

DRAFT

MINUTES – 13 AUGUST 2019



PORT STEPHENS COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 13 August 2019, commencing at 6.46pm.

PRESENT:

Mayor R Palmer, Councillors J Abbott, G Arnott, K. Jordan, P. Le Mottee, J Nell, S Smith, S. Tucker, General Manager, Corporate Services Group Manager, Acting Facilities and Services Group Manager, Development Services Group Manager and Governance Section Manager.

179	Councillor Ken Jordan Councillor Steve Tucker It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 23 July 2019 and the Minutes of the Extraordinary Meeting of Port Stephens Council held on 30 July 2019 be confirmed.
180	Councillor Ken Jordan Councillor Jaimie Abbott It was resolved that the apology from Cr Chris Doohan be received and noted, and leave of absence be granted to Cr Glen Dunkley for this meeting.
	There were no Declarations of Interest received.

INDEX

SUBJECT

PAGE NO

MAYORAL MINUTES 3

1. REVERSAL OF BILL - NSW EMERGENCY SERVICES LEVY 4

COUNCIL REPORTS..... 9

1. DEVELOPMENT APPLICATION 16-2019-24-1 FOR A TELECOMMUNICATIONS FACILITY AT 41 FISHERMANS BAY ROAD, FISHERMANS BAY (LOT: 1 DP: 1094320). 10
2. PLANNING PROPOSAL FOR 269 TAREAN ROAD, KARUAH 47
3. PLANNING PROPOSAL FOR 436-444 TAREAN ROAD, KARUAH (KARUAH RSL CLUB) 55
4. POLICY: RURAL RESIDENTIAL POLICY REVIEW 66
5. POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION..... 79
6. POLICY REVIEW - PROVISION AND MANAGEMENT OF CEMETERIES..... 90
7. VOLUNTEER RECOGNITION POLICY 100
8. 2019 LOCAL GOVERNMENT NSW ANNUAL CONFERENCE - WARWICK FARM 14-16 OCTOBER 2019 108
9. SUBMISSION OF MOTION TO LOCAL GOVERNMENT NSW SEEKING AMENDMENTS TO DERELICT BUILDING REGULATION 115
10. REQUEST FOR FINANCIAL ASSISTANCE 119
11. INFORMATION PAPERS 123

INFORMATION PAPERS 124

1. COUNCIL RESOLUTIONS 125
2. REPORT BACK ON ATTENDANCE AT THE 2019 NATIONAL GENERAL ASSEMBLY 16-19 JUNE 2019 IN CANBERRA..... 133

NOTICES OF MOTION 135

1. ASSET SALES..... 136
2. CODE OF MEETING PRACTICE 155
3. PUBLIC AMENITIES REMOVAL - OCEAN AVENUE, ANNA BAY..... 167
4. ANNA BAY 7 DAY MAKEOVER PROGRAM..... 172
5. FLY POINT TREE REMOVAL..... 174

MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 19/223984
EDRMS NO: PSC2015-01024**

REVERSAL OF BILL - NSW EMERGENCY SERVICES LEVY

THAT COUNCIL:

- 1) Notes the policy reversal of the NSW Emergency Services Levy and expresses its appreciation to the State Government for this decision.
-

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

181	Mayor Ryan Palmer Councillor Sarah Smith It was resolved that Council notes the policy reversal of the NSW Emergency Services Levy and expresses its appreciation to the State Government for this decision.
------------	--

BACKGROUND

The purpose of this report is to update Council on the status of the Emergency Services Levy increase.

Further to the Mayoral Minute considered by Council on the 28 May 2019, **(ATTACHMENT 1)** concerning the increase in the Emergency Services Levy, the State Government has announced today that as a result of approaches made by Local Government, the State will now fund the first-year increase of the emergency services levy.

Further consultation will be undertaken with Local Government to better manage the impact of the levy going forward.

The proposed increase was in the order of \$125,000 to Port Stephens Council and was not included in original budget estimates. The proposed increase was originally proposed to better provide for workers compensation coverage for volunteer and casual firefighters.

ATTACHMENTS

- 1) Emergency Services Levy Increase - Minute No. 103 - 28 May 2019.
-

**ITEM 1 - ATTACHMENT 1 EMERGENCY SERVICES LEVY INCREASE -
MINUTE NO. 103 - 28 MAY 2019.**

MINUTES ORDINARY COUNCIL - 28 MAY 2019

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 19/145934
EDRMS NO: PSC2015-01024**

EMERGENCY SERVICES LEVY INCREASE

THAT COUNCIL:

- 1) Notes:
 - a. That last December, the NSW Government enacted laws to provide better workers compensation coverage for firefighters who are diagnosed with one of twelve specific work-related cancers.
 - b. That in many areas of NSW, fire services are made up of elected and staff members of local government, and that local governments strongly support this expanded workers compensation scheme.
 - c. That as a result of these changes, the State Government has decided to implement the new scheme by charging local governments an increased Emergency Services Levy without consultation.
 - d. That the expected increase in costs to local governments will be \$19m in the first year alone, and that there is little or no time to enshrine this charge in Council's 2019-2020 budgets.
 - e. That Local Government NSW has long advocated for the Emergency Services Levy to be significantly modified to ensure it is transparent, equitable and accountable.
 - 2) That this Council supports Local Government NSW's call for:
 - a. The NSW Government to cover the initial additional \$19m increase to local governments for the first year.
 - b. The NSW Government to work with NSW local governments to redesign the funding mechanism for the scheme to ensure fairness into the future.
 - 3) Requests that the General Manager liaise with Local Government NSW to provide information on:
 - a. The impact on council budgets.
 - b. Council advocacy actions undertaken.
 - 4) Request that the Mayor:
 - a. Write to the NSW Premier and NSW Interim Opposition Leader, NSW Minister for Customer Services, NSW Minister for Emergency Services, Minister for Local Government and Shadow Minister for Local Government, and local state members to:
 - i. Call upon the NSW Government to fund 12 months of this extra cost rather than requiring councils to find the funds at short notice when budgets have already been allocated.
 - ii. Explain how this sudden increase will impact council services/the local community.
-

**ITEM 1 - ATTACHMENT 1 EMERGENCY SERVICES LEVY INCREASE -
MINUTE NO. 103 - 28 MAY 2019.****MINUTES ORDINARY COUNCIL - 28 MAY 2019**

- iii. Highlight that councils were not warned of the increased cost until May 2019, despite the new laws being passed in November 2018.
 - iv. Explain that the poor planning and implementation of the increase is inconsistent with the Government's commitment to work in partnership with the sector.
 - v. Ask the Government to work with local governments to redesign the implementation of the scheme to ensure it is fairer for councils and communities into the future.
- b. Copy the above letter to Local Government NSW.

**ORDINARY COUNCIL MEETING - 28 MAY 2019
MOTION**

103	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <p>1) Notes:</p> <ul style="list-style-type: none"> a. That last December, the NSW Government enacted laws to provide better workers compensation coverage for firefighters who are diagnosed with one of twelve specific work-related cancers. b. That in many areas of NSW, fire services are made up of elected and staff members of local government, and that local governments strongly support this expanded workers compensation scheme. c. That as a result of these changes, the State Government has decided to implement the new scheme by charging local governments an increased Emergency Services Levy without consultation. d. That the expected increase in costs to local governments will be \$19m in the first year alone, and that there is little or no time to enshrine this charge in Council's 2019-2020 budgets. e. That Local Government NSW has long advocated for the Emergency Services Levy to be significantly modified to ensure it is transparent, equitable and accountable. <p>2) That this Council supports Local Government NSW's call for:</p> <ul style="list-style-type: none"> a. The NSW Government to cover the initial additional \$19m increase to local governments for the first year. b. The NSW Government to work with NSW local governments to redesign the funding mechanism for the scheme to ensure fairness into the future. <p>3) Requests that the General Manager liaise with Local Government NSW to provide information on:</p> <ul style="list-style-type: none"> a. The impact on council budgets. b. Council advocacy actions undertaken.
------------	--

**ITEM 1 - ATTACHMENT 1 EMERGENCY SERVICES LEVY INCREASE -
MINUTE NO. 103 - 28 MAY 2019.**

MINUTES ORDINARY COUNCIL - 28 MAY 2019

	<p>4) Request that the Mayor:</p> <p>a. Write to the NSW Premier and NSW Interim Opposition Leader, NSW Minister for Customer Services, NSW Minister for Emergency Services, Minister for Local Government and Shadow Minister for Local Government, and local state members to:</p> <ul style="list-style-type: none">i. Call upon the NSW Government to fund 12 months of this extra cost rather than requiring councils to find the funds at short notice when budgets have already been allocated.ii. Explain how this sudden increase will impact council services/the local community.iii. Highlight that councils were not warned of the increased cost until May 2019, despite the new laws being passed in November 2018.iv. Explain that the poor planning and implementation of the increase is inconsistent with the Government's commitment to work in partnership with the sector.v. Ask the Government to work with local governments to redesign the implementation of the scheme to ensure it is fairer for councils and communities into the future. <p>b. Copy the above letter to Local Government NSW.</p>
--	---

BACKGROUND

Each year the NSW Government collects payments from councils and insurers to fund emergency services agencies in NSW, with councils required to pay 11.7 per cent of the budget required by NSW Emergency Services. These charges are embedded in council rates and insurance premiums.

From 1 July 2019 the NSW Government plans to collect an additional \$160 million (in 2019-2020) from NSW councils, communities and those paying insurance premiums to provide better workers' compensation coverage for volunteer and career firefighters who are diagnosed with one of 12 specific work-related cancers.

Councils were sent bills with a letter from Revenue NSW in May 2019, saying NSW council contributions will increase by \$19 million in 2019-2020. The letter also foreshadowed increases in the following year, but not the amount.

Port Stephens Council received an invoice from Revenue NSW for \$800,897.83 for its emergency services levy contribution. This is \$125,236.13 more than last year's levy (an 18.5%) increase. This will mean Council will need to find additional funds and/or cut planned initiatives or services.

**ITEM 1 - ATTACHMENT 1 EMERGENCY SERVICES LEVY INCREASE -
MINUTE NO. 103 - 28 MAY 2019.**

MINUTES ORDINARY COUNCIL - 28 MAY 2019

Council supports career and volunteer firefighters in NSW – as it does all emergency services workers and volunteers. Indeed, many NSW council staff and councillors are volunteers. We also support the Bill passed in November 2018 to address what was a workers' compensation shortfall.

However, the sector was at no point advised that it would be required to cover the cost via significant increases to the emergency services levy, or what this cost would be.

Proportional to Council revenue, the extra \$125,236.13 Port Stephens Council is being asked to pay is a large amount and the impact of this unplanned cost will certainly be felt by the community.

Local Government NSW is calling upon the NSW Government to fund the first 12 months of this extra cost and work with local governments to ensure the implementation of the funding mechanism is fairer into the future.

ATTACHMENTS

Nil.

COUNCIL REPORTS

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>That Council consider item 1 of the Council reports and all Notice of Motions prior to the consideration of the remaining Council reports.</p>
--	---

The motion on being put was lost.

ITEM NO. 1

FILE NO: 19/190093
EDRMS NO: 16-2019-24-1

DEVELOPMENT APPLICATION 16-2019-24-1 FOR A TELECOMMUNICATIONS FACILITY AT 41 FISHERMANS BAY ROAD, FISHERMANS BAY (LOT: 1 DP: 1094320).

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2019-24-1 for a Telecommunications Facility (Mobile Phone Base Station comprising 25 metre monopole and associated infrastructure) at 41 Fisherman's Bay Road, Fisherman's Bay (Lot: 1 DP: 1094320) subject to the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

182	<p>Councillor Paul Le Mottee Councillor Giacomo Arnott</p> <p>It was resolved that Council approve Development Application 16-2019-24-1 for a Telecommunications Facility (Mobile Phone Base Station comprising 25 metre monopole and associated infrastructure) at 41 Fisherman's Bay Road, Fisherman's Bay (Lot: 1 DP: 1094320) subject to the Recommended Conditions of Consent contained in (ATTACHMENT 3).</p>
------------	--

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

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, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

Development Application No. 16-219-24-1 was reported to Council at its meeting on 9 July 2019. At that meeting it was resolved that the application be deferred. The resolution is provided below:

Meeting Minute 139: It was resolved that Council defer item 1 to allow for discussions between Optus and Telstra to explore co-location, and report the development application to the Council meeting to be held on 13 August 2019.

Subsequent to the 9 July 2019 meeting, Council officers facilitated consultation between the applicant (CommPlan acting on behalf of Optus) and Telstra to further explore the viability of co-locating the proposed facilities.

Unfortunately the consultation identified that it is not possible to co-locate the facilities on the 1 monopole in this instance.

Co-location on the Telstra telecommunications monopole approved on the same site in 2014 or on the 1 currently proposed would result in 4 carriers being located on the 1 monopole, including Telstra, Optus, Vodaphone and Regional Broadcast Australia. In order for all carriers to achieve adequate network coverage, the structure would need to extend up to 45 metres in height and be redesigned from a monopole tower to a larger lattice structure tower to support the increased height. Further, the larger structure could not be accommodated on the site due its physical constraints and would result in greater visual impacts than the existing proposal.

Telstra also advised that the construction of the facility approved in 2014 is expected to commence in August 2019 and as such to make a change at this stage is not viable noting the materials have been ordered.

The applicant also considered alternative design treatments to address the visual impact concerns such as hiding the telecommunication equipment within a structure resembling a tree or something similar to blend in with surrounding vegetation. However, such visual treatments deteriorate quickly and can become more visually intrusive than the standard design. Further, such designs are limited in height and capacity (ie may only be able to support 1 carrier). The applicant also considered the possibility of painting the facility a sky blue colour however, the grey colour proposed for the facility is cited as being less visually intrusive within various telecommunication industry guidelines and is considered more appropriate in this instance.

Prior to the lodgement of the current proposal the applicant considered alternate sites for the monopole, however they were not able to achieve sufficient network coverage.

The 9 July 2019 Council Report is provided below. No changes have been made to this report since it was reported on 9 July 2019, based on the completion of the above actions as requested by Council.

The purpose of this report is to present Development Application (DA) No.16-2019-24-1 to Council for determination. The DA has been reported to Council in accordance with Council's Development Applications to be reported to Council Policy as 3 Councillors (Councillor Sarah Smith, Councillor Steve Tucker and Councillor Chris Doohan) have requested the development application be reported to Council for determination (**ATTACHMENT4**).

The subject DA relates to land located at 41 Fisherman's Bay Road, Fisherman's Bay legally identified as Lot: 1 DP: 1094320 (the subject site). The subject site contains an existing 30 metre Freeview Digital Television Tower and water reservoir. Access to the site is via a formalised access track from Clark Street through the Tomaree National Park. The land is owned by Hunter Water Corporation. A Locality Plan is provided at (**ATTACHMENT 1**).

Proposal

The applicant seeks approval for a Telecommunications Facility consisting of a monopole and associated infrastructure for the mobile phone network. The proposal would provide mobile phone, wireless broadband and data services to Fisherman's Bay and Boat Harbour areas. The proposal includes the installation of the following:

- A 25 metre high monopole with antenna mounting frames resulting in a total height of 28.5 metres.
- Telecommunication panel antennas, remote radio units, outdoor equipment cabinets and ancillary equipment associated with the on-going operation and maintenance of the Telecommunications Facility (as outlined in detail within the Planners Assessment Report contained in (**ATTACHMENT 2**).

Site description and history

The subject site is owned by Hunter Water Corporation, is square in shape and measures a total area of 1,762m². The site contains an existing 30 metre Freeview Digital Television Tower and water reservoir. The closest residential dwelling to the proposed monopole is approximately 70 metres, accessible from Clark Street. The Early Learning Centre is located 300 metres from the proposed development. Development identified within a 400 metre radius of the subject site includes residential dwellings and an Early Learning Centre however, the predominant adjoining land use is the Tomaree National Park.

Key issues

The key issues that arose during the assessment related to consideration of Electromagnetic Emissions (EME) and the visual impacts of the proposed development upon the built environment. A detailed assessment of the development is contained in the Planners Assessment Report (**ATTACHMENT 2**).

Electromagnetic Emissions (EME)

Telecommunications facilities generating Electromagnetic Emissions (EME), such as the proposed development, are required to comply with EME standards mandated by the Australian Communications and Media Authority (ACMA), which includes a maximum exposure limit expressed as percentage value of 100%. The exposure of 100% is considered safe under the Australian Standard (AS1055)

The Environmental EME Report submitted with the application (prepared by Optus and dated 28 May 2019) demonstrates that the maximum predicted EME levels of the proposed development will equate to 7.8% of the maximum exposure limit, which is 92.2% below the allowable exposure limit under the Australian Standard. As such, the proposed development is considered satisfactory in this regard.

The nearest residential property is approximately 70 metres from the proposed development. The calculated maximum cumulative EME levels at the closest dwellings are approximately 2.24% and 3.71%. The calculated maximum cumulative EME level at the Early Learning Centre is 0.37%. These levels are well below the maximum exposure limit of 100%.

It is noted that there are changes in predicted EME levels from the original EME Report exhibited with the proposed development. This has been a result of the following:

- An agreement with Vodafone to share the proposal and therefore ensure all three major mobile phone networks would be providing services in the area.
- Modifications to the panel configuration to allow for future 5G capabilities.
- At the request of nearby property owners, changes have been made to the direction of some antennas. The antenna with a direction of 320 degrees has been changed. The antennas are facing 50, 50, 135, 135, 265 and 265 degrees. There is a higher EME level due to the cumulative radio signal from multiple antennas facing the same direction.

Impacts on the built environment

The proposed height will result in the structure being visible from a number of locations within the surrounding area. The nature of telecommunications facilities require them to be located at an elevated position to gain the best coverage possible.

Notwithstanding, a number of methods have been integrated into the design of the facility in order to mitigate the visual impacts of the structure, including:

- Use of slim line monopole in a natural grey colour.
- The antenna directions have been changed following consideration and feedback from local residents.
- Locating the structure in proximity to existing vertical elements including light poles and existing Freeview pole.
- Use of earthy colours for cabinet structures.

Subject to the Recommended Conditions of Consent (**ATTACHMENT 3**) it is considered that the proposed development will not result in unacceptable visual impacts to the surrounding locality or residential amenity.

Conclusion

The proposed development is consistent with the relevant environmental planning instruments applicable to the subject site including:

- Section 4.15 of the Environmental Planning and Assessment Act 1979.
- State Environmental Planning Policy No 55 - Remediation of Land and State Environmental Planning Policy Infrastructure (2007).
- Port Stephens Local Environmental Plan 2013 (LEP).
- Port Stephens Development Control Plan 2014 (DCP).

The proposed development will provide an important community benefit by providing access to critical mobile telecommunications services and greatly improved mobile coverage in the area.

The key issues arising through the assessment of the application have been satisfactorily addressed and supported by sufficient mitigation measures as provided within the Recommended Conditions of Consent contained in (**ATTACHMENT 3**).

Accordingly, the proposed development supports and promotes the public interest, and is recommended for approval.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community. Provide land use plans, tools and advice that sustainably support the community. Enhance public safety, health and liveability through use of Council's regulatory controls and services.

FINANCIAL/RESOURCE IMPLICATIONS

The application could potentially be challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.12)	Yes		Development levy to be paid to Council based on a percentage relating to the Capital Investment Value (CIV) of the development.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application, subject to the Recommended Conditions of Consent (**ATTACHMENT 3**), is consistent with the objectives of the applicable environmental planning instruments, being; State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy Infrastructure (2007), Port Stephens Local Environmental Plan 2013 (LEP) and Port Stephens Council Development Control Plan 2014 (DCP). A detailed assessment against these requirements are contained within the Planners Assessment Report contained in (**ATTACHMENT 2**).

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the application may be challenged in the Land and Environment Court.	Low	Approve the application in line with the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development will result in positive social and economic impacts by enhancing access to critical mobile telecommunications services and mobile coverage. The Electromagnetic Emissions (EME) report submitted with the application shows that the maximum predicted EME levels will equate to 7.8% of the public exposure limit. This estimate is based on worst-case scenario. The calculated maximum cumulative EME levels at the closest dwellings are approximately 2.24% and 3.71%. The calculated maximum cumulative EME level at the early learning

centre is 0.37%. 100% EME is considered to be 'safe' under the Australian Standard AS1055.

The height of the structure (28.5 metres) results in an inevitable visibility from Gan Gan Road and surrounds across Anna Bay and Boat Harbour. However, a number of methods have been integrated into the design of the facility to satisfactorily mitigate the visual impact of the structure as detailed within the Planners Assessment Report (**ATTACHMENT 2**). Subject to the Recommended Conditions of Consent (**ATTACHMENT 3**) it is considered that the proposed development will not result in unacceptable visual impacts to the surrounding locality or residential amenity.

CONSULTATION

Internal

Consultation was undertaken with the Development Contributions officer. The referral comment from this officer was considered as a part of the Planners Assessment Report contained in (**ATTACHMENT 2**) and accordingly in the Recommended Conditions of Consent contained in (**ATTACHMENT 3**).

External

Consultation was undertaken with Hunter Water Corporation (HWC) and Rural Fire Service (RFS). Consultation was undertaken with HWC regarding the bushfire management strategies active over the subject site, given the subject site is owned by HWC. HWC advised their current bushfire management strategy is to manage low intensity events with the ring road acting as an APZ in major events.

The application was also referred to RFS in accordance with clause 4.14 of the EP&A Act. In response advice has been received regarding design and construction requirements, this advice has been placed as a condition in the Recommended Conditions of Consent (**ATTACHMENT 3**).

Public Exhibition

In accordance with Council's notification requirements the application was originally notified and publically advertised for a period of 14 days between 7 February 2019 and 21 February 2019. The application was re-notified and advertised for a period of 14 days between 21 February 2019 and 7 March 2019. 60 submissions inclusive of 38 pro-forma submissions and 22 standard submissions, with a total of 66 signatures were received during the notification and advertising period in relation to the proposed development.

The key issues raised within the submissions have been addressed in detail within the Planners Assessment Report contained in (**ATTACHMENT 2**). It has been identified that the concerns raised within the submissions can be adequately addressed by the proposed development and Recommended Conditions of Consent contained in (**ATTACHMENT 3**).

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Planners Assessment Report.
- 3) Recommended Conditions of Consent.
- 4) Call to Council Form from Councillor Smith, Councillor Tucker and Councillor Doohan.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Environmental EME Report.
- 3) Submissions.

Note: Any third party reports referenced in this report can be inspected upon request.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



118 Adelaide Street, Raymond Terrace NSW 2224. Phone: (02) 49800255 Fax: (02) 49873812 Email: council@portstephens.nsw.gov.au

APPLICATION DETAILS

Application Number	16-2019-24-1
Development Description	Telecommunications Facility - Mobile Phone Base Station comprising 25m monopole and associated infrastructure.
Applicant	COMMPLAN PTY LIMITED
Date of Lodgement	23/01/2019
Value of Works	\$180,000.00
Property Address	41 Fishermans Bay Road FISHERMANS BAY
Lot and DP	LOT: 1 DP: 1094320
Current Use	Water reservoir and digital television tower
Zoning	SP1 SPECIAL ACTIVITIES
Site Constraints	Bushfire prone land – category 1 Acid sulfate soils class 5 Stormwater drainage requirement area (1% AEP infiltration)

Development Proposal

The application proposes a telecommunications facility comprising of a 25m monopole with a headframe (total height 28.5m), 18 panel antennas (6 per sector), 33 remote radio units, six outdoor equipment cabinets, 3m reinforced block wall and steel framed colourbond roof surrounding the equipment cabinets, access ladders and ancillary equipment (**Figure 1**). The overall lease area measures 38.78m² in size. The proposal aims to deliver important Optus and Vodafone mobile telecommunication services to the Fisherman’s Bay and Boat Harbour areas.

16-2019-24-1

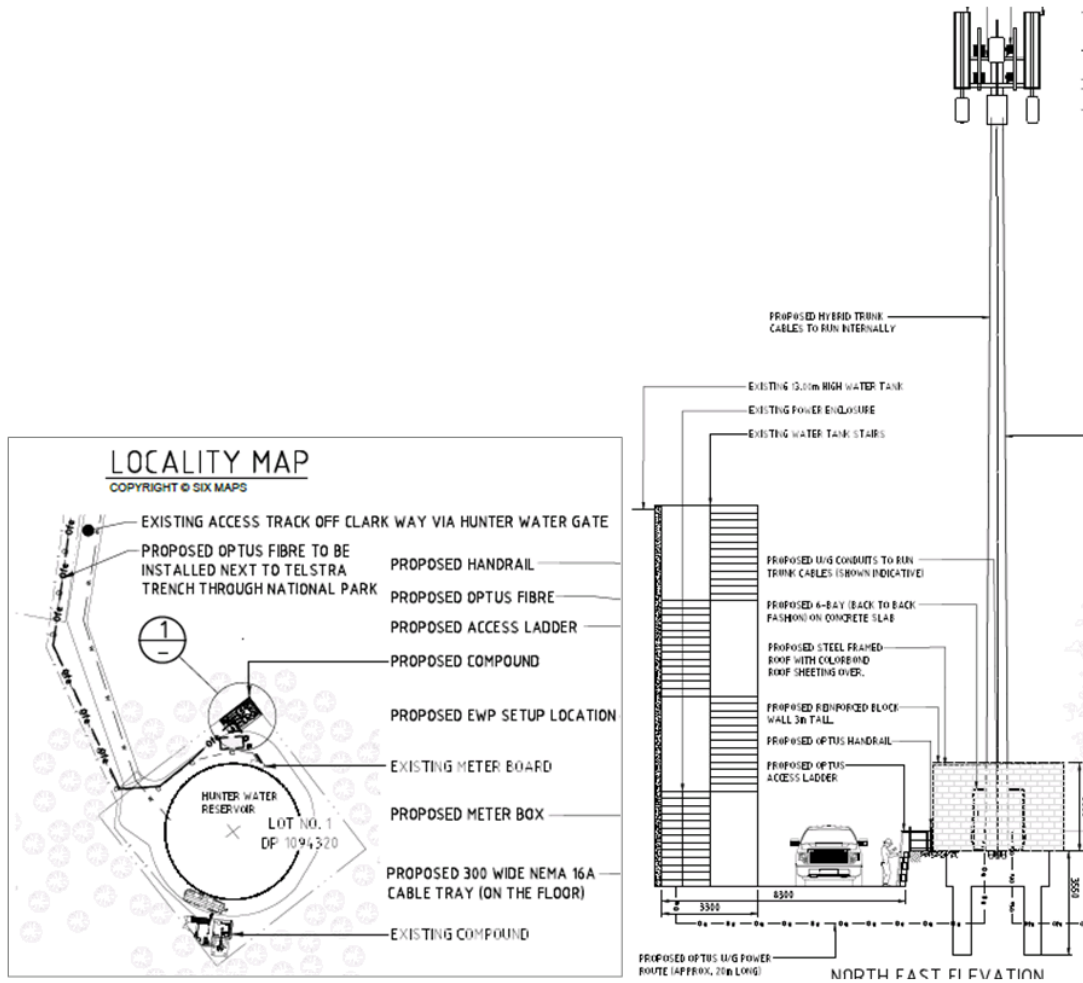


Figure 1: Site Plan and Elevation

Site Description

The subject site is known as 41 Fishermans Bay Road, Fishermans Bay (LOT: 1 DP: 1094320) and is owned by Hunter Water Corporation (Figure 3). An existing 30m Freeview Digital Television Tower and water reservoir are located on the subject site. Access to the site is via a formalised access track from Clark Street through the Tomaree National Park.

The closest residential dwelling to the proposed monopole is approximately 70m, accessible from Clark Street. Development identified within a 400m radius of the subject site includes residential dwellings and an early learning centre, however the predominant adjoining land use is the Tomaree National Park.



Figure 3: Locality plan of proposed development

Site History

A Freeview Digital Television Tower is located on the subject site which was approved by the Ordinary Council in October 2012 under DA 16-2012-507-1. A Telstra telecommunications tower was approved under officer delegation in December 2014 under DA 16-2014-633-1. This proposal included the removal and re-construction of the Freeview Tower to facilitate co-location. At the time of writing this report, Telstra had not yet constructed the new replacement monopole. The Statement of Environmental Effects (SoEE) submitted with the subject application notes that an option was presented to upgrade the existing Telstra structure on-site and co-locate the proposed Optus structure with this structure. This is not the applicants preferred option due to the associated timeframes, reduced coverage and uncertainty of development.

Site Inspection

A site inspection was carried out on 18 April 2019. The subject site can be seen in the images below:



Image 1: Entry to subject site via existing access easement.



Image 2: Existing access to subject site and closest dwelling house to the right.



Image 3: Existing condition of Clark Street looking towards Gan Gan Road.



Image 4: Existing condition of Clark Street looking towards Gan Gan Road.



Image 5: Water reservoir and existing Freeview tower on subject site.



Image 6: Proposed compound area to the left, above the retaining wall.



Image 7: Proposed compound area and adjoining Tomaree National Park.



Image 8: Proposed setup location



Image 9: Existing Freeview tower viewed from Gan Gan Rd

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 required to be referred to internal specialist staff for comment. 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 Fixed Development Contributions Plan, and a condition has been recommended on the notice of determination to be reported to Council for the payment of fixed levies as it falls within the requirements of Clause 25J of the Environmental Planning and Assessment Regulation 2000.

External Referrals

The proposed development was referred to the following external agencies for comment.

Hunter Water Corporation (HWC)

The application was referred to HWC for comment on the bushfire management strategies active over the subject site, which is owned by HWC. In response it was noted that a water reservoir is located on the subject site, and was designed to incorporate a ring road around the structure to provide the reservoir with separation from direct contact with bushland within the Tomaree National Park. HWC stated that their current bushfire management strategy is to manage low intensity events with the ring road acting as an APZ in major events. Beyond the immediate asset footprint, responsibilities for land management activities in the National Park that are not directly related to water supply, reside with the NPWS.

Rural Fire Service (RFS)

Upon receipt of the amended bushfire assessment, referral to the RFS was undertaken in accordance with clause 4.14 of the EP&A Act. In response advice has been received regarding design and construction requirements.

MATTERS FOR CONSIDERATION – SECTION 4.15**Relevant legislation****Environmental Planning and Assessment Act 1979****Clause 4.14 – Consultation and development consent – certain bush fire prone land**

Clause 4.14 states that development consent cannot be granted for the carrying out of development on bush fire prone land unless:

- a) the consent authority is satisfied that the development conforms to the specifications and requirements of Planning for Bush Fire Protection 2006 (PBP) prepared by the NSW Rural Fire Service that are relevant to the development, or
- b) the consent authority has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

Planning for Bushfire Protection 2006 (PBP)

PBP applies to all DA's on land classified as "bush fire prone land" (BPL), identified on a council's BPL map. The proposed development is considered a Class10b structure under the Building Code

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

of Australia (BCA). These buildings are classified as 'other development' under PBP and should be non-combustible.

The subject site is identified as bushfire prone land – vegetation category 1. The existing Hunter Water Corporation water reservoir has been constructed with Asset Protection Zones (APZ) surrounding the water tank, however no APZ extends beyond this.

Assessment of the proposal against the objectives of the PBP that are considered relevant to the application has occurred as follows:

- a. *provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition;*

Response: The design has been amended and incorporates mitigation measures which are recommended in the bushfire report and complies with PBP and 'Telecommunication Towers in Bush Fire Prone Areas' (February 2012). Design features and materials of the components have been used to mitigate risk. These include:

- a concrete slab over whole compound or alternatively under cubicles with crushed rock from cubicle edges to compound fence;
- all incoming power and data cables from underground conduits/ducts;
- metal mesh screening with a 2.0mm aperture size over all ventilation openings;
- Provide light weight pitched metal roof over whole of cubicle area;
- Provide / construct a non-combustible wall around the retaining wall perimeter to a height of 2.5m above finished ground level;
- Remove the NEMA cable tray and run underground metal ducts or conduits between cabinets and the monopole;
- Provide non-combustible monopole (reinforced concrete or galvanised steel);
- Ensure cables located within the monopole void are secured clear of the monopole wall by a minimum 25mm – 50mm; and
- Ensure all monopole cable entry exit points are sealed with a fire resistant sealant.

The bushfire report acknowledged the monopole above a height of 2.5m will remain subject to possible direct flame impact and elevated radiant heat exceeding 40Kw/m². However given the limited tall mature tree growth in the immediate vicinity of the monopole and the expected limited burn out time of tree crowns (possibly minutes) the impact of direct flame onto the monopole would not sufficiently damage the non-combustible monopole to a point which allows structural failure.

- b. *ensure that safe operational access and egress for emergency service personnel and residents is available;*

Response: The site is easily accessible by the existing sealed access road that would enable fire fighting vehicles and personnel to enter the site.

- c. *provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the asset protection zone (APZ); and*

Response: The proposed Optus telecommunications facility cannot accommodate a conventional bushfire Asset Protection Zone due to the limited space between the reservoir tank and the boundary nor can arrangements be made to incorporate an external APZ in the adjoining Tomaree National Park. The proposed works will be within BAL FZ and have used design features (such as a fire rated wall) and material components to mitigate the risk. A maintenance regime will be required to ensure the materials and components are cleaned annually and the compound leaf litter removed prior to the bushfire danger period. In addition to this, it is assumed the National Parks and Wildlife Service will carry out bushfire hazard reductions from time to time thus reducing the possible hazard to the reservoir area.

Page 9 of 21

- d. *ensure that utility services are adequate to meet the needs of firefighters (and others assisting in bush firefighting).*

Response: Reticulated water is available for firefighting purposes.

It is considered that assessment of the application against the provisions of the PBP has been satisfactory addressed within this section.

The development application has been referred to the RFS in accordance with clause 4.14 of the EP&A Act. In response advice has been received regarding design and construction requirements in line with the submitted bushfire report.

s4.15(1)(a)(i) – The provisions of any EPI

State Environmental Planning Policies

State Environmental Planning Policy (SEPP) No. 55 Remediation of Land

State Environmental Planning Policy No.55 – Remediation of Land ('SEPP No.55') provides a State-wide planning approach to the remediation of contaminated land. The provisions of SEPP No.55 provide that a consent authority must not consent to the carrying out of development on land unless it has given consideration to whether the land subject to the development is contaminated. Where the land is contaminated a consent authority must determine if the land is suitable in its contaminated state for the development, or alternatively determine that the land would be suitable once remediated. The subject site has a history of use relating to infrastructure and there is no evidence that contaminating activities have historically occurred on site. As such, the land is unlikely to be subject to contamination and does not warrant further investigation. The subject site is suitable for the proposed development and the objectives of SEPP No.55 have been satisfied.

State Environmental Planning Policy (SEPP) (Infrastructure) 2007

The exempt and complying development provisions of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) are not relevant to this proposal as the subject property is not within the allowable zones for which complying development may be carried out, i.e. Zone IN1, IN2, IN3, RU1, RU2, RU3 or RU4 or an equivalent land use zone. The subject site is zoned SP1 Special Activities. Clause 115 of the ISEPP notes that development for the purposes of telecommunications facilities may be carried out by any person with consent on any land.

Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette. The Department of Planning and Environment prepared a NSW Telecommunications Facilities Guideline including Broadband (July 2010) (the Guideline) for the purpose of Clause 115 of the ISEPP to:

- a. Provide a guide to the State wide planning provisions and development controls for telecommunications facilities in NSW; and
- b. Provide guidance to assist the facilitation of the roll-out of broadband in NSW.

Principles for the design, siting, construction and operation of telecommunications facilities that apply to proposed telecommunications facilities in NSW have been developed and are contained in this Guideline. The detailed principles are contained under the following broad headings and an assessment of each is as follows:

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

1. **Principle 1:** *A telecommunications facility is to be designed and sited to minimise visual impact*

- The requirements listed under (a) to (c) relate to facilities that are proposed to be located on an existing building or structure. As the proposed development is freestanding and is to be located independently from an existing building or structure, an assessment against these requirements is not required.
- The ancillary facilities associated with the proposed development will be housed in small outdoor equipment cabinets constructed of grey and white colour, wholly within the subject site. The area is clear of vegetation, however is surrounded by vegetation within the Tomaree National Park adjacent to the subject site to provide screening from public view. Requirement (d) has been satisfied in this regard.
- The proposed development has been located and designed to respond to its surrounding landscape context, which is discussed in further detail in the below sections of this report. Requirement (e) has been satisfied in this regard.
- The subject site is not heritage listed and not located within a heritage conservation area. An assessment against requirement (f) and (g) is therefore not required.
- No significant removal or lopping of vegetation is required to facilitate the proposed development. Requirement (h) is satisfied in this regard.
- As the proposed development is for a new facility, the decommissioning and removal of an existing facility is not required, as specified by requirement (i).
- Due to the nature of telecommunications infrastructure, the facility must be elevated to obtain the best coverage possible. The siting and design of the proposed development has been designed to reduce the intrusive visual impacts within the immediate and greater locality (as further discussed in the below sections of this report) and satisfies requirement (j).

2. **Principle 2:** *Telecommunications facilities should be co-located wherever practical.*

- No telecommunications lines are proposed, therefore an assessment against requirement (a) is not required.
- A Telstra telecommunications tower was approved under officer delegation in December 2014 under DA 16-2014-633-1. The proposal included the removal and re-construction of the Freeview Tower to facilitate co-location. Telstra have not yet constructed the replacement monopole and there is some uncertainty as to when this is to occur. Whilst it may be an option to upgrade the existing Telstra structure on-site / co-locate the proposed Optus/ Vodafone structure with this structure, this is not the preferred option due to timeframes, coverage and uncertainty of development. Requirements (b) to (d) have been satisfied in this regard.
- The proponent investigated two alternative sites for the proposed development. After review of these locations, it was determined that co-location is not practicable as alternative locations did not meet the radio frequency coverage objectives, resulted in greater impacts to the natural environment and amenity, support was not provided from property owners for co-location and uncertainty exists relating to construction timeframes for existing development approvals. Requirement (e) has been satisfied in this regard.
- The proposed development incorporates a new monopole, therefore assessment against requirement (f) is not required.

Page 11 of 21

3. Principle 3: Health standards for exposure to radio emissions must be met.

- The proposed installation will comply with the Australian Communications and Media Authority (ACMA) regulatory arrangements with respect to electromagnetic radiation exposure (EME) levels. EME exposure levels from this site have been calculated in accordance with the ARPANSA prediction methodology and report format. The EME report submitted with the application shows that the maximum predicted EME levels will equate to 7.8% of the maximum exposure limit, which is well below the allowable exposure limit under the Australian Standard (100% which is still considered to be safe).

4. Principle 4: Minimise disturbance and risk and maximise compliance.

- The subject site is located more than 30km from Newcastle Airport and does not penetrate any obstacle limitation surface. It is also noted that the proposed height of the structure (28.5m) is below the 'Tall Structure' height of 110 metres, therefore referral to the Civil Aviation Safety Authority Australia is not required. Requirement (a) has been satisfied in this regard.
- The proposed development has been designed to minimise any interference problems with other radio-based systems and complies with the requirements of the Australian Standards. Requirement (b) has been satisfied in this regard.
- The proposed development has been designed and will be constructed in accordance with the applicable manufacture's specifications. Requirement (c) has been satisfied in this regard.
- Requirement (d) does not apply to the proposed development as it is not intended on being erected on a building or structure.
- The proposed development will be located entirely within the boundaries of the subject site, with consent from the property owner, satisfying requirement (e).
- Requirements (f) to (k) and (n) relate to construction being carried out with consideration made to erosion and sediment control, risks to pedestrian or vehicles, construction hours, traffic control measures, open trenching, disturbance to vegetation and restoration of existing facilities removed or damaged during construction. Conditions to this effect have been included in the recommended conditions of consent to be reported to Council.
- The proposed development is located on a previously disturbed corner (northeast) of the subject site that does not contain significant flora or fauna. A condition is recommended relating to the protection of vegetation external to the property boundaries, and restoration of land to a condition that is similar that before the work was carried out. Requirement (l) has been satisfied in this regard.
- A search of the AHIMs data base has been carried out in respect of the subject site, which determined that no artefacts or items of interest are located on or near the subject site. Requirement (m) has been satisfied in this regard.

In summary, the proposed development is consistent with the principles of the NSW Telecommunications Facilities Guidelines including Broadband.

Local Environmental Plan

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

As noted above, the subject site is zoned SP1 Special Activities. Clause 115 of the ISEPP notes that development for the purposes of telecommunications facilities may be carried out by any

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

person with consent on any land. The objectives of the zone include to provide for special land uses that are not provided for in other zones, facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land and to facilitate the provision of infrastructure provided by Hunter Water Corporation (HWC).

The proposed development seeks to establish telecommunications infrastructure that whilst can be carried out in other zones without consent under the ISEPP (i.e. IN1, IN2, IN3, RU1, RU2, RU3 or RU4 or an equivalent land use zone), the subject site provides for greater coverage and minimal environmental impact both on-site and surrounding land. The development is in keeping with the overall purpose of the subject site relating to the HWC reservoir, and does not prevent further HWC use of the site.

The height of the structure (28.5m) results in an inevitable visibility from Gan Gan Road and surrounds across Anna Bay and Boat Harbour. Due to the nature of telecommunications facilities, they must be located at an elevated position to gain the best coverage possible, which in turn results in potential negative visual impacts within the locality. Upon site inspection, it was noted that the proposed development may be visible from the immediately adjacent properties. However, given the design of the proposed structure, and being surrounded by bushland, the immediate visual impacts are not significantly intrusive. A photomontage is provided in **Figure 4** to demonstrate the visual impact of the development from Gan Gan Road. As shown within this figure, the proposed development is integrated with the height of the predominant vegetation and interface with the skyline, and therefore does not dominate the skyline or reduce the quality of vistas. The overall scale and proportion is appropriate for the streetscape and setting and does not increase visual unsightliness or clutter. In addition, the proposed development is slim line and will be coloured grey and white in an effort to neutralise the facility and ensures integration with the existing environment.



Figure 4: Photomontage of proposed development viewed from Gan Gan Rd

In this regard the development is consistent with the objectives of the SP1 Special Activities Zone.

Clause 5.10 – Heritage

An Aboriginal Heritage Information System (AHIMS) search (9 November 2016) was undertaken in respect of the subject site and which determined that no artefacts, sites or items of interest are located on or near the subject site. The proposed development shall be located within a portion of the subject site which is clear of vegetation and disturbed by existing infrastructure. In addition, the importation of fill to the site would be unlikely to disturb or destroy any items of Aboriginal Cultural Heritage significance should they be located on site. As such, the proposed development is not

considered to result in adverse impacts to heritage and is therefore satisfactory having regard to clause 5.10.

Clause 7.1 – Acid sulfate soils

The subject site is identified as containing Class 5 acid sulfate soils (ASS), and is located within 500m of adjoining class 4 ASS. Works associated with the proposed development will result in excavation of 3.55m below the natural ground level for the establishment of footings. However, the land is not below 5m Australian Height Datum and is not likely to lower the water table. As such, the proposal is considered satisfactory in this regard.

Clause 7.2 – Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. As noted above, excavation to a level of 3.55m below natural ground level is required to establish the monopole footings. In response to the objective of Clause 7.2, the proposed excavation is satisfactory against the matters for consideration under Clause 7.2(3), as it:

- Will not significantly disrupt or have a detrimental effect on drainage patterns and soil stability in the locality of the development;
- Will enable opportunity for the future use of the land;
- Will not require filling of land, however reuse of soil on-site will be restricted to VENM, ENM or any other waste-derived material the subject of a resource recovery exemption;
- Have minimal effect on the existing and likely amenity of adjoining properties;
- Will include restrictions and/or quality assurance requirements relating to the source of any fill material (if required);
- Has a low likelihood of disturbing relics; and
- Has a low likelihood of adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.

To this extent, it is considered that development consent can be granted in accordance with Clause 7.2 of the LEP as the consent authority is satisfied that matters outlined in Clause 7.2(3) have been appropriately addressed, subject to recommended conditions relating to; erosion and sediment controls, soil stability and quality and source of fill. Conditions to this effect have been included in the recommended conditions of consent to be reported to Council.

Clause 7.6 – Essential Services

The proposed development will only require access to electricity supply as per clause 7.6(1)(b). The final electricity design including the capacity of the supply will be confirmed in the detailed design phase, however, a major upgrade is not anticipated. At this stage, the proposed development will be connected to the existing electrical distribution board using an underground power line from the existing meter board to the proposed equipment cabinets.

s4.15(1)(a)(ii) – Any draft EPI

There are no draft EPI's relevant to the proposed development.

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.

Section A.12 – Notification and Advertising

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

In accordance with the requirements of chapter A.12, the development application was originally notified and publically advertised for a period of 14 days between 7 February 2019 and 21 February 2019. The application was re-notified and advertised for a period of 14 days between 21 February 2019 and 7 March 2019 due to template and DA tracker errors.

Section B3 – Environmental Management

Acid sulfate soils – Following discussions against Clause 7.1 of the LEP above, the subject land is mapped Class 5 acid sulfate soils (ASS), and is located within 500m of adjoining class 4 ASS. Works associated with the proposed development will result in excavation of 3.55m below the natural ground level for the establishment of footings. However, the land is not below 5m Australian Height Datum and is not likely to lower the water table. As such, the proposal is considered satisfactory in this regard.

Earthworks – Following discussions against Clause 7.2 of the LEP above, the proposed development incorporates earthworks to facilitate the proposed development and is considered to be satisfactory when considered against the requirements of this section, subject to recommended conditions relating to; erosion and sediment controls, soil stability and quality and source of fill.

Section B9 – Road Network and Parking

Traffic generation as a result of the development will primarily occur during construction. The type of vehicles required to complete delivery of the materials required for construction include an 8 tonne and 20 tonne truck, 60 tonne crane, 4 tonne excavator, and one concrete truck to deliver concrete four times. The construction of the development in its entirety will take approximately six weeks, excluding external factors such as weather. A condition is recommended to be incorporated requiring the person having the benefit of the consent to repair any part of Clark Street that is damaged during the construction of the proposed development.

Upon, completion of the project it is anticipated that traffic generation will be minimal and limited to approximately two and four maintenance visits per year and the facility would remain unmanned at all other times and therefore, there are no specific car parking requirements applicable to the proposal.

Access to the subject site is via an existing 'easement for access pipeline powerline and control cable (6m wide)' direct from the southern end of Clark Street. This easement was gazetted on 03/04/1974 NSW Government Gazette No. 43.

To this extent, the proposed development is satisfactory having regard to the requirements of section B9.

s4.15(1)(a)(iiiia) – 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 prescribed by the regulations which apply to the proposed development.

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**Social and Economic Impacts**

Page 15 of 21

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) an Australian Government agency in the Health and Ageing portfolio, has established a Radiation Protection Standard specifying limits for general public exposure to radio frequency (RF) transmissions at frequencies used by wireless base stations. In Australia, the RF and electromagnetic energy (EME) exposure are mandated by the Australian Communications and Media Authority (ACMA). 100% EME is considered to be 'safe' under the Australian Standard AS1055. In this particular instance, the maximum EME level calculated is 7.8% of the public exposure limit. This estimate is based on worst-case scenario. The EME level at the early learning centre is 0.37%. The EME at the closest dwellings are approximately 2.24% and 3.71%. This is well below the maximum exposure limit of the standard.

Further, the proposed equipment incorporates the following features to minimise the amount of energy used and emitted:

- Dynamic/Adaptive Power Control is a network feature that automatically adjusts the power and hence minimises EME from the facility;
- Varying the facility's transmit power to the minimal required level, minimising EME from the network; and
- Discontinuous transmission, a feature that reduces EME emissions by automatically switching the transmitter off when no data is being sent.

To this extent, the proposal will result in positive social and economic impacts by enhancing access to critical mobile telecommunications services and mobile coverage, whilst maintaining compliance with the ARPANSA and ACMA requirements.

Impacts on the Built Environment

The height of the structure (28.5m) results in an inevitable visibility from Gan Gan Road and surrounds across Anna Bay and Boat Harbour. Due to the nature of telecommunications facilities, they must be located at an elevated position to gain the best coverage possible. The overall scale and proportion is appropriate for the streetscape and setting and does not increase visual unsightliness or clutter. In addition, the proposed development is slim line and will be coloured grey and white in an effort to neutralise the facility and ensures integration with the existing environment. Upon site inspection, it was noted that the proposed development may be visible from the immediately adjacent properties. However, given the design of the proposed structure, and being surrounded by bushland, the immediate visual impacts are not significantly intrusive. To this extent, the proposal will not result in significant adverse impacts on the amenity of surrounding areas and prevailing urban and built environment or form.

Impacts on the Natural Environment

The proposed development will involve minimal impact on the natural environment, as no vegetation is required to be removed to facilitate construction. A condition is recommended requiring erosion and sediment controls to be implemented for the duration of construction works. No waste which requires collection or disposal will be generated by the operation of the facility.

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

The subject site is suitable for development due to the logical location for range accessibility and target reach, cleared area for construction and suitable access.

Page 16 of 21

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

s4.15(1)(d) – Any submissions

60 submissions inclusive of 38 pro-forma submissions and 22 standard submissions, with a total of 66 signatures were received during the notification and advertising period in relation to the proposed development.

Issue	Response
<p><u>Health risks and impacts</u></p> <ul style="list-style-type: none"> - Perceived link between radiation and health impacts including cancer, sleep deprivation and fatigue. - Potential liability risks for Council should future health impacts occur or EME levels are tested in the future and are shown as falling outside of Australian Standards. - Long and short term implications associated with electromagnetic radiation. - The three services transmitting electromagnetic waves from the site will have an effect on health and also water supply and composition. - Evidence is required to demonstrate that the low radiation levels are guaranteed and are not linked to further health issues (such as cellular dysfunction and increased symptoms relating to mitochondrial disease). 	<ul style="list-style-type: none"> - As noted elsewhere within this report, the EME generated by the proposed development is well below the maximum exposure limit. Notwithstanding this, a condition has been recommended on the consent requiring compliance with the Industry Code C564:2011 Mobile Phone Base Station Deployment, which applies in respect of siting and design requirements. In adopting this principle and having due regard to the surrounding context of sensitive land uses in close proximity, the proposal is considered to be suitable in the location proposed. - Whilst it is acknowledged that there are studies linking radiation levels to health impacts, there is also scientific evidence on the contrary, noting that the associated health impacts are unproven. Further, there are many radio signals in the community, not just from mobile telecommunications, including FM radio and TV which have been proven to make up a higher percentage of EME. - When assessed against all available policies, standards and requirements set by the State and Federal Government, the proposed development is satisfactory. Council liability is therefore not a factor to be taken into consideration as the assessment of the subject application has been carried out in good faith, against all available information.
<p><u>Design</u></p> <ul style="list-style-type: none"> - The DA does not specify the amount of 18 panel antennas proposed and does not specify whether this number can increase without consent from Council. 	<ul style="list-style-type: none"> - The application specifies that the monopole will incorporate 18 antennas (6 per sector), no more than 2.5m in length as shown in Figure 2 of this report. This is consistent with the ISEPP exempt and complying development requirements. Should any additional

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

<ul style="list-style-type: none"> - The accuracy of information submitted with the DA is not certain or established. Council and residents need to be satisfied that the proposed installation will not exceed deemed levels. 	<p>antennas be proposed, consent may be given under the ISEPP exempt and complying should the development meet the applicable requirements.</p>
<p><u>Cost of development</u></p> <ul style="list-style-type: none"> - The capital investment value (CIV) of the development \$180, 000 is low when compared to the Telstra DA valued at \$376, 000 in 2014. 	<p>The CIV of the proposed development is consistent with development of a similar type and scale, lodged within recent years. In this regard, the CIV is considered to be satisfactory.</p>
<p><u>Property values and visual impact</u></p> <ul style="list-style-type: none"> - Diminution of property values due to negative visual impacts. - Council has an obligation to ensure property values are retained. - Council needs to determine compensation programs for nearby property owners. - Proposed development will not be able to be screened by natural high bearing vegetation. - Approval would significantly reduce the opportunity to develop the residential land in the immediate area of the proposed tower. - Development would be an eyesore on the natural landscape. 	<ul style="list-style-type: none"> - The issue of impact to property prices is not a relevant planning consideration in the assessment of a development application. - Due to the nature of telecommunications facilities, they must be located at an elevated position to gain the best coverage possible. The overall scale and proportion is appropriate for the streetscape and setting and does not increase visual unsightliness or clutter. In addition, the proposed development is slim line and will be coloured grey and white in an effort to neutralise the facility and ensures integration with the existing environment. Upon site inspection, it was noted that the proposed development may be visible from the immediately adjacent properties. However, given the design of the proposed structure, and being surrounded by bushland, the immediate visual impacts are not significantly intrusive.
<p><u>Location</u></p> <ul style="list-style-type: none"> - Located within close proximity to sensitive receptors such as residences and a child care centre. - Lack of alternative sites investigated. Other sites could be better utilised. - Co-location with the Telstra tower approved under 16-2014-633-1 not chosen. - The development has not adhered to several sections of the Mobile Phone Base Station Deployment Code, i.e. it 	<ul style="list-style-type: none"> - It is acknowledged that dwelling houses are located in proximity to the subject site, with the closest being approximately 70m in distance. Two alternative sites were investigated for location of the proposed development. It was determined that these locations were not practicable as they did not meet the radio frequency coverage objectives, resulted in greater impacts to the natural environment and amenity of the environment, support was not provided from property owners and uncertainty exists relating to

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

<p>must 'have regard to the likelihood of adjoining community sensitive locations'.</p> <ul style="list-style-type: none"> - No written owners consent was provided with the DA for lodgement. - No approval from the Minister for National Parks was provided for access to the subject site. 	<p>construction timeframes for existing development approvals.</p> <ul style="list-style-type: none"> - Consideration of the Mobile Phone Base Station Deployment Code was undertaken as part of the application, confirming that The EME level at the early learning centre (120m) is 0.37%. The EME at the closest dwelling is approximately 2.24%. Both levels are well below the maximum, whereby 100% is still considered to be safe. - Owners consent from Hunter Water Corporation was provided to enable DA lodgement. - Access to the subject site is via an existing 'easement for access pipeline powerline and control cable (6m wide)' direct from the southern end of Clark Street. This easement was gazetted on 03/04/1974 NSW Government Gazette No. 43. A lease or licence from the Minister under Section 153D National Parks and Wildlife Act 1974 is not required in this regard.
<p><u>Community consultation and notification</u></p> <ul style="list-style-type: none"> - Lack of community consultation in preparing the DA, which led to community confusion and lack of accountability, which could create accusations against Council. - The applicant has not adhered to the Mobile Phone Base Station Deployment Code, which requires notification to the occupiers of the premises in the immediate vicinity of the site. - The ACMA requires telecommunications carriers to inform and consult with the local community when planning, installing or upgrading base stations which has not occurred. 	<ul style="list-style-type: none"> - Section 6 and 7 of the Mobile Phone Base Station Deployment Code relates to consultation requirements for installation at a new site without a DA. As the subject development required consent from Council via the DA process, notification and advertising of the DA was undertaken by Council in accordance with Council's adopted policies and procedures.
<p><u>Existing development approval</u></p> <ul style="list-style-type: none"> - A Telstra telecommunications tower was approved on the subject site under DA 16-2014-663-1. Residents were alerted to the fact that Telstra were intending on modifying this application and construction was anticipated to 	<ul style="list-style-type: none"> - The subject DA is not directly linked to the DA approved under 16-2014-663-1. In this regard, the subject DA is required to be assessed on merit separately. - As the development under the abovementioned application has uncertainty surrounding its construction

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

<p>commence late March 2019. This will double the visual impact and increase the EME levels.</p> <ul style="list-style-type: none"> - Community were denied the right for full participation in the approval process relating to the Telstra DA under 16-2014-663-1. In this regard, Council showed disregard for its endorsed 'Community Engagement Policy'. - Council should immediately cease the approved Telstra tower given no works have commenced, and only allow to recommence once the issue of co-location has been resolved. 	<p>occurrence, Council must proceed to assess the subject application on merit, against all applicable controls. It is worth noting that the facility approved in 2014 is co-located with the existing structure on-site and its maximum cumulative EME level at 1.5m above ground level was 0.0069% of the public exposure limit (which is 100%). If combined with the subject application, the total EME, based on the worst case scenario is 7.8%, which is still under the maximum allowable.</p> <ul style="list-style-type: none"> - Community consultation requirements under the previous DA are not a relevant planning consideration in the assessment of a development application.
<p><u>Traffic and road impacts</u></p> <ul style="list-style-type: none"> - Increased traffic along Clark Street for construction and maintenance of the telecommunications facility will create maintenance issues and damage. - Will Clark Street be repaired after heavy machinery has ripped up the access to properties? 	<p>Traffic generation as a result of the development will primarily occur during construction. The type of vehicles required to complete delivery of the materials required for construction include an 8 tonne and 20 tonne truck, 60 tonne crane, 4 tonne excavator, and one concrete truck to deliver concrete four times. The construction of the development in its entirety will take approximately six weeks, excluding external factors such as weather. A condition is recommended to be incorporated requiring the person having the benefit of the consent to repair any part of Clark Street that is damaged during the construction of the proposed development.</p>
<p><u>Bushfire</u></p> <ul style="list-style-type: none"> - The current DA fails to adequately address the recognised potential increased bushfire threat the tower may create due to electrical faults and/or lightning strikes. - No supporting documentation from the National Parks and Wildlife Services has been provided with the DA relating to any bushfire hazard reduction or management plan. 	<p>The proposed Optus telecommunications facility cannot accommodate a conventional bushfire Asset Protection Zone due to the limited space between the reservoir tank and the boundary nor can arrangements be made to incorporate an external APZ in the adjoining Tomaree National Park.</p> <p>An amended bushfire assessment was submitted which demonstrates how the development has been designed with mitigation measures that comply with PBP and 'Telecommunication Towers in Bush Fire Prone Areas' (February 2012). The proposed works will be within BAL FZ and have used design features (such as a fire rated wall) and material components to mitigate the risk.</p>

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

16-2019-24-1

	Further information is detailed under Section 4.15 of this report.
<p><u>Aboriginal consultation</u></p> <ul style="list-style-type: none"> - Consultation with the Worimi Local Aboriginal Land Council should occur due to the potential visual impact of the proposed development on the headland. 	There is no nexus for this type of consultation to occur as no artefacts, sites or items of interest are known to be located on or near the subject site.
<p><u>Ecological impact</u></p> <ul style="list-style-type: none"> - Site inspection to occur to determine whether any vegetation is required to be removed to facilitate the proposed development. - The subject site is located within an environmentally sensitive area and the application has total disregard for this. 	Site inspection confirmed that no vegetation is required to be removed to facilitate the proposed development. However, a condition has been recommended which confirms that no vegetation removal is approved under the development application. An advice will be recommended stating if vegetation removal is required, a separate approval or permit must be obtained from Council.

s4.15(1)(e) – The public interest

The proposal is in the public interest as it will provide an important community benefit by providing access to critical mobile telecommunications services and greatly improved mobile coverage in the area.



CONDITIONS THAT IDENTIFY APPROVED PLANS

- 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, Elevations, Site Layout	03	S2513-P1 and S2513-P2	25/04/2019	Huawei Technologies Pty Ltd

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*.

- A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
- The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.

The Requirements are:

- Rural Fire Service, reference D19/1780 dated 11 June 2019.

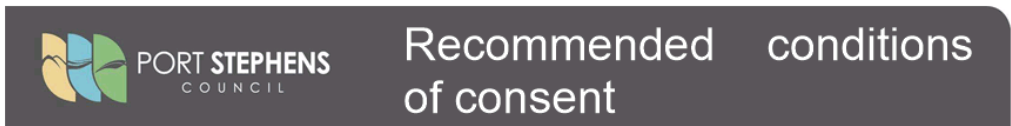
A copy of the Requirements is attached to this determination notice.

CONDITIONS THAT IDENTIFY CONTRIBUTIONS AND FEES

- A monetary contribution is to be paid to Council, pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Port Stephens Council Fixed Development Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the *Environmental Planning and Assessment Regulation 2000* and outlined in the table below.

Adelaide Street (PO Box 42), Raymond Terrace NSW 2324
 DX 21406 Raymond Terrace • Phone 4980 0255
 Email council@portstephens.nsw.gov.au

16-2019-24-1
 Page 1 of 6



Capital Investment Value	Levy Rate (% of CIV)
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5%
More than \$200,000	1%

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Development Contributions Plan. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors. This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

Payment of the above amount shall apply to Development Applications as follows:

- a. Building work only - **prior to issue of the Construction Certificate.**

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.

- 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.

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).

- 6. **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.



Recommended conditions
of consent

7. **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.
8. **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.

9. The development shall comply with the Australian Communications Industry Forum Industry Code entitled CIF C564:2004 Deployment of Mobile Phone Network Infrastructure.
10. 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.
11. 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.
12. All building work shall be carried out in accordance with the requirements of the Building Code of Australia.
13. 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.
14. 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



PORT STEPHENS
COUNCIL

Recommended conditions
of consent

- b. No construction is to be carried out at any time on a Sunday or a public holiday.

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.

- 15. 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.
- 16. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.
- 17. 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.
- 18. 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.

- 19. 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.
- 20. 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.
- 21. The monopole as well as any antennas and radio communication dishes shall be painted a suitable colour such as shale grey to blend into the surrounding landscape.



PORT STEPHENS
COUNCIL

Recommended conditions of consent

22. All trees must be protected in accordance with AS4970 'Protection of Trees on Development Sites' for the duration of construction.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF USE

23. The cost of repairing any damage caused to Council or other Public Authority's assets adjoining the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant prior to the commencement of use.

CONDITIONS TO BE SATISFIED AT ALL TIMES

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

24. The development is to be carried out in accordance with recommendations made in the Bushfire Report provided with the DA prepared by Building Code & Bushfire Hazard Solutions 20th May 2019.

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. 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
- C. In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Office of Environment and Heritage (OEH) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by OEH to proceed.
- D. You are advised that, in accordance with the EP&A Act, (Section 6.8) payment of the building industry Long Service Leave levy, where applicable, must be paid **prior to the issue of any Construction Certificate.**



PORT STEPHENS
COUNCIL

Recommended conditions of consent

SCHEDULE 3

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.

ITEM 1 - ATTACHMENT 4 CALL TO COUNCIL FORM FROM COUNCILLOR SMITH, COUNCILLOR TUCKER AND COUNCILLOR DOOHAN.



Development application (DA) call to Council request:	
I/We (Mayor/Councillor/s) <u>SARAH SMITH</u> request that DA number <u>16-2019-24-1</u> for DA description <u>Telecommunications Facility at 41 Fishermans Bay Road, Fishermans Bay</u> located at _____ be reported to Council for determination.	
Reason:	
<u>Community interest</u>	
Declaration of Interest:	
I/We have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this DA on my part or an associated person.	
I/We (Mayor/Councillor/s) <u>SARAH SMITH</u> have a conflict of interest:	
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	
If yes, please provide the nature of the interest and reasons why further action should be taken to bring this DA to Council:	
Signed: Please sign or type name & attached to an email.	Date: Click here to enter a date. <u>28.2.19.</u>
Signed: Please sign or forward supporting email.	Date: Click here to enter a date. <u>4/3/19</u>
Signed: Please sign or forward supporting email.	Date: <u>12/5/19</u>

ITEM NO. 2

**FILE NO: 19/150335
EDRMS NO: 58-2019-2-1**

PLANNING PROPOSAL FOR 269 TAREAN ROAD, KARUAH

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (**TABLED DOCUMENT 1**) to amend the Land Zoning Map, Height of Building Map and Lot Size Map under the Port Stephens Local Environmental Plan 2013 at 269 Tarean Road, Karuah Lot 571 DP777919, Part of Lot 572 DP777919, Lots 38-46, 136-159, 170-176 & 181 – 191 DP11741 and Part of lots 47-49, 67-69, 73, 74, 161, 177-180, 192, 216-220 & 599-606 DP11741 from RU2 Rural Landscape to R2 Low Density Residential.
- 2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway Determination and request delegated authority to make the plan.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

183	<p>Councillor Ken Jordan Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the Planning Proposal (TABLED DOCUMENT 1) to amend the Land Zoning Map, Height of Building Map and Lot Size Map under the Port Stephens Local Environmental Plan 2013 at 269 Tarean Road, Karuah Lot 571 DP777919, Part of Lot 572 DP777919, Lots 38-46, 136-159, 170-176 & 181 – 191 DP11741 and Part of lots 47-49, 67-69, 73, 74, 161, 177-180, 192, 216-220 & 599-606 DP11741 from RU2 Rural Landscape to R2 Low Density Residential.2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway Determination and request delegated authority to make the plan.
------------	---

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

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is for Council to adopt the Planning Proposal (**TABLED DOCUMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 (LEP 2013) to enable residential development to be carried out on the subject land. Should Council resolve to adopt the Planning Proposal, it will be forwarded to the NSW Department of Planning, Industry and Environment (DPIE) for a Gateway Determination. A locality map of the land subject to the Planning Proposal is available at (**ATTACHMENT 1**).

The land is currently zoned RU2 Rural Landscape and the Planning Proposal seeks to rezone the land to R2 Low Density Residential with a maximum building height of 9 metres, and minimum lot size of 500m². A summary of the Planning Proposal and property details are provided below:

Date Lodged:	18 April 2019
Proponent:	AJ Karuah Timber Co Pty Ltd (ADW Johnson)
Subject Property:	<u>Parcel one:</u> Lot 571, DP 777919, Part Lot 572 DP, 777919, Lots 38-46, 136-159, 170-176 & 181 – 191, DP 11741 Part Lots 47-49, 67-69, 73, 74, 161, 177-180, 192, 216-220, DP 11741 <u>Parcel two:</u> Part Lots 599 – 606 DP 11741
Total Area:	Parcel one: 39.06ha Parcel two: 0.87ha
Current Zoning:	RU2 Rural Landscape
Proposed Zoning:	R2 Low Density Residential
Residential Lot Yield:	Approximately 400 lots

Existing and surrounding land uses

The subject land comprises multiple allotments within a larger rural land holding. For the purposes of the Planning Proposal, the subject land has been separated into 2 detached parcels; Parcel 1 comprises 39.06 hectares and Parcel 2 comprises 0.87 hectares as shown on the locality map (**ATTACHMENT 1**).

The subject land comprises undeveloped and mostly cleared rural land. Undeveloped and vegetated land, including a wetland, adjoin the site to the east while a timber sawmill, under the same ownership of the subject land, is located to the west.

As shown on the locality map (**ATTACHMENT 1**), adjoining land and part of the subject land have been subject to a historic paper subdivision. The subdivision has

no formed roads, drainage, reticulated water, sewer or electricity and has recognition only on paper.

Suitability of the Subject Land

The subject land is considered to be suitable for residential development given that it is relatively unconstrained and is located within proximity to the Karuah town centre. Furthermore, the land is identified in the Karuah Growth Strategy, adopted by Council in 2011, for future residential development.

Further detailed studies relating to ecology, Aboriginal heritage and drainage will be required should the Planning Proposal receive a Gateway Determination to proceed.

Servicing

Preliminary investigations indicate that there is available capacity within Karuah to service up to an additional 90 lots with water and sewer infrastructure. Infrastructure upgrades will be required beyond this capacity which will be planned in consultation with Hunter Water Corporation should the Planning Proposal receive a Gateway Determination to proceed.

Contamination

The site has been used for cattle grazing purposes for a number of years. There is no evidence of contaminating activities occurring on the subject land; however, further assessment of contamination will be undertaken should the Planning Proposal receive a Gateway Determination to proceed.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are no foreseen financial or resource implications for Council as a consequence of the recommendation of this report.

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

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no foreseen legal, policy or risk implications for Council as a result of the recommendation of this report.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the DPIE will refuse the Planning Proposal at Gateway.	Low	Ensure sufficient information is submitted to the DPIE providing strategic merit for the Planning Proposal to proceed following a Gateway Determination.	Yes
There is a risk that there is insufficient land available in Karuah to meet future housing demand.	Medium	Adopt the Planning Proposal and submit to the DPIE for a Gateway Determination.	Yes

Environmental Planning and Assessment Act 1979

The Planning Proposal is being processed in accordance with Part 3 of the Environmental Planning and Assessment Act 1979. Should Council resolve to adopt the Planning Proposal, it will be forwarded to DPIE for a Gateway Determination, including a request for the delegation of plan making functions.

Port Stephens Local Environmental Plan 2013

The Planning Proposal seeks to amend the LEP 2013 by rezoning the subject land from RU2 Rural Landscape to R2 Low Density Residential and associated changes to height of building and minimum lot size controls.

Port Stephens Development Control Plan 2014

The Port Stephens Development Control Plan 2014 (DCP) includes Part D2 Karuah containing site specific controls for the development of Karuah. A staging plan for residential development, as well as a proposed street layout for the subject land are included in the DCP.

An amendment to the lot layout in the DCP and any proposed site-specific controls, which respond to the existing local character of Karuah, will likely be required

following more detailed site investigations. An updated staging plan, having regard for servicing capabilities of water and sewer will need to be developed.

A review of the existing DCP (Part D2 Karuah) will be required following Gateway Determination of the Planning Proposal.

Hunter Regional Plan 2036 (2016)

The Hunter Regional Plan (HRP) sets priorities and provides a direction for regional planning decisions. It focuses on new housing and jobs, and targets growth in strategic centres and renewal corridors close to transport to deliver social and economic benefits.

The Planning Proposal is consistent with the vision and goals outlined in the HRP as it will provide additional housing choice within a new, well designed community that is accessible to a range of facilities and services.

Port Stephens Planning Strategy (2011)

The Port Stephens Planning Strategy 2011 (PSPS) predicts growth in the Karuah and Swan Bay area to occur in greenfield areas adjacent to the Karuah town boundaries. The Planning Proposal is consistent with the envisaged growth provided in the PSPS, providing additional greenfield housing within proximity to the existing Karuah town centre.

Karuah Growth Strategy (2011)

The Karuah Growth Strategy (KGS) was adopted by Council in 2011 to provide a spatial and land use plan for the growth of Karuah. The KGS identifies growth scenarios, infrastructure constraints and land for new urban development recognising that the village scale and character of Karuah is likely to be attractive to visitors and new residents.

The KGS includes a staging plan for the suggested release of new urban land in Karuah. The staging plan is based on initially releasing land adjacent to the existing urban area (south of Karuah town centre) and progressively moving outwards (west of Karuah town centre). Environmentally significant land is avoided, and a biodiversity corridor defines the medium term western limit of the village (this adjoins the subject site to the west). The KGS notes the capacity of the sewerage treatment plant will, together with market demand for residential land, ultimately determine the rate of land release.

The subject land is identified in the KGS as a second stage urban growth area. Land identified within the KGS as first stage urban growth area has been rezoned and subdivision development has commenced. Part of the second stage urban growth area, on the southern side of Tarean Road, was also rezoned by Council and a development application for subdivision of the site is currently under assessment by Council staff. The subject Planning Proposal will provide for the rezoning of the last remaining land identified for urban growth in the KGS.

The Planning Proposal also seeks to rezone land beyond the extent identified within the KGS. The rezoning of this additional land is supported based on the suitability of the site for residential development, including the avoidance of environmental sensitive areas and a natural progression of urban development to the north that may link with existing urban development at Boonara Road in the long term.

The progression of the Planning Proposal at this time is appropriate in ensuring that land is available when needed. Preliminary work undertaken by Council staff to inform the Local Housing Strategy (currently under preparation) indicates that there will be a shortage of land reaching the market at a local government area (LGA) level in the short to medium term. As such, the Planning Proposal will assist in meeting the forecasted supply shortage for Karuah and the broader Port Stephens LGA.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Environmental

The subject land is largely cleared of native vegetation however the site includes some scattered trees and grass land. This area is heavily disturbed, having been subject to selective clearing and understorey management. Council's Natural resources team have reviewed the Planning Proposal and have recommended that further ecological assessments be undertaken should the Planning Proposal receive a Gateway Determination to proceed.

Further investigations regarding potential sites of Aboriginal significance and potential impacts on downstream flood prone and sensitive environments (wetlands) are also recommended to be carried out should the Planning Proposal receive a Gateway Determination to proceed.

Social and Economic

The Planning Proposal is likely to deliver a range of social and economic benefits to Karuah, including:

- Employment through construction jobs to carry out subdivision and building works.
- Increased population contributing towards the economic growth of the locality through increased patronage to local retail and service premises and ongoing demand for services.
- Additional housing choice in Karuah and the LGA.

CONSULTATION

Internal

Internal consultation was undertaken with the Natural Resources and Development Engineering teams. Further detailed investigations will be required should the Planning Proposal receive a Gateway Determination to proceed as discussed above.

External

Consultation with community and State Government Agencies will be undertaken in accordance with the Gateway Determination. It is anticipated that the Planning Proposal will be exhibited for 28 days post Gateway Determination.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.

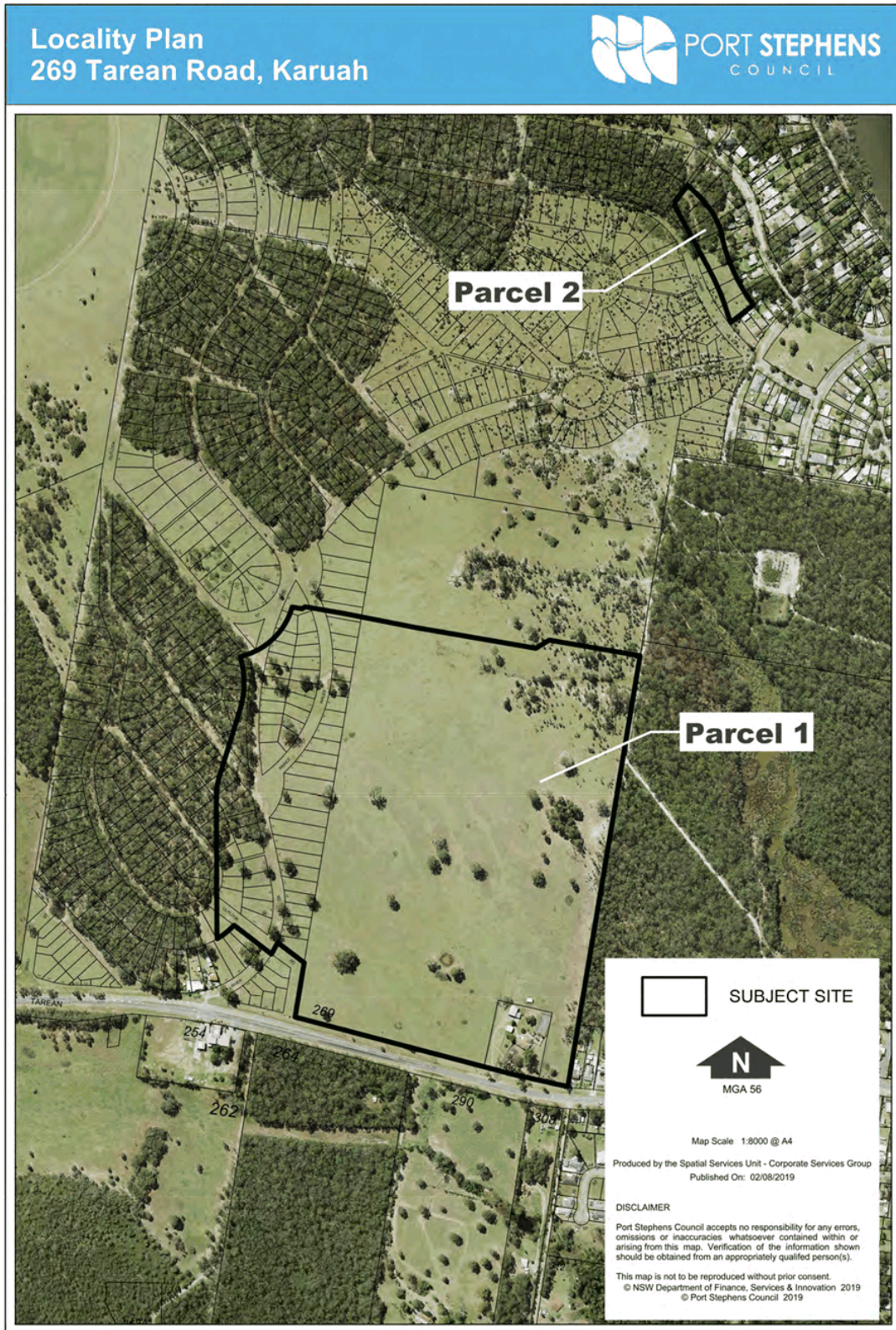
COUNCILLORS ROOM

- 1) Appendix A – Concept Plan.
- 2) Appendix B – Proposed amendments to Port Stephens LEP 2013 Mapping.
- 3) Appendix C – Karuah Servicing Report.
- 4) Appendix D – AHIMS Search.

TABLED DOCUMENTS

- 1) Planning Proposal - Proposed Amendment to the Port Stephens Local Environmental Plan 2013.

ITEM 2 - ATTACHMENT 1 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 3

**FILE NO: 19/137275
EDRMS NO: 58-2017-11-1**

PLANNING PROPOSAL FOR 436-444 TAREAN ROAD, KARUAH (KARUAH RSL CLUB)

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the amendments to the Planning Proposal to rezone at 436-444A Tarean Road & 20-22 Bundabah Street, Karuah from R2 Low Density Residential to RE2 Private Recreation (**TABLED DOCUMENT 1**).
- 2) Note that no submissions were received during the public exhibition of the amended Planning Proposal.
- 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under Section 3.36 of the Environmental Planning and Assessment Act 1979.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

184	<p>Councillor Paul Le Mottee Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note the amendments to the Planning Proposal to rezone at 436-444A Tarean Road & 20-22 Bundabah Street, Karuah from R2 Low Density Residential to RE2 Private Recreation (TABLED DOCUMENT 1).2) Note that no submissions were received during the public exhibition of the amended Planning Proposal.3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under Section 3.36 of the Environmental Planning and Assessment Act 1979.
------------	---

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, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The Planning Proposal for 436-444A Tarean Road & 20-22 Bundabah Street, Karuah (Karuah RSL Club) seeks to rezone the land from R2 Low Density Residential to RE2 Private Recreation under the Port Stephens Local Environmental Plan 2013 (PSLEP 2013) (**TABLED DOCUMENT 1**).

The site includes the existing Karuah RSL Club (the Club) and adjacent land. A locality plan is provided at (**ATTACHMENT 1**).

The site is currently zoned R2 Low Density Residential and the Club relies on existing use rights. The rezoning would reflect the current use of the site as a registered club and would facilitate potential expansion for the purposes of upgraded parking facilities and/or new bowling greens, subject to development consent.

At its meeting on 24 July 2018, Council resolved to adopt a Planning Proposal to amend Schedule 1 of the PSLEP 2013 to permit the additional uses of a 'registered club' and 'recreational facility (outdoor)' on the site under the existing R2 Low Density Residential zoning.

Council resolved to forward the Planning Proposal to the then NSW Department of Planning and Environment (NSW DPE), now DPIE, to seek a Gateway Determination and delegated authority to make the amendment to the PSLEP 2013.

On 18 December 2018, NSW DPIE issued a Gateway Determination subject to conditions (**ATTACHMENT 2**). The Gateway conditions required that the Planning Proposal be amended to rezone the land to RE2 Private Recreation rather than enabling the additional permitted uses under the R2 Low Density Residential zoning.

The amended Planning Proposal achieves the original intent of facilitating the existing use of the site as a registered club and would permit the additional use of the site as a 'recreational facility (outdoor)', subject to consent. It would also enable other uses under the RE2 Private Recreation zoning, such as childcare facilities, community facilities, function centres and serviced apartments, subject to development consent.

The amended Planning Proposal was publicly exhibited from 28 March 2019 to 11 April 2019. No submissions were received during exhibition.

NSW DPIE has authorised Council to exercise delegation to make the necessary amendments to the PSLEP to give effect to the amended Planning Proposal (**TABLED DOCUMENT 1**).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are no anticipated financial or resource implications for Council as a consequence of the recommendations of this report.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no anticipated legal, policy or risk implications as a consequence of the recommendations of this report.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the proposed rezoning may result in permitted uses on the land, such as caravan parks and consequently, manufactured home estates, which have not been adequately planned for.	Low	Under the current R2 Low Density Residential zoning, uses with similar impacts are already permissible if the site were to be redeveloped, including seniors housing.	Yes

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

<p>There is a risk that the rezoning of the site from R2 Low Density Residential could impact on Council's ability to provide sufficient housing for the community.</p>	<p>Low</p>	<p>The proposed zoning will reflect the long term use of the site as a registered club. The loss of residential zoned land is not considered to be significant given the Karuah Growth Strategy has identified potential housing supply on other sites in Karuah.</p>	
---	------------	---	--

Port Stephens Local Environmental Plan 2013

The Planning Proposal will amend the land zoning map under the PSLEP 2013. The map to be amended is included within the Planning Proposal provided at **(TABLED DOCUMENT 1)**.

The rezoning to RE2 Private Recreation will list the following uses as permitted with consent on the subject land:

Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Centre-based child care facilities; Community facilities; Eco-tourist facilities; Electricity generating works; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Health services facilities; Home-based child care; Home businesses; Hotel or motel accommodation; Information and education facilities; Kiosks; Marinas; Markets; Mooring pens; Moorings; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Research stations; Respite day care centres; Restaurants or cafes; Roads; Roadside stalls; Serviced apartments; Water recreation structures; Water supply systems; Wharf or boating facilities.

Note there are no changes proposed to other development standards that currently apply to the site, including building heights (currently a maximum 9 metre height limit applies).

Environmental Planning and Assessment Act 1979 (EP&A Act)

Part 3, Division 3.4 of the EP&A Act provides the framework for amending a local environmental plans. NSW DPE issued a Gateway Determination under Section 3.34, specifying that the Planning Proposal should proceed to exhibition, subject to an amendment to rezone the land to RE2 Private Recreation. The Planning Proposal has been amended and publicly exhibited in accordance with the Gateway Determination.

NSW DPE authorised Council to exercise delegations under the EP&A Act to make the plan following exhibition. Should Council adopt the recommendations, Council will

make arrangements for the drafting of the amendment to the PSLEP 2013 to give effect to the Planning Proposal.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal aims to regularise the existing use of the Karuah RSL Club, as well as to facilitate a minor expansion of this use. It is understood the expansion is intended to include upgraded car parking facilities and/or new bowling greens.

The Karuah RSL Club provides an important community facility in Karuah and it is expected that the rezoning would have positive social and economic impacts as it would facilitate the long term use of the site for the purposes of a registered club and the expansion of that use. It could also lead to positive flow-on economic benefits for adjoining businesses through increased visitation to the area.

The site does not contain any significant flora or fauna characteristics and it is considered that any adverse environmental impacts from the future use of the site can be suitably addressed through detailed designs should a development application be prepared.

Overall the proposed rezoning is considered to have positive social and economic benefits and no adverse environmental impacts.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section.

Internal

Internal consultation was undertaken with relevant sections in Council and no issues were raised.

External

In accordance with the conditions of the Gateway Determination, Council placed the document on public exhibition from 28 March 2019 to 11 April 2019. A notice was published in the Port Stephens Examiner and letters were issued to adjoining properties. A copy of the Planning Proposal was made available on Council's website and in the Council administration building.

No submissions were received during the exhibition period.

OPTIONS

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

3) Reject the recommendations.

ATTACHMENTS

- 1) Locality Plan.
- 2) NSW Department of Planning and Environment Gateway Determination.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Planning Proposal to rezone land at 436-444A Tarean Road & 20-22 Bundabah Street, Karuah.

ITEM 3 - ATTACHMENT 1 LOCALITY PLAN.



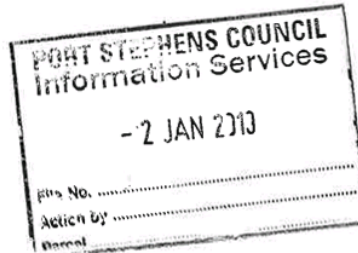
116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM 3 - ATTACHMENT 2 NSW DEPARTMENT OF PLANNING AND ENVIRONMENT GATEWAY DETERMINATION.



PP_2018_PORTS_003_00/(IRF18/6772)

Mr Wayne Wallis
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324



Dear Mr Wallis

Planning proposal PP_2018_PORTS_003_00 to amend Port Stephens Local Environmental Plan 2013

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 9 November 2018 in respect of the planning proposal to permit registered clubs and recreation facilities (outdoor) over 16 lots known as 434-436 Tarean Road, Karuah.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I understand that the proposal seeks to permit an existing club development on the subject land, by amending the Port Stephens LEP 2013 – Schedule 1 Additional permitted uses, by identifying 'Registered Club' and 'Recreation Facility (outdoor)' as being permissible on the subject land. I have determined that rezoning the subject site to zone RE2 Private Recreation zone is the best mechanism to achieve the proposed objectives, long term intended use of the land and certainty for all stakeholders. Amending the planning proposal for the rezoning of the site instead of permitting an additional use is a condition of the Gateway determination.

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistency with section 9.1 Direction 3.1 Residential Zones is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within six months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six

ITEM 3 - ATTACHMENT 2 NSW DEPARTMENT OF PLANNING AND ENVIRONMENT GATEWAY DETERMINATION.

weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Mr Ben Holmes to assist you. Mr Holmes can be contacted on 4904 2709.

Yours sincerely

**Executive Director, Regions
Planning Services**

Encl: Gateway determination
Local plan-making authority reporting template

ITEM 3 - ATTACHMENT 2 NSW DEPARTMENT OF PLANNING AND ENVIRONMENT GATEWAY DETERMINATION.



Gateway Determination

Planning proposal (Department Ref: PP_2018_PORTS_003_00): to amend the Port Stephens Local Environmental Plan 2013 to permit registered clubs and recreation facilities (outdoor) over 16 lots known as 434-436 Tarean Road, Karuah.

I, the Executive Director, Regions at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to permit registered clubs and recreation facilities (outdoor) over 16 lots known as 434-436 Tarean Road, Karuah should proceed subject to the following conditions:

1. Before exhibition, amend the planning proposal to rezone the subject land from R2 Low Density Residential to RE2 Private Recreation and review the development standards that apply.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 14 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. No consultation is required with public authorities/organisations under section 3.34(2)(d) of the Act.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.

PP_2018_PORTS_003_00 (IRF18/6772)

ITEM 3 - ATTACHMENT 2 NSW DEPARTMENT OF PLANNING AND ENVIRONMENT GATEWAY DETERMINATION.



6. The time frame for completing the LEP is to be six months following the date of the Gateway determination.

Dated 13th day of December 2018.

Executive Director, Regions
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

PP_2018_PORTS_003_00 (IRF18/6772)

ITEM NO. 4

**FILE NO: 19/155593
EDRMS NO: PSC2015-00487**

POLICY: RURAL RESIDENTIAL POLICY REVIEW

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Rural Residential Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Rural Residential Policy on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended without a further report to Council.
- 3) Revoke the Rural Residential Policy adopted by Council on 13 June 2017, Minute No. 123, should no submissions be received.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

185	<p>Councillor Ken Jordan Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Rural Residential Policy shown at (ATTACHMENT 1).2) Place the revised Rural Residential Policy on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended without a further report to Council.3) Revoke the Rural Residential Policy adopted by Council on 13 June 2017, Minute No. 123, should no submissions be received.
------------	--

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, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is for the consideration and exhibition of the revised Rural Residential Policy (**ATTACHMENT 1**).

The Rural Residential Policy was first adopted by Council in 2017. The policy aims to provide a framework for which Council can assess the appropriateness of rural residential planning proposals (rezonings) during the review of the Port Stephens Planning Strategy and the preparation of a Port Stephens Local Housing Strategy.

The Local Housing Strategy is currently being prepared and will address matters identified in the Rural Residential Policy, and the policy will be revoked on adoption of the Local Housing Strategy.

As the Rural Residential Policy will be incorporated as part of the preparation of the Local Housing Strategy, this policy review has only identified minor and administrative amendments including:

- Reformatting the policy into the new policy template.
- Administrative amendments to update references to new legislation and other relevant documents.
- Administrative amendments to correct spelling and grammar and align the policy with other Council policies and Council’s style guide.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with the implementation of the Rural Residential Policy are covered in the existing Council budget and will be subject to standard organisation budget review procedures and approvals.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Hunter Regional Plan 2036

The Hunter Regional Plan 2036 states that the State Government will provide guidance in local land use strategies for expanding rural villages and rural residential development so that such development will:

- Not impact on strategic or important agricultural land, energy, mineral or extractive resource viability or biodiversity values.
- Not impact on drinking water catchments.
- Not result in greater natural hazard risk.
- Occur on land that is unlikely to be needed for urban development.
- Contribute to the conservation of important biodiversity values or the establishment of important corridor linkages.
- Facilitate expansion of existing and new tourism development activities in agricultural or resource lands and related industries across the region.

The Rural Residential Policy is consistent with these principles.

Greater Newcastle Metropolitan Plan 2036

The Rural Residential Policy is an interim framework for assessment of planning proposals that applies until a Local Housing Strategy is adopted. The State Government's Greater Newcastle Metropolitan Plan 2036 requires all lower Hunter councils to adopt a Local Housing Strategy by September 2020. When Council has adopted a Local Housing Strategy, and it has been endorsed by the State Government, the Rural Residential Policy is proposed to be revoked.

The Port Stephens Local Housing Strategy is currently being prepared and will incorporate a review of the Rural Residential Policy in the broader context of all housing typologies and population projections for the local government area. The Local Housing Strategy will be subject to community and stakeholder consultation prior to adoption.

It is noted that the State Government has not endorsed the Rural Residential Policy, and there remains a risk that rural residential planning proposals will not be supported by the State until a Local Housing Strategy is endorsed.

Section 9.1 Ministerial Direction 1.5 Rural Lands

The Rural Lands Ministerial Direction applies to relevant planning proposals for rezoning and sets out the matters the planning proposal must address, including whether or not a rezoning will support farmers in exercising their right to farm. The Rural Residential Policy is consistent with the objectives and matters for consideration listed in the Ministerial Direction.

Port Stephens Planning Strategy 2011

The Port Stephens Planning Strategy provides the current framework for future growth in the Local Government Area. The Strategy identifies the 'need to ensure that prime agricultural land and important rural landscapes are protected from undesirable development.' The Rural Residential Policy seeks to achieve this objective. The Port Stephens Planning Strategy is currently being reviewed as part of the preparation of a statutory Local Strategic Planning Statement.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's policy will reference superseded legislation.	Low	Adopt the amended policy.	Yes
There is a risk that rural residential planning proposals will not be supported by the State until a Local Housing Strategy is endorsed.	Medium	Continue to consider the policy and consult with the State Government during the preparation of the Local Housing Strategy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Rural residential development in Port Stephens contributes to overall housing supply and the diversity and choice of housing available in the local government area. It can however require special consideration during assessment as it can have environmental, social, and economic costs that are significantly higher than urban development.

The Rural Residential Policy aims to address potential social, environmental and economic impacts by providing assessment criteria for rural residential rezonings. The policy acknowledges that rural land is a finite resource and seeks to ensure rural residential development occurs in appropriate locations and to protect existing agricultural industry.

CONSULTATION

Consultation has been undertaken by the Strategy and Environment Section.

Internal

Internal consultation was undertaken with Council's Development Assessment and Compliance Section, Engineering Services, and the Natural Resources Unit. No issues were raised during the consultation.

The Executive Team has been consulted to seek management endorsement.

Consultation will continue to occur as part of the preparation of the Local Housing Strategy.

External

The revised Rural Residential Policy is proposed to be publicly exhibited for 28 days in accordance with local government legislation.

Consultation with community and key stakeholder groups will continue to be undertaken as part of the preparation of the Local Housing Strategy.

OPTIONS

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

ATTACHMENTS

- 1) Revised Rural Residential Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2015-00487
TITLE: PORT STEPHENS RURAL RESIDENTIAL POLICY
POLICY OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to provide a framework for which Council can use to assess the appropriateness of rural residential development planning proposals in the short term.
- 1.2 This policy should be read in conjunction with the Port Stephens Rural Residential Assessment Criteria (**APPENDIX 1**) (consistency with the Assessment Criteria constitutes consistency with the policy).

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens Council is facing increasing pressure in relation to development and rezoning of rural lands for residential purposes. While existing studies and strategies have been carried out on existing rural lands, Council does not have a specific policy that deals with the social, economic and environmental challenges faced by rural residential land planning.
- 2.2 Rural residential development is one of the many housing types that contribute to the diversity and choice of housing in Port Stephens LGA and the Hunter Region. It does however require special consideration because rural residential development can have environmental, social and economic costs that are significantly higher than those of standard residential development.
- 2.3 The Hunter Regional Plan states it will provide guidance in local land use strategies for expanding rural villages and rural residential development so that such development will:
 - a) not impact on strategic or important agricultural land, energy, mineral or extractive resource viability or biodiversity values.
 - b) not impact on drinking water catchments.
 - c) not result in greater natural hazard risk.
 - d) occur on land that is unlikely to be needed for urban development.
 - e) contribute to the conservation of important biodiversity values or the establishment of important corridor linkages.
 - f) facilitate expansion of existing and new tourism development activities in agricultural or resource lands and related industries across the region.
- 2.4 It is considered that the long term planning around rural villages including appropriate zonings and lot sizes should be undertaken as part of the Port Stephens Planning Strategy review.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



2.5 The policy and Assessment Criteria provides a framework for which Council can assess the appropriateness of rural residential development proposals in the in-the interim of undertaking further work as part of the Port Stephens Planning Strategy review.

3. SCOPE:

3.1 This policy relates specifically to the following Council functions:

- a) Consideration of planning proposals (rezoning requests) in the short term.
- b) Inform appropriate land uses in the medium to long term as part of the Port Stephens Planning Strategy review.
- c) Provide a policy position to further consult with the State Government to endorse rural residential development.

3.2 This policy does not provide for additional subdivision and minor amendments to lot sizes, but rather provides a coordinated approach to the consideration of rezoning additional land in the Local Government Area for rural residential development.

4. DEFINITIONS:

4.1 An outline of the key definitions of terms included in the policy.

Rural residential development	Land in a rural setting, used and developed for dwellings that are not primarily associated with agriculture. Rural residential development is defined by a combination of land use zones including R5 Large Lot Residential and E4 Environmental Living and lot sizes between 4000m2 up to 2 hectares.
Planning proposal	A request to amend the Port Stephens Local Environmental Plan 2013 is known as a planning proposal or rezoning application requests. This process involves a number of steps that include Council assessment, public and government agency consultation and approval from the NSW Department of Planning and Environment.

5. POLICY STATEMENT:

5.1 The Port Stephens Rural Residential Policy aims are:

- a) to provide criteria for which Council can assess the appropriateness of rural residential development planning proposals in the short term.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au

Policy



- b) to provide Council and the community with further clarity around the future use and development of rural lands.
- c) to identify preferred areas physically suitable for rural settlement which are compatible with surrounding landuses.
- d) to ensure future development protects the environmental and cultural values of the area.
- e) to ensure that existing prime agricultural land is preserved and agricultural industries are able to prosper and expand without being unduly limited by neighbouring residential uses.
- f) to ensure that rural residential development does not hinder the strategic development of urban settlements in the future.
- g) to ensure new developments can have access to an appropriate level of community services in a cost effective manner.

6. POLICY RESPONSIBILITIES:

6.1 The Strategic Planning team (policy review and planning proposal assessment).

7. RELATED DOCUMENTS:

- 7.1 Environmental Planning and Assessment Act 1979
- 7.2 ~~State Environmental Planning Policy (Rural Lands) 2008~~ **State Environmental Planning Policy (Primary Production and Rural Development) 2019**
- 7.3 [Hunter Regional Plan 2036](#)
- 7.4 [Port Stephens Planning Strategy 2011](#)
- 7.5 Port Stephens Local Environmental Plan 2013
- 7.6 [Greater Newcastle Metropolitan Plan 2036](#)

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No	PSC2015-00487	EDRMS record No	
Audience	General		
Process owner	Strategy and Environment Section Manager		
Author	Strategy and Environment Section Manager		
Review timeframe	Two years	Next review date	13/06/2019 June 2021

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au

Policy



Adoption date	13/06/2017
----------------------	------------

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	13/06/2017	Strategy and Environment Section Manager	Adopted by Council on 13/06/2017.	123
2.0	TBA	Strategy and Environment Section Manager	<p>Policy reviewed and a draft prepared with amendments to adopt the new template for Council policies.</p> <p>1.2 - minor administrative error.</p> <p>4.1 – minor change in process terminology.</p> <p>7.2,7.6 - update legislation and other references to current.</p>	XX

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au

APPENDIX 1 RURAL RESIDENTIAL ASSESSMENT CRITERIA

The following assessment criteria outlines the key constraints that require consideration in the assessment of a planning proposal for rural residential development.

The assessment criteria includes two (2) types of criteria:

1. *Exclusionary Criteria* – where development is not appropriate due to land suitability, and proposals that are inconsistent with this criteria will require extensive justification at Planning Proposal stage.
2. *Management Criteria* - applies to constraints where further site specific assessment is required at planning proposal stage to determine whether rural residential development is appropriate such as, infrastructure requirements, environmental impacts and buffers to adjacent land uses. Such constraints are likely to require accompanying studies to justify the suitability of the planning proposal.

1.0 LAND TO WHERE THE ASSESSMENT CRITERIA APPLIES

- Zoned RU1 – Primary Production, RU2 Rural Landscape, E3 Environmental Management, E4 Environmental Living.
- Located a minimum of 800 metres from existing RU5 - Rural Village or R2 Low Density Residential zoned land.
- Any part of the landholding is located within 800 metres of existing R5 Large Lot Residential zoned land at the time this Policy was adopted.

2.0 EXCLUSIONARY CRITERIA

- Located within a Future Urban Growth Area identified in a Local or Regional Strategic Plans, as they are proposed to be developed for urban purposes including land within (Karuah, Raymond Terrace, Medowie, Mallabula, Anna Bay, Nelson Bay and Fern Bay).
- Within a 2km distance from existing or planned major employment areas.
- Slopes greater than 18 degrees because of slope instability and clearing of vegetation are is restricted under State legislation including the Native Vegetation Act 2003.
- Class 1 and 2 acid sulphate soils because of the high risk of exposing acid soils during dwelling and infrastructure construction.
- Below the flood planning level as defined in the Port Stephens Development Control Plan 2014 identified on Councils Flooding Hazard map.
- High environmental value land including coastal wetlands identified under the State Environmental Planning Policy (Coastal Management) 2018 SEPP 14 Coastal Wetlands or local wetlands plus a 100 m buffer or any coastal lakes identified under the State Environmental Planning Policy (Coastal Management) 2018 SEPP 71 Coastal Lakes.

ITEM 4 - ATTACHMENT 1 REVISED RURAL RESIDENTIAL POLICY.

- Noise exposure areas within an ANEF 25 or greater, in keeping with Australian Standards and Port Stephens Aircraft Noise Policy.
- Identified as Important Agricultural Land as defined by the Biophysical Strategic Agricultural land (BSAL) mapping prepared by the State Government for the purposes of Strategic Regional Land Use Planning.
- Located on known extractive industries, quarrying or mining or within a 500m buffer.
- Identified by the State Government as having known mineral resource potential in accordance with Ministerial Directions issued under the planning legislation S447 Directions.

3.0 MANAGEMENT CRITERIA**Flooding**

- Development that has the potential to be isolated in flood events, must demonstrate access to evacuation facilities via a public road that is given 24 hours warning of flood isolation.
- Development in floodprone areas are to identify minimum lot sizes that provide appropriate stock refuge in the event of flooding.

Bushfire

- Development on areas identified as bush fire prone on Council's Bush Fire Prone Land Map must demonstrate consistency with the planning principles for rezoning including the provision of contour map with Bushfire Attack Level (BAL) applied.

Environmentally Sensitive Land

- Development identified in SEPP 71 Coastal Zone coastal management areas defined in the State Environmental Planning Policy (Coastal Management) 2018 needs to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development.
- Koala habitat areas and corridors are to be protected in accordance with the Port Stephens Comprehensive Koala Plan of Management.
- Development must not impact on native vegetation, endangered ecological communities, threatened species or habitats.
- Development must contribute to the conservation of important biodiversity values or the establishment of important biodiversity corridor linkages.

Aircraft Noise

- Development must include a provision to ensure that development meets AS 2021-2015 regarding interior noise levels in areas where the ANEF is between 20 and 25.

Non-Aboriginal Cultural Heritage

- Development near items identified within the PSLEP 2013 need to consider the impact on heritage values, including the setting of the items and any archaeological remains.

Aboriginal Cultural Heritage

- Any development should undertake an initial assessment of the likelihood of Aboriginal cultural heritage values including:
 - A search of the Aboriginal Heritage Information Management System (AHIMS).
 - Determination of whether the sites include landscape features that indicate the likely presence of aboriginal objects.
 - Site inspections.
 - Consultation with the Aboriginal community.

Drinking Water Catchments

- Development within a drinking water catchment must be able to be connected to reticulated sewer and able to demonstrate NorBE 'neutral and beneficial effect' in accordance with Hunter Water requirements.

Rural Land Resources

- Development is a minimum 1km buffer from existing agricultural industries (e.g. Poultry farms, aquaculture) measured from property boundary to property boundary. Development proposed within the 1km buffer is required to provide expert reports to establish appropriate setbacks. These reports may relate to but not be limited to noise, odour, visual amenity and biosecurity risks.
- Development must not impact on strategic or important energy, mineral or extractive resource viability.

Scenic Amenity

- A visual impact assessment is required for land within a high or very high landscape area as defined in the Rural Land Study.
- Development fronting road corridors to identify appropriate buffer zone to prevent clearing and protect scenic qualities.

Infrastructure and Services

- Development must be accessed via sealed roads.
- Development must not result in the creation of direct access to a state road.
- Local infrastructure contributions must not require a level of infrastructure greater than the nexus of apportionment and/or are equivalent to \$20,000 per lot, or less.
- Development must not create additional demand for unplanned state infrastructure upgrades.

ITEM 4 - ATTACHMENT 1 REVISED RURAL RESIDENTIAL POLICY.

- Development must be able to be connected to reticulated power supply.
- Development requiring on-site sewage disposal must be carried out in accordance with Councils Development Assessment Framework (DAF) for the management of on-site sewage management, which includes performance standards and recommendations about appropriate areas.

ITEM NO. 5

**FILE NO: 19/197930
EDRMS NO: PSC2009-06551**

POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Contributions to Works for Kerb and Gutter Construction Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Contributions to Works for Kerb and Gutter Construction Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Contributions to Works for Kerb and Gutter Construction Policy dated 23 June 2015 (Minute Number 175) should no submissions be received.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

186	<p>Councillor John Nell Councillor Jaimie Abbott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Contributions to Works for Kerb and Gutter Construction Policy shown at (ATTACHMENT 1).2) Place the revised Contributions to Works for Kerb and Gutter Construction Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.3) Revoke the Contributions to Works for Kerb and Gutter Construction Policy dated 23 June 2015 (Minute Number 175) should no submissions be received.
------------	--

BACKGROUND

The purpose of this report is to gain Council's endorsement of the revised Contribution to Works for Kerb and Gutter Construction Policy shown as **(ATTACHMENT 1)**.

The intent of this policy is to allow Council to charge residents a contribution to works for the construction of new kerb and guttering built adjacent to their property. This charge is triggered when Council is undertaking an upgrade of the road pavement as part of Council's Capital Works Program.

Council installs kerb and guttering to primarily aid in the management of stormwater. Kerb and guttering improves the ability to control and collect surface water runoff from the road pavement. This in turn reduces the scouring effects of water which damages road pavements and road shoulders which leads to potholes and silt build up in drains and waterways.

This revised Contributions to Works for Kerb and Gutter Construction Policy does not change the intent of the policy. This revised policy has been updated to the new policy format.

The policy was last reviewed in June 2015.

Reasons for the recommendation to endorse this policy are:

- Kerb and guttering is regarded by the community as having a direct benefit to landowners.
- Kerb and guttering provides improved stormwater runoff control and quality.
- The contribution creates an additional source of income for projects allowing more kerb and guttering to be constructed.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Infrastructure and Facilities	Plan civil and community infrastructure to support the community.

FINANCIAL/RESOURCE IMPLICATIONS

The total cost of construction for kerb and guttering since 2015 has been \$323,368 to date of which \$96,573 of contribution to works has been collected. A number of projects were exempt from contributions due to removal and reconstruction of existing kerb and guttering or adjacent to land in which the policy does not allow for the collecting of funds.

Council's capital works program has projects in each financial year that includes the construction of new kerb and guttering. The contribution amount varies from year to year and adds an additional \$30,000-\$60,000 of income into this program.

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	Yes		Contribution to Works for Kerb and Guttering.

LEGAL, POLICY AND RISK IMPLICATIONS

Council elects whether to collect contributions to works. Section 217 of the Roads Act 1993 states "Roads authority may recover cost of paving, kerbing and guttering footways".

Income from contribution to works for kerb and guttering over the next three financial years is estimated at \$82,000 based on the current projects listed in the Capital Works Program. If this income was not available and there was a desired to complete the kerb and gutter program at its current level, then the proposed capital works program would require the postponing of projects or the reduction in scope to the value of \$82,000. This quantum is equivalent to one minor road pavement rehabilitation project or one local playground reconstruction from the capital works program over this period.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that collecting Contribution to Works for Kerb and Guttering will impose additional costs to landowners leading to community dissatisfaction and financial hardship.	Low	Adopt the recommendations. The policy includes repayment options including the ability for aged pensioners to defer payment under Councils Debt Recovery & Hardship policy. Council has been collecting Contribution to works for kerb and gutter construction prior to 1979 and is common practice across NSW.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

To date a large majority of land owners have been willing to pay a contribution and see this as an improvement to the aesthetic and functionality to the property frontage. Anecdotally, this will increase a property's resale value.

The current and draft policy has a repayment system implemented to allow landowners to repay over a period of time should they not afford the lump sum payment. The time limit is based on the amount owing and is broken into pensioner and non-pensioner schedules. Aged pensioners who satisfy the eligibility criteria can also make application to defer any contributions to works under Councils Debt Recovery and Hardship Policy. This repayment system has been working well since it was introduced into a previous review of this policy.

Kerb and gutter reduces scouring and water ponding on the road shoulder and verge area reducing the pavement failure. Kerb and gutter also improves stormwater runoff water quality by reducing gravel washing into the stormwater drainage systems and subsequent water catchments.

Providing a kerbed edge to the road helps to delineate the edge of the road formation. This aids in the location of services, position for vehicles to uniformly park alongside and clearly define the 'nature strip' of the road

CONSULTATION

Consultation with key stakeholders has been undertaken by the Assets Section.

Internal

- Finance Section.
- Capital Works Section.
- Executive Team.

External

In accordance with local government legislation the draft Contribution to Works for Kerb and Gutter Construction policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Contribution to Works for Kerb and Gutter Construction Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



FILE NO: PSC2009-06551
TITLE: CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION
POLICY OWNER: ASSETS SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to allow Council to charge residents a contribution to works for the construction of new kerb and guttering built adjacent to their property.
- 1.2 This policy provides a framework to apply a contribution based on land zoning.

2. CONTEXT/BACKGROUND:

- 2.1 Kerb and gutter provides a clear boundary between the road pavement and the footpath reserve. It functions to collect and control stormwater runoff from both private properties and the roadway. Landowners, especially in urban areas, consider kerb and gutter an integral and necessary part of any road network.
- 2.2 Kerb and gutter improves the environment by reducing sediment transfer to improve water quality. Kerb and gutter reduces road shoulder scouring as well as the ability for water to pond on the road shoulder and roadside verge area which allows water to penetrate the pavement causing road failure.
- 2.3 The Roads Act allows Council to recoup the cost of installing kerb and gutter from the adjacent property owner. A repayment system outlined in the policy statement enables property owners to repay contributions to works over a period of time if they cannot afford the lump sum payment. This is time limited based on the amount owing and is broken into pensioner and non-pensioner schedules. Aged pensioners who satisfy to the eligibility criteria can also make application to defer any contributions to works under Councils Debt Recovery and Hardship Policy.

3. SCOPE:

- 3.1 That the contribution structure be fair and equitable and accepted by the general community.
- 3.2 When constructing new kerb and gutter for the community within a public road, Council will require a contribution from those adjoining property owners that benefit directly from these facilities.
- 3.3 That Council makes every endeavour to notify the property owners affected prior to commencing the work and provides details of work to be carried out and an approximate amount of any contribution to be paid. In exceptional circumstances when Council is unable to notify property owners prior to works and of costs, the owners are still liable to pay the contribution.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 5 - ATTACHMENT 1 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



- 3.4 That this policy details all of the different situations and that contributions are consistently applied, to prevent any exceptions occurring.
- 3.5 Fees are to be reviewed annually through the fees and charges process reviewed by Council.
- 3.6 The amount charged is not to be more than half of the actual cost of construction.
- 3.7 The owner of the property becomes liable to pay the amount on receiving the notice. If the property is sold after notification has been given, the liability to pay the contribution will be the responsibility of the new owner.
- 3.8 Council will advise potential new property owners by indicating what liabilities exist when issuing a certificate under section 603.
- 3.9 Contributions are not applicable when the Group Manager of Facilities & Services determines that no direct benefit can be derived from the construction.
- 3.10 Contributions may be repaid over a period of time provided payments are made fortnightly in accordance with the following schedule:

a) Non Pensioners

Contribution amount (\$)	≤\$500	>\$500 to \$1,000	>\$1,000
Time to Pay	Up to 12 months	Up to 2 years	Up to 4 years
Minimum fortnightly repayments	\$20	\$20	\$20

b) Pensioners

Contribution amount (\$)	≤\$500	>\$500 to \$1,000	>\$1,000
Time to Pay	Up to 2 years	Up to 4 years	Up to 5 years
Minimum fortnightly repayments	\$10	\$10	\$10

- c) Regardless of the original source of funding for the construction of kerb and gutter (original source must be less than 100% of the total cost of construction), Council will require owners' contribution in all cases where such construction fronts privately owned land as zoned below.
- d) Aged Pensioners who satisfy the eligibility criteria may make application to defer any contribution towards kerb & gutter construction under Council's Debt Recovery & Hardship Policy

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 5 - ATTACHMENT 1 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



3.11 Assessing the Application Based on Land Zoning

- a) The applicability of any contribution is based on the land zoning of the property. List of land zones where a contribution is applicable for Kerb and Gutter:
- R1 General Residential
 - R2 Low Density Residential
 - R3 Medium Density Residential
 - R5 Large Lot Residential
 - B1 Neighbourhood Centre
 - B2 Local Centre
 - B3 Commercial Core
 - B4 Mixed Use
 - B5 Business Development
 - B7 Business Park
 - IN1 General Industrial

3.12 Boundary Location & Calculations of Construction Costs

- a) There are three different rate structures to be applied once the zone applicability has been established:
- Front boundaries: 50.0% of the average construction cost.
 - Corner Lots - Side & Front boundaries: 33.3% of the average construction cost.
 - Rear boundaries: 25.0% of the average construction cost.
- b) The length used in the calculations is the length of the property boundary, but not more than the actual length of the kerb and gutter being constructed.
- c) In the case of properties with strata title or community title the cost shall be shared equally between all strata title and community title holders.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Kerb and Guttering	A concrete barrier used to define the edge of a road and drainage purposes.
--------------------	---

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 5 - ATTACHMENT 1 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



Land Zone	As prescribed in Councils Local Environmental Plan (LEP) 2013. This Plan aims to make local environmental planning provisions for land in Port Stephens in accordance with the relevant standard environmental planning instrument under section 33A of the Environmental Planning and Assessment Act 1979.
Contribution	A payment or levy to give in order to help achieve or provide something.

5. POLICY STATEMENT:

- 5.1 To improve stormwater runoff water quality and control.
- 5.2 Improve the character of the area in which kerb and gutter is being installed.
- 5.3 Create an additional source of income for projects allowing more kerb and guttering to be constructed.
- 5.4 To be fair and equitable for the ratepayers of Port Stephens Council.

6. POLICY RESPONSIBILITIES:

- 6.1 Assets Section Manager is responsible for the implementation and administration of the policy and procedures (notification of work notices to property owners, calculation of fees etc).
- 6.2 Financial Services Section Manager is responsible for the invoicing and collection of contributions for the works.

7. RELATED DOCUMENTS:

- 7.1 Roads Act 1993.
- 7.2 Local Environmental Plan.
- 7.3 Schedule of Fees & Charges for current year.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 5 - ATTACHMENT 1 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No	PSC2009-06551	EDRMS record No	
Audience	Port Stephens Residents, Assets and Financial Services Sections		
Process owner	Assets Section Manager		
Author	Assets Section Manager		
Review timeframe	Two years	Next review date	06/2021
Adoption date	23/06/2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	09/02/2010	Assets Section Manager		018
2	23/06/2015	Assets Section Manager	Adopted by Council	175
3		Assets Section Manager	Review and update to new Corporate Template. 2.3 Make one change - replace to with "the".	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 5 - ATTACHMENT 1 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 6

**FILE NO: 19/190124
EDRMS NO: PSC2005-3664**

POLICY REVIEW - PROVISION AND MANAGEMENT OF CEMETERIES

REPORT OF: AARON MALLOY - ACTING COMMUNITY SERVICES SECTION
MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Provision and Management of Cemeteries Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Provision and Management of Cemeteries Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Provision and Management of Cemeteries Policy dated 14 July 2015 (Minute No.194) should no submissions be received.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

187	<p>Councillor Sarah Smith Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Provision and Management of Cemeteries Policy shown at (ATTACHMENT 1).2) Place the revised Provision and Management of Cemeteries Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.3) Revoke the Provision and Management of Cemeteries Policy dated 14 July 2015 (Minute No.194) should no submissions be received.
------------	---

BACKGROUND

The purpose of this report is for the consideration and exhibition of the revised Provision and Management of Cemeteries Policy **(ATTACHMENT 1)**.

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

There have been no legislative changes in regards to the management of cemeteries that require Council to alter its position from how we currently manage and operate our cemeteries. Therefore this policy review only resulted in proposed amendments that are administrative in nature as highlighted in **(ATTACHMENT 1)**.

Council manages cemeteries at Anna Bay, Karuah, Nelson Bay, Seaham and Raymond Terrace. These cemeteries offer interments in plots, columbarium walls and memorial gardens. Council also maintains the grounds of historic cemeteries at Hinton, Raymond Terrace and Birubi Point.

Cemetery management requires a focus on compassion, accuracy in the management of records and safety in the issuing of permits to undertake work. This draft policy sets the parameters by which Council manages cemeteries and ensures that the corporate knowledge that underpins the management of cemeteries is held in one place.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Infrastructure and Facilities	Maintain the Council's civil and community infrastructure to support the community.

FINANCIAL/RESOURCE IMPLICATIONS

Under the draft policy there are no changes to service levels provided therefore there are no financial or resource implications other than the cost of the public exhibition process from adopting the recommendations.

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

LEGAL, POLICY AND RISK IMPLICATIONS

While there are no legal requirements for Council to have a policy for the management of cemeteries it is linked to a number of pieces of legislation as listed in this policy. Having this policy in place makes for good business practice as it reduces the risk to Council of mismanagement of these assets, which means adopting the recommendations of this report and the draft policy will have no negative legal, policy or risk implications.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will fail to meet its obligations in the management of cemeteries if there is not a set process in place as this would lead to inconsistent management decisions and practices resulting in possible legal, financial and reputation damage.	Medium	Adopt the revised Policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Cemeteries are places where people can gather to pay their respects and to reflect on the lives of loved ones past. Well maintained cemeteries that have records maintained in accordance with legislation and ensure safe work practices assist people to use cemeteries as public open spaces and as places of historical research.

The management of cemeteries assists the funeral industry in the performance of their profession and contributes to the sustainability of that industry.

The management of cemeteries ensures that the interment of human remains is compliant with the relevant legislation. Compliance with this legislation ensures no adverse environmental impacts.

Adopting the recommendations of this report and the draft policy will have no negative social, economic or environmental implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the staff in the Community Services Section.

Internal

Consultation has been undertaken with the following Council staff:

- Contracts and Services Coordinator.
- Community and Recreation Coordinator

- Community and Recreation Assets Team.
- Facilities and Services Administration Officers.
- Volunteers Coordinator.
- Council Officers.

External

In accordance with local government legislation the draft Provision and Management of Cemeteries Policy will go on public exhibition from 14 August to 10 September for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Provision and Management of Cemeteries Policy

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 PROVISION AND MANAGEMENT OF CEMETERIES POLICY

Policy



FILE NO: PSC2005-3664

TITLE: PROVISION AND MANAGEMENT OF CEMETERIES

POLICY OWNER: COMMUNITY SERVICES SECTION MANAGER

1. PURPOSE:

- 1.1 To ensure the management and maintenance of cemeteries are undertaken in a lawful and respectful manner.
- 1.2 To ensure the sufficient provision of cemetery facilities to meet the needs of the community.

2. CONTEXT/BACKGROUND:

- 2.1 Council manages cemeteries at Anna Bay, Karuah, Nelson Bay, Seaham and Raymond Terrace. These cemeteries offer interments in plots, columbarium walls and memorial gardens. Council also maintains the grounds of historic cemeteries at Hinton, Raymond Terrace and Birubi Point.
- 2.2 Cemetery management requires a focus on compassion with the customer, accuracy in the management of records and safety in the issuing of permits to undertake work. This policy sets the parameters by which cemeteries will be managed in Port Stephens Council and ensures that the corporate knowledge that underpins the management of cemeteries is held in one place.

3. SCOPE:

- 3.1 This policy applies to all cemeteries that are on land that is owned or managed by Port Stephens Council.
- 3.2 This policy does not relate to cemeteries, columbarium walls or memorial gardens on land that is not owned or managed by Port Stephens Council.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Cemetery	A place for burials, not being a church yard.
Columbarium Wall	A structure with tiers of niches for reception of cinerary urns.
Memorial Garden	A place for reception of cinerary urns.
Exhumation	To dig out, unearth.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 6 - ATTACHMENT 1 PROVISION AND MANAGEMENT OF CEMETERIES POLICY

Policy



Interment	Burial in the earth or placement of cinerary urns in a columbarium wall or memorial garden.
Interment site	A place of burial in the earth or placement of ashes in a columbarium wall or memorial garden.
Interment right	An exclusive right granted for use of an interment site. There is no entitlement to any real estate. The holder of an interment right has the sole authority to determine who can be buried or placed in the interment site and to permit headstones, inscriptions and memorials on the site.

5. POLICY STATEMENT:

Provision of cemeteries

5.1 Council will plan for the provision of cemeteries including burial plots, columbarium walls and memorial gardens through the Strategic Asset Management Plan process.

Management of cemeteries

5.2 Council does not permit any person to undertake an activity within a cemetery unless:

- a. the activity is an approved activity such as:
 - the quiet and respectful commemoration of the dead or undertaking of historical research
 - the use of roadways and pathways to gain access to interment sites or amenities.
- b. the person holds an interment right, exhumation permit, works permit or monument permit issued by Council to undertake that activity.

5.3 Council may delegate some aspects of the maintenance of cemeteries to a 355c Committee or Volunteer Group of Council.

5.4 Council shall maintain cemeteries to agreed service levels detailed in the maintenance service contract specification.

5.5 Council shall create and maintain general terms and conditions relating to interment rights and monumental permits.

Keeping of records

5.6 Council shall maintain a register of all interments, exhumations and interment rights in respect of each cemetery.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 6 - ATTACHMENT 1 PROVISION AND MANAGEMENT OF CEMETERIES POLICY

Policy



Interment sites and Interment rights

- 5.7 Human remains of a deceased person may only be interred at interment sites with the written permission of Council who shall issue an interment right.
- 5.8 Interment rights may not be sold or transferred except with the express written consent of Council.
- 5.9 The owner of an interment right may relinquish an interment right to Council.
- 5.10 A person may not hold more than two interment rights.

Monuments

- 5.11 Council approval is required for the installation of a monument.
- 5.12 A monument must be in keeping with the scale and character of the interment area.
- 5.13 A monument permit shall only be granted in respect of an interment site with the consent of the holder of the interment right.
- 5.14 The holder of a monument permit is responsible for the maintenance and repair of the monument.
- 5.15 If Council is required to undertake any work relating to monuments, to ensure public or employee safety, Council may recover the costs associated with such works from the holder.

Exhumation

- 5.16 An exhumation may only take place when an order by a Coroner or a Court permitting such exhumation is issued; or
 - a. a person has obtained prior to commencing exhumation:
 - Approval for exhumation by NSW Department of Health in accordance with the provisions of the Public Health Act.
 - Approval from Council.

6. POLICY RESPONSIBILITIES:

- 6.1 Overall implementation of this policy lies with the Community Services Section Manager. Key policy areas are delegated to the following sections and teams:
 - a. Provision of cemeteries – Civil Assets Section.
 - b. Management of cemeteries – Community Services Section/Contracts and Services team.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 6 - ATTACHMENT 1 PROVISION AND MANAGEMENT OF CEMETERIES POLICY

Policy



- c. Keeping of Records – Facilities and Services Group Manager's Office/Business Systems and Administration team.
- d. Interment sites and Interment rights – Facilities and Services Group Manager's Office/Business Systems and Administration team.
- e. Monuments – Facilities and Services Group Manager's Office/Business Systems and Administration team.
- f. Exhumation – Facilities and Services Group Manager's Office/Business Systems and Administration team.
- 6.2. The key position/s responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 7. **RELATED DOCUMENTS:**
 - 7.1 Setting of Fees and Charges Management Directive (PSC)
 - 7.2 Code of Conduct (PSC)
 - 7.3 Procedure - Requirements for works within Council cemeteries by external agents (PSC)
 - 7.4 Application Form – Permit to carry out monumental work in Port Stephens Cemeteries (PSC)
 - 7.5 Application Form - Cemetery Burial Application (PSC)
 - 7.6 Application Form - Columbarium Wall/ Memorial Garden Application (PSC)
 - 7.7 Application Form – Annual Permit to undertake work in Port Stephens Council Cemeteries (PSC)
 - 7.8 Application Form – Confirmation of Cemetery Information (PSC)
 - 7.9 Application Form – Request to Transfer Right of Interment(PSC)
 - 7.10 Form – Template for Memorial Niche Plaques (PSC)
 - 7.11 Form – Template for Terrazzo Oval Plaques (PSC)
 - 7.12 Form – Template for Raymond Terrace Granite Columbarium Wall (PSC)
 - 7.13 Port Stephens Cemeteries information brochure (PSC)
 - 7.14 Port Stephens Columbarium Walls and Memorial Gardens brochure (PSC)
 - 7.15 Cemeteries and Crematoria Act 2013 (NSW)
 - 7.16 Local Government Act 1993 (NSW)
 - 7.17 Crown Lands Act 1989 (NSW)
 - 7.18 Public Health Act 2010 (NSW)
 - 7.19 Coroners Act 2009 (NSW)
 - 7.20 Anti-Discrimination Act 1977 (NSW)
 - 7.21 Births Deaths and Marriages Registration Act 1995 (NSW)
 - 7.22 Fair Trading Act 1987 (NSW)
 - 7.23 Government Information (Public Access) Act 2009 (NSW)

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 6 - ATTACHMENT 1 PROVISION AND MANAGEMENT OF CEMETERIES POLICY

Policy



- 7.24 Heritage Act 1977 (NSW)
- 7.25 Human Tissues Act 1983 (NSW)
- 7.26 State Records Act 1998 (NSW)
- 7.27 Work Health and Safety Act 2011 (NSW)

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au

EDRMS container No	PSC2005-3664	EDRMS record No	TBA
Audience	Funeral Directors, Grave diggers, Monumental Masons, West Ward Cemetery Group, 355c Cemetery Committees, Volunteer Groups, Historical Societies, general community.		
Process owner	Contracts and Services Coordinator		
Author	Community Services Section Manager		
Review timeframe	2 years	Next review date	14 July 2021
Adoption date	14/07/2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
0.1	27/05/2015	Steve Bernasconi	Draft version for review by Executive Leadership Team	n/a
0.2	07/07/2015	Steve Bernasconi	Draft version for Public Exhibition.	n/a

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 6 - ATTACHMENT 1 PROVISION AND MANAGEMENT OF CEMETERIES POLICY

Policy



1.	14/07/2015	Steve Bernasconi	<p>The Public Exhibition period ended 20 August 2015 and no submissions were received.</p> <p>This policy is now adopted and replaces the Port Stephens Cemeteries Policy (dated 290102 – Min No. 016)</p>	194
2.	TBA	Community Services Section Manager	<p>Reviewed and updated in new Policy Template.</p> <p>4.1 Definitions updated to include ‘Memorial Garden’ and under Interment Site the words ‘of ashes’ and ‘wall’ were added.</p> <p>5.2.6 the addition of “or Volunteer Group”.</p> <p>7.16 the addition of “<i>Local Government Act 1993 (NSW)</i>”.</p> <p>Controlled Document Information the addition of the word “cemetery” and “Volunteer Group”.</p>	TBA

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM NO. 7

**FILE NO: 19/184297
EDRMS NO: PSC2019-00698**

VOLUNTEER RECOGNITION POLICY

REPORT OF: MICHELLE GILLIVER-SMITH - ORGANISATION DEVELOPMENT
SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the submission received for the draft Volunteer Recognition Policy and draft Volunteer Recognition Guidelines as per the summary at **(ATTACHMENT 1)**.
- 2) Adopt the Volunteer Recognition Policy at **(ATTACHMENT 2)**.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

188	<p>Councillor Sarah Smith Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Notes the submission received for the draft Volunteer Recognition Policy and draft Volunteer Recognition Guidelines as per the summary at (ATTACHMENT 1).2) Adopt the Volunteer Recognition Policy at (ATTACHMENT 2).
------------	--

BACKGROUND

The purpose of this report is to provide Council with information regarding the submission received for the draft Volunteer Recognition Policy (the 'policy') which was placed on public exhibition for a period of 28 days.

In addition to the draft policy, staff have developed draft Volunteer Recognition Guidelines (the 'guidelines') to identify mechanisms for the provision of recognition to Council's volunteers in line with the policy. The draft guidelines were not placed on public exhibition, but were however forwarded to relevant staff, volunteers, committees and groups for comment.

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

Within the public exhibition period, one response was received from a council volunteer group which is outlined within (**ATTACHMENT 1**), however it mainly related to information in the draft guidelines not the draft policy document.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Diversity	Support volunteers to deliver appropriate community services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications as the proposed recognition scheme can be funded within the current budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The exhibition of the draft Volunteer Recognition Policy was compliant with the requirements of section 610F of the Local Government Act 1993.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without a policy and consistent approach, volunteer recognition will decrease, volunteers will feel undervalued and retention of volunteers will become increasingly difficult.	Medium	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A key measure for community wellbeing is the level of participation through volunteering. As Council has over 700 volunteers supporting programs and services on behalf of Council, the social, economic and environmental benefits to the community are extremely high. On an individual level, volunteering can help improve confidence, happiness, fulfilment and social connections.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Organisation Development Section. The draft Volunteer Recognition Policy and guidelines were developed following extensive consultation with relevant staff and volunteers. The draft policy was placed on public exhibition for a period of 28 days and one submission was received.

Internal

Internal stakeholders have been consulted including staff that supervise and work with volunteers and governance.

External

In accordance with local government legislation the draft policy was placed on public exhibition for 28 days. Input from volunteers and committees was sought for the development of the draft Guidelines.

OPTIONS

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

ATTACHMENTS

- 1) Summary of submission received.
- 2) Draft Volunteer Recognition Policy.

COUNCILLORS ROOM

- 1) Volunteer Recognition Policy - Un-redacted Submission.

TABLED DOCUMENTS

Nil.

ITEM 7 - ATTACHMENT 1 SUMMARY OF SUBMISSION RECEIVED.

ATTACHMENT 1 – Summary of Submission to draft Volunteer Recognition Policy

No.	Author of submission	Comment	Council response
1	Lemon Tree Passage Parks, Reserves and Landcare Group	<ol style="list-style-type: none"> 1. Efforts to recognise Council Volunteers are appreciated by Group. 2. Group thanks Council staff for support. 3. Group is of the view that any 'award' to volunteers should be an inexpensive token of appreciation and not of any significant monetary amount (eg. as noted in the Guidelines for 'length of service'). 4. Group's preference is for Council to acknowledge the efforts of a group rather than individuals. 	<ol style="list-style-type: none"> 1. Acknowledged. 2. Acknowledged. 3. Acknowledged. Only the Draft Volunteer Recognition Policy was placed on Public Exhibition. The monetary amounts referred to in the submission are written in the Draft Guidelines which were sent to relevant staff, volunteers and committees/ groups only. No change is being considered at this stage to the proposed monetary values noted in the Draft Guidelines, as assessments have been made and future financial implications can be funded within the current budget. If in future these monetary values wish to be changed, this can be done internally as the Volunteer Recognition Guidelines are not an adopted document. 4. Acknowledged. Avenues for Group recognition are available through the listed opportunities, including Thank You Cards, Letters and Certificates, Media Promotion, Years of Service, Port Stephens Annual Awards.

Policy



FILE NO: PSC2019-00698
TITLE: VOLUNTEER RECOGNITION
OWNER: ORGANISATION DEVELOPMENT SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this Policy and related guidelines is to provide Council with a framework for the delivery of recognition to Council volunteers to maximise volunteer motivation and satisfaction. The purpose of the Volunteer Recognition Scheme is to identify and acknowledge Council volunteers who contribute significant time or service to Council programs and to ensure there are appropriate mechanisms in place to provide this recognition. The scheme is in line with Council's Community Strategic Plan 2018-2028, C1.5 Support volunteers to deliver appropriate community services.

2. CONTEXT/BACKGROUND:

- 2.1 Volunteer recognition is essential for volunteer motivation, satisfaction, retention and recruitment. Council has a recognition scheme for staff, however recognition for volunteers is currently completed on an ad-hoc basis. This policy highlights Council's commitment to our volunteers, of which there are over 700.
- 2.2 A consistent approach to the identification of volunteers and mechanisms for delivery of recognition will be of benefit to both staff and volunteers as it will provide equitable access and a framework in line with staff recognition. It will assist to raise the profile of volunteers within Council and promote the importance of volunteering to the wider community.

3. SCOPE:

- 3.1 This policy relates to all of Council's volunteers and the sections of Council under which they volunteer. The sections of Council that manage volunteers will be responsible for the identification of volunteers and delivery of recognition in line with this policy and guidelines. Support and tools will be provided by the Volunteers Coordinator.
- 3.2 Volunteer Recognition includes thank you cards, letters and certificates of recognition, media promotion, recognition of years of service, recognition upon retirement, National Volunteers Week, annual thank you event and Port Stephens Annual Awards.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.
Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



Policy



4. DEFINITIONS:

Thank You cards	Council corporate cards
Letter and Certificates	Letters of recognition on Mayoral letterhead signed by Mayor Certificates of recognition, generally framed
Media promotion	Print and social media advertising and promotional avenues
Years of Service	Refers to length of time a volunteer and/or committee has been a Registered Volunteer with Port Stephens Council
Retirement	Refers to a person who has been a Registered and active Council Volunteer continuously for at least 5 years and they are retiring as a Council Volunteer
National Volunteer Week	An annual celebration to acknowledge the contribution of our nation's volunteers, led by Volunteering Australia
Volunteer Thank You	An annual event where volunteers, Councillors and staff are invited to a function to recognise and thank our volunteers
Port Stephens Annual Awards	Event used by Council to formally recognise the efforts of exceptional people within our community
Volunteer Recognition Nomination Form	Form used to provide sufficient information on a volunteer, committee or activity worthy of special recognition

5. POLICY STATEMENT:

5.1 Council recognises that volunteers are the lifeblood of the community, with over 700 volunteers delivering services on behalf of Council. A Volunteer Recognition Scheme will formally reward volunteers through a series of initiatives appropriate to Council's budget and the contribution of the volunteer, and be in keeping with staff recognition.

5.2 It is expected that the implementation of this Policy and guidelines will lead to:

- improved volunteer motivation and satisfaction;
- increased volunteer recruitment and retention;
- heightened awareness and understanding, both internally and externally, of the roles undertaken by Council's volunteers; and
- increased promotion of the importance of volunteering to the wider community.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



6. POLICY RESPONSIBILITIES:

- 6.1 The Volunteers Coordinator is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.2 Council staff who manage volunteers are responsible for implementing and complying with the policy.
- 6.3 Managers are responsible for complying with this policy.

7. RELATED DOCUMENTS:

- 7.1 *Local Government Act 1993.*
- 7.2 Council Code of Conduct.
- 7.3 *Work Health and Safety Act 2011.*
- 7.4 Community Strategic Plan 2018 – 2028.
- 7.5 355c Committee Terms of Reference.
- 7.6 Volunteer management guidelines – various.

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No.	PSC2019-00698	EDRMS record No.	19/100638
Audience	Councillors, Council staff, Council volunteers, general community		
Process owner	Organisation Development Section Manager		
Author	Volunteers Coordinator		
Review timeframe	Two years	Next review date	
Adoption date			

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Policy



VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1		Organisation Development Section Manager	New policy.	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



Page: 4 of 4

ITEM NO. 8

**FILE NO: 19/189402
EDRMS NO: PSC2017-02839**

**2019 LOCAL GOVERNMENT NSW ANNUAL CONFERENCE - WARWICK FARM
14-16 OCTOBER 2019**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate Council delegates to attend the 2019 Local Government NSW Annual Conference to be held from 14 to 16 October 2019 at Warwick Farm.
- 2) Nominate four (4) voting delegates.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

189	<p>Councillor Jaimie Abbott Councillor Steve Tucker</p> <p>It was resolved that:</p> <ol style="list-style-type: none">1) Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Paul Le Mottee and Steve Tucker be endorsed to attend the 2019 Local Government NSW Annual Conference to be held from 14 to 16 October 2019 at Warwick Farm.2) Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Paul Le Mottee be endorsed as Council's four (4) voting delegates at the conference.
------------	---

BACKGROUND

The purpose of this report is to inform Council of the 2019 Local Government NSW Annual Conference to be held from 14 to 16 October 2019 at the William Inglis Hotel, Warwick Farm.

Each member Council of LGNSW has a voting entitlement at the conference. The voting entitlement for Port Stephens Council is four (4) delegates. Council is requested to nominate its four (4) voting delegates that will attend the conference.

This conference is the annual policy-making event for NSW general-purpose councils and associate members. It is the pre-eminent event of the local government year

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

where local elected members come together to share ideas and debate issues that shape the way local government is governed. A draft conference program is attached for Elected Members information (**ATTACHMENT 1**).

The conference is open to all Elected Members.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

The registration fee for the conference is \$940 per delegate.

The costs associated with registration, travel and accommodation are covered within existing budget – subject to an Elected Member not exceeding budget limits set out in the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy. Council will also meet the reasonable cost of meals when they are not included in the conference fees.

Each Elected Member has an annual conference budget of \$3000 per year.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		As per the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

As per the Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy, approval to attend a conference or seminar is subject to approval of a full Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may have its reputation damaged by not attending and not participating in the national debate on key Local Government matters in NSW.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Elected Members attending this conference to ensure the local government area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Draft 2019 LGNSW annual conference program.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 8 - ATTACHMENT 1 DRAFT 2019 LGNSW ANNUAL CONFERENCE PROGRAM.



Local Government NSW Annual Conference 2019

Monday 14 – Wednesday 16 October 2019

Main conference venue is The William Inglis Hotel, 155 Governor Macquarie Drive, Warwick Farm, NSW 2170

DRAFT PROGRAM (as of 11 July 2019)

MONDAY 14 OCTOBER 2019 William Inglis Hotel, 155 Governor Macquarie Drive, Warwick Farm	
7.00am – 9.30am	Meet the Politicians Breakfast, <i>Sales Arena</i> Addresses from The Hon Gladys Berejiklian MP , Premier of NSW (invited), The Hon. Shelley Hancock MP , Minister for Local Government (invited) and other Ministers representing key portfolios of importance to local government. The breakfast is an optional event as part of the LGNSW Annual Conference program and attendance is free to all members registered to attend the Conference. You will be able to RSVP for the breakfast as part of your Conference registration.
9.30am – 4.30pm	Registration opens, <i>outdoor covered area between conference room and exhibition</i>
10.00am – 4.30pm	Councillor Training Workshops Access to training workshops will be for ticket holders only. Tickets can be purchased in advance when registering for the conference.
10.00am – 12.00pm	Workshop 1a - Financial Decision-Making in Local Government, <i>Garden Pavilion</i> Workshop 1b - Understanding and Measuring Social Impact, <i>Grand Armee</i>
1.00pm – 2.30pm	Workshop 2a - Land Use Planning for Councillors, <i>Garden Pavilion</i> Workshop 2b - Update on the Code of Conduct, <i>Grand Armee</i>
3.00pm – 4.30pm	Workshop 3a - Local Government Procurement: Efficiencies and Opportunities, <i>Garden Pavilion</i> Workshop 3b - Speaking and Debating Skills, <i>Grand Armee</i>
1.00pm – 4.30pm	Delegate Lounge sponsored by Transport for NSW open for networking, <i>Pavilion B</i>
From 5.30pm	Bus transfers to Casula Powerhouse for welcome reception begin Departing from William Inglis Hotel and will loop to all conference hotels listed on website
6.00pm – 8.00pm	President's Opening Ceremony followed by welcome reception: <ul style="list-style-type: none"> • Address from Cr Linda Scott, President, LGNSW • Welcome from Cr Wendy Waller, Mayor, Liverpool City Council • Sponsor Address from Ms Rebecca Ryan, Chair, Statewide Mutual and General Manager, Blayney Shire Council Registration will be available at this event.
From 7.30pm	Bus transfers back to conference hotels begin

ITEM 8 - ATTACHMENT 1 DRAFT 2019 LGNSW ANNUAL CONFERENCE PROGRAM.

TUESDAY 15 OCTOBER 2019 – Business Session Day 1 William Inglis Hotel, 155 Governor Macquarie Drive, Warwick Farm	
7.30am – 5.00pm	Registration opens, <i>outdoor covered area between conference room and exhibition</i>
8.00am – 9.00am	Voting for LGNSW Board President, Vice Presidents, Treasurer and Directors, <i>Garden Pavilion</i> Voting for all positions at the one time
8.00am – 9.00am	Trade exhibition opens, <i>The Big Barn and Exhibition Stables</i>
8.45am	Doors open for conference official proceedings, <i>Sales Arena</i> Distribution of voting materials and electronic handsets
9.05am – 9.10am	Conference introduction Tara McCarthy , Chief Executive, LGNSW
9.10am – 9.15am	Welcome to Country on behalf of Gandangara Aboriginal Land Council, Uncle Malcolm Maccoll
9.15am - 11.00am	Address from Cr Linda Scott , President, LGNSW Opening of the Federal Conference, chaired by Cr Linda Scott , including demonstration of voting units, adoption of standing orders, presentation of the auditor's report, general financial report and operating report to members, business session and consideration of motions. Opening of the State Conference, chaired by Cr Linda Scott , including adoption of standing orders, presentation of the auditor's report, general financial report and operating report to members, business sessions, and consideration of motions.
11.00am –11.30am	Morning tea in trade exhibition, <i>The Big Barn and Exhibition Stables</i> Voting for LGNSW Board President, Vice Presidents, Treasurer and Directors, <i>Garden Pavilion</i>
11.30am – 1.00pm	Consideration of conference business continued, chaired by LGNSW President
1.00pm – 2.00pm	Lunch in trade exhibition, <i>The Big Barn and Exhibition Stables</i> Voting for LGNSW Board President, Vice Presidents, Treasurer and Directors, <i>Garden Pavilion</i>
2.00pm – 3.30pm	Consideration of conference business continued, chaired by LGNSW President
3.30pm – 4.00pm	Afternoon tea in trade exhibition, <i>The Big Barn and Exhibition Stables</i> Voting for LGNSW Board President, Vice Presidents, Treasurer and Directors, <i>Garden Pavilion</i>
4.00pm – 5.00pm	Consideration of conference business continued, chaired by LGNSW President Collection of all electronic handsets and motions voting cards Conference business session closes
5.00pm - 6.00pm	Transfer buses begin to conference hotels

ITEM 8 - ATTACHMENT 1 DRAFT 2019 LGNSW ANNUAL CONFERENCE PROGRAM.

7.00pm	Outdoor pre-dinner drinks, <i>The Two Figs (weather dependant)</i>
7.30pm	Doors open for dinner, <i>Sales Arena</i>
8.00pm	LGNSW President introduces Elite Sponsor, StateCover Mutual Limited LGNSW President and Elite Sponsor present the AR Bluett Awards, Outstanding Service Awards and Executive Certificates for elected members
8.30pm	Dinner and entertainment
10.00pm	Transfer buses begin to conference hotels
11.00pm	Dinner closes
WEDNESDAY 16 October 2019 – Business Session Day 2 William Inglis Hotel, 155 Governor Macquarie Drive, Warwick Farm	
7.30am – 5.00pm	Conference registration opens, <i>outdoor covered area between conference room and exhibition</i>
7.30am – 8.45am	Australian Local Government Women’s Association (ALGWA NSW) Breakfast, <i>The Big Barn</i> Women in Leadership Panel: Facilitated by Ellen Fanning . The panel will feature three inspiring women, who will share their journeys, challenges and advice. Ellen Fanning will facilitate an interactive discussion between the panel and audience. The Big Barn exhibition area will be closed during this event and access will be for ticket holders only. Tickets can be purchased in advance when registering for the conference.
8.15am – 4.00pm	Trade exhibition opens, <i>The Stables</i>
8.45am – 4.00pm	ALGWA breakfast closes, trade exhibition opens, <i>The Big Barn</i>
8.45am	Doors open for conference official proceedings, <i>Sales Arena</i> Distribution of voting materials and electronic handsets if required
9.15am	Introduction by Ms Ellen Fanning , Master of Ceremonies
9.20am – 10.00am	Opening keynote: Innovation topic: Speaker to be confirmed
10.00am – 10.25am	Address from Cr Linda Scott , President, LGNSW, on Association Initiatives
10.25am – 10.35am	Treasurer’s report
10.35am – 11.00am	Morning tea in trade exhibition sponsored by NSW Small Business Commission, <i>The Big Barn and Exhibition Stables</i>

ITEM 8 - ATTACHMENT 1 DRAFT 2019 LGNSW ANNUAL CONFERENCE PROGRAM.

11.00am – 11.45pm	<p>Presentation from Mr Paul Hawkins, Chief Combobulator, Crazy Might Work Disruptive by Design: A Collaborative Approach to Solving Wicked Problems. This case study will inspire you to harness world-leading innovation frameworks, social and neuroscience to tackle the most complex of community challenges. You will learn:</p> <ul style="list-style-type: none"> • Why change is painful; • How to innovate collaboratively; • How to drive effective behavioural change
11.45am – 12.45pm	<p>Innovation Spotlight. Panel facilitated by Ellen Fanning A panel shining a spotlight on councils who have used innovative approaches to tackle common problems facing local government.</p>
12.45pm – 1.45pm	<p>Lunch in trade exhibition, sponsored by JLT, <i>The Big Barn and Exhibition Stables</i></p>
12.45pm – 1.45pm	<p>General Managers Lunch, sponsored by StateCover, <i>Garden Pavilion</i></p>
1.45pm – 2.15pm	<p>Speaker to Be confirmed</p>
2.15pm – 3.20pm	<p>Closing Keynote address: Mr Chris Riddell, Global Futurist Chris spends his life connecting with businesses and individuals, across industries, and around our hyper connected digital world. With a talent for analysing emerging trends, patterns and behaviours, Chris's insights are compelling, thought provoking and inspirational.</p>
3.20pm – 3.30pm	<p>Close of conference, Cr Linda Scott, LGNSW President</p>
3.30pm – 4.00pm	<p>Afternoon tea in trade exhibition sponsored by LG Super</p>

This program is correct at the time of publication; speakers and program details may have changed due to unforeseen circumstances.

ITEM NO. 9

**FILE NO: 19/198174
EDRMS NO: PSC2012-02371**

**SUBMISSION OF MOTION TO LOCAL GOVERNMENT NSW SEEKING
AMENDMENTS TO DERELICT BUILDING REGULATION**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Submit a motion to the Local Government NSW (LGNSW) Conference requesting that LGNSW lobby the NSW State Government to increase councils legislative powers to manage derelict sites.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

	<p>Councillor John Nell Councillor Sarah Smith</p> <p>That Council submit a motion to the Local Government NSW (LGNSW) Conference requesting that LGNSW lobby the NSW State Government to increase councils legislative powers to manage derelict sites.</p>
--	---

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
AMENDMENT**

190	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Submit a motion to the Local Government NSW (LGNSW) Conference requesting that LGNSW lobby the NSW State Government to increase councils legislative powers to manage derelict sites.2) Forward a copy of the motion to the Member for Port Stephens, Kate Washington MP, to make representations to the Minister for Local Government, Shelley Hancock MP and the Shadow Minister for Local Government, Greg Warren MP.
------------	--

The amendment on being put became the motion, which was carried.

BACKGROUND

The purpose of this report is seek a Council resolution to submit a motion to the Local Government NSW (LGNSW) Annual Conference to be held in October 2019 seeking increased powers to manage derelict sites.

The community look to Council to manage derelict sites which impact upon the public domain. Council have been requested by the community to respond to a number of complaints regarding derelict sites within the Local Government Area (LGA).

Sites become a concern to the community for various reasons including, amenity concerns, crime and anti-social behaviour, impact upon tourism and businesses and property values. In seeking to resolve these concerns Council have limited legislative powers to compel property owners to manage derelict sites.

The current wording in the legislation is subjective and open to challenge and stronger definitions are required.

Further to the above, the Orders process does not allow for a timely resolution to an issue, in particular when an Order is appealed. The complexities of derelict building management issues, and the short comings of the current legislative provisions and controls, requires review by the NSW government to improve Council's ability to manage this community issue.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Support the amenity and identity of Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial/resource implications, however if the inability to effectively deal with derelict sites continues there could be a financial and resource impact on Council.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal and risk implications in seeking greater legislative powers to deal with derelict properties in the Port Stephens LGA.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that not having the appropriate powers to deal with derelict sites will damage Council's reputation.	Medium	Adopt the recommendation.	Yes
There is a risk that not having the appropriate powers to deal with derelict properties will adversely affect local businesses, property owners and the tourism industry.	Medium	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The motion to LGNSW seeking increased powers for Councils to manage derelict sites, if successful, will allow for Council to deal with these issues more efficiently and effectively. Increased powers in this regard will also protect neighbourhood amenity in a fair and equitable manner.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Development Assessment and Compliance Section.

Internal

Consultation has been carried out with internal Planning, Building and Development Compliance staff regarding the practical application of current legislation.

Consultation has also been carried out with Council's Governance Section as to the process involved in submitting a motion to the LGNSW Conference.

External

Consultation was carried out with Local Government NSW and other Council's regarding the management of derelict sites across NSW.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 10

**FILE NO: 19/197720
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 and Ward Funds to the following:-
 - a. Nelson Bay Hockey Club Inc. – Cr Jaimie Abbott - \$500 donation towards a new canteen refrigerator for the club house.
 - b. Tilligerry Rural Fire Service – Mayoral funds - \$1500 donation towards purchase of a security system for the station.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

191	<p>Councillor Steve Tucker Councillor Jaimie Abbott</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from the respective Mayoral and Ward Funds to the following:-</p> <ol style="list-style-type: none">a. Nelson Bay Hockey Club Inc. – Cr Jaimie Abbott - \$500 donation towards a new canteen refrigerator for the club house.b. Tilligerry Rural Fire Service – Mayoral funds - \$1500 donation towards purchase of a security system for the station.
------------	--

BACKGROUND

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

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

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

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

Tilligerry Rural Fire Service.	A volunteer based firefighting service responsible for fire protection.	\$1500	Donation towards purchase of security system for the station.
--------------------------------	---	--------	---

EAST WARD – Councillors Abbott, Dunkley and Nell

Nelson Bay Hockey Club Inc.	A small family-orientated club provided a relaxed but competitive sporting opportunity for players of all ages.	\$500.	A donation towards the cost of a new canteen refrigerator for the club house.
-----------------------------	---	--------	---

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Support financially creative and active communities.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

Source of Funds	Yes/No	Funding (\$)	Comment
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. 11

**FILE NO: 19/206688
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 13 August 2019.

No:	Report Title	Page:
1	Council Resolutions	125
2	Report back on attendance at the 2019 National General Assembly 16-19 June 2019 in Canberra	133

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

192	<p>Councillor John Nell Councillor Steve Tucker</p> <p>It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 13 August 2019.</p> <hr/> <p>No: Report Title Page:</p> <p>1 Council Resolutions 2 Report back on attendance at the 2019 National General Assembly 16-19 June 2019 in Canberra</p>
------------	---

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 19/189290
EDRMS NO: PSC2017-00105**

COUNCIL RESOLUTIONS

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

BACKGROUND

The purpose of this report is to inform Elected Members of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

Note that at the time of preparing these reports there were no outstanding matters relating to the General Manager's Office.

ATTACHMENTS

- 1) Corporate Services Report.
- 2) Development Services Report.
- 3) Facilities & Services Report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
Action Sheets Report	Committee: Ordinary Council	Date To: 23/07/2019
		Printed: Monday, 29 July 2019

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2017	Meyn, Janet	Ground Lease over Part of 4 Leisure Way, Raymond Terrace for Telecommunications Facility	31/10/2019	29/11/2017	
1		Foster, Carmel				17/236078
297						
26 Jul 2019 - The Lease is currently with Local Government Legal awaiting execution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/03/2018	Meyn, Janet	COMPULSORY ACQUISITION OF AN EASEMENT FOR ACCESS OVER PART OF 6 GOVERNMENT ROAD, SHOAL BAY	31/12/2019	28/03/2018	
13		Foster, Carmel				18/66656
066						
26 Jul 2019 - Council is still awaiting approval from the Office of Local Government.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/07/2018	Meyn, Janet	398 CABBAGE TREE ROAD, WILLIAMTOWN	29/11/2019		
2		Foster, Carmel				18/151411
221						
26 Jul 2019 - Williamtown Sand Syndicate are in the process of completing the final conditions precedent. It is expected that Council will be able to sign the lease agreement by September 2019.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/08/2018	Meyn, Janet	Proposed Partial Road Closure - The Close, Raymond Terrace for future Development of Terrace Central Shopping Centre	31/10/2019	15/08/2018	
1		Foster, Carmel				18/179364
254						
26 Jul 2019 - Council is still awaiting registration of the subdivision.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
Action Sheets Report	Committee: Ordinary Council	Date To: 23/07/2019
		Printed: Monday, 29 July 2019

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 3	Ordinary Council 12/02/2019	Meyn, Janet Foster, Carmel	King Street, Raymond Terrace Easements	31/05/2020	14/02/2019	19/39843
26 Jul 2019 - Council is awaiting approval from the Office of Local Government.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 099	Ordinary Council 14/05/2019	Meyn, Janet Foster, Carmel	DEBT RECOVERY	24/12/2019	15/05/2019	19/136619
26 Jul 2019 - Debt recovery is underway.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 5 109	Ordinary Council 28/05/2019	Meyn, Janet Foster, Carmel	PROPOSED ACQUISITION OF FORMER FIRE STATION SITE - 51 WILLIAM STREET, RAYMOND TERRACE	29/11/2019	29/05/2019	19/148388
26 Jul 2019 - Council is awaiting approval from the Office of Local Government.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 6 110	Ordinary Council 28/05/2019	Meyn, Janet Foster, Carmel	COMPULSORY ACQUISITION OF PART OF VICTORIA PARADE RESERVE NELSON BAY FOR ROAD PURPOSES	29/11/2019	29/05/2019	19/148388
26 Jul 2019 - The application has been lodged with the Office of Local Government. The Property Team are following statutory regulations and processes.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
Action Sheets Report	Committee: Ordinary Council	Date To: 23/07/2019
		Printed: Monday, 29 July 2019

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/06/2019	Meyn, Janet	Naming of Reserve - Bower Reserve, Medowie	27/09/2019	12/06/2019	
3		Foster, Carmel				19/160026
121						
26 Jul 2019 - The public exhibition has closed. Paperwork has been submitted with the Geographical Naming Board.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/06/2019	Meyn, Janet	Sale of Biobanking Credits from the Karuah Biobanking Site	30/08/2019	12/06/2019	
4		Foster, Carmel				19/160026
122						
26 Jul 2019 - The expected document is with the purchaser whom is required to make payment to Council and process Transfer paperwork with Office of Environment and Heritage.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/06/2019	Foster, Carmel	Donald Street East car park, Nelson Bay.	31/08/2019		
2		Foster, Carmel				19/171142
137						
15 Jul 2019 - Options Report will be presented to Council in August 2019.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2019	Hazell, Tim	COMMUNITY PROJECTS FUND 2019-2020	6/08/2019		
8		Foster, Carmel				19/186501
148						
25 Jul 2019 - Successful applicants were provided with a new creditor form to fill in and send back to arrange for payment. Financial Services is awaiting the return of completed forms. Progress updates will be provided.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
Action Sheets Report	Committee: Ordinary Council	Date To: 23/07/2019
		Printed: Monday, 29 July 2019

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2019	Hazell, Tim	REVIEW LOCAL PROCUREMENT PRACTICES	30/12/2019		
3 156		Foster, Carmel				19/186501
25 Jul 2019 - The Procurement Policy and Procurement Management Directive has been reviewed by the Finance Officer - Procurement and Contract Management Specialist and Financial Services Section Manager. Consultation ongoing. Progress updates will be provided.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2019	Meyn, Janet	Sale of 2 Jessie Road, Anna Bay (formerly Anna Bay Oval)	30/11/2019		
1 158		Foster, Carmel				19/186501
26 Jul 2019 - Council are continuing to liaise with the Legal Team to discuss special conditions.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/07/2019	Meyn, Janet	GRANT OF EASEMENTS IN FAVOUR OF AGL - PUNT ROAD, TOMAGO	6/08/2019		
7 169		Foster, Carmel				19/200498
26 Jul 2019 - Property Services team are progressing with the statutory process with AGL to organise paperwork to proceed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/07/2019	Meyn, Janet	ROAD DEDICATION FOR FUTURE ROAD WIDENING - 813A MEDOWIE ROAD MEDOWIE	6/08/2019		
8 170		Foster, Carmel				19/200498
26 Jul 2019 - Property Services team has organised the Notice of Dedication to be published in the NSW Government Gazette on Friday 2 August 2019.						

ITEM 1 - ATTACHMENT 2 DEVELOPMENT SERVICES REPORT.



Outstanding	Division: Development Services	Date From: 26/09/2017
Action Sheets Report	Committee: Ordinary Council	Date To: 23/07/2019
		Printed: Monday, 29 July 2019

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/02/2019	Pearl, Steven	Draft Amendment to the Port Stephens Development Control Plan 2014 - Chapter D13 Rees James Road, Raymond Terrace	27/08/2019	27/02/2019	
2		Crosdale, Timothy				19/54534
24 Jul 2019 - Submission received - Report scheduled for Council meeting on 27 August 2019.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2019	Pearl, Steven	Draft Fern Bay and North Stockton Strategy	22/10/2019	29/05/2019	
1		Crosdale, Timothy				19/148388
105						
24 Jul 2019 - It was resolved that Council defer Item 1 at the request of City of Newcastle Council. Councillor workshop confirmed for 8 August 2019. Report scheduled for Council meeting on 22 October 2019.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2019	Drinan, Kate	Development Application 16-2019-24-1 for a Telecommunications Facility at 41 Fishermans Bay Road, Fishermans Bay (Lot: 1 DP: 1094320).	13/08/2019		
1		Crosdale, Timothy				19/186501
139						
24 Jul 2019 - Item deferred at Council meeting on 9 July 2019. Report scheduled for Council on 13 August 2019.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2019	Pearl, Steven	ELECTRIC VEHICLE CHARGING POINTS FOR NEW DEVELOPMENTS	24/09/2019		
1		Crosdale, Timothy				19/186501
154						
24 Jul 2019 - A Council Report is scheduled for 24 September 2019.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
Action Sheets Report	Committee: Ordinary Council	Date To: 23/07/2019
		Printed: Monday, 29 July 2019

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/10/2017	Maretich, John	Lemon Tree Passage Swimming Pool Net	30/09/2019	25/10/2017	
2 269		Kable, Gregory				17/210300
27 Jun 2019 - Risk assessment has be received. Staff reviewing the options prior to reporting back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/02/2018	Maretich, John	SPORTS GROUND IRRIGATION SYSTEMS	30/11/2019	14/02/2018	
2 026		Kable, Gregory				18/32353
27 Jun 2019 - Irrigation assets to be reviewed as per the Strategic Asset Management Plan.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/03/2018	Malloy, Aaron	Lease of grounds of 43, 45, 47 and 47A Tanilba Avenue Tanilba Bay (Lot 238, Lot 270 and Lot 271 DP753194, Lot 342 DP704442) to Calvary Retirement Communities Hunter- Manning Limited ACN 102625212.	30/12/2019	28/03/2018	
14 067		Kable, Gregory				18/66656
15 Jul 2019 - The lease has been sent to Crown Lands for approval. Once approval from Crown Lands comes through it then has to go to both the Worimi Land Council and the NSW Local Aboriginal Council as both have land claims on this parcel of land.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/04/2018	Maretich, John	BOBS FARM DRAINAGE	31/12/2020	11/04/2018	
2 084		Kable, Gregory				18/75830
27 Jun 2019 - It was proposed that the SRV were to fund taking ownership of these assets. Currently examining funding options to determine if Council can adopt these as public assets.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee: Ordinary Council	Date To: 23/07/2019
Action Sheets Report		Printed: Monday, 29 July 2019

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/06/2019	Kable, Gregory	Funding for Proposed Community Projects	30/08/2019		
1		Kable, Gregory				19/171142
136						
27 Jun 2019 - Community consultation arranged over 6 nights during month of July. Meeting arranged internally on 080619 to scope and look at funding allocation for each project. Councillors Strategic Workshop to be held in August.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/07/2019	Maretich, John	ROCK REVETMENT AT KANGAROO POINT, SOLDIERS POINT	31/07/2020		
2		Kable, Gregory				19/186501
155						
15 Jul 2019 - Council staff will seek to identify grant funding opportunities for this project.						

ITEM NO. 2

**FILE NO: 19/210104
EDRMS NO: PSC2010-05535**

REPORT BACK ON ATTENDANCE AT THE 2019 NATIONAL GENERAL ASSEMBLY 16-19 JUNE 2019 IN CANBERRA

REPORT OF: GLEN DUNKLEY - COUNCILLORS
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to present back to Council and the community information learnt from attending the Australian Local Government Association's National General Assembly held in Canberra from Sunday 16 June 2019 to Wednesday 19 June 2019.

The conference was attended by Mayor Ryan Palmer, Councillors Glen Dunkley and Paul Le Mottee and General Manager Wayne Wallis.

The conference opened with the regional forum, which focused on a number of key issues for regional Australia. These being:

- Renewing Regions.
- Communication in regions.
- Housing in regional Australia.
- Technology in regional Australia.
- Tourism in regional Australia.

This set the tone for the rest of the conference, with a large focus on housing and housing affordability. Along with technology and communications in regional areas.

The discussion around housing challenged some conventional thinking and offered ideas on how some issues could be solved, these included solutions such as public – private partnerships, using space above car parks and commercial areas. The discussion also focused on issues such as Airbnb and pressures on infrastructure.

The role of local government in housing was shown to be much bigger than most people appreciate, such as support for community organisations, supply of land, engaging with other tiers of government, development and implementation of planning tools and coordination of social services. There is a fear in local government that further engagement in the housing issues will see further cost shifting to them from other levels of government.

Communications was another key theme, focusing on how to use technology and intelligence to communicate during natural disasters. There was a couple of presentations that highlighted the importance of this. The Wujal Wujal Aboriginal Shire Council presented an excellent case study on remote communication points they have set up to ensure information is conveyed to everyone.

The conference also shared some of the recent wins and challenges for local government, these included increased roads to recovery funding, black funding increases, increase in healthy community funds (particularly around female change rooms), place based technology funding. It was also highlighted that there is a drive for recycled content in government procurement.

A futurist again challenged our thinking, again linking back to housing saying we place a financial bet on where we live, that we as community have an unfinished product that we must build to create the investment we want. The example used was a phone, out of the box its unfinished then we continually add apps to change to our own, he argues that a community is much the same.

Other ideas that we discussed included collaboration, using the experts in your community, proper experts, not those who think they are experts and engaging them in a meaningful way. Also crowd funding projects examples included a pool in New York and Bridge in the Netherlands. – Thinking differently and thinking for the future was a key message.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

**FILE NO: 19/204327
EDRMS NO: PSC2017-00019**

ASSET SALES

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Commit to extensive, genuine community consultation prior to any future asset sales, and that such a sale may only occur after community consultation is complete.
-

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>That Council commit to extensive, genuine community consultation prior to any future asset sales, and that such a sale may only occur after community consultation is complete.</p>
--	---

The motion was lost.

**BACKGROUND REPORT OF: JANET MEYN – PROPERTY SERVICES SECTION
MANAGER**

BACKGROUND

Under the Local Government Act 1993, land is classified as either Community or Operational land. When the classification occurred in 1993, extensive community consultation was undertaken by Council prior to the adoption of the proposed classification. If there was a community need determined then the land was classified Community.

Council's Operational Land holdings are considered surplus to Council's needs and primarily held for future development and sale to increase Council's non rate revenue. If any land is proposed to be reclassified from Community land to Operational land, rigorous consultation including a public hearing is undertaken. Any sale of Council Operational Land requires a Council Resolution.

Council endorsed the Acquisition and Divestment of Land Policy on 10 April 2018 (**ATTACHMENT 1**).

The policy states:

'To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned land. The objectives of this policy aim to provide Council with a framework which adopts the following principles:

- Probity.
- Statutory compliance.
- Commercial optimisation, flexibility and confidentiality.
- Transparency of process.
- Achievement of specific strategic outcomes of Council and the community.

All decisions and actions in relation to the acquisition or divestment of land will have due regard to the following fundamental principles:

- Best value for money - achieving 'best value' may include financial, social and environmental benefits.
- Transparency - processes must be open to scrutiny, provide full information and record the reasons behind decisions.
- Accountability - demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- Impartiality - address perceived or actual conflicts of interests.'

Further, as Stated in Item 6.13 – Methods of Divestment.

'6.13.1 - An open competitive process of divestment is required using one of the following methods:

- Expression of interest - used for unusual properties capable of a variety of development, difficult to determine a market value.
- Tender - least common and used predominantly in high value, limited market situations.
- Auction - the most open and public method, favoured by government but reliant on high levels of competition. Often achieves a quick sale. Can fail in poor market.
- Private Treaty - most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process) and can arise after an unsuccessful auction.'

Council adheres to the policy and as such, provides the opportunity for interested parties within the community to express their interest in a property. It is important to note confidentiality is paramount in any property transaction.

ATTACHMENTS

- 1) Acquisition and Divestment of Land Policy.

ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



FILE NO: A2004-0853

TITLE: ACQUISITION AND DIVESTMENT OF LAND POLICY

POLICY OWNER: PROPERTY SERVICES SECTION MANAGER

1. PURPOSE:

1.1 To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned land.

2. CONTEXT/BACKGROUND:

2.1 The acquisition and divestment of land by Council requires a formal process that is underpinned by probity, due diligence, analysis of risk and other key objectives. The number of land acquisitions and/or divestments undertaken by Council in any given year, although relatively low, is crucial to the strategic provision of open space, operational and community benefits, achieving planning outcomes and commercial gains from land development.

2.2 This policy applies to the acquisition of all land as defined in this policy. It acknowledges the principles set out in Chapter 3 of the *Local Government Act 1993* providing guidance to enable Councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous. It also acknowledges Circular 15-09 from the Office of Local Government dated 25 February 2015 relating to compulsory acquisitions.

2.3 This policy applies only to the divestment of Operational Land as defined under the *Local Government Act 1993* but applies to the acquisition of all land either for Community or Operational purposes.

3. SCOPE:

3.1 To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned land. The objectives of this policy aim to provide Council with a framework which adopts the following principles:

- Probity
- Statutory compliance
- Commercial optimisation, flexibility and confidentiality

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- Transparency of process; and
- Achievement of specific strategic outcomes of Council and the community.

All decisions and actions in relation to the acquisition or divestment of land will have due regard to the following fundamental principles:

- Best value for money - achieving 'best value' may include financial, social and environmental benefits;
- Transparency - processes must be open to scrutiny, provide full information and record the reasons behind decisions;
- Accountability - demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails;
- Impartiality - address perceived or actual conflicts of interests.

4. DEFINITIONS:

4.1 An outline of the key definitions of terms included in the policy.

Act means the *Local Government Act 1993*.

Contract means any form of contract which legally binds the Council [or potentially binds Council] to acquire or dispose of land or any interest therein and includes formal contracts for sale and purchase and other forms of contractual arrangements including heads of agreement, in principle agreement, options to purchase etc.

Land is as defined in section 21 of the *Interpretation Act 1987*.
As a more specific reference for the purpose of this policy, 'land' is defined as:

Land as a physical entity including:

- any building or structure on or improvement to land; or
- any stratum of land whether below or above ground; or
- a strata lot pursuant to relevant strata subdivision legislation.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



Programmed acquisition means when Council requires the affected land and initiates the acquisition process.

Regulation means the *Local Government (General) Regulation 2005* and any replacement Regulation.

5. POLICY STATEMENT:

5.1 The purpose of this policy is to describe the manner in which Port Stephens Council will undertake the acquisition and divestment of land assets and to provide Council with:

- a documented reference to guide its decision making process;
- a reference that will survive successive Councils;
- an endorsed framework to enable and pursue land acquisition and divestment opportunities of merit and proactively present such opportunities to Council;
- to establish delegations necessary to allow implementation functions to be addressed to meet market drivers;
- to set out the principles, framework, responsibilities and processes for Council and officers to account for and manage the acquisition and divestment of Council land assets;
- to identify, manage and mitigate the risks associated with the acquisition and divestment of land; and
- to ensure impartiality, transparency, accountability and the delivery of best value in the divestment of land ('fundamental principles').

6. POLICY RESPONSIBILITIES:

6.1 Land Acquisition Procedure

6.1.1 Fundamental Principles

6.1.2 Council will acquire land for the purpose of carrying out its functions under the Act. Any land to be acquired by Council is subject to a formal resolution of Council.

6.2 Independent Valuation Benchmark and Purchaser's Premium

6.2.1 Any land acquisition is to be benchmarked to an independent valuation of land unless the size of the land or the agreed value is negligible.

6.2.2 In some cases there will be a justified basis for Council acquiring land at a price above the valuation benchmark (ie Purchaser's Premium) in order to guarantee the

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



successful securing of the land to achieve defined goals and objectives of Council or to acquire the land with a view to adding value (or reducing risk) to a larger scheme or development (future or current).

- 6.2.3 Any Purchaser's Premium should be determined and quantified within the initial decision of Council and referenced to the achievement of specific goals and objectives of Council. In essence, Council can make a commercial decision to pay in excess of the valuation due to the importance of the acquisition for the public purpose.

6.3 Acquisition Process

- 6.3.1 Section 377(1)(h) of the *Local Government Act 1993* requires a specific resolution of Council to acquire land. This decision cannot be delegated. While the General Manager and/or their delegate may make preliminary enquiries and negotiations regarding a possible purchase and purchase price, any offer to acquire land must state that the proposed acquisition is conditional upon a resolution of Council authorising the acquisition. The General Manager and/or their delegate shall:

- Be responsible for the conduct of all negotiations;
- Have regard to an independent valuation obtained from a registered valuer;
- Seek such other professional advice as is considered necessary in the circumstances;
- Have regard to the Independent Commission Against Corruption publication *Direct Negotiations* so far as is appropriate in the circumstances; and
- Report the outcome of all negotiations to the Council for determination.

- 6.4 Prior to finalisation of an acquisition, Council shall determine the classification of the land as either Operational or Community.

- 6.5 Council's process of land acquisition must include the following steps:

- Identification of the land acquisition opportunity by Council and/or the responsible officer;
- In principle decision by the General Manager to commence the pre-acquisition process;
- Preparation of a comprehensive assessment of the land acquisition including:
 - required due diligence;
 - independent rental or purchase valuation;
 - assessment against the principles and objectives of Council's Integrated Planning framework;

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- identification of funding source and assessment against Council's Long Term Financial Plan; and
- a statement of goals and objectives for the proposed land to be acquired including a statement of any 'Purchaser's Premium' deemed appropriate by Council;
- Formal consideration by Council of dealing with the matter and, if required, in accordance with Section 10A of the Act be dealt with in a closed meeting;
- Formal report to Council including the land acquisition assessment and documented reasons for Council's acquisition of the land and, if supported, delegation to the General Manager to negotiate an outcome subject to the financial and risk parameters as determined by Council;
- Negotiation and, if successful, implementation of all matters necessary for the preparation, signing and sealing of contract documentation required;
- Once completed the General Manager to advise Council of the outcome (successful or otherwise).

The process is designed to ensure fairness and equity.

6.6 Methods of Acquisition

6.6.1 Wherever possible Council's preferred method of acquisition is to acquire land through mutual agreement with the owner of the land. The key principles in the acquisition of land are:

- Opportunistically by responding when the desired land is offered to the market; and
- Pro-actively by initiating negotiations for the desired land.

6.6.2 Council's preferred position is not to acquire land through compulsory acquisition, however, Council has an obligation to provide services to the community and, if required, Council may consider utilising its powers under the *Local Government Act 1993* in respect of 'compulsory acquisition'.

6.6.3 Circular 15-09 from the Office of Local Government dated 25 February 2015 outlines changes to the process for acquiring privately owned land by compulsory process, to improve fairness and transparency. The new requirements apply to all acquiring authorities in NSW, including local Councils. Compliance with the requirements is mandatory. NSW Office of Finance and Services (OFS) has issued Circular No 2015-01 (of 1 January 2015) setting out the new requirements. Before making an application for approval to compulsorily acquire private land, Councils must provide the land owner with information about the compulsory acquisition process. OFS has prepared a "Land

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



Acquisition Information Guide”, which Councils can use for that purpose. In addition, Councils must make additional efforts to negotiate with the land owner, including making every reasonable effort to have at least one face to face meeting with the land owner and/or their representative. Councils seeking to acquire privately owned land by compulsorily process, either under the *Local Government Act 1993* or the *Roads Act 1993*, must comply with the new requirements. Councils will need to provide evidence of having complied with these requirements with their Compulsory Acquisition application form.

- 6.6.4 Compliance with the new requirements is mandatory. They should be applied to all proposals to acquire private land currently under consideration by Councils and to all future proposals for the acquisition of private land where it is deemed appropriate for additional negotiation to occur.
- 6.6.5 If the land is to be acquired for future development or strategic investment purposes, the acquisition of the land will be through negotiation between Council and the vendor on the basis of a valuation to determine a fair market value plus or minus 10% for the purposes of negotiation. The key principles of the acquisition are to be:
 - Location
 - Topography
 - Area
 - Zoning

6.6.6 A business case and feasibility study will be prepared to determine the viability and development potential for the land to be included in the report to Council.

6.7 Compensation

6.7.1 Compensation will apply to land owners affected by acquisition under the following provisions:

- Owner initiated acquisitions
- Programmed acquisitions

6.7.2 In determining the amount of compensation to which a person is entitled, Part 3 Division 4 of the *Land Acquisition (Just Terms Compensation) Act, 1991* requires that regard must be given to the following matters only:

- a) The market value of the land on the date of its acquisition;
- b) Any special value of the land to the person on the date of its acquisition;
- c) Any loss attributable to severance;
- d) Any loss attributable to disturbance;

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- e) Solatium (ie compensation for non-financial disadvantage arising the need to relocate as a result of the acquisition); and
- f) Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

6.7.3 Land owners claiming hardship in accordance with section 24 of *the Land Acquisition (Just Terms Compensation) Act, 1991* provisions should note that Council is not required to acquire land unless it is of the opinion that the owner will suffer hardship (within the meaning of section 24 of this Act. An owner of land suffers hardship if:

- a) The owner is unable to sell the land, or is unable to sell the land at its market value, because of the designation of the land for acquisition for a public purpose; and
- b) It has become necessary for the owner to sell all or any part of the land without delay:
 - i. For pressing personal, domestic or social reasons, or
 - ii. In order to avoid the loss of (or a substantial reduction in) the owner's income.

6.7.4 However, if the owner of the land is a corporation, the corporation does not suffer hardship unless it has become necessary for the corporation to sell all or any part of the land without delay for pressing personal, domestic or social reasons of an individual who holds at least 20 per cent of the shares in the corporation, or in order to avoid the loss of (or a substantial reduction in) the income of such an individual.

6.8 Land Divestment Procedures

6.8.1 Fundamental Principles

6.8.2 All decisions and actions in relation to the divestment of land will have due regard to the following fundamental principles:

- Best Value for Money - Achieving 'best value' may include financial, social and environmental benefits;
- Transparency - processes must be open to scrutiny, provide full information, and record the reasons behind decisions;
- Accountability - demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails;

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- Impartiality - address perceived or actual conflicts of interests, ensuring fairness and equity.

6.9 Land Deemed to be Surplus

6.9.1 'Land' includes all real property whether vacant or improved. Land may not be sold by Council unless it is classified as 'Operational Land' under section 25 of the *Local Government Act, 1993*.

6.9.2 In order to establish whether or not land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the *Local Government Act, 1993*.

6.10 Delegated Authority

6.10.1 Section 377 (1) (h) of the *Local Government Act 1993* requires a specific resolution of Council to dispose of land. The decision cannot be delegated.

6.10.2 The report to Council is to include reference to the manner of divestment (often contained within a confidential report) in regards to the terms of the sale and the agreed price, or range for negotiations. The sale cannot proceed outside of such parameters (without a further resolution).

6.10.3 The resolution should also provide for the General Manager to have delegated authority to negotiate any outstanding, usually minor, conditions and to be authorised to execute any documents in relation to the matter deemed appropriate by Council's legal advisors.

6.10.4 A copy of the report and resolution is to be provided to Council's legal advisors upon instruction, as authority to act and to ensure compliance with the resolution.

6.10.5 While the General Manager and/or their delegate may enter into preliminary discussions or negotiations regarding a possible sale of Council land, all pre-sale discussions/negotiations with potential purchasers must always be qualified by the statement "subject to a resolution of Council authorising the sale" if there is no current resolution of Council to dispose of the land.

6.10.6 The General Manager and/or their delegate may enter into non-binding indicative offers in the form of a:

- a) Letter; or
- b) Heads of Agreement; or
- c) Memorandum of Understanding

provided that the document clearly states the offer is:

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- i. Not legally binding; and
- ii. Subject to:
 - a) Adoption of a final Council resolution authorizing the sale; and
 - b) Legally binding Contracts for Sale and Purchase of Land on terms acceptable to both parties being entered into.

6.11 Marketing Process

6.11.1 Except in exceptional circumstances such as the sale to an adjoining owner of "landlocked" land that does not have legal access to a public road, any divestment of Council land must be preceded by a commercial marketing campaign which may include one or more of the following:

- a) Appointment of a licensed real estate agent.
- b) Online advertising.
- c) Advertising in print media; and
- d) Sign boards on the land.

6.12 Valuation Process

6.12.1 At least one formal market valuation undertaken by a valuer registered to value such land is required to be commissioned prior to all land divestments.

6.12.2 Two valuations may be required when the value of the land is likely to exceed \$2,000,000 and/or the process of divestment is not competitive (as defined below).

6.12.3 An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.

6.12.4 When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different and more detailed justification of the price.

6.12.5 An updated valuation or valuation advice is required after 12 months of the date of the original valuation if the land is not sold, or at any time, there is considered to be a material movement in the value.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



6.12.6 The valuation instructions must clearly state the following:

- The purpose of the valuation being 'divestment'.
- The basis of valuation being 'market value highest and best use', unless an alternative basis is considered more appropriate in the circumstances.
- That the valuation is to be marked confidential; and
- That the valuation includes market commentary, including supply and demand details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of divestment and opportunities to add value.

6.12.7 In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

6.13 Methods of Divestment

6.13.1 An open competitive process of divestment is required using one of the following methods:

- Expression of interest - used for unusual properties capable of a variety of development, difficult to determine a market value.
- Tender - least common and used predominantly in high value, limited market situations;
- Auction - the most open and public method, favoured by government but reliant on high levels of competition. Often achieves a quick sale. Can fail in poor market.
- Private Treaty - most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process) and can arise after an unsuccessful auction.

6.13.2 Council may approve a non-competitive process of divestment such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

6.13.3 Risk mitigation measures for direct negotiations may include:

- Obtaining two valuations where the land may be valued at more than \$2,000,000; and consequently establishing a range for negotiation, having regard to the two valuations;
- Managing conflicts of interest with declarations of no personal or financial associations;

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- Establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed and documented; and
- Limitation on marketing budget and exclusive agency periods.

6.13.4 In rare circumstances, land may be disposed of to achieve strategic outcomes. In such situations, 'best value' may comprise financial, environmental or social elements, with the price falling below the 'market value' range.

6.13.5 The report seeking resolution of Council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

6.14 Sale to Adjoining Owners

6.14.1 In circumstances where land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widening, closed laneways, boundary adjustments etc) and the only potential purchasers are adjoining owners, the land must be offered in equal proportions to each adjoining owner on identical sale terms and conditions.

6.14.2 Where an adjoining owner does not wish to purchase their proportion of the land, the rejected land will be equally offered to the remaining adjoining owner.

6.14.3 The recommended method of determining the sale price is the 'Before and After' valuation method for the purchaser's land. For small portions of land, the 'piecemeal' (\$ rate per square metre) method may be more appropriate.

6.14.4 An essential condition of sale is that the purchaser is required to consolidate the subject land with their existing holding at no cost to Council.

6.14.5 The costs associated with the sale process will be borne by the prospective purchaser.

6.15 Sale of Roads – Roads Act, 1993

6.15.1 No road can be sold until it is formally closed in accordance with the provisions of the *Roads Act, 1993*.

6.15.2 For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

6.15.3 When Council initiates the road closure (in order to realise the value of surplus land), the costs will be borne by Council as development costs.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- 6.15.4 The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the land upon closure in accordance with the terms of sale.
- 6.15.5 In accordance with section 43 of the *Roads Act, 1993*, funds from the sale of roads are required to be set aside for acquiring Land for public roads or for carrying out work on public roads.
- 6.16 Confidentiality
- 6.16.1 In the majority of divestments of land, the information contained in reports to Council to sell land may confer an advantage upon a person with whom Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such matter in an open session because release of the information could prejudice Council's ability to obtain the maximum return on the land.
- 6.16.2 It is acknowledged therefore that reports to Council on the divestment of land will be generally deemed confidential under section 10A (2) (c) of the *Local Government Act, 1993*. This confidentiality may be lifted by Council resolution upon settlement, if considered to be in the public interest.
- 6.16.3 The need for confidentiality also arises for acquisitions of land by Council, as business papers for resolutions will contain an indicative budget amount for the acquisition thus providing an advantage to the potential vendor. Hence, Section 10A (2) (c) should also apply to all acquisitions by Council.
- 6.17 Distribution of Funds
- 6.17.1 Net profit received from sales of surplus Community Land that has been rezoned and reclassified will be entirely allocated to the Asset Rehabilitation reserve.
- 6.17.2 Net profit received from the sale of land from road closures, boundary adjustments, small parcels and surplus operational land will be assigned to general revenue.
- 6.17.3 Where land development activities on land in the operational development land bank produce a net profit, 70% will be allocated to the Property Investment restricted fund and 30% will be allocated to Ward funds. The 30% Ward funds will be spent in accordance with the integrated strategic plans.
- 6.17.4 Should an allocation of funds be sought contrary to the ratio stated within this policy, a Council resolution will be required to amend the ratio.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au

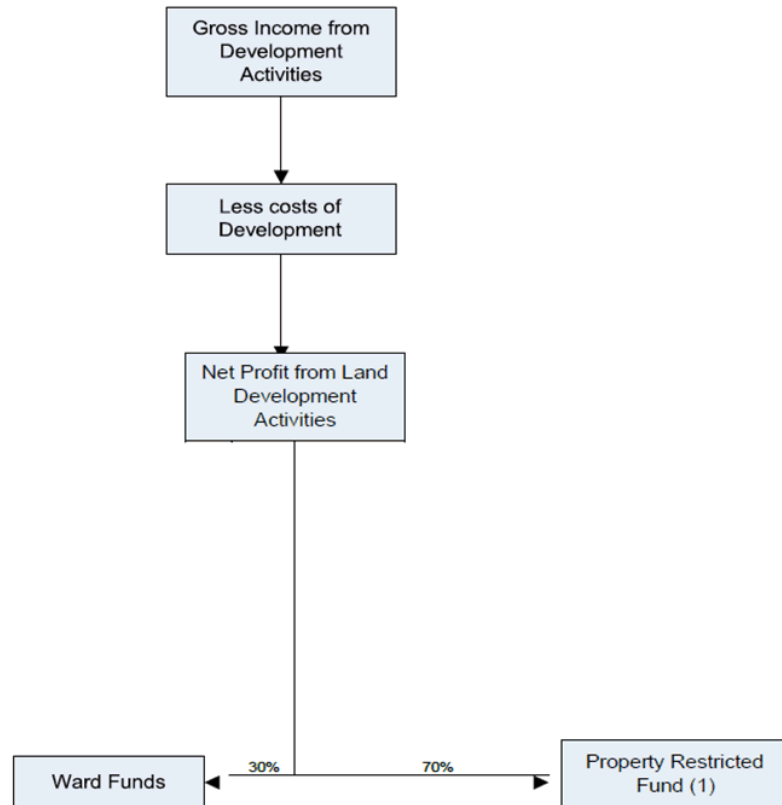


ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



Land Development Activities



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



6.18 Environmental Implications

6.18.1 Environmental considerations for land that is to be reclassified or rezoned will be addressed at the time of the preparation of the Planning Proposal. The development of land will require a Development Application at which time it will be necessary to prepare a Statement of Environmental Effects, which will assess any environmental impacts.

6.19 Relevant Legislative Provisions

6.19.1 *The Local Government Act, 1993* vests authority in Council to sell or exchange Real Property. In respect of this policy, 'exchange' includes land acquisition and other related activities including land swaps etc.

6.19.2 In accordance with section 377 of the Act, any decision to dispose of land must be made by resolution of Council as the power to sell, exchange or surrender land cannot be delegated.

6.19.3 Section 45 of the Act prevents Council from selling, exchanging or otherwise disposing of community land other than to become or be added to a Crown Reserve or National Park.

6.19.4 Section 55 of the Act requires tenders to be called in certain circumstances. However, it is not necessary to call tenders for the sale of land.

6.19.5 In accordance with Council's Purchasing policy and Disposal policy, land acquisition and divestment activities are excluded from the provisions of the Purchasing policy.

6.19.6 Council's real estate activities will be managed within the legislative parameters of the:

- *Local Government Act, 1993;*
- *Valuation of Land Act, 1916;*
- *Conveyancing Act, 1919;*
- *Environmental Planning and Assessment Act, 1979;*
- *Residential Tenancies Act, 1987;*
- *Land Acquisition (Just Terms Compensation) Act, 1991;*
- *Roads Act, 1993;*
- *Retail Leases Act, 1994;*
- *Crown Lands Act, 1989;*
- *Environment Protection and Biodiversity Conservation Act, 2000;*
- *National Parks and Wildlife Conservation Act, 1975;*
- *Real Property Act, 1919;*

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



- Regulations under each of the above Acts;
- Relevant Codes, Plans and Policies referred to in Section 13 of this policy; and
- Any other legislation applicable to the policy.

6.20 Contract for the Sale of Land

6.20.1 Contracts for the sale of land will usually contain standard conditions of sale. Any unusual or special conditions of sale require the approval of Council or the General Manager under delegation.

6.20.2 Council’s legal representative is responsible to ensure contracts for the sale of land satisfy statutory disclosure and warranty obligations (*Conveyancing (Sale of Land) Regulation 2017*).

6.21 Departure from this Procedure

6.21.1 Any provision of this procedure may be varied to meet the needs of a particular matter, by resolution of the Council. The reasons for change will be clearly articulated within the report submitted for consideration by Council in adopting such resolution and will only apply to such matter.

7. RELATED DOCUMENTS:

- 7.1 Property Investment Policy
- 7.2 Cash Investment Policy
- 7.3 Long Term Financial Plan
- 7.4 Financial Business Rules Management Directive
- 7.5 Local Government Act, 1993
- 7.6 Land Acquisition (Just Terms Compensation) Act, 1991
- 7.7 Land Acquisition Information Guide

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No	A2004-0853	EDRMS record No	18/139237
Audience	Council Staff		
Process owner	Property Services Section Manager		

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au

ITEM 1 - ATTACHMENT 1 ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



Author	Land Acquisition and Development Manager		
Review timeframe	Two years	Next review date	10 April 2020
Adoption date	29 May 2012		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	29 May 2012	Property Services Section Manager	Original policy.	110
2	14 April 2015	Land Acquisition and Development Manager	Changes to position titles and dates.	079
3	23 February 2016	Land Acquisition and Development Manager	Policy has been formatted into new template. No changes required to policy – only review date.	034
4	10 April 2018	Land Acquisition and Development Manager	2.2 - Background updated to reflect current legislation by removing reference to the Council Charter. 6.9.6 - Policy amended to set out process for non-binding offers to sell being documented prior to a formal resolution being secured. 6.10 - Policy amended to specify marketing of divestment lands in certain circumstances.	079

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au



NOTICE OF MOTION

ITEM NO. 2

**FILE NO: 19/204007
EDRMS NO: A2004-0284**

CODE OF MEETING PRACTICE

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Amend its Code of Meeting Practice to include:
 - a. clause 11.11 from the Office of Local Government's recommended clauses for a code of meeting practice, reading:

"All voting at council meetings (including meetings that are closed to the public) must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."
- 2) Amend its Code of Meeting Practice to remove:
 - a. clauses 11.6 to 11.9 and 11.13, per the recommendation from the Office of Local Government, if clause 11.11 is included.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>That Council:</p> <ol style="list-style-type: none">1) Amend its Code of Meeting Practice to include:<ol style="list-style-type: none">a. clause 11.11 from the Office of Local Government's recommended clauses for a code of meeting practice, reading:<p style="margin-left: 40px;">"All voting at council meetings (including meetings that are closed to the public) must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."</p>2) Amend its Code of Meeting Practice to remove:<ol style="list-style-type: none">a. clauses 11.6 to 11.9 and 11.13, per the recommendation from the Office of Local Government, if clause 11.11 is included.
--	---

The motion was lost.

Cr Giacomo Arnott and Cr John Nell called for a division.

Those for the Motion: Cr Giacomo Arnott.

Those against the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

**BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE SECTION
MANAGER**

BACKGROUND

Council adopted the current Code of Meeting Practice at its meeting of 28 May 2019. A copy of the Council resolution is shown at **ATTACHMENT 1**.

The adopted Code of Meeting Practice is based on the Model Code of Conduct (Model Code) released by the Office of Local Government late 2018.

Whilst the Model Code is predominantly mandatory, a number of clauses within the Model Code are optional. Those referenced in this Notice of Motion were optional clauses.

Rather than adopt clause 11.11 (as detailed in the Notice of Motion) Council determined to retain clauses 11.6 to 11.9 and 11.13.

An extract from the adopted Code of Meeting Practice is shown below for clauses 11.6 to 11.9 and 11.13:

- 11.6 If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- 11.7 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) Councillors rise and call for a division.
- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the Council's minutes for the meeting.
- 11.9 When a division on a motion is called, any Councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this Code.
- 11.13 For the purpose of maintaining the register, a division is taken to have been

MINUTES ORDINARY COUNCIL - 13 AUGUST 2019

called whenever a motion for a planning decision is put at a meeting of the Council or a Council committee.

The resulting outcome of the Notice of Motion, should it be adopted, would be for a division to be recorded for all Council resolutions.

ATTACHMENTS

- 1) Council meeting minute extract 28 May 2019 - Code of Meeting Practice.

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

ITEM NO. 9

FILE NO: 19/130590
EDRMS NO: A2004-0284

POLICY REVIEW: CODE OF MEETING PRACTICE

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submission.
- 2) Endorse the Revised Code of Meeting Practice shown at (TABLE DOCUMENT 1).
- 3) Revoke the Code of Meeting Practice dated 12 December 2017, Min. No. 329.

**ORDINARY COUNCIL MEETING - 28 MAY 2019
MOTION**

113	Councillor Giacomo Arnott Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Receive and note the submission.2) Endorse the Revised Code of Meeting Practice shown at (TABLE DOCUMENT 1).3) Revoke the Code of Meeting Practice dated 12 December 2017, Min. No. 329.
------------	--

Councillor Jaimie Abbott left the meeting at 6:17pm and did not return to the meeting.

**ORDINARY COUNCIL MEETING - 28 MAY 2019
AMENDMENT**

	Councillor Giacomo Arnott That Council: <ol style="list-style-type: none">1) Edit clause 4.12 to read, in full:<ul style="list-style-type: none">▪ From:▪ "Each speaker will be allowed five minutes to address the Council. This time is to be strictly enforce by the chairperson."
--	--

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

	<ul style="list-style-type: none">▪ To:▪ "Each speaker will be allowed five minutes to address the Council. Speakers attending on behalf of an organisation speaking about an issue relevant to their organisation will be allowed ten minutes to address the Council. This time is to be strictly enforce by the chairperson." <p>2) Insert optional clause 11.11 from the model code of meeting practice, which reads:</p> <ul style="list-style-type: none">▪ "All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded." <p>3) Insert new clause 10.22(a), which will read:</p> <ul style="list-style-type: none">▪ "On items relating to Council's finances, Councillors will be automatically granted an additional five minutes speaking time on top of the five minutes as allowed in clause 10.22, to a total of ten minutes, if they request extra time." <p>4) Amend 8.1 - order of meeting business, as follows:</p> <ul style="list-style-type: none">▪ Move number 3 (acknowledgement of Worimi people) to become number 2, and drop number 2 (prayer) down to number 3. <p>5) Insert optional clause 20.24, which reads:</p> <ul style="list-style-type: none">▪ "All voting at meetings of committees of the council, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."
--	--

The amendment lapsed without a seconder.

ORDINARY COUNCIL MEETING - 28 MAY 2019
AMENDMENT

	<p>Councillor Giacomo Arnott</p> <p>1) That Council edit clause 4.12 to read, in full:</p> <ul style="list-style-type: none">▪ From:▪ "Each speaker will be allowed five minutes to address the Council. This time is to be strictly enforce by the chairperson."• To:▪ "Each speaker will be allowed five minutes to address the Council. Speakers attending on behalf of an organisation speaking about an issue relevant to their organisation will be allowed ten minutes to address the Council. This time is to be strictly enforce by the chairperson."
--	--

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 28 MAY 2019
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council insert optional clause 11.11 from the model code of meeting practice, which reads: "All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."</p>
--	---

The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 28 MAY 2019
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council insert new clause 10.22(a), which will read: "On items relating to Council's finances, Councillors will be automatically granted an additional five minutes speaking time on top of the five minutes as allowed in clause 10.22, to a total of ten minutes, if they request extra time."</p>
--	--

The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 28 MAY 2019
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council amend 8.1 - order of meeting business, as follows: Move number 3 (acknowledgement of Worimi people) to become number 2, and drop number 2 (prayer) down to number 3.</p>
--	--

The amendment lapsed without a seconder.

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

**ORDINARY COUNCIL MEETING - 28 MAY 2019
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council insert optional clause 20.24, which reads: "All voting at meetings of committees of the council, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded."</p>
--	--

The amendment lapsed without a seconder.

The original motion on being put was carried.

BACKGROUND

The purpose of this report is to provide Council with the Code of Meeting Practice (the 'Code') following the public exhibition period from 21 March to 18 April 2019, allowing up to 2 May 2019 for submissions to be received, as required by the Local Government Act 1993.

As a result of the public exhibition, one submission was received. A summary of the submission is shown at **(ATTACHMENT 1)**.

As Council is aware amendments to the Local Government Act 1993 in August 2016 provided for a model code of meeting practice for all local councils in NSW. In December 2018, the Office of Local Government released the new model Code of Meeting Practice.

The Code applies to meetings of the Council and Committees of Council where the membership comprises all elected members. The model code also applies to boards of joint organisations and county councils.

Council is required to adopt a new Code of Meeting Practice based on the model Code by 14 June 2019, and may enhance the Code, however, any supplementary clauses cannot be inconsistent with the model Code.

The new Code contains mandatory and non-mandatory provisions. The majority of the Code is the same or similar to Council's existing Code of Meeting Practice. Webcasting of Council meetings is mandatory under the model Code. A number of the non-mandatory provisions have been incorporated into the Code.

A copy of the Code is shown at **(TABLE DOCUMENT 1)**.

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

The Code is provided for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

The financial and resource implications are within the existing budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to adopt a new Code of Meeting Practice based on the model Code to ensure it meets all legislative requirements in relation to conducting a meeting of the Council and a committee meeting of Council. The new Code must be adopted by 14 June 2019.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the Local Government Act 1993 should it not adopt a new Code of Meeting Practice and the model Code of Meeting Practice will automatically come into force.	Low	Adopt the recommendations.	Yes.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are limited sustainability implications associated with this report.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section.

Internal

- General Manager
- Mayor

External

The new Code of Meeting Practice was publicly exhibited from 21 March 2019 to 18 April 2019, with submissions received up to 2 May 2019 as required by the Local Government Act 1993.

OPTIONS

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

ATTACHMENTS

- 1) Submission summary

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Draft Code of Meeting Practice.

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

ITEM 9 - ATTACHMENT 1 SUBMISSION SUMMARY

Submission for the Code of Meeting Practice

Author	Comment	Council response
1 Tomaree Ratepayers and Residents Association (TRRA)	The TRRAs submission makes the following comments: 1. Notes the revised Code is mostly mandated by the NSW State Government under the provisions of the model Code and it contains optional content.	1. Noted – the model Code of Meeting Practice contains both mandatory and non-mandatory clauses.
	2. Notes that Council is able to enhance the Code subject to the enhancements not being inconsistent with the model Code.	2. Noted.
	3. Meeting schedules, notices - that Council consider amending the current meeting cycle from two Council meetings to the practice of holding alternate meeting as committee of the whole meetings and a full Council meeting respectively, as the TRRA is of the view it allows Councillors and the community greater opportunity to consider and seek feedback on matters.	3. The current meeting cycle is considered appropriate at this time.
	4. Public Forums - that most of Section 4 Public Forums is mandatory with some discretion to set limits and timeframes. It is noted that the Mayor has been substituted for the General Manager and that a maximum number of speakers has been set at 12. Further, that clause 4.12 sets a speaking limit of 5 minutes for individuals with no mention of a limit for those representing an organisation. It is suggested that a limit of 10 minutes should be set for organisations.	4. The submission indicates that most of Section 4 – Public Forums is mandatory however the entire section is non-mandatory in the model Code. Council has elected to include Section 4 in its Code and is able to make amendments to the non-mandatory provisions as advised by the Office of Local Government in its Circular No. 18-45, 18 December 2018. Amendments cannot be made to the mandatory provisions of the Code.

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING MINUTE EXTRACT 28 MAY 2019 - CODE OF MEETING PRACTICE.

MINUTES ORDINARY COUNCIL - 28 MAY 2019

ITEM 9 - ATTACHMENT 1 SUBMISSION SUMMARY

		<p>5. Webcast - TRRA have concerns about the limitations of Council's minimalist approach to webcasting and the length of time webcast recordings are retained on the website. The TRRA call on Council to investigate options to enhance the value of the webcast as an 'after the event' resource, such as a facility that would provide an online meeting agenda that a viewer can click on to go straight to that point of the recording.</p>	<p>5. Council's existing webcasting has been introduced to allow members of the public to access Council meetings whenever and wherever they wish, without the need to be present in person - the current system achieves this outcome. It also provides access to agenda items in written on line form as the meeting progresses – this facility is also available post the meeting. Viewers have the option of viewing the recording and/or the written agenda during the webcast.</p>
		<p>6. Record of voting - that Council should include non-mandatory clauses 11.11 and 20.24 of the model Code which requires all resolutions of Council to have the names of those who voted for and against the motion recorded in the minutes.</p> <p>7. Expulsion from meetings - notes the provision of expulsion from meetings, and welcomes Council's approach to require a resolution to expel a councillor from a meeting.</p>	<p>6. The Local Government Act 1993 requires Council to record the names of those who voted for and against all planning decisions. The recording of who voted for and against all other resolutions is currently at the discretion of Council.</p> <p>7. Council had 2 options in terms of expulsion from a meeting – to give the Mayor the sole discretion to expel anyone (including a councillor) from a meeting for disorder or to give the Mayor the discretion to expel anyone (other than a councillor) from a meeting for disorder. Council elected the latter provision.</p>
		<p>8. Rescission motions – TRRA notes that Council did not adopt the non-mandatory clause to allow a rescission motion to be dealt with at the same meeting (cl. 17.12 of the model Code), however Council adopted the non-mandatory clause to allow a resolution to be</p>	<p>8. Council's current practice has been to require a rescission motion to be lodged and presented to the next Ordinary Council meeting, on this basis the draft Code was put forward for consideration.</p> <p>Clause 17.12 of the model Code, as opposed to</p>

		<p>recommitted to correct an error. Further, the TRRA state that there are both pros and cons for allowing a rescission motion at the same meeting. The TRRA believe that Council should explain its reasoning on the matter before it is resolved.</p>	<p>Council's draft Code, states: <i>17.12</i> <i>Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:</i></p> <ul style="list-style-type: none"> <i>(a) a notice of motion signed by three councillors is submitted to the chairperson, and</i> <i>(b) a motion to have the motion considered at the meeting is passed, and</i> <i>(c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.</i> <p>Council's draft Code of Meeting Practice enables a resolution to be recommitted to correct an error (clause 17.12).</p>
--	--	---	--

NOTICE OF MOTION

ITEM NO. 3

**FILE NO: 19/207373
EDRMS NO: PSC2019-02906**

PUBLIC AMENITIES REMOVAL - OCEAN AVENUE, ANNA BAY

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Acknowledge the need for more, not less, public toilets in our Local Government Area, to cater for more visitors and for use by locals exploring their local areas.
- 2) Remove the Ocean Avenue, Anna Bay, toilet block from Council's demolition schedule.
- 3) Retain and maintain this toilet block going forward to improve access to public toilets in the Anna Bay area.

Councillor John Nell left the meeting at 8:18pm prior to voting.
Councillor John Nell returned to the meeting at 8:20pm prior to voting.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

	<p>Councillor Giacomo Arnott Councillor Sarah Smith</p> <p>That Council:</p> <ol style="list-style-type: none">1) Acknowledge the need for more, not less, public toilets in our Local Government Area, to cater for more visitors and for use by locals exploring their local areas.2) Remove the Ocean Avenue, Anna Bay, toilet block from Council's demolition schedule.3) Retain and maintain this toilet block going forward to improve access to public toilets in the Anna Bay area.
--	--

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
AMENDMENT**

193	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>It was resolved that Council acknowledge the need for more, not less, public toilets in our Local Government Area, to cater for more visitors and for use by locals exploring their local areas.</p>
------------	--

The amendment on being put became the motion, which was carried.

BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER

BACKGROUND

The Ocean Avenue public amenities building is planned for removal as part of the Robinson Reserve upgrade works. The building is to be replaced with a beach shower and drinking water station, with a new public amenities facility to be constructed approximately 180m away from the current facility. The new facility will be constructed to meet current access standards and will be co-located with the new recreation facilities (playground and skate park).

The current amenities building was constructed over 40 years ago and has deteriorated significantly in condition during this time. The building is brick construction and is suffering from cracking in the structural walls and members. Due to the proximity to the ocean, the building has corrosion in most components. The structure also has asbestos containing material in the roof lining, eaves, waterproofing and switchboard. Photos demonstrating the current building condition can be seen at **ATTACHMENT 1**. Based on recent asset inspections, it is considered unviable to undertake a major renovation. The combined maintenance and cleaning costs for the existing building are in the order of \$15,000 per year. The retention of deteriorated assets impacts on Council's ability to clean, repair and maintain facilities for the wider community.

As noted in Council's Recreation Strategy and Strategic Asset Management Plan, the number of public amenities (provision rates) have been developed using best practice asset and lifecycle management methodology with the aim that Council operates as efficiently as possible within our resources. In comparison to other local government areas, Port Stephens Council currently provides an excess of public amenities. As new facilities are constructed and provision rates are met, Council removes the old facilities so that maintenance and cleaning resources can be managed more effectively across the wide range of community assets.

The direction for this decision was resolved by Council through the adoption of the following documents:

- The Birubi Point Aboriginal Place Masterplan (28 November 2017 Council Meeting Ref: 17/211499) – ‘new amenities building to be provided adjacent to recreation facilities. Old amenities building to be removed in the future and replaced with beach shower and drinking water station’.
- The Birubi Point Aboriginal Place Management Plan (10 July 2018 Council Meeting Ref: 18/94533) – ‘relocate toilet block (construct new amenities block)’ and ‘install new public toilet near playground/skatepark’.
- Recreation Strategy (13 November 2018 Council Meeting Ref: 18/155923) – ‘district park - quality amenities with disability access toilets’ and provision rates of 1 public amenities building per district park facility.
- Strategic Asset Management Plan 2019-2029 (29 January 2019 Ref: 19/6885) – ‘benchmarking demand of one public amenity per 2000 people’ and 2016 Port Stephens LGA Census Population of 69,556 divided by 2000 persons = a demand of 34.6 public amenities. 45 public amenities are currently provided; 3 in Anna Bay (population 3,846).

ATTACHMENTS

- 1) Condition Photographs.

ITEM 3 - ATTACHMENT 1 CONDITION PHOTOGRAPHS.



Figure 1 – Asbestos roof lining through out current building



Figure 2 – Asbestos eave lining through out current building



Figure 3 – Significant corrosion to switchboard. Asbestos backing board within switchboard.



Figure 4 – Significant vertical and horizontal cracking in wall structure.

ITEM 3 - ATTACHMENT 1 CONDITION PHOTOGRAPHS.



Figure 5 – Vandalised ceramic toilet currently out of commission.



Figure 6 – Horizontal cracking in wall structure with clear daylight between brickwork.



Figure 7 – Corroded roofing screws. Failing roof battens beneath sheeting.

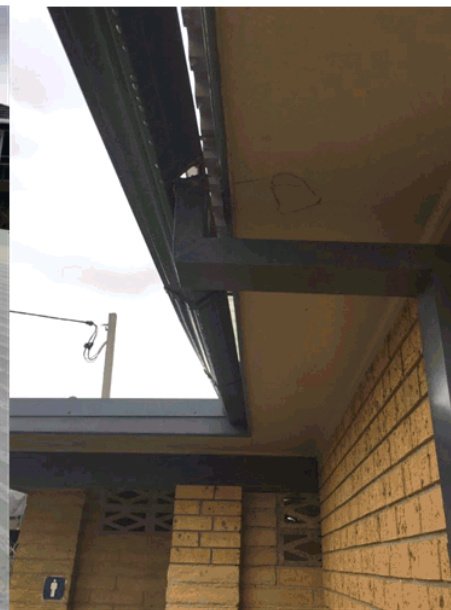


Figure 8 – Disconnected and corroded roof guttering.

NOTICE OF MOTION

ITEM NO. 4

**FILE NO: 19/209518
EDRMS NO: PSC2017-00019**

ANNA BAY 7 DAY MAKEOVER PROGRAM

COUNCILLOR: SARAH SMITH

THAT COUNCIL:

- 1) Allocate funding for the Anna Bay 7 Day Makeover program from the PSC 2020 projects budget, subject to Council adoption on 27 August, 2019.
- 2) That subject to 1) above being adopted by Council on 27 August 2019, engage David Engwicht from Creative Communities to complete the 7 day makeover program in Anna Bay.

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

194	<p>Councillor Sarah Smith Councillor Jaimie Abbott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Allocate \$350,000 for Anna Bay works, including the Anna Bay 7 Day Makeover program from the PSC 2020 projects budget, subject to Council adoption on 27 August, 2019.2) That subject to 1) above being adopted by Council on 27 August 2019, engage David Engwicht from Creative Communities to complete the 7 day makeover program in Anna Bay.
------------	---

BACKGROUND REPORT OF: John Maretich – Asset Section Manager

BACKGROUND

David Engwicht from Creative Communities International recently presented to the Port Stephens Council Business Leaders Lunch. The presentation included the set of services that this company provides to improve a town's sense of place. Creative Communities International states that this can be undertaken by a program called the 7 Day Makeover that "empower communities to create extraordinary places". The 7 Day Makeover program engages the Mayor, Councillors, the Community and Council

staff to assess a town's needs, desires and constraints before creating a scope of works.

Recent community consultation has reaffirmed that many town centres require some form of an improvement. If this program is to proceed, Anna Bay has been identified as the town centre that would align with a 7 Day Makeover.

Place activation is currently linked into the Council's Operational Plan Key Direction P1 – Strong economy, vibrant local businesses and active investment. Though it should be noted that this specific project currently has no allocated funding. Options to fund this program include deletion of an existing project, additional source of funds through grants/community funding or from any future Anna Bay town improvement allocation.

Council staff are also not aware of any other companies that undertake this service using this particular method and is therefore considered unique.

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 5

**FILE NO: 19/214124
EDRMS NO: PSC2017-00019**

FLY POINT TREE REMOVAL

**COUNCILLOR: JOHN NELL
RYAN PALMER**

THAT COUNCIL:

- 1) Endorse the provision of Mayoral funds under Section 356 of the Local Government Act 1993 to Charles Tennyson for \$4480 to co-sponsor the removal of trees at Fly Point.
 - 2) Place the proposal on public exhibition for a period of 28 days in accordance with the Local Government Act 1993 to seek public comment.
 - 3) Should no submissions be received as a result of the public exhibition stated in 2) above, the Mayoral funds be approved.
-

**ORDINARY COUNCIL MEETING - 13 AUGUST 2019
MOTION**

195	<p>Councillor John Nell Mayor Ryan Palmer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the provision of Mayoral funds under Section 356 of the Local Government Act 1993 to Charles Tennyson for \$4480 to co-sponsor the removal of trees at Fly Point.2) Place the proposal on public exhibition for a period of 28 days in accordance with the Local Government Act 1993 to seek public comment.3) Should no submissions be received as a result of the public exhibition stated in 2) above, the Mayoral funds be approved.
------------	---

BACKGROUND REPORT OF: Michael Reay – Acting Public Domain Section Manager

BACKGROUND

Development consent was granted to Charles Tennyson to undertake archaeological investigations into the location of World War 2 tunnels below the ground at Fly Point Native Reserve.

Preliminary investigations using drilling methods have uncovered the tunnel entrance and trees will now need to be removed to allow excavations of around a 10m depth to facilitate opening of the tunnel entrance. The tunnel is expected to hold World War 2 military items and has the potential to become a new tourist attraction in Port Stephens.

Council assisted with obtaining quotes for removal of the trees which were costed at \$8,960 and options to fund the works include a 50% contribution from Mayoral funds to allow the project to move forward.

ATTACHMENTS

Nil.

There being no further business the meeting closed at 9.00pm.