

## DE21.114 Planning Proposal Request - Willinga Park Equestrian Centre, Bawley Point

**HPERM Ref:** D21/376528

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

**Attachments:** 1. Community Engagement Summary  
2. Summary of Submissions - PreGateway (under separate cover)

### Reason for Report

Present the proponent-initiated Planning Proposal (PP) request relating to the Willinga Park Equestrian Centre (Willinga Park) at Bawley Point for initial consideration and direction. The request seeks site specific amendments to *Shoalhaven Local Environmental Plan 2014* (LEP 2014) to permit:

- ‘function centre’ as an additional permitted use in the RU2 Rural Landscape Zone on the site; and to also
- Make functions of less than 351 attendees (excluding staff) ‘development without consent’ (exempt development).

The proponent-initiated PP request was submitted by BBC Planning on behalf of the landowner, Capital Property Corporation.

### Recommendation (Item to be determined under delegated authority)

That Council:

1. Support progressing a Planning Proposal (PP) to amend *Shoalhaven Local Environmental Plan (SLEP) 2014* (SLEP 2014) to make ‘function centre’ an additional permissible use (with consent) within the RU2 Rural Landscape Zone on the subject land (Lot 21 DP 1217069 and Lot 33 DP 1259627, being 132 and 123 Forster Drive, Bawley Point) to allow a broader range of functions / events (unrelated to equine activities) at Willinga Park.
2. Not support the proponent’s request to amend SLEP 2014 to make functions involving less than 351 attendees (excluding staff) ‘development without consent’.
3. Prepare the PP and submit to the NSW Department of Planning, Infrastructure and Environment (DPIE) for Gateway determination, in accordance with Part 1.
4. Subject to receiving a favourable Gateway determination, undertake government agency consultation and complete any supporting technical investigations (if required) and publicly exhibit the PP.
5. Receive a report on the outcome of the public exhibition of the PP.
6. Advise the proponent and those who made a submission of this decision.

### Options

1. As Recommended

Implications

This option supports the proponent's key request to broaden/diversify the range of events/functions held within the existing facilities at Willinga Park. The PP would seek to make '*function centre*' an additional permissible use within the RU2 Rural Landscape zoned land at the site. This would allow Willinga Park to host a wider range of events/functions (unrelated to equine activities) subject to development approval.

Should the PP ultimately be finalised, impacts arising from the additional functions would be appropriately assessed within the existing legislative planning framework at development application (DA) stage and be managed via development consent conditions. The proponent could seek to modify the existing events approval (DA18/1237) or apply for separate approval(s).

This approach ensures that the PP, if supported, would be relatively straightforward and transparent, as development consent would still be required for any overall expansion of functions, events and conferences held at the site. This option is also supported by comments received from the City Development Directorate (Development & Environmental Services).

2. Progress a PP that seeks to make '*function centre*' an additional permissible use (with consent) in the RU2 Rural Landscape Zone **and also** make functions / events of a defined scale (<351 attendees (excluding staff)) '*development without consent*'.

This option is not recommended.

#### Implications

This option would mean that development approval for events hosting up to 350 people (excluding staff) would not be required. Hence, the potential impacts would need to be assessed as part of the PP process (i.e. additional supporting studies) making it more complex than Option 1.

'*Development without consent*' in the RU2 zone is currently generally limited to the very broad uses of extensive agriculture, forestry or limited use of home occupations. This option is not favoured by City Development who have emphasised the need for amenity impacts to be assessed through the DA process.

Should Council wish to support this component of the request, the potential inconsistency with Ministerial Planning *Direction 6.3 – Site Specific Provisions* would need to be justified.

Doubt also exists as to whether DPIE and/or Parliamentary Counsel would support a PP to introduce a specific development standard (<350 attendees). It is even more doubtful that any tailored numerical standards (for example) could be imposed in relation to the location (within the property) number, timing and frequency of events given the limitations of the Standard Instrument LEP format.

3. Not support the PP request.

This option is not recommended.

#### Implications

This option would continue to limit the range of events/functions that could be considered at Willinga Park to approved, ancillary, and currently permissible events. If the PP is not progressed the opportunity to provide additional benefits to the local economy could be lost.

If Council decides not to progress the PP, the proponent could request a pre-gateway review of Council's decision.

## Subject land

The PP request relates to the property generally known as 'Willinga Park': Lot 21 DP 1217069 and Lot 33 DP 1259627, 132 and 123 Forster Drive, Bawley Point - see *Figure 1 Subject Land Map*. Lot 21 is located north-west of Forster Drive and Lot 33 is located south-west of Forster Drive. Access to the subject land is via Forster Drive.

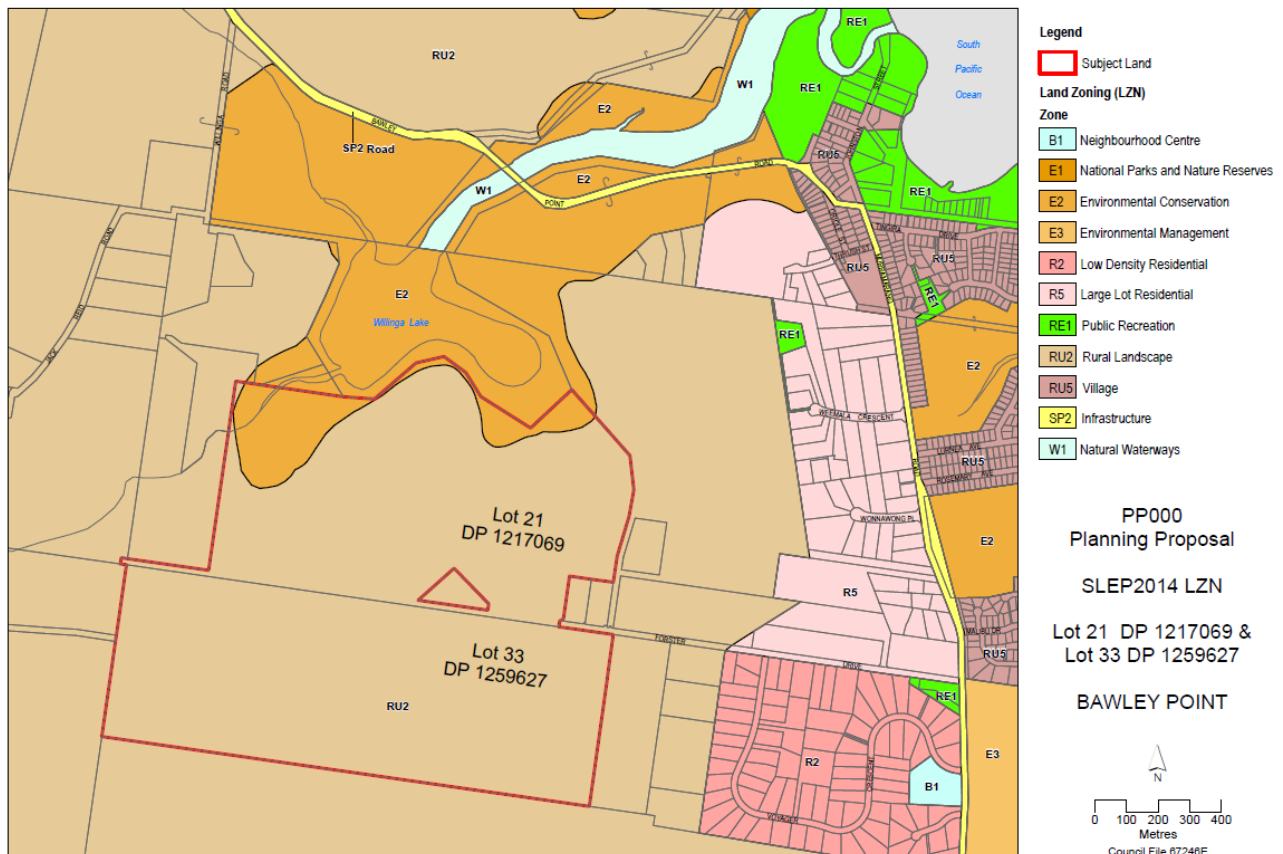
The subject land has an area of approximately 168 ha and is largely zoned *RU2 Rural Landscape*, with a small area adjacent to Willinga Lake in the north zoned *E2 Environmental Conservation* under LEP 2014 (*Figure 2: Zoning Map*).

The PP request only applies to the developed areas of Willinga Park. It does not apply to the neighbouring properties or the wider landholdings of Capital Property Corporation Pty Ltd or Willinga Park Pty Ltd or Willinga Accommodation Pty Ltd. The request also does not currently apply to Lot 1 DP 1186575, which is a triangular lot of land between Lots 21 and 33 containing the manager's residence.



Figure 1: Subject Land Map





**Figure 2: Zoning Map**

## Background

Council received a proponent initiated Planning Proposal (PP) request for Willinga Park on 29 April 2021 from by BBC Consulting Planners on behalf of the landowner, Capital Property Corporation. The submitted Planning Proposal documentation is accessible on Council's [Planning Proposals - Pre-Gateway webpage](#).

### Willinga Park - Planning and Development History

Willinga Park has an extensive planning and development history spanning more than 30 years since the approval of a tourist facility in 1988. See paged 10-11 of the PP request for a chronology of development approvals.

The proponent's request states that Willinga Park is constructed to a 'world class' high standard and has existing approval to accommodate a large numbers of guests at certain events. Current approvals allow events up to 32 times a year (up to 5,000 people 20 times a year, plus up to 3,000 people 12 times a year) depending upon the defined category of the event as per approval DA18/1237 (27 August 2019) and modified by DS19/1522 (2 June 2020).

### Planning Proposal Request

The PP application seeks a site-specific amendment to LEP 2014 to amend *Schedule 1 – Additional permitted uses* to make a 'function centre' permissible (with consent) in the RU2 zoned part of the property (where the existing facilities are located) and an associated amendment to the *clauses map*. 'Function centres' are currently generally prohibited in the RU2 zone City wide.

As noted in the proponent's PP report, diversifying the range of activities permitted on the site has the potential to boost profitability/financial sustainability by making better use of the

existing facilities constructed on the land. The report also identifies the likely and most common type of functions to be held at Willinga Park as follows: Weddings; Awards Dinners; Government Disaster Emergency Response; Community Gatherings; Equine Related Functions/Training; (Yoga) Retreats; Workshops; Tradeshow; Forums; Sport Functions; Birthday Parties; Presentation Nights; Product Launches; and Concerts.

The PP request also seeks a further site-specific amendment to LEP 2014 that would allow functions attended by less than 351 people, excluding staff, to be permitted as '*development without consent*' (essentially exempt development). It is stated that smaller 'functions', in relative terms, will be easily accommodated on site and therefore should be able to proceed without additional approvals. Currently '*Development without consent*' generally in the RU2 zone is limited to the very broad uses of 'extensive agriculture' and 'forestry' and the limited use of 'home occupations'.

### Comment

Willinga Park provides and maintains high quality on-site infrastructure to cater for a range of equine events under DA18/1237 (as modified) including relatively infrequent large events. The benefits to the local and regional economy and tourism are recognised and acknowledged. As such there is merit in ensuring a more stable planning provision for events on this site.

It is important however, to be able to ensure that the potential impacts from allowing relatively smaller more frequent functions (possibly unrelated to equine activities) on the Bawley Point community are appropriately assessed and managed. The cumulative and ongoing potential impacts of the broad range of possible functions requested to be permitted without Council approval or possible operating conditions have not been justified as likely to have sufficiently minor impact in the local context as envisaged by the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The '*development without consent*' pathway under EP&A Act is generally for development that does not require the submission of a development application and is reserved for low-impact or routine activities such as home businesses in a residential zone, environmental protection works in an environmental conservation zone, or markets in a public recreation zone. Some of these developments (or activities) may, however, still need a licence, permit or other approval from a public authority and may need to undergo an environmental assessment before that approval can be given. The EP&A Act notes that: 'Environmental assessment of the development may nevertheless be required under Division 5.1 – Environmental Impact'.

Given the proximity of the site (and associated access roads) to residences at Bawley Point, support for the second component of the proponent's proposal would mean that impacts from a range of frequent events involving up to 350 people (excluding staff) would have to be appropriately / broadly assessed as part of the Planning Proposal process.

If the proponent's second proposed '*development without consent*' provision is not supported, the concerns in relation to traffic, access, noise and lighting including cumulative impacts, raised during the preliminary community consultation would be considered at development application stage. This could be either as a modification to the existing events approval under DA18/1237 and DS19/1522 or a new development application(s) under the first part of the PP request if ultimately supported.

In this regard the proponents PP request notes that:

*"... if Council considers that for any reason the inclusion of a "without consent" entitlement for functions of less than 351 persons (excluding staff) is so procedurally or technically problematic that it will diminish its prospects of success, then to the extent that the planning proposal seeks such functions to be permissible without consent, the Planning Proposal can be adjusted to exclude that component"*

The requested '*development without consent*' provision also has the potential to be inconsistent with Ministerial Planning Direction 6.3 - Site Specific Provisions. As such If it is ultimately supported, the inconsistency in this regard will need to be justified (and approved by DPIE).

#### Strategic Planning Overview

The following is a preliminary strategic planning assessment of the part of the request to make 'function centre' a permissible use (requiring a development application) at Willinga Park.

#### *Illawarra Shoalhaven Regional Plan 2041*

The PP is generally consistent with the Plan, particularly *Objective 5: Create a diverse visitor economy*. The amendment would potentially broaden and diversify the range of uses permitted at Willinga Park, increasing overall visitor numbers and supporting the local economy. This outcome reflects the intent of Objective 5 of the Plan which acknowledges the importance of visitors to generate employment opportunities in Shoalhaven.

#### *Shoalhaven Local Environmental Plan 2014*

The PP seeks to add 'function centre' as an additional permissible use on the subject land via Schedule 1 – Additional permitted uses and the clauses map. Whilst 'function centres' are currently prohibited in the RU2 Rural Landscape Zone, the proposed amendment would work to make better use of the existing facilities constructed on the land and improve its long-term viability. Through the process to prepare LEP 2014 it was noted that 'function centres' were a new use that emerged with the NSW Standard LEP Instrument and were mandated in certain Business Zones. Council did not opt to add the use as permissible in other zones at that point, noting that it could be considered separately in the future, for example in appropriate site specific or area circumstances.

The request to permit a defined scale of functions as '*development without consent*' is not supported for reasons explained previously.

#### *Shoalhaven Local Strategic Planning Strategy (LSPS) 2020*

The PP is generally consistent with the LSPS and specifically the goals of Planning Priority 7 (PP7): Promoting a responsible visitor economy and Planning Priority 16: Promoting events and public art. Willinga Park is recognised as an existing event venue with '*opportunity*'. The LSPS also outlines future actions required to "balance the support of tourism activity and manage impacts on communities ...".

The PP will facilitate better and more consistent use of the existing buildings constructed on the land. Not pursuing the proponent's request for '*development without consent*' will ensure that all impacts from the resulting additional use will be properly assessed through the existing legislative framework and DA process.

#### *Planning Proposal (Rezoning) Guidelines 2018*

Council's PP guidelines provide for three (3) situations where Council "is more likely to support a PP request". The first is where "The proposed amendment is supported by an adopted/endorsed Council or State Government strategy or plan such as the Illawarra Shoalhaven Regional Plan". The proposed amendment to add the use of 'function centre' to Schedule 1 is considered to be justified within the broad strategic planning framework for Shoalhaven.

If a '*development without consent*' provision is not pursued, the PP will most likely not require any specialist studies and would therefore also be classified as 'minor' under the PP guidelines.

### *Shoalhaven Destination Management Plan 2018-2023*

Willinga Park is recognised in the Shoalhaven Destination Management Plan 2018-2023 under the heading “1.13.3 Event sites and infrastructure”. The Plan states that Willinga Park Equestrian Centre may provide excellent event opportunities in the future and [...] the most appropriate approach is to focus on those venues that are scalable to host substantive events.

Further, Section 2.9 “Action Plan to Support Events” contains the following strategy and action: *“Work with industry to identify gaps and develop, support and grow events to meet customer demand opportunities. Work with key event locations to maximise tourism impacts e.g.: Willinga Park.....”* This is identified as an ongoing high priority.

The PP is consistent with strategies and actions identified in the Destination Management Plan.

### NSW Guide to Preparing Planning Proposals

The NSW Government’s Guide to Preparing Planning Proposals provides an assessment framework for PPs. This framework requires the planning authority (Council) to consider several questions in determining the merit of a PP. These are considered below:

#### *Q1. Is the PP a result of any strategic study or report?*

The PP is not the result of a strategic study or report but it is considered to be consistent with Council’s strategic planning framework. The PP (part 1) is minor and is not of a kind that would generally be identified in a broad strategic planning process.

#### *Q2. Is the PP the best means of achieving the intended outcome or is there a better way?*

The proposed amendment to Schedule 1 – Additional permitted uses and the clauses map of LEP 2014 is the only way to allow the existing facilities and buildings on the specific site to be used for the range of functions identified. As previously noted, ‘function centres’ are generally prohibited and intended to remain so in the RU2 Rural Landscape zone.

#### *Q3. Is the PP consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategy)?*

The PP is generally consistent with the Illawarra Shoalhaven Regional Plan, the Shoalhaven Local Strategic Planning Strategy and the Shoalhaven Destination Management Plan as it will ultimately result in the diversification of the range of functions and events permitted at the existing Willinga Park facility.

#### *Q4. Is the PP consistent with a Council’s local strategy or other local strategic plan?*

As previously noted, the PP is generally consistent with the LSPS and the Destination Management Plan.

#### *Q5. Is the PP consistent with applicable State Environmental Planning Policies?*

The existing applicable SEPP’s are as follows:

*Coastal Management 2018*

*Exempt and Complying Development Codes 2008*

*Koala Habitat Protection 2021*

*Primary Production and Rural Development 2019*

The PP is not viewed as being inconsistent with these SEPP’s

Agritourism – the NSW State Government is currently considering a suite of planning changes to support the recovery and resilience of farm businesses and regional economies. A new definition for ‘farm events’ is proposed and fast-track approval pathways for some types of agritourism are likely to be introduced via the Exempt and Complying Development

Codes SEPP, subject to certain development standards being met. The PP is minor, and the proposed amendment is consistent with the applicable SEPPs. It is also not inconsistent with the planning changes proposed to enable opportunities for sustainable tourism, in particular agritourism.

*Q6. Is the PP consistent with applicable Ministerial Directions?*

No inconsistencies have been identified with any Ministerial Directions at this stage. The relevant Directions include the following:

*Direction 1.2 Rural Zones* – The PP is not seeking to rezone the land or introduce provisions that will increase the permissible density of development.

*Direction 1.5 Rural Lands* – The PP does not propose any change to the minimum lot size applying to this land and the proponent's intention is to utilise the existing facilities at Willinga Park.

*Direction 2.1 Environmental Protection Zones* – Part of the subject land is zoned E2 – Environmental Conservation. However, the PP is not seeking to reduce any environmental protection standards that apply to this land. The proposal seeks to utilise the existing facilities at Willinga Park (which are located within the RU2 zoned land) to host a wider range of events, functions, conferences and the like.

*Direction 2.2 Coastal Management* – Part of the subject Land (Lot 21) has frontage to Willinga Lake. Part of the subject land is mapped as Coastal Wetlands, Proximity Area for Coastal Wetlands, Coastal Use Area, and Coastal Environment Area. The proposal seeks to utilise the existing facilities at Willinga Park to host a wider range of events, functions, conferences and the like.

*Direction 2.3 Heritage Conservation* – The proposal seeks to utilise the existing facilities at Willinga Park (which are located within the RU2 zoned land).

*Direction 4.1 – Acid Sulfate Soils* – Part of the subject land is mapped as having probability of containing acid sulfate soils. However, the PP is for the purpose of adding a use, does not propose to introduce controls to regulate works in the acid sulfate soils and is of minor significance.

*Direction 4.3 – Flooding* – There is no adopted flood study in this locality. In any case, the proposal seeks to utilise the existing facilities at Willinga Park which are located on more elevated land. It is noted that the existing events approval (DA18/1237) includes an Emergency Plan and a Bushfire Emergency Management and Evacuation Plan. The SES will be consulted if the PP progresses.

*Direction 4.4 – Planning for Bushfire Protection* – The PP affects land identified as bushfire prone but does not seek to permit residential use of the land. The NSW RFS would be consulted prior to community consultation consistent with this Direction. It is noted that the existing events approval (DA18/1237) includes the following documents:

- Emergency Plan
- Bushfire Emergency Management and Evacuation Plan
- Event Plan of Management

*Direction 5.10 – Implementation of Regional Plans* – As outlined previously in this report, the PP is generally consistent with the Illawarra Shoalhaven Regional Plan 2041.

*Direction 6.3 – Site specific provisions* - This direction restricts planning authorities from imposing development standards against any permitted land use within LEPs. The PP request to allow defined use as 'development without consent' would potentially be inconsistent with this direction.



*Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The PP seeks to enable the existing facilities to be used for a wider range of functions / events. No direct adverse biodiversity impacts are anticipated.

*Q8. Are there any other likely environmental effects as a result of the PP and how are they proposed to be managed.*

Potential environmental impacts arising from making a function centre permissible could include noise and light pollution associated with the additional events/functions. Any such impacts would be assessed if/when a development application is submitted for assessment.

*Q9. Has the PP adequately addressed any social and economic effects?*

The PP seeks to broaden the range of uses permitted on the subject land, thereby potentially increasing the number of visitors to the area and adding value to the local economy. Any potential adverse social impacts associated with traffic, noise and light pollution would be best assessed if / when a development application is lodged to increase the overall number of events held at the site.

*Q10. Is there adequate public infrastructure for the PP?*

The PP will allow the existing facilities and infrastructure to be utilised for a wider range of functions and events. It does not seek to alter the physical development occurring on the subject land and is not expected to give rise to any additional infrastructure needs. The PP is adding a permitted use to the subject land. However, development approval to activate the use will be required.

*Q11. What are the views of the state and Commonwealth public authorities consulted in accordance with the gateway determination?*

The relevant agencies, including, but not limited to NSW RFS, SES, EPA and NSW Police will be consulted should the PP progress.

## Community Engagement

Preliminary community engagement was carried out in accordance with [Council's Planning Proposal \(Rezoning\) Guidelines](#).

Preliminary written notification advice was sent to directly adjoining neighbours and all properties with access from Forster Drive (87); the Bawley Point and Kioloa Community Association CCB (BPKCA); Murramarang Men's Shed and Batemans Bay Aboriginal Land Council on 25 June 2021.

Council staff presented information on the PP to a special meeting of the BPKCA (at their request) on Sunday, 1 August via an audio-visual link (due to Covid-19 restrictions). Approximately 40 community members attended.

Council staff have responded to a considerable number of email and phone enquiries from community members. A full community engagement report is provided as **Attachment 1**.

### Preliminary Community feedback

As a result of the preliminary notification, eighty-eight (88) submissions were received:

- 37 support Willinga Park (and, by inference, support the PP request);
- 49 objections to the PP request; and

- Two (2) neutral (requests to monitor water quality and provide traffic calming measures independent of the PP).

The main issues of concern raised related to:

- Traffic impacts and concerns (56% of submissions)
- Noise (45% of submissions)
- Character impacts (36% of submissions)
- Amenity/lifestyle impacts (31% of submissions)
- Events without consent - (24% of the submissions) - concerns about any future 'without consent' / 'exempt development' event provisions

Note: there is a significant degree of crossover in respect of some community concerns (e.g. traffic) with impacts arising from construction activities at Willinga Park, which have been ongoing over a number of years.

Themes raised in submissions of support included:

- Entertainment (28% of submissions)
- High quality architecture (23% of submissions) - should be better utilised.
- Community benefits (22% of submissions) e.g. community-based events and open days, philanthropic work of the landowner etc.
- Jobs (22% of submissions) - ongoing and as a result of construction, support for local businesses, multiplier effect etc.
- Equestrian facilities – (15% of submissions) diversification of the site to support the equestrian goals over the long term.

A detailed submissions table is provided in **Attachment 2**.

Should the PP progress and receive a favourable Gateway determination from DPIE, formal community consultation will occur when the PP is publicly exhibited in accordance with legislative requirements/Gateway determination and Council's guidelines.

Given the high level of community interest in this project, a 'Get Involved' page will be established to facilitate community engagement should the PP request be supported by Council and proceed.

### Internal Council Feedback

Comments were received from the following parts of Council:

*Floodplain and stormwater management* – generally not opposed subject to further assessment at development application stage. Note: further assessment may be required if the proposal to allow defined development as '*development without consent*' is supported.

*City Development (Development Services and Environmental Services)* – supports the proposal to add the use of '*function centre*' but has expressed concerns about, and does not support the proposal to add a development standard to a land use table to permit defined functions involving <351 attendees (excluding staff) as '*development without consent*'.

*City Futures (Tourism)* – Supports the PP.

### **Policy Implications**

As discussed, Willinga Park is an existing unique, world class equestrian centre and there is sound strategic justification for the proposed amendment to the LEP 2014 to make 'function centres' permissible, to allow a broader range of events/functions/conferences to be held there.

Any proposed 'without consent' provision, however, should also be considered in context of community concerns about the growth of events locations/venues (weddings etc) generally in existing rural zoned areas of Shoalhaven (particularly the northern part of the City).

At present locations/venues have utilised the provisions of Clause 2.8 Temporary use of land of the LEP 2014 to obtain development approvals for events. A review of Clause 2.8 was considered by Council on 7 April 2021. In response, Council resolved in part to:

"Monitor the outcome of both the Destination Sydney Surrounds South work in this regard and the relevant NSW Council Planning Proposals regarding function centres in rural areas and staff report back to Council at the appropriate point regarding opportunities that arise for Shoalhaven."

### **Financial Implications**

The PP is proposed to be managed as a minor, proponent funded PP, to be funded by the proponent on a 100% cost recovery basis in accordance with Council Guidelines.