



9 August 2023  
jf:mg

Christine Rees  
[REDACTED]  
[REDACTED]

Via email: [REDACTED]

Dear Christine Rees

### **PUBLIC QUESTION TAKEN ON NOTICE**

I am writing in response to your public question at the Ordinary Meeting of Council held on Wednesday 26 July 2023. At the meeting, the CEO advised that he would provide a detailed response to the questions about the legality of the earthworks at 6 McDonald Road in writing.

#### **The public question reads as follows:**

As a resident of BOQ I volunteer with Borough Coast Carers, SBEA, and Friends of the Hooded Plover, to restore the natural environment for everyone to enjoy. I feel disappointed and unsupported by the council due to some recent decisions and inactions on the council's part with the following:

1. Filling of wetland at 6 McDonald Road.
2. Removal of vegetation (Moonah and Boobialla trees) on crown land in front of 16 Crows Nest Place.  
Coastal Moonah Woodland listed as a threatened community under the Flora and Fauna Guarantee Act 1988.
3. Dogs off-leash along our beaches particularly in the Marine Park where the Hooded Plovers nest. Hooded Plover listed as vulnerable under the EPBC Act.

Unfortunately, we have residents who undermine the good efforts of the volunteering groups. These residents willing destroy local habitats and continue to flaunt council rules and legislation; EPBC Act 1999, the Flora and Fauna Guarantee Act 1988, Flora and Fauna Guarantee Amendment Act 2019, and Wildlife Act 1975; knowing there will be no consequences for their actions from council.

When will the council staff take seriously their responsibility to protect our environment under the Planning and Environment Act 1987 and the environmental legislation. Will council prosecute the residents for removing the protected Moonah woodland, start issuing

finer instead of warnings to dog owners, fine residents who do not apply for the appropriate permits before undertaking earth works on their properties, instead of accepting reports (only taking into consideration hydrology) after the works have occurred?

**Further to the response offered at the meeting, I now provide the following additional information regarding the legality of the earthworks at 6 McDonald Road:**

Clause 35.06 of the Rural Conservation Zone, the land use zone that applies to 6 McDonald Road only requires a permit for earthworks in the following circumstances:

- Earthworks which change the rate of flow or the discharge point of water across a property boundary
- Earthworks which increase the discharge of saline ground water

The Stantec report provided by the landowner following a request from Council confirmed that the works undertaken at the site did not trigger a requirement for a planning permit application under the provisions of the Queenscliffe Planning Scheme.

There are no other triggers under the Queenscliffe Planning Scheme for the works undertaken, including the potential Ramsar listing for Lakers Cutting, that would require a planning permit application.

As such the works did not need a planning permit and were undertaken legally.

Ideally, Council would have been approached by the landowner when they were preparing to fill in the shell grit extraction depression in 2016. But this is not a requirement under the provisions of the Queenscliffe Planning Scheme.

Please let me know if you have any further questions about this matter.

Yours sincerely



**Martin Gill**  
**Chief Executive Officer**