1 July 2024 work has continued to confirm the performance reporting against benchmark, with further work required to understand the methodology being used to calculate these figures. As such, performance reporting against benchmark has not been included within this report.

Monthly performance reporting will resume once these variances are understood.

Investment Advisor Commentary

Council's Investment Advisor, Laminar Capital, provides the following comments in respect of the investment portfolio.

Monthly Performance:

"The portfolio achieved a return of 0.34% for the month of September which was 0.02% below the benchmark AusBond Bank Bill Index return of 0.36%. The weighted average running yield on the portfolio is 4.55%."

Portfolio Commentary:

"We see fixed rates steady to lower but with further rally in short to mid-tenor fixed rates expected to be limited while the RBA plays down rate cut expectations. We see highly rated bank credit spreads steady in the near term while highly rated structured credit is likely to outperform. We continue to maintain a positive view on adding additional long dated floating rate investments to portfolios with tactical interest in shorter dated fixed rate investments."

Economic Impacts on Council's Portfolio

"The RBA left the cash rate unchanged at 4.35% at its mid-September policy meeting indicating that although inflation was moderating, their August forecasts are still current of a slow return to inflation consistently inside 2-3% target band and it is still too early to consider cutting rates. The RBA did not consider a rate hike at the September meeting, some deviation from the discussion of a possible rate hike in the previous two policy meetings. Also, the monthly CPI released the day after the September policy meeting showed a fall in annual inflation to 2.7% y-o-y in August from 3.5% in July, although the fall was driven by lower petrol prices and a sharp 17% y-o-y fall in the price of electricity because of the various government rebate schemes. The RBA is looking through the one-off and temporary price falls focussing on underlying inflation still above 3% at 3.4% y-o-y for the trimmed mean in August. The RBA also remains concerned about the tightness of the labour market, a concern reinforced by another strong rise in employment in August (up 47,500) and the steady unemployment rate (4.2% in both July and August). The RBA continues at every opportunity to push against market expectations of it starting to cut rates late this year. It is also indicating that moves by other central banks cutting rates do not mean that the RBA needs to cut given that it was slower lifting rates and to a lower rate, 4.35%, than peak official rates elsewhere. We expect the RBA to start cutting rates next year, possibly starting in February but more likely waiting until May. The Australian bond market seems to be moving towards our (and the RBA's view) with yields barely moving over the past month – the 2-year bond yield down by around 3bps to 3.62% with the 10-year yield up 3bps to 3.95% and inflation data will not provide leeway for the RBA to cut the cash rate until mid-2025.

In terms of the yield curve, sticky and high underlying inflation above 3% y-o-y means that the Australian cash rate is unlikely to be cut until possibly mid-2025. Short and long-term bond yields should drift a little higher over the next month or two. A high for longer forecast cash rate implies a risk of weak Australian growth bordering recession persisting into 2025. It is likely that long bond yields will start to fall more consistently from late 2024, but from a yield above 4.00% again over the next six months."

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading

Attachment 1 - Responsible Accounting Officer's Certificate

Attachment 2 - MidCoast Council Investments at 30 September 2024

Attachment 3 - Floating Rate Note Holdings - Valuation at 30 September 2024

18.9. 2023-2024 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2024

REPORT INFORMATION

Report Author	Phil Brennan, Manager Finance
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

This report presents the Quarterly Budget Review Statement (QBRS) for the period to 30 September 2024 to Council for consideration, as required by Clause 203 (1) of the Local Government (General) Regulation 2021.

RECOMMENDATION

That the Quarterly Budget Review Statement for the period to 30 September 2024 be noted and the budget variations proposed, including transfers to and from reserves be approved.

FINANCIAL / RESOURCE IMPLICATIONS

As set out in the report.

LEGAL IMPLICATIONS

Council is required by legislation to prepare quarterly budget review statements including an opinion by the Responsible Accounting Officer as to whether the financial position of the Council is considered to be satisfactory.

RISK IMPLICATIONS

Nil.

BACKGROUND

This report presents the Quarterly Budget Review Statement (QBRS) for the period to 30 September 2024 to Council for consideration, as required by Clause 203 (1) of the Local Government (General) Regulation 2021.

This review provides the projected financial position for Council at 30 June 2025 for its Consolidated, General, Water & Sewer Funds and its MidCoast Assist Business unit. This information is provided in the required Quarterly Budget Review Statements which are contained as Attachments to this report.

The September QBRS is the first review reported in the 2024-2025 financial year due to the council election impacting on meeting timeframes. This review does include the approved carry-forward / revotes budgets from 2023-2024 that were adopted at the Council meeting held on 4 September 2024.

As such this report details budget adjustments recommended to be made following a review of the adopted budget for the quarter to 30 September 2024 and includes projected budget results to 30 June 2025.

Attachment 1 – Budget Summary Report incorporating Income & Expense Statements outlines the projected financial position of Council at 30 June 2025 from 2 perspectives. They are:

- 'Net Operating Result from Operations' – this result aligns with the Income Statement that is prepared as part of the Annual Financial Statements.

It includes external income and expenditure, non-cash expenditure (like depreciation and leave entitlement accruals, fair value adjustments etc) and excludes capital expenditure and loan principal repayments.

- ‘Net Budget Result’ – this result includes all sources of income and funding, matching these against proposed expenditures. It includes capital expenditure, transfers to and from reserves, allocations of internal costs to projects (job-costing of labour, internal plant hire charges, corporate overheads etc), new loan borrowings and principal repayments. It also removes the impact of non-cash expenditure items to come to a result that reflects the movement in Council’s working funds position. This is the view of the budget on which management reporting is based during the financial year.

PROJECTED RESULTS

Council’s projected ‘Net Operating Result from Operations’ on a consolidated basis for 2024/2025 is set out below. The components that contribute to this consolidated result are included:

Fund	Original Budgeted Operating Result Surplus / (Deficit)	Revised Projected Result September Budget Review
General (inc MCA)	\$4,018,442 (Surplus)	\$3,919,835 (Surplus)
Water	\$16,264,396 (Surplus)	\$16,163,520 (Surplus)
Sewer	\$17,879,351 (Surplus)	\$18,207,212 (Surplus)
Consolidated Result	\$38,162,189 (Surplus)	\$38,290,567 (Surplus)

The General Fund results above include the results for the MidCoast Assist business unit. A separate Income and Expense Statement and Capital Statement are included for the business unit but the results are not separately included in the Consolidated Result as they form part of the General Fund result. The following table shows the components of the General Fund.

Fund	Original Budgeted Operating Result Surplus / (Deficit)	Revised Projected Result September Budget Review
General (excl MCA)	\$4,678,927 (Surplus)	\$5,629,970 (Surplus)
MidCoast Assist	\$660,485 (Deficit)	\$1,710,135 (Deficit)
General (incl MCA)	\$4,018,442 (Surplus)	\$3,919,835 (Surplus)

The Original ‘Net Budget Result’ (which takes into account capital works, loan repayments, internal transactions and all funding sources) projected a consolidated deficit of \$9,174,817. The current projection is for a deficit of \$8,066,137. The component parts are as follows

Fund	Original Budget Result Surplus / (Deficit)	Projected Budget Result September Budget Review
General (inc MCA)	\$2,491,443 (Surplus)	\$3,148,138 (Surplus)
Water	\$2,613,409 (Deficit)	\$3,064,285 (Deficit)
Sewer	\$9,052,851 (Deficit)	\$8,149,990 (Deficit)
Consolidated Result	\$9,174,817 (Deficit)	\$8,066,137 (Deficit)

At the completion of the September QBR the projected underlying result and the relevant transfers to/from accumulated surpluses of the respective Funds to achieve a balanced budget is outlined below.

	General	MCA	Water	Sewer
Original Budget Result	-\$3,280,348 (Surplus)	\$788,905 (Deficit)	\$2,613,409 (Deficit)	\$9,052,851 (Deficit)
Previously Approved Movements	-\$	-\$	-\$	-\$
September Review Movements	-\$1,706,345	\$1,049,651	\$450,876	-\$902,862
Projected Underlying Budget Result	-\$4,986,693 (Surplus)	\$1,838,555 (Deficit)	\$3,064,285 (Deficit)	\$8,149,990 (Deficit)
Transfer to/from Accum. Surplus	\$0	-\$1,838,555	-\$3,064,285	-\$8,149,990
Net Projected Budget Result	-\$4,986,693 (Surplus)	\$0 (Balanced)	\$0 (Balanced)	\$0 (Balanced)

FUND DISCUSSION

General Fund

The projected General Fund budget result is an improvement on the original adopted budget. The inclusion of the carry forwards / re-votes has triggered some adjustments within the original budget particularly in the area of capital grants and contributions to ensure that project budgets are not duplicated.

MidCoast Assist

The Net Budget Result for the MidCoast Assist Business activity should be assessed with caution as Council's divestment of the services has occurred during the quarter.

A separate report to this meeting has provided an update on MidCoast Assist. That report notes that there are financial transactions associated with the winding up of the business and from normal operations for the first quarter that are still being finalised. Once all transactions have been processed, reconciliations completed and the 2023-2024 Balance Sheet rolled into 2024-2025 (after audit) a final wash-up of the MidCoast Assist Business Activity will be possible and will determine the final impact on the General Fund.

This will include the impact of the divestment of the business and of the normal operations that occurred during the first quarter of 2024-2025.

The budget adopted for the MidCoast Assist Business Unit for 2024-2025 was based on 3 months of full normal operation. This was due to the uncertainty that surrounded the actual nature of operations after 1 July 2024 at the time that the budget was prepared (March 2024).

The 2024-2025 budget did not include provision for the termination payments that were made to staff as the divestment progressed or any staged cessation of services. The Council resolution (February 2024) dealing with the divestment of these services had put an end date of 30 September 2024 for the cessation of the services.

The eventual outcome saw Disability Services cease in mid-August and Ageing Services on 30 September.

The decision to cease the operation of MidCoast Assist triggered specific accounting treatments that were actioned as part of the 2023-2024 Financial Statement preparation. This was to ensure compliance with Australian Accounting Standards and revolved around providing for the expected costs of cessation within the 2023-2024 accounts.

Water Fund

The Water Fund projects an underlying budget deficit position for 2024-2025. The latest projection is for a net budget deficit of approximately \$3 million at the end of the financial year.

While the Fund has sufficient capacity to fund this projected deficit any significant increases in the capital works program or in operational expenditure will start to put pressure on the ability of the Fund to meet future year programs.

Sewer Fund

The Sewer Fund is projecting an underlying budget deficit position of approximately \$8 million for 2024-2025. The Fund is in a healthy position at this point in time with respect to funding the current year's capital works program. However, there are a number of very large capital works projects on the books for the next few years (for which borrowings will be required) and every effort should be made to make savings in operational and capital expenditure as able to minimise the financial impact on future generations.

The Attachments to the report show the Consolidated and Fund Budget and Capital results for the changes processed in the March 2024 Review.

SIGNIFICANT ISSUES

There are no significant issues that require discussion.

SERVICE STATEMENTS

The current Delivery Program is presented on a Service basis and the current budget has been dissected to show the resources applied to the delivery of those services. The former Council had requested that the financial reporting of budget now include reporting on a service basis.

The attachment to this report (Attachment 2) contains the first round of Service Budget Summary Statements prepared for Council. Note that this is an additional layer of reporting over and above what is required under the Office of Local Government Guidelines.

However, this different view does provide valuable information for Council and the community in understanding how and where Council's budget is allocated and spent and will support future decision making.

The preparation of these Statements has identified several areas where process improvements are required to ensure that budgets and actuals line up. An example is within the Corporate Finance Service Statement where loan principal and interest payments are shown while the budgets for these items are contained within other Service Statements. These issues will be attended to in the preparation of the next set of Service Statements.

It should also be noted that the Service Statements for Aged Care Support and Disability Services are also subject to the same comments that are made above in respect of MidCoast Assist.

CASH & INVESTMENTS REPORTS

The quarterly report contains the required Attachment (part Attachment 1) that provides information on proposed budgeted movements in External Restrictions and Internal Allocations. A new reconciliation of unrestricted cash and investments has been provided following audit focus in this area.

This report replicates the information provided within the Annual Financial Statements. At 30 September 2024 Council had an unrestricted cash and investment balance of \$45,307,036. It should be noted that this figure moves on a daily basis as payments are received and made and as such will fluctuate considerably over the 12 month timeframe.

The current balance provides Council with comfort that it is not spending externally restricted funds for unrestricted purposes and has a reasonable buffer to ensure that internally allocated funds are also available as required.

BUDGET VARIATIONS

The variations included below represent variations relating to the review conducted during September 2024. Variations under \$5,000 have not been included.

The September 2024 budget variations are presented by Service area:

- Arts & Culture -
 - Manning Regional Arts Gallery – Exhibitions – reintroduce \$20,000 expenditure budget dropped from draft 2024/2025 budget through budgeting system version rollover error.
- Community Assets –
 - Building Renewals Program – transfer \$45,000 to Stroud Showground Amenities & Change Rooms project to allow for its completion.
 - Wharves, Jetties & Boat Ramps – transfer \$40,000 to LRCI4 – Apex Park Boat Ramp, Tea Gardens as Council contribution to grant project.
 - Strategy & Projects – adjustment of original budgets across a number of Grant projects following addition of carry-forward projects into the 2024-25 budget. Original budget contained details of grant income and off-setting expenditure and this has now been updated to reflect actual position at end of financial year.
- Community Development –
 - Aboriginal Programs – General – reintroduce \$13,000 expenditure budget not rolled into 2024-2025 budget. To match grant funding already included within budget.
- Corporate Planning & Performance –
 - Strategy & Performance – reduce employee expenses budget to account for current vacancy \$50,700 off-set by introduction of contractor budget (\$50,700) for temporary assistance while recruitment of replacement staff occurs.
- Emergency Services –
 - Rural Fire Service Capital – recognise RFS Capital grant income (\$305,302) to be received and off-setting capital expenditure under the BLERF Program.
 - RFS – Hazard Reduction – decrease grant funding and off-setting expenditure by \$74,150 following advice of annual allocation from RFS.
 - RFS – Council Funded Operations – Increase non-cash income and expenditure (\$282,249 for Fire Fighting Equipment provided to Council following advice of annual allocation.
 - RFS – Operations, Maintenance & Repairs – increase Operating Grant income and off-setting expenditure (\$30,959) for RFS operations following advice of annual allocation.
 - Emergency Services Levy – adjust budgeted Council contributions to NSW Emergency Services Levy following advice of annual contributions
 - RFS – decrease budget by \$30,959
 - SES – increase budget by \$94,566
 - Fire & Rescue NSW – increase budget by \$44,909
- Engagement, Communication & Education –
 - Waste Education – reduce budgets associated with the provision of Waste Education from this service area following a review of delivery of this service. Education now to be provided from within the Waste Service area via a contract arrangement. Budgets transferred back to the Waste Services area.

- Budget transfers within Service area - \$15,000 transferred from Community Relations advertising budget to Civic Education budget and \$10,000 transferred from Marketing & Branding Advertising budget to Digital Engagement budget. No overall budget impact from these budget adjustments.
- Environmental Health –
 - Public Health Support – increase income budget by \$15,000 for Caravan Park & Camping area licence fees.
- Finance –
 - Corporate Financial Management – Salary Savings – recognise salary savings of \$1,069,000 processed across all Service areas for the first quarter. This takes into account all structure movements that have occurred since the original budget was finalised in March 2024 and savings arising from vacancies. The figure is reported under this Service area and not separately commented upon within each Service area.
 - General Purpose Grants – adjust adopted budgets for Financial Assistance Grant payments to be received and transfer from Internal Allocation. FA Grant payments to be received in 2024-2025 = \$3,520,084. Transfer from FAG in Advance Reserve – decrease transfer by \$2,221,986.
 - Ordinary Rates – increase rates income for 2024-2025 following levy of rates and to provide an allowance for growth from supp lists processed during the year - \$240,000
 - Ordinary Rates – Stormwater Levy – increase income levied and transfer of equivalent amount to reserve following 2024-2025 levy - \$14,000.
- Human Resources –
 - Work Health & Safety – provide an expenditure budget of \$50,000 funded by a transfer from WHS Internal Allocation for the implementation of an Organisational Safety System.
- Legal & Property –
 - Caravan Parks – provide budget (\$24,100) for internal operational expenses for Gloucester Caravan Park (rates, water, sewer & waste charges) funded by a transfer from Caravan Park internal allocation,
 - Leased Property Commercial – Stroud Medical Centre – introduce budget for remedial works to be undertaken (\$200,000) funded by a transfer from the Land & Property Internal Allocation.
 - Aged Care Units – introduce budget for works required to 2 units at 53A King Street Gloucester (replace kitchen, carpet and paint) funded by a transfer from the internal allocation held in the Aged Care Units internal allocation.
 - Aviation Park – provide budget (\$30,000) for internal operational charges for Taree Aviation Park funded by a transfer from Airport internal allocation.
 - Aviation Park – provide budget (\$78,500) for electrical upgrade to Airport subdivision funded from Airport internal allocation.
 - 2 Pulteney Street Taree – introduce income and expenditure budgets to cover rental (\$200,000), Council expenses (\$59,200) and transfer to Land & Property internal allocation of balance (\$140,800) noting that the transferred amount is set aside as part of the YG Funding Strategy to meet loan repayments.
- Libraries –
 - Tech Savvy Seniors – introduce grant funding and off-setting expenditure (\$10,508) following advice from State Library of grant allocation for 2024-2025.

- Natural Systems –
 - Dunns Creek Water Quality Improvement Project – introduce expenditure budget of \$699,500 funded by \$529,500 allocation from Environmental Levy and \$170,000 from the Stormwater Levy being a reallocation of budgets from Pipers Creek Retrofit Project (\$50,000), Urban Stormwater Quality Improvement Project (\$100,000) and Addressing Water Sensitive Urban Design Priorities Project (\$549,500).
 - Coastal Reserves Bushfire Recovery Project – increase income and expenditure budgets by \$134,131 following advice of additional grant funding.
 - Habitat Action Projects – reduce expenditure budgets by \$110,812 as project not proceeding. Reduction of transfer from Environmental Levy of \$45,559 and reduction in grant funding of \$65,253 returned to government department.
 - Koala Safe Spaces & Koala Partnership Projects – reduce expenditure budgets and projected grant income by \$318,758 to correct for events occurring between estimates made during budget preparation and date of review.
 - CMP Southern Estuaries – reduce amount to be contributed to this project from Environmental Levy (\$29,112) due to contribution from OSSM in prior year.
 - Manning – Erosion & Sediment Control Project – recognise Environmental Levy contribution (\$10,000) to this grant funded project with off-setting expenditure budget.
- Transport Assets –
 - State Roads – Increase income to be received under State Roads Annual Maintenance Contract (\$152,082) with off-setting increase in expenditure budgets.
- Natural Systems –
 - Waterway Health – decrease expenditure budget and corresponding transfer from Environmental Levy Reserve due to a revision of the annual workplan (\$70,000).
 - Sustainability Strategy – increase budget by \$10,000 following a review of annual workplan – funded from transfer from Environmental Levy Reserve.
 - Old Bar Manning Point Coastal Management Program – introduce expenditure budget for this project (\$161,718) off-set by grant funding of \$107,812 and transfer from Environmental Levy Reserve of \$53,906.
- Waste Management –
 - Tuncurry Waste Facility / Taree Waste Facility – transfer \$400,000 of contract costs between facilities due to a change in location for material processing.
- Water Supply & Treatment –
 - Water Income – Decrease Water Supply Annual Charge income by \$80,000 following levy of annual rates and charges. Revised estimate takes into account allowance for growth processed during the financial year.
 - Water Income – Development Application Fees – Increase projected income from DA fees by \$25,000 following review of 1st quarter income and prior year actual result.
 - Water Income – Water Meter Alteration Fees – Increase projected income by \$30,000 following a review of 1st quarter income and prior year actuals.
 - Water Service Solar Systems – increase expenditure budget by \$150,000.
- Sewer Services –
 - Sewer Income – Increase Sewer Services Annual Charge income by \$290,000 following levy of annual rates and charges. Revised estimate takes into account allowance for growth processed during financial year.

- Sewer Income – Interest on outstanding annual charges – increase income budget by \$60,000 based on 1st quarter actuals, review of prior year actuals and increased interest rate applicable to 2024-2025.
- Sewer Income – Insurance Claims – Introduce income budget (\$50,733) to match actuals received during 1st quarter for insurance claims paid.
- Solar Systems – reduce expenditure budget within Sewer Fund by \$150,000 for planned solar system implementations noting that 1 system is now planned for the Water Fund.

Quarterly Contracts Report & Delegation of Expenditure over \$500,000

As Council is aware a Quarterly Budget Review Statement is prepared for its consideration in accordance with legislative requirements. This includes a schedule that includes details of material contracts entered into by Council during the review period. Council also resolved (Resolution 374/19) at its 23 October 2019 Ordinary Meeting:

“That the report be noted and future reports pertaining to the exercise of this delegation be reported in conjunction with the Quarterly Budget Review.”

This resolution is in respect of the General Manager exercising his delegation to enter into contracts with a value of between \$500,000 and \$1,000,000 and originally came from resolution 267/19 made on 14th August 2019 when Council increased the General Managers Delegation. At the 9th October Council Meeting Council revoked all delegations and issued new delegations to the General Manager which included delegation to accept tenders up to a maximum value of \$1,000,000 (excl GST). As the quarterly review includes a list of all material contracts entered into by Council it is not proposed to continue to specifically identify contracts where the General Manager has exercised his delegation. Council has delegated this authority to the General Manager and all contracts entered into are reported quarterly. An additional reporting layer is not required.

The quarterly report on Contracts is included as Attachment 3. During the quarter to 30 September 2024 there was one instance of the General Manager using his delegation to approve a tender within that value range and one instance for a tender below that range.

Responsible Accounting Officer’s Statement

The following statement is made in accordance with Clause 203 (2) of the Local Government (General) Regulation 2021.

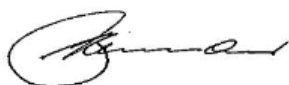
It is my opinion that the Quarterly Budget Review Statement for Mid-Coast Council for the quarter ended 30 September 2024 indicates that Council’s projected financial position at 30 June 2025 will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

This opinion is based on Council’s ability to continue to meet its ongoing commitments and deliver services on a day-to-day basis within adopted budgets.

However, as has been identified previously, Council needs to continue with the implementation of the adopted Financial Strategy Action Plan to address, over the medium term, the underlying general fund deficit position whereby it is presently generating insufficient operating revenue to cover all operating expenditures including depreciation.

The same focus will need to apply to both the Water & Sewer Funds. Both funds are currently projecting Operating Surpluses, however large capital works programs combined with escalating construction costs will continue to reduce accumulated funds over the medium term. Borrowings will be necessary if the capital works programs are to be delivered within the planned timeframes.

SIGNED:



DATE: 21 October 2024

PHIL BRENNAN

Responsible Accounting Officer

MID-COAST COUNCIL

DISCUSSION

Nil.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

This report addresses Strategic Objective 4.2 “Council demonstrates good governance and financial management to ensure decisions and transactions are ethical, efficient, safe and fair”.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1: Budget Summary Report incorporating Income & Expense Statements for Quarter Ended 30 September 2024; Capital Budget Statements for Quarter Ended 30 September 2024; Cash & Investments Budget Summary Statement for Quarter Ended 30 September 2024; Reconciliation of Unrestricted Cash & Investments at 30 September 2024

Attachment 2: Service Budget Summary Statements for the Quarter Ended 30 September 2024

Attachment 3: Quarterly Budget Review Report – Contract Register FY24 – Q3

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18.10. 2023-2024 FINANCIAL REPORTS FOR MID-COAST COUNCIL

REPORT INFORMATION

Report Author	Phil Brennan, Manager Finance
Date of Meeting	30 October 2024
Authorising Director	Steve Embry, Director Corporate Services

SUMMARY OF REPORT

The purpose of this report is to advise Council that the audit of the General Purpose & Special Purpose Financial Statements for the year ended 30 June 2024 has been completed and unmodified audit opinions have been issued.

There were no material changes to the draft Financial Reports referred to the NSW Audit Office for audit by Council at its 4 September 2024 Ordinary Council meeting.

As such the NSW Audit Office did not require Council to re-sign the 'Statement by Councillors and Management' for both the General Purpose & Special Purpose Financial Statements.

The audited Financial Reports were lodged with the Office of Local Government on 22 October 2024.

RECOMMENDATION

That Council note the completion of the audit of the 2023-2024 Financial Reports and their lodgement with the Office of Local Government on 22 October 2024.

FINANCIAL / RESOURCE IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

RISK IMPLICATIONS

Nil.

BACKGROUND

Council at its Ordinary Meeting of 4 September 2024 resolved to sign the statutory statements (Statement by Councillors and Management) and to refer the draft Annual Financial Reports for Mid-Coast Council to audit. This was in keeping with the requirements of the Local Government Act 1993, Local Government (General) Regulation 2021 and the Local Government Code of Accounting Practice and Financial Reporting.

A copy of this report is included as Attachment 1 and provides an overview of the audit process and of the financial results for the 2023-2024 financial year.

The Consolidated Operating Result from Operations is a surplus of \$72.383m with a Net Operating Result before Capital Grants and Contributions deficit of \$13.407m.

The results by Fund are set out in the Table below:

Fund	General	Water	Sewer
Net Operating Result for the Year	\$51.563m (surplus)	\$5.914m (surplus)	\$14.906m (surplus)

Fund	General	Water	Sewer
Net Operating Result before Capital Grants & Contributions	\$21.512m (deficit)	\$811,000 (surplus)	\$7.294m (surplus)

This compares with the prior year results of a Consolidated Operating Result from Operations of \$36.036m and a Net Operating Result before Capital Grants and Contributions deficit of \$45.397m.

The audit commenced on 9 September 2024 and was successfully completed on 22 October 2024 with the release of unmodified audit opinions in respect of all audit engagements. Those engagements were for:

- General Purpose Financial Report
- Special Purpose Financial Report
- Permissible Income for General Rates Special Schedule
- Financial Statement for the Roads to Recovery Program
- Financial Statement for the Local Roads and Community Infrastructure Program

DISCUSSION

In signing the statutory statements in relation to the draft Financial Reports at the 4 September 2024 Ordinary Council Meeting it was acknowledged that they were still to undergo the audit process and that this may identify monetary and/or disclosure errors that would require amendment prior to the finalisation of the audit of the Financial Statements.

As also outlined in the 4 September 2024 report to Council, it was envisioned that the audited draft Financial Reports would need to be referred back to Council at an Ordinary Council Meeting for final approval in late October 2024.

Ordinarily, as has been the case for previous financial years, this final approval would require the re-signing of the statutory statements prior to the NSW Audit Office issuing their Audit Reports due to the monetary and disclosure changes that were required to be made as a result of the audit process.

At the completion of the 2023-2024 audit there were no material monetary or disclosure changes required to the draft Financial Reports.

There was one non-significant disclosure amendment made to the draft Financial Reports. This amendment was recommended by the NSW Audit Office and was to include a disclosure in Note E2-1 'Fair value measurement of the Non-current assets classified as held for sale at 30 June 2024'. Other than this additional disclosure and the correction on minor typographical errors, there were no changes to the draft Financial Reports that were referred to audit.

On the basis of the limited and insignificant changes made to the draft reports, the NSW Audit Office advised that they did not require the Financial Reports to be re-presented to Council for the re-signing of the 'Statement by Councillors and Management' for both the General Purpose & Special Purpose Financial Statements.

An Engagement Close meeting was held between management and the Audit Office on Thursday 17 October 2024. At this meeting the Audit Office advised of audit findings, potential Management Letter items and of their intention to issue unmodified and unqualified audit opinions for all audit engagements.

The Audit, Risk & Improvement Committee (ARIC) met with management and the auditors on 21 October 2024 to discuss the Engagement Closing Report with the NSW Audit Office. This is a role of the ARIC.

The ARIC made the following comments / recommendations to Council following their consideration of the matter:

1. The NSW Audit Office audited Council's draft Financial Statements.

2. That ARIC discussed the Engagement Closing Report with the NSW Audit Office and note the auditor's likelihood to issue unmodified and unqualified opinions on the General Purpose and Special Purpose Financial Statements.
3. That ARIC advise Council that:
 - a) Council's financial statement preparation procedures are sound and over-all timelines were met.
 - b) The audit outcome confirms the accuracy of Council's annual financial statements submitted for external audit.
4. ARIC congratulates staff for the preparation of the Financial Statements and the NSW Audit Office for the conduct of the audit and notes the significant improvement over a number of years.

Following the ARIC meeting, Management Representation Letters signed by the General Manager and Responsible Accounting Officer (Manager Finance) were submitted to the NSW Audit Office. The submission of these documents facilitated the release of the signed Audit Reports on 22 October 2024.

This allowed for the final compilation of the Financial Reports (insertion of the Statements and Auditors Reports within the document, page and index renumbering etc). The Annual Financial Reports were lodged with the Office of Local Government on 22 October 2024.

Annual returns for the Federal Government's Roads to Recovery Program and Local Roads & Community Infrastructure Program were also lodged prior to the deadline date of 31 October 2024.

Council is required to notify the public of the presentation of the Annual Financial Reports by advertisement in the relevant local papers and set a date for a Council Meeting at which time the Auditor will formally present the reports to the Council. In addition, an analysis of the Financial Statements and Financial Indicators reported in the Statements will be provided to Council. This analysis can then be considered in conjunction with the Final Audit Report presented by the NSW Audit Office. It is envisaged that this will be presented to the 27 November 2024 Ordinary Council Meeting.

The public are entitled to make submissions on the Annual Financial Reports during the exhibition period and any submissions that are received are handled in accordance with the requirements of the Act.

A set of the audited Financial Reports are included as Attachment 2.

LIST OF ATTACHMENTS

The following attachments are available on the meeting page of Council's website under the 'Attachments to Agenda' heading:

Attachment 1 - Council Report – 4 September 2024 – 2023-2024 Financial Statements.

Attachment 2 - 2023-2024 Audited Financial Statements for MidCoast Council

19. CONFIDENTIAL REPORTS

Nil.

A handwritten signature in black ink, appearing to read 'A Panuccio', with a large, stylized initial 'A'.

Adrian Panuccio
General Manager