



ORDINARY MEETING OF COUNCIL SUPPLEMENTARY ITEMS

To be held at 5.00pm on

Tuesday 13 August 2024

Council Chambers

11 Manning Street, KIAMA NSW 2533

Members

Mayor

Councillor N Reilly

Deputy Mayor

Councillor I Draisma

Councillor M Brown

Councillor M Croxford

Councillor J Keast

Councillor S Larkins

Councillor K Renkema-Lang

Councillor K Rice

Councillor W Steel

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18 LATE ITEMS

18.1 CEO note: 2021/2024 Council term ends

Responsible Director: Office of the Chief Executive Officer

Report

On 14 September 2024, the term of this Council will formally end and the Kiama Municipality will be electing nine Councillors for the next four years. It would appear from the nominations that I am aware of it will be a wide and interesting group of aspiring Councillors.

Four of the current councillors will not be seeking re-election. I wish the remaining five Councillors well for their future endeavours, whether that is an aim for re-election or otherwise.

For those departing Councillors, your contribution and commitment is appreciated, and your tenures are acknowledged as follows:

Neil Reilly:	Councillor from 2008 to 2024 Deputy Mayor from 2013-2014 Mayor from 2022 to 2024
Warren Steel:	Councillor from 1983 to 1987 Councillor from 1999 to 2024 Deputy Mayor from 2012-2013 Deputy Mayor from 2014-2016
Kathy Rice:	Councillor from 2012 to 2024 Deputy Mayor from 2016-2018
Jodi Keast:	Councillor from 2021 to 2024.

18.2 Updated attachment for Item 13.2 - Current legal matters - status updated as at 30 June 2024

CSP Objective: Outcome 5.2: Governance is transparent and builds trust

CSP Strategy: 5.2.1 Build strong relationships and ensure our partners and community share the responsibilities and benefits of putting plans into practice.

Delivery Program: 5.2.1.2 Support good governance through systems and processes for legislative compliance.

Item 18.2

Summary

This Supplementary Report is for the purposes of providing an updated attachment which is to replace the attachment at Item 13.2. During consideration of the report at the PIO Implementation and Oversight Committee meeting held on 8 August 2024, questions were raised about the report omitting details of matters that have been closed out / finished in that same time period and any costs attached. To that end the report now places on the public record that information as well for completeness.

Financial implication

As evidenced in the attached document, legal matters have a significant cost implication for Council.

Risk implication

As demonstrated in the attached document, 13 of the 22 current legal proceedings are NSW Land and Environment Court (LEC) matters (59%). The LEC encourages conciliation between parties in an attempt to identify the issues in dispute, develop options, consider alternatives and endeavour to reach agreement. Dealing with matters in this way avoids the added costs of a matter proceeding to hearing which is usually for multiple days.

Risks can be also be mitigated through timely decision making and appropriate staff delegations for making determinations.

Appropriate compliance with the Code of Conduct would also mitigate risks associated with conduct matters.

Policy

All engagement of legal services occurs in accordance with Council's Procurement Policy

Consultation (internal)

Nil

Communication/Community engagement

Not applicable

Attachments

1 Current Litigation Matters as @ end of June 24 [↓](#)

Enclosures

Supplementary Reports

18.2 Updated attachment for Item 13.2 - Current legal matters - status updated as at 30 June 2024 (cont)

Nil

RECOMMENDATION

That Council receive this report and note that:

1. the following approximate amounts were expended on legal matters generally as at 30 June 2024:
 - NSW Land & Environment Court = \$639,324
 - NSW Civil & Administrative Tribunal matters = \$5,803
 - Federal Court matters = \$3,547,719
 - Supreme Court matters = \$55,508
 - General legal/Probity advice = \$182,914
 - Anti-discrimination matters = \$47,176
 - Councillor Code of Conduct related matters = \$23,474.
2. Legal matters finalised since the last report to Council (made in May 2024) have been included in the attachment to the August 2024 report, noting total costs to Council as specified in the table headed 'Completed Matters'.

Background

Council were provided with detailed background information regarding legal services procured by Council at the Ordinary Meeting of 21 May 2024 – Item 13.2 which was the inaugural Legal Matters report. That information does not require repeating as this report serves as an update of advice on the status and costings for legal matters as at the end of June 2024. It is worth noting that some matters have since been completed and separately reported to Council but fall outside this reporting round.

Since the last report was considered by Council, amendments to reporting timeframes relating to the Legal Status Update have been implemented. A quarterly update of legal matters will now be provided at the second ordinary meeting of the quarter (i.e. August, November, February and May) to ensure that Council is provided with the most current information.

Code of Conduct matters

It should also be noted that in relation to Code of Conduct complaints, the Procedures for the Administration of the Code of Conduct enables Council to enter into a special complaints management arrangement with the OLG to handle/process Code of Conduct complaints in circumstances when the volume and nature of complaints is having an unreasonable burden on Council and inhibiting Council's ability to undertake its ordinary business. As Council has, and continues to, receive a high number of Code of Conduct complaints the CEO has determined to approach the OLG to enter into a special complaints management arrangement.

DATE INSTRUCTED	MATTER DESCRIPTION and details of Jurisdiction	STATUS	COUNCIL OFFICER	FEE ESTIMATE (ex GST)	BILLED COSTS TO END OF JUNE	UNBILLED COSTS TO DATE
LAND & ENVIRONMENT COURT						
15/04/2024	DA House v KMC Class 1 - L&E Court Refusal of DA 10.2022.175.1 31 & 37 Cooinda Place, Kiama	DA for a multi dwelling (12) development and subdivision. Refusal based on car parking, solar access, design, access and other matters that could not be resolved through the DA process and were not compliant with Council's DCP. Listed for conciliation conference 3/10/2024.	J.Rippon	\$ 39,000.00	\$ 6,042.00	\$ 165.00
1/05/2023	Fountaindale v KMC Class 1 - L&E Court Refusal of DA 10.2021.26.1 15 Golden Valley Road, Jamberoo	Costs thrown away offer to applicant made on Council's instruction 19/06/2024.	J.Rippon	\$ 95,000.00	\$ 77,902.50	\$ 554.50
15/05/2024	Michael Joseph v KMC & Spencers Class 4 Refusal of DA10.2023.98.1 110 North Kiama Drive, Kiama	Appeal discontinued. Awaiting judgement on an application made by Council seeking Orders that Mr Joseph pay Council's costs as agreed or assessed.	J.Rippon	\$ 93,000.00	\$ 72,660.66	
	J & R Spencer v KMC Class 1 Refusal of DA10.2023.98.1 110 North Kiama Drive, Kiama Downs	Listed for conciliation conference and hearing 12 & 13/08/2024.	J.Rippon	(a) \$35K for the Class 1 Appeal assuming Mr Joseph does not seek to be joined (b) \$42K for the Class 1 Appeal assuming Mr Joseph does seek to be joined (c) \$55K assuming Mr Joseph is joined	\$ 35,870.62	\$ 432.00

DATE INSTRUCTED	MATTER DESCRIPTION and details of Jurisdiction	STATUS	COUNCIL OFFICER	FEE ESTIMATE (ex GST)	BILLED COSTS TO END OF JUNE	UNBILLED COSTS TO DATE
15/09/2022	Vortex Developments et al v KMC Class 1 - L&E Court Refusal of DA 10.2021.156.1 96 Rose Valley Road, Rose Valley (Abattoir)	Hearing concluded. Awaiting judgement and advice re costs orders.	J.Rippon	\$ 175,121.70	\$ 167,457.70	\$ 1,331.39
7/12/2022	Enzo Developments (McElhone) v KMC Class 4 - L&E Court Deemed refusal of DA 10.2021.344.1 92 Jerrara Road, Jerrara	Listed for further directions hearing 05/07/2024.	J.Rippon	\$ 40,000.00	\$ 21,558.60	\$ 424.80
12/04/2024	KMC Class 1 - L&E Court Deemed refusal of DA 10.2023.109.1 92 Jerrara Road, Jerrara	Listed for conciliation conference 13/09/2024.	J.Rippon	\$ 32,000.00	-	
12/01/2024	Forte Kiama Heights Development v KMC Class 1 - L&E Court Refusal of DA 10.2022.113.1 4 Elanora Road, Kiama	Agreement reached. S 34 agreement filed - awaiting orders.	C.Lappin	\$ 29,000.00	\$ 11,508.20	\$ 70.80
27/10/2021	Grant v KMC Class 4 - L&E Court Grantie's Village 219 Donovan Road, Broughton Village	Final hearing 21/02/2024 - sought to establish the removal of certain rides from the park that do not have development consent. It was also established through an independent expert that a number of the rides are unsafe and should be decommissioned. Judgement reserved.	J.Rippon	\$ 128,786.19	\$ 120,024.89	\$ 812.00

DATE INSTRUCTED	MATTER DESCRIPTION and details of Jurisdiction	STATUS	COUNCIL OFFICER	FEE ESTIMATE (ex GST)	BILLED COSTS TO END OF JUNE	UNBILLED COSTS TO DATE
23/08/2023	D & L Sharp v KMC Class 1 - L&E Court Refusal of DA 10.2022.43.1 44 Halls Road, Jerrara	Decision handed down 28/06/2024 - Appeal upheld and Development Application granted subject to conditions of consent. FINALISED.	C.Lappin	\$ 73,868.98	\$ 70,715.07	-
17/01/2024	Cole & Hennessy v KMC Class 1 - L&E Court Refusal of DA 10.2022.152.1 50 Riverleigh Avenue, Gerroa	Matter is listed for s34AA conciliation conference 15 & 16/07/2024.	C.Lappin	\$ 32,000.00	\$ 12,835.69	\$ 19,556.30
13/03/2024	Harwood v KMC Class 1 - L&E Court Deemed refusal of DA 10.2023.134.1 110-114 Terralong Street, Kiama	This matter relates to a deemed refusal of a multi dwelling/shop top housing development. The applicant has sought significant variation to existing DCP controls and has refused to meet any requirements set by Council for their proposal Continuing at conciliation.	C.Lappin	\$ 58,000.00	\$ 42,748.37	\$ 3,382.79
4/03/2024	EPLANNING v KMC Class 1 - L&E Court Deemed refusal of DA 10.2023.176.1 261 Jamberoo Mountain Road, Jamberoo	Matter to be listed for hearing following conciliation conference on 14/06/2024.	C.Lappin	\$ 28,000.00	\$ 10,998.90	
APPROXIMATE TOTAL				\$ 868,776.00	\$ 639,324.00	

DATE INSTRUCTED	MATTER DESCRIPTION and details of Jurisdiction	STATUS	COUNCIL OFFICER	FEE ESTIMATE (ex GST)	BILLED COSTS TO END OF JUNE	UNBILLED COSTS TO DATE
NCAT						
17/05/2024	NCAT - GIPA Debra MOORE v KMC	Correspondence sent to lawyers for the applicant 29/06/2024 following clarification of documents requested. If agreed, a Mediation Agreement can be prepared and provided to NCAT prior to the mediation hearing on 22/07/2024.	A.Critchler	\$ 17,000.00	\$ 5,803.82	\$ 5,975.64
SUPREME COURT						
20/12/2019	Gardos V KMC Supreme Court Dedication of land as a Public Road Burra Creek Road, Jamberoo	Parties agreed to discontinue the matter on 16/03/2021. FINALISED. Awaiting response from Land Registry Services with advice re lodgement of dealings	B.Ramaekers	\$ 30,000.00	\$ 30,470.00	
12/10/2023	Supreme Court proceedings Extension of Caveat Swamp Road Cycleway, 11 Thornett	Easement in process of being registered. Once registered, caveat can be withdrawn and proceedings discontinued as per deed.	B.Ramaekers	\$ 68,925.64	\$ 55,508.26	\$ 2,365.50
APPROXIMATE TOTAL				\$ 98,925.64	\$ 85,978.26	

DATE INSTRUCTED	MATTER DESCRIPTION and details of Jurisdiction	STATUS	COUNCIL OFFICER	FEE ESTIMATE (ex GST)	BILLED COSTS TO END OF JUNE	UNBILLED COSTS TO DATE
FEDERAL COURT						
6/10/2022	Federal Court Proceedings Nicholas Daoud (NDCO) v KMC (Unreasonable delays to DA)	Matter set down for Mediation 04/07/2024. If the matter does not settle, it will proceed to trial. The date for trial is not yet fixed. Listed for Case Management hearing 11/07/2024.	J.Stroud	\$ 2,500,000.00	\$ 3,547,719.46	
21/04/2022	John Giles v KMC Federal Court of Australia	Application alleging unlawful discrimination by Council. Matter not resolved following mediation on 09/11/2022. Parties have exchanged correspondence over a considerable period of time to try and reach settlement and some in principle agreement has been reached. On 07/02/2024, the Applicant forwarded a request for particular works to be carried out by Council as part of settlement, having regard to a stormwater assessment and requesting amendments to a proposed indemnity. The amendments sought by the Applicant were not supported by Council. Agreement on settlement terms has now been reached and a Deed of Settlement has been prepared awaiting execution by Council.	M.Malone	\$ 43,725.00	\$ 47,176.62	-
APPROXIMATE TOTAL				\$ 2,543,725.00	\$ 3,594,896.08	

DATE INSTRUCTED	MATTER DESCRIPTION and details of Jurisdiction	STATUS	COUNCIL OFFICER	FEE ESTIMATE (ex GST)	BILLED COSTS TO END OF JUNE	UNBILLED COSTS TO DATE
GENERAL						
6/07/2022	Probity Advice - Terraloug, Akuna & Shoalhaven Streets	This matter is subject to an ICAC Section 11 referral. The Commission has not completed its investigation. This matter will escalate at the conclusion of the Federal Court Proceedings in the matter of KMC v Daoud.	J.Stroud	\$ 90,000.00	\$ 73,824.87	-
23/08/2023	Blue Haven (Bonaira) Ongoing probity advice	Parties close to reaching an agreement on contractual documents.	J.Gaudiosi	\$ 95,350.00	\$ 76,241.00	\$ 115.80
3/05/2024	Morgan Lewis v KMC Local Court Failure to comply with terms of DA Fillmore's, Manning Street, Kiama	Matter listed for mention 03/06/2024. The Court ordered for the matter to be listed for a further mention on 05/08/2024. Counsel briefed and the Statement of Facts are currently in preparation.	J.Milevski	\$ 20,000.00	\$ 18,908.80	\$ 59.40
9/05/2023	Advice on the removal of caveats - Spring Creek	Senior Counsel briefed at the request of Council. Advice expected to be completed at the end of July.	J.Stroud	\$ 23,600.00	\$ 13,940.00	\$ 436.00
APPROXIMATE TOTAL				\$ 228,950.00	\$ 182,914.67	

INVESTIGATIONS						
DATE INSTRUCTED	MATTER DESCRIPTION and details of Jurisdiction	STATUS	COUNCIL OFFICER	FEE ESTIMATE (ex GST)	BILLED COSTS TO END OF JUNE	UNBILLED COSTS TO DATE
30/04/2024	Code of Conduct Complaint (Councillor)	Matter referred to Pinnacle Integrity for Investigation. Findings - Two grounds did not require any further action. One ground to proceed to formal investigation.	K.Norton	\$ 9,724.00	\$ 4,576.00	
23/05/2024	Code of Conduct Complaint (Councillor)	Matter referred to Weir Consulting for Investigation.	R.Winston	\$ 5,500.00		
23/05/2024	Code of Conduct Complaint (Councillor)	Matter referred to Weir Consulting for Investigation.	R.Winston	\$ 4,400.00		
9/06/2024	Code of Conduct Complaint (Councillor)	Matter referred to Weir Consulting for Investigation.	R.Winston	\$ 3,850.00		
APPROXIMATE TOTAL				\$ 23,474.00	\$ 4,576.00	

COMPLETED MATTERS			
MATTER DESCRIPTION and details of Jurisdiction	OUTCOME	FINAL COST TO COUNCIL	COMMENT
Karen Renkema-Lang v KMC Judicial Review - Supreme Court Revocation of Censure of Councillor	The outcome of this matter was reported to the 21 May 2024 ordinary Meeting. The proceedings were discontinued, by consent.	\$ 159,746.00	An offer of Costs letter has recently been received from the Plaintiffs Solicitors and Council is currently in the process of negotiations. At this stage, the legal fee estimate for the costs matter is \$11,000
KMC v Daoud Federal Court Proceedings	The matter has been mediated and a Deed of Settlement and Release is in the process of being executed. The matter will be before the Court on 15 August and it is anticipated the proceedings will be dismissed	\$3.71M	
Michael Joseph v KMC Various NCAT proceedings	Mr Joseph's appeals have all been dismissed.	\$ 176,944.00	
Debra Moore NCAT proceedings	The matter before NCAT was successfully mediated and the proceedings were dismissed.	\$ 12,234.00	
Code of Conduct Complaint (Councillor)	No further action required.	\$ 3,437.00	
Code of Conduct Complaint (Councillor)	No further action required.	\$ 4,125.00	
Code of Conduct Complaint (Councillor)	Referred by to the CEO for resolution by alternate strategies.	\$ 5,586.00	

18.3 Updated Notice of Motion Item 20.3: NSW Biodiversity Crisis

This notice of motion replaces the notice of motion at Item 20.3 in the business papers. Cllr Karen Renkema-Lang has submitted the following Notice of Motion for Council's consideration:

MOTION

That Council

1. Write to The Hon. Penelope Gail Sharpe, NSW Minister for the Environment and The Hon Tara Moriarty MLC Minister for Agriculture
 - (a) expressing thanks for the advice provided by Minister Sharpe on the planning controls and other legislative arrangements that may be applied to strengthen protections of the Minnamurra River biodiversity and surrounding eco-systems, and
 - (b) congratulate both Ministers on the development of the *NSW Plan for Nature* in response to the Biodiversity Crisis across NSW
2. Write to the Premier The Hon. Christopher John Minns, MP and The Hon Paul Scully MP, Minister for Planning and Public Spaces
 - (a) noting that Council shares the NSW Government's grave concerns about the Biodiversity Crisis across NSW and acknowledging that urgent action is required to put nature on a path to recovery
 - (b) expressing Council's support for the NSW Plan for Nature released in July 2024
 - (c) requesting advice on the extent to which the *NSW Plan for Nature* recommendations (or any other legislative instruments) will be applied to protect, preserve and restore the fragile eco-systems of the river catchments and wetlands contained within the Kiama local government area as development is 'fast-tracked' in line with the NSW Government's planning reforms.
3. Provide a copy of the correspondence referred to in 2) above be provided to the Hon. Ryan John Park, Minister for the Illawarra and South Coast, The Hon. Penelope Gail Sharpe NSW Minister for the Environment, The Hon Tara Moriarty MLC Minister for Agriculture, the Minnamurra Progress Association and the Jamberoo Valley Ratepayers and Residence Association.

Signed Councillor Karen Renkema-Lang

Supplementary Reports

18.3 Updated Notice of Motion Item 20.3: NSW Biodiversity Crisis (cont)

Attachments

- 1 The Hon Penny Sharpe MLC response to Cr K Renkema-Lang's Notice of Motion 14 December 2023 - Minnamura River [↓](#)

Purpose:

To ensure the appropriate protections are applied to the conservation of the biodiversity of all river catchments, wild-life habitats, and supporting eco-systems across the Kiama local government as development is 'fast-tracked' in line with the NSW Government's planning reforms.

Background:

In April 2024 Council wrote to The Hon. Ryan John Park, Minister for the Illawarra and South Coast and The Hon. Penelope Gail Sharpe NSW Minister for the Environment in accordance with the following resolution of Council.

23/3750C 14 December 2023.

Resolved that Council:

1. *Supports the development of health facilities in our area that are designed to meet the health needs of our community.*
2. *Acknowledges the Minnamurra Progress Association's concerns about the potential adverse impact of the Shellharbour Hospital development on the biodiversity of the Minnamurra River and surrounding eco-systems.*
3. *Writes to The Hon. Ryan John Park, Minister for the Illawarra and South Coast and the Hon. (Penny) Penelope Gail Sharpe NSW Minister for the Environment:*
 - (a) Highlighting that in addition to providing natural habitat for endangered and threatened species, the Minnamurra River and surrounding eco-systems provides public and social infrastructure for recreational, fishing and tourism activities, activities that bring significant economic benefits for our municipality.*
 - (b) Expressing concerns about the cumulative adverse impact of urban and industry development (such as the Shellharbour Hospital and Dunmore Lakes Sand Extraction projects) on the biodiversity of the Minnamurra River and surrounding eco-systems.*
 - (c) Seeking clarification on what planning instruments or other legislative arrangements are in place to protect and preserve the biodiversity of the Minnamurra River and surrounding eco-systems from the cumulative impacts of nearby urban and industry developments.*
 - (d) Seeking their assistance to establish stronger planning controls (such as the introduction of a site-specific Biodiversity and Conservation State Environmental Planning Policy) to protect, preserve and restore the biodiversity of the Minnamurra River and surrounding eco-systems.*

(Councillors Renkema-Lang and Draisma)

Supplementary Reports

18.3 Updated Notice of Motion Item 20.3: NSW Biodiversity Crisis (cont)

In Minister Sharpe's reply to Council's letter (attached), the Minister noted that she shared "*Council's recognition of the significant role the Minnamurra River and surrounding eco-systems are playing as natural habitat for wildlife*" and acknowledged "*the River's social, cultural, and economic values for local community*".

The most compelling information provided in the Minister's letter related to the independent statutory reviews of the *Biodiversity Conservation Act* and the *Local Land Services Act 2013*.

The reviews were undertaken to deliver on three of the Governments key election commitments: to reform the biodiversity offsets scheme, to stop excess land clearing and to strengthen environmental protections. Ref: <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/overview-of-biodiversity-reform/statutory-review-of-the-biodiversity-conservation-act-2016>

The reports provided as part of the above reviews are sobering reading. They clearly demonstrate that "*Biodiversity in NSW is in crisis.*" And that "*We must take urgent action to put nature on a path to recovery*".

The biodiversity crisis is not just limited to the Minnamurra River catchment, but all biodiversity hotspots in the Kiama LGA and indeed across the state of NSW.

The report on the Biodiversity Conservation Act states:

*The present generation is the principal beneficiary of government efforts to promote economic activity and address obvious social issues, whereas the burden of any consequential environmental damage, especially that which is irreversible, such as species loss, is overwhelmingly borne by future generations. **Future generations are also those forced to bear the negative economic and social consequences of long-term environmental degradation.***

*The Review Panel recognises that achieving nature positive outcomes will pose significant challenges for government in balancing various priorities, **for example, housing and associated infrastructure requirements to support a growing population.** A nature positive framing of the Act requires a substantial change in mindset, policy and program design, and dedicated resourcing. However, the Review Panel considers that nature positive is not only an environmental necessity, but crucial for underpinning future economic growth and wellbeing.*

In response to the reviews mentioned above, the NSW Government prepared the *NSW Plan for Nature*. The plan is a bold, honest, and encouraging account of what needs to be done to address the matter.

However, NSW also faces a housing crisis. Many people across the state are in housing stress and the number of homeless people is increasing. In response the NSW Government has 'fast-tracked' planning reforms *to create a tens of thousands of new, well-located, low-rise and mid-rise homes*". Kiama Council's *Draft Growth and Housing Strategy*, currently on exhibition, clearly articulates Kiama's anticipated response to these reforms.

What is not clear is how, in responding to the housing crises the NSW Government, and Council's across NSW, will have agency to apply the necessary protections to

Supplementary Reports

18.3 Updated Notice of Motion Item 20.3: NSW Biodiversity Crisis (cont)

prevent the Biodiversity Crisis from worsening and that will restore eco-systems and wild-life habitats across the state.

Chief Executive Officer response

Council's Environment and Compliance team is committed to protecting the natural diversity in our estuaries and rivers. Council has commenced work on the restoration of coastal wetland surrounding the Minnamurra waste and recycling facility. This work was made possible through (partial) grant funding from the Coastal and Estuary funding from the Department of Climate Change, Energy, the Environment and Water.

Council welcomes any further opportunities to improve biodiversity outcomes for wetlands and the broader local government area within current corporate priorities, funding and budgetary constraints.

In terms of resolution three the CEO's advice is that the correspondence is better tabled as part of the business paper than sent to specific interest groups. Council information such as this is best placed on the public record as part of the "tabling of documents and petitions" so that all interested residents and community groups can be informed equitably and at the same time.

OFFICIAL

The Hon Penny Sharpe MLC

Minister for Climate Change, Minister for Energy,
Minister for the Environment, Minister for Heritage,
Leader of the Government in the Legislative Council



Your ref: 24/1881

Our ref: MD24/3048

Ms Jane Stroud
Chief Executive Officer
Kiama Municipal Council

By email: cathieb@kiama.nsw.gov.au

Dear Ms Stroud

Thank you for your letter about Councillor Karen Renkema-Lang's Notice of Motion on your 14 December 2023 Council Meeting about the impact of development on the Minnamurra River.

I share the Council's recognition of the significant role the Minnamurra River and surrounding eco-systems are playing as natural habitat for wildlife and I acknowledge the River's social, cultural, and economic values for local community.

The Minnamurra catchment is extensively cleared, given the area was historically used for rural activities. The remnant vegetation is largely under conservation land use zoning. The coastal wetland in the east of the catchment is mapped as an important attribute under the State Environmental Planning Policy (Hazards and Resilience) 2021, which gives the wetland additional protections. In addition, a large section of vegetation to the west of the catchment is protected in the Budderoo National Park.

The Department of Planning, Housing and Infrastructure (DPHI) is the approval authority for most large projects such as the Shoalhaven Hospital. Council's planning staff are best placed to comment on smaller developments. In addition, Council may wish to consider revising its Local Environmental Plan (LEP) as it is the principal planning tool Council can use to strengthen protection of the Minnamurra River. If Council were to review the LEP, a useful focus would be on land use zones and suitability of permissible development types. DPHI is also best placed to respond on new planning mechanisms and legislative change.

In August 2023, I tabled the independent statutory review of the *Biodiversity Conservation Act 2016* in NSW Parliament. The NSW Minister for Agriculture also tabled the outcomes of the statutory review of the native vegetation provisions of the *Local Land Services Act 2013*. The NSW Government is currently preparing a response to both reviews, which is expected to be released in 2024. The response will support Government commitments to strengthen environmental protections and stop excess land clearing. Further information about the review is available at: www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/overview-of-biodiversity-reform/statutory-review-of-the-biodiversity-conservation-act-2016

If you have any further questions about this issue, you can contact Mr Chris Page Senior Team Leader, Planning (Illawarra), Biodiversity Conservation Division, Department of Climate Change, Energy, the Environment and Water at chris.page@environment.nsw.gov.au.

Sincerely

A handwritten signature in blue ink, appearing to read "Penny Sharpe".

Penny Sharpe MLC

Minister for Climate Change, Minister for Energy,
Minister for the Environment, Minister for Heritage

cc: The Hon Paul Scully MP, Minister for Planning and Public Spaces