

DRAFT

MINUTES – 8 MAY 2018



PORT STEPHENS COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 8 May 2018, commencing at 5.48pm.

PRESENT:

Mayor R Palmer, Councillors J Abbott, G Arnott, C. Doohan, G Dunkley, P. Le Mottee, J Nell, S. Tucker, General Manager, Corporate Services Group Manager, Facilities and Services Group Manager, Development Services Group Manager and Governance Manager.

103	Councillor Giacomo Arnott Councillor Paul Le Mottee It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 24 April 2018 be confirmed.
104	Councillor Chris Doohan Councillor Glen Dunkley It was resolved that the apology from Cr Ken Jordan and Cr Sarah Smith be received and noted.
	Cr Giacomo Arnott declared a less than significant conflict of interest in Item 1. The nature of the interest is Cr Arnott's recent past membership of the Raymond Terrace Historical Society.

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MOTIONS TO CLOSE

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 18/99095
EDRMS NO: PSC2015-03808**

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (g) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Mayoral Minute Item 1 on the Ordinary agenda namely **2 DOWLING STREET, NELSON BAY**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

105	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (g) of the <i>Local Government Act 1993</i>, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Mayoral Minute Item 1 on the Ordinary agenda namely 2 DOWLING STREET, NELSON BAY.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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ITEM NO. 1

**FILE NO: 18/93448
EDRMS NO: PSC2016-03581**

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **AMENDMENT TO EXISTING RESOLUTION FOR SALE OF PART OF 795 MEDOWIE ROAD, MEDOWIE**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

106	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c) of the <i>Local Government Act 1993</i>, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely AMENDMENT TO EXISTING RESOLUTION FOR SALE OF PART OF 795 MEDOWIE ROAD, MEDOWIE.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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MINUTES ORDINARY COUNCIL - 8 MAY 2018

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

107	Councillor John Nell Councillor Steve Tucker It was resolved that Notice of Motion, Item 1, be brought forward and dealt with prior to the Council Reports section of the business paper.
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NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

**FILE NO: 18/85627
EDRMS NO: PSC2017-00019**

MOUNTAIN BIKE TRAILS AROUND GAN GAN MOUNTAIN

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Request the General Manager to evaluate the plan by Hunter Mountain Bike Association for mountain bike trails around Gan Gan Mountain and report back to Council.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

108	Councillor John Nell Councillor Giacomo Arnott It was resolved that Council request the General Manager to evaluate the plan by Hunter Mountain Bike Association for mountain bike trails around Gan Gan Mountain and report back to Council.
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BACKGROUND REPORT OF: JOHN MARETICH – ASSETS SECTION MANAGER

BACKGROUND

The purpose of this report is a response to a Notice of Motion requesting an evaluation of the proposal received by Council from the Gan Gan Mountain Bike Trails.

The properties proposed for use by the Gan Gan Mountain Bike Trails are located over several separate allotments. These allotments vary in ownership with land owned by Port Stephens Council, land owned by Crown Lands, land managed by Port Stephens Council as part of the Crown Reserve Trust and privately owned land.

Before Council progresses further investigations into the feasibility of this plan, consultation with all relevant landholders would need to be undertaken by Gan Gan Mountain Bike Trails. Should lease or licence arrangements exist with other parties, this documentation would need to be provided to Council for review. Letters of support referencing the proposed plan would also be required.

Council staff agree that the development of designated mountain bike trails in Port Stephens would be a valuable asset for increasing overnight visitation, attracting events and improving recreation opportunities for residents.

ATTACHMENTS

Nil.

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 8 MAY 2018

Councillor Giacomo Arnott left the meeting at 5:54pm in Committee of the Whole.

ITEM NO. 1

**FILE NO: 18/67379
EDRMS NO: 16-2018-171-1**

DEVELOPMENT APPLICATION NO. 16-2018-171-1 FOR A ONE INTO TWO LOT TORRENS TITLE SUBDIVISION AT 1 SKETCHLEY STREET, RAYMOND TERRACE (LOT 2 DP31847)

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application (DA) No. 16-2018-171-1 for one lot into two lot Torrens title subdivision at 1 Sketchley Street, Raymond Terrace subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

109	Councillor Chris Doohan Councillor Glen Dunkley It was resolved that Council move into Committee of the Whole.
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COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor Chris Doohan That the recommendation be adopted.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

Councillor Giacomo Arnott left the meeting at 6.34pm in Open Council.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

110	<p>Councillor Chris Doohan Councillor Paul Le Mottee</p> <p>It was resolved that Council approve Development Application (DA) No. 16-2018-171-1 for one lot into two lot Torrens title subdivision at 1 Sketchley Street, Raymond Terrace subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination Development Application (DA) 16-2018-171-1 for a one lot into two lot Torrens title subdivision.

The DA has been reported to the elected Council given Council is the owner of the subject land and a portion of the land is classified as community under the *Local Government Act 1993*. The portion of land classified as community land is currently occupied by Bettles Park.

The remaining portion of the land houses Sketchley Cottage and is classified as operational land. The existing use of each part of the land is consistent with the classification of the respective part of the lot.

Proposal

The subject land is currently divided by Sketchley Street, with the northern part containing Sketchley Pioneer Cottage and Museum and the southern part containing Bettles Park. A locality plan has been included as **(ATTACHMENT 1)**.

The northern part of the site was previously reclassified as operational land in accordance with clause 5.2 of the Port Stephens *Local Environmental Plan 2013* (the LEP), whilst the southern part remains community land. It should also be noted that the northern and southern portions have different land zonings, being R2 Low Density Residential and RE1 Public Recreation respectively. The application seeks to

formally subdivide the public land into proposed Lot 1 (922.3m²) being the portion of land to the north of Sketchley Street, and proposed Lot 2 (6,341m²) being the portion of the land to the south of Sketchley Street. This will better reflect the existing uses of the land and allow better management into the future. No physical works are proposed as a part of this application.

Key Issues

The application has been considered against the requirements of the LEP, Port Stephens Council Development Control Plan 2014 (the DCP) and other relevant legislation. The key matters considered in the development have been summarised below:

- 1) Heritage impacts – The proposed development, whilst relating to a site with significant local heritage importance, would not result in any adverse impact as no physical works are proposed. Furthermore, the site is already physically separated by Sketchley Street and therefore the formal separation into two distinct lots would have no noticeable effect on the heritage significance of the area or the use of the public land by the community.
- 2) Impacts on the use of public land – The subdivision follows the reclassification of the land, which was reported to Council and included public exhibition as part of the planning proposal for the reclassification. The current application represents the final step in the formal separation of the Sketchley Pioneer Cottage and Museum, and Bettles Park. The proposed development does not seek to alter the current use of the museum or park nor undertake any physical works. The separation will facilitate the better management of the site so that a long term lease can be offered over the museum, affording better long term security to the Raymond Terrace Historical Society.

A detailed assessment of the proposed development has been carried out against the requirements of the *Environmental Planning and Assessment Act 1979* and has been included as **(ATTACHMENT 2)** to this report.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no anticipated financial or resource implications as a result of the proposed development.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (Section 7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that a third party may appeal the determination.	Low	Approve the application as recommended. The assessment carried out details the merits of the proposed development.	Yes
There is a risk that if the land remains a single lot, there will be negative impacts on the efficient management of the site.	Medium	Approve the application as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposal is relatively minor with no physical works to the site and therefore is unlikely to have an impact on the social, economic, built or natural environment.

CONSULTATION

Consultation with key stakeholders has been undertaken, including through public notification and advertising.

Internal

The application was referred to the Council's heritage advisor, who found that the application would not result in harm to the heritage significance of Sketchley Cottage as no physical works were proposed.

External

The application was publicly notified and advertised for a period of fourteen (14) days. No submissions were received as a result of this process.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment Report.
- 3) Proposed Conditions of Consent.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49802255 Fax: (02) 49872612 Email: council@portstephens.nsw.gov.au

 **DEVELOPMENT ASSESSMENT REPORT**

APPLICATION DETAILS

Application Number	16-2018-171-1
Development Description	One into Two Lot Torrens Title Subdivision
Applicant	PORT STEPHENS COUNCIL
Date of Lodgement	13/03/2018
Value of Works	\$0.00

Development Proposal

The application proposes a one into Two Lot Torrens Title Subdivision, resulting in the following lots:-

- Lot 1 – 922.3m²; and,
- Lot 2 – 6,341m².

The development would formally separate the site into operational land (being Lot 1 and containing the Sketchley Pioneer Cottage and Museum) and community land (being Lot 2 and containing recreational open space). The proposed development is illustrated in **Figure 1**. No works are proposed as part of the proposal and the use of the subject site(s) will remain the same.

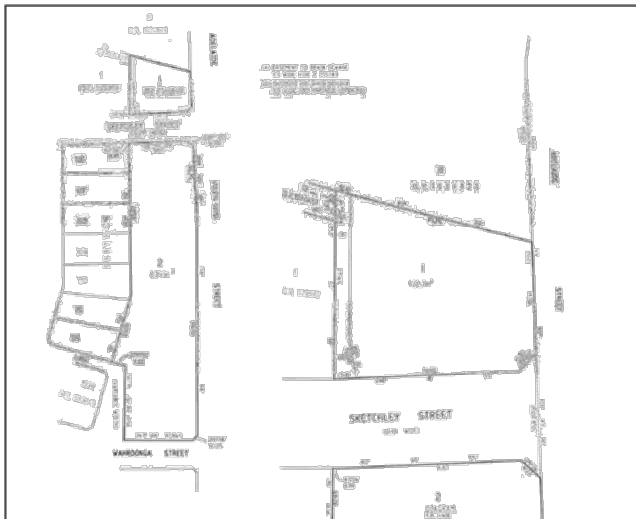


Figure 1: Proposed Subdivision Plan

PROPERTY DETAILS

ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.

16-2018-171-1

Property Address	1 Sketchley Street RAYMOND TERRACE
Lot and DP	LOT: 1 DP: 1093118
Current Use	Information and Education Facility (Museum) and Recreation Facility (Outdoor)
Zoning	Part RE1 PUBLIC RECREATION Part R2 LOW DENSITY RESIDENTIAL
Site Constraints	Acid Sulphate Soils – Category 4 Koala Habitat Planning Map – Preferred/Buffer SEPP 71 – Coastal Protection Draft Coastal Management SEPP – Coastal Use Flood Prone Land – Low Hazard Flood Fringe Area/Minimal Risk Flood Prone Land Local Heritage Item – Sketchley Cottage and Port Jackson Fig Tree

Site Description

The subject site is a rectangular shaped parcel of land split by Sketchley Street, with the northern portion zoned R2, containing Sketchley cottage and the southern portion zoned RE2, containing the public park (see Figure 2). In total the site measures 7,263m² in area.

The site is generally flat with some mature vegetation on the site, as well as the nearby historically significant Port Jackson Fig Tree on the corner of Sketchley Street and Adelaide Street.

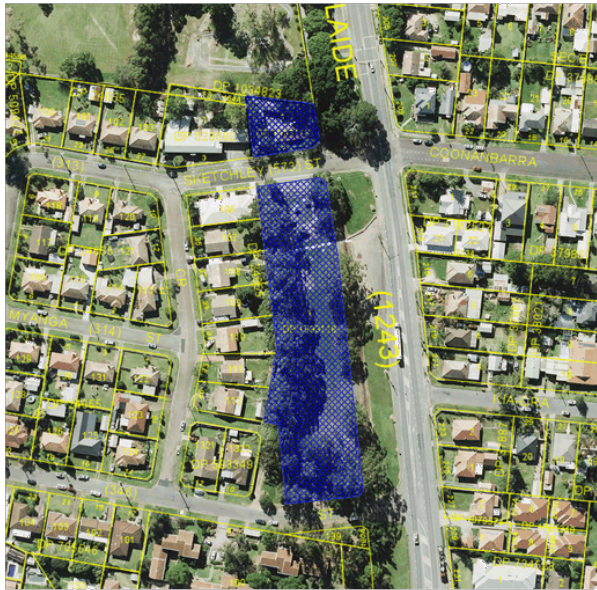


Figure 2: Site Location

Site History

The site has previously had development consent for the use of the cottage as a museum issued in 1988, as well as additions to the museum in 1993. There are no known compliance issues on the site that affect the current application.

Site Notes

The subject site is located partially on one side of Sketchley Street, and partially on the other side. The site located on the north of Sketchley Street is currently occupied by Sketchley Cottage, a heritage listed building. The cottage is occupied by the Raymond Terrace Historical Society.

The northern portion was rezoned and reclassified in June 2016 to R2 Low Density Residential and reclassified from Community Land to Operational Land. This came about from an Open Space Consolidation Review which was adopted by Council on 27 November 2007. The Review identified that part of the subject site is surplus to Council's open space requirements and did not meet Council's criteria for open space.

The southern portion of land is currently Community Land and zoned RE1 Public Recreation. The open space, known as Beetles Park, has barbeques, shelters, interpretive information, and toilet amenities.

Site Inspection

A site inspection was carried out on 6 April 2018. The subject site can be seen in figures 3 and 4 below:



Figure 3: The northern portion of the site that includes Sketchley Cottage



Figure 4: The southern portion of the site known as Bettles Park

ASSESSMENT SUMMARY

Designated Development	The application is not designated development
Integrated Development	The application does not require additional approvals listed under s.4.46 of the EP&A Act
Concurrence	The application does not require the concurrence of another body

Internal Referrals

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the S4.15 Matters for Consideration below.

Development Contributions Officer – The application was assessed under the Port Stephens Development Contributions Plan 2007. As the museum is operational land and Bettles Park remaining in community land, development contributions will not be levied in this circumstance.

Community and Recreation – No comment was raised that would impact the assessment of this application.

Strategic Planning (Heritage) – There are no heritage concerns with respect to the proposed subdivision.

External Referrals

The proposed development was not referred to any external agencies for comment.

MATTERS FOR CONSIDERATION – SECTION 4.15**s4.15(1)(a)(i) – The provisions of any EPI**

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The site is zoned R2 Low Density Residential north of Sketchley Street and RE1 Public Recreation south of Sketchley Street. The existing uses on the site include an information and education facility (museum) and outdoor recreation facility.

The existing uses are consistent with the zone objectives. Whilst the proposal would separate the operational land from the community land, this would not affect the existing physical use. Conversely, the separation of the land would allow better management of the Sketchley Cottage as it would facilitate the land to be leased, thereby providing greater security for the current occupant and less risk for Council. As such the development would remain consistent with the zone objectives.

Clause 2.6 – Subdivision—consent requirements

The proposed subdivision of land into two Torrens title lots is permissible with consent under this clause.

Clause 4.1 – Minimum Subdivision Lot Size

The northern portion of the site containing the operational land has a minimum lot size of 500m², whilst the community land is not identified on the LEP lot size map.

Proposed Lot 1 would meet the minimum lot size and therefore the development is considered to satisfy this clause. Although proposed Lot 2 does not have a minimum lot size requirement, it is considered that the proposal complies with the objectives of the clause and can be supported.

Clause 5.5 – Development within the Coastal Zone

The proposed development is located within the coastal zone and is considered to meet the principles of the NSW Coastal Policy. There are no anticipated adverse impacts on the local ecology or water quality as no physical works are proposed. The proposal is sufficiently separated from the waterway that there are no anticipated impacts on the access to the foreshore. The proposed development is not anticipated to have any negative impacts on views to or from the waterway.

Clause 5.10 – Heritage Conservation

Pursuant to subclause (2), subdividing land on which a heritage item is located requires consent. The proposed development, whilst relating to a site with significant local heritage importance, would not result in any adverse impact as no physical works are proposed. Furthermore, the site is already physically separated by Sketchley Street, as well as being separated in terms of zoning, land use and heritage value. Therefore the formal separation into two distinct lots would have no noticeable effect on the heritage significance of the listed items.

Council may require a heritage assessment where development would affect the heritage significance of the heritage item. In this instance, given no physical works are proposed and the subdivision would separate the heritage item from the adjoining park which is not a heritage item, it is considered that the proposed development would not affect the heritage significance of Sketchley Cottage or the nearby Fig Tree.

ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.

16-2018-171-1

Overall, the proposal is compliant with this clause. Further heritage requirements are discussed under Chapter B.8 of the DCP.

Clause 7.1 – Acid Sulphate Soils

The site is located within acid sulphate soils Category 4, however as no works are proposed the development would not encounter acid sulphate soils.

Clause 7.3 – Flood Planning

The site is located within the flood planning area. The proposed subdivision would not increase the opportunity for additional residential development and therefore the increased risk to life is negligible. In addition, the proposal would not increase development on the site to adversely impact flood characteristics. As such the proposed development satisfies this requirement.

Clause 7.6 – Essential Services

The proposed subdivision does not create the opportunity for further development that would require essential services. In any sense, appropriate services are already in place for the existing uses on site. Therefore there is nothing within this clause which prevents consent being given.

State Environmental Planning Policy No 44 – Koala Habitat Protection

A portion of the park to the south of Sketchley Road is identified as being preferred Koala habitat within the Council's maps. In accordance with the Council's Comprehensive Koala Plan of Management (CKPoM), this is considered capable of providing koala habitat and should be protected from loss accordingly. Whilst this is noted, there are no works associated with the proposed subdivision, no proposed change in use of the land, nor any works that can reasonably be expected as a result of the development, that would adversely impact on the habitat of Koala's. As such, the application is considered to comply with the CKPoM and this SEPP.

State Environmental Planning Policy No 71 – Coastal Protection

The proposed development is located in the coastal zone and accordingly the matters for consideration under clause 8 of this policy apply. The proposed development is not anticipated to have an adverse impact on the ecology, culture or amenity of the foreshore and coastal waters as the development proposes no physical works. In addition, given the separation of the development from the waterway, there are no anticipated impacts on access to, or views to or from the waterway and foreshore area. There are no anticipated conflicts between the proposed land use and the use of the waterway. The proposed development has been considered against the matters for consideration under the SEPP and is acceptable in this regard.

4.15(1)(a)(ii) – Any draft EPI

Not applicable.

s4.15(1)(a)(iii) – Any DCP**Port Stephens Development Control Plan 2014**

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

Chapter A.12 – Notification and Advertising

The DCP outlines that subdivisions resulting in less than four lots do not require notification or advertisement; however, as the application relates to Council owned land and has been prepared by Council, notification and advertisement was undertaken for a period of 14 days. The notification and advertisement of the application is in line with this requirement.

Chapter B.2 – Natural Resources

Whilst part of the site is identified as preferred Koala habitat, the proposed development would not result in the loss of vegetation, nor reasonably provide opportunity for future development, that

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ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.

16-2018-171-1

would adversely impact on Koala habitat. Therefore the proposal is not inconsistent with the CKPoM or SEPP 44.

Chapter B.5 – Flooding

The site is located within the flood planning area, however the hazard level is relatively minor. Irrespective of this, the proposed subdivision would not increase the opportunity for development on the site and therefore the risk to life or impact on flooding characteristics would be negligible. Therefore the proposal is consistent with this requirement.

Chapter B.8 – Heritage

Development consent is required pursuant to Clause 5.10 of the LEP. However, given the minor nature of the proposed subdivision and insignificant impact on the heritage significance, a heritage assessment is not required. Therefore, it is considered that the proposal complies with the requirements of this chapter.

Chapter C1 – Subdivision

The proposed Torrens title is defined as a minor subdivision and the relevant supporting documents have been submitted. The application would not result in adverse layout nor would it impact on the existing provision of open space. The consent would ensure appropriately endorsed documents are submitted prior to the Subdivision Certificate through conditions.

s4.15(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 7.4

There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.

s4.15(1)(a)(iv) – The regulations

There are no matters within the regulations that relate to the application.

s4.15(1)(a)(v) – Any coastal management plan

There are no coastal management plans applicable to the proposed development.

s4.15(1)(b) – The likely impacts of the development

The proposal is relatively minor with no physical works to the site and therefore is unlikely to adversely impact on the social, economic, built or natural environment.

s4.15(1)(c) – The suitability of the site

The subject site is owned by Council, however is separated between operational land and community land. The land is split by Sketchley Street and contains separate uses with different zonings. Based on this, the subject site is considered to be suitable for the proposed subdivision.

s4.15(1)(d) – Any submissions

No submissions have been received in relation to the proposed development.

s4.15(1)(e) – The public interest

The proposal would formalise the separate operational and community land, thereby improving the management of the site. There are no expected adverse impacts as a result of the proposal and therefore the proposed development is considered to be in the public interest.

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DETERMINATION

The application is recommended to be approved by Councillors, subject to conditions.

JESSICA FRANKLIN
Development Planner



**PORT STEPHENS
COUNCIL**

Proposed Conditions

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

SCHEDULE 1

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- confirm and clarify the terms of Council's Approval;
- identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing management of the development.

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. The development shall be carried out in accordance with the stamped approved plans and documentation as listed below, except where modified by any condition of this consent or as shown in red colour on the plans.

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Plan of Subdivision of Lot 1 DP 1093118	P1208- '2017M7100 (400)Survey'	1 of 1	08/05/2017	John Leslie Evans

Note 1: In the event of any inconsistency between the:

- Approved plans and the conditions, the conditions will prevail; or
- Approved plans and supplementary documentation, the plans will prevail.

Note 2: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

Note 3: Modifications to the approved plans will require the lodgement and consideration by Council of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions are to be complied with prior to the issue of a Subdivision Certificate by Council.

2. **Prior to issue of the Subdivision Certificate**, one signed original copy of the original plans and/or documents, and final plan of survey/title, shall be submitted to



PORT STEPHENS
COUNCIL

Proposed Conditions

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

Council. A USB containing an electronic copy of all relevant documents must also be provided.

3. **Prior to the issue of the Subdivision Certificate**, a Compliance Certificate under Section 50 of the *Hunter Water Act 1991*, for this development, shall be submitted to Council.
4. **Prior to the issue of the Subdivision Certificate:**
 - a. A report/plan shall be provided from a Registered Surveyor shall be submitted to Council showing that:
 - i. All service lines are wholly contained within their respective lots, or an appropriate Easement or Easements have been shown on the plan of survey and suitably described in the 88B instrument.
5. The deposited plan and 88B instrument submitted with the subdivision certificate application is to include details of encumbrances under Section 88B of the *Conveyancing Act 1919*, required to carry out the approved development. In particular, the title of the respective approved lots shall be endorsed with the following:
 - a. Easement for sewer main.

The authority to release, vary or modify the above restrictions shall be listed as the owner of the lot(s) benefited, but only with the agreement of Port Stephens Council.

ADVISORY NOTES

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.
- B. **Prior to the Subdivision Certificate Release**, Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering. Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.

SCHEDULE 2

RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Section 8.2 of the Act, or
- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.



PORT STEPHENS
COUNCIL

Proposed Conditions

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to Section 4.20 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to Section 4.53 of the Environmental Planning and Assessment Act 1979.

Councillor Giacomo Arnott returned to the meeting at 5:56pm in Committee of the Whole.

Councillor Giacomo Arnott returned to the meeting at 6.35pm in Open Council.

ITEM NO. 2

**FILE NO: 18/73292
EDRMS NO: 16-2017-324-1**

DEVELOPMENT APPLICATION NO. 16-2017-324-1 FOR DEMOLITION (EXISTING DUAL OCCUPANCY), CONSTRUCT RESIDENTIAL FLAT BUILDING (12 UNITS), SUBFLOOR CAR PARK, EARTHWORKS AND LANDSCAPING AT 16 CHURCH STREET NELSON BAY (LOT: 0 SP: 12075)

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND
COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Support the Clause 4.6 exception as it is considered unreasonable and unnecessary to strictly comply with the development standard of Clause 4.3 of Port Stephens LEP 2013 – Height of Building standard for the proposed development at 16 Church Street, Nelson Bay for the following reasons:
 - a) Compliance with the development standard would be unreasonable and unnecessary in the circumstances, as required under the Five Part Test (Webhe v Pittwater Council);
 - b) There are sufficient environmental planning grounds to justify the contravention;
 - c) The proposed development represents an increase in residential housing in Nelson Bay;
 - d) The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation;
 - e) The proposed development is an appropriate response to the context of the site;
 - f) The proposed development will not have a significant environmental impact, is in the public interest and better achieves the development standard's objectives;
 - g) The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979); and
 - h) The contravention does not raise any matter of State or Regional Significance.
 - 2) Approve Development Application DA No. 16-2017-324-1 subject to the conditions contained in **(ATTACHMENT 1)**.
-

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Glen Dunkley</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

<p>111</p>	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council:</p> <p>1) Support the Clause 4.6 exception as it is considered unreasonable and unnecessary to strictly comply with the development standard of Clause 4.3 of Port Stephens LEP 2013 – Height of Building standard for the proposed development at 16 Church Street, Nelson Bay for the following reasons:</p> <ul style="list-style-type: none">a) Compliance with the development standard would be unreasonable and unnecessary in the circumstances, as required under the Five Part Test (Webhe v Pittwater Council);b) There are sufficient environmental planning grounds to justify the contravention;c) The proposed development represents an increase in residential housing in Nelson Bay;d) The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation;e) The proposed development is an appropriate response to the context of the site;f) The proposed development will not have a significant environmental impact, is in the public interest and better achieves the development standard's objectives;
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MINUTES ORDINARY COUNCIL - 8 MAY 2018

	<p>g) The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979); and</p> <p>h) The contravention does not raise any matter of State or Regional Significance.</p> <p>2) Approve Development Application DA No. 16-2017-324-1 subject to the conditions contained in (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination development application (DA) 16-2017-324-1, for the demolition of an existing dual occupancy and construction of a residential flat building (12 units), subfloor car park, earth works and landscaping.

The DA is being reported to Council as the applicant has requested a variation to the height development standard of the *Port Stephens Local Environmental Plan 2013* (LEP2013) that exceeds 10%. The development exceeds the 9m height control by 1.6m or 18% at its highest point.

Whilst the proposal seeks to vary a development standard relating to height controls, Council staff are confident the flexibility in height has provided a better planning outcome due to the compliance with the Apartment Design Guide (ADG), which has resulted in improved amenity and overall urban design. It is argued that a strictly compliant design cannot achieve the same design excellence desired for the subject site and neighbouring area.

Proposal

Key aspects of the proposed development are listed below:

- The building comprises twelve (12) residential units including:
 - 6 x two-bedroom apartments; and
 - 6 x three-bedroom apartments.
- 22 undercover car parking spaces are provided within the basement level, incorporating 1 accessible car parking space and 4 visitor car parking spaces.
- The basement level of the development will also include 22 lockable storage spaces, as well as bathroom facilities.

- Bicycle storage and letterboxes are provided immediately adjacent to the entrance to the site.
- Visitor/ resident pedestrian site entry is via a pathway along the southern side boundary.
- A bin store has been provided within the basement level, for general waste and recycling.

The slope of the site dictates the building form and results in building heights that vary between 9.2m and 10.6m at its western (rear) façade, with the breaching elements generally limited to the centrally located clerestory roof over the kitchen areas of the upper level apartments.

Landscaping has been provided along all of the boundaries to screen the lower levels from adjacent sites. A rooftop terrace is proposed, to provide additional recreational space.

Vehicular access is provided from the north-eastern corner of the site via a vehicle crossing from Church Street. Vehicle access is incorporated at a right angle to the Church Street frontage and controlled by a security roller door located approximately 10m inside the lot boundary. Pedestrian access will be made available from Church Street to the entry lobby.

No subdivision component is proposed as part of this application.

Assessment Outcomes

The subject land is zoned R3 Medium Density Residential under the LEP2013. The proposal is permissible with consent in the R3 zone.

The proposed development was assessed against relevant controls and objectives as specified under the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*, *State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *LEP2013* and the *Port Stephens Development Control Plan 2014 (DCP2014)*. The key matters considered in the development have been summarised below.

Key Issues

1. Building Height

In accordance with Clause 4.3, the Height of Buildings Map (LEP2013) indicates a maximum building height of 9m for the subject site. The proposed development exceeds the nominated maximum height limit, and therefore requires a variation to the development standard under Clause 4.6 of the LEP2013.

The proposed development has a variable building height to the street (eastern elevation) of between 8.5m and 10m with the breaching elements generally limited to the centrally located clerestory roof over the kitchen areas of the upper level

apartments to bring direct sunlight deep into the floor plates. The building has a maximum building height at its western (rear) façade of between 9.2m and 10.6m as the site falls away towards its north-western corner.

This represents a maximum non-compliance with the development standard of 1.6m or 18% with the majority of non-compliant elements limited to a breach of less than 1m.

To justify the proposed variation in height from the LEP2013 provision, a Clause 4.6 variation request was submitted as part of the application.

In summary, an assessment of Clause 4.6 by Council staff found that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances, as required under the Five Part Test (*Webhe v Pittwater Council*).
- There are sufficient environmental planning grounds to justify the contravention.
- The proposed development represents an increase in the residential housing in Nelson Bay.
- The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation.
- The proposed development is an appropriate response to the context of the site.
- The proposed development will not have a significant environmental impact, is in the public interest and better achieves the development standard's objectives.
- The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).
- The contravention does not raise any matter of State or Regional Significance.

In accordance with Clause 4.6 (a)(i) the applicant has adequately addressed the matters required to be demonstrated, as discussed above. Further, the application is deemed to be in the public interest by providing a range of housing within close proximity to the Nelson Bay Town Centre and Marina precinct. The proposed variation to Clause 4.3 has been assessed in accordance with relevant provisions (**ATTACHMENT 2**) and is considered acceptable in this instance. Accordingly, the application is excepted from the requirement to comply with the nominated height limit derived under Clause 4.3.

2. Setbacks and privacy

The application was referred to the Newcastle City Council's Urban Design Consultative Group (UDCG). The UDCG initially raised concerns regarding the limited setbacks provided to the adjoining sites to the north and south, due to the potential for privacy impacts.

Subsequent to the above comments, the northern setbacks were increased. It is considered that amended setbacks are appropriate for the site in that the development will not have unacceptable impacts in regards to privacy or

MINUTES ORDINARY COUNCIL - 8 MAY 2018

overshadowing, or impede future development opportunities on adjoining lots. The proposed development is in-keeping with surrounding development in the locality and is designed to activate the street frontage.

The applicant provided an amended design, increasing the northern setback of the balconies to 3.5m and has also included sliding privacy screens to the balconies. This is consistent with the pattern prescribed under the ADG. The amended northern setback is consistent with 3F-1 of the ADG requiring '*adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy*'.

It is noted that the design of the proposal is of a higher quality than existing development in the locality and will front and activate the street frontage, which will create visual interest and assist in activating a main entrance point to the town centre of Nelson Bay. The proposed development also identifies the desirable elements of an area's existing and future character in accordance with SEPP 65.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no anticipated financial or resource implications as a result of the proposed development.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (Section 7.11)	Yes		Development Contributions apply to the development.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that a third party or the applicant may appeal the determination.	Low	Approve the application as recommended. The assessment carried out details the merits of the proposed development.	Yes
There is a risk that if the application is refused, the ability to provide new residential accommodation will not be realised.	Low	Approve the application as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development is anticipated to generate viable employment and economic activity through both the construction of the development and occupation by additional residents. The development is generally consistent with surrounding developments and is in keeping with the residential context of the locality, with the increase in height being reasonably justified. The development also includes appropriate stormwater management systems and acceptable access arrangements to Church Street. The development is not anticipated to have significant adverse impacts on the locality, surrounding properties or public places.

A detailed assessment of the proposed development has been carried out against the requirements of the EP&A Act 1979 and has been included as **(ATTACHMENT 2)** to this report.

CONSULTATION

Consultation with key stakeholders has been undertaken, including through the public notification and advertising process.

Internal

The application was referred to the following Council sections:

- Development Engineering
- Building Surveying
- Development Contributions
- Vegetation Management
- Spatial Services
- Waste Management

Each internal staff member assessed the proposed development and did not raise any objection to the designs. Amended stormwater plans were received and conditions of consent attached to address site requirements. The recommended conditions are provided in **(ATTACHMENT 1)**.

External

Urban Design Consultative Group – The application was referred to the Newcastle City Council's Urban Design Consultative Group (UDCG) for comment. It is noted that the comments are non-statutory and therefore hold no weight under the Act. However, the comments were used to assist Council officers to ensure the architectural merit and potential design issues were adequately assessed. The proposal was presented to the UDCG on 20 September 2017 and a number of issues were identified and suggestions made, which included:

- The built form requires additional window/ balcony openings to the street elevation to articulate the street frontage of Church Street.
- The density was questioned given proximity of the building to site boundaries.
- Ground floor units should open directly onto landscape courts rather than narrow planted strip encompassing proposal.
- Amended setbacks from side and rear boundaries should occur.
- Privacy shutters should be included on balconies on the north elevation.
- Distance from balcony to the kitchen area is excessive in terms of natural light penetration. Floor layouts should be revised.
- Relationship of main side entry to the adjacent ground floor unit is unsatisfactory, having substantial privacy and acoustic impacts on the bedrooms of this unit.
- Frenetic pattern of slit windows on the southern elevation, which would be improved by varying the opening dimensions of the secondary windows and possible alignment of window heads to horizontal and vertical windows.
- Passive surveillance of the street frontage is limited.
- Absence of communal space is unacceptable.
- Introduction of solar panels is recommended.
- Introduction of solid balustrades on balcony is recommended.

The UDCG outlined that in order to achieve design quality provisions within SEPP 65, the group considers the above aspects of the proposal should be the subject of further amendment. Minutes from the UDCG meeting are contained in **(ATTACHEMENT 3)** contained within this assessment report. UDCG concluded that the application cannot be supported and design amendments as specified above are recommended.

The applicant amended the design to take into consideration the majority of the issues raised by the UDCG, as follows:

- Addition of balconies on street frontage to Church Street to increase aesthetics and passive surveillance.

- Addition of privacy shutters to the balconies on the north elevation to mitigate privacy issues.
- Amended balcony setbacks from northern side boundary from 3m to 3.5m to mitigate overshadowing and privacy issues.
- Re-designed main side entry, placing the entrance door on an angle, providing separation from the bedroom window. It is noted that the highlight bedroom windows are 1.5m from ground level.
- Design amendments to southern elevation to reduce dominance of slit windows and mitigate privacy issues with the adjoining property to the south. A band of cladding to the upper levels have been included, breaking the pattern in slit windows. This also increases natural lighting into the stairway and landing areas for each Unit's entrance.
- Inclusion of rooftop communal space.
- Gradual glazed balustrades are included to decrease dominance of household items on balconies.

The amended design has been assessed against SEPP 65, as detailed in the assessment report contained in **(ATTACHMENT 2)**. It is considered that the proposed development satisfies the design requirements listed in the SEPP and presents a high quality development to the public realm.

Public consultation – The development application was notified and advertised for 14 days, from 1 June 2017 to 14 June 2017.

During this period three submissions were received. The following concerns were raised:

- Height of the proposed development
- Outdoor noise and privacy issues
- Parking and traffic
- Waste collection
- Water runoff during storms
- Effect on land value of surrounding properties
- Land subsidence due to basement excavation
- Street aesthetics

In response to the submissions received, the following is noted:

- An assessment of the exception to building height has been carried out in accordance with Clause 4.6 of the LEP2013 included in the Assessment Report contained in (ATTACHMENT 2), and the proposed building is acceptable in terms of height related impact.
- Increased balcony setbacks and the installation of privacy screens mitigate privacy and noise concerns.
- The parking allocation for the proposed development complies with the requirements of Council's DCP2014. The existing driveway ingress and egress will not change as a result of the proposed development.

- Council cannot comment on the effect of the development on the surrounding properties land value, as there is no nexus presented. Additionally, only anecdotal evidence has been submitted in relation to this issue. No factual information is available that supports this concern.
- The geotechnical report submitted with the application confirms structural stability of the land in support of the proposed development.
- The height of the building, at its highest point is 1.6m greater than the height limitation of 9m for the subject site and surrounding sites. Due to the topography of the site and Church Street, the building design is stepped to ensure height impacts are reduced. The aesthetics of the design have been greatly improved through design changes and addition of balconies to the street elevation based on responses to matters raised by UDCG.
- Sufficient area fronting the subject site is available for the storage and collection on waste collection days.
- A stormwater and drainage plan has been submitted which confirms compliance with Council's policies and the adequate management of stormwater.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Conditions of consent - 16 Church Street Nelson Bay.
- 2) Planners assessment report - 16 Church Street Nelson Bay.
- 3) UDCG assessment minutes - 16 Church Street Nelson Bay.

COUNCILLORS ROOM

- 1) Development Plans.

TABLED DOCUMENTS

Nil.

**ITEM 2 - ATTACHMENT 1 CONDITIONS OF CONSENT - 16 CHURCH STREET
NELSON BAY.****Notice of Determination**

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

Deferred commencement development consent is granted to development application 16-2017-324-1 subject to the deferred commencement conditions contained in Schedule 1 – Part A. Following demonstration of compliance with the deferred commencement conditions, an operational development consent, subject to the conditions contained in Schedule 1 – Part B, will be issued.

Notice is hereby made under Section 4.18 of the *Environmental Planning and Assessment Act 1979* (the Act) of a Development Consent issued under Section 4.16 of the Act, for the development described below. The consent should be read in conjunction with the conditions contained in Schedule 1 – Part A and Schedule 1 – Part B and the notes contained in Schedule 2.

Determination Outcome: Deferred Commencement, subject to conditions

APPLICATION DETAILS

Application No: 16-2017-324-1

Property Address: LOT: 0 SP: 12075
16 Church Street NELSON BAY

Description of Development: **Demolition (Existing Dual Occupancy), Construct Residential Flat Building (12 Units), Subfloor Car park, Earthworks and Associated Landscaping**

Date of determination: 8 May 2018

Date from which the consent operates: 8 May 2018

Date on which the consent shall lapse: 9 May 2020
(unless physical commencement has occurred)

MISS E L DANIEL
Development Planner

ITEM 2 - ATTACHMENT 1 CONDITIONS OF CONSENT - 16 CHURCH STREET
NELSON BAY.



PORT STEPHENS
COUNCIL

Notice of Determination

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

SCHEDULE 1

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- confirm and clarify the terms of Council's Approval;
- identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing management of the development.

PART A – CONDITIONS OF DEFERRED COMMENCEMENT APPROVAL

Pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*, these are deferred commencement conditions. The consent is not to operate until the Applicant satisfies the Council that:

1. **Prior to the issue of the operational Development Consent**, documentary evidence is to be submitted to Council demonstrating that the property benefits from a drainage easement over the downstream property (Lot: A DP: 373648) to a public drainage system. This documentary evidence must include confirmation that the easement has been registered on the title of the relevant lot(s).

The Applicant shall satisfy the deferred commencement conditions listed in Part A, within **2 years** from the date of issue of the deferred commencement consent. The consent will lapse if the conditions are not satisfied within this period. Upon satisfaction of the matters listed under Part A, and written confirmation from Council to that effect, the consent shall become operative from the date of endorsement included in the written notification subject to the conditions listed in Part B.

**ITEM 2 - ATTACHMENT 1 CONDITIONS OF CONSENT - 16 CHURCH STREET
NELSON BAY.**



**PORT STEPHENS
COUNCIL**

Notice of Determination

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

PART B – CONDITIONS OF CONSENT APPLICABLE AFTER SATISFACTION OF DEFERRED COMMENCEMENT CONDITION(S)

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. The development shall be carried out in accordance with the stamped approved plans and documentation as listed below, except where modified by any condition of this consent or as shown in red colour on the plans.

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Site Plan	1601	02	22 January 2018	Haywood-Bakker-Gillett
Floor Plans	1601	03 - 07	3 November 2017	Haywood-Bakker-Gillett
Elevations	1601	08 - 11	3 November 2017	Haywood-Bakker-Gillett
Landscape Plan	29.17/105	One	February 2017	iScape Landscape Architecture

Note 1: In the event of any inconsistency between the:

- Approved plans and the conditions, the conditions will prevail; or
- Approved plans and supplementary documentation, the plans will prevail.

Note 2: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

Note 3: Modifications to the approved plans will require the lodgement and consideration by Council of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Certifying Authority, prior to the issue of the Construction Certificate.

2. **Prior to the issue of the Construction Certificate**, the existing strata title over the subject site (SP12075) shall be extinguished.
3. A monetary contribution is to be paid to Council for the provision of 10 additional dwellings/ units, pursuant to Section 4.17(1) of the *Environmental Planning and Assessment Act 1979*, Section 7.11 of the *Environmental Planning and Assessment Act 1979*, and Council's Contribution Plan towards the provision of the following public facilities:

ITEM 2 - ATTACHMENT 1 CONDITIONS OF CONSENT - 16 CHURCH STREET NELSON BAY.



PORT STEPHENS
COUNCIL

Notice of Determination

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

Facility	Per lot/dwelling	Total
Civic Administration	\$1,182.00	\$11,820.00
Public Open Space, Parks and Reserves	25,910.00	\$25,910.00
Sports and Leisure Facilities	69,960.00	\$69,960.00
Cultural and Community Facilities	24,950.00	\$24,950.00
Road Works	16,470.00	\$16,470.00
Fire & Emergency Services	2,280.00	\$2,280.00
	Total	\$151,390.00

Payment of the above amount shall apply to Development Applications as follows:
 a. Building work only - prior to the issue of the **Construction Certificate**.

Note: The amount of contribution payable under this condition has been calculated at the time of determination and in accordance with the Port Stephens Contributions Plan. The contribution amount is valid for twelve months from the consent date. Should payment take place after twelve months the contribution shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics.

4. **Prior to issue of a Construction Certificate**, a Street Tree Planting plan, incorporating three (3) street trees in the road reserve, shall be submitted to, and approved by Council's Vegetation Management Officer.
5. **Prior to issue of a Construction Certificate**, detailed design plans of any retaining wall required to support the approved development, that do not meet the requirements for exempt development, shall be submitted to the Certifying Authority for approval.
6. **Prior to the issue of a Construction Certificate**, a geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works an ASS Management Plan is to be prepared by a suitably qualified engineer and submitted to the Certifying Authority for approval.

The recommendations and/or mitigation measures contained within the Acid Sulfate Soils (ASS) Management Plan shall be complied with during works.

7. **Prior to issue of the Construction Certificate**, a dilapidation report including a photographic survey of the adjoining properties must be provided to Council. The dilapidation report must detail the physical condition of the properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

ITEM 2 - ATTACHMENT 1 CONDITIONS OF CONSENT - 16 CHURCH STREET
NELSON BAY.



PORT STEPHENS
COUNCIL

Notice of Determination

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

The dilapidation report is to be prepared by a practising Structural Engineer agreed to by both the applicant and the owner of the adjoining property. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate in writing that all reasonable steps have been taken to obtain access, and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from the Certifying Authority in such circumstances.

8. **Prior to the issue of a Construction Certificate**, detailed engineering plans for civil works in accordance with the approved plans are to be submitted to the Certifying Authority. The detailed plans are to be in accordance with Council's Infrastructure Specification and include the following information:
- a. Plans for all civil works within a road reserve, approved by the Roads Authority and consistent with this condition;
 - b. Details of any required regulatory signage, approved by the Local Traffic Committee and consistent with this condition. With reference to the bus stop adjacent to the development, 'Bus Zone' signs shall be designed and installed to prevent illegal parking during peak holiday periods;
 - c. Any associated works to ensure satisfactory transitions to existing infrastructure;
 - d. The removal of redundant vehicle driveway and kerb layback and reinstatement as new kerb and gutter; and
 - e. The construction of a full width shared vehicle driveway to cater for design vehicle paths determined by Australian Standard AS2890, into and out of the basement car park, for eighteen (18) vehicle parking spaces, including the provision of four (4) visitor parking spaces onsite. This requirement shall be met by providing vehicle swept paths utilising the 85th percentile turning circle as outlined in AS 2890.1: Off-street Car Parking.

A **Construction Certificate cannot be issued** until all details of the above items have been supplied for assessment and determined to be satisfactory by the relevant authorities noted.

9. **Prior to issue of any Construction Certificate**, detailed stormwater drainage plans and accompanying report and calculations are to be submitted to the Certifying Authority for a stormwater / infiltration system capable of catering for a range of rainfall scenarios up to and including the peak run-off generating storm event, found by analysing all AEP's up to and including the 1% AEP, for all durations up to and including a 72 hour duration.

The detailed plans are to be prepared in accordance with the plans prepared by Thomas Lau (Drawing No. CHURCH16-SW4.DWG, Sheets 1,3,4,5,6,9, Issue D, dated 01/2018; and; Drawing No. CHURCH16-SW6.DWG, Sheets 2,7,8,10, Issue D,



PORT STEPHENS
COUNCIL

Notice of Determination

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

dated 01/2018), Council's Infrastructure Specifications, Australian Rainfall and Runoff 2016 Guidelines and must include the following information:

- a. On-Site stormwater / infiltration system with a 'bottomless' infiltration tank, basement holding tank and other key stormwater components detailed in the abovementioned engineering plans;
- b. Incorporation of the infiltration rate from the geotechnical report prepared by Geotechnique Pty Ltd, report no. 13962/2, dated 11/06/2017, with an applied factor of safety of 10;
- c. An emergency overland flow path for major storm events, that is directed to the public drainage system or registered easement for the drainage of stormwater;
- d. Conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties);
- e. Structural design certification of the infiltration tank, basement holding tank and any other structural components of the stormwater / infiltration system by a chartered structural engineer;
- f. Stormwater / infiltration system operation & maintenance plan, covering all system components, signed and dated by the designer; and
- g. All downpipes, gutters and rainwater tanks shall be designed to meet the requirements of the Australian Standard AS 3500, the Australian Plumbing Code and the Building Code of Australia. All overflows from the gutters, downpipes and rainwater tanks shall be directed to the infiltration tank.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION

The following conditions are to be complied with prior to the commencement of works on the subject site(s).

10. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.
11. **Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
12. **Prior to the commencement of works**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.
13. **Prior to the commencement of work**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored

ITEM 2 - ATTACHMENT 1 CONDITIONS OF CONSENT - 16 CHURCH STREET
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COUNCIL

Notice of Determination

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

on the all-weather access at any time except with the agreement of the Principle Certifying Authority.

14. **Prior to the commencement of works**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.
15. **Prior to the commencement of works**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

16. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
17. The Principal Contractor (or Owner/Builder) shall erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work. The sign shall also display the name, address and telephone number of the Principal Contractor for the work (or Owner/Builder) and shall state that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
18. All building work shall be carried out in accordance with the requirements of the Building Code of Australia.
19. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
20. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:
 - a. 7.00am to 5.00pm Monday to Saturday
 - b. No construction is to be carried out at any time on a Sunday or a public holiday.

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- Any work performed outside the abovementioned hours or on a public holiday that may cause offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, is prohibited.
21. No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.
 22. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.
 23. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the surrounding land and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.
 24. The only fill material that may be received at the development site is:
 - a. Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997 (POEO)*; or
 - b. Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

25. All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.
26. All demolition works are to be carried out in accordance with Australian Standard AS 2601-2001. All waste materials are to be either recycled, or disposed of to a licenced waste facility.

Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility. Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.

27. All retaining walls, including all footings, drainage and backfill are to be located wholly within the property boundaries, and are to include a sub-surface drain that connects



to a stormwater disposal system in accordance with the requirements of Councils DCP.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to the issue of either an Interim or Final Occupation Certificate (as specified within the condition).

28. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.
Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.
29. **Prior to the issue of a Final Occupation Certificate**, the commitments listed in BASIX Certificate No. **799821M** (or an amended version of this certificate, or a replacement certificate particular to the approved development) are to be installed in the development. Should an amended or replacement certificate be issued, a copy is to be forwarded to the principle certifying authority immediately following its issue.
30. **Prior to the issue of any Occupation Certificate**, to ensure that privacy and visual amenity is maintained to the adjoining property at 31 Tomaree Street (LOT: A DP: 373648) and 14 Church Street (LOT: B DP: 373648), the following measure(s) must be implemented:
 - a. The upper storey balcony balustrades shall be constructed of opaque or obscured material to preserve the visual privacy of the adjoining property; and
 - b. Fixed privacy screens of not more than 25% transparency shall be installed on the balconies. The privacy screens shall be constructed of a durable material, appropriately integrated, may be slidable and shall be designed so as to prevent direct overlooking of the adjoining properties.
31. **Prior to issue of any Occupation Certificate**, all landscape works detailed on the approved landscape plan (No. 29.17/105, prepared by iScape Landscape Architecture, and dated February 2017) shall be installed. Landscaping shall be maintained in perpetuity. All landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like at all times.
32. **Prior to the issue of any Occupation Certificate**, all street trees must be planted in accordance with the approved Street Tree Planting plan (as required under condition 3 of this consent).

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Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

33. All disturbed public footpath areas shall be reinstated with graded compacted topsoil and turfed to the satisfaction of Council. Smooth transitions shall be made with adjoining property frontages and the top-soiling and grassing extended to suit.
34. The applicant shall restore, replace or reconstruct any damaged sections of kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve which results from construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.

A Final Occupation Certificate shall not be issued until all necessary remediation and repair works have been completed to the satisfaction of Council.
35. **Prior to the issue of an Occupation Certificate**, works-as-executed plans and an accompanying report prepared and certified by a suitability qualified hydraulic engineer confirming all stormwater drainage systems are constructed in accordance with the approved plan shall be submitted to the Principle Certifying Authority for assessment.
36. **Prior to the issue of any Occupation Certificate**, a design verification statement from a qualified architect must be submitted to the Principal Certifying Authority demonstrating the development complies with the requirements of *SEPP No.65 – Design Quality of Residential Flat Development*.
37. **Prior to issue of any Occupation Certificate**, a minimum of twenty-two (22) car parking spaces including one (1) disabled car parking space and four (4) visitor car parking spaces are to be provided in accordance with AS2890 Parts 1 and 6 (as current at the time of construction). Parking shall be permanently marked on the pavement surface.

The parking spaces marked 1 to 4, required for visitors, shall be signposted as "visitor parking".
38. **Prior to the issue of an Occupation Certificate**, a certificate from a Registered Engineer (NER) must be obtained and submitted to Council, verifying that the stormwater/infiltration system(s) as constructed, will perform to meet the stormwater/infiltration requirements in accordance with the approved design plans, and have been constructed to withstand all loads likely to be imposed on them during their lifetime.
39. **Prior to the issue of the Occupation Certificate**, the title of the respective Lot(s) shall be endorsed with the following:
 - a. Easements for stormwater drainage, including rainwater tanks, in accordance with relevant Council requirements and the approved operation and maintenance plan(s). The covenant requirements are to include:



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Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

- i. Submission of operation and maintenance report(s) annually to Council, by the first business day on or after the date of issue of the original development consent;
- ii. The Council shall have the right to enter upon the land referred to above, at all reasonable times, to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the stormwater / infiltration system, or which convey stormwater from the said land, and recover the costs of any such works from the proprietor;
- iii. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the stormwater / infiltration system, or failure to clean, maintain and repair the infiltration system.

The proprietor, or successor, must bear all costs associated with the preparation of the subject 88B instrument. Proof of registration with the NSW Department of Lands must be submitted to, and approved by, the *Principal Certifying Authority* prior to the issue of an **Occupation Certificate**.

The authority to release, vary or modify the above restrictions shall be listed as the owner of the lot(s) benefitted, but only with the agreement of Port Stephens Council.

40. Written evidence is to be provided showing that the registered owner/owners corporation has entered into a minimum five (5) year signed and endorsed maintenance contract with a reputable and experienced cleaning contractor for the rainwater tanks, infiltration tank, basement holding tank and other key stormwater components detailed in the approved operation and maintenance plan. A copy of the signed and endorsed contract(s) for maintenance and the contractor(s)' details shall be forwarded to Council's Development Engineering department at development.engineering@portstephens.nsw.gov.au . The maintenance contract cannot be cancelled, but can be replaced with an alternative contract of the same standard, or with a differing entity (e.g. owner's corporation).
41. **Prior to the issue of a Occupation Certificate**, evidence is to be provided to Council demonstrating that the following reticulated services are available to the lot:
 - a. Telecommunications;
 - b. Electricity;
 - c. Gas;
 - d. Water; and
 - e. Sewer.

Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.

CONDITIONS TO BE SATISFIED AT ALL TIMES

The following conditions are to be complied with at all times.

Adelaide Street (PO Box 42), Raymond Terrace NSW 2324
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Email council@portstephens.nsw.gov.au

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Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

42. The waste storage area is to be screened so as not to be visible from a public place or a communal area. The enclosure is to be constructed of materials that are durable, imperious to moisture and capable of being easily cleaned, and consistent with those used in the approved building. The enclosure is to be capable of separate storage of recyclable and non-recyclable material, and incorporate a wash down area that drains to the reticulated sewer in accordance with the requirements of Hunter Water Corporation.
43. At all times, all collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.
44. Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
45. Air-conditioning and ventilation systems installed at the premises must be installed and maintained to ensure that no offensive or intrusive noise is created, as defined by the *Protection of the Environment Operations Act 1997*.
46. Vents, antennae, air conditioning units and any plant equipment, are to be located within the basement, chased into the building, or screened so as not to be visible from the street or any public place.
47. Motor vehicles are only permitted to enter and leave the site in a forward direction. On site manoeuvring areas are to be kept clear for this purpose.
48. The storage of materials, placement of toilets and rubbish skips etc. within the road reserve is not permitted by this consent. Separate approval under the Roads Act is required to occupy, close or partially close the road reserve adjacent to the property.
49. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
 - a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

ADVISORY NOTES

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Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.
- B. The use of grey water is suggested for the irrigation of landscaping.
- C. Solar panels should be incorporated into the development to increase energy efficiency.
- D. Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au
- E. **Prior to occupying the development**, Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering. Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
- F. The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate
- G. Consideration to the guidance provided by the Australian Institute of Refrigeration, Air Conditioning and Heating (AIRAH) document Air Conditioning Residential Best Practice Guideline (NSW), which provides general information and appropriate locations for air conditioners to be installed to avoid creating noise nuisance is recommended. This is available at www.airah.org.au/Content/NavigationMenu/Resources/BestPracticeGuide .
- H. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment and Heritage must be informed accordance with Section 89A of the *National Parks and Wildlife Act, 1974* (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the *National Parks and Wildlife Act, 1974*.
- I. Telecommunications infrastructure to services the premises should be installed which complies with the following:

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Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

- The requirements of the Telecommunications Act 1997 (Cth)
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation.
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
- J. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
- K. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/the person having the benefit of the development consent to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.

SCHEDULE 2

RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Section 8.2 of the Act, or
- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to Section 4.20 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to Section 4.53 of the Environmental Planning and Assessment Act 1979.

 **DEVELOPMENT ASSESSMENT REPORT**

APPLICATION DETAILS

Application Number	16-2017-324-1
Development Description	Demolition (Existing Dual Occupancy), Construct Residential Flat Building (12 Units), Subfloor Car park, Earthworks and Associated Landscaping
Applicant	HAYWOOD BAKKER GILLETT
Date of Lodgement	22/05/2017
Value of Works	\$4,223,220.00

Development Proposal

The application proposes the demolition of an existing dual occupancy and construction of a three storey residential flat building, subfloor car park, earthworks and associated landscaping. Key aspects of the proposed development are listed below:

- The building comprises twelve (12) residential units including:
 - 6 x two-bedroom apartments; and
 - 6 x three-bedroom apartments.
- 22 undercover car parking spaces within the basement level, incorporating 1 accessible car parking space and 4 visitor car parking spaces;
- The basement level of the development will include 22 storage spaces, and bathroom facilities;
- Bicycle storage and letterboxes are provided immediately adjacent to the entrance to the site;
- Visitor/ resident pedestrian site entry is via a pathway along the southern side boundary (**Figure 1**); and
- A bin store has been provided within the basement level, for general waste and recycling.



Figure 1: visitor/ pedestrian access to proposed development

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The slope of the site dictates the building form and results in building heights that vary between 9.2m and 10.6m at its western (rear) façade, with the breaching elements generally limited to the clerestory roof over the kitchen areas of the upper level apartments. The street elevation of the development is shown in **Figure 2** below.



Figure 2: front elevation (street elevation) of proposed development.

Landscaping has been provided along all of the boundaries to screen the lower levels from adjacent sites. A rooftop terrace is proposed, to provide additional recreational space.

Vehicular access is provided from the north-eastern corner of the site via a vehicle crossing from Church Street. Vehicle access is incorporated at a right angle to the Church Street frontage and controlled by a security roller door located approximately 10m inside the lot boundary. Pedestrian access will be made available from Church Street to the entry lobby. Both vehicular and pedestrian access will be controlled by a card security system to ensure safe and secure vehicle and pedestrian access.

All waste will be removed by Council's waste contractors.

No subdivision component is proposed as part of this application.

PROPERTY DETAILS	
Property Address	16 Church Street NELSON BAY
Lot and DP	LOT: 0 SP: 12075
Current Use	Attached multi-dwelling housing
Zoning	R3 MEDIUM DENSITY RESIDENTIAL
Site Constraints	Bushfire prone land category 3; Acid sulfate soils class 5; DRAFT SEPP2016 – Coastal Management; SEPP71 Coastal Protection; SEPP (Vegetation in Non-Rural Areas) 2017;

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Stormwater Drainage Requirement Area – 100year ARI infiltration; and
D6 – Nelson Bay West (Foreshore).

Site Description

The subject site is located at 16 Church Street Nelson Bay, legally identified as LOT: 0 DP: 12075 and measures 1028.6m² in size (**Figure 3**).

The subject site is located at the western interface with the Nelson Bay Town Centre, approximately 70m to the east of the main roundabout located on Stockton/ Church Street. The site is rectangular in shape and falls approximately 3 metres across its surface in a north westerly direction.

The site is currently occupied by a two-storey strata subdivided dual occupancy (attached) with a detached double brick garage located at the rear of the property and accessed via a driveway down the northern boundary of the site. The properties to the north of the subject site are occupied by single storey dwellings with frontage to Tomaree Street. The properties to the south of the subject site are occupied by one and two-storey detached dwellings with frontage to Moorooaba Crescent.

Development east of Church Street is typified by higher density developments, such as residential flat buildings and multi-storey mixed use developments. West of Church Street is characterised by low density residential development. South of the subject site consists of a five storey residential flat building (9 Church Street). A residential flat building incorporating 56 units at 8 and 9 storeys at 11-13 Church Street was approved by Council in June 2017, and a nine storey residential flat building was approved by Council in July 2017 at 65-67 Donald Street. The site is located on the western interface of the Nelson Bay Town Centre, approximately 600m south of the Nelson Bay Marina.



Figure 3: GIS aerial photo of locality.

Site History

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The site has previously had approval for a dual occupancy under DA 7-1976-38-1. No conditions under this consent limit the proposed development. No compliance issues exist in this regard.

Site Inspection

A site inspection was carried out on 25 July 2017 and 29 March 2018. The subject site can be seen in the figures below:



Figure 4: existing dual occupancy development on subject site.



Figure 5: subject site viewed from the eastern side of Church Street.

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Figure 6: subject site and adjoining property to the north viewed from the eastern side of Church Street.



Figure 7: existing shed on adjoining property to the south of the subject site.

ASSESSMENT SUMMARY

Designated Development	The application is not designated development
Integrated Development	The application does not require additional approvals listed

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	under s.4.46 of the EP&A Act
Concurrence	The application does not require the concurrence of another body

Internal Referrals

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the S79C Matters for Consideration below.

Development Engineer – The application was referred to Councils Engineering section for comment. In response additional information was requested in regards to water quality and water quantity. The additional information requested was submitted by the applicant. The application is supported subject to the inclusion of recommended conditions of consent.

Traffic Engineer – No objections were made to the proposal. It was noted that the location of the proposed access driveway allows minimum sight distance requirements to be achieved. No conditions are required in this instance.

Building Surveyor – No objections were made to the proposal. All recommended conditions have been incorporated into the conditions of consent.

Development Contributions Officer – No objections were made to the proposal. A monetary contribution is required for the provision of 10 additional units. A two lot credit has been provided for the existing dual occupancy on-site (under DA 7-1976-38-1).

Vegetation Management Officer – The application was referred to Councils Vegetation Management Officer for comment. In response it was noted that the landscape plan is consistent with the Port Stephens Council Landscape Technical Specification, however no street trees were provided. A condition has been attached to the consent requiring three street trees to be planted within the road verge prior to the issue of the occupation certificate.

Spatial Services - Council's Spatial Services unit provided a numbering convention for the development. The site will in future be known as 16 Church Street (with each individual unit receiving a unit number from 1 to 12).

Waste Management – The application was referred to Councils Waste Management Coordinator for comment. It response no objections were raised and noted that Councils general waste truck will service the site.

External Referrals

Urban Design Consultative Group

The application was referred to the Newcastle City Council's Urban Design Consultative Group (UDCG) for comment. It is noted that the comments are non-statutory and therefore hold no weight under the Act. However, the comments were used to assist Council officers to ensure the architectural merit and potential design issues were adequately assessed.

The proposal was presented to the UDCG on 20 September 2017 and a number of issues were identified and suggestions made, which included:

- The built form requires additional window/ balcony openings to the street elevation to articulate the street frontage of Church Street;
- The density was questioned given proximity of the building to site boundaries;

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- Ground floor units should open directly onto landscape courts rather than narrow planted strip encompassing proposal;
- Amended setbacks from side and rear boundaries should occur;
- Privacy shutters should be included on balconies on the north elevation;
- Distance from balcony to the kitchen area is excessive in terms of natural light penetration. Floor layouts should be revised;
- Relationship of main side entry to the adjacent ground floor unit is unsatisfactory, having substantial privacy and acoustic impacts on the bedrooms of this unit;
- Frenetic pattern of slit windows on the southern elevation, and would be improved by varying the opening dimensions of the secondary windows and possible alignment of window heads to horizontal and vertical windows;
- Passive surveillance of the street frontage is limited;
- Absence of communal space is unacceptable;
- Introduction of solar panels is recommended; and
- Introduction of solid balustrades on balcony is recommended.

The UDCG outlined that in order to achieve design quality provisions within State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, the group considers the above aspects of the proposal should be the subject of further amendment. Minutes from the UDCG meeting are contained in **Attachment A** contained within this assessment report. UDCG concluded that the application cannot be supported and design amendments as specified above are recommended.

The applicant amended the design to take into consideration the majority of the issues raised by the UDCG, as follows:

- Addition of balconies on street frontage to Church Street to increase aesthetics and passive surveillance;
- Addition of privacy shutters to the balconies on the north elevation to mitigate privacy issues;
- Amended balcony setbacks from northern side boundary from 3m to 3.5m to mitigate overshadowing and privacy issues;
- Re-designed main side entry, placing the entrance door on an angle, providing separation from the bedroom window. It is noted that the highlight bedroom windows are 1.5m from ground level;
- Design amendments to southern elevation to reduce dominance of slit windows and mitigate privacy issues with the adjoining property to the south. A band of cladding to the upper levels have been included, breaking the pattern in slit windows. This also increases natural lighting into the stairway and landing areas for each Unit's entrance;
- Inclusion of rooftop communal space; and
- Gradual glazed balustrades are included to decrease dominance of household items on balconies.

The amended design has been assessed against SEPP 65, as detailed below.

MATTERS FOR CONSIDERATION – SECTION 4.15

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s79C(1)(a)(i) – The provisions of any EPI**State Environmental Planning Policy 65 – Design Quality for Residential Apartment Development (SEPP 65)**

SEPP 65 applies to the development. As a result, the nine design quality principles set out in the Apartment Design Guide (2015) produced under SEPP 65 are required to be addressed.

Clause 6A of SEPP 65 states that any of the following ADG provision supersedes DCP controls in respect of the following issues:

- a) visual privacy;
- b) solar and daylight access;
- c) common circulation and spaces;
- d) apartment size and layout;
- e) ceiling heights;
- f) private open space and balconies;
- g) natural ventilation; and
- h) storage.

The proposal complies with the majority of the ADG controls. However, a number of issues were identified by the UDCG and these are included in the discussion below. The application has been accompanied by a Design Verification Statement from the architect. Each design principle outlined under SEPP 65 is discussed below.

1. Context and Neighbourhood Character

The subject allotment is zoned R3 Medium Density Residential, which permits residential flat buildings with consent from Council.

Development in the immediate vicinity consists of a range of developments that include mixed use development to the east and residential development to the south and north.

Within close proximity to the subject site to the north and east, the following allotments have recent approval for residential flat developments:

- 16-2017-856-1 – 65 Donald Street, 17 Units;
- 16-2016-642-1 – 90 Magnus Street;
- 16-2016-631-1 – 11 Church Street;
- 16-2014-708-1 – 64 Dowling Street; and
- 25-2003-7-1 – 19 Church Street.

It is considered that the proposal will be in-keeping with the surrounding streetscape that includes development of similar scale and character.

The UCGD raised concerns that the development is unacceptable as the proposal is of substantially greater scale than the adjoining development to the north and south. Concerns were raised regarding the minimum setback distances as prescribed under the ADG. It is considered that amended setbacks are not appropriate for the site in that the development will not have unacceptable impacts in regards to privacy or overshadowing, or impede future development opportunities on adjoining lots. The proposed development is in-keeping with surrounding development in the locality and is designed to activate the street frontage.

The amended design of the development increased the northern setback of the balconies to 3.5m and has also included sliding privacy screens. This is consistent with the pattern prescribed under the ADG. The amended northern setback is consistent with 3F-1 of the ADG requiring '*adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy*'.

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It is noted that the design of the proposal is of a higher quality than existing development in the locality and will front and activate the street frontage, which will create visual interest and assist in activating a main entrance point to the town centre of Nelson Bay. The proposed development also identifies the desirable elements of an area's existing and future character in accordance with SEPP 65.

2. Built Form and Scale

The built form and scale of the development is considered to be appropriate for the context and topography of the subject site. The proposal is highly articulated and modulated in both the vertical and horizontal planes, and is integrated with landscape features. The built form responds to the constraints and opportunities of the site, providing for a stepped and appropriate built form presentation.

The UDCG noted that the development should incorporate windows or balconies to the street elevation, to increase passive surveillance and increase positive appearance of built form. The applicant provided amended development plans to address concerns raised by the UDCG, which include balconies fronting the street elevation.

The UDCG also noted that the proposed development contrasts substantially with the low rise residential environment, however is likely to be more cohesive with recently approved developments. This comment is correct, as the development is reflective of the approved developments noted above.

3. Density

PSLEP2013 does not prescribe Floor Space Ratios (FSR) controls. UDCG outlined that as PSLEP2013 does not specify FSR, density will be determined by achieving appropriate setback and height control requirements. The UDCG questioned whether the proposed density was appropriate due to the setbacks side property boundaries. It however is considered that the development does not result in offensive or unsympathetic outcomes, as it has regard to existing and desired built form characteristics of the area. As discussed above, the siting, built form and scale of the development as illustrated in the amended building design is considered to be satisfactory.

It is acknowledged that the subject development is located within the R3 zone, within close proximity to transport, employment, services, land form and environmental features. The density of the proposal is consistent with the density of the residential development situated in the immediate locality and within the wider Nelson Bay Region.

4. Sustainability

The development application provided a BASIX and Nationwide House Energy Rating Scheme certification outlining that the building meets the minimum requirements in regards to building sustainability and energy rating. In addition, the following sustainability components of the development include:

- Sufficient cross ventilation; and
- Maximise sunlight, sun and views exposure through clerestory highlights.

The UDCG outlined various in regard to the proposal which included:

- Use of grey water suggested for the irrigation of landscaping; and
- Inclusion of solar panels.

These requirements will be included as an advice to the consent.

5. Landscape

The proposal will incorporate landscaping, including a range of medium sized trees, palms and shrubs along the Church Street frontage and within the site. The integrated landscaping regime

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incorporates perimeter landscape plantings which will collectively soften the edges of the development and ensure the development sites within a relatively informal landscape setting.

The UDCG noted that the ground floor apartments should open directly onto landscaped courts rather than the proposed narrow planted strip encompassing the building. This is noted as a minor element of concern, not warranting further amendment. Council has assessed the landscape plan provided and is considered to be satisfactory. Conditions of consent will require the planting of street trees which will further soften the appearance of the development.

6. Amenity

The design provides a positive influences on the internal and external amenity for residents. Each unit provides appropriate room dimensions and internal configurations, promoting access to sunlight and natural ventilation. The UDCG again raised issues regarding building setbacks, overshadowing, privacy and acoustics. The UDCG recommended:

- Inclusion of privacy shutters to north facing balconies,
- Angling of balconies to the view rather than direct orientation to neighbouring sites;
- Relocation of the front balconies to the street elevation;
- Inset of norther side elevation to increase separation distances;
- Inclusion of communal space;
- Floor plan amendments to move kitchen closer to the doors to increase natural light penetration;
- Relocate bin store from front entrance; and
- Alteration to main entrance to mitigate privacy and acoustic impacts.

It is noted that an ADG compliant building will present a similar impact to the subject land as overshadowing to POS located on the balconies and north facing windows would not significantly change. Accordingly it is considered that the development is satisfactory in regards to overshadowing. Further, garages and sheds, and large open space areas are positioned on the southern elevation. In response to concerns raised by the UDCG the applicant has amended the development, as outlined under the external referral section of this report.

7. Safety

The building has been designed to optimise safety and security within the development and the public domain. The building entrance is easily identifiable from Church Street, is appropriately lit and secured with security gates to ensure safe pedestrian access points to the development. Further, the vehicle access has adequate ingress and egress from Church Street. The UCDG requested additional passive surveillance of the street which has been provided through the addition of balconies on the street frontage. The UCDG also noted that fire safety requirements need to be addressed in the void rising through the lobby area, which is a requirement at the construction certificate state.

8. Housing Diversity and Social Interaction

The development will provide housing diversity contributing in providing a range of housing options within the locality, including both two and three bedroom units. The development is considered to be consistent with the objectives of R3 zoned land. An internal stairwell and lift ensures acceptable access to each unit level is provided. As discussed above the development has been designed to incorporate seating in the lobby, and communal space on the rooftop which enhances social interaction.

9. Aesthetics

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The overall aesthetics of the development are considered to be of high quality with the inclusion of a range of materials, textures and colours. These measures reduce the perception of the bulk and scale of the development. It is considered that the design achieves a built form that has acceptable proportions and a balanced composition of elements. The UDCG suggested the inclusion of balconies to the street frontage which has occurred via an amended design. They also suggested the inclusion of solid balustrades in order to screen deck furniture, potential cloths drying areas and to increase the level of privacy for future occupants. Balustrades of gradual glaze have been incorporated to achieve this requirement.

The requirement of clear balustrades has been assessed and is considered to not be required. Privacy of future occupants and aesthetics of the building are considered to be satisfactory.

Summary

It is acknowledged that issues were raised by the UDCG regarding the side setbacks, building height and the bulk of the design. It is considered that the majority of the UDCG concerns have been addressed. The design has been amended to:

- Increase the northern side setback;
- Additional of communal area to increase social interaction between future occupants;
- Introduction of balconies on the street elevation;
- Amendment to entry feature to mitigate privacy issues to proposed Unit 1;
- Improve ventilation and lighting of the penthouse level;
- Amendment to the waste storage area;
- Introduction of privacy screens to the northern boundary balconies; and
- Amendment to the southern boundary to reduce the appearance of the slit windows.

The development responds to the existing local context, while providing a benchmark in regards to design for future development in the locality and infilling a vacant lot positioned at a main entry point to the town centre of Nelson Bay. The proposal in its current design results in an appropriate development of the site.

State Environmental Planning Policy 71 – Coastal Protection

This application has been assessed having regard to the aims of the SEPP. It is not expected that the proposed development will have an adverse impact on achieving the aims of the SEPP.

In addition, the application has had regard to the matters for consideration in Clause 8 of the SEPP, as follows:

Matters for Consideration	Comment
(a) the aims of the policy	Consistent with the relevant aims of the Policy.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	The site is not located in close proximity of the foreshore and it is considered that access will be maintained.

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(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	N/A
(d) the suitability of development given its type, location and design and its relationship with the surrounding area	The nature of the proposed development, which provides residential accommodation and facilities, is permissible on the site and considered suitable for the location on the edge of the Nelson Bay CBD.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant loss of views from a public place to the coastal foreshore	The development is not likely to overshadow the foreshore, or significantly impact views from any public place to the foreshore.
(f) the scenic qualities of the NSW coast, and means to protect and improve these qualities	The proposal will enhance the scenic qualities of the NSW coast through the addition of a contemporary structure to the Nelson Bay built scenic landscape. The proposal has been designed with regard to the quality of the coast.
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that part) and their habitats	Land is located in a developed urban area. No impact is likely on animals, plants or their respective habitats.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part) and their habitats	No impact.
(i) existing wildlife corridors and the impact of development on these corridors	The site does not form part of an existing wildlife corridor.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	No impact.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities	No impact.
(l) measures to protect the cultural place, values, customs, beliefs and traditional knowledge of Aboriginals	No impact.
(m) likely impacts of development on the water quality of coastal water bodies	Run off to be managed through stormwater quality measures.

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(n) the conservation and preservation of items of heritage, archaeological or historic significance	No impact as the site is already highly disturbed by development.
(o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable, but consistent with this aim.
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	(i) Impact is minimal. Cumulative impact is considered to be positive on a socio-economic basis and no impact to environmental matters. (ii) Water reuse and energy usage is reduced by design measures for water and energy efficiency.

The application has been assessed against these matters for consideration. The application will generally comply with the aims of the SEPP and the other matters for consideration under Clause 8 of the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Under Clause 104 of this SEPP, the proposed development is not classified as traffic generating development as the proposed residential flat building does not exceed 200 units. Consequently, the application was not referred to RMS for comment.

State Environmental Planning Policy (BASIX) 2004

A BASIX Certificate has been submitted for the proposed development which demonstrates that the proposal can achieve required water and energy saving targets compared to the standard model house. A condition of consent has been included in the notice of determination requiring the development to be carried out in accordance with the BASIX Certificate.

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The site is zoned R3 Medium Density Residential and the objectives of the zone are:

- To provide for the housing needs of the community within a medium density residential environment;
- To provide a variety of housing types within a medium density residential environment; and
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

It is considered that the proposed development will provide additional housing in an area identified for this type of development. The proponent has provided a wide range of dwelling types including two and three bedroom units.

- Further, the proposal will contribute towards creating critical mass in the local economy. This stimulus will assist in supporting facilities and services required by permanent residents. The surrounding area includes commercial and retail spaces, medical and government facilities, and recreational land uses that will be complemented by the proposal and the permanent residents.

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- Residential Flat Buildings (RFB) are permissible with consent in the R3 zone. RFB's can be defined as a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing. It is considered that the proposal conforms to this land use definition and the proposed development is therefore permissible with consent.

Clause 2.7 – Demolition requires development consent

The proposal involves the demolition of the existing basement works constructed as part of the previous development. Conditions of consent have been included to ensure the demolition works do not impact on the adjoining development.

Clause 4.1B – Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

The provisions of Clause 4.1B provides minimum lot sizes for RFB's in the R3 zone of 450m². The site has an overall size of 1028.6m² and therefore complies with the LEP provisions.

Clause 4.3 – Height of building

In accordance with Clause 4.3, the Height of Buildings Map (PSLEP2013) indicates a maximum building height of 9m for the subject site. The proposed development exceeds the nominated maximum height limit. The proposed development has a variable building height to the street of between 8.5m and 10m with the breaching elements generally limited to the clerestory roof over the kitchen areas of the upper level apartments to bring direct sunlight deep into the floor plates. The building has a maximum building height at its western (rear) façade of between 9.2m and 10.6m as the site falls away towards its north-western corner.

This represents a maximum non-compliance with the development standard of 2m or 22% with the majority of non-compliant elements limited to a breach of less than 1m.

As part of the development application a request for a Clause 4.6 exception seeking to increase the height of the development above the nominated height limit for the site has been submitted by the applicant.

The exceedance in the maximum building height is illustrated below:

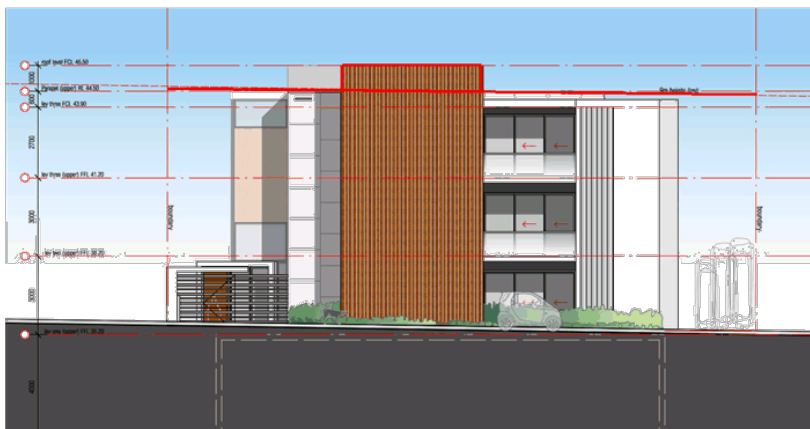


Figure 4 – Plan extract of northern façade showing 9m height breach (in red).



Figure 5 – Plan extract of northern façade showing 9m height breach (in red).

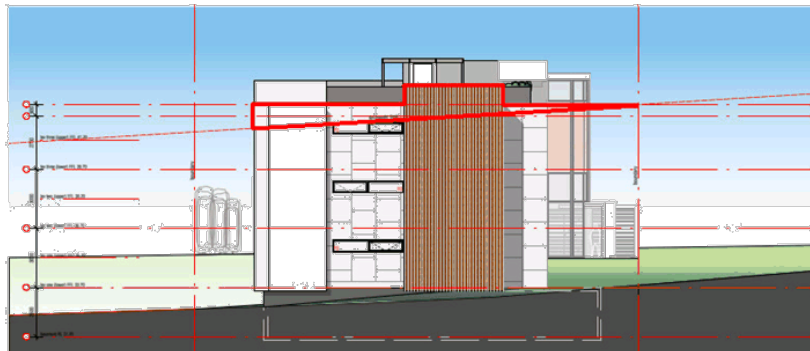


Figure 6 – Plan extract of western façade showing 9m height breach (in red).



Figure 7 – Plan extract of southern façade showing 9m height breach (in red).

Clause 4.6 – Exceptions to development standards

An exception is requested to Clause 4.3 Height of buildings which nominates a maximum height limit of 9m for the subject site. The maximum height of the building application seeks to exceed this development standard by 1.6m. The assessment against Clause 4.6 has been carried out below.

Clause 4.6(3):

Clause 4.6(3) states that any variation to a development standard must demonstrate the following:

Objective (a)

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- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

In the Wehbe decision, Preston CJ set out five (5) ways in which an objection to a development standard can be supported:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

The objectives of Clause 4.3 are as follows:

- (a) to ensure the height of buildings is appropriate for the context and character of the area,
(b) to ensure building heights reflect the hierarchy of centres and land use structure.

The height of the building is considered to be appropriate for the context and character of the locality. The use of earthy materials and modulation of sections, reduces the apparent height and scale of the development. Additionally, design amendments as recommended by the UDCG have been incorporated in to the design to further reduce the apparent bulk and scale from the street. The development is appropriate for the context and character of the area and complies with the objectives of the R3 zone.

It is noted that recent approvals for residential flat buildings along the Church Street and Donald Street frontages are either similar or much larger in height and scale, reflecting a changing context and character of Nelson Bay. Although the development proposes a building height exceeding the LEP height requirement, it is consistent with the intended future land use of Nelson Bay. It is considered that the proposal is consistent with objectives of the standard.

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The application does not rely on this consideration to justify the proposed variation.

3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The underlying objective of Clause 4.3 is to ensure that impacts on the existing amenity and character impacts are taken into consideration to ensure the orderly economic and urban growth of the Nelson Bay area, and to ensure overshadowing and privacy impacts on adjoining properties are mitigated.

The applicant argued that, in this instance, *'strict compliance with the development standard is considered unreasonable as:*

- Compliance with the Apartment Design Guide and SEPP65 would be restricted without enabling sunlight to enter the top floor plates through the height exceedance;
- The irregular topographical features of the subject site make strict compliance difficult, unless additional fill was introduced, which lends itself to additional height and aesthetic issues;
- It would not reflect the desired future character of Nelson Bay or the R3 Zoning; and
- It would not promote contemporary and unique development that is commercially viable.

It can therefore be argued that the 9m height requirement has limited development *'that is appropriate for the context and land use'* of Nelson Bay and is therefore contrary to the underlying objective of the Clause.

4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

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The application does not rely on this consideration to justify the proposed variation. However, it can be noted that Council has approved various developments within the Local Government Area (LGA) which exceed the maximum building height limit for relevant sites. The table below provides details of other variations previously approved in the Tomaree Peninsula:

Application No	Site Address	Building Height Limit	Building height	% Variation
16-2002-696-1	55 Magnus Street, Nelson Bay	15m	17m	13%
16-2001-1755-1	21 Tomaree Street, Nelson Bay	15m	20.0m	33%
16-2015-769-1	60 Diemars Road, Salamander Bay	9m	14.4m	60%
16-2014-782-1	29-45 Magnus Street, Nelson Bay	15m	25m	67%
16-2016-631-1	11-13 Church Street, Nelson Bay	15m	32m	113%

Of these examples, the application at 11-13 Church Street is a good example of previous variations to the LEP building height requirement. The proposal included an eight (8) storey building on a sloping site. The assessment report found that the variation could be supported under the Clause 4.6 of the LEP, as the development was considered appropriate.

5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The application does not rely on this consideration to justify the proposed variation.

Objective (b):

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The following environmental planning grounds have been outlined to justify contravening the height of the buildings:

- Consistent with Port Stephens Local Environmental Plan 2013, Part 2, Clause 2.3 – Zone Objectives and Land Use Table;
- The proposal will not significantly affect views;
- The development will create visual interest and activate the street frontage along Church Street;
- The development will not have unacceptable impact on solar access or overshadowing to neighbouring properties;
- Minimal privacy implications, mitigated through the implementation of privacy screens; and
- Bulk and scale of existing and recently approved development in the locality is consistent with the proposed development.

Clause 4.6(4):

Clause 4.6(4) requires Council to address the following requirements prior to granting development consent:

- The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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- The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- The concurrence of the Secretary has been obtained.

The applicant has submitted an application in accordance with the requirements outlined in Clause 4.6 of Port Stephens Local Environmental Plan 2013. The submission argues that the proposed development is in keeping with the objectives of the Clause and that while the height limit nominated for the subject site is exceeded, strict compliance is unreasonable.

Design attributes have been incorporated to reduce the apparent height, bulk and scale of the development. Design considerations include:

- Articulation and recessing of building elements on each floor;
- Use of earthy materials and colours; and
- Multiple facade design features reflecting existing development.

Whilst the subject site is not directly incorporated within the area defined within the Nelson Bay Town Centre and Foreshore Strategy 2012, it is noted that the discussion paper for the most recent review of the Strategy states that the residential unit market in Nelson Bay has been static and has actually declined over the past ten years. The proposed development will utilise land that has an aged development ready for re-development, positioned on a main entry point to the centre of Nelson Bay. The proposed development in conjunction with existing and recently approved residential flat buildings within the locality will increase the viability and activity within the Nelson Bay CBD. The development is consistent with the objectives of the R3 zone as it:

- Will provide a range additional housing options within close proximity to the Nelson Bay CBD;
- Support facilities and services required by permanent residents; and
- Encourage employment through the construction stage and with via the flow-on effects for shopping, working, living and recreational pursuits of future occupants.

The proposed RFB is considered to be a positive utilisation of the land and is considered to be a sound planning outcome. This justification is considered to adequately support the exceedance in the nominated height limit for the subject site. Flexibility in regards to the height limit will result in an improved and feasible outcome.

Clause 4.6(5):

Subclause (5) states that, in deciding whether to grant concurrence, the Secretary must consider the following:

- Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- The public benefit of maintaining the development standard, and
- Any other matters required to be taken into consideration by the Secretary before granting concurrence.

There are no identified State or Regional matters of significance that would result as a consequence of varying the building height provisions. There is no public benefit in maintaining strict compliance with the development standard given that there are no significant impacts that will result from the variation to the standard. The proposal will provide additional residential accommodation for the community. Expanding the population base in close proximity to the Nelson Bay CBD is more desirable and beneficial in planning terms as it will contribute towards critical mass of the local population thereby supporting the local economy. It is therefore considered that the advantages of the proposal outweigh the disadvantages.

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Conclusion:

In accordance with Clause 4.6 (a)(i) the applicant has adequately addressed the matters required to be demonstrated, as discussed above. Further, the application is deemed to be in the public interest by providing a range of housing within close proximity to the Nelson Bay Town Centre and marina precinct. The proposed variation to Clause 4.3 is considered acceptable in this instance. Accordingly, the application is accepted from the requirement to comply with the nominated height limit derived under Clause 4.3.

Clause 5.5 – Development within the Coastal Zone

The proposed development is located within the coastal zone and is considered to meet the principles of the NSW Coastal Policy. There are no anticipated adverse impacts on the local ecology or water quality as the proposal incorporates a stormwater quality control system and erosion and sediment control devices. The proposal is sufficiently separated from the waterway that there are no anticipated impacts on the access to the foreshore. The proposed development is in keeping with the character of the locality and is not anticipated to have any significant negative impacts on views to or from the waterway.

Clause 5.6 – Architectural roof feature

It is considered that the rooftop recreational area conforms to the architectural roof feature definition. The roof feature will therefore not be included in the overall height measurement.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 5 acid sulfate soils. As the proposed development is anticipated to entail excavations below 5m, conditions of consent will be included to ensure an Acid Sulfate Soils Management Plan is implemented where acid sulfate soils are encountered.

Clause 7.2 – Earthworks

It is noted that major earthworks have previously been undertaken on the site. It is understood that all existing structures will be removed from site prior to the stabilisation of the site and excavation of the basement levels. The proposed earthworks have been assessed by the Council staff and no major issues were identified. Conditions of consent have been provided to ensure detrimental impacts on drainage patterns or soil stability will be managed.

Clause 7.6 – Essential Services

The subject site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Council's requirements. The subject land also maintains direct access to Church Street, meeting the requirements of this clause. A condition is proposed that requires the provision of evidence that all essential services are available, prior to the issue of an occupation certificate.

s79C(1)(a)(ii) – Any draft EPI**Draft State Environmental Planning Policy (Coastal Management) 2016**

The draft State Environmental Planning Policy (Coastal Management) 2016 (Coastal SEPP) was on public exhibition until 23 December 2016.

The draft policy aims to balance social, economic and environmental interest by promoting a coordinated approach to coastal management, consistent with the objectives of Part 2 of the Coastal Management Act 2016.

The Act divides the coastal zone into four (4) management areas:

- Coastal Wetland and Littoral Forest areas;

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- Coastal Vulnerable areas;
- Coastal Environment areas; and
- Coastal Use areas.

The subject land is located with the Coastal Use area and the objectives for this area are:

- (a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:
 - (i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and
 - (ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
 - (iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
 - (iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
 - (v) the use of the surf zone is considered,
- (b) to accommodate both urbanised and natural stretches of coastline

The proposed development is consistent with the objectives of the Coastal Use areas, as identified in the draft policy, and can therefore be supported.

s79C(1)(a)(iii) – Any DCP

Port Stephens Development Control Plan 2014

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

Section A – Introduction

Chapter A.12 – Notification and Advertising

In accordance with the requirements of chapter A.12, the development application was notified and advertised for 14 days, from 1 June 2017 to 14 June 2017.

During this period two submissions were received. The following concerns were raised:

- Height of the proposed development
- Outdoor noise and privacy issues
- Parking and traffic
- Street aesthetics

Section B – General Controls

Chapter B2 – Natural Resources

The subject site is not located on land or is within 500m of land that contains items of environmental significance.

Chapter B3 – Environmental Management

Noise – The separation distances incorporated into the development will limit any significant impacts on the adjoining development from a noise perspective. The addition of screens along the northern balconies will assist with this concern.

Conditions of consent have been imposed to limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. The application is satisfactory in regards to noise management.

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Waste – Conditions of consent have been proposed that require waste from demolition and building works to be separated into recyclable and non-recyclable materials, the reuse of materials on-site where possible, and the disposed of all other materials at an approved facility.

To ensure ongoing waste is managed responsibly, the development includes a waste storage area in the basement level. General council collection will service the proposed development. The waste area contains sufficient space for 12 x 660lt bins, which is considered sufficient to deal with the general waste and recycling generated by the development.

Chapter B4 – Drainage and Water Quality

Council staff assessed the stormwater management plan and supported the proposed measures with conditions of consent.

Chapter B6 – Essential Services

Reticulated water, electricity and sewer are available to the subject site. In addition, an acceptable stormwater management plan has been submitted and the land achieves direct access to a public road.

Chapter B9 – Road Network and Parking

Council’s engineering section assessed the potential impacts on the local road network and access to the site. No specific concerns were raised.

The DCP outlines the following on-site car parking provisions for residential flat buildings:

- 1 car space for one or two bedroom dwellings
- 2 car spaces for three or more bedrooms dwellings
- 1 visitor space per three dwellings

The building comprises twelve (12) residential units including:

- 6 x two-bedroom apartments; and
- 6 x three-bedroom apartments.

The parking calculation is shown in the table below:

Units	DCP Requirement	Parking Required
6 x two bedroom dwellings	1 car space for 1 -2 bedroom dwellings	6 spaces
6 x three bedroom dwellings	2 car spaces for 3 bedrooms dwellings	12 spaces
Visitors' spaces	1 visitor space per three dwellings	4 Spaces
Total		22 spaces

The proposal will provide 22 car parking spaces to service the development within the basement, incorporating one accessible car parking space. The proposed on-site car parking requirements meet the minimum on-site car parking numbers as prescribed under PSDCP2014.

Section C – Development Types

As stated previously, the DCP controls are superseded by the AGD controls, where conflicts exist. The following DCP controls are however applicable to the proposal.

Chapter C5 – Multi Dwelling Housing

C5.4 Building Height – Refer to discussion of the LEP height requirements above.

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT - 16 CHURCH STREET NELSON BAY.

16-2017-324-1

C5.22 Access – The development provided both pedestrian and vehicular access from the Church Street frontage. It is considered that the pedestrian access is legible and will be clearly defined by the proposed retaining and landscaping along the frontage.

C5.37 Driveway Width – The proposal complies with the access width requirements with the provision of a 6m wide access driveway from Church Street.

C5.48 Equipment – The air conditioning and lift plant will not be located in close proximity to any boundaries and it is not anticipated that the equipment will have a significant impact on the adjoining sites.

Section D – Specific Areas – Nelson Bay Centre (Foreshore)**D5.A General Precinct Provisions**

D5.1 Significant Vistas – The significant vistas are shown in Figure DJ of the DCP. The existing dwelling(s) surrounding the subject site do not currently maintain any vistas, therefore it is not considered that the development will block or significantly impede water views from the south.

D5.2 Street Layout – The proposal will not alter the existing road layout.

D5.3 Roof Design – The roof design is considered to have architectural merit and will not have significant impact on the public domain.

D5.4 NSW Coastal Planning Guidelines – The proposal incorporates non-reflective materials.

D5.E Desired Character – Foreshore Precinct – The proposal complies with the desired character of the area by providing a wide range of housing options, creating critical mass in the Nelson Bay CBD and incorporating landscaping to limit impacts on the adjoining development.

s79C(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F

There are no planning agreements that have been entered into under section 93F relevant to the proposed development.

s79C(1)(a)(iv) – The regulations

Not relevant.

s79C(1)(a)(v) – Any coastal management plan

There are no coastal management plans applicable to the proposed development.

s79C(1)(b) – The likely impacts of the development**Social and Economic Impacts**

The proposal will result in additional residential development in the LGA through the provision of a wide range of accommodation units. It will result in a large capital investment in the local economy and will create a number of short and indirect long term employment opportunities. The development is expected to have a total economic output of \$4.23 million. Additionally, many jobs are anticipated to be created and positive economic outcomes will continue post construction via the flow on effects of future residents by way of shopping, working, living and recreational pursuits.

Furthermore, the construction of 12 units will attract development contributions totalling \$151,390. These contributions will be used to create and improve community facilities, public open space, sport facilities, and infrastructure and the like, further adding to the positive economic impact of this development.

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16-2017-324-1

The additional development will also increase confidence in the local residential market and provide the impetus for more development in the area. The proposal will not result in any significant negative social impacts.

Impacts on the Built Environment

The applicant provided a detailed Urban Design Analysis that included a number of perspectives showing the proposed development in the existing urban context. It is considered that, although the proposal exceeds the building height provisions, it reflects the desired character of the area and maintains consistency with the existing built environment. It is noted that, when viewed from the Nelson Bay waterfront, the proposal does not extend above the ridgeline.

The development will not result in unacceptable privacy impacts and addition of privacy screens along balconies will further limit potential impacts on adjoining land owners as well as future occupants of the development.

The overall aesthetics of the development are of good quality with the inclusion of range of materials, textures and colours. The range of materials and colours in conjunction with the articulation and modulation of building facades visually reduce the perception of the bulk and scale of the development to ensure consistency with surrounding development. The development will also result in the activation of Church Street.

Impacts on the Natural Environment

The development includes water quantity and quality control devices to reduce the impact of the development on the natural environment. The proposed development is considered to not have a detrimental impact on any critical habitat, threatened species or ecological community. The existing site is devoid of any natural habitat or native vegetation and there are no anticipated negative impacts on the natural environment.

s79C(1)(c) – The suitability of the site

The subject site is located in close proximity to the Nelson Bay CBD and will result in the redevelopment of an abandoned building site. The proposal will assist in revitalising the city centre through increased population and increase use of facilities and services in the area. The development site will have limited impacts on the amenity of the surrounding development. It is therefore considered that the site is suitable for the proposed development.

s79C(1)(d) – Any submissions

Two submissions have been received in relation to the proposed development.

Issue Raised	Comment
Noise and Privacy issues with north facing balconies.	Privacy screens have been incorporated into the balconies and the balconies have also been set back further to mitigate privacy and noise concerns.
Parking on the street will detrimentally affect access and safety for locals.	As noted elsewhere in this report, the parking allocation for the proposed development complies with the requirements of Council's DCP. The existing driveway ingress and egress will not change as a result of the proposed development.
Street aesthetics and impacts to views when entering Church Street.	The height of the building, at its highest point is 1.6m greater than the high limitation of 9m for the subject site and surrounding sites. Due to the topography of the site and Church Street, the building design is stepped to ensure height impacts are reduced. The aesthetics of the design have been greatly improved through design changes and addition of

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT - 16 CHURCH STREET NELSON BAY.

16-2017-324-1

	balconies to the street elevation.
Height of the proposed units extends beyond the height limitation.	Please refer to the assessment under clause 4.6 of this report.
Effect on land value of surrounding properties.	Council cannot comment on this issue raised, as there is no nexus presented.
Bin collection unless private.	Sufficient area fronting the subject site is available for the storage and collection on waste collection days.
Subsidence due to basement excavation.	The geotechnical report submitted with the application confirms structural stability of the land in support of the proposed development.
Water runoff during storms.	A stormwater and drainage plan has been submitted which confirms compliance with Council's policies and the adequate management of stormwater.

The issues raise in the submissions have been considered in the context of the proposal, surrounding locality and relevant legislation. The issues raised have been determined to not be of a significance as to warrant refusal or modification of the proposed development.

s79C(1)(e) – The public interest

The assessment found that the development is considered suitable in the locality. The proposal will stimulate local investment and improve use of existing facilities and services in the Nelson Bay area. It is considered that the development will not have significant cumulative impacts on the community or the surrounding locality. The proposed development is considered to be in the public interest.

DETERMINATION

The application is recommended to be approved under delegated authority, subject to conditions as contained in the notice of determination.

ERIN DANIEL | Development Planner

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT - 16 CHURCH STREET NELSON BAY.

16-2017-324-1

Attachment A – UCDG Minutes

1



URBAN DESIGN CONSULTATIVE GROUP MEETING

ITEM No. 3

Date of Panel Assessment: 20th Sept. 2017
Address of Project: 16 Church St Nelson Bay
Name of Project (if applicable): NA.
DA Number or Pre-DA? No 2017/ 00019
No. of Buildings: 1
No. of Units: 12 comprising 6x2 bedroom units and 6x3 bedroom units.
Declaration of Conflict of Interest: None
Attendees: Applicant
John Baker - Architect
Gavin Gillett - Architect
Greg Boston - Planner

Council
Erin Daniell

This report addresses the nine Design Quality Principles set out in the Apartment Design Guide (2015) under State Environmental Planning Policy No.65. It is also an appropriate format for applications which do not include residential flats.

Background Summary

1.Context and Neighbourhood Character

The subject site, located on the western interface with the Nelson Bay Town Centre, is a deep rectangular block currently occupied by a freestanding two storey dual occupancy residence. The adjacent sites are occupied by freestanding, generally single storey, residences of mid to later 20th Century construction. The nearest residential flat building is currently diagonally opposite to the northeastern corner of Church and Tomaree Streets with several large apartment developments in the planning stage proposed in close proximity to this. The subject site is the first development to the west of Church Street under revised zonings.

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2

2. Built Form and Scale

The proposed development is of three stories with a basement car park. Four apartments are provided to each floor accessed from a central lift lobby located on and approached by an external pathway along the southern side of the building. The carpark is accessed by a partially covered curved ramp descending from the northeast corner of the site across the front elevation of the building. The building is stepped down at the mid point to accommodate the fall to the rear of the site. This produces a split-level floor plan with a dual access lift encompassed by rising and falling stairways at each level. A small void rises adjacent to the northern stair riser.

The proposed development, being the first of its scale in the immediate location, contrasts substantially with the surrounding low rise residential environment but is likely to be more cohesive with subsequent developments resulting from recent rezoning.

Whilst the central clerestory exceeds the allowable height control this element is recessed and improves light and ventilation to apartment interiors and is acceptable.

The proposed building form comprises staggered vertical elements to the street frontage including a shallow, curved timber-clad screen set forward of the main street elevation. Comments by the panel as to limited window/balcony openings to the street elevation relate to the initial elevation presented to the panel. An amended illustration with open balconies being presented as an option and was preferred as articulation of the street frontage.

3. Density

The density of the proposed development is indicated as being compliant with PSLEP's zoning amendments. However, the panel questioned whether this density can be achieved given the unacceptable proximity of the building to site boundaries.

4. Sustainability

Aspects of sustainability were not discussed, these appearing to be limited to passive measures. Provision of natural light and ventilation to internal bathrooms and laundries of top floor apartments is provided by clerestory highlights. Provision of solar panels on roof areas and recycling of water on site should be included in the application.

5. Landscape

Ground floor apartments should open directly onto landscaped courts rather than the proposed narrow planted strip encompassing the building.

The curved entry ramp to the car park protrudes from the ground awkwardly, and should preferably be fully within the building footprint. This would assist in providing the required landscaping area.

6. Amenity

3

The panel expressed concern with setbacks of the proposed development from side and rear boundaries. Setbacks limited to 4 meters are considered to have unsatisfactory impact on neighbouring sites in terms of privacy, overshadowing and acoustics. Privacy shutters to north facing balconies, although intended by the applicant, are not included in the applicant's drawings. These are also not considered sufficient to mitigate amenity impact of the limited setbacks. The Panel recommends further amendments including angling of balconies to the view rather than direct orientation to neighbouring sites; relocation of the front balconies to the street elevation; and inset of northern side elevation to increase separation distances.

Although the SEE states (p.27) "The height, setback and footprint proposed will not give rise to any adverse...overshadowing, privacy....consequences.", this is clearly not the case. The submitted shadow diagrams indicate substantial overshadowing on the properties to the south.

The applicant made the case that future development of the site to the northern side would follow a similar pattern looking north to the return street frontage and thus limiting amenity issues in the reduced separation between buildings. However if a development with similar plan were to occur on adjoining sites to the north and south, separation distances between habitable rooms would be only 8 to 9 metres, *unacceptably* less than the ADG standard of 12m.

The distance from the balcony to the kitchen area in the central apartments is considered excessive in terms of natural light penetration. Floor layouts should be revised to improve this relationship.

The location of the bin store adjacent to the main pedestrian entry path is considered unsatisfactory and should be relocated.

The provision of suspended storage areas above each parking bay appears to make no allowance for the current preference for large 4WD and truck-type family vehicles.

The relationship of the main side entry to the adjacent ground floor apartment is unsatisfactory having substantial privacy and acoustic impact on bedrooms to the ground floor apartment.

The car park layout includes parking bays that offer limited maneuverability in conjunction to the obstructive form of suspended storage spaces.

7. Safety

Passive surveillance of the street frontage is limited, although improved in the alternate elevation tabled at the meeting.

Fire safety requirements need to be addressed in the void rising through the lobby area.

8. Housing Diversity and Social Interaction

The proposed apartment mix is considered appropriate to the demands of the fluctuating population of full and part time residents.

4

The absence of any functional communal space is unacceptable given the size of the development. Although the ADG Compliance Table asserts (p.44) that "Appropriate communal open space areas are provided around the perimeter of the development...", these are not readily accessible and would not qualify as communal spaces.

9. Aesthetics

Whilst the vertical massed elements of the street elevation provide a higher standard of articulation than conventional apartment designs, the need for introduction of passive surveillance of the street frontage should be addressed as shown in the optional front elevation. The pattern of slit windows to the southern side elevation is considered somewhat frenetic and would be improved by varying the opening dimensions of the secondary windows and possible alignment of window heads to horizontal and vertical windows.

The introduction of solid balustrades, to screen furnishings, clothes drying and air conditioning plant on balconies, should be included either as a consistent element or interspersed with glazed balustrading.

Amendments Required to Achieve Design Quality

The following issues should be addressed:-

-Increased setbacks to common boundaries to satisfy ADG recommendations. If distances are any less, it must be clearly demonstrated that privacy separation, visual bulk and overshadowing impacts would be acceptable, both in the present context, and if adjoining sites are also redeveloped.

Measures such as privacy screens, angling of balconies to views and increased setback of protruding balconies, might collectively justify some degree of non-compliance with the ADG, but as presently proposed this is far from the case.

-Improved relationship of the entry path to ground floor apartments and the bin storage area.

-Improved setout of the carpark ramp to increase landscaping.

-Improved basement layout including better location of storage units and improvements to vehicle bay maneuverability.

-Provision of landscaped courts related to ground floor apartments rather than the continuous landscape strip about the ground floor of the building.

-Provision of a communal area including limited shelter.

-Inclusion of balconies providing passive surveillance of the street frontage as shown in the optional elevation.

Amendments to the pattern of strip windows to the southern side elevation.

Summary Recommendation

The application cannot be supported and requires reconsideration to resolve the issues raised above.

ITEM 2 - ATTACHMENT 3 UDCG ASSESSMENT MINUTES - 16 CHURCH STREET NELSON BAY.

1



URBAN DESIGN CONSULTATIVE GROUP MEETING

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1 of 5

ITEM 2 - ATTACHMENT 3 UDCG ASSESSMENT MINUTES - 16 CHURCH STREET NELSON BAY.

2

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-Improved setout of the carpark ramp to increase landscaping.

-Improved basement layout including better location of storage units and improvements to vehicle bay maneuverability.

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-Provision of a communal area including limited shelter.

-Inclusion of balconies providing passive surveillance of the street frontage as shown in the optional elevation.

Amendments to the pattern of strip windows to the southern side elevation.

Summary Recommendation

The application cannot be supported and requires reconsideration to resolve the issues raised above.

ITEM NO. 3

**FILE NO: 18/68215
EDRMS NO: 16-2017-716-2**

MODIFICATION APPLICATION NO. 16-2017-716-2 TO WAIVE THE DEVELOPMENT CONTRIBUTIONS APPLICABLE TO AN APPROVED DUAL OCCUPANCY AT 15 SOPHIA JANE DRIVE, NELSONS PLAINS (LOT 5 DP881861)

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse the modification application No. 16-2017-716-2 which seeks to waive the development contributions applicable to an approved dual occupancy at 15 Sophia Jane Drive, Nelsons Plains (Lot 5 DP 881861) for the reasons contained in **(ATTACHMENT 2)** of this report.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
--	--

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Cr Steve Tucker.

Those against the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee and John Nell.

The motion on being put was lost.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>That Council waive the development contribution applicable for modification application No. 16-2017-716-2 for the approved dual occupancy at 15 Sophia Jane Drive, Nelsons Plains (Lot 5 DP 881861), based on the reasons outlined in the report which support the variation.</p>
--	---

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

112	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council waive the development contribution applicable for modification application No. 16-2017-716-2 for the approved dual occupancy at 15 Sophia Jane Drive, Nelsons Plains (Lot 5 DP 881861), based on the reasons outlined in the report which support the variation.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination a s4.55(1A) modification application (16-2017-716-2) which seeks to delete condition No. 6 which requires the payment of development (s7.11) contributions applicable to an approved dual occupancy at 15 Sophia Jane Drive, Nelsons Plains (Lot 5 DP881861) **(ATTACHMENT 1)**.

The proposal involves the waiving of development contributions which is outside the delegation of Council staff.

DA No. 16-2017-716-1 (Original Consent)

The original development was assessed under *Port Stephens Local Environment Plan 2013 (LEP)* and *Development Control Plan (DCP) 2014*.

The approved development included a dual occupancy (one dwelling existing) with a detached garage. The application also proposed a pool and shed. The proposed dwelling will be 214.4m², single storey and contain 4 bedrooms and open living and dining area, kitchen, deck and porch.

The garage associated with this dwelling will house two cars at a time and will be detached from the dwelling itself. The proposed pool is to be located at the rear of the existing dwelling.

DA No. 16-2017-716-2

The Section 4.55(1A) modification to the existing approval seeks to remove condition of consent No. 6.

Condition No. 6 relates to the payment of Section 7.11 contributions. Currently the consent requires a total payment of \$14,960.00 prior to the issue of the construction certificate.

Key Issues

The key issue arising out of the assessment of the s4.55 modification is the non-compliance with Council's Port Stephens Development Contributions Plan 2007.

The application was referred to Council's Section 7.11 Analysis Team for consideration and it was determined that the applicant's request to waive the development contributions should not be supported.

The applicant has provided the following reasons to support the variation to s7.11 contributions:

1. Applicant's argument: The proposed dwelling (214.4m², single 1 storey and containing 4 bedrooms and open living and dining area, kitchen, deck and, porch) will be used for foster children transitioning from teenagers to young adults from the existing dwelling into the proposed dwelling. The proposed dwelling will not place additional demands on playing fields, libraries and other community assets. There will be no additional people living on the site.

Council officer response: The original consent 16-2017-716-2 represents a dual occupancy that will result in additional housing to service the needs of the

MINUTES ORDINARY COUNCIL - 8 MAY 2018

community and would increase the number of residents in the locality. An increase in demand for public amenities and services within the area is likely to occur as a result of the approved development which could be on-sold at a later date with different occupants.

A detailed assessment report has been included as **(ATTACHMENT 3)** to this report.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

In the event that the application is refused, there would be no financial or resource implications as a result of the proposed development.

In the event that the application is approved, this may result in a funding shortfall for the provision of future infrastructure and facilities.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (Section 7.11)	Yes		In the event that the application is approved, this may result in a funding shortfall for the provision of future infrastructure and facilities. It is recommended that Council adopt the recommendation and refuse the modification.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with Councils Port Stephens Development Contributions Plan 2007. A detailed assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* is included as **(ATTACHMENT 3)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the approval of the application will undermine the provisions of Council's s7.11 Contributions Plan. Further, Council will be financially liable for the provision of infrastructure and facilities required to service the development.	High	Refuse the application as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The original approved development included a dual occupancy (one dwelling existing) with a detached garage in the Nelsons Plains locality. The construction of the development will provide for additional housing and provide for local employment opportunities in the area. The development however results in an intensification of the use of the site. Accordingly, Council will need to deliver additional facilities and services in order to provide for the future residents of the site. Council's Port Stephens Development Contributions Plan 2007 ensures that development contributions are received from approved developments in order to help fund the provision of these required services and facilities. The proposed modification seeks to waive a \$14,960.00 development contribution.

The reasons provided by the applicant to support the waiving of the development contributions does not sufficiently justify the modification sought. In the event that the application is approved, this may result in a funding shortfall for the provision of future infrastructure and facilities.

CONSULTATION

Consultation with key stakeholders has been undertaken, as detailed below.

The application was referred to the following Council sections:

- Developer Contributions Officer; and
- Section 7.11 Analysis Team.

The application was not supported by internal staff or Council's s7.11 Analysis Team.

External

The proposed modification was not referred to any external agencies.

Public Consultation

The application was not required to be exhibited in accordance with Council Policy.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

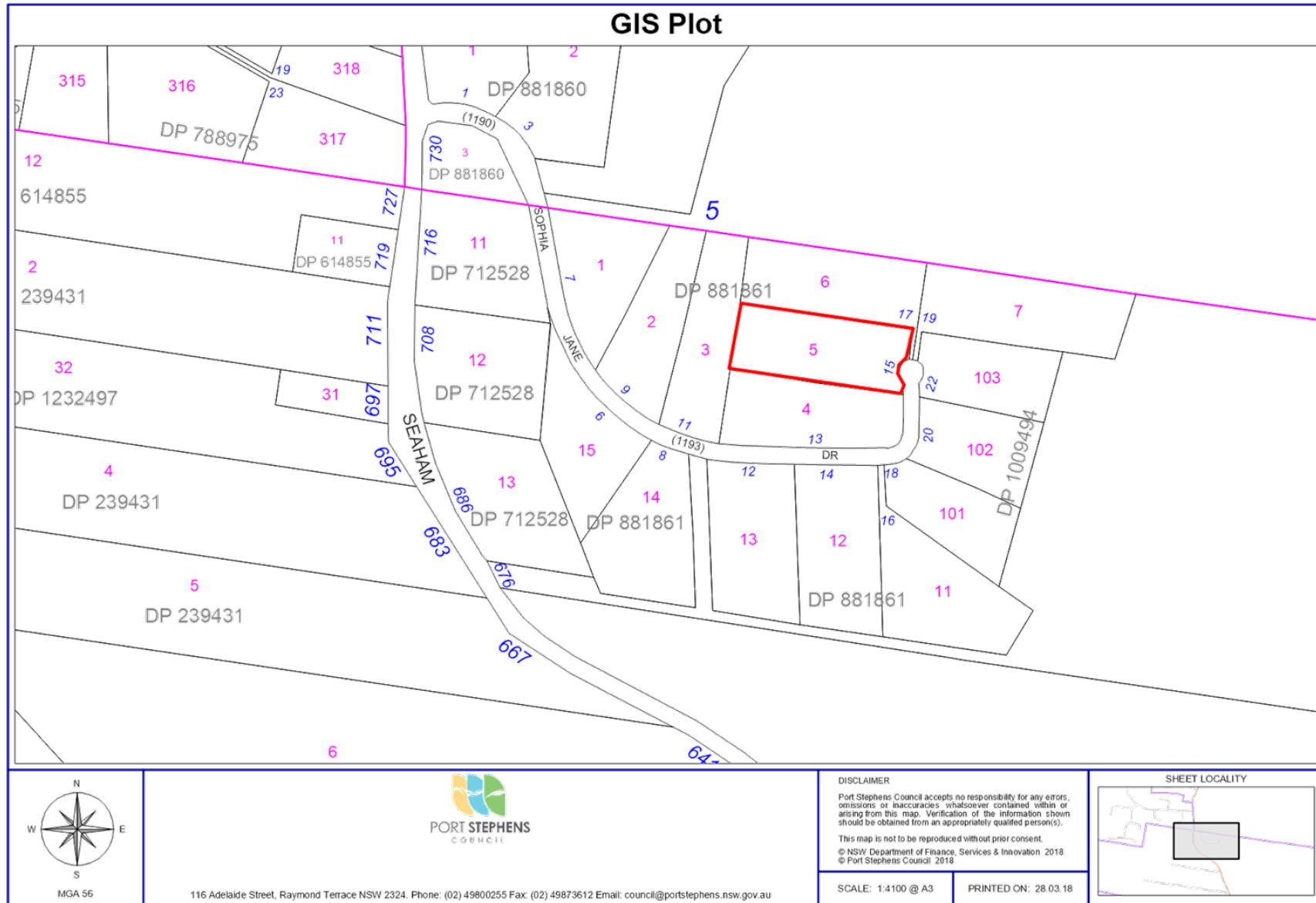
- 1) Locality Plan.
- 2) Reason for Refusal.
- 3) DA Assessment Report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.






PORT STEPHENS
COUNCIL

REASONS FOR REFUSAL

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

REASONS FOR REFUSAL

1. The proposed modification is inconsistent with the Port Stephens Section 7.11 Development Contributions Plan 2007 (S7.11(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).
2. The proposed modification is contrary to the public interest (S4.15(1)(e) of the *EP&A Act 1979*).

 **PORT STEPHENS COUNCIL** **S4.55(1A) MODIFICATION APPLICATION ASSESSMENT REPORT**

APPLICATION DETAILS

Modification Application Number	16-2017-716-2
Development Description	Dual occupancy, swimming pool and shed
Modification Description	S4.55(1A) Modification to Dual Occupancy, Swimming Pool and Shed - Remove Section 7.11 Contributions (Condition 6)
Applicant	MR L J PARKES
Date of Lodgement	23/02/2018

Site History

The site has the following development applications approvals:

- 16-1999-2127-1 - Two storey dwelling,
- 15-2000-52-1 - Sewage management facility;
- 16-2002-1091-1- Garage; and
- 16-2017-716-1 - Dual occupancy, swimming pool and shed.

Modification Proposal

The application proposes to remove Condition No. 6 of development consent 16-2017-716-1.

Condition No. 6 relates to the payment of Section 7.11 contributions. Currently the consent requires a total payment of \$14,960.00 prior to the issue of the construction certificate. The s4.55 modification application seeks that this amount be waived for the reason set out below:

- The proposed dwelling (214.4m2, single 1 storey and containing 4 bedrooms and open living and dining area, kitchen, deck and, porch) will be used for foster children transitioning from teenagers to young adults from the existing dwelling into the proposed dwelling.
- The proposed dwelling will not place additional demands on playing fields, libraries and other community assets. There will be no additional people living on the site.

PROPERTY DETAILS

Property Address	15 Sophia Jane Drive NELSONS PLAINS
Lot and DP	LOT: 5 DP: 881861
Zoning	R5 LARGE LOT RESIDENTIAL
Site Constraints That Affect	No site constraints affect the request to reduce s7.11

ITEM 3 - ATTACHMENT 3 DA ASSESSMENT REPORT.

16-2017-716-2

The Modification contributions.

ASSESSMENT SUMMARY

Designated Development	The application is not designated development
Integrated Development	The application does not require additional approvals listed under s.4.46 of the EP&A Act
Concurrence	The application does not require the concurrence of another body

Internal Referrals

The proposed modification was referred to the following internal specialist staff. The comments of the listed staff listed have been used to carry out the assessment against the S4.15 Matters for Consideration below.

Section 7.11 Analysis Team

The s4.55 application was referred to the Section 7.11 Analysis Team for review. The Analysis Team did not support the proposed wavier of s7.11 contribution for the following reason:

- The Port Stephens Development Contributions Plan 2007 does not allow for any flexibility in relation to the wavering of levies and therefore Council's Section 7.11 Analysis Team does not recommend the wavering of the development contributions levies condition.

External Referrals

The proposed modification was not referred to any external agencies.

MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT – S4.55(1A)

S4.55(1A)(a) – Minimal Environmental Impact

The proposed modification has a minimal environmental impact. There are no proposed changes to the built form or configuration of the development, or the manner in which the development will be carried out under DA 16-2017-716-1. For this reason, the modification does not require any further assessment under local or state planning policies or guidelines.

S4.55(1A)(b) – Substantially The Same Development

The development as modified is substantially the same as the approved development. The s4.55 modification relates to the waiving of Section 7.11 contributions. No changes to the number or size of the proposed dwelling or ancillary structures are proposed.

S4.55(1A)(c) – Notification

The application was not required to be notified in accordance with Councils Development Control Plan.

S4.55(1A)(d) – Submissions

There were no submissions received relating to the proposed modification.

S4.55(3) – Matters for Consideration Under Section 4.15

The proposed modification for the reduction in s7.11 fees is not supported on its merits when considered in accordance with s.4.15 matters for consideration as:

- a) A waiver of the s7.11 levies cannot be justified under Section 7.11 of the *Environmental Planning and Assessment Act 1979* as the Port Stephens Development Contributions Plan 2007 does not allow for any flexibility in relation to the waiving of levies. A waiver in the levies is therefore not supported; and
- b) An increase of demand for services will occur as a result of the approved development onsite and now results in the construction of an additional dwelling. Subsequently, the s7.11 levies imposed under DA 16-2017-716-1 are considered to be reasonable.

RECOMMENDATION

The modification application is recommended to be refused.

JESSICA FRANKLIN

Development Planner

ITEM NO. 4

**FILE NO: 18/75040
EDRMS NO: PSC2017-00473**

AUSTRALIA DAY EVENTS IN PORT STEPHENS 2018

REPORT OF: STEPHEN CROWE - COMMUNICATIONS SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note this report on 2018 Australia Day activities held in Port Stephens.
- 2) Approve the provision of continuation of funding arrangements for the Nelson Bay, Raymond Terrace and Lemon Tree Passage events.
- 3) Approve the extension of the agreement between Rotary Club of Raymond Terrace and Port Stephens Council for two years to 2020.
- 4) Approve the provision of \$1000 to the Karuah RSL Club to assist with the organisation of 2019 Australia Day activities in Karuah and to apply CPI to this amount going forward similar to the other funding arrangements for Nelson Bay, Raymond Terrace and Lemon Tree Passage events.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Giacomo Arnott Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

113	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note this report on 2018 Australia Day activities held in Port Stephens.2) Approve the provision of continuation of funding arrangements for the Nelson Bay, Raymond Terrace and Lemon Tree Passage events.3) Approve the extension of the agreement between Rotary Club of Raymond Terrace and Port Stephens Council for two years to 2020.4) Approve the provision of \$1000 to the Karuah RSL Club to assist with the organisation of 2019 Australia Day activities in Karuah and to apply
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	CPI to this amount going forward similar to the other funding arrangements for Nelson Bay, Raymond Terrace and Lemon Tree Passage events.
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BACKGROUND

The purpose of this report is to provide Council with an overview of the planning and delivery of 2018 Australia Day activities held across the local government area and make recommendations to assist future events.

Australia Day events in Port Stephens were held in four locations:

- Fly Point, Nelson Bay: Organised by the Australia Day Nelson Bay Subcommittee with Council financial support of \$13,146.71.
- Riverside Park, Raymond Terrace: Organised by the Rotary Club of Raymond Terrace under agreement with Port Stephens Council with Council financial support of \$13,146.71.
- Henderson Park, Lemon Tree Passage: Organised by the Lions Club of Tilligerry Peninsula Inc. with Council financial support of \$3,069.39.
- Karuah RSL, Karuah: Organised by the Karuah RSL with Council financial support of \$1,000.

Australia Day 355c Committee

The redefined structure and membership of the Australia Day 355c Committee endorsed in April 2015 proved to be effective for the 2018 event. The inclusion of representatives from community groups; Lions Club of Tilligerry, Rotary Club of Raymond Terrace, Karuah RSL and the Australia Day Nelson Bay Subcommittee allowed for strong representation of the four locations of festivities in the region. This should be continued.

Raymond Terrace Event

The agreement between Port Stephens Council and the Rotary Club of Raymond Terrace saw the club assume responsibility for all informal elements of the 2018 event, including entertainment, market and community stalls. The agreement excludes the citizenship ceremony, ambassadorial activities and annual awards.

As per the resolution from the Ordinary Council Meeting dated 12 April 2016, the Rotary Club of Raymond Terrace conducted Australia Day celebrations for 2018, to be reviewed after the 2018 event. An agreement between Port Stephens and the Rotary Club of Raymond Terrace made detailing this arrangement was executed on 29 September 2016. This report recommends that the agreement be extended to allow the Rotary Club of Raymond Terrace to continue to conduct Australia Day celebrations for 2019 and 2020. The review of this agreement would then be deferred until after the Australia Day celebrations for 2020.

Australia Day Ambassador

Port Stephens Council utilised the Australia Day Ambassador program via the Australia Day Council of NSW for the appointment of the 2018 ambassador. CEO of Cancer Charity CanToo Foundation, Peter McClean, was appointed the Port Stephens Australia Day Ambassador. Peter presented his address at both Raymond Terrace and Nelson Bay.

In the future it is recommended that Council attempts to acquire an Australia Day ambassador through its own means and connections. The recommendation is to approach potential ambassadors very early in the year for the following year's Australia Day with a view to acquiring a high profile individual with a clear connection to Port Stephens and/or the Hunter.

Port Stephens Annual Awards and Citizenship Ceremony

As in previous years, the Port Stephens Annual Awards were announced at the Raymond Terrace ceremony. Most recipients then travelled to Nelson Bay where they were acknowledged as part of formal proceedings. Details of the 2017 annual award winners are available on Council's website.

Only Nelson Bay undertook the citizenship ceremony on Australia Day in 2018 with fifteen (15) people taking the pledge of citizenship. There were no requests for any citizenship ceremonies at Raymond Terrace for Australia Day 2018.

Budget

As per the Ordinary Council Meeting dated 26 June 2016, it was determined that funding for the Australia Day Nelson Bay Subcommittee and Raymond Terrace Australia Day community group/s would be allocated of \$12,000 each and this would increase by CPI each year. For Australia Day 2018, the funding amount of \$13,146.71 was allocated by Council to **both** the Australia Day Nelson Bay Subcommittee and the Rotary Club of Raymond Terrace. The payment to Raymond Terrace was paid in a two-staged payment as per the executed agreement between Port Stephens Council and Rotary Club of Raymond Terrace on 29 September 2016.

As per the Ordinary Council Meeting dated 12 April 2016, it was resolved that an annual amount of \$3,000 be provided to the Lions Club of Tilligerry Peninsula Inc. to include an increase of CPI per year. For Australia Day 2018, the funding amount of \$3,069.39 was paid to the Lions Club of Tilligerry Peninsula Inc.

As per the Ordinary Council Meeting dated 12 April 2016, a further \$1,000 was paid to Karuah RSL to assist with activities at Karuah. This arrangement has been in place for the past two years. This year it is recommended (see Recommendation 4) to apply CPI to these funds to ensure the funding arrangements for each event is consistent.

MINUTES ORDINARY COUNCIL - 8 MAY 2018

Note: As gazetted on December 2017, CPI was 0.6%, obtained from the Australia Bureau of Statistics, 6401.0 - Consumer Price Index, June 2016.

Further cash funding from Council for both Raymond Terrace (\$1500) and Nelson Bay (\$1000) events was provided through application under the Mayoral and Ward funds programs.

Sponsors

Each location attracted sponsors, both cash and in-kind, to support their activities. This support is invaluable and acknowledged by Council. Suez Environment Australia provided waste bins free of charge to the Nelson Bay and Raymond Terrace events.

Other sponsors were:

Raymond Terrace

The Mutual Building Society	\$3,500
Raymond Terrace Bowling Club	\$3,500

Nelson Bay

Marquis Bathrooms	\$1,000
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It is noted that the Nelson Bay event would benefit from further business sponsorship to help deliver future events.

It must be noted that the event would not happen without the huge commitment from volunteers from the various community group and service organisations involved as well as the support provided by Council across various groups and sections.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Community Planning and Partnerships.	Council will engage its citizens in developing plans for the future of the Port Stephens local government area.

FINANCIAL/RESOURCE IMPLICATIONS

The existing Council approved support funds totalled \$30,362 for the 2018 event. Applying an even CPI percentage of 0.6% to this amount will provide \$30,544.17 to be split between the four events for 2019 as per previous funding arrangements.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$30,544.17	To support community groups undertake Australia Day events.

MINUTES ORDINARY COUNCIL - 8 MAY 2018

Source of Funds	Yes/No	Funding (\$)	Comment
Reserve Funds	No		
Developer Contributions (Section 7.11)	No		
External Grants	No		
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

As explained above this report recommends that the current agreement between Rotary Club of Raymond Terrace be extended to allow the Rotary Club of Raymond Terrace to continue to conduct Australia Day celebrations for 2019 and 2020.

The current agreement is for the Raymond Terrace event only and was the result of an Expression of Interest process with only two Expressions of Interest received in 2015. It is therefore recommended to extend the current agreement and undertake a review after the Australia Day celebrations for 2019 and 2020.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's reputation may be damaged by poorly organised events.	Low	The efficient operation of Council's 355c Australia Day Committee and partnerships with community groups, has improved the coordination and management of Australia Day events in the local government area. Council staff and volunteers have clear plans and budgets.	Yes
There is a risk that attendance at Australia Day events may decrease.	Low	Close involvement of the community in organisation and management of these activities.	Yes
There is a risk that political pressure will see January 26 as an unsuitable day of national celebration.	Low	The risk level is dependent on a range of political pressures outside the control of Port Stephens Council.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting recommendations in this report will demonstrate Council's ongoing commitment to the efficient and coordinated management and support of community organised Australia Day activities in the local government area.

CONSULTATION

Council's 355c Australia Day Committee met three times in the past 12 months to plan and coordinate events in the local government area. The committee met most recently on 7 February 2018 to review this year's activities and begin planning for 2019.

Staff (both administrative and outdoor based) are in regular contact with all groups to assist with the organisation of the events.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

**FILE NO: 18/61941
EDRMS NO: PSC2005-4037**

**ACQUISITION BY HUNTER WATER CORPORATION OF COUNCIL ROADS
BENEATH GRAHAMSTOWN DAM**

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consent to the compulsory acquisition by Hunter Water Corporation of Council road reserves beneath Grahamstown Dam.
- 2) Complete the acquisition under Section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991*.
- 3) Authorise the General Manager to negotiate an agreed compensation amount without a further report required to Council.
- 4) Authorise the Mayor and General Manager to sign and affix the Seal of Council to all documentation required for the compulsory acquisition and transfer.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Jaimie Abbott</p> <p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

114	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Consent to the compulsory acquisition by Hunter Water Corporation of Council road reserves beneath Grahamstown Dam.2) Complete the acquisition under Section 30 of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i>.3) Authorise the General Manager to negotiate an agreed compensation amount without a further report required to Council.4) Authorise the Mayor and General Manager to sign and affix the Seal of
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MINUTES ORDINARY COUNCIL - 8 MAY 2018

	Council to all documentation required for the compulsory acquisition and transfer.
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BACKGROUND

The purpose of this report is to recommend Council's consent to the compulsory acquisition by Hunter Water Corporation (HWC) of Council road reserves beneath Grahamstown Dam (the Dam). Compensation is to be determined by Agreement under Section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991*.

In the mid 1950's HWC resumed land for the construction of the Dam which is the Hunter's largest drinking water supply. A number of townships and subdivisions were acquired for the Dam and within these townships were both Crown and Council roads.

During the mid 1950's the acquisition of HWC freehold land parcels was completed, however, title to the roads was not acquired. These road reserves are the only part of the Dam which are not HWC's freehold land.

The Council road reserves to be acquired are shown coloured white (**ATTACHMENT 1**) and are no longer required as part of Council's road reserve assets due to being underwater for many years. This acquisition by HWC will allow the consolidation and formal survey of the Dam and create a more accurate plan of the Dam for Council use.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There will be no financial resource implications to Council as all costs will be borne by HWC including any reasonable legal costs. Compensation will be determined and Council will generate income from the sale of the roads to HWC. Compensation is yet to be agreed, however, Council will follow the relevant policy in arriving at suitable compensation. Council will avail itself of an independent valuation to inform compensation negotiations.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		

MINUTES ORDINARY COUNCIL - 8 MAY 2018

Source of Funds	Yes/No	Funding (\$)	Comment
Reserve Funds	No		
Developer Contributions (Section 7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Acquisition & Divestment of Land policy outlines the necessary actions for Council to follow, therefore, there are no apparent legal, policy or risk implications.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if Council does not agree to the acquisition by HWC the matter will need to be resourced in future.	Low	Adopt all recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no apparent social or environmental implications to Council.

The income from compensation from HWC will increase Council's income and, therefore, have a positive economic implication.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Property Services Section. As these roads are currently Council assets managed by Facilities & Services, this Section was required to agree to the Compulsory Acquisition by HWC to dispose of these assets.

Internal

- Civil Assets Planning Manager
- Asset Section Manager
- Spatial Services Technical Officer
- Property Officer
- Land Acquisition & Development Manager

MINUTES ORDINARY COUNCIL - 8 MAY 2018

- Senior Survey & land Information Manager
- Legal Services Manager

External

- HWC contacted Council in August 2017 notifying Council there had been funding provided to HWC to complete the survey and consolidation of a former township.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Location Map.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873812 Email: council@portstephens.nsw.gov.au

ITEM NO. 6

**FILE NO: 18/85024
EDRMS NO: A2004-0242**

QUARTERLY BUDGET REVIEW AS AT 31 MARCH 2018

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget as detailed in **(ATTACHMENT 1)** presented as the 2017-2018 Quarterly Budget Review Statement – March 2018.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Chris Doohan Councillor Paul Le Mottee</p> <p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

115	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council approve the discretionary changes to the adopted budget as detailed in (ATTACHMENT 1) presented as the 2017-2018 Quarterly Budget Review Statement – March 2018.</p>
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BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2017-2018 budget that are detailed in the Quarterly Budget Review Statement – March 2018. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the March 2018 Quarterly Budget Review.

Council considered its Integrated Strategic Plans on 13 June 2017 (Minute No. 128) and these plans include the budget estimates for the 2017-2018 financial year.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
A Sustainable Council.	<p>Council will maintain its underlying financial performance to budget at break even or better.</p> <p>Council will increase its revenue from non-rates sources.</p> <p>Manage risks across Council.</p> <p>Attract, retain and develop staff to meet current and future workforce needs.</p> <p>Provide enabling business support services for Council's operations.</p>

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result is as follows:

	Surplus (\$)	Deficit
Budget 2017-2018	497,000	
September Review	1,351,000	
December Review	1,085,000	
March Review	961,000	

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing budget.
Reserve Funds	No		
Developer Contributions (Section 7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the underlying operating result may return to a deficit.	Medium	Long Term Financial Plan established to reach break-even point.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's budget is fundamental for operational sustainability and to the provision of facilities and services to the community.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section to discuss the overall financial result for the quarter.

Internal

- Group Managers via email/meetings in April 2018 to provide an update on the overall financial result for the quarter.
- Executive Leadership Team during formal meetings in April 2018 to discuss the overall financial result for the quarter.

Formal communication and meetings have been held and the recommendation to submit to Council for formal adoption was accepted.

OPTIONS

- 1) Accept the recommendation.
- 2) Amend the recommendation.
- 3) Reject the recommendation.

ATTACHMENTS

- 1) 2017-2018 Quarterly Budget Review Statement - March 2018.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



"A great lifestyle in a treasured environment"

2017 – 2018
Quarterly Budget Review Statement
March 2018

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ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW
STATEMENT - MARCH 2018.

1) Executive Summary

Categorising the changes by Group:

Corporate Services: The operating budget change in this Group was \$60k (Unfavourable). The operating budget change mainly relates to the transfer of expenditure budgets from other Groups.

Capital budget changes were \$211k (Unfavourable) and mainly relate to the planning for a Koala Hospital and finalisation of the 155 Salamander Way scope of works.

Development Services: Operating budget changes for this Group were \$25k favourable and mainly relate to the transfer out of expenditure budgets to the Corporate Services Group.

Capital budget changes were \$500k (Favourable) and mainly relate to the increase of development contributions.

Facilities & Services: The operating budget change in this Group was \$129k (Unfavourable). This is mainly due to the downgrade in road grant funding.

Changes in the capital budget were \$2.6M (Unfavourable) which consists of an increase in capital grants and contributions by \$4.3M and net increase in capital expenditure by \$6.9M. The main project driving the increase is the Birubi interchange.

General Manager's Office: The operating budget changes in this Group were \$40k (Favourable). This was as a result of the reallocation of expenditure out of the Group to other areas.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

Operating Budget	2018 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2018 Revised Budget	2018 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	38,007	-	(2,650)	(276)	(60)	35,021	39,058
Development Services	(7,470)	-	89	23	25	(7,333)	(5,711)
General Manager's Office	(3,204)	(35)	150	3	40	(3,046)	(2,359)
Facilities & Services	(27,621)	-	(571)	(16)	(129)	(28,337)	(18,899)
Newcastle Airport	2,330	-	-	-	0	2,330	-
Operating Surplus/(Deficit) before capital grants	2,042	(35)	(2,982)	(266)	(124)	(1,365)	12,088
Less: Gain on sale	(250)	-	-	-	-	(250)	-
Less: Fair value (gains) / losses	(615)	-	-	-	-	(615)	-
Less: Newcastle Airport	(2,330)	-	-	-	-	(2,330)	-
Add: Advance FAG 2017	-	-	3,218	-	-	3,218	3,218
Add: Local election costs	400	-	-	-	-	400	431
Add: NAP Dividend	1,250	-	653	-	-	1,903	1,903
Underlying Operating Surplus/(Deficit)	497	(35)	889	(266)	(124)	961	17,640

Capital Budget	2018 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2018 Revised Budget	2018 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	(1,929)	(6,991)	1,274	(1,397)	(211)	(9,253)	(6,070)
Development Services	3,000	-	-	1,000	500	4,500	3,785
Facilities & Services	(21,752)	(13,109)	6,968	(20)	(2,640)	(30,554)	(15,771)
Total	(20,681)	(20,100)	8,242	(417)	(2,351)	(35,307)	(18,056)

Note - + = inflow () = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

2) Introduction

Clause 203(1) of the *Local Government (General) Regulation 2005* requires Council's responsible accounting officer to prepare and submit a Quarterly Budget Review Statement (QBRS) to Council. The QBRS must show, by reference to the estimated income & expenditure that is set out in the operational plan, a revised estimate of income and expenditure for the year.

It also requires the QBRS to include a report by the responsible accounting officer as to whether or not the statement indicates Council to be in a satisfactory financial position, with regard to Council's original budget.

Council's operational plan sets out the achievements, goals and revenue policy, including estimates of income and expenditure. The QBRS plays an important role in monitoring Council's progress against the plan and ongoing management of the annual budget.

The QBRS is the mechanism whereby Councillors and the community are informed of Council's progress against the operational plan (original budget) and the recommended changes and reasons for major variances.

The QBRS is composed of the following components:

- Responsible Accounting Officer Statement.
- Income & Expenses Budget Review Statement.
- Capital Budget Review Statement.
- Cash Flow Statement Review.
- Budget Review Contracts and Other Expenses.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

3) Responsible Accounting Officer's Statement

The Regulations require that a budget review statement must include or be accompanied by a report as to whether or not the Responsible Accounting Officer (RAO) believes that the QBRs indicates that Council's financial position is satisfactory, having regard to the original estimate of income and expenditure. If Council's financial position is considered by the RAO to be unsatisfactory, then recommendations for remedial action must be included.

The following statement is made in accordance with clause 203(2) of the *Local Government (General) Regulations 2005*.

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/03/2018 indicates that Council's projected financial position will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Tim Hazell
Responsible Accounting Officer, Port Stephens Council

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

4) Income & Expenses Budget Review Statement

Consolidated	2018	Budget revises & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2018	2018 YTD Actuals
	Original Budget					\$'000	
Rates and Annual Charges	54,709	-	-	-	-	54,709	55,260
User Charges & Fees Income	38,984	-	(1,187)	(32)	28	37,793	19,061
Interest & Investment Income	1,322	-	-	-	-	1,322	825
Other Income	5,989	-	327	20	5	6,341	6,138
Grants and Cont.	12,023	-	(2,312)	166	(78)	9,799	7,755
Grants and Cont. (Capital)	5,703	-	1,327	1,206	4,805	13,041	4,701
Gain on Sale	250	-	-	-	-	250	-
Total Revenue	118,980	-	(1,845)	1,360	4,760	123,255	93,740
Employee Costs	42,123	-	952	426	-	43,501	29,937
Borrowing Costs	903	-	-	-	-	903	313
Materials & Contracts	39,940	-	(1,077)	3	79	38,945	30,922
Other Expenses	13,034	35	(65)	(9)	-	12,995	5,928
Depreciation & Impairment	15,235	-	-	-	-	15,235	9,851
Total Expenditure	111,235	35	(190)	420	79	111,579	76,951
Operating Surplus/(Deficit) after capital grants	7,745	(35)	(1,655)	940	4,681	11,676	16,789
Operating Surplus/(Deficit) before capital grants	2,042	(35)	(2,982)	(266)	(124)	(1,365)	12,088
Less: Gain on sale	(250)	-	-	-	-	(250)	-
Less: Fair value (gains) / losses	(615)	-	-	-	-	(615)	-
Less: Newcastle Airport	(2,330)	-	-	-	-	(2,330)	-
Add: Advance FAG 2017	-	-	3,218	-	-	3,218	3,218
Add: Local election costs	400	-	-	-	-	400	431
Add: NAP Dividend	1,250	-	653	-	-	1,903	1,903
Operating Surplus/(Deficit)	497	(35)	889	(266)	(124)	961	17,640

Notes:

1. Revised Budget = Original Budget +/- approved budget changes in previous quarters.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

Council's original operating budget for 2017-2018 was incorporated as part of the Integrated Plans and was adopted by Council on 13 June 2017.

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the March Quarterly Budget Review. There are a number of budgetary changes proposed across the Council budget which have delivered Council's Underlying Operating result. This has altered from an original projected surplus of \$497,000 to a projected surplus of \$961,000.

Note that for budgetary changes: **F** = favourable budget change, **U** = unfavourable budget change.

REVENUE	Budget Change
Rates and Annual Charges	\$'000 F/U
No Change	-
User Charges and Fees	28 F
User charges have increased due to revised projections on parking income.	
Grants and Contributions provided for Operating Purposes	78 U
Grant income has decreased due to the downgrade in expected road transport grants.	
Interest and Investment Revenue	-
No Change	

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

Other Revenues	5	F
Other revenue has increased due to the reforecasting of purchase rebates		
<hr/>		
Grants and Contributions provided for Capital Purposes	4,805	F
Capital income has increased as a result of the following:		
1. \$500k re-forecasted income from development contributions.		
2. \$240k grant for Fingal Bay RFS station		
3. \$90k grant for Library fitouts		
4. \$340k in grants and contributions towards Sport & Recreational projects.		
5. \$65k in grants for waterway projects		
6. \$3m contributions towards the construction of the Birubi Interchange		
7. \$470k contributions in federal funding towards road projects		
8. \$100k contributions towards CCTV connections		
<hr/>		
Net Gains from the Disposal of Assets	-	-
No Change		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRS.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

EXPENDITURE	\$'000	Budget Change F/U
Borrowing Costs	-	-
No Change		
Depreciation, Amortisation and Impairment	-	-
No Change		
Employee Benefits and On-Costs	-	-
Employee benefits have increased as a result of the introduction of 4 new positions within Council.		
Materials and Contracts	79	U
Materials and contracts have increased mainly due to consultant costs associated with the EA negotiations (\$50k) which are being offset by a decrease in fleet and maintenance consumables (\$47k).		
Other Expenses	-	-
.Other expenses have been reduced as a result of reclassification to materials and contracts		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRS.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

5) Capital Budget Review Statement

Consolidated	2018 Original Budget \$'000	Budget revotes & carry forwards \$'000	Budget Revision Sept Qtr \$'000	Budget Revision Dec Qtr \$'000	Budget Revision Mar Qtr \$'000	2018 Revised Budget \$'000	2018 YTD Actuals \$'000
Grants and Cont.(Capital)	5,703	-	1,327	1,206	4,805	13,041	4,701
Total Receipts	5,703	-	1,327	1,206	4,805	13,041	4,701
Capital Equipment & Contracts	26,384	16,393	(6,620)	164	7,045	43,366	18,070
Property Acquisition & Development	-	3,707	(295)	1,459	111	4,982	4,687
Total Payments	26,384	20,100	(6,915)	1,623	7,156	48,348	22,757
Capital Surplus/(Deficit)	(20,681)	(20,100)	8,242	(417)	(2,351)	(35,307)	(18,056)

This statement sets out the details of variations between Council's original capital budget and revised capital budget. There are budgetary changes proposed which result in a net increase in the capital program to the value of \$2.3m.

Note that for budgetary changes: **F** = favourable budget change, **U** = unfavourable budget change.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

INCOME	\$'000	Budget Change F/U
Capital Grants & Contributions	4,805	F
Capital income has an increase as a result of the following:		
1. \$500k re-forecasted income from development contributions.		
2. \$240k grant for Fingal Bay RFS station		
3. \$90k grant for Library fitouts		
4. \$340k in grants and contributions towards Sport & Recreational projects.		
5. \$65k in grants for waterway projects		
6. \$3m contributions towards the construction of the Birubi Interchange		
7. \$470k contributions in federal funding towards road projects		
8. \$100k contributions towards CCTV connections		
EXPENDITURE		
Property Acquisition and Development	111	U
Property acquisition and development costs have been increased due to the following		
1. Development expenditure associated with 155 Salamander Way has been increased due to contract variations		
Capital Materials and Contracts	7,045	U
Capital materials and contracts was a net increase due to a reforecast of the capital works plan due to rollovers from the prior financial year. Major projects for the year include:		
1. Birubi Interchange - \$6m		
2. Waterway projects \$65k		
3. Plant purchases - \$60k		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRS.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

- 4. CCTV connections – \$100k
- 5. Building fit outs – \$100k
- 6. Emergency service buildings – \$260k
- 7. Road projects - \$470k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.
Page 11 of 16

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

The capital works program by section is as follows:

	2018 Original Budget \$'000	Budget revotes & carry forwards \$'000	Budget Revision Sept Qtr \$'000	Budget Revision Dec Qtr \$'000	Budget Revision Mar Qtr \$'000	2018 Revised Budget \$'000	2018 YTD Actuals \$'000
Capital Funding							
Capital Grants & Contributions	5,703	-	1,327	1,206	4,805	13,041	4,701
Total Capital Funding	5,703	-	1,327	1,206	4,805	13,041	4,701
Capital Expenditure							
Corporate Services Group							
Commercial Property							
Fingal Bay Holiday Park	200	996	(818)	-	-	378	209
Halifax Holiday Park	150	623	138	-	-	911	237
Shoal Bay Holiday park	409	409	(452)	-	-	366	111
Thou Walla Sunset Retreat	150	161	(31)	-	-	280	59
TreEscape	-	297	(197)	-	-	100	6
Office and Chambers	250	-	(250)	-	-	-	-
Property Development	-	3,707	(295)	1,379	111	4,902	4,687
Property Section Manager	-	-	100	-	100	200	61
Property Investments	-	138	216	-	-	354	13
Commercial Property Total	1,159	6,331	(1,589)	1,379	211	7,491	5,383
Business Improvement Technology	770	660	315	18	-	1,762	688
Corporate Services Group Total	1,929	6,991	(1,274)	1,397	211	9,253	6,071

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.

MINUTES ORDINARY COUNCIL - 8 MAY 2018

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

	2018 Original Budget \$'000	Budget revotes & carry forwards \$'000	Budget Revision Sept Qtr \$'000	Budget Revision Dec Qtr \$'000	Budget Revision Mar Qtr \$'000	2018 Revised Budget \$'000	2018 YTD Actuals \$'000
Facilities and Services							
Civil Assets							
Fleet Maintenance	1,161	333	1,705	(35)	-	3,164	1,117
Drainage	-	125	-	80	-	205	111
Civil Assets Total	1,161	458	1,705	45	-	3,369	1,228
Community and Recreation							
Domestic Waste Management	-	1,986	-	-	60	2,046	202
Community Services	-	-	-	-	-	-	1
Library Services	250	199	-	-	-	449	167
Community and Recreation Total	250	2,186	-	-	60	2,496	370
Capital Works							
Capital Works Construction	23,044	10,379	(7,346)	181	6,885	33,143	15,015
Capital Works Total	23,044	10,379	(7,346)	181	6,885	33,143	15,015
Public Domain and Services							
Depots	-	86	-	-	-	86	73
Public Domain and Services Total	-	86	-	-	-	86	73
Facilities and Services Total	24,455	13,109	(5,641)	226	6,945	39,094	16,686
Total Capital Expenditure	26,384	20,100	(6,915)	1,623	7,156	48,348	22,757
Net Outlay	20,681	20,100	(8,242)	417	2,351	35,307	18,056

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

6) Cash Flow Statement (Consolidated)	Original Budget	Revotes & Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Cash Flows from Operating Activities						
Receipts:						
Rates and Annual Charges	54,333	-	-	-	-	54,333
User Charges & Fees Income	38,984	-	(1,187)	(32)	28	37,793
Interest & Investment Revenue Received	1,322	-	-	-	-	1,322
Other	5,373	-	327	20	5	5,725
Grants and Contributions	15,726	-	(985)	1,372	4,727	20,840
Payments:						
Employee Benefits & On-Costs	(42,290)	-	(952)	(426)	-	(43,668)
Borrowing Costs	(903)	-	-	-	-	(903)
Materials & Contracts	(39,595)	-	1,077	(3)	(79)	(38,600)
Other	(8,388)	(35)	65	9	-	(8,349)
Net Cash provided (or used in) Operating Activities	24,562	(35)	(1,655)	940	4,681	28,493
Cash Flows from Investing Activities						
Receipts:						
Proceeds from disposal of Property Plant & Equipment	250	-	-	-	-	250
Proceeds from development	-	-	6,980	-	-	6,980
Payments:						
Purchase of Infrastructure, Property Plant & Equipment	(26,384)	(20,100)	(1,864)	(1,623)	(7,156)	(57,127)
Net Cash provided (or used in) Investing Activities	(26,134)	(20,100)	5,116	(1,623)	(7,156)	(49,897)
Cash Flows from Financing Activities						
Receipts:						
Proceeds from borrowings	6,000	1,000	-	-	-	7,000
Payments:						
Repayment of Borrowings & Advances	(2,808)	-	-	-	-	(2,808)
Net Cash provided (or used in) Financing Activities	3,192	1,000	-	-	-	4,192
Net Increase/(Decrease) in Cash & Cash Equivalents	1,620	(19,135)	3,461	(683)	(2,475)	(17,212)
plus: Cash & Investments - beginning of year (*)	39,688	-	9,038	-	-	48,726
Cash & Investments - end of the year	41,308	(19,135)	12,499	(683)	(2,475)	31,514

* - opening balance adjustment made to reflect 30 June 2017 actual closing balance

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRs.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

Cash Flow Statement Funding Reconciliation

The 'Recommended Changes to Budget' in the December QBR constitute an overall decrease in Council's Cash Flow position by \$2.5m (Unfavourable) after the use of internal reserves and external funding sources are factored in. These changes are split across the Operating budget of \$124k (Unfavourable) and Capital Budget of \$2.3M (Unfavourable).

PSC is clearly solvent based on the current and estimated cash position from the review changes. PSC's current cash position as per the March investment report was \$34.6m.

7) Budget Review Contracts and Other Expenses

Councillors are currently made aware of tenders of \$150,000 or more in accordance with legislation. However, Councillors should be made aware of other material contracts entered into by Council and details of other expenses that are of particular interest. To this end a contract listing and details of legal fees and consultancy expenses are included in the QBRs.

Part A lists contracts (other than employment contracts and contracts entered into from Council's preferred suppliers list) that:

- Were entered into during the quarter ending 31/03/2018; and
- Have a value equal to or more than \$50,000.

Part B of the report shows expenditure as at 31/03/2018 for:

- Consultancies
- Legal fees

For the purposes of this report, a consultancy is defined as a person or organisation engaged under contract on a temporary basis to provide recommendation or high level specialist or professional advice to assist decision making by management.

ITEM 6 - ATTACHMENT 1 2017-2018 QUARTERLY BUDGET REVIEW STATEMENT - MARCH 2018.

**Part A
Contracts Listing**

Contractor	Contract Details and Purpose	Contract Value Inc GST	Commencement date	Contract end date	Budgeted (Y/N)
Anna Bay Sand and Earthmoving	Medowie Netball Courts Construction	159,940	8/03/2018	15/05/2018	Y
Jackson Teece Architecture	Koala Sanctuary and Tourism Facility	115,375	2/03/2018	30/06/2018	Y
Tennant Australia Pty Limited	Tennant Ride on Sweeper	64,900	15/01/2018	16/02/2018	Y
SAF Australia	Maintenance and support for Spectrum Radio	64,153	23/03/2018	-	Y
Ozsteel Manufacturing Products Pty Ltd	120 Litter Bins for Nelson bay CBD	55,297	16/02/2018	21/03/2018	Y
Security Network Protection	Patrol Services until 30 June 2018	53,947	19/01/2018	30/06/2018	Y

**Part B
Consultancy & Legal Expenses**

Expense	Expenditure YTD (\$)	Budgeted (Y/N)
Consultancies	567,027	Y
Legal Fees	663,993	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2018 and should be read in conjunction with other documents in the QBRS.

ITEM NO. 7

**FILE NO: 18/83773
EDRMS NO: PSC2017-02051**

SERVICE REVIEW - LIBRARY SERVICES

REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION
MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Library Services Team service package as outlined, to deliver the required level of service to meet the organisation's future needs.
-

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Steve Tucker That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

116	Councillor Chris Doohan Councillor John Nell It was resolved that Council endorse the Library Services Team service package as outlined, to deliver the required level of service to meet the organisation's future needs.
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BACKGROUND

The purpose of this report is to endorse the Library Services Team service package.

The Library Services Team is part of the Community Services Section and the Facilities and Service Group. It is one of Council's primary external facing customer services which achieve very high levels of customer satisfaction scores annually.

Library Services are provided through 16.83 FTE (25 people) in paid staff, 2.74 FTE (41 people) in volunteer staff and a draw on general revenue of \$1.4M pa and includes:

1. Children's Literacy Program;
2. Mobile Library;
3. Raymond Terrace Library and Art Space;
4. Tilligerry Community Library;
5. Tomaree Library and Community Centre.

The Library Services service review has shown that:

6. Port Stephens Library Services only meet 50% of the baseline Public Library Standards. Public Libraries managed by Cessnock City Council meet 61% and Maitland City Council meets 72% of these standards.
7. Customer satisfaction with libraries is high.
8. Staff engagement is high but is wavering due to increasing customer demands and no growth in human resources to fully cater for the demand.
9. Use of public libraries has changed with Port Stephens Library and public libraries across the state and country now multi-functional community and cultural hubs.
10. Changes in use in Port Stephens has led to:
 - a. increases in: people visiting libraries (2%), new library membership (6%), Internet and Wi-Fi sessions (8%), customers using Wi-Fi (40%), requests for information and technology assistance (27,088 requests) and programs and events (526); families in Children's Literacy program (238); management of conflict and antisocial behaviour; and
 - b. a decrease in items loaned (5%).
11. Library volunteers contribute 3,228 hours per year or the equivalent of 2.74FTE or \$199,000 pa in added human resource value.
12. Increase in recruitment and reliance on volunteer labour is limited by the availability of professional staff to provide adequate supervision when weighed against responding to growing demands from customers for greater one-on-one assistance.
13. Funding of public libraries by the NSW Government has not increased in more than 13 years with the operating subsidy stagnate at around \$187,000 pa.

The recommendation from the service review as endorsed by the Executive Leadership Team is to increase services delivered across Raymond Terrace and Tomaree Libraries. Funding is to be sourced from existing Library Services budget and increased external revenue streams from within the Community Services Section budget that offset current general revenue. The net result is no call on additional general revenue to implement the recommendation.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Arts and Culture.	Plan for and promote multiculturalism and Port Stephens' heritage, arts and culture.

FINANCIAL/RESOURCE IMPLICATIONS

The service package will increase services delivered with no extra draw on general revenue.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	93,000	Increased services delivered funded from existing casual staff budget and external income within Community Services Section that offsets general revenue. Nil impact on call on general revenue.
Reserve Funds			
Developer Contributions (\$7.11)			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications from adopting this recommendation.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendation will lead to reduced service levels that result in reduced customer satisfaction from the community.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation will ensure that Council's highest customer satisfaction performing service, Library Services, is able to continue to deliver quality public libraries that maintain a sustainable service level and aspire to increase performance against the National Library Standards and comparable libraries in neighbouring Council areas.

There are no economic or environmental implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Community Services Section. The consultation formed part of the cyclical service review process.

Internal

Consultation using interviews, surveys, presentations and desk top analysis has involved the following internal stakeholders:

- Staff at all Libraries
- Volunteers at all libraries
- Consultative Committee
- Senior Management
- Executive Leadership Team
- Two way conversation with Councillors on Tuesday 24 April 2018.

External

Consultation using interviews, surveys, presentations has involved the following external stakeholders:

- Library members;
- Library users;
- Tenants of libraries and the community centre;
- Program participants (Children's literacy, art, craft, Story Time, etc);
- Raymond Terrace Art Space.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 8

**FILE NO: 18/89830
EDRMS NO: PSC2017-00178**

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the *Local Government Act 1993* from the respective Mayoral Funds to the following:
 - a. Yacaaba Centre – Mayoral Funds - \$2,500 donation towards the costs of upgrading the water supply to houses used by the Port Stephens Womens Crisis and Support Group Inc.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

117	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayoral Funds to the following:</p> <ol style="list-style-type: none">a. Yacaaba Centre – Mayoral Funds - \$2,500 donation towards the costs of upgrading the water supply to houses used by the Port Stephens Womens Crisis and Support Group Inc.
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BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by the Mayor and Councillors as deserving of public funding. The Financial Assistance Policy gives the Mayor and Councillors a wide discretion either to grant or to refuse any requests.

Council's Financial Assistance Policy provides the community and Mayor and Councillors with a number of options when seeking financial assistance from Council. Those options being:

1. Mayoral Funds;
2. Rapid Response;
3. Community Financial Assistance Grants – (bi-annually);
4. Community Capacity Building.

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the *Local Government Act 1993*. This would mean that the financial assistance would need to be included in the Operational Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below:

MAYORAL FUNDS – Mayor Palmer

Yacaaba Centre	An information and counselling service that provides support, information and advocacy to clients, enabling them to develop strategies to sustain physical and psychological wellbeing, and support those at imminent risk of homelessness.	\$2,500	Donation towards the costs of upgrading the water supply to houses used by the Port Stephens Womens Crisis and Support Group Inc.
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COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Governance and Civic Leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing budget.
Reserve Funds	No		

MINUTES ORDINARY COUNCIL - 8 MAY 2018

Source of Funds	Yes/No	Funding (\$)	Comment
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the *Local Government Act 1993*, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Consultation with key stakeholders has been undertaken by the General Manager's Office.

Consultation has been taken with the key stakeholders to ensure budget requirements are met and approved.

OPTIONS

- 1) Accept the recommendation.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund all the requests.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9

**FILE NO: 18/90200
EDRMS NO: PSC2017-00015**

INFORMATION PAPERS

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 8 May 2018.

No:	Report Title	Page:
1	Quarterly Report of Mayor and Councillors' Expenses 2017-2018	139

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Chris Doohan That the recommendation be adopted.
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118	Councillor Paul Le Mottee Councillor Glen Dunkley It was resolved that Council move out of Committee of the Whole.
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

119	Councillor Chris Doohan Councillor John Nell It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 8 May 2018 and the supplementary information. ----- No: Report Title Page:
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MINUTES ORDINARY COUNCIL - 8 MAY 2018

	1	Quarterly Report of Mayor and Councillors' Expenses 2017-2018	139
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INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 18/85780
EDRMS NO: PSC2015-02258**

QUARTERLY REPORT OF MAYOR AND COUNCILLORS' EXPENSES 2017-2018

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to provide the quarterly expenses of the Mayor and Councillors which have been incurred in accordance with the Payment of Expenses and Provision of Facilities to Councillors policy for the quarter ending 31 March 2018.

The table at **(ATTACHMENT)** includes the total number of meetings attended during this period.

ATTACHMENTS

- 1) Mayor and Councillors Quarterly Expense Report to 31 March 2018.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Councillors Expenses Quarterly Report - January, February, March 2018

			<i>Mayor Ryan Palme</i>	<i>Cr Jaimie Abbott</i>	<i>Cr Giacomo Arnott</i>	<i>Cr Chris Doohan</i>	<i>Cr Glen Dunkley</i>	<i>Cr Ken Jordan</i>	<i>Cr Paul Le Mottee</i>	<i>Cr John Nell</i>	<i>Cr Sarah Smith</i>	<i>Cr Steve Tucker</i>	<i>TOTALS</i>
Total Council Meetings Attended (9 held)			8	9	9	7	8	8	9	8	8	9	83
		Limits as per policy											
Councillor Mobile Rental	802.123	75% up to \$200 per month											\$0.00
Councillor Mobile Calls	803.123		\$432.00	\$388.00	\$338.00			\$1,003.00		\$240.00			\$2,401.00
Councillor Landline Phone Rental	804.123				\$62.00								\$62.00
Councillor Landline Phone Calls	805.123												\$0.00
Councillor Fax Rental	807.123												\$0.00
Councillor Fax Calls	808.123												\$0.00
Councillor Internet	806.123	75% up to \$60 per month		\$535.00		\$218.00			\$273.00				\$1,026.00
Councillor Intrastate Travel Expenses	801.123	\$7,000 per year	\$1,775.00	\$1,650.00		\$1,155.00	\$1,979.00	\$619.00	\$1,464.00	\$2,926.00	\$1,761.00	\$3,452.00	\$16,781.00
Councillor Interstate Travel (out of NSW)	810.123												\$0.00
Councillor Interstate Accommodation (out of NSW)	811.123												\$0.00
Councillors Intrastate Accommodation	812.123												\$0.00
Councillor Conferences	814.123	\$3,000 per year (excluding LGNSW Annual Con.)	\$9,271.00	\$5,834.00		\$122.00	\$4,778.00	\$1,189.00	\$2,415.00	\$3,215.00	\$914.00	\$1,157.00	\$28,895.00
Councillor Training	815.123			\$893.00	\$526.00	\$526.00	\$825.00	\$880.00	\$770.00	\$825.00	\$354.00	\$526.00	\$825.00
Councillor Partner Expenses	816.123	Mayor \$1,000 per year Cr's \$500 per year (excluding LGNSW Annual Con.)	\$141.00	\$55.00		-\$195.00	\$118.00	\$265.00	\$118.00	\$118.00		\$118.00	\$738.00
Councillor Computers	817.123	\$4,000 per term	\$2,227.00	\$1,780.00	\$3,490.00	\$2,638.00		\$3,632.00		\$161.00		\$2,863.00	\$16,791.00
Councillor Stationary	818.123	\$300 per year	\$131.00	\$71.00	\$119.00	\$148.00	\$71.00	\$477.00	\$71.00	\$160.00	\$71.00	\$260.00	\$1,579.00
Councillor Awards/Ceremonies/Dinners	819.123		\$1,099.00	\$642.00		\$592.00	\$244.00	\$123.00		\$136.00	\$95.00	\$378.00	\$3,309.00
Councillor Child Care Costs	820.123	\$2,000 per term											\$0.00
Councillor Communications Bundle	821.123	75% up to \$100 per month landline 75% up to \$100 per month mobile					\$760.00	\$2,127.00	\$221.00	\$1,360.00		\$1,629.00	\$6,097.00
TOTALS			\$15,537.00	\$11,525.00	\$4,523.00	\$5,903.00	\$8,830.00	\$9,202.00	\$6,390.00	\$8,430.00	\$3,607.00	\$10,682.00	\$84,629.00
Councillor Allowances		Mayor \$61,430 p.a. Cr's - \$19,310 p.a.	\$15,357.50	\$4,827.50	\$4,827.50	\$4,827.50	\$4,827.50	\$4,827.50	\$4,827.50	\$4,827.50	\$4,827.50	\$4,827.50	\$58,805.00
TOTALS			\$30,894.50	\$16,352.50	\$9,350.50	\$10,730.50	\$13,657.50	\$14,029.50	\$11,217.50	\$13,257.50	\$8,434.50	\$15,509.50	\$143,434.00

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the *Local Government Act 1993*, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 8 MAY 2018 MOTION

120	Councillor Glen Dunkley Councillor Paul Le Mottee It was resolved that Council move into confidential session.
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The following Council officers were present for the Confidential Session:

Communication Section Manager
Legal Services Manager
Public Relations and Marketing Coordinator
Digital Marketing and Social Media Officer
Investment and Asset Manager

MINUTES ORDINARY COUNCIL - 8 MAY 2018

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

121	Councillor Chris Doohan Councillor Giacomo Arnott It was resolved that Council move into Committee of the Whole.
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CONFIDENTIAL

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 18/98854
EDRMS NO: PSC2015-03808**

2 DOWLING STREET, NELSON BAY

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

122	Councillor Chris Doohan Councillor Giacomo Arnott It was resolved that Council: 1) Delegate authority to the General Manager to authorise Council's Solicitors to sign the Short Minutes of Order attached to this Mayoral Minute. 2) Authorise the General Manager to negotiate the settlement of these proceedings on the terms set out in this Mayoral Minute.
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CONFIDENTIAL

ITEM NO. 1

**FILE NO: 18/80262
EDRMS NO: PSC2016-03581**

**AMENDMENT TO EXISTING RESOLUTION FOR SALE OF PART OF 795
MEDOWIE ROAD, MEDOWIE**

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

123	Councillor Chris Doohan Councillor Glen Dunkley It was resolved that Council amend the Buy Back Option clause in the negotiated terms and conditions of sale in Resolution Minute No. 115 of 9 May 2017 as detailed in the report.
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

124	Councillor Jaimie Abbott Councillor Chris Doohan It was resolved that Council move out of Committee of the Whole.
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**ORDINARY COUNCIL MEETING – 8 MAY 2018
MOTION**

125	Councillor Chris Doohan Councillor John Nell It was resolved that Council move out of confidential session.
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There being no further business the meeting closed at 7.09pm.