

# DRAFT

## MINUTES – 11 FEBRUARY 2020



### PORT STEPHENS COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 11 February 2020, commencing at 6.05pm.

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

<b>001</b>	<b>Councillor Chris Doohan</b> <b>Councillor Sarah Smith</b>  It was resolved that leave of absence be granted to Cr Glen Dunkley from 1 to 15 February 2020 and 17 February 2020 to 7 March 2020 and Cr Steve Tucker from 8 to 26 February 2020.
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<b>002</b>	<b>Councillor Paul Le Mottee</b> <b>Councillor Sarah Smith</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 10 December 2019 be confirmed.
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Cr Giacomo Arnott requested his vote be recorded against the motion.

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020**

**MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020**

**AMENDMENT**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That at section 260 in the Minutes, the motion is minuted as recorded by the webcast as reading, the motion was moved as follows: “That Cr Arnott be removed from the Council meeting if you are going to make faces, that’s not what we are about here at Council” – then followed by the resolution as noted in the minutes.</p>
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The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020**

**AMENDMENT**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That a note be added under section 260 of the minutes of the 10 December 2019 Council meeting, that reads “since this Council meeting the Office of Local Government has written to Council to advise that it is their view that the expulsion of Cr Arnott was not undertaken correctly in accordance with the Local Government Act 1993, the Local Government Regulations or Council’s adopted Code.”</p>
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The amendment lapsed without a seconder.

	<p>Mayor Ryan Palmer declared a less than significant non-pecuniary conflict of interest in item 15. The nature of the interest being Mayor Palmer is a member of the Nelson Bay Golf Club.</p>
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# MOTIONS TO CLOSE

**ITEM NO. 1**

**FILE NO: 20/24527  
EDRMS NO: PSC2005-1866**

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **RENEWAL OF OPTUS LEASE - 9 TARRANT ROAD, SALAMANDER BAY.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
  - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>003</b>	<p><b>Councillor Ken Jordan Councillor Paul Le Mottee</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely <b>RENEWAL OF OPTUS LEASE - 9 TARRANT ROAD, SALAMANDER BAY.</b></li><li>2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none"><li>• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</li></ul></li><li>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</li></ol>
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The motion was carried.

**ITEM NO. 2**

**FILE NO: 20/24536  
EDRMS NO: PSC2018-01103**

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely **COMPULSORY ACQUISITION OF PART 879 SWAN BAY ROAD, SWAN BAY FOR ROAD WIDENING PURPOSE.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
  - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>004</b>	<p><b>Councillor Ken Jordan Councillor Paul Le Mottee</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely <b>COMPULSORY ACQUISITION OF PART 879 SWAN BAY ROAD, SWAN BAY FOR ROAD WIDENING PURPOSE.</b></li><li>2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none"><li>• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</li></ul></li><li>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</li></ol>
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The motion was carried.

**ITEM NO. 3**

**FILE NO: 20/24544  
EDRMS NO: PSC2017-01868**

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 3 on the Ordinary agenda namely **PROPOSED SALE OF LOT 7, CENTRAL AVENUE, SALAMANDER BAY.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
  - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>005</b>	<p><b>Councillor Ken Jordan Councillor Paul Le Mottee</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 3 on the Ordinary agenda namely <b>PROPOSED SALE OF LOT 7, CENTRAL AVENUE, SALAMANDER BAY.</b></li><li>2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none"><li>• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</li></ul></li><li>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</li></ol>
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The motion was carried.



# COUNCIL REPORTS

**ITEM NO. 1**

**FILE NO: 20/8454  
EDRMS NO: 16-2019-270-1**

**DEVELOPMENT APPLICATION 16-2019-270-1 FOR THE DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A NEW SINGLE STOREY DWELLING AND GARAGE AT 862 PATERSON ROAD, WOODVILLE LOT:510 DP:1150491**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application No.16-2019-270-1 for the demolition of the existing structures and construction of a new single storey dwelling and garage subject to the conditions contained in **(ATTACHMENT 3)**.
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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>006</b>	<b>Councillor Ken Jordan Mayor Ryan Palmer</b>  It was resolved that Development Application No.16-2019-270-1 for the demolition of the existing structures and construction of a new single storey dwelling and garage be deferred.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Chris Doohan, Ken Jordan, Paul Le Mottee, John Nell and Sarah Smith.

Those against the Motion: Cr Jaimie Abbott.

The motion was carried.

**BACKGROUND**

The purpose of this report is to present a development application (DA) to Council for determination. The subject DA relates to land located at 862 Paterson Road, Woodville (LOT: 510 DP: 1150491 ('the subject site')). A locality plan is provided at **(ATTACHMENT 1)**.

The development application was called to Council by Councillor Arnott, Councillor Jordan and Councillor Le Mottee (**ATTACHMENT 4**).

### Proposal

The applicant seeks approval for the demolition of existing structures on site and the construction of a new single storey dwelling and garage. Details of the proposal are as follows:

- Demolition of existing structures on site including the dilapidated Pomfrett's Cottage which is identified as an item of local heritage significance in the Port Stephens Local Environmental Plan 2013 (LEP 2013).
- Construction of a new single storey dwelling and garage. The proposed single storey dwelling is designed to be similar in style and proportions to a traditional cottage with a hipped roof, verandah, and timber cladding. The dwelling will also be separated into pavilions to reduce the scale as viewed from the street. A double carport/garage will be located at the rear of the property.

### Site history

The subject site has a total area of 723 m<sup>2</sup>, is generally flat and is zoned RU1 Primary Production. Access to the site is direct from Paterson Road.

The subject site is surrounded by similarly zoned RU1 lots, with the exception of the Iona Public School which is zoned SP2 - Special Activities. The Woodville School of Arts and Community Hall is located adjacent to the subject site. The lot sizes (with dwellings) in the immediate vicinity range from 5000 m<sup>2</sup> to 232,960 m<sup>2</sup>.

The subject site currently contains a dwelling towards the front of the site and a Colorbond shed with an older shed and an outbuilding to the rear.

A site inspection by Council's building officers identified a number of concerns regarding the structural integrity of the current dwelling. The dwelling was on a significant lean, with compromised structural components. An internal investigation was determined to be too high risk due to concerns of potential collapse.



Photo 1: View of cottage from Clarence Town Road



Photo 2: View of cottage looking west

### Key Issues

The key issues raised during the assessment of the application are outlined below. A detailed assessment of the development is contained at **(ATTACHMENT 2)**.

### Heritage Impact

The subject site is located at 862 Paterson Road, Woodville, which is listed as a locally significant archaeological site in the LEP 2013. The listed site is specifically known as Pomfrett's Cottage (Slab Cottage).

The demolition of structures on a locally significant heritage site is permissible with consent, under Clause 5.10 of the LEP 2013, subject to an assessment against this clause.

In addition to Clause 5.10 of the LEP 2013, Council must also consider Section B8 of the Development Control Plan 2014 (DCP 2014). Section B8 of the DCP 2014 outlines the requirements relating to development proposals involving heritage. More specifically, this clause requires development applications that are likely to impact on the heritage significance of a heritage item, be accompanied by a heritage impact statement. This heritage impact statement must be consistent with the Biodiversity Conservation Division (formerly Office of Environment and Heritage) 'Statements of Heritage Impact' document and be prepared by a suitably qualified and experienced consultant. This consultant must be registered and listed on the NSW Biodiversity Conservation Division Consultants Directory.

To address the relevant requirements in the LEP 2013 and the DCP 2014 mentioned above, a Statement of Heritage Impact ('the statement') has been completed by a heritage consultant listed on the NSW Biodiversity Conservation Division Consultants Directory and was submitted to support the application.

An independent review of the statement was also conducted by Council's heritage advisor. This review has confirmed that the statement is considered to be an adequate assessment for the purposes of the Heritage Act 1977.

The following outlines the key points from that assessment.

### Historical Significance

Pomfrett's Cottage was likely built prior to 1878 and may be associated with the early European settlement in the Woodville and Iona area. The dwelling is representative of a vernacular cottage of the 19<sup>th</sup> century, and is representative of the building type and building techniques used in the 1800s. The dwelling has a symmetrical façade, steep pitched roof, verandah, split slab walls and timber shingles.

An internal assessment of the dwelling was unable to be conducted, as the dwelling was considered structurally unsound with a collapse imminent. Given that an internal assessment of the dwelling could not be completed, it was not possible to accurately determine if the dwelling currently contains archaeological relics or items of significance. As such, the applicant will be required, as a condition of consent, to obtain an excavation permit from the Biodiversity Conservation Division (formerly Office of Environment and Heritage) prior to the commencement of any works. This ensures that if relics or items of significance are found during the demolition of the dwelling, they will be appropriately managed.

### Social Significance

Pomfrett's Cottage is listed in the LEP 2013 as a locally significant archaeological site, and therefore is deemed to be of value to the community. This value and local significance however, is significantly diminished due to the current condition and imminent collapse of the cottage.

It was also determined that conservation of the dwelling would not be feasible due to the degree of deterioration of the structure. This deterioration would require a large amount of new fabric and building materials to restore. This would even further diminish the historical value. On the basis of the above, it has been deemed that it is appropriate to support the proposed demolition of the dwelling.

During the notification period, Council received a total of 5 submissions from the community. These submissions are addressed in the detailed Assessment Report contained at **(ATTACHMENT 2)**.

In addition to the matters considered above, Clause B8 of the DCP also requires that the design of the proposed residence be complementary to the heritage significance of the area. This must also take into account the potential impact the design could have on the neighbouring Woodville School of Arts, which is also a locally listed heritage item in the LEP 2013. As such, the statement of heritage impact has provided strict design guidelines for the new residence to address this requirement. The design guidelines have been adopted and recommended as a condition of consent **(ATTACHMENT 3)**.

### **COMMUNITY STRATEGIC PLAN**

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

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

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is consistent with relevant planning instruments, flood development guidelines, the Environmental Planning and Assessment Act 1979 (EP&A Act), the Heritage Act 1977, Port Stephens Local Environment Plan 2013 (LEP 2013), and the Port Stephens Development Control Plan (DCP 2014).

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if that the application is refused the applicant may appeal the determination.	Medium	Approve the application as recommended. The assessment carried out details the merits of the proposed development.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The dwelling to be demolished has value to the community and is identified as a local heritage item. Despite this, the dwelling is structurally unstable and the restoration works required would not be feasible due to the degree of deterioration of the structure. On this basis, the demolition of the structure is supported and conditions of consent are proposed to ensure the new dwelling is sympathetic to the sites historic past.

**CONSULTATION**

Internal

Consultation was undertaken with internal officers including Engineering Services, Strategic Planning (Heritage Advisor) and the Planning and Developer Relations team.

External

Referral to external agencies was not required.

Notification

In accordance with Council's notification requirements the DA was advertised and notified for a period of 14 days from 27 September 2019 to 11 October 2019. During the exhibition period 5 submissions were received.

The key issues raised within the submissions included; dwelling entitlement, historical value, cultural value, relationship to, and potential social and economic impact to the Woodville School of Arts. These issues have been addressed within the detailed assessment report contained at **(ATTACHMENT 2)**. The assessment of the application has determined that, subject to the recommended conditions of consent, the issues raised within the submissions have been addressed and the proposed development is recommended for approval.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Locality Plan.
- 2) Assessment Report. (Provided under separate cover)
- 3) Conditions of Consent.
- 4) Call to Council form.

**COUNCILLORS ROOM**

- 1) Development Plans.
- 2) Copy of Submissions.

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

**TABLED DOCUMENTS**

Nil.



ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 4980255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au



**CONDITIONS THAT IDENTIFY APPROVED PLANS**

1. The development shall be carried out in accordance with the stamped approved plans and documentation as listed below, except where modified by any condition of this consent or as shown in red colour on the plans.
- 2.

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Architectural Plans	4073	2-8	17/7/19	Advantage

**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:** 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.

**CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED**

3. **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.
4. **Prior to the commencement of works**, a Driveway Construction Application is to be lodged with Council as the Roads Authority.
5. **Prior to the issue of the Construction Certificate** a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).



6. **Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.

**CONDITIONS THAT ARE PRESCRIBED**

7. All building work shall be carried out in accordance with the requirements of the Building Code of Australia.
8. **Prior to the commencement of works**, a contract of insurance is to be in force in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act.
9. **Prior to the commencement of works**, for any residential building work within the meaning of the Home Building Act 1989, (the HB Act) except for Crown building works certified in accordance with section 6.28 of the Act, the principal certifying authority must provide to the Council (unless Council is the principal certifying authority) a written notice of:
  - a. In the case where a principle contractor is required to be appointed, the name and licence number of the principal contractor and the name of the insurer by which the work is insured under the HB Act;
  - b. In the case of work to be done by an owner builder, the name of the owner-builder and their permit number if required under the HB Act.
10. Except in the case of work only carry out to the interior of a building or Crown building work certified in accordance with section 6.28 of the Act, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the principal certifying authority for the work, the name of any principle contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.
11. Where any excavation required for the development extends below the level of the base of a footing of a building, structure or work on adjoining land (including within a road or rail corridor), the person having the benefit of the consent must protect and support that building, structure or work from possible damage from the excavation, and where necessary underpin the building, structure or work to prevent any such damage.



12. All demolition works are to be carried out in accordance with Australian Standard AS 2601-2001. All waste materials are to be either recycled, or disposed of to a licenced waste facility.

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

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION**

13. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.
14. **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.
15. **Prior to the commencement of work**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time except with the agreement of the Principle Certifying Authority.
16. **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.
17. **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.
18. **Prior to the commencement of any works**, the applicant must apply to the Heritage Office for an excavation permit under Section 140 of the Heritage Act 1977. This approval must be forwarded to the Principal Certifying Authority.



**CONDITIONS TO BE SATISFIED DURING WORKS – SITE REQUIREMENTS**

19. 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 Friday
- b. 7.00am to 5.00pm Saturday

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.

20. 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.
21. No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.
22. Dust suppression is to be actively undertaken during works, through the use of wet-down water tankers or an alternative method which adequately prevents dust from affecting the amenity of the neighbourhood and the environment.

**CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

23. **Immediately following the installation of any roof**, collected stormwater runoff shall be piped to an infiltrating raingarden in accordance with Council's standard Drawing S161. It is to be located in the landscaped area(s) with an overflow pipe connected to the existing easement/system.
24. **Prior to the issue of a Final Occupation Certificate**, the commitments listed in BASIX Certificate No. 1002671S (or an amended version of this certificate, or a replacement certificate particular to the approved development) are to be installed in the development. Should an amended or replacement certificate be issued, a copy is to be forwarded to the principle certifying authority immediately following its issue.
25. **Prior to the issue of any Occupation Certificate**, the applicant shall rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.



26. **Prior to occupying the development**, a driveway footway crossing is to be constructed in accordance the approved Driveway Construction Approval. A compliance certificate must also be obtained from the Roads Authority.
27. **Prior to occupying the development**, Council's Spatial Services Team should be contacted via email at: [addressing@portstephens.nsw.gov.au](mailto:addressing@portstephens.nsw.gov.au) to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering.
- Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
28. **Prior to occupying the development**, a house address number shall be displayed in a prominent area, visible from the adjacent road.
29. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.
- Note:** The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.
30. **Prior to the issue of any Occupation Certificate**, an on-site sewage management system is to be installed and a satisfactory final inspection completed by Council.

**CONDITIONS TO BE SATISFIED AT ALL TIMES**

31. **At all times**, all collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.
32. **The design of the proposed development must comply** with the Statement of Heritage Impact Report *titled 'Demolition and New Dwelling, 862 Paterson Road Woodville, prepared by Elizabeth Evans of Shillington Planning and Heritage (dated July 2019)*.



33. **Prior to the issue of the Construction Certificate** the following information shall be submitted to the Principle Certifying Authority and must be prepared and certified by a Chartered Professional Structural Engineer,
- a. Detailed structural engineering design of the proposed development, having regard for the SES Building Guidelines and ABCB Construction of Buildings in Flood Hazard Areas Standard, unless otherwise permitted by conditions of this consent. The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact from debris up to and including the 1% Annual Exceedance Probability (AEP) event. The 1% AEP flooding characteristics are 7.1metres AHD;
  - b. Certification that the proposed development/ building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF). The PMF flooding characteristics are 8.9metres AHD and 1.5metres per second velocity;
  - c. Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property; and
  - d. Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.
34. The flood refuge area must comply with Section B5.3 of Port Stephens Councils Development Control Plan 2014.
35. The development shall incorporate all relevant construction or structural recommendations listed in the GCA Engineering Solutions '*Proposed new residence and garage, 862 Paterson Road, Woodville, Flood effects (reference number 19164S), dated 30 July 2019.*
36. The finished floor level of the dwelling is to be above the Flood Planning level (FPL). The FPL for this site is 7.6m AHD.
37. The finished floor level (FFL) of the garage is to be a minimum 6.7m AHD. The designated flood refuge area is to have a minimum FFL of 9.45m AHD.



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# Call to Council form

Development Application

## DEVELOPMENT APPLICATION (DA) CALL TO COUNCIL REQUEST

We (Mayor/Councillor/s)

Name:	Cr Arnott
Name:	Cr Le Mottee
Name:	Cr Jordan
request that DA number:	16-2019-270-1
for DA description:	Demolition of buildings & construction of and new dwelling
located at:	862 Paterson Rd Woodville

be reported to Council for determination.

### REASON

Heritage concerns

### SIGNATURE OF APPLICANT/S

Signature		Date	1 / 9 / 2019
Signature		Date	1 / 9 / 2019
Signature		Date	1 / 9 / 2019

### PRIVACY

Port Stephens Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy. **Purpose:** The purpose of this form is to enable Council to record the matter raised and taken appropriate action. **Intended recipients:** Council employees, contractors and other third parties where appropriate. **Supply:** Voluntary. **Consequence of Non Provision:** Council may not take action on the matter raised. **Storage and security:** This document will be placed on the relevant file and/or saved in Council's records management system in accordance with Council policy and relevant legislation. **Access:** Please contact Council on 02 4988 0255 to enquire how you can access information.



Councillor Ken Jordan left the meeting at 6.22pm prior to voting on this item.  
Councillor Ken Jordan returned to the meeting at 6.24pm prior to voting on this item.

**ITEM NO. 2**

**FILE NO: 19/400214**  
**EDRMS NO: 16-2019-194-1**

**DEVELOPMENT APPLICATION 16-2019-194-1 FOR DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING (12 APARTMENTS) WITH CARPARKING AND POOL AT 10 THURLOW AVENUE, NELSON BAY - LOT 6 SEC 1 DP8391**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Support the Clause 4.6 exception as it is considered unreasonable and unnecessary to strictly comply with the development standard of Clause 4.3 of Port Stephens Local Environmental Plan 2013 – Height of Building standard for the proposed development at 10 Thurlow Avenue, Nelson Bay for the following reasons:
    - a) Compliance with the development standard would be unreasonable and unnecessary in the circumstances.
    - b) There are sufficient environmental planning grounds to justify the contravention.
    - c) The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation.
    - d) The proposed development is an appropriate response to the context of the site.
    - e) The proposed development will not have a significant environmental impact, is in the public interest and better achieves the development standard's objectives.
    - f) The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).
    - g) The contravention does not raise any matter of State or Regional Significance.
  - 2) Approve Development Application No.16-2019-194-1 for demolition of existing dwelling and construction of a residential flat building comprising 12 apartments, car parking and pool at 10 Thurlow Avenue, Nelson Bay subject to the conditions contained in **(ATTACHMENT 3)**.
-

ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION

007	<p><b>Councillor Giacomo Arnott</b> <b>Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Support the Clause 4.6 exception as it is considered unreasonable and unnecessary to strictly comply with the development standard of Clause 4.3 of Port Stephens Local Environmental Plan 2013 – Height of Building standard for the proposed development at 10 Thurlow Avenue, Nelson Bay for the following reasons:             <ol style="list-style-type: none"> <li>a) Compliance with the development standard would be unreasonable and unnecessary in the circumstances.</li> <li>b) There are sufficient environmental planning grounds to justify the contravention.</li> <li>c) The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation.</li> <li>d) The proposed development is an appropriate response to the context of the site.</li> <li>e) The proposed development will not have a significant environmental impact, is in the public interest and better achieves the development standard’s objectives.</li> <li>f) The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&amp;A Act 1979).</li> <li>g) The contravention does not raise any matter of State or Regional Significance.</li> </ol> </li> <li>2) Approve Development Application No.16-2019-194-1 for demolition of existing dwelling and construction of a residential flat building comprising 12 apartments, car parking and pool at 10 Thurlow Avenue, Nelson Bay subject to the conditions contained in <b>(ATTACHMENT 3)</b> and the inclusion of:             <ol style="list-style-type: none"> <li>a) Amending Condition 1.2 to include ‘e) The car park designs must be updated to provided electric vehicle charging stations to at least 50% of the units. This can be facilitated via shared or dedicated charging stations.’</li> <li>b) Inserting an additional Condition 5.16 to state ‘Car Parking – All electric vehicle charging stations must be installed in accordance with this consent.’</li> </ol> </li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Ken Jordan, Paul Le Mottee, John Nell, and Sarah Smith.

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

## **BACKGROUND**

The purpose of this report is to present to Council for determination development application (DA) 16-2019-194-1, for demolition of the existing dwelling and the construction of a part 4 and 5 storey residential flat building (RFB) (12 units), earthworks and associated landscaping.

The DA is being reported to Council as the applicant has requested a variation to the height development standard of the Port Stephens Local Environmental Plan 2013 (LEP 2013) that exceeds 10%. The development exceeds the 15 metre height control by 2.5 metres or 16% at its highest point.

The subject DA relates to land located at 10 Thurlow Avenue, Nelson Bay, legally identified as Lot:6 Sec:1 DP:83940 (the subject site). The subject site is zoned R3 Medium Density Residential and is located within the Nelson Bay west precinct, as defined by the Nelson Bay Town Centre and Foreshore Strategy. A locality plan is provided at **(ATTACHMENT 1)**.

### Proposal

The application proposes a part 4 and 5 storey residential flat building (RFB) (12 units), earthworks and associated landscaping. Key aspects of the proposal include:

- Semi-basement level with 22 car parking spaces and storage area
- Communal pool and terrace
- Four levels of residential apartments with a mix of 4 x 2 Bedrooms and 8 x 3 bedrooms
- Ground level landscaping, driveway and associated site works
- Ground level foyer, lobby, lift and pedestrian entrance.

The designated car parking area containing 22 spaces will be located at the semi-basement level, with 20 of these spaces allocated for residents and 2 spaces allocated for visitors. All resident car parking spaces are covered and include storage areas.

The ground level will include a waste storage area, foyer, lift and lobby. The entry and exit point to the car parking area is provided on the building's frontage to Thurlow Avenue.

Landscaping has been provided along the street frontage and around the communal pool area. Wall planting is proposed on the basement parking level.

### Site Description

The subject site is located at 10 Thurlow Avenue, Nelson Bay. The site has a rectangular shape with a total site area of 1012 metres square and 21 metres street frontage. The site has a significant fall away from Thurlow Avenue to the north.

The site currently supports a single detached dwelling approved under DA Consent No.644/49. The subject site is positioned on the northern side of Thurlow Avenue within close proximity to the Nelson Bay town centre, located to the east.

The land adjoins a coastal reserve to the north, which falls steeply to the water. To the west of the lot at 12 Thurlow Avenue, is a 3 storey unit block constructed in the 1970s. The car parking for these units is a 2 level concrete structure that extends boundary to boundary near the street frontage. The land to the east of the site contains a single dwelling, which is 1 storey and is built close to its western boundary.

The site is located within the Nelson Bay foreshore west precinct and is located within close proximity to bus stops with frequent services to major centres. There are a number of comparable development types in close proximity to the site.

The character of the area is typified by medium and low density developments, comprising older apartment stock in the form of 3 and 4 storey walk-up residential flat buildings, single dwellings and modern narrow infill developments.

### Key issues

The key issues that arose during the assessment related to consideration of the proposed design including compliance with the Apartment Design Guide (ADG), the height of the development and parking, as outlined below. A detailed assessment of the development is contained within the Planners Assessment Report **(ATTACHMENT 2)**.

### Design – Apartment Design Guide

State Environmental Planning Policy No 65 – Quality Design of Residential Apartment Development (SEPP No 65) applies to assessment of the proposed development. SEPP No 65 aims to improve the quality of residential apartment development and provides an assessment framework (Apartment Design Guide) to facilitate the assessment of 'good design'.

The application was referred to the City of Newcastle Council's Urban Design Consultative Group (UDCG) for review of the architectural merit of the development on 19 June 2019. A number of amendments were recommended to be incorporated into the design to achieve design quality provisions contained within SEPP 65 and supporting Apartment Design Guide (ADG).

On 15 October 2019, the applicant submitted amended plans which sought to respond to the matters raised by the UDCG. The amended plans comprised design amendments such as; modification to the building façade, reduced building footprint, reduction in the height of the development, revised internal layout of southern aspect apartments and an amended finishes schedule. To address potential lot isolation of 8 Thurlow Avenue (adjoining property), test of adequacy drawings were submitted demonstrating how the proposal will not sterilise future development on the adjoining site (further details are provided within the Planners Assessment Report **(ATTACHMENT 2)**).

Further design changes were made which included changes to window openings, inclusion of screening elements and splaying the wall of the north eastern and north western corners. These amended plans were received on 16 December 2019.

This assessment has determined that, other than the non-compliance with height at the rear of the property, the applicant's amended design adequately responded to the matters raised by the UDCG at its meeting of 19 June 2019.

The proposal has been assessed against both the design principles and controls contained within the ADG and is considered satisfactory as detailed within the Planners Assessment Report **(ATTACHMENT 2)**. Where inconsistencies exist, the applicant has adopted justifiable alternate design solutions to achieve the respective design objectives of the ADG. The overall aesthetics of the development are good quality with the inclusion of a range of materials, textures and colours. Further, the range of materials and colours in conjunction with the articulation and modulation of building facades visually reduce the perception of the bulk and scale of the development. However, a condition has been recommended that a revised finishes schedule be submitted that includes a light colour palette for the exposed areas of the basement structure to ameliorate the visual impact on neighbouring properties.

### Height

In accordance with Clause 4.3, the Height of Buildings Map (LEP 2013) indicates a maximum building height of 15 metres for the subject site. The proposed development exceeds the nominated maximum height limit, and therefore requires a variation to the development standard under Clause 4.6 of the LEP 2013.

The proposed development has a variable building height which is below the 15 metre height limit at street level, extending to 17.5 metres towards the rear of the site as the topography falls away from the street.

This represents a maximum non-compliance with the development standard of 2.5 metres or 16%.

To justify the proposed variation in height from the LEP 2013 provision, a Clause 4.6 variation request was submitted as part of the application.

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

- The non-compliance is considered to be minor noting that it is a 2.5 metre breach located towards the rear of the site. The majority of the development complies with the 15 metre height controls.
- The height breach results from the topography of the site and compliance with the development standard would be unreasonable and unnecessary in the circumstances.
- There are sufficient environmental planning grounds to justify the contravention.
- The proposed development represents an increase in the residential housing in Nelson Bay.
- The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation.
- The proposed development is an appropriate response to the context of the site.
- The proposed development will not have a significant environmental impact, is in the public interest and better achieves the development standard's objectives.
- The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).
- The contravention does not raise any matter of State or regional significance.

A detailed assessment against Clause 4.6 is contained within the Planners Assessment Report (**ATTACHMENT 2**). Council staff considered the applicant's Clause 4.6 variation request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the height of buildings standard and compliance with the standard is unreasonable or unnecessary in the circumstances of this application. On this basis, the proposed development is considered to be consistent with the objectives of Clause 4.6.

It is noted that that the 'Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program' (NB Strategy), which was adopted by Council at its meeting of 25 September 2018, endorsed a 17.5 metre building height for the subject site. The planning proposal to seek this change in building heights is currently under assessment by Department of Planning, Infrastructure and Environment (DPIE).

### Parking

Chapter B9 figure BT identifies the on-site parking requirements for the development as follows. The parking calculation is shown in the table below:

<b>Units</b>	<b>DCP Requirement</b>	<b>Required Spaces</b>	<b>Spaces Provided</b>
8 x 3 bedroom dwelling	2 car spaces for 3 bedrooms dwellings	16	16
4 x 2 bedroom units	1 car spaces for 2 bedrooms dwellings	4	4
Visitors' spaces	1 visitor space per 3 dwellings	4	2
<b>Total</b>		<b>24</b>	<b>22</b>

The proposal will provide 22 car parking spaces to service the development, which includes 20 resident parking spaces and 2 car parking spaces for visitors. It is noted that the development is below the minimum car parking requirement of 24. This shortfall would be in the way of visitor car parking.

A parking assessment was submitted with the application which noted that the DCP 2014 rate for visitor spaces is significantly higher than the visitor car parking rates for this type of development within the RTA's Guide to Traffic Generating Developments and all other lower Hunter Council's which is 1 space per 5 dwellings or 1 per 7 dwellings where the site is within close proximity to major retail centres and public transport.

The assessment suggests the provision of 2 visitor car parks within the development is considered satisfactory, based on a comparable visitor car parking rate applied at one 1 visitor space per 5 dwellings.

It is considered that non-compliance with the visitor car parking is acceptable in this instance noting that the RTA's Guide to Traffic Generating Developments is generally used as a benchmark for parking rates. Further, shortfall is considered reasonable noting the location of the site near the town centre and public transport.

### Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 2**), the application is considered to be generally consistent with the aims and objectives of the relevant environmental planning instruments applicable to the subject site including:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- Port Stephens Local Environmental Plan 2013.

Accordingly, the application has been recommended for approval subject to the conditions contained in **(ATTACHMENT 3)**.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

Refusal of the application could potentially be challenged in the Land and Environment Court. Defending Council’s determination could have financial implications. Further, should Council determine to approve the application, development contributions would be required to be levied in accordance with Council’s Development Contributions Plan.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		Should Council determine to approve the application, s.7.11 development contributions would be applicable and would be levied in accordance with conditions of consent.
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is inconsistent with the LEP 2013 due to the proposed variation to the existing 15 metre building height control. As outlined in **(ATTACHMENT 2)** a variation to the building height controls is considered appropriate in accordance with Clause 4.6 of the PSLEP. Other inconsistencies exist with regard to SEPP65 and Apartment Design Guide, however justifiable alternate solutions have been adopted to achieve respective design and planning objectives.

A detailed assessment against the relevant planning instruments and other applicable planning policies is contained within the Planners Assessment Report **(ATTACHMENT 2)**.



As noted above, the determination of the application could potentially be challenged in the Land and Environment Council.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the determination of the application may be challenged in the Land and Environment Court.	Medium	Accept the recommendation.	Yes

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

#### Social and economic impacts

If approved, the proposed development will result in additional residential housing in the local government area. It would result in a large capital investment in the local economy and will create a number of short term and indirect long term employment opportunities. Furthermore, if approved the development would attract development contributions which will be used to create and improve community facilities, public open space, sport facilities, and infrastructure and the like, further adding to the positive economic impact of this development.

The proposed development would also provide additional housing opportunities within the Nelson Bay town centre. The development provides a mix of apartments to cater for a range of housing needs.

#### Built environment

The overall aesthetics of the development are of good quality with the inclusion of a range of materials, textures and colours. The range of materials and colours in conjunction with the articulation and modulation of building facades visually reduce the perception of the bulk and scale of the development to ensure consistency with surrounding development. A condition has been recommended that a revised finishes schedule be submitted that includes a light colour palette for the exposed areas of the basement structure to ameliorate the visual impact on neighbouring properties.

### **CONSULTATION**

Consultation with key stakeholders has been undertaken for the purposes of the assessment of the application, including consultation with the public through the notification and advertising process.

Internal

Consultation was undertaken with internal technical staff to facilitate the assessment of the application including:

- Building and Developer Relations
- Development Engineering
- Strategic Planning (Development Contributions)
- Spatial Services
- Waste Management

The referral comments provided by these officers were considered as part of the detailed assessment and are discussed within the Planners Assessment Report (**ATTACHMENT 2**). All internal referral officers supported the proposed development subject to conditions of consent (**ATTACHMENT 3**).

External

Consultation was undertaken with the following external agencies and groups as part of the assessment process:

- Ausgrid
- City of Newcastle Council's Urban Design Consultative Group (UDCG)

The comments provided by these external agencies and groups were considered during the detailed assessment and are discussed within the Planners Assessment Report (**ATTACHMENT 2**).

Public exhibition

The proposal was advertised and notified in accordance with the requirements of the EP&A Act, EP&A Regulations, and Chapter A of DCP 2014. Due to the applicant submitting amended plans, the application was placed on public exhibition twice as follows:

- For a period of 14 days from 18 April 2019 to 2 May 2019. A total of 4 submissions in objection to the proposal were received during this period.
- For a period of 14 days from 18 October 2019 to 1 November 2019. A total of 2 submissions were received during this period.

A detailed discussion relating to the key issues have been included in the Planners Assessment Report (**ATTACHMENT 2**).

**OPTIONS**

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

**ATTACHMENTS**

- 1) Locality Map.
- 2) Planners Assessment Report. (Provided under separate cover)
- 3) Recommended Conditions.
- 4) Clause 4.6 Exemption to Development Standard.

**TABLED DOCUMENTS**

Nil.

**COUNCILLORS ROOM**

- 1) Development Plans.
- 2) Submissions.

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

ITEM 2 - ATTACHMENT 1 LOCALITY MAP.



**ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS.**



**SCHEDULE 1 – CONDITIONS OF CONSENT**

**Details of Conditions:**

**1.0 - General Conditions of Consent**

The following conditions of consent are general conditions applying to the development.

- (1) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

<b>Plan reference/ drawing no.</b>	<b>Name of plan</b>	<b>Prepared by</b>	<b>Date</b>
1659-1-01 Issue B.	Site Plan	Mark Lawler Architects	26.09.2019
1659-1-02 Issue C.	Basement Level 2	Mark Lawler Architects	16.12.2019
1659-1-03 Issue B.	Basement Level 1	Mark Lawler Architects	16.12.2019
1659-1-04 Issue C.	Level 01 – Ground Floor	Mark Lawler Architects	16.12.2019
1659-1-05 Issue C.	Level 2 - 4	Mark Lawler Architects	16.12.2019
1659-1-06 Issue B.	Roof	Mark Lawler Architects	16.12.2019
1659-1-07 Issue B.	Sediment Control	Mark Lawler Architects	26.09.2019
1659-2-01 Issue C.	Elevation – West	Mark Lawler Architects	16.12.2019
1659-2-02 Issue C.	Elevation – North	Mark Lawler Architects	16.12.2019
1659-2-03 Issue C.	Elevation – East	Mark Lawler Architects	16.12.2019
1659-2-04 Issue C.	Elevation – South	Mark Lawler Architects	16.12.2019
1659-3-01 Issue C.	Section A	Mark Lawler Architects	16.12.2019
1659-3-02 Issue C.	Section B	Mark Lawler Architects	16.12.2019
1659-Issue B.	External Colour Schedule	Mark Lawler Architects	28.11.2019
10 Thurlow Avenue – Sheet 1 - 4	Landscape Concept Plan	Soulscape	25.9.2019
180042 – SWD01 Revision C.	Concept Stormwater Management Plan	DRB Engineers	05.12.2019

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



180042 – SWD02 Revision B.	Concept Stormwater Management Plan	DRB Engineers	05.12.2019
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Document title	Prepared by	Date
Geotechnical Investigation – Revision 1	Valley Civilab Pty Ltd	1.7.2019

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (2) **Amendments to documents and plans** – The development must be amended to as follows:

- a) Noise barrier provided around the pool and communal terrace area. The design of the barrier must be certified by a qualified Acoustic Engineer demonstrating compliance with the *Protection of the Environment Operation Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2017* (as amended).
- b) The driveway and off-street parking facilities shall have a width to cater for the design vehicle paths determined by Australian Standard AS2890. 1 'Off-street Car Parking'. This requirement will be met by providing vehicle swept paths utilising the 85th percentile turning circle as outlined in AS 2890.1: Off-street Car Parking.
- c) Amended Materials and Finishes Schedule that includes light colour finishes for the external walls of the basement parking structure.
- d) Amended landscaping plans that provide details of green wall planting species and ongoing maintenance.
- e) Shading devices for habitable room windows on the northern elevation.
- f) Screening devices for bedroom windows and rear decks along the eastern elevation that include the following:
  - i) screens must not have openings more than 30mm wide; and
  - ii) the total area of all openings must be less than 30% of the surface area of the screen when viewed in elevation.

Amended plans or documentation must be provided to the Certifying Authority and Council for approval prior to the lodgement of a Construction Certificate.

- (3) **BASIX Certificate** – The applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) for the development to which this consent applies.
- (4) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (5) **Home Building Act** – Pursuant to Section 4.17(11) of the *Environmental Planning & Assessment Act 1979*, residential building work within the meaning of the *Home*

ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



*Building Act 1989* shall not be carried out unless the PCA for the development to which the work relates:

- a) in the case of work for which a principal contractor has been appointed:
    - i. has been informed in writing of the name and licence number of the principal contractor; and
    - ii. where required has provided an insurance certificate with the name of the insurer by which the work is insured under Part 6 of that Act.
  - b) in the case of work to be carried out by an owner-builder;
    - i. has been informed in writing of the name of the owner-builder; and
    - ii. if the owner-builder is required to hold an owner-builder permit under that Act; has provided a copy of the owner builder permit.
- (6) **Home Building Act – insurance** – Building work that involves residential building work within the meaning of the *Home Building Act 1989*, must not commence until such time as a contract of insurance is in force in accordance with Part 6 of that Act. This clause does not apply:
- a) to the extent to which an exemption is in force under Clause 187 or 188 of the *Environmental Planning & Assessment Regulation 2000 (EP&A Regulation 2000)*, subject to the terms of any condition or requirement referred to in Clause 198(6) or 188(4) of the *EP&A Regulation 2000*; or
  - b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) of Clause 98 of the *EP&A Regulation 2000* applies.
- (7) **Sign on Building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised 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.

- (8) **Shoring of adjoining buildings** - Where any excavation required for the development extends below the level of the base of a footing of a building, structure or work on adjoining land (including within a road or rail corridor), the person having the benefit of the consent must protect and support that building, structure or work from possible damage from the excavation, and where necessary underpin the building, structure or work to prevent any such damage.

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.

- (9) **Roof mounted equipment** – All roof mounted equipment such as air conditioning units, service pipes and vents etc., required to be installed must be concealed within

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the external walls of the development or adequately screened so as not to be visible from a public place.

- (10) **Design quality of development** - The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.
- (11) **Swimming Pool/Spa** - The swimming pool/spa must comply with:
  - a) the *Swimming Pools Act 1992*;
  - b) the *Swimming Pools Regulation 2008*;
  - c) AS 1926.1 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;
  - d) AS 3500.2 'Plumbing and Drainage' – Sanitary plumbing and drainage';
  - e) AS1926.3 'Water Recirculation Systems'; and
  - f) the BCA.

**2.0 – Prior to Issue of a Construction Certificate**

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

- (1) **Dilapidation report – Adjoining property** - A dilapidation report including a photographic survey of the following adjoining properties must be provided to the Certifying Authority. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.
  - a) 8 Thurlow Avenue, Nelson Bay.
  - b) 12 Thurlow Avenue, Nelson Bay.

The dilapidation report is to be prepared by a qualified Structural Engineer and the owner of the adjoining property. All costs incurred in achieving compliance with this condition must be borne by the applicant.
- (2) **Potential acid sulfate soils** - A geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Potential Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority. The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.
- (3) **Stormwater/drainage plans** – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff



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guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council). Details demonstrating compliance must be provided to the Certifying Authority.

**Note.** Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.

- (4) **Stormwater system Operation and Maintenance Procedure Plan** – An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal.

Details demonstrating compliance must be provided to the Certifying Authority.

- (5) **Retaining walls** – All retaining walls must be designed and certified by a suitably qualified Structural Engineer in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.

- (6) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.

- (7) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roads Act Approval Certificate under Section 138B of the *Roads Act 1993*.

- (8) **Landscape plan / Street tree plan** – The street trees identified on the Concept Landscape Plan (Sheet No. 2, Soulscape, dated 25.9.2019) must be selected and planted in accordance with Council's Street Tree Specifications. Details demonstrating compliance must be provided to the Certifying Authority.

- (9) **Design verification – SEPP 65** – A design verification statement from a qualified NSW Registered Architect must be submitted to the Certifying Authority confirming the Construction Certificate plans and specifications are consistent with the Development Application approval.

- (10) **Garbage room** – Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, must be constructed in accordance with the approved plans and the following:

- a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;
- b) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room; and
- c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.

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Details demonstrating compliance must be provided to the Certifying Authority.

- (11) **Construction Environmental Management Plan** – A Construction Environmental Management Plan (CEMP) is to be submitted to and approved by the Certifying Authority and Council. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management.
- (12) **Section 7.11 development contributions** - A monetary contribution is to be paid to Council for the provision of eleven additional dwelling, pursuant to Section 7.11 of the Environmental Planning & Assessment Act 1979 and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$587	\$6,457
Civic Administration – Works Depot	\$1,531	\$16,841
Town Centre Upgrades	\$4,124	\$45,364
Public Open Space, Parks & Reserves	\$1,516	\$16,676
Sports & Leisure Facilities	\$2,292	\$25,212
Community and Cultural Facilities	\$824	\$9,064
Road Works	\$2,283	\$25,113
Shared Paths	\$3,312	\$36,432
Bus Facilities	\$11	\$121
Fire & Emergency Services	\$226	\$2,486
Flood & Drainage	\$1,738	\$19,118
<b>Total</b>		<b>\$202,884</b>

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

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

**Note:** The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount must be indexed at the time of actual payment in accordance with the applicable Index.

- (13) **Long service levy** – In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.
- (14) **Certification of subsurface structures and geotechnical monitoring** - The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighbouring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts

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arising from such works, the applicant must engage a suitably qualified and practicing Engineer having experience in the geotechnical and hydrogeological fields, to design, certify and oversee the construction of all subsurface structures associated with the development. This engineer is to prepare the following documentation:

- a) Certification that the civil and structural details of all subsurface structures are designed to:
  - i. provide appropriate support and retention to neighbouring property,
  - ii. ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,
  - iii. ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.
  
- b) A Geotechnical Monitoring Program is to be prepared for implementation during construction that:
  - i. is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
  - ii. details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
  - iii. details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
  - iv. details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.

The Certification of subsurface structures and the Geotechnical Monitoring Program are to be submitted to the the Certifying Authority.

- (15) Certification is to be submitted by a qualified Structural Engineer to certify that the underground stormwater detention system is capable of withstanding appropriate live and dead loads, including expected traffic loading.

Details demonstrating compliance must be provided to the Certifying Authority.

- (16) **Hunter Water** - A Section 49 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.

- (17) **External Agency** - The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.

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The requirements are:

Ausgrid, reference 2017/33/150, dated 8 April 2019.

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

**3.0 - Prior to Commencement of Works**

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (1) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.

Evidence of this Policy must be provided to Council and the Certifying Authority.

- (2) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:

- a) a description of the work to be carried out;
- b) the address of the land on which the work is to be carried out;
- c) the Registered number and date of issue of the relevant development consent;
- d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
- e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
- f) a telephone number on which the PCA may be contacted for business purposes.

- (3) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:

- a) the name and address of the person by whom the notice is being given;
- b) a description of the work to be carried out;
- c) the address of the land on which the work is to be carried out;
- d) the Registered number and date of issue of the relevant development consent and construction certificate;
- e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
- f) the date on which the work is intended to commence.

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- (4) **Sign of PCA and contact details** – A sign must be erected in a prominent position on the site stating the following:
- a) that unauthorised entry to the work site is prohibited;
  - b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
  - c) the name, address and telephone number of the Principal Certifying Authority.

The sign must be maintained while the work is being carried out and must be removed upon the completion of works.

- (5) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
  - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and
  - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

- (6) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.

- (7) **Demolition work** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.

Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.

Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.

- (8) **Soil erosion and sediment control** – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

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- (9) **All weather access** – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.

No materials, waste or the like are to be stored on the all-weather access at any time.

- (10) **Rubbish generated from the development** – Where not already available, 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 must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

- (11) **Protection of trees /existing street trees** – Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites'.

- (12) **Hazardous Building Materials Assessment** – A Hazardous Building Material Assessment (HBMA) must be undertaken on all buildings and structures to be demolished that identifies all hazardous components on site. A HBMA report must be provided to the PCA and Council.

Once hazardous components are identified, all demolition works that involve the demolition and removal of the hazardous materials must ensure that all site personnel are protected from risk of exposure in accordance with relevant SafeWork NSW and NSW Demolition Guidelines. Premises and occupants on adjoining land must also be protected from exposure to any hazardous materials.

#### 4.0 - During Works

The following conditions of consent shall be complied with during the construction phase of the development.

- (1) **Construction hours** – All work (including delivery of materials) must be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.
- (2) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must 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.

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- (3) **Compliance with BCA** – All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (4) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.  
If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:
- preserve and protect the building from damage; and
  - if necessary, underpin and support the building in an approved manner; and
  - give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact “Dial Before You Dig” prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- (5) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.
- (6) **Survey report** – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.
- (7) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
- Connected to an approved stormwater quality improvement device such as an infiltrating raingarden in accordance with Council’s Standard Drawing S161 (or latest revision of this drawing). Where an infiltration garden is installed, it is to be located in the landscaped area(s) with an overflow pipe connected to the existing drainage easement/system.
- (8) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.

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- (9) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (10) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.
- (11) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the nearest property boundary.
- (12) **Construction Environmental Management Plan** – All operations must be carried out in accordance with the recommendations contained in the Construction Environmental Management including:
- a) Noise mitigation measures.
  - b) Traffic management.
  - c) Noise and/or vibration monitoring.
  - d) Use of respite periods.
  - e) Complaints handling.
  - f) Community liaison and consultation.
- (13) **Fill material** – The only fill material that may be received at the development site is: Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*; or

Excavated natural material (ENM) within the meaning of the *POEO Act 1997*; or  
 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.



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Any fill, soil, mulch and plant brought onto the site must be certified as free of weeds and weed seeds.

- (14) **Swimming Pool Water** - The collected water, along with any backwash or pump-out water from pumps/filters shall be disposed of to the reticulated sewer. Disposal measures shall be designed and located so as not to cause a nuisance or environmental damage.
- (15) **Swimming Pool Fencing** - The swimming pool or spa must be fenced so that the pool is effectively isolated from the dwellings and adjoining lands. The swimming pool fence & gate must:
- a) Strictly adhere to the design and location approved with the development consent, and any conditions of the development consent.
  - b) Strictly comply with AS1926 'Swimming Pool Safety' – Part 1: Safety barriers for swimming pools.
  - c) Have a minimum effective height of 1.2m.
  - d) Be self-closing and self-latching. All gates must open outwards from the swimming pool enclosure.
  - e) The filtration equipment including any cover, housing or pipe work, must not be located within a distance of 900mm from the outside face of the swimming pool safety fencing enclosure, nor within 300mm from the inside of the swimming pool safety fencing enclosure (where footholds are possible).
  - f) Boundary fencing forming part of the swimming pool safety fencing must maintain a minimum effective height of 1.8m and a 0.9m non climbable zone (measured from the top of the inside of the barrier).

The swimming pool safety fencing must be installed prior to the swimming pool being filled with water. The Principal Certifying Authority, or an accredited certifier must inspect the swimming pool safety fencing.

- (16) The swimming pool surrounds and/or paving is to be constructed in a manner so as to ensure water from the pool overflow does not discharge onto the neighbouring properties.

The swimming pool/spa water recirculation and filtration system installation shall comply with AS 1926.3 – 2010 and/or AS2610.2 - 2007. Incorporating this safety measure may assist in avoiding entrapment of/or injury to young children.

Details demonstrating compliance must be provided to the Certifying Authority.

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(17) **Waste Water from Swimming Pools and Spas** - All swimming pool waste water must be disposed of as follows:

- a) Where a Hunter Water sewer is available – waste water must be drained or pumped to the sewer.

**5.0 - Prior to Issue of an Occupation Certificate**

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

(1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.

The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.

(2) **Survey Certificate** – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.

(3) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:

- a) Electricity;
- b) Water;
- c) Sewer.

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

(4) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.

The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.

(5) **Rectification damage to public infrastructure** – The applicant must rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.

(6) **Completion of Roads Act Approval works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Council as the Roads Authority.

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- (7) **Works as Executed Plans and Report** - Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications confirming all stormwater drainage systems are constructed in accordance with the approved plans/documentation.
- (8) **Geotechnical Compliance Certificate** – A Compliance of Certificate prepared by a qualified Geotechnical Engineer must be provided to the Principal Certifying Authority stating that the works detailed in the Geotechnical Monitoring Program (prepared in accordance with this consent) and Geotechnical Report (reference P915-18\_109-R-001-Rev1, prepared by Valley Civilab dated 1 July 2019) have been implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes. This certificate must accompany the Works as Executed plans.
- (9) **Completion of landscape works** – All landscape works are to be undertaken in accordance with the approved landscape plan and conditions of this Development Consent.
- (10) **SEPP 65 – Design verification** – A design verification statement from a Registered and qualified architect must be submitted to the Principal Certifying Authority demonstrating the development has been constructed in accordance with the approved plans and the requirements of *State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development* (unless superseded by this DA Consent).
- (11) **Pool System** - Evidence is to be provided to the Principle Certifying Authority that the water recirculation system complies with AS1926.3-2010 Swimming Pool Safety – Water Recirculation Systems and/or AS2610.2-2007 Spa Pools Part 2: Private Spas.  
  
A warning/resuscitation sign is to be provided in a prominent position in accordance with Part 3 of the *Swimming Pools Regulation 2008*. The sign must be legible from a distance of at least 3 metres and must be maintained in a clearly legible condition. **The sign is to remain in place at all times.**
- (12) **Swimming Pool Register** - In accordance with Part 3A of the *Swimming Pools Act 1992*, all swimming pools (including spas) are required to be Registered on the NSW Swimming Pools Register.
- (13) **Safety and Security** – The following safety and security measures are to be installed:
  - a) Access to the car park to be via a control system and secure lobbies to be controlled by an intercom system.
  - b) Internal lighting and way finding maps to be provided to communal areas, internal lobbies and car parking areas.

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- c) Lighting to be vandal resistant and lighting to satisfy the relevant Australian Standard.
  - d) Doors to the services rooms to have self-closing hinges and locks that comply with relevant Australian Standards.
- (14) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- (15) **Noise Barrier** - Certification is to be submitted to the Principal Certifying Authority to certify that the construction of the noise barrier complies with Protection of the Environment Operations (Noise Control) Regulation 2017.

**8.0 – Ongoing Use**

The following conditions of consent are operational conditions applying to the development.

- (1) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Removal of graffiti** – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (3) **Parking areas to be kept clear** – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
- (4) **Privacy screen** – Any privacy screen/s or fences must be permanently maintained in accordance with the approved plans for the life of the development.
- (5) **Residential air conditioning units** – The operation of air conditioning units must operate as follows:
  - a) be inaudible in a habitable room during the hours of 10pm – 7am on weekdays and 10pm to 8am on weekends and public holidays;
  - b) emit a sound pressure level when measured at the boundary of any neighbouring residential property, at a time other than those specified in (a) above, which exceeds the background (LA90, 15 minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute; and
  - c) not discharge any condensate or moisture onto the ground surface of the premises or into stormwater drainage system in contravention of the requirements of the *Protection of the Environment Operations Act 1997*.
- (6) **Fire Safety Schedule** – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of New South Wales Fire Brigades in accordance with the *Environmental Planning & Assessment Regulations 2000*.

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- (7) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.

If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

- (8) **Waste management and collection** – At all times, the strata management body must make arrangements for the placement of the garbage bins at the kerbside for weekly collection and must ensure the return of the bins to the garbage room as soon as practicable after collection.
- (9) **Pool Equipment** - The motor, filter, pump, and all sound producing equipment associated with or forming part of the swimming pool filtration system must be located so as not to cause a nuisance to adjoining property owners.

The location of equipment that causes offensive noise may require the equipment to be located within a suitable acoustic enclosure, or the relocation of such equipment.

**Advice Note(s):**

- (1) **'Dial Before you Dig'** – 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.

- (2) **Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

- (3) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.

- (4) **Aboriginal archaeological deposit** – In the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.

**ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS.**

(5) **Works near/adjoining electricity network assets** – Any works undertaken adjacent to Ausgrid underground assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables.

**SCHEDULE 2 - REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS****REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS**

*The determination decision was reached for the following reasons:*

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning Policy (SEPP) (Building Sustainability Index: BASIX) 2004, SEPP (Coastal Management) 2018, SEPP No. 55 – Remediation of Land, and SEPP No. 65 – Design Quality of Residential Apartment Development.
- Council has considered and accepted the applicant's clause 4.6 development standard variation request to clause 4.3 (building height) of the *Port Stephens Local Environmental Plan 2013* (PSLEP). The request is considered to be justified in the circumstances as it adequately addresses the matters prescribed by clause 4.6(3) of LEP2013, and the development is found to be in the public interest because it is consistent with the objectives of clause 4.3 'building height' of LEP2013 and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

**REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED**

The following conditions are applied to:

1. Confirm and clarify the terms of Council's Approval;
2. Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;

2019/194/1  
Page 18 of 20

**ITEM 2 - ATTACHMENT 3 RECOMMENDED CONDITIONS.**



3. Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
4. Set standards and performance measures for acceptable environmental performance; and
5. Provide for the ongoing management of the development.

**SCHEDULE 3 – RIGHT OF APPEAL AND REVIEW**

**RIGHT OF APPEAL**

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after:

- a) the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined under Section 8.11.

Section 8.8 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

**RIGHT OF REVIEW**

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six months after the date as specified in this notice of determination, together with payment of the appropriate fee. (**See exclusions note below**).

**Exclusions:** A request to review the determination of a development application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- a) A determination to issue or refuse to issue a complying development certificate, or
- b) A determination in respect of designated development, or
- c) A determination made by the Council under Division 4 in respect of an application by the Crown.

**SCHEDULE 4 - APPROVAL(S) UNDER SECTION 4.12(3)**

NIL



**SCHEDULE 5 - APPROVALS UNDER SECTION 4.46**

NIL



ITEM 2 - ATTACHMENT 4      CLAUSE 4.6 EXEMPTION TO DEVELOPMENT STANDARD.



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17 December 2019

The General Manager  
Port Stephens Council  
PO Box 42  
Raymond Terrace NSW 2324

Dear Sir/Madam,

**RE: 10 THURLOW AVENUE NELSON BAY – REQUEST FOR EXCEPTION TO BUILDING HEIGHT STANDARD – PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013**

In reference to the above-mentioned property, we submit the following written request to contravene the development standard in relation to the proposed building height exceedance. This correspondence seeks to address the exceedance to the development standard contained in the plan set referenced Issue A, dated 19.08.19.

This submission seeks a variation to Clause 4.3 of the Port Stephens Local Environmental Plan 2013 (LEP 2013), which relates to height of buildings. The LEP 2013 prescribes a building height limit of 15m to the subject premise.

This submission has been prepared in relation to a Development Application for a proposed residential flat building development on land known as No. 10 Thurlow Avenue, Nelson Bay.

As detailed in this request, the proposed development is considered to meet the requirements prescribed under Clause 4.6 of the Port Stephens Local Environmental Plan 2013, as the development standard is considered unreasonable and the development displays sufficient environmental planning grounds to warrant contravention of the development standard.

1. Introduction

This submission is made under Clause 4.6 of the LEP 2013 – Exceptions to development standards. Clause 4.6 states the following:

*4.6 Exceptions to development standards*

*(1) The objectives of this clause are as follows:*

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances. (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

ITEM 2 - ATTACHMENT 4      CLAUSE 4.6 EXEMPTION TO DEVELOPMENT STANDARD.



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- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority should be satisfied that all requirements of the Clause have been suitably addressed via the content in this formal request.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a Local Environmental Plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- 4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (iii) (b) the concurrence of the Secretary has been obtained.*

The Environmental Planning Instrument to which this variation relates to is the Port Stephens LEP 2013. The development standard to which this objection relates to is Clause 4.3 of the LEP 2013, which reads as follows:

4.3 Height of buildings

- (1) The objectives of this clause are as follows:*
  - (a) to ensure the height of buildings is appropriate for the context and character of the area,*
  - (b) to ensure building heights reflect the hierarchy of centres and land use structure.*
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

A maximum building height of 15m applies to the subject site.

Written justification for the proposed variation to the height of buildings development standard in accordance with Clause 4.6 of the LEP 2013 is required.

ITEM 2 - ATTACHMENT 4      CLAUSE 4.6 EXEMPTION TO DEVELOPMENT STANDARD.



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2. Extent of Non-Compliance

As noted above, Clause 4.3 of the LEP 2013 states that the premise is subject to a maximum building height of 15 metres.

Referring to the amended architectural plans of August 2019 provided to our office, the maximum building height is exceeded along the roof parapet at the northern elevation above unit 4-02. Scaling from the plan, the building displays a maximum elevation of 17.5m, being a non-compliance of 2.5m.

The building levels are a derivative of gradient drive transitions off the road for basement carparking. The sloping topography and pursuit of function floor plates result in the elevation of the basement, exceeding the prescribed building standard.

The subject allotment has previously been developed and as a function of that development, ground levels have been significantly modified. This is most evident at the rear of the site, where ground levels have been benched to for level yard spaces. The plan information showing sectional analysis shows that the maximum heights are in the area of the benched yard levels. If the natural ground line, blended from the bushland gradients through the site to the street, the area of the exceedance would have been significantly lower in reference to higher natural ground levels.



Figure One: showing steep gradients within the reserve, which would have projected a higher ground level through the rear of the site if not for former alterations to support the existing dwelling.

Our point is that the extent of the exceedance is exacerbated by former works and not reflective of height above natural ground levels. The surrounding context does not necessarily display the same existing on-site variations.

The upper most projection of the development is located centrally to the rear of the lot and so is obscured from the immediate public domain to Thurlow Street. Views to the premise from the foreshore reserve are filtered heavily by existing vegetation and obtained at a distance, which serves to mitigate the visual impact

ITEM 2 - ATTACHMENT 4      CLAUSE 4.6 EXEMPTION TO DEVELOPMENT STANDARD.



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of the height exceedance. Within the immediate view shed, the height exceedance displays limited visual presence as a function of the emerging character of the locality.

The upper level non-compliance is obstructed mostly as a function of where it is located, observed and (to a significant extent) by the filtering of vegetation and distance. That vegetation is proportionally similar in elevation. The observable element is a permeable form and therefore has limited visual scale and massing. As such the maximum height is further limited in its visual presence.

Figure two below outlines these points. The site is to the left of the existing residential flat building. We submit that in view of the emerging character throughout the locality, the development is not inconsistent to that character. Given the location from which the non-compliance is observed, the emerging built form character and the lack of amenity impacts resulting from the height exceedance, the non-compliance should be supported by Council.



Figure Two: View from foreshore reserve to premise.

The roof massing is proportionally subservient and the floor to ceiling heights seek to respond to SEPP and DCP provisions for the development form. The upper level is therefore not visually dominant and is off set by the permeable elements projecting forward. The extent of the exceedance is limited and are presented in a manner that is intrinsic to the architectural form. The nature of topography upon the allotment and limited presentation to the streetscape will reduce the visual dominance of the non-compliant roof structure from the streetscape.

We note also that the development occurs upon a crest in the streetscape. Premises to the south have constrained ability to obtain views over that crest and so views to the water to the north are mostly obtain from immediate adjoining premises to the east and west. Given their presentation to the sloping hillside down to the reserve, they retain unimpeded panoramic outlooks to the north. In this manner, the height exceedance does not present any constraint to views to adjoining premises.

The allotment orientation is such that solar access impacts occur to the front setback area upon the subject lot. Premises to the east retain suitable levels of solar access in the am and premises to the west retain suitable levels of solar access in the pm. The height exceedance does not result in undue solar access constraints to adjoining premises in this manner.

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3. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

We note the decision of Commissioner Morris in *Randwick City Council versus Micaul Holdings Pty Ltd (2016) NSWLEC 7*. In that case, it was recognised that the Commissioner did not have to be directly satisfied that compliance with each development standard was unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicants written request has adequately addressed the matter that compliances with each development standard was unreasonable or unnecessary.

We submit the following analysis to the relevant measures in determining the unreasonableness of the standard in this particular circumstance.

The proposed variation from the development standard is assessed against the accepted "5 Part Test" for the assessment of a development standard variation established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827*.

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Chief Justice Preston expressed the view that there are five (5) different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. This attributes to determining whether compliance with the standard is unreasonable or unnecessary in the circumstances of the case as set out on the following page:

*First*

*The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

*Second*

*Another mechanism is to determine whether the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

*Third*

*It may also be that the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

*Fourth*

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

*Fifth*

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

The following discussion is provided in response to each of the above:

ITEM 2 - ATTACHMENT 4      CLAUSE 4.6 EXEMPTION TO DEVELOPMENT STANDARD.



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First

The objectives supporting the height of buildings control identified in Clause 4.3 are discussed below. Consistency with the objectives and the absence of any environmental planning impacts, would demonstrate that strict compliance with Clause 4.3 would be unreasonable in this instance. The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3.

The development as proposed will be in the public interest as it is consistent with the objectives of the development standard (being Clause 4.3), which are as follows:

*(1) The objectives of this clause are as follows:*

- (a) to ensure the height of buildings are appropriate for their location.*
- (b) to permit building heights that encourage high quality urban form.*

The proposal seeks consent for a five-storey residential flat building development, incorporating a lower level carpark. The maximum height proposed is 17.5m, as measured from the existing ground level, resulting in a numerical breach of 2.5m (16%).

Fundamentally, the area of exceedance is derived from projections in the upper roof plane above down sloping topography. As a result, it is located in the central portion at the northern extent of the development footprint. The outer edges of the building (balcony roof projection) will serve to obscure the maximum height and so it is not readily discernible. The obstructing elements are non-compliant and we contend that given their limited extent, light visual mass and permeability, will not be excessively dominant.

The locality is undergoing a process of gentrification and as a result, many sites are realising the potential inferred by the Zone provisions. Obviously, developments are utilising this strategic facility to elevate along the northern elevation in order to obtain water viewing opportunities to the north. This is resulting in multi storey buildings of similar scale and elevation being established in proximity to the subject lot.

Given existing contextual influences, the design is considered appropriate amongst the built form context across the broader locality. Further, as the process of gentrification continues in this locality, building to the full extent of the development standard will become predominant (by way of gentrification achieving adequate capitalization).

The building design incorporates reasonable floor to ceiling heights that are deliberate inclusions which seek to provide increased light penetration to internal portions of the building. The 3.0 metre height between floor levels, combined with the predominant unit axis being oriented to the north, will facilitate strong light penetration into the units. This will, in turn, allow for improved amenity within the development, which is considered to contribute to the qualities of the design. The areas of exceedance are intrinsic to the architectural form and are of a minor extent. We submit that allowing this design inclusion encourages a higher quality urban form.

The design of the structure is considered appropriate in terms of its architectural form. The design presents visual interest through its defined architectural style. Massing is broken down by use of articulation, fenestration and material finishes. The building incorporates modulated visual elements, which further serve to reduce visual scale and provide architectural interest.

Building orientation and placement utilises geographical features and amongst the landscape setting will present a high quality/high amenity outcome. The proposal represents a significant capital investment and

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in doing so consolidates development viability in the area. We submit that in view of these matters, the design provides a high-quality urban form.

The elevation of the development does not appear to unduly constrain amenity to adjoining lands through constraint to solar access, unacceptable visual dominance or view loss. Solar access impacts from the development are generated from compliant portions of the building.

Spatial separation facilitated by the setback of the upper most floor level (where the exceedance is displayed) and the restricted viewing angles (from the footpath areas) to the non-compliant portions will mitigate the ability to discern the non-compliance. The adjoining reserve displays established endemic vegetation that is of a proportional scale to the proposal and so the visual scale and intrusion of the development is mitigated by these natural features. The non-compliant portions are intrinsic to the architectural presentation and so they will not be distinct or readily identifiable as non-compliant.

As discussed above, the development presents a high-quality architectural form, displaying movement and visual interest. It balances the interface to the streetscape, whilst affording appropriate amenity for occupants of the development. It responds to contextual challenges and as such is considered a considered outcome.

In achieving an outcome appropriate for its locality, the development is entirely consistent to the Objectives underpinning Clause 4.3. We therefore submit that this submission provides sufficient environmental planning grounds to justify contravening the development standard.

Second

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

The underlying objective or purpose of the standard is relevant to the development and is achieved as outlined above. Therefore, this provision is not applicable.

Third

*The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The underlying object would not be thwarted by compliance.

Fourth

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

This particular aspect is not applicable in this instance.

Fifth

**ITEM 2 - ATTACHMENT 4      CLAUSE 4.6 EXEMPTION TO DEVELOPMENT STANDARD.**

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

Not applicable as the zoning of the site is appropriate.

#### 4. Are there Sufficient Environmental Planning Grounds?

The assessment above and shown throughout the documentation submitted to Council demonstrates that the resultant environmental planning impacts of the proposal will be satisfactory.

The proposed variation to the development standard is 2.5m. Notwithstanding the variation, the proposed works represent a well-considered development that responds to site constraints, streetscape and relevant objectives of both the standards and the zone. The proposal will maintain high levels of amenity within the development and to the surrounding context.

The development form is consistent to the emerging built form context and we consider that development consistent to the standard would be counter to context and a lesser likely outcome in terms of architectural form and amenity.

In this case, we submit that the proposal displays sufficient environmental planning grounds to warrant variation to the development standard.

#### 5. Is the Variation in the Public Interest?

Clause 4.6 states that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of the development standard (being Clause 4.3).

#### 6. Public Benefit of Maintaining the Standard

It is considered that there is no benefit to the public or the community in applying the development standard in this specific instance. The proposed development will allow for the creation of a high-quality residential development which as stated above meets the desired objectives of the standard. It facilitates the strategic intent for the locality sought by the LEP.

It is not considered that the variation sought raises any matter of significance for State or regional environmental planning.



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The departure from Clause 4.3 within the LEP 2013 still allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

7. Is the Variation Well Founded?

It is considered that this has been adequately addressed in Parts 4 and 5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the LEP 2013 in that:

Compliance with the development standard would be unreasonable and unnecessary in the circumstances of the development;

1. There are sufficient environmental planning grounds to justify the departure from the standard;
2. The proposed development is in the public interest and there is no public benefit in maintaining the standard;
3. The breach does not raise any matter of State of Regional Significance; and
4. The development submitted aligns with Council's Development Control Plan.

Based on the above, the variation is considered to be well founded.

8. General

Clause 4.6 also states that:

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note.*

*When this Plan was made it did not include all of these zones.*

*(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

*(8) This clause does not allow development consent to be granted for development that would contravene any of the following:*

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4,*

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(ca) clause 6.1 or 6.2.

*Comment:*

This variation does not relate to the subdivision of land. The variation sought is not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate has been prepared in relation to the proposed development and is submitted under separate cover

The development is not affected by clause 5.4.

9. Conclusion

The proposal does not comply with the height of buildings control as prescribed by Clause 4.3 of the Port Stephens Local Environmental Plan 2013. Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the LEP 2013 are satisfied as the breach to the height of buildings does not create adverse environmental planning impacts.

Consequently, strict compliance with this development standard is unreasonable in this particular instance and use of Clause 4.6 of the LEP 2013 to vary this development standard is appropriate in this instance.

Based on the above, it is sensible to conclude that strict compliance with the height of buildings standard is not necessary and that a better outcome is achieved for this development by allowing some flexibility in the application of the standard.

We trust this additional detail suitably responds to the matters raised in your correspondence. Should you have any enquiries regarding these matters, please contact me on the contact details listed.

Yours faithfully

Adam Piper

**ITEM NO. 3**

**FILE NO: 19/376141  
EDRMS NO: PSC2019-05430**

**LOCAL STRATEGIC PLANNING STATEMENT**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft Port Stephens Local Strategic Planning Statement 2040 (**ATTACHMENT 1**) for public exhibition for a period of 28 days, in accordance with the Environmental Planning and Assessment Act 1979.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>008</b>	<p><b>Councillor Paul Le Mottee Councillor Sarah Smith</b></p> <p>It was resolved that Council endorse the draft Port Stephens Local Strategic Planning Statement 2040 (<b>ATTACHMENT 1</b>) for public exhibition for a period of 28 days, in accordance with the Environmental Planning and Assessment Act 1979.</p>
------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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

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

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

The purpose of this report is to seek Council endorsement to place the draft Port Stephens Local Strategic Planning Statement 2040 (**ATTACHMENT 1**) on public exhibition for a period of 28 days.

In March 2018, amendments were made to the Environmental Planning and Assessment Act 1979 (EP&A Act) that introduced new requirements for councils to prepare Local Strategic Planning Statements (LSPS) to guide long term local strategic planning.

The EP&A Act requires the LSPS to include:

- a) The basis for strategic planning in the area, having regard to economic, social and environmental matters.
- b) Planning priorities consistent with relevant regional plans and the Community Strategic Plan.
- c) The actions required to achieve those planning priorities.
- d) The basis on which Council is to monitor and report on the implementation of the actions.

Regional councils are required to have an LSPS adopted and endorsed by the NSW Department of Planning, Industry and Environment (DPIE) by 1 July 2020.

The LSPS is required to be publicly exhibited for a minimum 28 days.

The LSPS is the strategic document that links the implementation of the actions in the Hunter Regional Plan and Greater Newcastle Metropolitan Plan and the land use directions in Council's Community Strategic Plan (CSP).

The LSPS includes reference to policies and directions in Council's current adopted land use plans and identifies where actions are necessary to achieve State planning directions and the objectives of the CSP.

The LSPS comprises of 4 outcomes, 12 planning priorities, and 29 actions. The outcomes meet the directions for Hunter councils in State planning strategies and the priorities identify broad issues or policy areas to focus on:

#### Economy

1. Support the growth of strategic centres and major employment areas
2. Make business growth easier
3. Support tourism development and attract events.

#### Housing

4. Ensure suitable land supply
5. Increase diversity of housing choice
6. Plan infrastructure to support communities.

Environment

7. Conserve biodiversity values and corridors
8. Improve resilience to hazards and climate change
9. Protect and preserve productive agricultural land
10. Create people friendly spaces where people can come together.

Transport

11. Integrate land use and transport planning
12. Enhance inter-regional connections.

The LSPS will inform future amendments to the Port Stephens Local Environmental Plan 2013 (LEP 2013) and Port Stephens Development Control Plan 2014 (DCP 2014) and other local strategies, plans and policies.

Monitoring and reporting on the actions will be carried out as part of the Integrated Planning and Reporting Framework. The LSPS will be reviewed concurrently with the Community Strategic Plan every 4 years.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
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 LSPS is consistent with the Hunter Regional Plan 2036 (HRP) and the actions in the HRP to create healthy built environments through good urban design, enhance access to recreational facilities and connect open spaces, and to promote more compact settlements with diverse housing types.

Greater Newcastle Metropolitan Plan

The LSPS is consistent with the Greater Newcastle Metropolitan Plan (GNMP) and the outcomes identified in that plan to enhance the environment, amenity and quality of life, deliver housing close to jobs and services, and to improve connections to services and recreation spaces.

Port Stephens Planning Strategy 2011-2036

The Port Stephens Planning Strategy (PSPS) is Council's overarching land use planning document. The LSPS will replace the PSPS as the overarching land use planning strategy in Port Stephens.

Port Stephens Local Environmental Plan 2013 and Port Stephens Development Control Plan 2014

The LSPS will inform future amendments to the Port Stephens LEP 2013 and Port Stephens DCP 2014 and other local strategies, plans and policies.

This includes being a matter for consideration as part of the LEP 2013 amendment (Rezoning Requests).

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that DPIE will not endorse the LSPS by 1 July 2020.	Medium	Ensure that the LSPS gives effect to the actions and directions in the HRP and GNMP and meets statutory requirements.	Yes
There is a risk that the LSPS will not be adopted by 1 July 2020.	Medium	Exhibit the LSPS and consult with State agencies early in 2020 to enable adoption prior to 1 July 2020.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The LSPS contains actions that will have positive social, economic and environmental implications. The outcomes aim to support a growing economy and jobs, conserve biodiversity values, facilitate new housing, and to build strong local communities. Actions in the LSPS will support more vibrant local centres, enhanced environmental outcomes, more diverse housing and improved wellbeing for residents.

## **CONSULTATION**

Targeted consultation with key stakeholders has been undertaken by the Strategy and Environment Section during the preparation of the LSPS. Further consultation will be undertaken as part of the public exhibition process set out below. Councillors were briefed on 16 July 2019 and 17 December 2019.

### Internal

The LSPS has been prepared in consultation with the relevant sections in the Development Services Group, Facilities and Services Group, and Corporate Services Group.

### External

External stakeholders including State agencies, neighbouring councils, industry and community stakeholders have been consulted during the preparation of the LSPS.

The LSPS has been informed by the community consultation conducted on Council's Community Strategic Plan (CSP) to ensure consistency with the directions set out in the CSP.

DPIE have hosted workshops with Hunter councils to provide advice on the development of the LSPS. Council staff have participated in these workshops and consulted with DPIE on a regular basis to inform the LSPS.

Targeted focus groups were held during the preparation of the LSPS including residents from different parts of the local government area and across different demographics. Focus groups were also held with peak industry bodies including the Urban Development Institute of Australia, Housing Industry Association, Planning Institute of Australia and the Property Council of Australia. Insights gained from the focus groups have informed the priorities and actions in the LSPS.

The LSPS will be publicly exhibited for 28 days in accordance with legislative requirements. Exhibition will include a public notice published in the Port Stephens Examiner and the documents will be available for inspection on Council's website, at the Administration Building and in Raymond Terrace and Tomaree Library.

Submissions can be made to Council during the public exhibition period. The exhibition will allow Council to inform the community and seek feedback on the LSPS and will include Council hosting face-to face consultation, such as drop-in sessions.

Following public exhibition, all submissions will be considered and further changes may be made to the draft LSPS.

The LSPS will be reported to Council for adoption, and subsequently, submitted to DPIE for endorsement by 1 July 2020.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Draft Local Strategic Planning Statement. (Provided under separate cover)

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.



**ITEM NO. 4**

**FILE NO: 19/384748  
EDRMS NO: PSC2018-02453**

**PORT STEPHENS LOCAL HOUSING STRATEGY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft Port Stephens Local Housing Strategy (Live Port Stephens) (**ATTACHMENT 1**) for public exhibition for a minimum period of 28 days.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>009</b>	<p><b>Councillor Ken Jordan Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the draft Port Stephens Local Housing Strategy (Live Port Stephens) (<b>ATTACHMENT 1</b>) for public exhibition for a minimum period of 28 days.</li><li>2) Note the following update to the consultation section following consultation with the NSW Department of Planning, Industry and Environment (DPIE).</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

## **BACKGROUND**

The purpose of this report is to seek Council endorsement to place the draft Port Stephens Local Housing Strategy (Live Port Stephens) (**ATTACHMENT 1**) on public exhibition for a period of 28 days.

The State government requires all Greater Newcastle councils to adopt a local housing strategy prepared in accordance with the Greater Newcastle Metropolitan Plan (GNMP) prior to September 2020. The GNMP and Hunter Regional Plan set out housing directions for Port Stephens Council and Live Port Stephens contains specific actions to meet those directions.

Live Port Stephens has been informed by 3 background studies:

- Port Stephens Demographic and Housing Overview Report
- Housing Preferences in Port Stephens Report
- Port Stephens Infill Housing Study.

The Demographic and Housing Overview Report analyses demographic trends and housing demand and makes recommendations to ensure there is adequate housing supply in Port Stephens.

The Housing Preferences Report includes the results of a survey undertaken of 300 existing residents. The survey results provide some insights on current and future housing preferences, and what people value when they choose where and how they live.

The Infill Housing Study investigates opportunities and barriers to delivering increased housing supply within existing established urban areas. The study focuses on specific areas in Port Stephens around local centres and tests financial feasibility and other barriers for new development. The Study takes a place-based approach with an emphasis on maintaining or enhancing the local character of each centre.

In response to the findings of these background studies, and the directions set by the State government for housing in Greater Newcastle, Live Port Stephens lists priorities and actions to:

1. Ensure suitable land supply
2. Improve housing affordability
3. Increase diversity of housing choice
4. Facilitate liveable communities

Live Port Stephens includes actions to boost housing supply, offer more diverse and affordable housing options and support new housing by providing the infrastructure and services that make communities liveable.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The preparation of Live Port Stephens has been managed within the existing budget.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
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

Live Port Stephens is consistent with the Hunter Regional Plan 2036 (HRP) including directions to plan for compact settlements, housing diversity, and land use compatibility between residential and agricultural uses.

Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan 2036 (GNMP) was adopted by the NSW Government in September 2018 and required all Greater Newcastle Councils to prepare a local housing strategy within 2 years. Local housing strategies are to be in accordance with the directions of the GNMP which include prioritising infill housing (i.e re-development of existing urban areas), delivering housing close to jobs, and promoting diverse housing types such as small lot housing and multi-dwelling housing. Local housing strategies that are prepared in accordance with the GNMP will be endorsed by the NSW Department of Planning, Industry and Environment (DPIE). Planning Proposals that are consistent with an endorsed housing strategy are more likely to be given conditional approval by DPIE for rezoning.

Draft Port Stephens Local Strategic Planning Statement

A draft Local Strategic Planning Statement (LSPS) has been prepared concurrent with Live Port Stephens. The LSPS is a new statutory requirement for councils under the Environmental Planning and Assessment Act 1979. All Hunter councils are required to have an LSPS endorsed and adopted by 1 July 2020. The LSPS is required to set out how council will achieve the land use planning directions in the HRP, GNMP and Council's Community Strategic Plan. Live Port Stephens is consistent with the priorities for housing identified in the draft LSPS and the documents are proposed to be exhibited together.

Port Stephens Planning Strategy 2011-2036

The Port Stephens Planning Strategy (PSPS) is Council's overarching land use document including providing the direction for future housing. Live Port Stephens will be exhibited together with a draft Local Strategic Planning Statement. The Local Strategic Planning Statement will replace the PSPS as the overarching land use planning strategy in Port Stephens on adoption.

Port Stephens Local Environmental Plan 2013

Amendments to the Port Stephens Local Environmental Plan 2013 may result from some of the actions identified in Live Port Stephens, including planning proposals to rezone land for residential purposes. On adoption, amendments will be assessed for consistency with Live Port Stephens (and other Council plans and policies) and a new statutory requirement for all planning proposals to address the LSPS will apply.

Port Stephens Development Control Plan 2014

Amendments to the Port Stephens Development Control Plan 2014 may result from some of the actions identified in Live Port Stephens, including amendments to development controls to support priorities to facilitate small lot housing around local centres.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that DPIE will not endorse Live Port Stephens.	Medium	Ensure that Live Port Stephens gives effect to the actions and directions in the HRP and GNMP.	Yes
There is a risk that Live Port Stephens will not be adopted by September 2020.	Medium	Exhibit Live Port Stephens and consult with State agencies early in 2020 to enable adoption prior to September 2020.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Live Port Stephens contains actions that will overall have positive social, economic and environmental implications. The outcomes aim to prioritise new housing around existing urban areas and to support strong local communities. The actions seek to facilitate sustainable development that can enhance local character. Live Port Stephens seeks to establish a robust framework for the identification and assessment of future areas for housing growth across the local government area. In addition, Live Port Stephens aims to improve housing affordability and to provide homes in locations close to employment centres in Port Stephens and Greater Newcastle. Actions in the strategy will support vibrant local centres and promote social wellbeing for residents.

## **CONSULTATION**

Targeted consultation with key stakeholders has been undertaken by the Strategy and Environment Section during the preparation of Live Port Stephens. Further consultation will be undertaken as part of the public exhibition process set out below.

### Internal

Live Port Stephens has been prepared in consultation with the relevant sections in the Development Services Group, Facilities and Services Group, and Corporate Services Group.

### External

A range of external stakeholders including State agencies, neighbouring councils, industry and community stakeholders have been consulted during the preparation of Live Port Stephens.

DPIE have hosted workshops with Hunter councils to provide advice on the development of a Local Housing Strategy and Local Strategic Planning Statement (LSPS). Council staff have participated in these workshops and consulted with DPIE on a regular basis to inform Live Port Stephens.

A survey was undertaken which included a telephone poll of some 300 residents in Port Stephens, to better understand community values and current and future housing preferences. Live Port Stephens contains a summary of the survey results, and seeks to respond to the key matters raised.

Targeted focus groups were held including residents from different parts of the local government area and across different demographics. Focus groups were also held with peak industry bodies including the Urban Development Institute of Australia, Housing Industry Association, Planning Institute of Australia and the Property Council of Australia. Insights gained from the focus groups have informed the priorities and actions in Live Port Stephens.

Community groups and other industry stakeholders were briefed in December 2019 to provide preliminary information on the data and evidence that has informed Live Port Stephens.

Live Port Stephens will be publicly exhibited for 28 days together with the draft Local Strategic Planning Statement.

Exhibition will include a public notice published in the Port Stephens Examiner and the documents will be available for inspection on Council's website, at the Administration Building and at Raymond Terrace Library and Tomaree Library. The supporting studies that have informed Live Port Stephens will also be made available. Submissions can be made to Council during the public exhibition period. The exhibition will allow Council to inform the community and seek feedback on Live Port Stephens and will include Council hosting face-to face consultation, such as drop-in centres.

Following exhibition, a report will be prepared to summarise submissions and to seek Council approval for adoption. On adoption, Live Port Stephens will be submitted to DPIE for endorsement.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Draft Port Stephens Local Housing Strategy - Live Port Stephens. (Provided under separate cover)

### **TABLED DOCUMENTS**

Nil.

### **COUNCILLORS ROOM**

- 1) Port Stephens Demographic and Housing Overview Report.
- 2) Housing Preferences in Port Stephens Report.
- 3) Port Stephens Infill Housing Study.

**ITEM NO. 5**

**FILE NO: 19/384727  
EDRMS NO: PSC2019-05565**

**AMENDMENT TO PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014  
CHAPTER A.11 DEVELOPMENT NOTIFICATION**

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION  
MANAGER

GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Exhibit a draft amendment to the Port Stephens Development Control Plan 2014 (Amendment No. 13) (the Amendment) (**ATTACHMENT 1**) to repeal Chapter A.11 – Development Notification.
- 2) Exhibit the Amendment for a period of 28 days in accordance with the Environmental Planning and Assessment Regulation 2000 (NSW).
- 3) If no submissions are received, approve the plan as exhibited, without a further report to Council, and provide public notice in accordance with the Environmental Planning and Assessment Regulation 2000.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>010</b>	<p><b>Councillor John Nell Councillor Jaimie Abbott</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Exhibit a draft amendment to the Port Stephens Development Control Plan 2014 (Amendment No. 13) (the Amendment) (<b>ATTACHMENT 1</b>) to repeal Chapter A.11 – Development Notification.</li><li>2) Exhibit the Amendment for a period of 28 days in accordance with the Environmental Planning and Assessment Regulation 2000 (NSW).</li><li>3) If no submissions are received, approve the plan as exhibited, without a further report to Council, and provide public notice in accordance with the Environmental Planning and Assessment Regulation 2000.</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**BACKGROUND**

Council adopted the Port Stephens Community Engagement Strategy on 26 November 2019 (Minute No. 227) (**ATTACHMENT 2**). The Community Engagement Strategy includes a Community Participation Plan (CPP) (**ATTACHMENT 3**) that replaces the development notification requirements that are currently set out in the Port Stephens Development Control Plan 2014.

The purpose of this report is to seek approval to place the draft Port Stephens Development Control Plan 2014 (DCP 2014) (Amendment No. 13) (the Amendment) (**ATTACHMENT 1**) on public exhibition for a period of 28 days. The Amendment will repeal Chapter A.11 – Development Notification (Chapter A.11) of the DCP 2014 and make minor amendments such as altering page numbers.

Under the Environmental Planning and Assessment Act 1979, all councils were required to adopt a CPP by December 2019 and make necessary amendments to development control plans to repeal redundant provisions for notification of development applications.

The purpose of the CPP is to provide a single document that the community can access that sets out all of Council’s community participation requirements under the planning legislation, including minimum mandatory exhibition timeframes for development applications and modifications.

As a result, the provisions for notification of development applications in Chapter A.11 of the DCP are redundant and need to be repealed.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no known financial or resource implications for Council as a consequence of the proposed recommendations.

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



**MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no known legal, policy or risk implications resulting from the proposed recommendation.

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

The EP&A Act was amended in 2018 to require all councils to prepare CPPs to provide a single document that the community can access that sets out all community participation requirements under the planning legislation and replace notification requirements in development control plans. The Amendment is consistent with these reforms.

Division 3.6 of the EP&A Act relates to development control plans. Should Council resolve to proceed with the Amendment, all necessary matters in preparing the plan will be carried out in accordance with the EP&A Act.

Environmental Planning & Assessment Regulations 2000 (EP&A Regulations)

Division 2 of Part 3 of the EP&A Regulations specifies the requirements for public participation in the preparation of development control plans. The recommendation is in accordance with the provisions of the EP&A Regulations.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the amendments are not made and there is duplication and inconsistent information about the notification of development.	Medium	Adopt the recommendations of this report.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Adopting the recommendations ensures accurate and clear information is available to the community about the notification of new development.

There are no significant economic or environmental implications resulting from the adoption of the recommendations.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Communications Section during the preparation of the Community Engagement Strategy and CPP. Councillors were briefed on 17 September 2019.

### Internal

Consultation on the Community Engagement Strategy and CPP was undertaken with all sections in the Development Services Group.

The Amendment has been prepared in consultation with the Development Assessment and Compliance unit.

### External

Advice was provided from the NSW Office of Local Government and the NSW Department of Planning, Industry and Environment (DPIE) on the preparation of the Community Engagement Strategy and the necessary amendments to the DCP 2014.

The Community Engagement Strategy was placed on public exhibition for 28 days from 9 October 2019 to 6 November 2019. Submissions were invited via email and post and a notification was placed in the Port Stephens Examiner. A total of 8 submissions were received and reported to Council on 26 November 2019 (Minute No. 227).

If supported, the Amendment will be placed on public exhibition for a minimum of 28 days. An advertisement will be placed in the Port Stephens Examiner and the Amendment will be made available on Council's website as well as hard copies at Council's Administration Building (Raymond Terrace) and at Raymond Terrace and Tomaree Libraries.

Submissions on the Amendment will be invited during the public exhibition period and, if submissions are received, they will be considered in a report back to Council.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Draft DCP Chapter A.11 - Development Notification.
- 2) Ordinary Council Minutes - 26 November 2019 - Minute No. 227.
- 3) Community Participation Plan.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM 5 - ATTACHMENT 1 DRAFT DCP CHAPTER A.11 - DEVELOPMENT NOTIFICATION.

A

INTRODUCTION

**A11 — Development Notification**

**Development** that is required to be notified by Figure AA: Notification Requirements for **Development Applications** (p. A-12) will be notified by Council by providing the following information:

**1. — No Notification Required**

**2. — Notification**

- — Written notice to immediately adjoining landowners

— At the discretion of Council, written notice may also be additionally provided to those landowners not immediately adjoining

**3. — Notification and Advertisement**

- — Notification requirements as required by 2. Notification (above), and
- — Newspaper notice in the Port Stephens Examiner

**Note:** Information relating to all **developments** being notified or advertised (in accordance with 2 and 3 above) will be available on Council's website through the DA tracker.

ITEM 5 - ATTACHMENT 1 DRAFT DCP CHAPTER A.11 - DEVELOPMENT NOTIFICATION.

**A**

INTRODUCTION

Figure AA- Notification Requirements for *Development Applications*

Development	1	2	3	Development	1	2	3
Agriculture				Exhibition homes			
Airstrip				Exhibition villages			
Airport transport facilities				Extractive industries			
Amusement centres				Farm buildings			
Animal boarding or training establishments				Flood mitigation works			
Boarding houses				Freight transport facilities			
Boat building and repair facilities				Forestry			
Boat launching ramps				Function centres			
Boat sheds				General industry			
Camping grounds				Group homes			
Caravan parks				Health service facilities			
Car parks				Heavy industrial storage establishments			
Cemetery				Heavy industry			
Charter and tourism boating facilities				Helipad			
Child care centres				<b>Home business</b>			
<b>Commercial premises</b>				Home industry			
Community facilities				Hostels			
Correctional centres				Industrial retail outlets			
Crematorium				Industrial training facilities			
Depots				Information and education facilities			
<b>Dual occupancies</b>				Jetties			
<b>Dwelling houses</b> —single storey				Light industry			
<b>Dwelling houses</b> —double storey				Marinas			
Eco-tourist facilities				Mooring pens			
Educational establishments				Moorings			
Electricity generating works				Mortuaries			
Emergency services facilities				<b>Multi dwelling housing</b>			
Entertainment facilities				Passenger transport facilities			
Environmental facilities				Places of public worship			
Environmental protection works				Port facilities			

A-12

ITEM 5 - ATTACHMENT 1 DRAFT DCP CHAPTER A.11 - DEVELOPMENT NOTIFICATION.

**A**

INTRODUCTION

Development	1	2	3	Development	1	2	3
Public administration building				Strata <b>subdivision</b>			
Recreation areas				<b>Subdivision</b> 4 lots or less			
Recreation facilities (indoor)				<b>Subdivision</b> 5 to 10 lots			
Recreation facilities (major)				<b>Subdivision</b> 11 or more lots			
Recreation facilities (outdoor)				<b>Subdivision</b> with public road			
Registered clubs				Tourist and visitor accommodation			
Research stations				Transport depots			
<b>Residential flat buildings</b>				Truck depots			
Respite day care centres				Vehicle body repair workshops			
<b>Restricted premises</b>				Vehicle repair stations			
Roads				Veterinary premises			
Rural industries				Warehouse or distribution centres			
<b>Secondary dwellings</b>				Wharf or boating facilities			
<b>Seniors housing</b>				Water or resource management facilities			
Sewerage systems				Water recreation structure			
<b>Sex services premises</b>				Water supply systems			
Shop-top housing				Wholesale supplies			
<b>Signage</b>				Water recreation structure			
Storage premises							

**Note:** Despite Figure AA **development** may be advertised and/or notified at the discretion of Council where it is considered appropriate (depending on the nature of the proposal). Where Council is of the opinion that the proposed **development** is minor in nature and its location, size, height, bulk and proposed use will not adversely affect the amenity of the adjoining land, advertising and/or notification of the **development** may not be required. Conversely, where Council is of the opinion the **development** may have an impact, Council may choose to notify or advertise.

Additional advertising and notification requirements are required for Designated Development, Nominated Integrated and Advertised Development as detailed in the **EP&A Act** and *Environmental Planning and Assessment Regulation 2000*. In addition to the above, **developments** that involve significant works to **heritage items** and Council projects above \$100,000 in value or that are likely to be of significant community interest will also be advertised and/or notified.

**MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**

**ITEM NO. 4**

**FILE NO: 19/349657  
EDRMS NO: PSC2014-01768**

**COMMUNITY ENGAGEMENT STRATEGY**

REPORT OF: STEVEN BERNASCONI - COMMUNICATIONS SECTION  
MANAGER  
GROUP: DEVELOPMENT SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and note the submissions received during the exhibition of the Draft Community Engagement Strategy (**ATTACHMENT 3**).
- 2) Endorse the Community Engagement Strategy (**ATTACHMENT 1**).
- 3) Revoke the Community Engagement Policy adopted by Council on 26 June 2018, Minute No. 179 (**ATTACHMENT 2**).

**ORDINARY COUNCIL MEETING - 26 NOVEMBER 2019  
MOTION**

<b>227</b>	<p><b>Councillor Chris Doohan Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Receive and note the submissions received during the exhibition of the Draft Community Engagement Strategy (<b>ATTACHMENT 3</b>).</li><li>2) Endorse the Community Engagement Strategy (<b>ATTACHMENT 1</b>).</li><li>3) Revoke the Community Engagement Policy adopted by Council on 26 June 2018, Minute No. 179 (<b>ATTACHMENT 2</b>).</li></ol>
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**BACKGROUND**

The purpose of this report is to provide submissions received during the public exhibition of the draft Community Engagement Strategy (the draft strategy) and to endorse the final version of the Community Engagement Strategy (**ATTACHMENT 1**).

The draft strategy includes two distinct sections, being Section 1 – ‘Our Community Engagement Approach’ and Section 2 – ‘Community Participation Plan’.

Section 2

# Community participation plan





## Community participation plan

It is a statutory requirement for councils in New South Wales to prepare a Community Participation Plan that sets out how and when it will undertake community participation when exercising relevant planning functions under the EP&A Act.

### **How is community participation carried out**

The Community Participation Plan specifies requirements including notification and public exhibition. This can include:

- Giving written notice to neighbours, individual landowners or occupiers;
- Advertising in a local newspaper notice; and
- Making documents publicly available online.

Other methods may be used for notification and exhibition on a case by case basis and depending on statutory requirements.

If the exhibition period is due to close on a weekend or public holiday we may extend the exhibition to finish on the first available work day. In accordance with the planning legislation, the period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.

Plans or applications cannot be made or determined until after the minimum period of public exhibition. If a longer timeframe is placed on public exhibition, the matter cannot be determined until after the specified period.

### **Making a submission**

The community can participate during public exhibition by making a submission. The planning legislation sets out some requirements for submissions. In addition to these requirements, when making a submission to Council, the submission should be:

- Received on or before the last day of the nominated timeframe for exhibition;
- Made in writing (through the mail, email or hand delivered to Council);
- Contain the name and address (or email address) of the person making the submission;
- Include the application number for reference (for development applications) or the name of the exhibited planning matter; and
- Include a statement of objection or support and reasons.

**Community participation requirements**

Under the EP&A Act, the following minimum community participation requirements apply to local planning functions:

**Table 2**

<b>Mandatory timeframes</b>	<b>Minimum community participation requirement</b>
<b>Division 1 — Schedule 1 to the EP&amp;A Act</b>	
Draft community participation plans	28 days
Draft local strategic planning statements	28 days
Planning proposals for local environmental plans subjects to a gateway determination	28 days or as specified by the Gateway Determination
Draft development control plans	28 days
Draft contributions plans	28 days
<b>Division 2 — Schedule 1 to the EP&amp;A Act</b>	
Development Application for designated development	28 days
Environmental Impact Statement obtained under Division 5.1 (An Environmental Impact Statement prepared for certain development such as state significant development.)	28 days
Re-exhibition of any amended application or matter referred to above	The period (if any) determined by the person or body responsible for publicly exhibiting the application or matter.

Exhibition timeframes are measured in calendar days and include weekends.

**ITEM 5 - ATTACHMENT 3 COMMUNITY PARTICIPATION PLAN.**

**Development applications**

Table 3 outlines Council’s minimum notification requirements for development applications. Where there is an inconsistency between the notification requirements of this Community Participation Plan and legislative requirements, the legislative requirements will prevail.

**Table 3 Community Participation Categories (Refer to Appendix A for details)**

Exhibition types Type	Requirements
<b>A</b>	<b>Not Notified Development.</b> Council may at its discretion decide to notify any of this type of development that may significantly impact on the amenity of adjoining land owners.
<b>B</b>	<b>Advertised Development,</b> written notification in accordance with 'type B' requirements and an advertisement published in the local newspaper. Development Application (DA) information published on DA Tracker  At Council’s discretion, additional advertisements may be placed in newspapers and/or through such other mechanisms as may be appropriate to ensure that the public is reasonably aware of the proposal. Council may also at its discretion decide not to advertise development.
<b>Not included in Table 1</b>	<b>Notified Development.</b> A 14 day notification period will apply for development types not included in Appendix A. Written notification will be sent to all owners of land directly adjoining or opposite the development site. Additional owners and occupiers may be notified at the discretion of Council staff. Council may at its discretion decide not to notify development where impacts on adjoining land owners are considered minor in nature.

**Modification Applications**

The need or otherwise to notify an application to modify a development consent will be undertaken in accordance with the requirements of the Act and Regulations or at the discretion of Council in consideration of the nature of the modifications proposed.

Appendix A — Exhibition periods

Development category	Exhibition types	
	A	B
<b>Rural Development</b>		
Agriculture		
Farm buildings		
Forestry		
<b>Residential Accommodation</b>		
Dwelling — single storey		
Residential ancillary (sheds, pools, etc.)		
Rural worker's dwellings		
Secondary dwellings		
<b>Subdivision (all types of subdivision)</b>		
Strata Subdivision		
More than ten Torrens or Community title lots		
<b>Tourist and visitor accommodation</b>		
Caravan parks / Camping grounds		
<b>Commercial development</b>		
Home business / occupation		
Entertainment facilities		
Function centres		
Sex services premises / Home occupation (sex services)		
Restricted premises		
<b>Community and entertainment facilities</b>		
Places of public worship		
Recreation facility (major)		
<b>Industrial Development</b>		
General industry		
Industrial retail outlets		
Industrial training facilities		
Light industry		
Storage premises		
Warehouse or distribution centres		
Freight transport facilities		
<b>Miscellaneous</b>		
Boatshed		
Environmental Facilities / Environmental Protection works		
Moorings / Mooring Pens		
Signage — other than advertising structures		
Extractive industries / open cut mines		
Electricity Generating Works		
Air transport facility		
Airstrip		
Cemetery / crematorium / mortuaries		
Correction centre		
Helipad		
Marinas		
Passenger transport facilities		
Port facilities		



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**ITEM NO. 6**

**FILE NO: 20/10374  
EDRMS NO: T32-2019**

**T32-2019 DONALD STREET CAR PARK – DESIGN AND CONSTRUCT**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) That pursuant to section 10A(2)(d) of the Local Government Act 1993, the Council resolve to close to the public part of its meeting to discuss Item 6 on the Ordinary Council agenda namely T32-2019 Donald Street Car Park – Design and Construct.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
  - a. The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
  - b. In particular, the report includes confidential pricing information in respect of the T32-2019 Donald Street Car Park – Design and Construct.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential.
- 5) That Council reject the tender submitted.

---

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>011</b>	<b>Councillor Jaimie Abbott Councillor John Nell</b>  It was resolved that Council reject the tender submitted.
------------	---------------------------------------------------------------------------------------------------------------------------

The motion was carried.

**BACKGROUND**

The purpose of this report is to reject all tender submissions from the tenderer for the tender T32-2019 Donald Street Car Park – Design and Construct, as this proposal exceeded the budgetary constraints for this project and specification. Council’s existing budget for the project is \$550,000; the single tender received was quoted close to \$1 million.

The tender was advertised from 3 December 2019 and closed on 24 December 2019 at 10am, with a total of one submission received at the close of the tender period. A summary is included (**ATTACHMENT 1**).

As part of the new Port Stephens Council’s PS2020 program, the Council acknowledged the requirement to demolish the existing multi-storey carpark at the project site, and construct a new at grade asphaltic carpark that is safe, efficient and convenient to use. The construction of this new carpark will assist with alleviating public concerns regarding lack of car parking facilities in the Nelson Bay CBD.

Council will now undertake the design and construction of this carpark in house. It is expected Council will be able to deliver this project in line with the current capital works schedule.

The weightings agreed for this tender were:

<b>Criteria</b>	<b>Weighting (%)</b>
Price	30
Commercial terms and Schedule Compliance	5
Timing & Work Plan	40
Technical Specification	5
Relevant Experience	10
Quality & WHS	10
<b>Total</b>	<b>100</b>

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Financial Management	Maintain strong financial sustainability.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no significant financial implications from rejecting the tender. The proposed tender submission exceeded the expected budgeted amount.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	550,000	Donald Street Carpark Works.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no significant legal, policy and risk implications.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no significant sustainability implications.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Capital Works Section.

Internal

Civil Project Coordinator.  
Capital Works Section Manager.

External

No external consultation was required for detailed scoping of this project.

**OPTIONS**

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

**ATTACHMENTS**

- 1) CONFIDENTIAL Weighted criteria methodology summary.



**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 7**

**FILE NO: 20/18916  
EDRMS NO: A2004-0242**

**QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2019**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the discretionary changes to the adopted budget as detailed in **(ATTACHMENT 1)** presented as the 2019-2020 Quarterly Budget Review Statement – December 2019.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>012</b>	<b>Councillor Ken Jordan Councillor Sarah Smith</b>  It was resolved that Council approve the discretionary changes to the adopted budget as detailed in <b>(ATTACHMENT 1)</b> presented as the 2019-2020 Quarterly Budget Review Statement – December 2019.
------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The motion was carried.

**BACKGROUND**

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2019-2020 budget that are detailed in the Quarterly Budget Review Statement – December 2019. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the December 2019 Quarterly Budget Review.

Council considered its Integrated Strategic Plans in September 2019 and these plans included the budget estimates for the 2019-2020 financial year.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Financial Management	Maintain strong financial sustainability.

**FINANCIAL/RESOURCE IMPLICATIONS**

The projected surplus as indicated in this report continues Council's commitment towards financial sustainability. It is still anticipated that all of the key financial metrics will be exceeded. The financial trend to December is consistent with trends from previous years, and highlights the strict budget culture that exists within the organisation.

Council's anticipated underlying result is as follows:

	<b>Surplus (\$)</b>	<b>Deficit</b>
Budget 2019 – 2020	674,000	
September Review	673,000	
December Review	944,000	
March Review		

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The budget trend as identified in this report continues the financial sustainability trend that has been determined in the Long Term Financial Plan. Suggested budget adjustments from this report will be factored into the next iteration of the Long Term Financial Plan, which will be presented in due course for further consideration.

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

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

**CONSULTATION**

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

Internal

- General Manager and Group Managers via email/meetings in January 2020 to provide an update on the overall financial result for the quarter.
- Senior Leadership Team during formal meetings in January 2020 to discuss the overall financial result for the quarter.

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

**OPTIONS**

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

**ATTACHMENTS**

- 1) Quarterly Budget Review for December 2019.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



*"A great lifestyle in a treasured environment"*

**2019 – 2020  
Quarterly Budget Review Statement  
December 2019**

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ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.

**1) Executive Summary**

Categorising the changes by Group:

**Corporate Services:** The operating budget change in this Group was \$2.7m (favourable). The operating budget changes predominately relate to the transfer of the enterprise risk business unit out of Corporate Services and into the General Managers Office.

There were no capital budget changes for the quarter.

**Development Services:** There were no operating budget changes for the quarter.

The capital budget changes were \$500k (favourable) and related to reforecasting of s7.11 contributions.

**Facilities & Services:** The operating budget change in this Group was \$29k (favourable). This is mainly due to the establishment of new childcare sites.

Changes in the capital budget were \$1.1m (unfavourable) which is mainly due to the inclusion of recreation projects listed within the s7.11 plan, planning for the Depot redevelopment and receipt of new grants.

**General Manager's Office:** Operating budget changes for this Group was \$2.5m (unfavourable). The operating budget changes predominately relate to the transfer of the enterprise risk business unit out of Corporate Services and into the General Managers Office.

**Newcastle Airport:** The operating budget change in this Group was \$1m (unfavourable). This is mainly due to the inclusion of G NAP within the consolidated budget, which is in its first year of operation. When analysing Councils underlying surplus the Airport operations are reversed out and therefore have a nil impact.

**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

<b>Operating Budget</b>	<b>2020 Original Budget</b>	<b>Budget revotes &amp; carry forwards</b>	<b>Budget Revision Sept Qtr</b>	<b>Budget Revision Dec Qtr</b>	<b>Budget Revision Mar Qtr</b>	<b>2020 Revised Budget</b>	<b>2020 YTD Actuals</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
Corporate Services	40,711	-	852	2,772	-	44,335	40,942
Development Services	(7,852)	-	414	-	-	(7,438)	(4,040)
General Manager's Office	(2,510)	-	-	(2,530)	-	(5,040)	(3,239)
Facilities & Services	(30,623)	-	218	29	-	(30,376)	(4,350)
Newcastle Airport incl G NAP	4,092	-	-	(1,046)	-	3,046	1,829
<b>Operating Surplus/(Deficit) before capital grants</b>	<b>3,817</b>	<b>-</b>	<b>1,484</b>	<b>(775)</b>	<b>-</b>	<b>4,526</b>	<b>31,142</b>
Less: Gain on sale	(250)	-	(1,500)	-	-	(1,750)	(1,550)
Less: Fair value (gains) / losses	(787)	-	-	-	-	(787)	-
Less: Newcastle Airport incl G NAP	(4,092)	-	-	1,046	-	(3,046)	(1,829)
Add: NAP Dividend	1,985	-	15	-	-	2,000	2,000
<b>Underlying Operating Surplus/(Deficit)</b>	<b>674</b>	<b>-</b>	<b>(1)</b>	<b>271</b>	<b>-</b>	<b>944</b>	<b>29,763</b>

<b>Capital Budget</b>	<b>2020 Original Budget</b>	<b>Budget revotes &amp; carry forwards</b>	<b>Budget Revision Sept Qtr</b>	<b>Budget Revision Dec Qtr</b>	<b>Budget Revision Mar Qtr</b>	<b>2020 Revised Budget</b>	<b>2020 YTD Actuals</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
Corporate Services	(6,512)	(491)	(5,777)	-	-	(12,779)	7,771
Development Services	3,162	-	-	500	-	3,662	(2,481)
Facilities & Services	(6,420)	(10,639)	(16,325)	(1,100)	-	(34,484)	11,401
Newcastle Airport	(5,503)	-	-	107	-	(5,396)	(154)
<b>Total</b>	<b>(15,273)</b>	<b>(11,129)</b>	<b>(22,102)</b>	<b>(493)</b>	<b>-</b>	<b>(48,997)</b>	<b>16,537</b>

Note - + = inflow ( ) = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.



## **2) Introduction**

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

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

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

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

The QBRS is composed of the following components:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

### 3) Responsible Accounting Officer's Statement

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

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

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter ended 31/12/2019 indicates that Council's projected financial position will be satisfactory at year-end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Tim Hazell

Responsible Accounting Officer, Port Stephens Council

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.

4) Income & Expenses Budget Review Statement

Consolidated Income Statement	2020 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2020 Revised Budget	2020 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Rates and Annual Charges	59,087	-	852	-	-	59,939	68,642
User Charges & Fees Income	41,675	-	(695)	4,930	-	45,910	11,049
Interest & Investment Income	1,421	-	(80)	(69)	-	1,272	567
Other Income	6,287	-	606	12	-	6,905	3,042
Grants and Cont.	12,356	-	(251)	(21)	-	12,084	5,177
Grants and Cont.(Capital)	5,866	7,656	7,874	727	-	22,122	6,570
Fair value gains	787	-	-	-	-	787	-
Net Gain on Sale	250	-	1,500	-	-	1,750	1,550
<b>Total Revenue</b>	<b>127,729</b>	<b>7,656</b>	<b>9,806</b>	<b>5,579</b>	<b>-</b>	<b>150,769</b>	<b>96,597</b>
Employee Costs	46,786	-	703	1,167	-	48,656	24,862
Borrowing Costs	767	-	1	133	-	902	284
Materials & Contracts	40,103	-	(50)	1,775	-	41,828	16,247
Other Expenses	14,387	-	(206)	2,347	-	16,528	9,378
Depreciation & Impairment	16,003	-	-	205	-	16,208	8,114
<b>Total Expenditure</b>	<b>118,046</b>	<b>-</b>	<b>448</b>	<b>5,627</b>	<b>-</b>	<b>124,121</b>	<b>58,885</b>
<b>Operating Surplus/(Deficit) after capital grants</b>	<b>9,682</b>	<b>7,656</b>	<b>9,358</b>	<b>(48)</b>	<b>-</b>	<b>26,648</b>	<b>37,712</b>
<b>Operating Surplus/(Deficit) before capital grants</b>	<b>3,817</b>	<b>-</b>	<b>1,484</b>	<b>(775)</b>	<b>-</b>	<b>4,526</b>	<b>31,142</b>
Less: Net Gain on sale	(250)	-	(1,500)	-	-	(1,750)	(1,550)
Less: Fair value (gains) / losses	(787)	-	-	-	-	(787)	-
Less: Newcastle Airport incl GNAP	(4,092)	-	-	1,046	-	(3,046)	(1,829)
Add: NAP Dividend	1,985	-	15	-	-	2,000	2,000
<b>Underlying Operating Surplus/(Deficit)</b>	<b>674</b>	<b>-</b>	<b>(1)</b>	<b>271</b>	<b>-</b>	<b>944</b>	<b>29,763</b>

Notes:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

Council's original operating budget for 2019-2020 was incorporated as part of the Integrated Plans and was adopted by Council on 26 June 2019.

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the December Quarterly Budget Review. This has altered from an original projected underlying surplus of \$673,000 to a revised surplus of \$944,000.

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

<b>REVENUE</b>	<b>Budget Change</b>	
	<b>\$'000</b>	<b>F/U</b>
<b>Rates and Annual Charges</b>	-	-
No Change.		
<b>User Charges and Fees</b>	<b>4,930</b>	<b>F</b>
User charges and fees have increased due to the following reasons		
<ul style="list-style-type: none"> <li>• Implementation of the new revenue accounting standard which will require a gross up in leisure centre income which is offset by an increase expenses to the same value – \$2.2m</li> <li>• New child care service sites have come on line – \$171k</li> <li>• Revision in the consolidated income from NAP &amp; GNAP - \$2.5m</li> </ul>		
<b>Grants and Contributions provided for Operating Purposes</b>	<b>21</b>	<b>U</b>
Contributions in relation to environmental protection have been revised.		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM 7 - ATTACHMENT 1      QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

<b>Interest and Investment Revenue</b>	<b>69</b>	<b>U</b>
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Interest income has been decreased due to a revision in the consolidated income from NAP & GNAP.

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<b>Other Revenues</b>	<b>12</b>	<b>F</b>
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Other revenue has increased primarily due to a revision in rental income.

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<b>Grants and Contributions provided for Capital Purposes</b>	<b>727</b>	<b>F</b>
---------------------------------------------------------------	------------	----------

Capital grants & contributions have increased primarily due to the following items:

- Reforecast of the S7.11 contributions - \$500k
  - Recreation and Culture amenity upgrade grants - \$120k
  - Revision in the consolidated income from NAP & GNAP - \$107k
- 

<b>Net Gains from the Disposal of Assets</b>	<b>-</b>	<b>-</b>
----------------------------------------------	----------	----------

No change.

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This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

<b>EXPENDITURE</b>	<b>\$'000</b>	<b>Budget Change F/U</b>
<b>Employee Benefits and On-Costs</b>	<b>1,167</b>	<b>U</b>
Employee benefits and on-costs have increased primarily due to: <ul style="list-style-type: none"> <li>• New children services sites coming online – \$187k</li> <li>• Revision in the consolidated expenditure from NAP &amp; GNAP - \$900k</li> <li>• Increase in workers compensation premiums - \$50k</li> </ul>		
<b>Borrowing Costs</b>	<b>133</b>	<b>U</b>
Borrowing costs have increased due to a revision in the consolidated expenditure from NAP and GNAP.		
<b>Materials and Contracts</b>	<b>1,775</b>	<b>U</b>
Materials and contracts have been increased due to the following: <ul style="list-style-type: none"> <li>• Implementation of the new revenue accounting standard which will require a gross up in leisure centre expenditure which is offset by an increase income to the same value – \$2.2m</li> <li>• Reduction in operating budgets to offset insurance premium increases – (\$240k)</li> <li>• Reduction in road maintenance expenditure which will be used to fund road capital expenditure - (\$120k)</li> </ul>		
<b>Other Expenses</b>	<b>2,347</b>	<b>U</b>
Other expenses have been increased due to a revision in the consolidated expenditure from NAP & GNAP.		
<b>Depreciation, Amortisation and Impairment</b>	<b>205</b>	<b>U</b>
Depreciation has been increased due to a revision in the consolidated expenditure from NAP & GNAP.		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

**5) Capital Budget Review Statement**

<b>Consolidated - Summary</b>	<b>2020 Original Budget</b>	<b>Budget revotes &amp; carry forwards</b>	<b>Budget Revision Sept Qtr</b>	<b>Budget Revision Dec Qtr</b>	<b>Budget Revision Mar Qtr</b>	<b>2020 Revised Budget</b>	<b>2020 YTD Actuals</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
Grants and Cont.(Capital)	5,866	7,656	7,874	727	-	22,122	6,570
<b>Total Receipts</b>	<b>5,866</b>	<b>7,656</b>	<b>7,874</b>	<b>727</b>	<b>-</b>	<b>22,122</b>	<b>6,570</b>
Capital Equipment & Contracts	21,138	18,785	29,476	1,220	-	70,619	22,692
Property Acquisition & Development	-	-	500	-	-	500	415
<b>Total Payments</b>	<b>21,138</b>	<b>18,785</b>	<b>29,976</b>	<b>1,220</b>	<b>-</b>	<b>71,119</b>	<b>23,107</b>
<b>Capital Surplus/(Deficit)</b>	<b>(15,273)</b>	<b>(11,129)</b>	<b>(22,102)</b>	<b>(493)</b>	<b>-</b>	<b>(48,997)</b>	<b>(16,537)</b>

This statement sets out the details of variations between Council's original capital budget and revised capital budget. There are budgetary changes proposed which result in a net increase in the capital program to the value of \$620k.

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

<b>INCOME</b>	<b>\$'000</b>	<b>Budget Change F/U</b>
<b>Capital Grants &amp; Contributions</b>	<b>727</b>	<b>F</b>

Capital grants & contributions have increased primarily due to the following items:

- Reforecast of the S7.11 contributions - \$500k
- Recreation and Culture amenity upgrade grants - \$120k
- Revision in the consolidated income from NAP & GNAP - \$107k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM 7 - ATTACHMENT 1      QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

<b>EXPENDITURE</b>	<b>\$'000</b>	<b>Budget Change F/U</b>
<b>Property Acquisition and Development</b>	-	-
No Change.		
<b>Capital Equipment and Contracts</b>	<b>1,220</b>	<b>U</b>
Capital materials and contracts have increased primarily due to the following projects:		
<ul style="list-style-type: none"> <li>• Lakeside Leisure Centre upgrade - \$300k</li> <li>• Lakeside sporting complex upgrade – \$210k</li> <li>• Boyd Oval Clubhouse upgrade - \$850k</li> <li>• Tomaree Sports Complex amenities - \$100k</li> <li>• Depot redevelopment planning - \$250k</li> </ul>		
The cost of these projects has been offset by the reforecast in various road infrastructure projects – (\$480k)		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.



**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

The capital works program by section is as follows:

<b>Consolidated - Detailed</b>	<b>2020 Original Budget</b>	<b>Budget revotes &amp; carry forwards</b>	<b>Budget Revision Sept Qtr</b>	<b>Budget Revision Dec Qtr</b>	<b>Budget Revision Mar Qtr</b>	<b>2020 Revised Budget</b>	<b>2020 YTD Actuals</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>Capital Funding</b>							
Capital Grants & Contributions	5,866	7,656	7,874	727	-	22,122	6,570
<b>Total Capital Funding</b>	<b>5,866</b>	<b>7,656</b>	<b>7,874</b>	<b>727</b>	<b>-</b>	<b>22,122</b>	<b>6,570</b>
<b>Capital Expenditure</b>							
<b>Corporate Services Group</b>							
<b>Commercial Property Reserve &amp; Cluster Plan</b>							
Fingal Bay Holiday Park	519	-	295	-	-	814	186
Halifax Holiday Park	2,705	-	(634)	-	-	2,071	1,865
Shoal Bay Holiday park	2,243	-	(118)	-	-	2,125	1,654
Thou Walla Sunset Retreat	-	-	348	-	-	348	39
TreEscape	395	-	6,249	-	-	6,644	3,073
Office and Chambers	-	-	-	-	-	-	-
Property Development	-	-	500	-	-	500	415
Property Section Manager	-	-	-	-	-	-	-
Property Investments	-	-	1,921	-	-	1,921	1,823
<b>Commercial Property Total</b>	<b>5,862</b>	<b>-</b>	<b>8,560</b>	<b>-</b>	<b>-</b>	<b>14,422</b>	<b>9,055</b>
Business Improvement Technology	650	491	-	-	-	1,141	140
<b>Corporate Services Group Total</b>	<b>6,512</b>	<b>491</b>	<b>8,560</b>	<b>-</b>	<b>-</b>	<b>15,563</b>	<b>9,195</b>

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRs.

**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

<b>Consolidated - Detailed</b>	<b>2020 Original Budget</b>	<b>Budget revotes &amp; carry forwards</b>	<b>Budget Revision Sept Qtr</b>	<b>Budget Revision Dec Qtr</b>	<b>Budget Revision Mar Qtr</b>	<b>2020 Revised Budget</b>	<b>2020 YTD Actuals</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>Facilities and Services</b>							
<b>Assets</b>							
Fleet Maintenance	1,394	-	486	-	-	1,880	509
Drainage and Flooding	1,330	320	(1,030)	-	-	620	852
<b>Assets Total</b>	<b>2,724</b>	<b>320</b>	<b>(544)</b>	<b>-</b>	<b>-</b>	<b>2,500</b>	<b>1,361</b>
<b>Community Services</b>							
Domestic Waste Management	-	377	-	-	-	377	-
Library Services	250	-	-	-	-	250	122
<b>Community Services</b>	<b>250</b>	<b>377</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>627</b>	<b>122</b>
<b>Capital Works</b>							
Capital Works Construction	6,149	17,597	21,960	1,220	-	46,926	12,429
<b>Capital Works Total</b>	<b>6,149</b>	<b>17,597</b>	<b>21,960</b>	<b>1,220</b>	<b>-</b>	<b>46,926</b>	<b>12,429</b>
<b>Facilities and Services Total</b>	<b>9,123</b>	<b>18,294</b>	<b>21,415</b>	<b>1,220</b>	<b>-</b>	<b>50,053</b>	<b>13,912</b>
Newcastle Airport	5,503	-	-	-	-	5,503	-
<b>Total Capital Expenditure</b>	<b>21,138</b>	<b>18,785</b>	<b>29,976</b>	<b>1,220</b>	<b>-</b>	<b>71,119</b>	<b>23,107</b>
<b>Net Outlay</b>	<b>15,273</b>	<b>11,129</b>	<b>22,102</b>	<b>493</b>	<b>-</b>	<b>48,997</b>	<b>16,537</b>

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

6) Cash Flow Statement (Consolidated)	Original Budget	Revotes & Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Cash Flows from Operating Activities</b>						
<b>Receipts:</b>						
Rates and Annual Charges	58,559	-	852	-	-	59,411
User Charges & Fees Income	41,682	-	(695)	4,930	-	45,917
Interest & Investment Revenue Received	1,421	-	(80)	(69)	-	1,272
Other	6,297	-	621	12	-	6,930
Grants and Contributions	16,063	7,656	7,623	706	-	32,047
<b>Payments:</b>						
Employee Benefits & On-Costs	(48,815)	-	(703)	(1,167)	-	(50,685)
Borrowing Costs	(767)	-	(1)	(133)	-	(901)
Materials & Contracts	(40,133)	-	50	(1,775)	-	(41,858)
Other	(10,255)	-	206	(2,347)	-	(12,396)
<b>Net Cash provided (or used in) Operating Activities</b>	<b>24,052</b>	<b>7,656</b>	<b>7,873</b>	<b>157</b>	<b>-</b>	<b>39,738</b>
<b>Cash Flows from Investing Activities</b>						
<b>Receipts:</b>						
Proceeds from disposal of Property Plant & Equipment	250	-	-	-	-	250
Proceeds from development & land sales	-	-	1,800	-	-	1,800
<b>Payments:</b>						
Purchase of Infrastructure, Property Plant & Equipment	(21,138)	(18,785)	(29,976)	(1,220)	-	(71,119)
<b>Net Cash provided (or used in) Investing Activities</b>	<b>(20,888)</b>	<b>(18,785)</b>	<b>(28,176)</b>	<b>(1,220)</b>	<b>-</b>	<b>(69,069)</b>
<b>Cash Flows from Financing Activities</b>						
<b>Receipts:</b>						
Proceeds from borrowings	6,500	-	4,500	-	-	11,000
<b>Payments:</b>						
Repayment of Borrowings & Advances	(3,302)	-	(1,428)	-	-	(4,730)
<b>Net Cash provided (or used in) Financing Activities</b>	<b>3,198</b>	<b>-</b>	<b>3,072</b>	<b>-</b>	<b>-</b>	<b>6,270</b>
Net Increase/(Decrease) in Cash & Cash Equivalents	6,362	(11,129)	(17,231)	(1,063)	-	(23,061)
plus: Cash & Investments - beginning of year (*)	50,237	-	-	-	-	50,237
<b>Cash &amp; Investments - end of the year</b>	<b>56,599</b>	<b>(11,129)</b>	<b>(17,231)</b>	<b>(1,063)</b>	<b>-</b>	<b>27,176</b>

\* - opening balance adjustment made to reflect 30 June 2019 actual closing balance

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM 7 - ATTACHMENT 1      QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.****Cash Flow Statement Funding Reconciliation**

The 'Recommended Changes to Budget' in the December QBR constitute an overall decrease in Council's Cash Flow position by \$1.1m (unfavourable) after the use of internal reserves and external funding sources are factored in.

PSC is clearly solvent based on the current and estimated cash position from the review changes. PSC's current cash position as per the December investment report was \$37.9m.

**7) Budget Review Contracts and Other Expenses**

Councillors are currently made aware of tenders of \$250,000 or more in accordance with legislation. However, Councillors should be made aware of other material contracts entered into by Council and details of other expenses that are of particular interest. To this end, a contract listing and details of legal fees and consultancy expenses are included in the QBRs.

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

- Were entered into during the quarter ending 31/12/2019; and
- Have a value equal to or more than \$50,000.

Part B of the report shows expenditure year to date at 31/12/2019 for:

- Consultancies
- Legal fees

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRs.

**ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW FOR DECEMBER 2019.**

**Part A  
Contracts Listing**

Contractor	Contract Details and Purpose	Contract Value Inc GST	Commencement date	Contract end date	Budgeted (Y/N)
ANNA BAY SAND & EARTHMOVING	Pigeon Club / Amenities	160,050	13/01/2020	31/03/2020	Y
THINK PROJECT SERVICES PTY LTD	Upgrade of bathroom facilities – VII Barnett Athletics Club	103,235	31/01/2020	31/03/2020	Y
CHURCH AIR CONDITIONING & REFRIGERATION	Air Conditioning upgrade – 49 William Street	83,930	1/04/2020	30/04/2020	Y
BALANCED BUILDING PTY LTD	Ground floor remediation works – Admin Building	78,158	1/03/2020	31/03/2020	Y
BAY PROJECTS PTY LTD	Admin Building carpet	58,410	1/03/2020	31/03/2020	Y
GUARDRAIL INSTALLATIONS AUSTRALIA PTY	Wire rope installation for Lemon Tree Passage Rd	71,500	8/01/2020	31/01/2020	Y
THINK PROJECT SERVICES PTY LTD	Lakeside Grandstand amenities refurbishments	77,502	1/02/2020	31/03/2020	Y
LANDMARK PRODUCTS LIMITED	Robinson Reserve Amenities	76,263	31/01/2020	31/03/2020	Y
ENVIRONMENTAL LIGHTING AUSTRALIA PTY LTD	Nelson Bay Tennis Club Lighting	85,239	25/11/2019	28/02/2020	Y
GLN PLANNING	Kings Hill Urban release	51,546	11/12/2019	31/05/2020	Y
AUSTRALIAN PLAYGROUND & SHADE SOLUTIONS	Replacement of damaged shade sail	58,410	1/02/2020	29/02/2020	Y
CLEAN COAST WEED CONTROL	Chinese Violet management on PSC land	80,759	7/11/2020	30/06/2020	Y
WILDFLOWER GIFTWARE	Glamping tent kitchenettes	74,547	1/11/2019	30/04/2020	Y
DELAFORCE DESIGNS	Bathroom renovations - Treescape	56,760	1/11/2019	30/04/2020	Y
SUPERSEALING	Cracked sealing works	56,880	3/12/2019	31/01/2020	Y

**Part B  
Consultancy & Legal Expenses**

Expense	Expenditure YTD (\$)	Budgeted (Y/N)
Consultancies	290,927	Y
Legal Fees	209,506	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2019 and should be read in conjunction with other documents in the QBRS.

**ITEM NO. 8**

**FILE NO: 20/27179  
EDRMS NO: PSC2010-04897**

**MEDOWIE SPORTS & COMMUNITY FACILITY - LIQUOR LICENCE**

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Council endorse the application to the Office of Liquor and Gaming to secure a liquor licence held by Council for the Medowie Sports and Community Facility.
- 2) Authorise the General Manager and the Mayor to sign and affix the seal to all documentation required for the liquor licence application and any associated documents.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>013</b>	<p><b>Councillor Chris Doohan Councillor Sarah Smith</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the application to the Office of Liquor and Gaming to secure a liquor licence held by Council for the Medowie Sports and Community Facility.</li><li>2) Authorise the General Manager and the Mayor to sign and affix the seal to all documentation required for the liquor licence application and any associated documents.</li></ol>
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The motion was carried.

**BACKGROUND**

The purpose of this report is to seek Council endorsement for application by Council for an on-premises liquor licence for the Medowie Sports and Community Facility (the 'facility').

The on-premises liquor licence allows for the sale of alcohol for consumption on the premises when another product or service (including food, entertainment and accommodation) is sold, supplied or provided to customers. Under 18s are allowed in premises with an on-premises licence.

The application shown at **(ATTACHMENT 2)** outlines that Council as owner of the facility applies for the liquor licence and that the Property Services Section Manager will be the approved manager responsible for conduct on the licence premises.

It is intended that the licence will remain with Council and that the approved manager role will be transferred to the operator of the facility in due course. Originally, it was contemplated by Council that the Club Board would hold the liquor licence. Expert advice has recommended the current approach will better meet operator expectations.

As part of the liquor licence application process, Council publicly advertised the intent to apply for a licence through the 'Category B Community Impact Statement' which outlined the proposed operation of the facility. Overwhelming support was received with 970 surveys submitted supporting the proposed liquor licence as shown at **(ATTACHMENT 3)**.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Financial Management	Maximise non-rate revenue and investment to support Council services.

**FINANCIAL/RESOURCE IMPLICATIONS**

The liquor licence is required to operate the facility as constructed by Council in 2019 to 2020.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that by not applying for the liquor licence that the facility will not secure an operator.	High	Adopt the recommendations.	Yes
There is a risk of delaying the application for the liquor licence and the facility remains vacant.	High	Adopt the recommendations.	Yes
There is a risk of damage to the facility should it remain unoccupied.	High	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council has constructed the facility for the benefit of the Medowie community and the greater Port Stephens Local Government area. The facility will be able to cater for large numbers of sporting and community groups.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Property Services and Facilities and Services Group.

The process of engagement was focused on ensuring that immediate neighbours (100-200m) to the site were advised in writing of the proposal. As the site is located in an area of limited density the number of these letters totalled 18. These letters included notification to the owners of the local licensed premises as well as:

- NSW Police.
- NSW Health.
- Department of Family and Community Services.
- Roads and Maritime Services.
- Local Aboriginal Land Councils – Worimi and Karuah.



Internal

- Group Manager – Facilities and Services.
- Group Manager – Corporate Services.
- Property Services Section Manager.
- Community and Recreation Coordinator.
- Commercial Investment Manager.
- Senior Property Officer.
- Community Development and Engagement Coordinator.
- Community Engagement Officer.
- Governance Section Manager.
- Legal Services Unit.

External

- Office of Liquor and Gaming.
- Community Consultation.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Medowie Sport & Recreation Facility - Licensed Area Plan.
- 2) Medowie Sport & Recreational Facility - Licquor Licence Application.
- 3) Community Engagement Report.

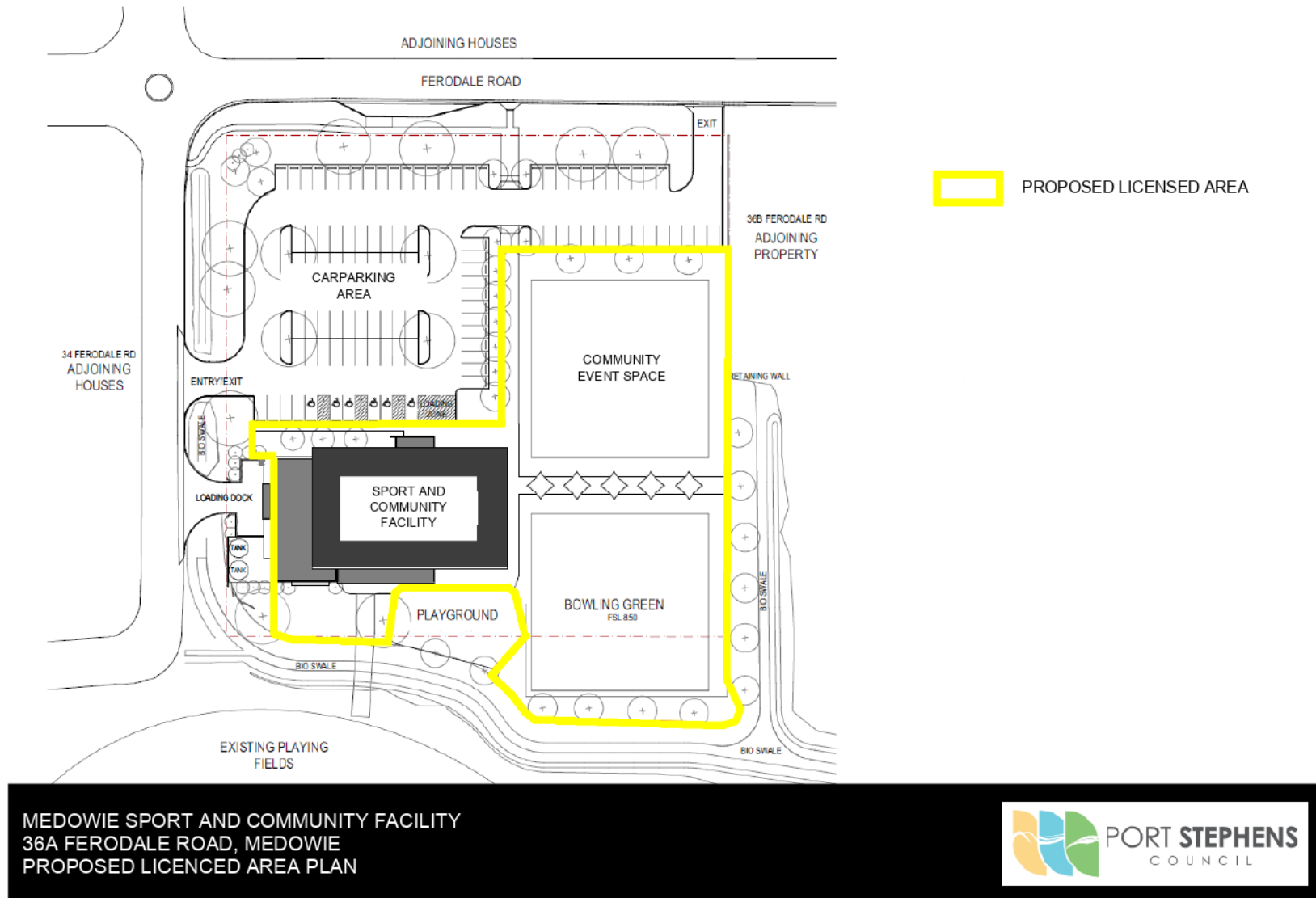
**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Online Community Survey Results.

ITEM 8 - ATTACHMENT 1 MEDOWIE SPORT & RECREATION FACILITY - LICENSED AREA PLAN.



ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY -  
LICQUOR LICENCE APPLICATION.



Customer  
Service

ABN 81 913 830 179

GPO BOX 7060  
Sydney NSW 2001

[www.liquorandgaming.nsw.gov.au](http://www.liquorandgaming.nsw.gov.au)

**New Liquor Licence Application**

**Receipt/Tax Invoice**

**Receipt Number:** 10003545173  
**Receipt Date/Time:** 07 Jan 2020 11:04 AM  
**Payment For:** Liquor - on-premises licence (APP-0006745811)  
**Total Amount Paid:** \$825.29 \*  
Credit card surcharge included: \$3.29  
\* GST amount included in total fee

**Payment Method:** [REDACTED]  
**Card Holder:** [REDACTED]  
**Applicant/or Licensee:** Medowie Sports and Community Facility

ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY - LICQUOR LICENCE APPLICATION.



Customer Service

ABN 81 913 830 179  
GPO BOX 7060  
Sydney NSW 2001  
www.liquorandgaming.nsw.gov.au

New Liquor Licence Application

Application Details

Licence Type On-premises licence  
Application No. APP-0006745811  
Licence Name Medowie Sports and Community Facility  
Does your venue provide accommodation in any rooms or self-contained suites? No

Application Contact

Who can we contact if more information is required during the assessment process? Janet Elizabeth Meyn

Prescribed precinct

Is your venue in one of the freeze precincts? None of the above

Proposed Licensee Organisation

ABN 16744377876  
Organisation Name PORT STEPHENS COUNCIL  
Is the proposed licensee a proprietary company (i.e. Pty Ltd)? No  
Official ASIC extract or equivalent document ABN\_16744377876.pdf

Proposed Licensee Organisation Details

Business Phone 0249880300  
Business Email janet.meyn@portstephens.nsw.gov.au  
Business Address 116 Adelaide Street RAYMOND TERRACE NSW 2324 Australia

ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY - LICQUOR LICENCE APPLICATION.



Customer Service

ABN 81 913 830 179  
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New Liquor Licence Application

Postal Address Same as Business Address

Organisation Contact Person

Contact person has existing liquor licence No

Proposed Licensee's Contact Person Details

Full Name Meyn, Janet Elizabeth  
Date of Birth [REDACTED]  
Country of Birth Australia  
Mobile 0427417704  
Email janet.meyn@portstephens.nsw.gov.au  
Residential Address [REDACTED]  
Postal Address [REDACTED]

Proposed Approved Manager

You will need to appoint a person approved by the Authority to personally manage and supervise a licenced premises in NSW when trading. Details not available. Will provide after submitting application  
Please explain why you will be providing the details of the proposed manager later The details of the manager will be provided once the licence is secured and recruitment has occurred

Proposed Licensee Experience

Has the proposed licensee/manager committed a prescribed offence during the last 3 years? No  
Has the proposed licensee been refused, suspended or disqualified from holding a liquor or gaming licence in Australia? No

Interested Parties

**ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY - LICQUOR LICENCE APPLICATION.**



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**New Liquor Licence Application**

1.

**ABN** 16744377876  
**Organisation Name** PORT STEPHENS COUNCIL  
**Is the organisation a proprietary company (i.e. Pty Ltd)?** No  
**Business phone** 0249880300  
**Business email** janet.meyn@portstephens.nsw.gov.au  
**Business address** 116 Adelaide Street RAYMOND TERRACE NSW 2324 Australia  
**Postal address** Postal address same as business address  
**Selected Roles** Premises Owner  
**Provide details on the nature of interest.** Owner of the newly constructed Medowie Sports and Community Facility

2.

**Full Name** Meyn, Janet Elizabeth  
**Date of Birth** [REDACTED]  
**Country of Birth** Australia  
**Mobile phone** 0427417704  
**Email address** janet.meyn@portstephens.nsw.gov.au  
**Residential address** 116 Adelaide Street RAYMOND TERRACE NSW 2324 Australia  
**Postal address** Same as Residential Address  
**Selected Roles** Business Owner  
**Provide details on the nature of interest.** Holder of the proposed licence for the Medowie Sport and Community Facility as the Property Services Section Manager.

**Proposed Licence Name**

**Proposed Licence Name** Medowie Sports and Community Facility

**Entertainment**

**ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY - LICQUOR LICENCE APPLICATION.**



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**New Liquor Licence Application**

**To help us understand the impact of your business, we need to know about the kind of entertainment the business will be providing (e.g. live music, background music etc.). Will entertainment be provided on the proposed licensed premises?**

Yes. It is envisaged as part of the facility that live music will be offered on weekends and as part of functions held at the venue.

**Business Activities**

**Tell us about your business activities. You can select more than one type of activity. To qualify for an 'Interim Restaurant Authorisation', you must select 'Restaurant' only.**

Other

**For each business activity, describe the main products or services you will be providing.**

The project provides a multipurpose sports and community facility including a lounge areas, commercial kitchen, tea and coffee facilities, bar, various function rooms, storage areas and amenities, a supporting car parking area providing 100 spaces including 6 PWD spaces, a synthetic bowling green, a multipurpose community events space able to host markets, open days etc. as well as a children's playground and seating. The facility compliments the existing Ferodale Sports Complex which immediately adjoins the site and hosts cricket, AFL, netball and community events. The project also provides facilities to cater as an Emergency Evacuation Centre for the Medowie area. The project provides function and event spaces to cater for a wide range of community purposes. This can range from general meetings, board style meetings, social events, seminars, conferences, educational events, birthday parties, weddings, community events and markets

**Planning and Development Approvals**

**Which of the following applies to your liquor licence application?**

Development Consent obtained

**What is the development consent number?**

16-2015-852-4

**Copy of Development Consent**

SIGNED 16-2015-852-4 - S96 Notice of Determination.PDF

**Planning and Development Approvals**

ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY - LICQUOR LICENCE APPLICATION.



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New Liquor Licence Application

Does the proposed licensed area include footway dining? No

Responsible Practices

What practices will be in place at the premises to ensure that liquor is sold, supplied or served responsibly, that steps are taken to prevent intoxication at the premises, and that those practices will remain in place? The operators and staff will be suitably trained and qualified in the responsible service of alcohol. Ongoing monitoring of the performance of the venue from a compliance perspective will be undertaken weekly and any issue are to be reported immediately.

Plan of Management Medowie Liquor Licence Engagement Report December 2019.pdf

Premises Details

Business Phone 0249880300  
Business Email janet.meyn@portstephens.nsw.gov.au  
Premises Address: 36 Ferodale Road MEDOWIE NSW 2318 Australia  
Is there a liquor licence (current or suspended) existing for the same area of the premises as the proposed licence application? No  
What Local Government Area (LGA) is the premises located in? Port Stephens Council  
Specify the relevant consent authority if not the above LGA Not Applicable  
Specify any LGA within 500m of the proposed premises - or select "Not applicable" NA  
What is the patron capacity of the proposed licensed premises? 200

Closure Period

Do you want to use the standard Closure Period hours? Yes

Closure Consent



ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY - LICQUOR LICENCE APPLICATION.



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**New Liquor Licence Application**

**Liquor licence condition** Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 04:00 AM and 10:00 AM during each consecutive period of 24 hours

**Do you consent to the imposition of the above condition on the liquor licence if the application is approved?** Yes

**Suggested Liquor Trading Hours**

**Do you want to use these suggested trading hours?** Yes

**Purpose** Consumption on premises

**Monday Tuesday Wednesday Thursday** 10:00 AM - 12:00 AM

**Friday Saturday**

**Sunday** 10:00 AM - 10:00 PM

**Primary service business activities**

**Authorisation** Primary service authorisation

**Which business type does your authorization apply to?** Other

**Primary service authorisation**

**Does the Development Consent you provided in Business Details allow the use of this authorisation on the premises?** Yes

**ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY - LICQUOR LICENCE APPLICATION.**



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**New Liquor Licence Application**

**A primary service authorisation will not be granted in respect of any premises if the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor. How will you ensure that the main product and/or service will be available on the licensed premises at all times while the primary service authorisation operates?**

The Medowie Sport and Community Facility provides for a high quality piece of community infrastructure that can be utilised by the growing population of Medowie as well as the wider Port Stephens community. The project provides a multipurpose sports and community facility including a lounge areas, commercial kitchen, tea and coffee facilities, bar, various function rooms, storage areas and amenities, a supporting car parking area providing 100 spaces including 6 PWD spaces, a synthetic bowling green, a multipurpose community events space able to host markets, open days etc. as well as a children's playground and seating. The facility compliments the existing Ferodale Sports Complex which immediately adjoins the site and hosts cricket, AFL, netball and community events. The project also provides facilities to cater as an Emergency Evacuation Centre for the Medowie area.

**Primary service trading hours**

<b>Area(s)</b>	Whole of licensed premises
<b>Monday Tuesday Wednesday Thursday Friday Saturday Sunday</b>	10:00 AM - 12:00 PM
<b>How will the areas be physically defined?</b>	The areas are defined on the attached plan

**Other Attachments**

<b>Premises Plan</b>	PSC MSCF Licensed Area Plan 01.pdf
<b>Other documentation</b>	Online survey Medowie Sports liquor licence 18 December 2019.pdf
<b>Other documentation</b>	Medowie Liquor Licence Engagement Report December 2019.pdf
<b>Other documentation</b>	Community Impact Statement.pdf

**Your Details**

<b>Who is lodging this application?</b>	Janet Elizabeth Meyn
-----------------------------------------	----------------------

**Lodgement Consent**

<b>Application Declaration</b>	Liquor Licence Application - Signed.pdf
--------------------------------	-----------------------------------------

**ITEM 8 - ATTACHMENT 2 MEDOWIE SPORT & RECREATIONAL FACILITY -  
LICQUOR LICENCE APPLICATION.**



Customer  
Service

ABN 81 913 830 179

GPO BOX 7060  
Sydney NSW 2001

[www.liquorandgaming.nsw.gov.au](http://www.liquorandgaming.nsw.gov.au)

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**New Liquor Licence Application**

## Medowie Sports and Community Facility Notice of Intention to apply for a liquor licence Engagement Report

Port Stephens Council is seeking an operator for the newly built Medowie Sports and Community Facility. As part of this process Council is proposing to hold the liquor licence for the site. Council elected to undertake community notice and engagement to inform this process. This report provides an overview of the engagement results.

### Methodology

The process of engagement was focussed on ensuring that immediate neighbours (100-200m) to the site were advised in writing of the proposal. As the site is located in an area of limited density the number of these letters totalled 18. These letters included notification to the owners of the local licenced premises.

A number of agencies were advised of the proposal as follows:

- Police
- NSW Health
- Department of Family and Community Services
- RMS
- Local Aboriginal Land Councils – Worimi and Karuah

An online survey was set up and designed to help guide feedback, particularly around opening hours and activities at the site.

Formal signs were installed at the site to ensure that public advice was provided.

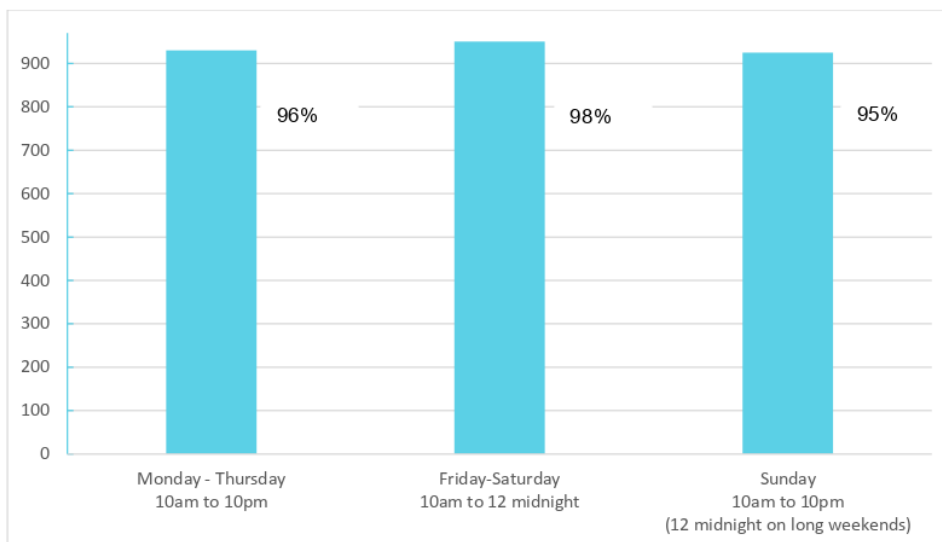


**ITEM 8 - ATTACHMENT 3 COMMUNITY ENGAGEMENT REPORT.**

## Findings

The findings of the online survey indicate a very clear preference for having a liquor licence for the site. The commentary associated with the responses to the survey also shows a keen interest in the new facility to be opened and operating as soon as possible.

The following graph illustrates responses relative to the proposed hours of operation.



The additional comments regarding the proposed opening hours is summarised below to indicate the intent of many of these comments:

Shorter hours than recommended in survey	Longer hours than recommended in survey	Changes to hours to suit special events such as Anzac Day; New Years Eve, Weddings etc
36/970 = 4%	36/970 = 4%	15/970 = 2%

There was a single survey (1) received indicating a preference for no alcohol at the site at all. A single (1) written submission was received objecting to the proposal on a whole but making no reference to the operating hours or activities. A single (1) written submission was received from the local licensed premises relative to the type of licence being applied for. Return correspondence was issued detailing an on-premises license and acceptance correspondence was received thereafter.

ITEM 8 - ATTACHMENT 3 COMMUNITY ENGAGEMENT REPORT.

The proposed activities at the site included:

- Community events;
- Functions including weddings and meetings;
- Lawn bowls;
- Dining opportunities;

Some of the additional comments received suggested other activities/services could include:

- Darts and billiards
- Live music
- Outdoor movies
- Putt Putt Golf
- Food and farmers markets
- Bike and car shows
- Comedians special events and shows
- Courtesy bus

There was quite a lot of comments requesting gambling facilities at the site however as Council is not proposing gambling at the site these comments have been largely omitted from this report.

The full dataset from the online survey is provided as a separate attachment (personal details removed). Other documentation can be made available to the Office of Liquor and Gaming as requested.

**ITEM NO. 9**

**FILE NO: 20/8590  
EDRMS NO: PSC2017-00897**

**SUBDIVISION - 2 ENGEL AVENUE, KARUAH**

REPORT OF: PHILIP MILES - CAPITAL WORKS SECTION MANAGER  
GROUP: FACILITIES & SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Authorise the General Manager to proceed and register the subdivision for the construction of the Karuah Rural Fire Station at Lot 61 DP 24361 No. 2 Engel Avenue, Karuah.
- 2) Grants authority for the General Manager and the Mayor to sign and affix the seal of Council to any related documents and plans.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>014</b>	<p><b>Councillor Giacomo Arnott Councillor Jaimie Abbott</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Authorise the General Manager to proceed and register the subdivision for the construction of the Karuah Rural Fire Station at Lot 61 DP 24361 No. 2 Engel Avenue, Karuah.</li><li>2) Grants authority for the General Manager and the Mayor to sign and affix the seal of Council to any related documents and plans.</li></ol>
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The motion was carried.

**BACKGROUND**

The purpose of this report is to recommend for Council to complete the subdivision of Lot 61 DP 24361 No. 2 Engel Avenue Karuah for the construction of Karuah Rural Fire Station (**ATTACHMENT 1**).

Extensive community consultation was undertaken by Council in determining the best location for the Fire Station.

Development Application 16-2018-244-1 was approved by Council with the condition that this subdivision occurred.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Infrastructure and Facilities	Build Council's civil and community infrastructure to support the community.

**FINANCIAL/RESOURCE IMPLICATIONS**

Council received confirmation of funding from the NSW Rural Fire Services for the Karuah Rural Fire Station on 22 May 2019 in the amount of \$800,000.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	9780	
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The legal implication is that if not approved Council will not be able to obtain an occupation certificate for the building to be used.

The development complies with DA 16-2018-244-1.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if this is not approved services will be affected as the current station is no longer fit for purpose.	Low	Funding available through Rural Fire Service funding for the project.	Yes
There is a risk that this could also affect the response times by the Rural Fire Service.	Low	Expedite the construction of the new Rural Fire Service Station and the transfer of that Station as soon as possible.	Yes



## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council has consulted with the Karuah Community and taken into consideration the community's views and expectations in the location of the building.

The development is to be totally funded by the Rural Fire Service therefore not having any economic impact on Port Stephens Council.

The subdivision was approved under DA 16-2018-244-1.

## **CONSULTATION**

Consultation for the creation of this subdivision has been undertaken by the Capital Works Section in the context that this activity is both a part of a formal DA and is a preliminary activity to the delivery of a capital infrastructure project.

### Internal

Capital Works Section staff have consulted with the Assets Section, the Development Assessment and Compliance Section and the Community Services Section.

### External

The Karuah RFS Project was the subject of significant community consultation during 2018 and 2019 with respect to identifying its preferred location in Aliceton Reserve. More recently, in accordance with the Development Application process, adjoining residents were provided a 14 day notification period to respond to this plan of subdivision. Once the project has approval to commence physical works, local residents will be notified of the construction activity through letter box drops. Community updates on this and other council infrastructure projects are also provided regularly through a variety of portals including social media and Council's website.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Plan of Subdivision - 2 Engel Ave Karuah.

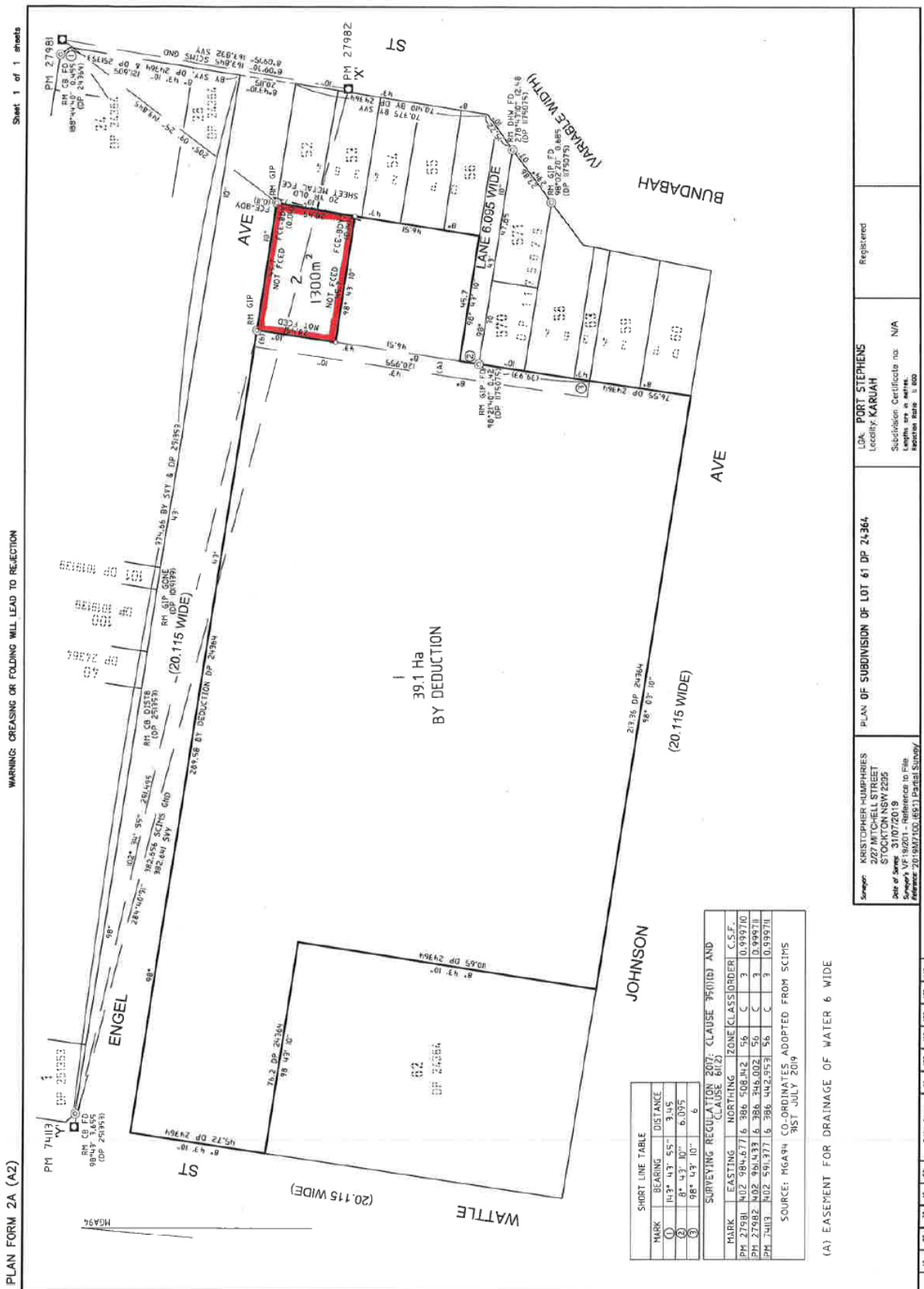
**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM 9 - ATTACHMENT 1 PLAN OF SUBDIVISION - 2 ENGEL AVE KARUAH.



Sheet 1 of 1 sheets

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

PLAN FORM 2A (A2)

SHORT LINE TABLE

MARK	BEARING	DISTANCE
①	41° 43' 55"	3.15
②	8° 43' 10"	6.095
③	98° 43' 10"	6

SURVEYING REGULATION 2017, CLAUSE 75(1)(B) AND CLAUSE 6(2)

MARK	EASTING	NORTHING	ZONE	CLASS	ORDER	C.S.F.
PM 27981	402.984	6771.6	386	508	412	56
PM 27982	402.984	6771.6	386	345	002	56
PM 27983	402.984	6771.6	386	442	953	56
PM 27984	402.984	6771.6	386	442	953	56

SOURCE: MGA94 CO-ORDINATES ADOPTED FROM SCIMS  
31ST JULY 2019

(A) EASEMENT FOR DRAINAGE OF WATER 6 WIDE

Surveyor: KRISTOPHER HUMPHRIES 227 MITCHELL STREET STOCKTON NSW 2335 Date of Survey: 31/07/2019 Date of Plan: 11/02/2020 Reference: 210/8057100/8831/Partial Survey	Plan of Subdivision of Lot 61 DP 24364 Registered	LGA: PORT STEPHENS Locality: KARUAH Subdivision Certificate no: N/A Section No: 11/800
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**ITEM NO. 10**

**FILE NO: 19/385380  
EDRMS NO: PSC2009-02488**

**POLICY: CHILD PROTECTION POLICY**

REPORT OF: ZOE PATTISON - ORGANISATION SUPPORT SECTION  
MANAGER  
GROUP: CORPORATE SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft Child Protection Policy shown at **(ATTACHMENT 1)**.
  - 2) Place the draft Child Protection Policy on public exhibition for a period of 28 days and should no submissions be received, the Policy be endorsed, without a further report to Council.
- 

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>015</b>	<p><b>Councillor Chris Doohan Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the draft Child Protection Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Place the draft Child Protection Policy on public exhibition for a period of 28 days and should no submissions be received, the Policy be endorsed, without a further report to Council.</li></ol>
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The motion was carried.

**BACKGROUND**

The purpose of this report is to seek Council's endorsement of the draft Child Protection Policy (the 'policy').

During 2017, the Royal Commission handed down its recommendations into Institutional Responses to Child Sexual Abuse that affect Local Government. Principles for Child-Safe Organisations (2017) and the Royal Commission Final Report Recommendations (2017) relevant to Local Government which includes the Child Safe Standards were developed.

Council has an obligation to have a policy in place which informs the child protection practices of the entire organisation ensuring compliance with current State and Federal Government child protection legislation and to protect children and young people in the workplace.

### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Governance	Provide a strong ethical governance structure.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The policy has no known financial or resource implications and any activities will continue to be carried out in line with existing budgets.

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

### **LEGAL, POLICY AND RISK IMPLICATIONS**

If Council does not have a policy in place and it is not socialised through the organisation, then it may be at risk of noncompliance with State and Federal Government child protection legislation therefore not assisting in the protection of children and young people in the workplace.

The policy outlines with professional and legal obligations of Council staff in relation to child protection and ensures that Council implements procedures for the prompt and confidential response to allegations against Council staff.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that without a Policy in place, Council may be non-compliant with State and Federal Government child protection legislation.	Medium	Adopt the recommendations.	Yes

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Policy provides the framework to ensure Council meets a number of key responsibilities in relation to creating a child safe organisation including compliance with State and Federal Government child protection legislation.

It promotes the health, safety, welfare and wellbeing of children and young people in the LGA ensuring that Council provides a safe environment for children and young people whilst on Council premises and utilising Council services.

### **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Organisation Support Section.

#### Internal

- Human Resources Manager.
- Children’s Services Coordinator.
- Executive Team.

#### External

In accordance with local government legislation the draft Child Protection Policy will go on public exhibition for a period of 28 days.

### **OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Child Protection Policy.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

Policy



**FILE NO:** PSC2009-02488  
**TITLE:** CHILD PROTECTION POLICY  
**POLICY OWNER:** HUMAN RESOURCES MANAGER

**1. PURPOSE:**

1.1 Council is committed to ensuring compliance with current State and Federal Government child protection legislation and to protect children and young people in the workplace.

1.2 The purpose of this policy is to:

- a) ensure Council is compliant with NSW Child Protection Legislation, including mandatory reporting, recruitment and selection and responding to allegations against staff involving children and young people
- b) articulate the professional and legal obligations of Council staff in relation to child protection
- c) ensure Council implements procedures for the prompt and confidential response to all allegations against Council staff, volunteers, students and persons undertaking work experience and contractors/suppliers where a child or young person is involved
- d) promote the health, safety, welfare and wellbeing of children and young people
- e) ensure that Council provides a safe environment for children and young people whilst on Council premises and utilising Council services
- f) ensure that Council is implementing best practice, and in this regard is responding to recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (2017) that affect Local Government.

**2. CONTEXT/BACKGROUND:**

2.1 Council supports the rights of children and young people and is committed to their care and protection. Council believes that the safety and wellbeing of children and young people is everybody's business.

2.2 Council staff, volunteer's, partners and contractors share a commitment to the awareness, prevention and response to the suspected Risk of Significant Harm of a child or young person. This is in adherence to the Children and Young Persons (Care and Protection) Act 1998.

2.3 Council maintains a rigorous and consistent recruitment, screening and selection process. Council takes allegations against staff involving children and young people seriously and

Policy

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## Policy



supports the fair and thorough investigation facilitated by the Governance Section Manager.

2.4 Council adopts the Principles for Child-Safe Organisations (2017) and the Royal Commission Final Report Recommendations (2017) relevant to Local Government including the Child Safe Standards.

### 3. SCOPE:

3.1 This policy applies to all Council staff, Mayor and Councillors, contractors and sub-contractors, work experience participants, volunteers, students on placement, Family Day Care Educators and the adults that live in their home, facility hirers and leasees.

3.2 This policy reflects Council's commitment to:

3.2.1 The Office of the Children's Guardian's Principles for Child-Safe Organisations (2017):

- a) Principle 1: The organisation focuses on what is best for children.
- b) Principle 2: All children are respected and treated fairly.
- c) Principle 3: Children's families and communities are welcome and encouraged to participate in the organisation.
- d) Principle 4: Children receive services from skilled and caring adults.

3.2.2 The Child Safe Standards identified by the Royal Commission (2017):

- a) Child safety is embedded in institutional leadership, governance and culture.
- b) Children participate in decisions affecting them and are taken seriously.
- c) Families and communities are informed and involved.
- d) Equity is upheld and diverse needs are taken into account.
- e) People working with children are suitable and supported.
- f) Processes to respond to complaints of child sexual abuse are child focused.
- g) Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.
- h) Physical and online environments minimise the opportunity for abuse to occur.
- i) Implementation of the Child Safe Standards is continuously reviewed and improved.
- j) Policies and procedures document how the institution is child safe.

### 4. DEFINITIONS:

#### Policy

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Policy



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

Abuse	A term used to refer to different types of maltreatment. In this document, it refers to types of maltreatment that children and young people experience, including physical harm, sexual assault, exposure to domestic violence, psychological harm and prenatal risks.
Child	A person who is under the age of 16 years.
Child-safe organisation	An organisation in which child safety is embedded in planning, policy and practices and where the voice of the child is valued and actioned.
FaCS	Family and Community Services: Community Services. FaCS is the NSW Government agency responsible for the care and protection of children and young people.
Mandatory reporters	People who deliver services, wholly or partly, to children as part of their paid or professional work. This is regulated by the Children and Young Persons (Care and Protection) Act 1998. This includes, but is not limited to, professionals working in: health care, welfare, education, children’s services, residential services and law enforcement.
MRG	Mandatory Reporter Guide. The MRG is a decision making tool to assist mandatory reporters determine what and when to report the suspected risk of significant harm of a child or young person.
Neglect	The failure by a parent or carer to provide a child or young person with essentials for their physical, psychological, emotional, educational, medical and developmental wellbeing.
Risk of significant harm	The threshold to report child protection concerns to FaCS via the Child Protection Helpline.
WWCC	Working with children check. The WWCC is a requirement for anyone who works or volunteers in child-related work in NSW. The check provides either clearance to work with children for 5 years, or a bar against working with children.
Young person	A person who is between the ages of 16 – 18 years.

Policy

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Policy



**5. POLICY STATEMENT:**

- 5.1 Council supports children and young people having safe and happy experiences in our community, accessing our facilities and in our care. Council maintains the active participation of children in the organisation by involving children and young people in decision making, particularly in matters that directly impact them.
- 5.2 All staff, volunteers, students and persons undertaking work experience, contractors and suppliers must promote safety and wellbeing for children and young people and respond appropriately where concerns are identified.

**6. POLICY RESPONSIBILITIES:**

- 6.1 The Human Resources Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.2 Mandatory Reporting Risk of Significant Harm
  - 6.2.1 Where there are concerns that a child or young person is suspected to be at risk of significant harm, staff who are 'mandatory reporters' are legislatively required to report these concerns to the Family and Community Services (FaCS) Child Protection Helpline. The Mandatory Reporter Guide (MRG) is used to help determine when and what should be reported. Staff who are not mandatory reporters as well as members of the community can also report the suspected risk of significant harm via the FaCS Child Protection Helpline on 132 111. Mandatory reporting is outlined in the Children and Young Persons (Care and Protection) Act 1998.
- 6.3 Recruitment and Selection
  - 6.3.2 Council will meet legal requirements to ensure that only people with valid Working with Children Checks (WWCC) are engaged in child-related work. The WWCC is an essential part of Council's recruitment process to prevent people who pose a risk to the safety of a child or young person from being employed or engaged in child-related work. Human Resources (HR) manage all selection and recruitment related WWCC. This is in line with the Child Protection (Working with Children) Act 2012 and the Child Protection (Working with Children) Regulation 2013.
- 6.4 Allegations Against Staff
  - 6.4.2 Complaints against staff involving a child or young person will be handled in accordance with the relevant legislation, specifically Part 3A of the Ombudsman Act 1974 (NSW), which mandates a specific approach to the handling and reporting of complaints about staff involving a child or young person. All allegations in relation to

Policy

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Policy



staff involving an individual under the age of 18 years will be immediately reported to the Internal Ombudsman Shared Service, who will in turn investigate and report the matter to the relevant oversight agency in accordance with Council's reporting obligations.

6.5 Child-safe organisation

6.5.2 Council promotes the safety and wellbeing of children and young people in our community. This involves implementing best practice approaches to child protection. Council adopts the Royal Commission Final Report Recommendations (2017) relevant to Local Government including the Child Safe Standards. Council also supports the principles of child-safe Organisations.

**7. RELATED DOCUMENTS:**

- 7.1 Civil Liability (Organisational Child Abuse) Liability Act 2018.
- 7.2 Advocate for Children and Young People Act 2014.
- 7.3 Child Protection (Offenders Prohibition Orders) Act 2004.
- 7.4 Child Protection (Offenders Registration) Act 2000 .
- 7.5 Child Protection (Working with Children) Act 2012.
- 7.6 Child Protection (Working with Children) Regulation 2013.
- 7.7 Children and Young Persons (Care and Protection) Act 1998.
- 7.8 Commission for Children and Young People Act 1998.
- 7.9 Crimes Act 1900.
- 7.10 Crimes (Domestic and Personal Violence) Act 2007.
- 7.11 Education and Care Services National Law Act 2010.
- 7.12 Education and Care Services National Regulations 2012.
- 7.13 Government Information (Public Access) Act 2009.
- 7.14 Ombudsman Act 1974.
- 7.15 Young Offenders Act 1997.
- 7.16 Convention on the Rights of the Child.
- 7.20 Port Stephens Council Code of Conduct.
- 7.21 Port Stephens Council Complaint Handling Policy.
- 7.23 Port Stephens Council Recruitment & Selection Management Directive.
- 7.25 Mandatory Reporter Guide (MRG) 2010.
- 7.26 National Framework for Protecting Australia's Children 2009–2020.
- 7.27 Principles for Child Safe Organisations (2017).
- 7.28 Royal Commission into Institutional Responses to Child Sexual Abuse (2017).
- 7.29 The ChildStory Reporter Community.

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Policy



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<b>EDRMS container No</b>	PSC2009-02488	<b>EDRMS record No</b>	19/369064
<b>Audience</b>	Council staff		
<b>Process owner</b>	Human Resources Manager		
<b>Author</b>	Human Resources Manager		
<b>Review timeframe</b>	2 years	<b>Next review date</b>	
<b>Adoption date</b>			

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1.0		Human Resources Manager	New policy developed.	

Policy

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**ITEM NO. 11**

**FILE NO: 19/387753  
EDRMS NO: PSC2005-3231**

**POLICY REVIEW - ASSET MANAGEMENT POLICY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Asset Management Policy shown at **(ATTACHMENT 1)**.
- 2) Place the Asset Management 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 Asset Management Policy dated 12 December 2017 (Minute No. 323), should no submissions be received.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>016</b>	<b>Mayor Ryan Palmer Councillor Ken Jordan</b>  It was resolved that Council multi vote items 11 to 13 as recommended.
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The motion was carried.

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>017</b>	<b>Mayor Ryan Palmer Councillor Ken Jordan</b>  It was resolved that Council: <ol style="list-style-type: none"><li>1) Endorse the revised Asset Management Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Place the Asset Management 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.</li><li>3) Revoke the Asset Management Policy dated 12 December 2017 (Minute No. 323), should no submissions be received.</li></ol>
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The motion was carried.

**BACKGROUND**

The purpose of this report is to gain Council's endorsement of the revised Asset Management Policy shown as **(ATTACHMENT 1)**. The proposed revised Asset Management Policy updates the existing policy into Council's corporate policy format and meets the Institute of Public Works Engineering Australia (IPWEA) 'must haves' of an asset management policy. The IPWEA 'must haves' is a list of items that should be included in an asset management policy for it to be considered best practice.

The intent of the Asset Management Policy is to articulate Port Stephens Council's commitment to sound asset management in an integrated, consistent, coordinated and financially sustainable manner.

The policy provides a clear direction by defining the key principles that underpin the management of assets. This is taken from the Local Government Act 1993. These principles are operationalised in the policy through the "asset lifecycle management processes" and the 'key elements'. This in turn creates the framework for Council's Asset Management Plan.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The adoption of the Asset Management Policy drives the Strategic Asset Management Plan framework, which in turn drives the sourcing and allocation of funds for operational and capital works.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		As documented in the Strategic Asset Management Plan.
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The Local Government Act 1993, sections 8B(b) and 8B(c)(ii) 'Principles of Local Government' legislates Council's responsibility and the manner in which Council must conduct itself when providing services to the community. These principles include Council's asset management responsibility.

Essential Element 2.13 and 2.14 of the Local Government Guidelines sets out requirements for identification of critical assets, risk management strategies for these assets and specifications.

Essential Element 2.12 of the Local Government Guidelines requires that the Asset Management Strategy must include an overarching Council endorsed Asset Management Policy.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that not adopting the policy would result in Council acting in breach of the Local Government Act.	Low	Adopt the revised asset management policy.	Yes
There is a risk that not adopting the content of the policy would result in a diminished Strategic Asset Management Plan and a financially unsustainable organisation.	Low	Adopt the revised asset management policy.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposed policy sets the direction on how the community's assets are to be managed. The management of the community's assets has implications for community safety, social needs and priorities, equity, amenity and utilisation. They also provide services that facilitate transport and attract businesses and tourists to the LGA providing economic diversity in the Local Government Area. The management of assets impact on the protection and conservation of environmental assets, resource use and energy and water conservation.



## **CONSULTATION**

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

### Internal

Consultation with key stakeholders was undertaken by the Assets Section with the other Council asset owners.

### External

It is proposed that the policy be placed on public exhibition for comment.

In accordance with local government legislation the draft Asset Management Policy will go on public exhibition for 28 days.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Revised Asset Management Policy.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

## Policy



**FILE NO:** PSC2005-3231  
**TITLE:** ASSET MANAGEMENT POLICY  
**POLICY OWNER:** ASSET SECTION MANAGER

**1. PURPOSE:**

- 1.1 The purpose of the policy is to articulate Port Stephens Council's commitment to sound asset management in an integrated, consistent, coordinated and financially sustainable manner.
- 1.2 The policy provides a clear direction by defining the key principles that underpin the management of assets.

**2. CONTEXT/BACKGROUND:**

- 2.1 Port Stephens Council is responsible for a large and diverse asset base. These assets include, but not limited to; parks, pools, wharves, jetties, foreshores, roads, bridges, footpaths, drains, library resources, childcare centres, community buildings, Rural Fire Service (RFS) and State Emergency Services (SES) emergency buildings, sporting facilities, fleet, transport infrastructure, land, commercial business assets and information communication technology-related assets. These assets are used to provide facilities and services to the community, visitors and persons undertaking business in our local government area.
- 2.2 The Local Government Act 1993, sections 8B(b) and 8B(c)(ii) 'Principles of Local Government' legislates Council's responsibility and the manner in which Council must conduct itself when providing services to the community. These principles include Council's asset management responsibility.
- 2.3 Essential Element 2.13 and 2.14 of the Local Government Guidelines sets out requirements for identification of critical assets, risk management strategies for these assets and specific actions.
- 2.4 Essential Element 2.12 of the Local Government Guidelines requires that The Asset Management Strategy must include an overarching council endorsed Asset Management Policy.

**3. SCOPE:**

- 3.1 To meet the 'Principles of Local Government', Council shall be the custodian of assets it has control of and manage them through their lifecycle. The management of assets is documented in the Strategic Asset Management Plan and should ensure that issues addressed are prioritised in line with:
  - a. Organisational objectives.

## Policy

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Policy



- b. Community's goals as detailed in the Community Strategic Plan.
  - c. As best as possible result in intergenerational equity.
- 3.2 The Strategic Asset Management Plan addresses the asset lifecycle management processes by documenting the assets:
- a. background data
  - b. planning
  - c. creation/Acquisition/Augmentation Plan
  - d. financial/Risk Management Plan
  - e. operations and Maintenance Plan
  - f. condition and performance monitoring
  - g. rehabilitation/Renewal/Replacement Plan
  - h. consolidation/Rationalisation Plan
  - i. audit Plan/Review.
- 3.3 Key elements that drive the above asset lifecycle management processes include:
- a. levels of service
  - b. future demand
  - c. lifecycle Management Plan
  - d. financial summary
  - e. asset Management Practices
  - f. plan improvement and monitoring.
- 3.4 Council will maintain and annually review the Strategic Asset Management Plan as required in Essential Element 2.18 of the Local Government Guidelines. Relevant staff and Councillors shall be trained in asset management.

**4. DEFINITIONS:**

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

Asset	An item that has potential value to an organisation and is used to provide a service to community, customers or stakeholders.
Asset Lifecycle Management	The term used to describe the management of an asset through the stages of life from planning and creation to disposal.
Strategic Asset Management Plan	Plan that documents the assets activities and programs for each service area and resources applied to provide a defined level of service in the most cost effective way based on the services required.

Policy

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Policy



**5. POLICY STATEMENT:**

5.1 Council is committed to undertake the management of assets in accordance with the scope of this policy.

**6. POLICY RESPONSIBILITIES:**

- 6.1 Asset Section Manager is responsible for the implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.2 Port Stephens Council asset owners including Asset Section Manager, Business Systems Support Section Manager, Community Services Section Manager, Emergency Management Coordinator and Property Services Section Manager are responsible for implementing the policy.

**7. RELATED DOCUMENTS:**

- 7.1 Local Government Act 1993 and Guidelines.
- 7.2 Strategic Asset Management Strategy.
- 7.3 Asset Management Guidelines.

**CONTROLLED DOCUMENT INFORMATION:**

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<b>EDRMS container No</b>	PSC2005-3231	<b>EDRMS record No</b>	19/371614
<b>Audience</b>	Mayor and Councillors, Council Staff and Community		
<b>Process owner</b>	Asset Section Manager		
<b>Author</b>	Asset Section Manager		
<b>Review timeframe</b>	2 years	<b>Next review date</b>	
<b>Adoption date</b>	20 December 2011		

Policy

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Policy



**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1	20 Dec 2011	Group Manager Facilities and Services	Adoption	459
2	8 Mar 2011	Group Manager Facilities and Services	Minor Amendments	064
3	12 Dec 2017	Asset Section Manager	Align to new Council Policy format and inclusion in IPWEA "must haves" as an asset management policy.	323
4		Assets Section Manager	Updated to new Corporate Policy Template and minor grammatical formatting. 2.1 Addition of Rural Fire Services and State Emergency Services.	

Policy

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**ITEM NO. 12**

**FILE NO: 20/4669  
EDRMS NO: PSC2006-1589**

**POLICY REVIEW: REDUCTION OR WAIVING OF OVERDUE LIBRARY ITEM CHARGES**

REPORT OF: TAMMY GUTSCHE - COMMUNITY SERVICES SECTION  
MANAGER  
GROUP: FACILITIES & SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Reduction or Waiving of Overdue Library Item Charges Policy shown at **(ATTACHMENT 1)**.
- 2) Place the Reduction or Waiving of Overdue Library Item Charges 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 Reduction or Waiving of Overdue Library Item Charges Policy dated 27 February 2018, Minute No.036 should no submissions be received.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>018</b>	<p><b>Mayor Ryan Palmer Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the revised Reduction or Waiving of Overdue Library Item Charges Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Place the Reduction or Waiving of Overdue Library Item Charges 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.</li><li>3) Revoke the Reduction or Waiving of Overdue Library Item Charges Policy dated 27 February 2018, Minute No.036 should no submissions be received.</li></ol>
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The motion was carried.

**BACKGROUND**

The purpose of this report is to endorse the revised Reduction or Waiving of Overdue Library Item Charges Policy (the policy).

Library staff are required to respond to customer requests for the reduction or waiving of overdue charges due to the late return of library items. Generally charges are only reduced or waived as a result of extenuating or unforeseen circumstances such as accident or illness. This policy sets the criteria under which staff may consider and grant reductions or full waivers on overdue library item charges.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Recognised Traditions and Lifestyles	Provide public libraries as vibrant community spaces.

**FINANCIAL/RESOURCE IMPLICATIONS**

In the financial year 2018 to 2019 library charges accounted for 3.25% or \$12,000 of the total revenue to assist in funding library operations.

Adopting the recommendation will have a nil effect on the current library finances as it is a 'business as usual' approach. Rejecting the recommendations will impact on finances and resources as without this policy, staff will not be authorised to manage these requests and as such, all requests for reductions or waivers of library item charges will need to be referred to Council via a business paper, thus creating more paperwork to resolve each request.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		Recommendation has a nil effect on existing library revenue.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no legal impediments to adopting the recommendations. The Local Government Act 1993 is clear in that only Council has the authority to waive an adopted fee or charge. This authority may be directed to staff through the adoption of a policy.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that not adopting the recommendations may lead to library items not being returned resulting in a greater call on general revenue to replenish stock.	Low	Adopt the recommendations.	Yes
There is a risk that not adopting the recommendations may lead to customers being frustrated at the lengthy process required to seek Council endorsement for their request to reduce or waive a charge resulting in reputation damage.	Low	Adopt the recommendations.	Yes
There is a risk that not adopting the recommendations may lead to staff negotiating fee reductions out of the spirit of charity to the customer, leading to bias by others and resulting in reputation damage and breaches of the Code of Conduct.	Low	Adopt the recommendations	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Whilst overdue library charges per item are minimal, the overall cost incurred by some customers may impact on their future use of the library services. Overdue charges are designed to discourage users from keeping materials beyond their allocated loan period, which disadvantages other users. Adopting the recommendations will ensure that libraries continue to provide fair access for all people to library resources regardless of financial status.

Adopting the recommendation has no impact on the local economy or ecology.



## **CONSULTATION**

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

The objective of the consultation has been to ensure that the revised policy aligns with the requirements of the Local Government Act 1993 and Council's Code of Conduct.

### Internal

Consultation has been undertaken with the Library Services Manager, Library staff and the Governance Section Manager. The revised policy has been endorsed by the Executive Team.

### External

The policy review is consistent with the approach other public libraries take in the Regional Library Cooperative of which Council is a member.

In accordance with local government legislation the draft Reduction or Waiving of Overdue Library Item Charges Policy will go on public exhibition for 28 days.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Revised Reduction or Waiving of Overdue Library Item Charges Policy.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM 12 - ATTACHMENT 1 REVISED REDUCTION OR WAIVING OF OVERDUE LIBRARY ITEM CHARGES POLICY.**

Policy



**FILE NO:** PSC2006-1589

**TITLE:** REDUCTION OR WAIVING OF OVERDUE LIBRARY ITEM CHARGES

**POLICY OWNER:** LIBRARY SERVICES MANAGER

**1. PURPOSE:**

- 1.1. The policy outlines the criteria under which applications for the reduction or waiving of overdue charges can be made and the circumstances under which applications are considered.

**2. CONTEXT/BACKGROUND:**

- 2.1 Library staff are often required to respond to customer requests for the reduction or waiving of overdue charges due to the late return of library items. Generally charges are only reduced or waived as a result of extenuating or unforeseen circumstances such as incident or illness.
- 2.2 While the overdue charge per item is minimal, the overall cost incurred by customers may impact on their future use of the library service. Overdue charges are designed to discourage borrowers from keeping materials beyond their allocated loan period, which disadvantages other users. Overdue charges assist in the management and maintenance of library collections and resources, providing equitable access to information and a greater social benefit to the wider community.
- 2.3 The library provides equal opportunity to all individuals and groups within the community to access resources, regardless of financial status.

**3. SCOPE:**

- 3.1 This policy enables library staff to make decisions based on individual customer circumstances and provides for staff to refer more complex requests to a branch supervisor or the Library Manager where necessary.

**4. DEFINITIONS:**

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

Overdue charges	An amount incurred for the late return of library items.
Library items	Books, Audio Books, Audio Navigators, CDs, DVDs and Magazines.
Reduction of charges	To reduce incurred charges to a lesser amount.

Policy

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**ITEM 12 - ATTACHMENT 1 REVISED REDUCTION OR WAIVING OF OVERDUE LIBRARY ITEM CHARGES POLICY.**

Policy



Waiving of charges                      To set aside or dispense with incurred charges.

**5. POLICY STATEMENT:**

- 5.1. The General Manager has delegation to write-off rates and charges under the Local Government (General) Regulation 2005, once approved by Council.
- 5.2. Library staff are delegated by the General Manager to reduce or waive overdue library item charges as per the following categories:
  - a) General library staff (Library Assistant, Library Technician) – up to \$20
  - b) Branch Library (Team Leader/Supervisor) – Up to \$100
  - c) Library Manager – Up to \$500.
- 5.3. Requests for the reduction or waiving of overdue charges will only be considered once overdue items have been returned to the library.
- 5.4. Overdue charges in an amount that exceeds staff delegation may be waived on the following grounds:
  - a) Serious illness of customer or immediate family member
  - b) Incident involving customer or immediate family member
  - c) Death of customer or immediate family member
  - d) Presentation of Medical Certificate or Statutory Declaration
  - e) Library error
  - f) Library discretion (taking into account library branch guidelines and all circumstances of an individual's explanation for the late return of items).
- 5.5. At times Port Stephens Library Service may run campaigns such as 'Food for Fines' to support charitable organisations. These campaigns invite library customers to donate non-perishable food and toiletry items in lieu of paying accrued overdue charges.

**6. POLICY RESPONSIBILITIES:**

- 6.1 Library Services Manager - implementing, complying with, monitoring, evaluating, reviewing and providing advice.
- 6.2 Team Leaders/Supervisors - implementing, complying with, reviewing and providing advice.
- 6.3 Library Staff – implementing and complying with.

Policy

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**ITEM 12 - ATTACHMENT 1 REVISED REDUCTION OR WAIVING OF OVERDUE LIBRARY ITEM CHARGES POLICY.**

Policy



**7. RELATED DOCUMENTS:**

- 7.1. Local Government Act.
- 7.2. Local Government (General) Regulation 2005.
- 7.3. NSW Library Act 1939.
- 7.4. NSW Library Regulation 2010 **2018**.
- 7.5. Port Stephens Council Code of Conduct.

**CONTROLLED DOCUMENT INFORMATION:**

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<b>EDRMS container No</b>	PSC2006-1589	<b>EDRMS record No</b>	
<b>Audience</b>	Library users		
<b>Process owner</b>	Community Services Section Manager		
<b>Author</b>	Library Services Manager		
<b>Review timeframe</b>	Two years	<b>Next review date</b>	
<b>Adoption date</b>	22/08/2006		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1	22/08/2006	Library Services Manager	Original policy adopted.	650
2	12/05/2015	Library Services Manager	Policy reviewed.	110
3	15/01/2018	Library Services Manager	Policy review – changes made to format and content updated.	036
4		Library Services Manager	Policy reviewed and updated into new format. Updated item 7.4 to include reference to NSW Library Regulation version 2018 instead of 2010.	

Policy

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**ITEM NO. 13**

**FILE NO: 20/4510  
EDRMS NO: PSC2005-2681**

**POLICY REVIEW: FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS**

REPORT OF: TAMMY GUTSCHE - COMMUNITY SERVICES SECTION  
MANAGER  
GROUP: FACILITIES & SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Financial Assistance for the Disposal of Waste in Port Stephens Policy shown at **(ATTACHMENT 1)**.
  - 2) Place the Financial Assistance for the Disposal of Waste in Port Stephens 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 Financial Assistance for the Disposal of Waste in Port Stephens Policy dated 27 February 2018 (Min No 034), should no submissions be received.
- 

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>019</b>	<p><b>Mayor Ryan Palmer Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the revised Financial Assistance for the Disposal of Waste in Port Stephens Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Place the Financial Assistance for the Disposal of Waste in Port Stephens 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.</li><li>3) Revoke the Financial Assistance for the Disposal of Waste in Port Stephens Policy dated 27 February 2018 (Min No 034), should no submissions be received.</li></ol>
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The motion was carried.

**BACKGROUND**

The purpose of this report is to gain Council’s endorsement to place the revised Financial Assistance for the Disposal of Waste in Port Stephens Policy on public exhibition.

The program was developed and adopted in 2000 under the Donations Policy and Section 356 of the Local Government Act 1993 and formalised as a specific policy in 2007. The program was later amended in 2013 following an extensive consultation process with the users of the program and reviewed again in 2018 with only minor changes required.

The program lessens the financial burden of waste disposal for charitable, not for profit and benevolent organisations that provide a bona fide community service within the Port Stephens Council Local Government Area as it is funded by the Waste Management Charge. It does this by subsidising waste disposal costs through a co-contribution arrangement as outlined in the policy.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2018-2021</b>
Environmental Sustainability	Reduce the community's environmental footprint.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no additional financial or resource implications created by this revised policy in excess of those already provided under the previous version of the policy.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	110,000	Funded by the Waste Management Charge.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no legal or policy impediments for adopting the recommendation. Risks associated with the recommendation are outlined in the table below.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that not adopting the policy may result in the cancellation of financial assistance to charitable organisations which could pose a financial risk for them and a reputation risk for Council.	Low	Adopt the recommendations.	Yes
There is a risk that lowering the financial contribution level from the users of the program could result in increased amounts of waste disposed of to landfill, which would have an increased financial impact on Council.	Low	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Should the revised policy be adopted after public consultation the charitable organisations will be able to spread their resources further creating a social benefit.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Community Services Section to ensure that the current policy meets the goals that it is aimed to achieve

Internal

Consultation was held with the staff members within Council's Waste Services team who communicate with the program users and administer this program prior to finalising the draft revised policy document.

External

As the revised policy contains no changes to how the financial assistance program operates or the level of assistance provided to the organisations using the program, no consultation was held with these users in drafting the revised policy.

The organisations using the program will be notified in writing that the policy is on public exhibition so that if they have any comments they can make them as part of that public exhibition process.

In accordance with local government legislation the draft Financial Assistance for the Disposal of Waste in Port Stephens policy will go on public exhibition for 28 days.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Revised Financial Assistance for the Disposal of Waste in Port Stephens Policy.

**COUNCILLORS ROOM**

- 1) Current list of recipient organisations.

**TABLED DOCUMENTS**

Nil.



ITEM 13 - ATTACHMENT 1 REVISED FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS POLICY.

Policy



**FILE NO:** PSC2005-2681  
**TITLE:** FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS  
**POLICY OWNER:** WASTE MANAGEMENT COORDINATOR

**1. PURPOSE:**

1.1 To lessen the financial burden of waste disposal for charitable, not for profit and benevolent organisations that provide a bona fide community service within the Port Stephens Council Local Government Area.

**2. CONTEXT/BACKGROUND:**

2.1 The program was developed and adopted in 2000 under the Donations Policy and Section 356 of the Local Government Act 1993 and is funded by the Waste Reserve.

2.2 The program was then formalised as a specific policy in 2007 and was then amended in 2013 and 2018.

2.3 Currently the approved organisations may deliver their waste to either the Salamander Bay Waste Transfer Station or the SUEZ Newline Road waste facility in Raymond Terrace.

2.4 There are generally around 28 30 organisations approved to receive financial assistance under this policy. The average annual cost to provide this service is \$70,000.

**3. SCOPE:**

3.1 This policy provides financial assistance for waste disposal to charitable, not for profit or benevolent organisations that perform a bona fide service of Council.

3.2 In order to qualify for financial assistance an organisation must submit the application form and supply evidence that demonstrates compliance with the Policy Statement. The application is assessed against the Policy Statement to determine if the organisation qualifies for assistance.

**4. DEFINITIONS:**

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

Full Gate Fee	The advertised per tonne disposal rate at the waste facility.
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Policy

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**ITEM 13 - ATTACHMENT 1 REVISED FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS POLICY.**

Policy



Waste Levy	The NSW Environmental Protection Authority per tonne levy for solid waste to landfill.
CPI	The Consumer Price Index (All Groups Sydney).

**5. POLICY STATEMENT:**

5.1 Eligible organisations are entitled to the level of financial assistance included within Council's annual fees and charges. These charges will increase by CPI annually and will be included within Council's Annual Fees and Charges presented to Council.

5.2 The charges applicable to the organisations are based on the tonnage of waste they deliver over the financial year, the tonnage brackets are as outlined in the below table.

Tonnes	Price
0 to 20	Free
20.01 to 60	As per Council's Fees and Charges
60.01 to 150	As per Council's Fees and Charges
Over 150	Full Gate Rate – Waste Levy

5.3 Port Stephens Council will provide financial assistance for the disposal of waste to organisations that meet the following requirements:

- a. Organisations must be registered as a charitable, not for profit or a benevolent organisation (supporting documentation must be supplied with application).
- b. Organisations must apply to the NSW Environment and Protection Authority for an exemption from the waste levy and supply this information to Council with their application.
- c. The waste generated by the organisation for disposal must be generated by a community service and that service must be a bona fide function of Council as described in the Local Government Act 1993.
- d. Organisations are required to reduce waste to landfill by sorting waste into recyclable and non recyclable items prior to disposal.
- e. Organisations are to adopt procedures and work with Council to reduce the amount of waste they generate or receive.
- f. Schools which conduct volunteer working bees may be approved for one off waste disposal vouchers.

Policy

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**ITEM 13 - ATTACHMENT 1 REVISED FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS POLICY.**

Policy



**6. POLICY RESPONSIBILITIES:**

- 6.1 Waste Projects **Management** Officer – Responsible for the administrative tasks of the policy.
- 6.2 Waste Management Coordinator – Responsible for the overall implementation of the policy.
- 6.3 Community Services Section Manager – Responsible for monitoring of the policy.

**7. RELATED DOCUMENTS:**

- 7.1 Financial Assistance for Waste Disposal Application Form.
- 7.2 Local Government Act 1993.
- 7.3 Waste Management and Resource Recovery Policy.

**CONTROLLED DOCUMENT INFORMATION:**

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<b>EDRMS container No</b>	PSC2005-2681	<b>EDRMS record No</b>	18/86863
<b>Audience</b>	Local Charitable, Not for Profit and Benevolent Organisations		
<b>Process owner</b>	Waste Management Coordinator		
<b>Author</b>	Waste Management Coordinator		
<b>Review timeframe</b>	2 years	<b>Next review date</b>	31/3/2022
<b>Adoption date</b>	27 February 2018		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1	24/4/2007	Waste Management Coordinator	Initial Policy	106

Policy

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**ITEM 13 - ATTACHMENT 1 REVISED FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS POLICY.**

Policy



2	24/9/2013	Waste Management Coordinator	Amended Policy Adopted	273
3	27/02/2018	Waste Management Coordinator	Revised draft policy for review and endorsement by Executive Leadership Team. Revised to new Policy template. Changes made to pricing table to remove actual charges and replace with "as per Council's Fees and Charges".	034
4		Waste Management Coordinator	Revised to new Policy template. 2.2 - Changes made to wording replace "was" with "then" and inserted additional wording "and 2018". 2.4 - Changed "28 organisations" to now read "generally around 30 organisations". 6.1 – Change made to position title by removing the word "Projects" and inserting "Management" to now read "Waste Management Officer". Draft for Public Exhibition.	

Policy

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**ITEM NO. 14**

**FILE NO: 20/6224  
EDRMS NO: PSC2017-02841**

**LGNSW TOURISM CONFERENCE 16-18 MARCH 2020 AT JINDABYNE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the attendance of Mayor Ryan Palmer and Councillor Paul Le Mottee at the 2020 LGNSW Tourism Conference to be held in Jindabyne from 16 March to 18 March 2020.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>020</b>	<b>Councillor Ken Jordan Councillor Chris Doohan</b>  It was resolved that Council endorse the attendance of Mayor Ryan Palmer and Councillor Paul Le Mottee at the 2020 LGNSW Tourism Conference to be held in Jindabyne from 16 March to 18 March 2020.
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The motion was carried.

**BACKGROUND**

The purpose of this report is to inform Council on the 2020 LGNSW Tourism Conference being held at the Rydges Horizons Snowy Mountains in Jindabyne from 16-18 March 2020.

The conference is open to all Elected Members.

The conference program is included as **(ATTACHMENT 1)**.

**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

The costs associated with registration, travel and accommodation will be covered from within the existing budget, subject to any individual Elected Member not exceeding the conference budget limits in the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.

The registration fee for the conference is \$792 per delegate.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
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**

The Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy requires Council to approve all conference attendances outside of the Hunter Region. Councillors' conference costs are limited to \$3000 per year under the policy.

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

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Ensuring the local government area is well represented in all matters at the conference will benefit the Port Stephens community. Information received will be distributed to the appropriate members of the community and relevant Council staff.

**CONSULTATION**

Nil.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Conference program.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 14 - ATTACHMENT 1 CONFERENCE PROGRAM.**



**Local Government Tourism Conference 2020**

Monday 16 March – Wednesday 18 March 2020, Rydges Horizons Snowy Mountains, Jindabyne

*Create your own adventure!*

**PROGRAM**

<b>MONDAY 16 MARCH</b>	
Arrive 1.00pm	<b>LUNCH for VIC Special Interest Group attendees</b>
1.30pm	<p><b>Topic: Special Interest Group – Visitor Information Centres</b>  <b>Theme: Servicing the Customer of the Future</b></p> <p>Introduction and overview</p>
1.45pm	<p><b>Topic: Servicing the customer of the future: Increasing visitors and revenue in today’s market?</b></p> <p>The new Albany Tourism and Information Hub opened in 2018. The visitor centre is one of the most advanced in the State of Western Australia with touch screen technology, digital windows and virtual reality headsets. The investment has paid off. Since relocating to the centre of town with a new layout and different format, the Albany Visitor Centre has won awards, increased its visitor numbers by 76% and its revenue by 32% in 12 months.</p> <p><b>Hamish Fell</b>, Consultant, Fell Consulting</p>
2.30pm	<p><b>Topic: Partnering to please the discerning visitor: NSW National Parks and Wildlife Service (NPWS) and Snowy Valleys Council Case Study</b></p> <p>Case Study – Snowy Valleys Council has entered into an MOU with NPWS. As a result, NPWS contributes funding towards the centre’s operation.</p> <p><b>Kym Armstrong</b>, Visitor Centre Supervisor (Jindabyne), NSW National Parks and Wildlife Services  <b>Mira Dobrasin</b>, Visitor Centre Supervisor (Tumut), NSW National Parks and Wildlife Services  <b>Miriam Hewson</b>, Tourism Marketing Officer, Snowy Valleys Council</p>
3.15pm	<b>AFTERNOON TEA</b>
3.35pm	<p><b>Topic: Customer Journey Mapping: What will the customer personas of the future look like?</b></p> <p>A customer journey map visualises the steps a visitor might go through in engaging</p> <p><b>Rebecca White</b>, Director, Tourism e-School</p>

Program is correct at this time, please note speakers may change.



**ITEM 14 - ATTACHMENT 1 CONFERENCE PROGRAM.**

	with a VIC or a destination before, during and after a visit. It is based on personas that represent specific types of visitors. It is important to visualise their needs, actions, emotions and pain points.	
3.50pm	<b>Breakout Sessions: Customer Journey Mapping</b>	
	<b>Session A:</b> New to customer mapping or need a refresher?	<b>Rebecca White</b> , Director, Tourism e-School
	<b>Session B:</b> Implementing your customer map into your VIC	<b>Paige Rowett</b> , Director, Tourism e-School
4.50pm	<b>Panel: AVIC Industry Advisory Group</b>	
	This interactive session will explore the strategic priorities you would like the members of the Industry Advisory Group to focus on. The session will start with an IAG representative panel discussion followed by audience Q&A.	Industry Advisory Group Representatives and DNSW (invited)
5.40pm	<b>Special Interest Group – Visitor Information Centres conclusion and close at 5.45pm</b>	
3.00pm – 5.00pm	<b>Trade Exhibition set up</b>	
	<b>Smartphone video workshop</b> A customised hands-on video workshop to extend the reach and quality of Smartphone video marketing and how to leverage off it.	<b>Anthony Vallario</b> , Content Producer/Director, Zoom School
6.00pm – 8.30pm	<b>Welcome Reception, Rydges Horizons Snowy Mountains, Jindabyne</b> Official proceedings: MC-Chief Executive, LGNSW <ul style="list-style-type: none"> <li>• Welcome from Cr Peter Beer, Mayor of Snowy Monaro Council</li> <li>• Address by Caravan Camping Industry Association</li> </ul> <p>Followed by delicious canapes and drinks as guests network, relax and settle in to this picturesque Snowy Mountains hotel.</p>	

**TUESDAY 17 MARCH**

7.00am	<b>Early morning group wellbeing activity:</b> Yoga (Hotel Gym) Start the day with a blend of traditional yoga moves combined with mat work pilates, which will leave participants feeling energised and relaxed. Suitable for beginners.	
8.00am	<b>Trade exhibition opens with NETWORKING BREAKFAST (Exhibition Room)</b>	
9.00am	<b>Opening formalities (Summit Room)</b>	
	LGNSW President's Welcome and Ministerial Welcome for Tourism	<b>Cr Linda Scott</b> , President, LGNSW <b>The Hon. Stuart Ayres MP</b> , Minister for Jobs, Investment, Tourism and Western Sydney (invited)

Program is correct at this time, please note speakers may change.

**ITEM 14 - ATTACHMENT 1 CONFERENCE PROGRAM.**

		<p><b>Jenny Aitchison MP</b>, Shadow Minister of Primary Industries, Investment and Tourism, and Medical Research (invited)</p> <p>Facilitator:  <b>Racquel Boyd</b>, Project Director, KJA Associates</p>
9.30am	<b>Opening keynote (45 mins talk and 15mins Q&amp;A)</b>	
	<p>Tourism Bay of Plenty is a Regional Tourism Organisation located in the central North Island of New Zealand. It is one of the top holiday destinations. Tourism Bay of Plenty's Plan 'Te Ha Tapoi'   The Love of Tourism is recognised as an exemplar within the sector.</p>	<p><b>Kath Low</b>, Head of Destination Marketing, Tourism Bay of Plenty, New Zealand</p>
10.30am	<b>MORNING TEA (Exhibition Room)</b>	
11.00am	<b>Safety management presentation and mock crisis management workshop</b>	
	<p>Tourism officers are often responsible for encouraging tourists, but what happens when discouragement is the safest option?</p>	<p><b>Jon Corbishley (JC)</b>, Director/Risk Manager, The Safety Officer Pty Ltd</p>
12noon	<b>Topic: "Data as a means to an end"</b>	
12.05pm	<b>Breakout sessions: Measuring the impact of the visitor economy (Summit Room)</b>	
	<p><b>Session A:</b> Getting Started                  From anxious to empowered – sourcing and using data to drive visitation and investment</p>	<p><b>Carolyn Childs</b>, CEO, My Travel Research</p>
	<p><b>Session B:</b> Implementation and results                  You've got the data now what?                  Present data effectively to attract visitors and investors</p>	<p><b>Dave Parsell</b>, CEO, Localintel</p>
1.00pm	<b>LUNCH (Lakes Room)</b>	
1.45pm – 5.00pm	<b>Mini Workshops (12 sessions x 55 mins each)</b>	
<b>LOCATION</b>	<b>Summit Room (150PAX) – Regional council focus</b>	
1.45pm – 2.40pm	<p><b>Regional Stream 1</b>                  Host Council Case Study – Partnering with State Government and Snowy 2.0                  Navigating a major, multi-billion-dollar project within the Snowy Monaro LGA. A game changer project involving challenges and opportunities unprecedented in the normal workings of Local Government</p>	<p><b>Peter Bascomb</b>, General Manager, Snowy Monaro Council</p>

Program is correct at this time, please note speakers may change.

**ITEM 14 - ATTACHMENT 1 CONFERENCE PROGRAM.**

2.45pm – 3.40pm	<b>Regional Stream 2</b> Open for business? Visitors after natural disaster	<b>Carmen Risby</b> , Head of Tathra Chamber of Commerce, Tathra <b>Caitlin Reid</b> , Tourism Officer, Tenterfield Shire Council
3.40pm	<b>AFTERNOON TEA (Exhibition Room)</b>	
4.00pm – 5.00pm	<b>Regional Stream 3</b> Addressing skills shortages and attracting skilled workers to regional towns	TBC
<b>LOCATION</b>	<b>Squires Bar or McEvoy's Lounge (40PAX) – Forward planning focus</b>	
1.45pm – 2.40pm	<b>Planning for the Future Stream 1</b> Tourism or the Visitor Economy? Advocating better for regional tourism both locally and nationally	Facilitated by <b>Coralie Bell</b> , Chairperson, Australian Regional Tourism Update
2.45pm – 3.40pm	<b>Planning for the Future Stream 2</b> Destination Management Plan (DMP) – Health check your DMP	Facilitated by <b>Janet Mackay</b> , Director, TRC  Featuring a panel of council case studies: <b>Fiona Barden</b> , Section Leader, Coffs Harbour City Council <b>Melanie Morson</b> , Manager Visitor Experience, Ku-ring-gai Council <b>Daniel Cove</b> , Manager Tourism & Visitor Services, Bathurst Regional Council
3.40pm	<b>AFTERNOON TEA (Exhibition Room)</b>	
4.00pm – 5.00pm	<b>Planning for the Future Stream 3</b> DMP Advanced – Activation Planning What's next after DMP? Destination Activation – the role of Local Government in developing a sustainable destination	Facilitated by <b>Linda Tillman</b> , Managing Director, Tilma Group  Featuring case study from <b>Sarah Workman</b> , Tourism Officer, Byron Shire Council
<b>LOCATION</b>	<b>The Lakes Room (80PAX) – Metropolitan council focus</b>	
1.45pm – 2.40pm	<b>Metropolitan Stream 1</b> Assessing feasibility of cultural facilities as tourist destinations	Facilitated by <b>Dr Lynda Kelly</b> , Managing Director, Lynda Kelly Networks
2.45pm – 3.40pm	<b>Metropolitan Stream 2</b> Getting on board for the new Sydney Airport	<b>Amanda Brisot</b> , General Manager, Western Sydney Business Connection (invited)
3.40pm	<b>AFTERNOON TEA (Exhibition Room)</b>	
4.00pm – 5.00pm	<b>Metropolitan Stream 3</b> Encouraging day trippers to stay overnight, featuring Adrenalin Tourism case study	<b>Shelley Lee</b> , Event Development Officer, Penrith City Council (invited)
<b>LOCATION</b>	<b>Embers Restaurant (40PAX) – Special interest focus</b>	

Program is correct at this time, please note speakers may change.

**ITEM 14 - ATTACHMENT 1 CONFERENCE PROGRAM.**

1.45pm – 2.40pm	<b>Special Interest Stream 1</b> Indigenous Tourism: Working with Indigenous communities	<b>Dwayne Bannon-Harrison</b> , Chair (NATOC) NSW Aboriginal Tourism Operators Council Case study from <b>Daniel Murphy</b> , Manager Economic Development, Bega Valley Shire Council
2.45pm – 3.40pm	<b>Special Interest Stream 2</b> Destination Weddings – collaboration between economic development, strategic and statutory planning to achieve regional tourism objectives	<b>Steve Thompson</b> , Director of Planning and Strategy, Locale Consulting
3.40pm	<b>AFTERNOON TEA (Exhibition Room)</b>	
4.00pm – 5.00pm	<b>Special Interest Stream 3</b> The shoreside experience – how can councils support the extensive economic, social and cultural benefits of being a port of call?	<b>Natalie Godward</b> , Cruise Development Manager, NSW Port Authority
5.00pm	<b>Session closes</b>	
5.30pm	<b>Transfer to offsite dinner venue, Rydges Thredbo Alpine Hotel</b>	
6.00pm – 10.00pm	<p><b>Predinner drinks/canapes and entertainment:</b> Experience the picturesque views of the mountain high pass with an exclusive chairlift ride up through the stunning valley of the Thredbo resort.</p> <p><b>Conference Dinner:</b> Guests will experience mountain dining at its best whilst enjoying a delicious 3-course menu with all the atmosphere of a Swiss Chalet in the Kosciuszko Room.</p>	

**WEDNESDAY 18 MARCH**

7.30am	<b>NETWORKING BREAKFAST (Exhibition Room)</b>	
8.30am – 11.00am	Site visits (buses will depart from Rydges Horizons Snowy Mountain)	
8.30am	<p><b>Site visit #1 – Meeting Changing Demands (Wildbrumby Distillery)</b></p> <p>Tour the grounds of the world-class spirits distillery and hear from owner Brad Spalding about the business, which has been re-invented over the years with an expansion into accommodation, art sculptures and gin and vodka making. Enjoy morning tea on the terrace with stunning views of the distillery’s sculpture garden within the grounds.</p>	<p><b>Brad Spalding</b>, founder, Wildbrumby Distillery</p>

Program is correct at this time, please note speakers may change.

**ITEM 14 - ATTACHMENT 1 CONFERENCE PROGRAM.**

	<p><b>Site visit #2 – Sightseeing Safety</b> (Guided Thredbo Valley Track tour and Segway experience) Learn from a backcountry expert about visitor safety in natural environments before you take a walk on the Thredbo Valley Track. The experience is a shared mountain bike/walking track that meanders through the Kosciuszko National Park, with morning tea at Lake Crackenback Resort and Spa where you can trial the resort’s popular Segways.</p>	<p><b>Jay Williams</b>, guide, Lake Crackenback <b>Doug Chatten</b>, guide, Snowy Mountains Back Country</p>
	<p><b>Site visit #3 – Off-peak Visitation – “Gone Fishin”</b> (Lake Jindabyne Trout Fishing Adventures and Gaden Trout Hatchery) Visit a successful fly-fishing business and trout hatchery to learn about the importance of the hatchery to the community. Morning tea will be packed for you to enjoy within the one-hectare parkland on the banks of Thredbo River.</p>	<p><b>Steve Williamson</b>, guide, Lake Jindabyne Trout Fishing Adventures Department of Industry Staff</p>
11.00am	<b>MORNING TEA (Exhibition Room)</b>	
11.15am	<b>Capitalising on Business Events</b>	<p>Facilitated by <b>Deanna Varga</b>, Director, MayvinGlobal</p> <p>Panel: <b>Helen Parker</b>, Manager Regional Conferencing, DNSW (invited) <b>Kim Hague</b>, Dubbo City Council (invited)</p>
12noon	<b>Intro to Digital Marketing</b>	Facilitated by <b>Kate Faithorn</b> , CEO, Leonards Advertising
12.05pm	<b>Breakout Sessions: Digital Marketing sponsored by Leonards Advertising</b>	
12.05pm	<b>Session A – Digital Marketing 101: Getting the right digital marketing assets on deck for your region</b>	Facilitated by <b>Sam Canpadee</b> , Google Specialist, Threesides Marketing
	<b>Session B – Digital Marketing Masterclass: Digital marketing leadership and making your region a digital leader from 2020 and into the future</b>	Facilitated by <b>Todd Wright</b> , Director, Threesides
12.45pm	<b>Closing keynote speaker</b>	To be confirmed
1.25pm	<b>Wrap up and conference close</b>	
1.30pm	<b>LUNCH (Exhibition Room)</b>	
2.30pm	Transfers to Cooma Airport for 4pm Rex flights	

Program is correct at this time, please note speakers may change.

**ITEM NO. 15**

**FILE NO: 19/392590  
EDRMS NO: PSC2017-00178**

**REQUEST FOR FINANCIAL ASSISTANCE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from the respective Mayor and Ward Funds to the following:-
  - a. Lions Club of Tilligerry Peninsula Inc – Mayoral funds - \$500 donation towards the 6<sup>th</sup> annual fishing competition.
  - b. Nelson Bay Golf Club – Mayoral funds - \$1500 donation towards sponsorship of the 2020 Pro Am event.
  - c. Anna Bay Next Wave – Mayoral funds - \$1500 donation towards Christmas lighting to decorate the Anna Bay town centre.
  - d. Tomaree Business Chamber – Mayoral funds - \$2800 donation towards the establishment and support of the Tomaree Headland Project.
  - e. Raymond Terrace Men's Shed – Mayoral funds - \$500 donation towards the Men's Health Information Road Tour.
  - f. St Vincent De Paul Society NSW – Mayoral funds - \$528 donation towards the purchase of a slat wall for shop 263 Medowie.
  - g. Donation towards the administration costs for lodgement of a road naming application – Mayoral funds - \$763.64.
  - h. Medowie Tigers Playgroup – Cr Chris Doohan - Central Ward Funds - \$210 donation towards the purchase of a kids play mat.
  - i. Nelson Bay Golf Club – Mayoral funds - \$2700 donation towards the 2020 Mayoral Bushfire Appeal.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>021</b>	<p><b>Councillor Chris Doohan Councillor John Nell</b></p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from the respective Mayor and Ward Funds to the following:-</p> <ol style="list-style-type: none"><li>a. Lions Club of Tilligerry Peninsula Inc – Mayoral funds - \$500 donation towards the 6<sup>th</sup> annual fishing competition.</li></ol>
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- b. Nelson Bay Golf Club – Mayoral funds - \$1500 donation towards sponsorship of the 2020 Pro Am event.
- c. Anna Bay Next Wave – Mayoral funds - \$1500 donation towards Christmas lighting to decorate the Anna Bay town centre.
- d. Tomaree Business Chamber – Mayoral funds - \$2800 donation towards the establishment and support of the Tomaree Headland Project.
- e. Raymond Terrace Men’s Shed – Mayoral funds - \$500 donation towards the Men’s Health Information Road Tour.
- f. St Vincent De Paul Society NSW – Mayoral funds - \$528 donation towards the purchase of a slat wall for shop 263 Medowie.
- g. Donation towards the administration costs for lodgement of a road naming application – Mayoral funds - \$763.64.
- h. Medowie Tigers Playgroup – Cr Chris Doohan - Central Ward Funds - \$210 donation towards the purchase of a kids play mat.
- i. Nelson Bay Golf Club – Mayoral funds - \$2700 donation towards the 2020 Mayoral Bushfire Appeal.

The motion was carried.

## **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:

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**

Lions Club of Tilligerry Peninsula Inc.	A community association filled with people who are joined by the common desire to make their communities better.	\$500	Donation towards the 6 <sup>th</sup> annual fishing competition.
Nelson Bay Golf Club.	A members club with a special charter to ensure the course is open every day to the thousands of visitors to Port Stephens each year.	\$1500	Donation towards sponsorship of the 2020 Pro Am event.
Anna Bay Next Wave.	A community group established with the objective of delivering positive change to Anna Bay.	\$1500	Donation towards Christmas lighting to decorate the Anna Bay town centre.
Tomaree Business Chamber.	A not for profit organisation representing the business community of Nelson Bay and the Tomaree Peninsula in Port Stephens.	\$2800	Donation towards the establishment and support of the Tomaree Headland Project.
Raymond Terrace Men’s Shed.	A non-profit organisation that aims to improve health, promote social interaction and aim to increase quality of life.	\$500	Donation towards the Men’s Health Information Road Tour.



**MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020**

St Vincent De Paul Society NSW.	A not for profit community organisation helping people in the community who are facing poverty and inequality.	\$528	Donation towards the purchase of a slat wall for shop 263 Medowie.
Administration Costs.	Council administration costs.	\$763.64	Donation towards the administration costs for lodgement of a road naming application.
Nelson Bay Golf Club.	A members club with a special charter to ensure the course is open every day to the thousands of visitors to Port Stephens each year.	\$2700	Donation towards the 2020 Mayoral Bushfire Appeal supporting local Rural Fire Services and Salvation Army appeal.

**CENTRAL WARD – Councillors Doohan, Smith and Tucker**

Medowie Tigers Playgroup	A community playgroup which has been operating for 40 years in Medowie which offers an informal social situation for parents and carers of children 0-5 years old.	\$210 – rapid response.	Donation towards the purchase of a play mat.
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**COMMUNITY STRATEGIC PLAN**

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

**FINANCIAL/RESOURCE IMPLICATIONS**

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

**LEGAL AND POLICY IMPLICATIONS**

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

The Policy interpretation required is whether the Council believes that:

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

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
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. 16**

**FILE NO: 20/24550  
EDRMS NO: PSC2017-00015**

**INFORMATION PAPERS**

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

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**RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 11 February 2020.

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<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	November 2019 Cash and Investments	191
2	December 2019 Cash and Investments	194
3	Petition to Investigate the proposal for shared footpath construction and shoulder widening in Hinton and Wallalong	197
4	Petition - Port Stephens Council to Retain and Maintain the Ocean Avenue, Anna Bay Toilet Block	201
5	Designated Persons' Return	203
6	Mayor and Councillors Professional Development Quarterly Report - October to December 2019	204
7	General Manager's Annual Performance Review	205
8	Mayor and Councillors Expense Report 1 July 2019 to 31 December 2019	207
9	Council Resolutions	209

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Councillor Jaimie Abbott left the meeting at 7:33pm prior to voting on this item. Councillor Jaimie Abbott returned to the meeting at 7:35pm prior to voting on this item.

ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION

<b>022</b>	<p><b>Councillor Chris Doohan</b> <b>Councillor Paul Le Mottee</b></p> <p>It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 11 February 2020.</p> <hr/> <p><b>No: Report Title:</b></p> <ol style="list-style-type: none"><li>1 November 2019 Cash and Investments</li><li>2 December 2019 Cash and Investments</li><li>3 Petition to Investigate the proposal for shared footpath construction and shoulder widening in Hinton and Wallalong</li><li>4 Petition - Port Stephens Council to Retain and Maintain the Ocean Avenue, Anna Bay Toilet Block</li><li>5 Designated Persons' Return</li><li>6 Mayor and Councillors Professional Development Quarterly Report - October to December 2019</li><li>7 General Manager's Annual Performance Review</li><li>8 Mayor and Councillors Expense Report 1 July 2019 to 31 December 2019</li><li>9 Council Resolutions</li></ol>
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The motion was carried.

# INFORMATION PAPERS

**ITEM NO. 1**

**FILE NO: 19/388549  
EDRMS NO: PSC2006-6531**

**NOVEMBER 2019 CASH AND INVESTMENTS**

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

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 30 November 2019.

**ATTACHMENTS**

- 1) November 2019 - Cash and Investments.
- 2) November 2019 - Cashflow report.

CASH AND INVESTMENTS HELD AS AT 30 NOVEMBER 2019								
ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
<b>TERM DEPOSITS</b>								
BOC	CURVE	A	TD	2.87%	399	11-Dec-19	1,000,000	1,000,000
BOC	CURVE	A	TD	2.88%	391	18-Dec-19	1,000,000	1,000,000
AMP BANK ***	IMPERIUM	A+	TD	2.70%	241	2-Jan-20	1,000,000	1,000,000
AMP BANK ***	IMPERIUM	A+	TD	2.70%	248	9-Jan-20	1,000,000	1,000,000
BOC	CURVE	A	TD	2.88%	412	9-Jan-20	1,000,000	1,000,000
AUSTRALIAN MILITARY BANK	LAMINAR	NR	TD	3.01%	420	22-Jan-20	1,000,000	1,000,000
AMP BANK ***	IMPERIUM	A+	TD	2.40%	182	28-Jan-20	2,000,000	2,000,000
DNISTER UKRANIAN CREDIT UNION CO-OP	FIIG	NR	TD	3.00%	362	5-Feb-20	1,000,000	1,000,000
ARAB BANK	FARQUHARSON	BB+	TD	2.95%	359	19-Feb-20	1,000,000	1,000,000
JUDO BANK	CURVE	NR	TD	2.50%	245	19-Feb-20	1,000,000	1,000,000
MYSTATE BANK	IMPERIUM	BBB	TD	1.74%	127	19-Feb-20	500,000	500,000
AMP BANK ***	IMPERIUM	A+	TD	2.95%	373	13-Mar-20	1,000,000	1,000,000
WESTPAC	WESTPAC	AA-	TD	1.72%	154	25-Mar-20	1,000,000	1,000,000
ICBC	RIM	A	TD	2.93%	509	1-Apr-20	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK	CURVE	AA-	TD	1.60%	183	14-Apr-20	1,000,000	1,000,000
ARAB BANK	RIM	BB+	TD	2.97%	502	15-Apr-20	1,500,000	1,500,000
BOC	CURVE	A	TD	2.88%	512	28-Apr-20	1,000,000	1,000,000
JUDO BANK	LAMINAR	NR	TD	2.70%	369	13-May-20	1,000,000	1,000,000
AMP BANK	IMPERIUM	BBB+	TD	2.10%	189	26-May-20	1,000,000	1,000,000
AMP BANK	IMPERIUM	BBB+	TD	2.10%	190	5-Jun-20	1,000,000	1,000,000
JUDO BANK	CURVE	NR	TD	2.65%	375	9-Jun-20	1,000,000	1,000,000
DNISTER UKRANIAN CREDIT UNION CO-OP	FIIG	NR	TD	3.00%	525	5-Aug-20	1,000,000	1,000,000
JUDO BANK	CURVE	NR	TD	2.05%	362	26-Aug-20	800,000	800,000
WESTPAC	WESTPAC	AA-	FRTD	1.98%	368	15-Sep-20	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK	FIIG	AA-	TD	1.50%	365	13-Oct-20	1,000,000	1,000,000
AUSTRALIAN MILITARY BANK	FARQUHARSON	NR	TD	1.65%	635	30-Jun-21	1,000,000	1,000,000
AUSWIDE BANK	CURVE	BBB	TD	1.75%	727	28-Sep-21	1,000,000	1,000,000
ICBC	IMPERIUM	A	TD	1.62%	729	13-Oct-21	1,000,000	1,000,000
AUSWIDE BANK	IMPERIUM	BBB	TD	1.65%	731	13-Oct-21	500,000	500,000
<i>*** Please note - AMP Bank's Standard and Poor's long term rating has been downgraded to BBB+ since placement of Term Deposits</i>								
<b>SUB TOTAL (\$)</b>							<b>29,300,000</b>	<b>29,300,000</b>
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					2,000,000	2,027,612
TCORP LONG TERM GROWTH FUND	TCORP	AAA					500,000	507,695
<b>INVESTMENTS TOTAL (\$)</b>							<b>31,800,000</b>	<b>31,835,307</b>
<b>CASH AT BANK (\$)</b>							<b>3,644,121</b>	<b>3,644,121</b>
<b>TOTAL CASH AND INVESTMENTS (\$)</b>							<b>35,444,121</b>	<b>35,479,428</b>
CASH AT BANK INTEREST RATE				1.30%				
BBSW FOR PREVIOUS 3 MONTHS				0.97%				
AVG. INVESTMENT RATE OF RETURN				2.43%				
TD = TERM DEPOSIT								
AC = AT CALL CASH ACCOUNT								
FRTD = FLOATING RATE TERM DEPOSIT (0.98% ABOVE RBA CASH RATE)								
*STANDARD AND POORS LONG TERM RATING								
<b>CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER</b>								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
T HAZELL								



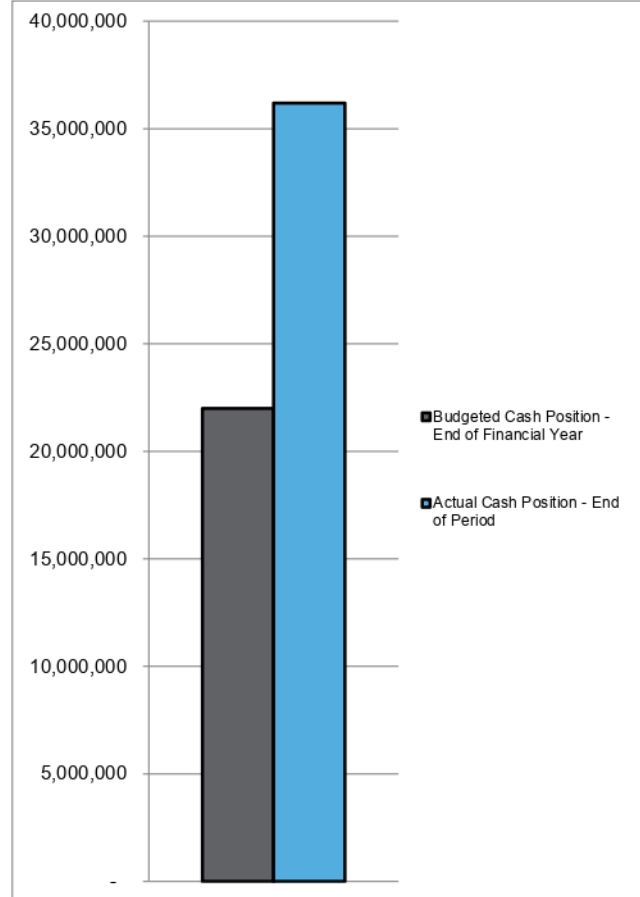


**Cash flow analysis  
30/11/2019**

**CASHFLOW STATEMENT**

Opening Cash and Investment 1 July 2019  
Closing Cash and Investment 30 November 2019  
**Movement in cash**

	YTD	Notes
Opening Cash and Investment 1 July 2019	35,484,953	
Closing Cash and Investment 30 November 2019	36,190,916	
<b>Movement in cash</b>	<b>705,962</b>	
<b>Movement in cash represented by:</b>		
<u>Operating Activities</u>		
Receipts from ratepayers, customers and government authorities	51,948,219	
Payments to suppliers & employees	(40,240,883)	
Interest received	408,310	
Interest paid	(171,930)	
<b>Total</b>	<b>11,943,716</b>	
<u>Investing Activities</u>		
Receipts from sale of Infrastructure, Property, Plant & Equipment	49,341	
Payments for Property, Plant & Equipment	(18,793,388)	
<b>Total</b>	<b>(18,744,047)</b>	
<u>Financing Activities</u>		
Payment of loans	(2,993,708)	
Receipt of new loans	10,500,000	
<b>Total</b>	<b>7,506,292</b>	
<b>Total Cash Movement</b>	<b>705,962</b>	
Plus: Opening Cash and Investment 1 July 2019	35,484,953	
<b>Closing Cash and Investment 30 November 2019</b>	<b>36,190,916</b>	
Budgeted Cash Movement for the Financial Year	(13,486,953)	
Plus Opening Cash and Investment 1 July 2019	35,484,953	
<b>Budgeted Cash and Investment Position 30 June 2020</b>	<b>21,998,000</b>	
In front / (behind) on budget	14,192,916	1

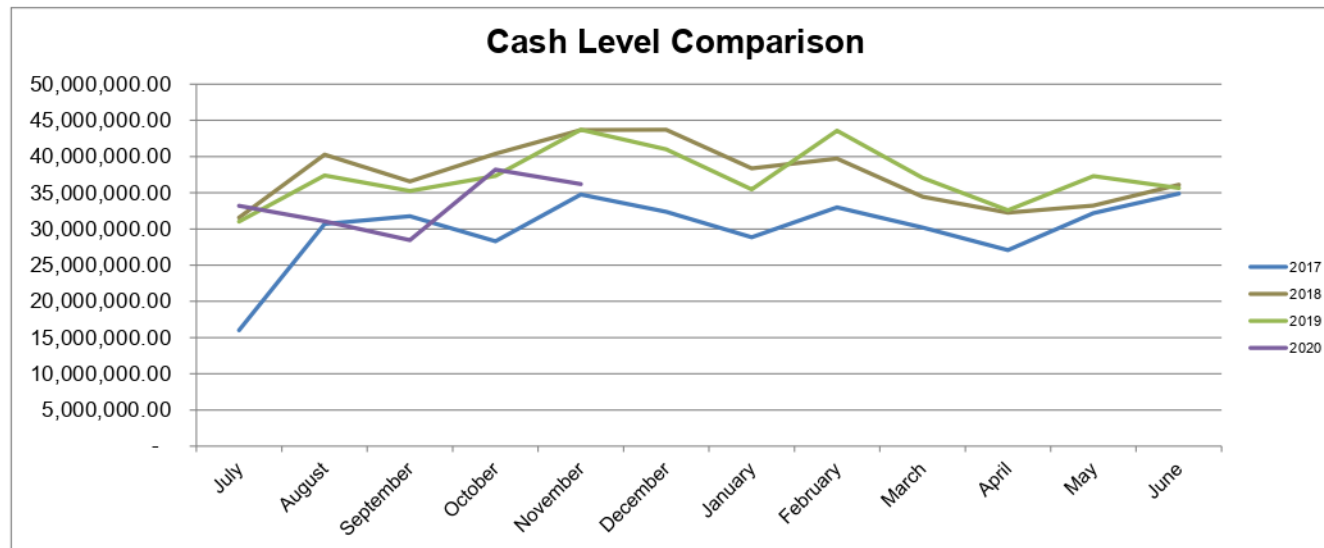


**Notes**

- 1 Council's cash position is up on the budgeted year end position predominately due to the following reasons:
  - a) Projects that are to be funded by the repeal of the s7.11 fund are yet to be completed

Significant future cash inflows expected in next few months include various 2020 grants.

Significant future cash outflows expected in next few months include: upgrade to Koala Sanctuary, Lionel Morton Amenities construction, Karuah RFS Building construction, Robinson Reserve redevelopment, Tomaree road upgrade, Donald St Car park demolition, RT Pigeon Club, Nelson Bay Marina Sand clearing and plant purchases.



**ITEM NO. 2**

**FILE NO: 20/5609  
EDRMS NO: PSC2006-6531**

**DECEMBER 2019 CASH AND INVESTMENTS**

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

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 December 2019.

**ATTACHMENTS**

- 1) December 2019 - Cash and Investments Report.
- 2) December 2019 - Cashflow Report.

**ITEM 2 - ATTACHMENT 1 DECEMBER 2019 - CASH AND INVESTMENTS REPORT.**

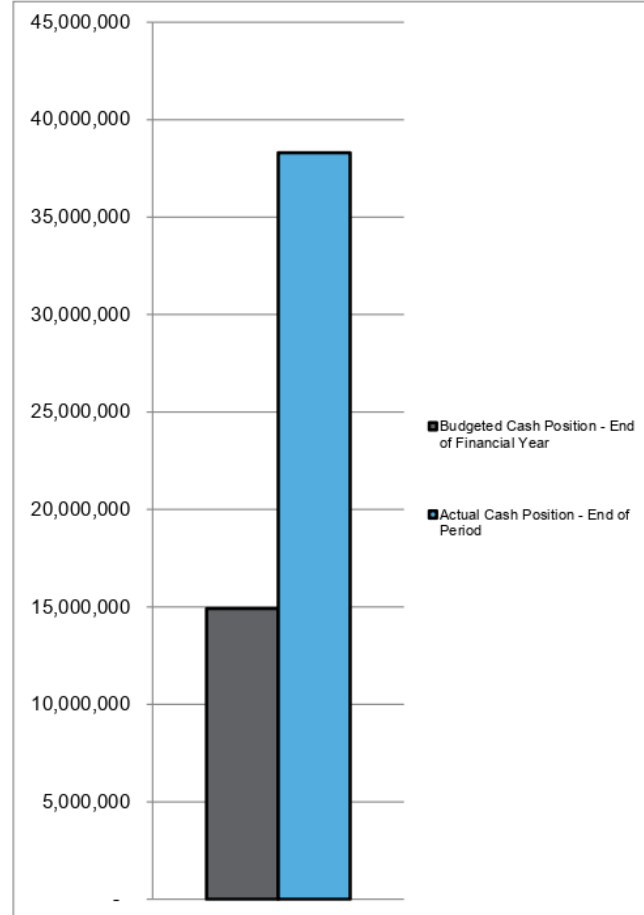
<b>CASH AND INVESTMENTS HELD AS AT 31 DECEMBER 2019</b>									
<b>ISSUER</b>	<b>BROKER</b>	<b>RATING*</b>	<b>DESC.</b>	<b>YIELD %</b>	<b>TERM DAYS</b>	<b>MATURITY</b>	<b>AMOUNT INVESTED</b>	<b>MARKET VALUE</b>	
<b>TERM DEPOSITS</b>									
AMP BANK ***	IMPERIUM	A+	TD	2.70%	241	2-Jan-20	1,000,000	1,000,000	
AMP BANK ***	IMPERIUM	A+	TD	2.70%	248	9-Jan-20	1,000,000	1,000,000	
BOC	CURVE	A	TD	2.88%	412	9-Jan-20	1,000,000	1,000,000	
AUSTRALIAN MILITARY BANK**	LAMINAR	NR	TD	3.01%	420	22-Jan-20	1,000,000	1,000,000	
AMP BANK ***	IMPERIUM	A+	TD	2.40%	182	28-Jan-20	2,000,000	2,000,000	
DNISTER UKRANIAN CREDIT UNION CO-OP	FIIG	NR	TD	3.00%	362	5-Feb-20	1,000,000	1,000,000	
ARAB BANK	FARQUHARSON	BB+	TD	2.95%	359	19-Feb-20	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	2.50%	245	19-Feb-20	1,000,000	1,000,000	
MYSTATE BANK	IMPERIUM	BBB	TD	1.74%	127	19-Feb-20	500,000	500,000	
AMP BANK ***	IMPERIUM	A+	TD	2.95%	373	13-Mar-20	1,000,000	1,000,000	
WESTPAC	WESTPAC	AA-	TD	1.72%	154	25-Mar-20	1,000,000	1,000,000	
ICBC	RIM	A	TD	2.93%	509	1-Apr-20	1,000,000	1,000,000	
NATIONAL AUSTRALIA BANK	CURVE	AA-	TD	1.60%	183	14-Apr-20	1,000,000	1,000,000	
ARAB BANK	RIM	BB+	TD	2.97%	502	15-Apr-20	1,500,000	1,500,000	
BOC	CURVE	A	TD	2.88%	512	28-Apr-20	1,000,000	1,000,000	
JUDO BANK	LAMINAR	NR	TD	2.70%	369	13-May-20	1,000,000	1,000,000	
AMP BANK	IMPERIUM	BBB+	TD	2.10%	189	26-May-20	1,000,000	1,000,000	
AMP BANK	IMPERIUM	BBB+	TD	2.10%	190	5-Jun-20	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	2.65%	375	9-Jun-20	1,000,000	1,000,000	
DNISTER UKRANIAN CREDIT UNION CO-OP	FIIG	NR	TD	3.00%	525	5-Aug-20	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	2.05%	362	26-Aug-20	800,000	800,000	
WESTPAC	WESTPAC	AA-	FRTD	1.98%	368	15-Sep-20	1,000,000	1,000,000	
NATIONAL AUSTRALIA BANK	FIIG	AA-	TD	1.50%	365	13-Oct-20	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	2.10%	371	9-Dec-20	600,000	600,000	
BNK BANK LTD	CURVE	NR	TD	1.80%	371	9-Dec-20	1,000,000	1,000,000	
BNK BANK LTD	CURVE	NR	TD	1.80%	384	22-Dec-20	1,000,000	1,000,000	
AUSTRALIAN MILITARY BANK **	FARQUHARSON	NR	TD	1.65%	635	30-Jun-21	1,000,000	1,000,000	
AUSWIDE BANK	CURVE	BBB	TD	1.75%	727	28-Sep-21	1,000,000	1,000,000	
ICBC	IMPERIUM	A	TD	1.62%	729	13-Oct-21	1,000,000	1,000,000	
AUSWIDE BANK	IMPERIUM	BBB	TD	1.65%	731	13-Oct-21	500,000	500,000	
<i>** Please note - Australian Military Bank Moody's rating has been upgraded to BBB (equivalent Standard and Poor's rating) since placement of Term Deposits</i>									
<i>*** Please note - AMP Bank's Standard and Poor's long term rating has been downgraded to BBB+ since placement of Term Deposits</i>									
<b>SUB TOTAL (\$)</b>							<b>29,900,000</b>	<b>29,900,000</b>	
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					2,500,000	2,518,379	
TCORP LONG TERM GROWTH FUND	TCORP	AAA					1,000,000	1,009,129	
<b>INVESTMENTS TOTAL (\$)</b>							<b>33,400,000</b>	<b>33,427,508</b>	
<b>CASH AT BANK (\$)</b>							<b>4,507,645</b>	<b>4,507,645</b>	
<b>TOTAL CASH AND INVESTMENTS (\$)</b>							<b>37,907,645</b>	<b>37,935,153</b>	
CASH AT BANK INTEREST RATE				1.30%					
BBSW FOR PREVIOUS 3 MONTHS				0.94%					
AVG. INVESTMENT RATE OF RETURN				2.35%					
TD = TERM DEPOSIT									
AC = AT CALL CASH ACCOUNT									
FRTD = FLOATING RATE TERM DEPOSIT (0.98% ABOVE RBA CASH RATE)									
*STANDARD AND POORS LONG TERM RATING									
<b>CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER</b>									
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY									
T HAZELL									



**Cash flow analysis  
31/12/2019**

**CASHFLOW STATEMENT**

	YTD	Notes
Opening Cash and Investment 1 July 2019	35,484,953	
Closing Cash and Investment 31 December 2019	38,299,839	
<b>Movement in cash</b>	<b>2,814,885</b>	
<b>Movement in cash represented by:</b>		
<u>Operating Activities</u>		
Receipts from ratepayers, customers and government authorities	63,359,446	
Payments to suppliers & employees	(47,001,453)	
Interest received	479,829	
Interest paid	(186,470)	
<b>Total</b>	<b>16,651,352</b>	
<u>Investing Activities</u>		
Receipts from sale of Infrastructure, Property, Plant & Equipment	1,599,341	
Payments for Property, Plant & Equipment	(22,897,847)	
<b>Total</b>	<b>(21,298,505)</b>	
<u>Financing Activities</u>		
Payment of loans	(3,037,961)	
Receipt of new loans	10,500,000	
<b>Total</b>	<b>7,462,039</b>	
<b>Total Cash Movement</b>	<b>2,814,885</b>	
Plus: Opening Cash and Investment 1 July 2019	35,484,953	
<b>Closing Cash and Investment 31 December 2019</b>	<b>38,299,839</b>	
Budgeted Cash Movement for the Financial Year	(20,565,000)	
Plus Opening Cash and Investment 1 July 2019	35,484,953	
<b>Budgeted Cash and Investment Position 30 June 2020</b>	<b>14,919,953</b>	
In front / (behind) on budget	23,379,885	1

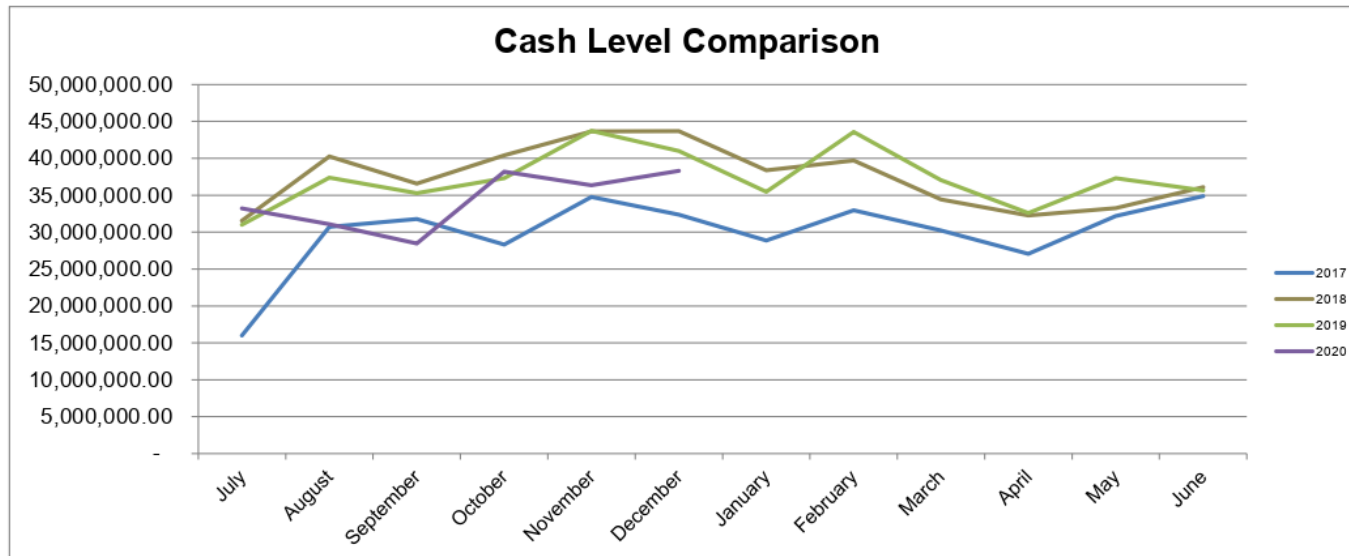


**Notes**

- 1 Council's cash position is up on the budgeted year end position predominately due to the following reasons:
  - a) Projects that are to be funded by the repeal of the s7.11 fund are yet to be completed

Significant future cash inflows expected in next few months include various 2020 grants.

Significant future cash outflows expected in next few months include: upgrade to Koala Sanctuary, Lionel Morton Amenities construction, Karuah RFS Building construction, Robinson Reserve redevelopment, Tomaree road upgrade, Donald St Car park demolition, RT Pigeon Club and other 2020 Community Projects.



**ITEM NO. 3**

**FILE NO: 20/9444  
EDRMS NO: PSC2015-03017**

**PETITION TO INVESTIGATE THE PROPOSAL FOR SHARED FOOTPATH CONSTRUCTION AND SHOULDER WIDENING IN HINTON AND WALLALONG**

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

**BACKGROUND**

The purpose of this report is to present to Council a petition containing 92 signatures requesting Council investigate the proposal for shared footpath (pathway) construction and shoulder widening for the townships of Hinton and Wallalong. The petition is shown in **(ATTACHMENT 1)**.

The pathways requested in the petition are Hinton Road (Hinton township) and between Bowthorne Park Wallalong and Hinton. These pathways are shown in Sheet 2 of Council's adopted Pathway Plan **(ATTACHMENT 2)**. Council staff agree that these pathways would improve pedestrian and children safety as well as provide cyclist connections between these two townships as suggested in the petition.

Pathways on Paterson Street and Swan Street, Hinton are included in the recently adopted Local Infrastructure Contributions Plan, though matching funds have not yet been sourced or prioritised in Council's Capital Works Program. It should be noted that the priority of this project is dependent on an increase of development in this area.

At the time of writing this information paper, the Capital Works Program is being reviewed following the adoption of the Local Infrastructure Contributions Plan. This project could be introduced earlier through alternative funds, though it would be at the expense of another project already listed in the Capital Works Program.

As requested by the petition, Council's staff will continue to apply for grants. Each offered grant usually has a set of specific criteria that the proposed project must meet for it to be successful. The projects chosen for the grant depend on the grant criteria with the aim to create the best possible chance of success.

The petition has also requested shoulder widening between Bounty Close and Nulla Nulla Lane. At present there are no plans in the near foreseeable future to undertake these works.

It should be noted that Council does not charge the adjoining residents a contribution for the construction of a pathway. This was an issue raised in the petition.

**ATTACHMENTS**

- 1) Petition - Application to Fund Improvements to Local Infrastructure in Hinton and Wallalong.
- 2) Pathway Plan Sheet 2 - Woodville, Wallalong and Hinton.

**COUNCILLORS ROOM**

- 1) Copy of unredacted petition.

**TABLED DOCUMENTS**

Nil.

ITEM 3 - ATTACHMENT 1 PETITION - APPLICATION TO FUND  
IMPROVEMENTS TO LOCAL INFRASTRUCTURE IN HINTON AND WALLALONG.

92 Signatures

**2020 Application to Fund  
Improvements to Local Infrastructure in  
Hinton and Wallalong NSW 2321**

**Purpose of application :** To seek funding from Port Stephens Council to improve Pedestrian and Road Safety outcomes for Hinton and Wallalong residents.

**Reason for petition :** To seek majority local support to application

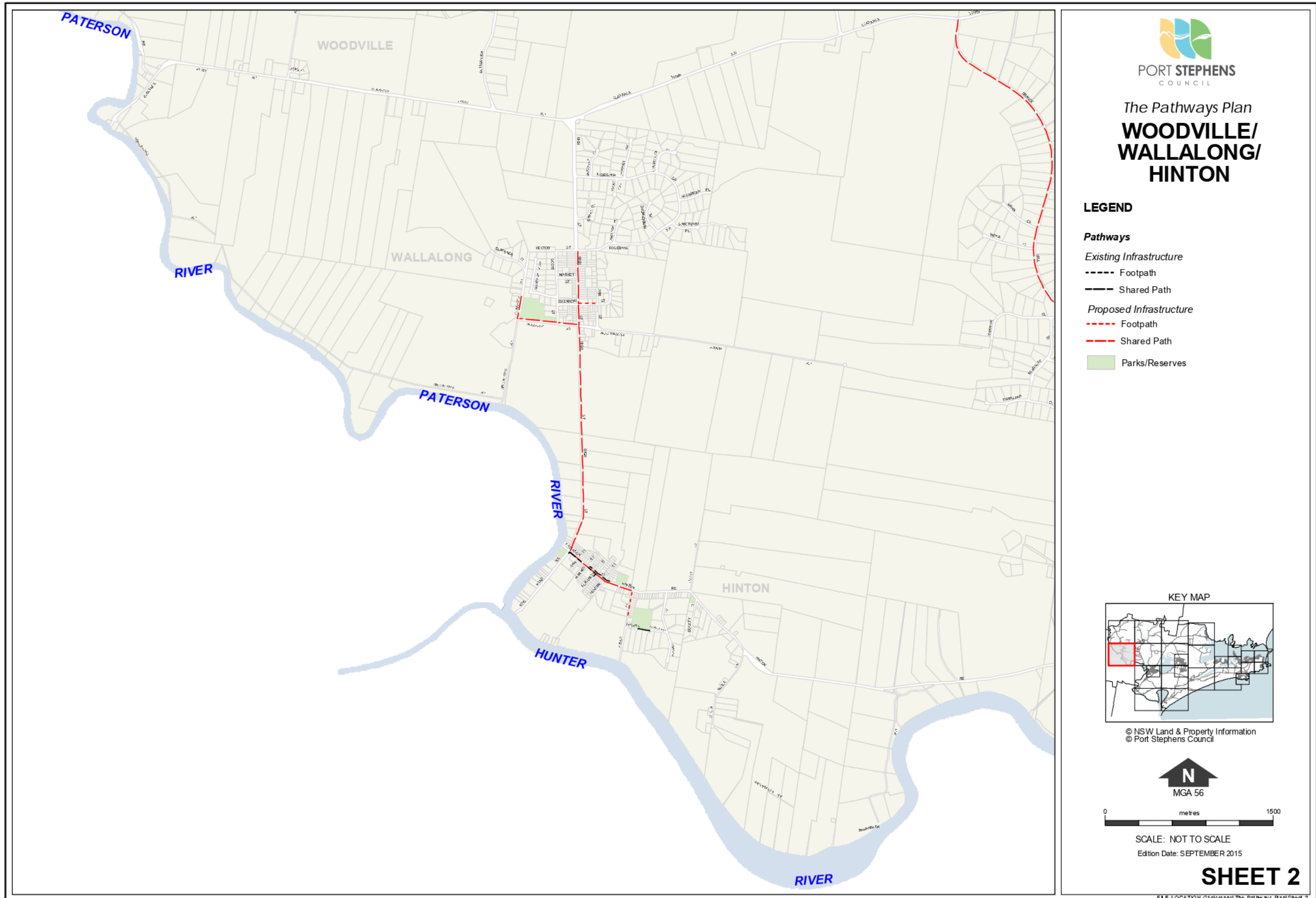
**Proposed projects :** Fastrack the construction of planned extensions to footpaths on Hinton Road to improve pedestrian and children safety.

Complete outstanding shoulder widening works between Bounty Close and Nulla Nulla Lane to provide increased clearances to through vehicles for pedestrians and cyclists.

Fastrack the construction of a planned shared footpath between Bowthorne Park Wallalong and Hinton to provide safe pedestrian and cyclist connectivity between the two communities.

**Additional information :** The purpose of petition is to seek funding to complete the planned footpath extensions without individual residents incurring a cost to the footpath component in front of their properties.

The final scope of works will be determined by Council's Engineering assets team based on the funding made available by Port Stephens Council and additional funding available through concurrent grants provided by the NSW Government.





**ITEM NO. 4**

**FILE NO: 20/21621  
EDRMS NO: PSC2015-03017**

**PETITION - PORT STEPHENS COUNCIL TO RETAIN AND MAINTAIN THE  
OCEAN AVENUE, ANNA BAY TOILET BLOCK**

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

**BACKGROUND**

The purpose of this report is to present a petition to Council regarding toilets at Anna Bay.

The removal of this building is part of the overall capital works upgrade at Robinson Reserve to be undertaken this financial year.

**ATTACHMENTS**

- 1) Petition.

**COUNCILLORS ROOM**

- 1) Copy of unredacted petition.

**TABLED DOCUMENTS**

Nil.

ITEM 4 - ATTACHMENT 1 PETITION.

PAGE 3 OF 17



PETITION PORT STEPHENS COUNCIL (PSC) TO RETAINED AND MAINTAIN THE OCEAN AVENUE, ANNA BAY TOILET BLOCK.

PSC should consider and accept the following motion 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.

**ITEM NO. 5**

**FILE NO: 19/400563  
EDRMS NO: PSC2019-02300**

**DESIGNATED PERSONS' RETURN**

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

**BACKGROUND**

The purpose of this report is to table Designated Persons' Return/s (return) submitted by new Council employees.

In accordance with the Part 4 – Pecuniary Interest of the Code of Conduct, all new employees are required to submit a return within 3 months of commencement. Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted return/s:

- Development Planner (PSC081)
- Senior Development Planner (PSC077)

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Designated Persons' Returns.

**ITEM NO. 6**

**FILE NO: 20/23770  
EDRMS NO: PSC2017-00739**

**MAYOR AND COUNCILLORS PROFESSIONAL DEVELOPMENT QUARTERLY REPORT - OCTOBER TO DECEMBER 2019**

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

**BACKGROUND**

The purpose of this report is to provide an account of the expenses incurred by the Mayor and Councillors in accordance with clause 5.14 of the Councillor Induction and Professional Development Policy for the period October to December 2019.

	Mayor Palmer	Cr Abbott	Cr Arnott	Cr Doohan	Cr Dunkley	Cr Jordan	Cr Le Mottee	Cr Nell	Cr Smith	Cr Tucker
Local Government NSW annual conference	\$814	\$764	\$764				\$764			\$764
Coastal Conference								\$814		
<b>Total</b>	<b>\$814</b>	<b>\$764</b>	<b>\$764</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$764</b>	<b>\$814</b>	<b>\$0</b>	<b>\$764</b>

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 7**

**FILE NO: 19/400646  
EDRMS NO: PSC2005-1318**

**GENERAL MANAGER'S ANNUAL PERFORMANCE REVIEW**

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

**BACKGROUND**

The purpose of this report is to receive and note the outcome of the General Manager's Annual Performance Review 1 July 2018 to 30 June 2019, which has been signed by the Mayor and General Manager.

Council established a performance evaluation process for the General Manager in accordance with the Guidelines for the Appointment and Oversight of General Managers issues pursuant to Sections 23A and 338 of the Local Government Act 1993. This includes the establishment of a Performance Evaluation Panel to review the General Manager's performance against the agreed criteria and to establish performance criteria for the next period.

The annual performance review summary is noted as **(ATTACHMENT 1)**.

**ATTACHMENTS**

- 1) General Manager's performance review summary.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 7 - ATTACHMENT 1 GENERAL MANAGER'S PERFORMANCE REVIEW SUMMARY.**



**PORT STEPHENS**  
COUNCIL

**ATTACHMENT 1**  
**GENERAL MANAGER'S**  
**PERFORMANCE REVIEW**  
**2018-2019**

Level	Definition
Excellent	<ul style="list-style-type: none"> <li>Performance is clearly outstanding.</li> <li>Performance is superior – it far exceeds standards or expectations.</li> <li>Performance is exceptional on a continuous basis.</li> </ul>
Good	<ul style="list-style-type: none"> <li>Performance general meets or exceeds standards or expectations.</li> <li>Attains all or nearly all of position objectives.</li> </ul>
Acceptable	<ul style="list-style-type: none"> <li>Performance is adequate – it meets standards or expectations, and is developing within the position.</li> </ul>
Needs improvement	<ul style="list-style-type: none"> <li>Fails to meet one or a few expectations.</li> </ul>
Unacceptable	<ul style="list-style-type: none"> <li>Performance is below accepted levels.</li> <li>Fails to meet most job expectations.</li> </ul>

	Median
Service Delivery	Good
Customer Satisfaction	Good
Governance	Excellent
Risk Management	Good
Financial Sustainability	Good
Employee Engagement	Good
Major Projects	Good
<b>Overall Performance</b>	<b>Good</b>

**ITEM NO. 8**

**FILE NO: 20/14108  
EDRMS NO: PSC2015-02258**

**MAYOR AND COUNCILLORS EXPENSE REPORT 1 JULY 2019 TO 31  
DECEMBER 2019**

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

**BACKGROUND**

The purpose of this report is to provide an account of the expenses incurred by the Mayor and Councillors in accordance with Clause 3.127 of the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy for the period 1 July 2019 to 31 December 2019 (**ATTACHMENT 1**).

The costs in the report are those incurred by the Mayor and Councillors that have been reconciled during this period and does not include expenses incurred that have not been submitted for reimbursement. The report also shows the total cost incurred to Council by Elected Members (including the monthly allowance) for each costing category listed.

**ATTACHMENTS**

- 1) Elected Members Expense Report 1 July 2019 to 31 December 2019.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Elected Members Expense Report 1 July 2019 to 31 December 2019.

Elected Members Expense Report 1 July 2019 to 31 December 2019

	Mayor Ryan Palmer	Cr Jaimie Abbott	Cr Giacomo Amott	Cr Chris Doohan	Cr Glen Dunkley	Cr Ken Jordan	Cr Paul Le Mottee	Cr John Neil	Cr Sarah Smith	Cr Steve Tucker	TOTALS
Total Number of Council Meetings Attended (12 held)	11	10	10	11	8	11	10	11	11	12	
Total Number of Months Reimbursed during the period	7	6	0	6	6	4	5	6	4	7	
Description of Expense	Limits as per policy										
Councillor Mobile Rental											\$0.00
Councillor Mobile Calls	\$229.00	\$487.00							\$177.00		\$893.00
Councillor Landline Phone Rental											\$0.00
Councillor Landline Phone Calls											\$0.00
Councillor Fax Rental											\$0.00
Councillor Fax Calls											\$0.00
Councillor Internet	\$300.00	\$327.00									\$627.00
Councillor Intrastate Travel Expenses		\$1,707.00		\$335.00	\$1,745.00	\$624.00	\$1,511.00	\$2,356.00	\$1,045.00	\$2,894.00	\$12,217.00
Councillor Interstate Travel (out of NSW)				\$32.00							\$32.00
Councillor Interstate Accommodation (out of NSW)											\$0.00
Councillors Intrastate Accommodation	\$485.00	\$1,090.00	\$235.00	\$235.00		\$471.00	\$522.00	\$1,590.00		\$1,024.00	\$5,652.00
Councillor Conferences	\$664.00	\$764.00	\$764.00					\$814.00		\$764.00	\$3,770.00
Councillor Training							\$764.00				\$764.00
Councillor Partner Expenses	\$136.00	\$136.00			\$136.00	\$136.00		\$59.00	\$77.00		\$680.00
Councillor ICT Devices (incl. Mobile phones)	\$295.00	\$164.00		\$1,181.00	\$439.00	\$64.00	\$345.00	\$407.00	\$196.00	\$45.00	\$3,136.00
Councillor Stationary	\$65.00		\$136.00	\$145.00		\$136.00	\$121.00	\$213.00	\$80.00	\$273.00	\$1,169.00
Councillor Awards/Ceremonies/Dinners	\$620.00	\$434.00	\$114.00	\$227.00	\$263.00	\$136.00	\$222.00	\$220.00	\$304.00	\$521.00	\$3,061.00
Councillor Child Care Costs		\$470.00									\$470.00
Councillor Communications Bundle				\$671.00	\$723.00	\$609.00	\$529.00	\$580.00		\$934.00	\$4,046.00
Councillor Professional Development	\$577.00	\$168.00	\$63.00	\$63.00	\$63.00	\$63.00	\$348.00	\$804.00	\$63.00	\$63.00	\$2,275.00
<b>TOTALS</b>	<b>\$3,371.00</b>	<b>\$5,747.00</b>	<b>\$1,312.00</b>	<b>\$2,889.00</b>	<b>\$3,369.00</b>	<b>\$2,239.00</b>	<b>\$4,362.00</b>	<b>\$7,043.00</b>	<b>\$1,942.00</b>	<b>\$6,518.00</b>	<b>\$38,792.00</b>
Councillor Allowances	\$30,810.00	\$10,140.00	\$10,140.00	\$11,595.00	\$10,140.00	\$10,140.00	\$10,140.00	\$10,140.00	\$10,140.00	\$10,140.00	\$123,525.00
<b>TOTALS</b>	<b>\$34,181.00</b>	<b>\$15,887.00</b>	<b>\$11,452.00</b>	<b>\$14,484.00</b>	<b>\$13,509.00</b>	<b>\$12,379.00</b>	<b>\$14,502.00</b>	<b>\$17,183.00</b>	<b>\$12,082.00</b>	<b>\$16,658.00</b>	<b>\$162,317.00</b>



**ITEM NO. 9**

**FILE NO: 20/32628  
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.

At the time of preparing this report there were no outstanding items for the General Manager's Office.

**ATTACHMENTS**

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

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 9 - ATTACHMENT 1 CORPORATE SERVICES GROUP.**



**Outstanding**      **Division:** Corporate Services      **Date From:** 26/09/2017  
**Action Sheets**      **Date To:** 10/12/2019  
**Report**      **Printed:** Tuesday, 4 February 2020

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	31/01/2020	28/03/2018	
13 066		Foster, Carmel				18/66656
9 Jan 2020 - Property Services are awaiting update from the Office of Local Government.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/06/2018	Foster, Carmel	RECLASSIFICATION OF 109 FORESHORE DRIVE, SALAMANDER BAY	31/01/2020	27/06/2018	
2		Foster, Carmel				18/138953
6 Jan 2020 – Revised target date of 31 January 2020.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/07/2018	Meyn, Janet	398 CABBAGE TREE ROAD, WILLIAMTOWN	31/01/2020		
2 221		Foster, Carmel				18/151411
9 Jan 2020 - The Lease has been executed by all parties. Lease to be registered once Transport NSW signs off.						

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	28/02/2020	15/08/2018	
1 254		Foster, Carmel				18/179364
9 Jan 2020 - Contracts have exchanged with settlement due early 2020.						

**ITEM 9 - ATTACHMENT 1 CORPORATE SERVICES GROUP.**



**Outstanding**      **Division:** Corporate Services      **Date From:** 26/09/2017  
**Action Sheets**      **Date To:** 10/12/2019  
**Report**      **Printed:** Tuesday, 4 February 2020

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
9 Jan 2020 - Property Services awaiting Office of Local Government to advise what additional information is required.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 099	Ordinary Council 14/05/2019	Meyn, Janet Foster, Carmel	DEBT RECOVERY	1/06/2020	15/05/2019	19/136619
9 Jan 2020 - 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	31/03/2020	29/05/2019	19/148388
9 Jan 2020 - Property Services have approved draft Gazette and awaiting receipt of the formal approval to acquire.						

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	30/06/2020	29/05/2019	19/148388
9 Jan 2020 - Awaiting status update from the Office of Local Government.						

**ITEM 9 - ATTACHMENT 1 CORPORATE SERVICES GROUP.**



<b>Outstanding</b>	<b>Division:</b> Corporate Services	<b>Date From:</b> 26/09/2017
		<b>Date To:</b> 10/12/2019
<b>Action Sheets Report</b>		<b>Printed:</b> Tuesday, 4 February 2020

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	31/03/2020		
7 169		Foster, Carmel				19/200498
9 Jan 2020 - Legal negotiations are ongoing with AGL.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/09/2019	Meyn, Janet	PCYC LEASE - 42 WILLIAM STREET, RAYMOND TERRACE	28/02/2020	25/09/2019	
5 165		Foster, Carmel				19/321198
9 Jan 2020 - Lease documentation signed incorrectly by PCYC. Documentation returned to PCYC for re-signing.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/10/2019	Meyn, Janet	EASEMENT TO DRAIN WATER - KINGSLEY DRIVE AND CORYULE STREET, BOAT HARBOUR	28/02/2020	9/10/2019	
1 191		Foster, Carmel				19/331292
9 Jan 2020 -Agreement received from all land owners. Execution and registration of documents is progressing pending receipt of productive details from one land owner.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/11/2019	Meyn, Janet	SALE OF PART 13 SCHOOL DRIVE, TOMAGO	31/03/2020	13/11/2019	
1 217		Foster, Carmel				19/364714
9 Jan 2020 - Legal providers preparing draft contracts for sale.						

**ITEM 9 - ATTACHMENT 1 CORPORATE SERVICES GROUP.**



<b>Outstanding</b>	<b>Division:</b> Corporate Services	<b>Date From:</b> 26/09/2017
		<b>Date To:</b> 10/12/2019
<b>Action Sheets Report</b>		<b>Printed:</b> Tuesday, 4 February 2020

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Meyn, Janet	1 CENTRAL AVENUE, SALAMANDER BAY (LOT 8)	31/03/2020	11/12/2019	
1		Foster, Carmel				19/388450
267						
9 Jan 2020 - Council and TAFE NSW to finalise lease terms and prepare draft lease documentation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Meyn, Janet	EXPRESSION OF INTEREST - 9B DIEMARS ROAD, SALAMANDER BAY	31/03/2020	11/12/2019	
2		Foster, Carmel				19/388450
268						
9 Jan 2020 - Expression of Interest documentation has been prepared and campaign will be advertised in early 2020.						

**ITEM 9 - ATTACHMENT 2 DEVELOPMENT SERVICES REPORT.**



<b>Outstanding</b>	<b>Division:</b> Development Services	<b>Date From:</b> 26/09/2017
		<b>Date To:</b> 10/12/2019
<b>Action Sheets Report</b>		<b>Printed:</b> Tuesday, 4 February 2020

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Peart, Steven	Planning Proposal for 4 Giles Road, Seaham	30/01/2020	11/12/2019	
4		Crosdale, Timothy				19/388450
<p>31 Jan 2020 - It was resolved that Council defer the Planning Proposal for 4 Giles Road, Seaham (Lot 14 DP 846633) to allow the proponent to provide further information to Council. A meeting was held with Council staff and the proponent on 23 January 2020. The proponent advised that they will submit additional information in due course.</p>						

**ITEM 9 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.**



**Outstanding**      **Division:**    **Facilities & Services**      **Date From:**    26/09/2017  
**Action Sheets**      **Date To:**        10/12/2019  
**Report**                      **Printed:**        Tuesday, 4 February 2020

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 2 026	Ordinary Council 13/02/2018	Maretich, John  Kable, Gregory	SPORTS GROUND IRRIGATION SYSTEMS	28/04/2020	14/02/2018	18/32353
22 Jan 2020 - This will be reported back to Council as part of the Strategic Asset Management Plan.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 14 067	Ordinary Council 27/03/2018	Kable, Gregory  Kable, Gregory	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.	29/05/2020	28/03/2018	18/66656
22 Jan 2020 - 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 2 084	Ordinary Council 10/04/2018	Maretich, John  Kable, Gregory	BOBS FARM DRAINAGE	31/12/2020	11/04/2018	18/75830
22 Jan 2020 - Currently examining funding options to determine if Council can adopt these as public assets.						

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

**ITEM 9 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.**



**Outstanding**      **Division:**    Facilities & Services      **Date From:**    26/09/2017  
**Action Sheets**      **Date To:**            10/12/2019  
**Report**                      **Printed:**            Tuesday, 4 February 2020

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Maretich, John	Exemption for environmental approvals for non-maintenance road improvement works	30/04/2020	11/12/2019	
2 259		Kable, Gregory				19/388450
22 Jan 2020 - Currently compiling information to form part of letter to the NSW State Government requesting an exemption for environmental approvals for non-maintenance road improvement works that occur in coastal management (or buffer) areas.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Maretich, John	SMART Parking	31/03/2020	11/12/2019	
3 261		Kable, Gregory				19/388450
22 Jan 2020 - Following Community Consultation, proposed projects are being reprioritised with a funding source strategy being reformulated.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Maretich, John	Solar Infrastructure	31/03/2020	11/12/2019	
6 264		Kable, Gregory				19/388450
22 Jan 2020 - In the process of engaging a consultant to undertake building an energy efficient study.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Malloy, Aaron	GREEN WASTE DROP OFF - SALAMANDER BAY	30/04/2020	11/12/2019	
7 265		Kable, Gregory				19/388450
22 Jan 2020 - Currently preparing a feasibility report.						



# NOTICES OF MOTION

**NOTICE OF MOTION**

**ITEM NO. 1**

**FILE NO: 20/8060  
EDRMS NO: PSC2017-00019**

**PECUNIARY INTEREST REGISTER TO BE MADE PUBLIC**

**COUNCILLOR: GIACOMO ARNOTT**

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**THAT COUNCIL:**

- 1) Make the elected representative disclosure returns publicly available on Council's website in accordance with the Government Information (Public Access) Act 2009.
- 

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>023</b>	<b>Councillor Giacomo Arnott Mayor Ryan Palmer</b>  It was resolved that Council make the elected representative disclosure returns publicly available on Council's website in accordance with the Government Information (Public Access) Act 2009.
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The motion was carried.

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

**BACKGROUND**

Elected representatives and designated persons are required to lodge a return disclosing their pecuniary interests within 3 months of either being elected to Council or being employed by Council, and then on an annual basis.

The Government Information (Public Access) Act 2009 (GIPA Act) classifies these returns as 'open access'. Open access information is required to be available on Council's website unless there is an overriding public interest against disclosure or to do so would impose unreasonable additional costs on Council. Overriding public interest against disclosure might include matters relating to privacy, commercial affairs, copyright or where there is a risk to harm if the information was released.

Under the GIPA Act, the principal officer (the General Manager) is responsible for ensuring Council meets its obligations under the Act. The authority under the Act is then delegated to staff to assess and determine accessing information applications and other compliance aspects of the GIPA Act, such as disclosure returns.

Council must not circumvent the legislative provisions of the GIPA Act by releasing information where another party may have a right to be consulted prior to release or have rights of review.

The NSW Information and Privacy Commission (IPC) has recently updated its guideline on this matter in accordance with the legislative provisions. Prior to the update of this guideline, Council was not required to make the returns available on the website.

Council is in the process of assessing the annual returns in accordance with the provisions of the GIPA Act and the IPCs guideline.

At this point in time, there is nothing to prevent a person making an application to access the returns prior to them being available on Council's website.

#### **ATTACHMENTS**

Nil.

**NOTICE OF MOTION**

**ITEM NO. 2**

**FILE NO: 20/18267  
EDRMS NO: PSC2017-00019**

**LAGOONS ESTATE**

**COUNCILLOR: GIACOMO ARNOTT**

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**THAT COUNCIL:**

- 1) Acknowledges the high level of public interest in the process and outcomes of the Lagoons Estate legal matter.
- 2) Accepts that in the interests of transparency, details about this matter should be made public to prevent misinformation in the community and provide proper information to the public.
- 3) Prepare a document for public distribution, to be placed on the website and reported back to Council that outlines the following:
  - a. A history of the matter.
  - b. The outcome of the matter.
  - c. The cost to date for Port Stephens Council.
  - d. The expected total cost of the whole matter once all related issues are concluded.
  - e. The expected cost of capital works that will need to be undertaken by Council.
  - f. The expected total that Council and the ratepayer will be responsible for paying.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That Council:</p> <ol style="list-style-type: none"><li>1) Acknowledges the high level of public interest in the process and outcomes of the Lagoons Estate legal matter.</li><li>2) Accepts that in the interests of transparency, details about this matter should be made public to prevent misinformation in the community and provide proper information to the public.</li><li>3) Prepare a document for public distribution, to be placed on the website and reported back to Council that outlines the following:<ol style="list-style-type: none"><li>a. A history of the matter.</li><li>b. The outcome of the matter.</li><li>c. The cost to date for Port Stephens Council.</li></ol></li></ol>
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## MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020

	<ul style="list-style-type: none"><li>d. The expected total cost of the whole matter once all related issues are concluded.</li><li>e. The expected cost of capital works that will need to be undertaken by Council.</li><li>f. The expected total that Council and the ratepayer will be responsible for paying.</li></ul>
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The Notice of Motion lapsed without a seconder.

## BACKGROUND REPORT OF: WAYNE WALLIS – GENERAL MANAGER

### BACKGROUND

As Elected Members are aware, late last year following Council endorsement, Supreme Court Orders were made vacating both the Supreme Court hearing scheduled for February 2020 and all previous cost orders in the Lagoons proceedings, as well as dismissing the proceedings in this matter. The Court file has been closed and the matter is completed.

The Lagoons proceedings has involved litigation and engineering argument since 2002 (18 years) primarily over the discharge of stormwater onto the Lagoons Estate in excess of the natural flow from neighbouring properties and public infrastructure. Most particular has been the argument over what constituted 'natural flow'.

This aspect was the crux of the proceedings as drainage experts had differing opinions and Council's drainage works were constructed based on its external expert's assessment of natural flow. Ultimately in the latest Court proceedings, the Court determined that the natural flow was effectively zero and Council is now required to prevent all stormwater from neighbouring properties and public infrastructure, from flowing into the Lagoons Estate.

In accordance with the Orders, Council has until 31 December 2020 to preclude the discharge of stormwater onto the Lagoons Estate. Council officers are working on a drainage solution and are well advanced in their considerations.

Over this extended period of time (almost 20 years) there has been community and media interest in the proceedings, particularly the costs involved in the litigation and subsequent public drainage infrastructure costs expended.

As the matter is now concluded (and in consideration of the provisions of the confidentiality agreement executed by Council) Council has publically released expenditure incurred since 2002 in a consolidated form only. All prior year costs have by requirement, been disclosed in Council's financial statements and annual reports during the period incurred.

In summary, since 2002 the cost to ratepayers (excluding insurance reimbursements) has been \$7.15 million on public infrastructure drainage works, settlements and legals, with an estimated \$2 million to be spent on future public drainage works.

It is important to note that the specific breakup of costs is not able to be disclosed publically (which has been provided to Councillors confidentially) due to the confidentiality agreement executed by Council and to ensure the avoidance of any further litigation in the event of such a breach.

It is understandable that there has been community angst about these proceedings over this extended period of time and Council has been careful in its actions to minimise the impact on Council's service delivery to the community.

Despite the challenges presented, Council has continued to deliver a high quality of facilities and services to our community and has managed these costs over almost 20 years within our existing budgets.

#### **ATTACHMENTS**

Nil.

**NOTICE OF MOTION**

**ITEM NO. 3**

**FILE NO: 20/28687  
EDRMS NO: PSC2017-00019**

**ANDERSON OVAL, LAKESIDE, RAYMOND TERRACE**

**COUNCILLOR: RYAN PALMER**

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**THAT COUNCIL:**

- 1) Investigate potential sporting uses and/or leisure uses for the large oval situated on the southern side of Lakeside, known as Anderson Oval.
- 

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>024</b>	<b>Mayor Ryan Palmer Councillor Giacomo Arnott</b>  It was resolve that Council investigate potential sporting uses and/or leisure uses for the large oval situated on the southern side of Lakeside, known as Anderson Oval.
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The motion was carried.

**BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER**

**BACKGROUND**

The property known as Anderson Oval is located at 45 Elwin Road, Raymond Terrace (Lot 670 DP 707451). The site is owned by Port Stephens Council and is classified as community land.

The site is constrained by flooding, predominantly mapped as high hazard floodway with high and low hazard storage areas on the northern extent. The site is also considered to be bushfire prone with a large stand of vegetation located immediately to the south of the site. Due to the high level of vegetation cover and low lying nature, the area is periodically subject to high levels of mosquitos. The site is classified as a low use local facility and is mown on a 3 monthly basis.

The site is currently available for informal recreational purposes. The site is approved as an on-lead dog exercise area. To date, no approaches from local sporting clubs have been made to use this facility in a formalised manner. The site is not currently identified within Council's Commercial Operators Policy (which could permit uses such as outdoor exercise classes, organised training etc.). If this type of use were to be pursued, an operator would need to indicate their interest in the site to Council. The constraints of the site would need to be addressed in any application for formalised use.

**ATTACHMENTS**

Nil.



**NOTICE OF MOTION**

**ITEM NO. 4**

**FILE NO: 20/30432  
EDRMS NO: PSC2017-00019**

**PORT STEPHENS ANNUAL AWARDS POLICY**

**COUNCILLOR: GIACOMO ARNOTT**

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**THAT COUNCIL:**

- 1) Amend the Port Stephens Annual Awards Policy to include the following:
  - a. Allow submissions to be made either online or in paper form.
  - b. Online and paper applications for nominees for Annual Awards are to be in substantially the same format and require the same information.
  - c. All information provided in applications to be provided to the judging panel.
  - d. All applications must include the following information for assessment by the judging panel.
    - i. Details of the nominee, including address and date of birth.
    - ii. Two references in the form of 'other people who can be contacted for further information about the nominee'.
    - iii. A list of the nominee's community contributions and achievements, including, where relevant:
      1. their past and present membership of community, sporting, cultural and/or professional bodies.
      2. the roles or areas the nominee has excelled in or made a contribution in.
      3. the nominee's service or contribution and how this has been of benefit to the Port Stephens community.
      4. ways that the nominee's contributions have been recognised elsewhere.
    - iv. Details of the person making the submission, including their relationship to the nominee.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

	<p><b>Councillor Giacomo Arnott Councillor Chris Doohan</b></p> <p>That Council:</p>
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**MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020**

	<p>1) Amend the Port Stephens Annual Awards Guidelines to include the following:</p> <ul style="list-style-type: none"><li>a. Allow submissions to be made either online or in paper form.</li><li>b. Online and paper applications for nominees for Annual Awards are to be in substantially the same format and require the same information.</li><li>c. All information provided in applications to be provided to the judging panel.</li><li>d. All applications must include the following information for assessment by the judging panel.<ul style="list-style-type: none"><li>i. Details of the nominee, including address and date of birth.</li><li>ii. Two references in the form of ‘other people who can be contacted for further information about the nominee’.</li><li>iii. A list of the nominee’s community contributions and achievements, including, where relevant:<ul style="list-style-type: none"><li>1. their past and present membership of community, sporting, cultural and/or professional bodies.</li><li>2. the roles or areas the nominee has excelled in or made a contribution in.</li><li>3. the nominee’s service or contribution and how this has been of benefit to the Port Stephens community.</li><li>4. ways that the nominee’s contributions have been recognised elsewhere.</li></ul></li><li>iv. Details of the person making the submission, including their relationship to the nominee.</li></ul></li></ul>
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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
AMENDMENT**

<b>025</b>	<p><b>Councillor John Nell</b> <b>Mayor Ryan Palmer</b></p> <p>It was resolved that the General Manager conduct a review of the Port Stephens Annual Awards Guidelines.</p>
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The amendment on being put became the motion, which was carried.

**BACKGROUND REPORT OF: STEVEN BERNACONI – COMMUNICATIONS SECTION MANAGER**

**BACKGROUND**

The Port Stephens Annual Awards Policy (**ATTACHMENT 1**) sets the criteria for the membership of the Awards Assessment Panel and defines the community values that are the basis for the awards.

The process for making a nomination to the Awards is described in the Port Stephens Annual Awards Guidelines (**ATTACHMENT 2**) and award nomination form criteria (**ATTACHMENT 3**). The nomination process defined in the guidelines includes:

- Nominations can be made by the community at any time of year until the closure date.
- The nomination closure date will be in November of each year and will be communicated via Council's website and other communications channels at Council's discretion.
- Any nomination submitted after the publicised closure date will be accepted into the next round of annual awards.
- Each nomination will be acknowledged by Council in writing.
- Nominations are to be submitted through Council's website using the online nomination form.
- While nominations may be made in specific categories, the assessment panel is ultimately responsible for matching nominees to categories. Panel members may allocate a nominee to a category at its discretion and without communicating the decision to the person responsible for submitting the nomination.

In considering this Notice of Motion it is recommended that any change be made through the guidelines, rather than the policy, as the nomination process requires a degree of flexibility to adapt to the community's response to the Awards over time.

**ATTACHMENTS**

- 1) Port Stephens Annual Awards Policy.
- 2) Port Stephens Annual Awards Guidelines.
- 3) Port Stephens Annual Awards online nomination form criteria.

Policy



**FILE NO:** PSC2014-03407  
**TITLE:** PORT STEPHENS ANNUAL AWARDS  
**POLICY OWNER:** COMMUNICATIONS SECTION MANAGER

**1. PURPOSE:**

- 1.1 The purpose of this Policy is to recognise groups and individuals that contribute to the achievement of Council's vision of: Port Stephens - A great lifestyle in a treasured environment.
- 1.2 The awards recognise outstanding service, effort and achievements to groups, individuals and events that contribute to making our community a great place to live, work, play and grow.

**2. CONTEXT/BACKGROUND:**

- 2.1 Port Stephens Council recognises outstanding contributions of members of the Port Stephens community through the delivery of an Annual Awards program. The peak award is the Freeman of Port Stephens, followed by the Citizen of the Year, the Young Citizen of the Year, and other awards that acknowledge social, cultural and environmental achievements. These Annual Awards will provide further opportunity for Council to formally recognise those people who provide outstanding or distinguished service to the community and enhance community pride and spirit.

**3. SCOPE:**

- 3.1 Council plays a role in supporting individuals and groups that benefit the Port Stephens community.
- 3.2 Eligibility for Port Stephens community awards is based on objective criteria to ensure awards recipients are determined following a merit-based approach.

**4. POLICY STATEMENT:**

- 4.1 Port Stephens Council relies on community members to achieve its vision for Port Stephens. Council has a system of Annual Awards to recognise individuals and groups who, through outstanding effort, service and achievement, have contributed to the promotion of the community values of Port Stephens.

**Policy**

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## Policy



4.2 The Port Stephens Annual Awards Assessment Panel is comprised of:

- The Mayor (Chair)
- The General Manager
- Three Councillors (one from each Ward), drawn from the 355(c) Port Stephens Australia Day Committee
- Three community representatives, drawn from the 355(c) Port Stephens Australia Day Committee
- One Freeman of Port Stephens (by invitation of the Mayor)

The role of the Panel is to receive and consider nominations in accordance with the criteria and recommend recipients for each category of award. Outstanding achievement or contribution towards Port Stephens's community values will be the principle basis for the awards. The community values are:

- Honesty
- Safety
- Fairness
- Community Spirit
- Friendliness
- Having a say
- Support and connectedness
- Tolerance of difference
- Sustainability
- Life choices

4.3 The Mayor has delegated authority under this Policy to determine the awards on the recommendation of the Port Stephens Annual Awards Assessment Panel.

### 5. POLICY RESPONSIBILITIES:

5.1 The Community Development and Engagement Unit are responsible for the implementation, monitoring, evaluating and reviewing the Policy.

### 6. RELATED DOCUMENTS:

6.1 Port Stephens Annual Awards Guidelines.

## Policy

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Policy



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<b>EDRMS container No</b>	PSC2014-03407	<b>EDRMS record No</b>	18/235005
<b>Audience</b>	Councillors, staff and community		
<b>Process owner</b>	Communications Section Manager		
<b>Author</b>	Community Development and Engagement Coordinator		
<b>Review timeframe</b>	Two years	<b>Next review date</b>	September 2020
<b>Adoption date</b>	28 November 2000		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1.	28 November 2000		Port Stephens Community Awards	657
2.	27 August 2002		Port Stephens Community Awards	349
3.	8 February 2011		Port Stephens Community Awards	011
4.	24 February 2015	Communications Section Manager	Port Stephens Community Awards	027

**Policy**

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Policy



5.	11 September 2018	Communications Section Manager	<p>2.1 – Updated to reflect that each individual category was named in the context/background section of the Policy. This was replaced with a general statement (see below) so changes can be made to Award Categories without the Policy requiring review and further adoption by Council.</p> <p><i>'The peak award is the Freeman of Port Stephens, followed by the Citizen of the Year, the Young Citizen of the Year, and other awards that acknowledge social, cultural and environmental achievements'.</i></p>	285
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**Policy**

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**ITEM 4 - ATTACHMENT 2 PORT STEPHENS ANNUAL AWARDS  
GUIDELINES.**

**TRIM FILE No: PSC2014- 03407**

**PORT STEPHENS ANNUAL AWARDS**

**GUIDELINES**

Port Stephens Council values the outstanding contributions made to the Port Stephens community by various groups and individuals throughout the region. The Port Stephens Annual Awards provide an opportunity for Port Stephens Council to formally recognise these efforts.

There are seven award categories:

**1. FREEMAN OF PORT STEPHENS**

This honour recognises a distinguished citizen (or citizens) who have contributed eminent services to the community of Port Stephens or the wider community over many years. It may be awarded for outstanding achievement in the highest order for service to Port Stephens, Australia or general society.

Council is not obligated to award the Freeman of Port Stephens every year.

Retired Councillors with 10 years or more service (continuous or otherwise) as an elected Councillor are automatically granted the honorary title of Freeman of Port Stephens.

The General Manager (or delegate) shall keep a recorded list called the Freemans' Roll which shall be placed on display in the public area of the Council Chamber.

The Freeman of Port Stephens shall be invited to relevant and/or significant Councils events and functions, including the presentation of the Annual Awards.

The Council will provide a suitable insignia, badge or prestigious identification, which may be worn by the recipient on formal occasions.

**2. CITIZEN OF THE YEAR**

The Port Stephens Citizen of the Year award recognises the services of an individual citizen (or individual citizens) that have made a significant and demonstrable contribution to the community over the preceding 12 month period. While the focus for this award is on achievements made over the previous 12 month period, Council invites information and achievements of the nominee previous to that period.

The selection criteria for Citizen of the Year nominees are:

- The nominee must have made a significant contribution to the community;
- The nominee should be an inspirational role model for the community;

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**ITEM 4 - ATTACHMENT 2 PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

- The scope of impact the nominee's contribution has had on the local government area.

The General Manager (or delegate) shall keep a recorded list of Citizen of the Year winners which shall be placed on display in the public area of the Council Chamber.

The Citizen of the Year shall be invited to attend the following year's awards ceremony, as well as to appropriate Council functions as required in the 12 months following their receipt of the award.

**3. YOUNG CITIZEN OF THE YEAR**

The Port Stephens Young Citizen of the Year award recognises the services of an individual citizen (or individual citizens) that have made a significant and demonstrable contribution to the community over the preceding 12 month period. While the focus for this award is on achievements made over the previous 12 month period, Council invites information and achievements of the nominee previous to that period.

The Port Stephens Young Citizen of the Year should be aged 25 years or under on the day the honour is awarded.

The selection criteria for Young Citizen of the Year nominees are:

- The nominee must have made a significant contribution to the community;
- The nominee should be an inspirational role model for the community;
- The scope of impact the nominee's contribution has had on the local government area.

The General Manager (or delegate) shall keep a recorded list of Young Citizen of the Year winners which shall be placed on display in the public area of the Council Chamber.

The Young Citizen of the Year shall be invited to attend the following year's awards ceremony, as well as to appropriate Council functions as required in the 12 months following their receipt of the award.

**4. ENVIRONMENTAL AWARD**

The Environmental Award recognises outstanding efforts by an individual or organisation who has exhibited significant service to the environment of Port Stephens over the previous 12 months.

The local award recipient will be in the running to win the NSW State Environmental Citizen of the Year Award.

The selection criteria for the Environmental Award nominees are:

A positive contribution to the environment in Port Stephens through one or more of the following;

**ITEM 4 - ATTACHMENT 2 PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

- Efforts to preserve the environment within the local community
- The ability to foster partnerships that achieved litter reduction and recycling outcomes
- The use of the Return and Earn Container Depot Scheme to help fundraise for a meaningful cause.

**5. PORT STEPHENS MEDAL**

The Port Stephens Medal is awarded to an individual, organisation or group for distinguished service to the community of Port Stephens over the previous 12 months or a number of years.

The selection criteria for the Port Stephens Medal nominees are:

- Exercising community leadership;
- Promoting the principles of cultural diversity and social equity;
- Started a valuable new local initiative;
- Shows a tireless approach to community life and participation.

**6. SPORTSPERSON OF THE YEAR**

The Sportsperson of the Year award is awarded to individuals who have exhibited outstanding service to the sporting community of Port Stephens over the previous 12 months. Service to the sporting community may be via on field pursuits as a participant or competitor, or through the outstanding delivery of administrative functions.

The selection criteria for the Sportsperson of the Year award nominees are:

- Achieved significant sporting success throughout the year; and/or
- Contributed to significant sporting success for a particular, or a number of, sport/s.

**7. CULTURAL ENDEAVOUR**

Culture is reflected in our value systems, traditions and beliefs including in arts and creativity, heritage and history, architecture and design, festivals and events. Local culture can also be influenced by aspects of the distinctive coastal and rural environment, education and learning, the media, cultural tourism and accessible leisure activities.

Awarded to individuals who have exhibited outstanding service to the cultural community of Port Stephens or who have attained a high level of achievement in the wider cultural community.

The selection criteria for the Cultural Endeavour award are:

Contribution to the cultural community development of Port Stephens through innovation in one or more of the following;

- Places and spaces for culture

**ITEM 4 - ATTACHMENT 2 PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

- Celebrating the culture of diversity
- Collaboration and networking
- Resourcing community cultural vitality
- Cultural tourism
- Place making and local distinctiveness
- Cultural needs of children, young people, families and older people
- Public libraries as people spaces and places
- Events as cultural drivers

**Nomination process**

- Nominations can be made by the community at any time of year until the closure date;
- The nomination closure date will be in November of each year and will be communicated via Council's website and other communications channels at Council's discretion;
- Any nomination submitted after the publicised closure date will be accepted into the next round of annual awards;
- Each nomination will be acknowledged by Council in writing;
- Nominations are to be submitted through Council's website using the online nomination form;
- While nominations may be made in specific categories, the assessment panel is ultimately responsible for matching nominees to categories. Panel members may allocate a nominee to a category at its discretion and without communicating the decision to the person responsible for submitting the nomination.

**Assessment process**

The assessment of the nominations will be undertaken by an assessment panel made up of the following members:

- The Mayor (Chair);
- The General Manager;
- Three Councillors - one from each Ward - drawn from the Port Stephens Australia Day Celebrations Coordinating Committee;
- Three community representatives drawn from the Port Stephens Australia Day Celebrations Coordinating Committee; and
- One Freeman by invitation of the Mayor each year.

The role of the Panel is to receive and consider nominations in accordance with the criteria and to make recommendations to the Mayor in respect of each award category.

The Assessment Panel is responsible for choosing the category for which the individual's or group's nomination will be assessed and awarded.

**ITEM 4 - ATTACHMENT 2 PORT STEPHENS ANNUAL AWARDS GUIDELINES.**

The assessment is based on information provided in the nomination form only. Panel members are forbidden to base their decisions on existing or prior knowledge of the nominated person/s or group/s under assessment.

The Panel reserves the right not to recommend an award in any category in any year. This includes Freeman of Port Stephens.

Nominations are scored according to a preference vote, which is determined by the weighting of the total preferences. All assessments are confidential and the panel's recommendations are presented to the Mayor who then determines the awards.

**Final determination of award winners**

The Mayor has delegated authority under the Annual Awards Policy to determine the awards on the recommendation of the Assessment Panel.

**Judging Criteria**

Outstanding achievement or contribution towards Port Stephens's community values will be the principle basis for the awards. The community values are:

- Honesty
- Safety
- Fairness
- Community Spirit
- Friendliness
- Having a say
- Support and connectedness
- Tolerance of difference
- Sustainability
- Life choices

Award recipients will be individuals or groups who through their efforts espouse these values and show that individually and together we can make a difference. Their contribution may be at a local, national or international level. They will be seen as role models for the community.

The awards will recognise people who contribute in any area of endeavour including social justice and welfare, arts and cultural activities, education and youth development, the environment, business and sustainable economic development, sport, science and technology and academic achievement.

Above all the recipients will be able to demonstrate their contribution through results, focus, determination, creativity, commitment, enthusiasm and the pursuit of excellence.

**ITEM 4 - ATTACHMENT 2 PORT STEPHENS ANNUAL AWARDS  
GUIDELINES.**

**Eligibility Criteria**

- 1) Nominees must be residents of Port Stephens, except in exceptional circumstances, as determined by the Assessment Panel;
- 2) Awards will not be granted posthumously;
- 3) Self nominations will not be accepted;
- 4) Nominations must fit within one or more of the categories outlined above;
- 5) Nominees may be either volunteers or paid employees;
- 6) Awards may be awarded more than once to a particular person or group, at the sole discretion of the Assessment Panel.

**Presentation Ceremony**

The Port Stephens Annual Awards will be presented annually on Australia Day, 26 January, at a civic function organised by Port Stephens Council.

**Contact**

Port Stephens Council  
Community Development and Engagement Team  
Tel 4980 0255  
council@portstephens.nsw.gov.au

**Related policies**

Port Stephens Annual Awards Policy  
Ports Stephens Community Strategic Plan  
Code of Conduct

**Review date**

May 2021

**ITEM 4 - ATTACHMENT 3 PORT STEPHENS ANNUAL AWARDS ONLINE  
NOMINATION FORM CRITERIA.**

Port Stephens Annual Awards – online nomination form criteria

1. Nominee details<sup>1</sup>:
  - a. Name
  - b. Organisation (if applicable)
  - c. Email
  - d. Phone number
  - e. Award being nominated for
  - f. Reason for nomination
  
2. Nominator details:
  - a. Name
  - b. Organisation
  - c. Email address
  - d. Phone number
  
3. References<sup>2</sup>:
  - a. Tell us why you are nominating this person? e.g. outline their achievements or contributions to the Port Stephens community.

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<sup>1</sup> The 2019 Awards online form removed the requirement for a residential address. In assessing the nominations, all nominees are checked against the eligibility criteria which includes “nominees must be residents of Port Stephens, except in exceptional circumstances as determined by the assessment panel”.

<sup>2</sup> The 2019 Awards online form added one question in the reference section to enable the nominator to provide context to the nomination. The requirement for 3 referees was removed.

**NOTICE OF MOTION**

**ITEM NO. 5**

**FILE NO: 20/30682  
EDRMS NO: PSC2017-00019**

**CODE OF MEETING PRACTICE - COUNCIL MEETING 10 DECEMBER 2019**

**COUNCILLOR: GIACOMO ARNOTT**

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**THAT COUNCIL:**

- 1) Note that Cr Arnott was ejected from the 10 December 2019 Council meeting for alleged acts of disorder, and was denied an opportunity to address the allegation or speak to the Mayor's expulsion motion.
- 2) Accepts that the Office of Local Government has written to Council noting the expulsion was not done in accordance with the Local Government Act 1993, the Local Government Regulations, or the Council's adopted Code.

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

	<p><b>Councillor Giacomo Arnott Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Note that Cr Arnott was ejected from the 10 December 2019 Council meeting for alleged acts of disorder, and was denied an opportunity to address the allegation or speak to the Mayor's expulsion motion.</li><li>2) Accepts that the Office of Local Government has written to Council noting the expulsion was not done in accordance with the Local Government Act 1993, the Local Government Regulations, or the Council's adopted Code.</li></ol>
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The motion was carried on the casting vote of the Mayor.

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

**BACKGROUND**

Council at its meeting of 10 December 2019, resolved to expel Cr Giacomo Arnott from the meeting for acts of disorder.

The adopted resolution was as follows:

*“It was resolved that Cr Arnott be expelled from the Council Chamber for acts of disorder.”*

Following the meeting the Office of Local Government (OLG) wrote to Council as a result of a complaint lodged with the OLG.

The OLG advised that it was their view that the expulsion of Cr Arnott was not undertaken correctly in accordance with the Local Government Act 1993, the Local Government Regulations or the Council’s adopted Code.

It was noted in the response that the OLG supports the important role meeting chairs perform in maintaining order at meetings and recognises the need for chairs to enforce order at meetings. This action should only be undertaken as a last resort.

#### **ATTACHMENTS**

Nil.



**NOTICE OF MOTION**

**ITEM NO. 6**

**FILE NO: 20/30694  
EDRMS NO: PSC2017-00019**

**QUESTIONS WITH NOTICE - COMMUNITY SPORTING GRANTS**

**COUNCILLOR: GIACOMO ARNOTT**

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**THAT COUNCIL:**

- 1) Ask the General Manager to respond to the following Questions with Notice in relation to community sporting grants.
  - a. Which projects did Port Stephens Council nominate for round two of the Australian Sports Commission – Community Sport Infrastructure scheme?
  - b. Which projects did Port Stephens Council nominate for round three of the Australian Sports Commission – Community Sport Infrastructure Scheme?
  - c. Did Port Stephens Council have any contact with the office of Dr David Gillespie MP, Member for Lyne, prior to submitting its nomination for Lionel Morten Oval, Karuah for round three of the Australian Sports Commission – Community Sport Infrastructure Scheme?
  - d. On what date was Port Stephens Council notified of our success for the Lionel Morten Oval Grant?
  - e. In what form was Port Stephens Council notified of our success for the Lionel Morten Oval grant?
  - f. Did Port Stephens Council have any contact with the office of Dr David Gillespie MP, Member for Lyne, after receiving notification of success for its nomination for Lionel Morten Oval, Karuah for round three of the Australian Sports Commission – Community Grant Infrastructure scheme?

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That Council:</p> <ol style="list-style-type: none"><li>1) Ask the General Manager to respond to the following Questions with Notice in relation to community sporting grants.<ol style="list-style-type: none"><li>a. Which projects did Port Stephens Council nominate for round two of the Australian Sports Commission – Community Sport Infrastructure scheme?</li></ol></li></ol>
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## MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020

	<ul style="list-style-type: none"><li>b. Which projects did Port Stephens Council nominate for round three of the Australian Sports Commission – Community Sport Infrastructure Scheme?</li><li>c. Did Port Stephens Council have any contact with the office of Dr David Gillespie MP, Member for Lyne, prior to submitting its nomination for Lionel Morten Oval, Karuah for round three of the Australian Sports Commission – Community Sport Infrastructure Scheme?</li><li>d. On what date was Port Stephens Council notified of our success for the Lionel Morten Oval Grant?</li><li>e. In what form was Port Stephens Council notified of our success for the Lionel Morten Oval grant?</li><li>f. Did Port Stephens Council have any contact with the office of Dr David Gillespie MP, Member for Lyne, after receiving notification of success for its nomination for Lionel Morten Oval, Karuah for round three of the Australian Sports Commission – Community Grant Infrastructure scheme?</li></ul>
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The Notice of Motion lapsed without a seconder.

### The **BACKGROUND REPORT OF: JOHN MARETICH – ASSETS SECTION MANAGER**

#### **BACKGROUND**

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Port Stephens Council submitted a single grant application to fund the upgrade of the sports amenities at Lionel Morten Oval, Karuah under the Australian Sports Commission - Community Sport Infrastructure scheme. The project application was submitted in Round 1 and was unsuccessful. Additional funding was announced (Round 2) to fund eligible applications from Round 1. Port Stephens Council was unsuccessful in Round 2. Further funding was announced (Round 3) and Port Stephens Council's application was successful.

The Lionel Morten Oval Amenities Upgrade was submitted for funding in Round 1 of the Community Sport Infrastructure Scheme and received funding in Round 3.

No approach was made to the office of Dr David Gillespie MP, Member for Lyne prior to submitting the grant application.

Port Stephens Council received notification of grant success for the Lionel Morten Oval facility on 23 April 2019 via email.

Port Stephens Council was contacted by the office of Dr David Gillespie MP, Member for Lyne after the notification of grant success. Contact has been maintained with the office since the notification. This has been in regard to funding announcements, project status updates in keeping with the project plan submitted with the grant application as well as a construction commencement media opportunity.

**ATTACHMENTS**

Nil.

**NOTICE OF MOTION**

**ITEM NO. 7**

**FILE NO: 20/30709  
EDRMS NO: PSC2017-00019**

**QUESTIONS WITH NOTICE - AICD COMPANY DIRECTOR'S COURSE**

**COUNCILLOR: GIACOMO ARNOTT**

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**THAT COUNCIL:**

- 1) Request the General Manager to respond to the following Questions with Notice in relation to attendance at the AICD Company Directors Course.
  - a. On what dates did Mayor Palmer attend the AICD Company Directors Course?
  - b. At what location did Mayor Palmer attend the AICD Company Directors Course?
  - c. At what cost did Mayor Palmer attend the AICD Company Directors Course?

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**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That Council:</p> <ol style="list-style-type: none"><li>1) Request the General Manager to respond to the following Questions with Notice in relation to attendance at the AICD Company Directors Course.<ol style="list-style-type: none"><li>a. On what dates did Mayor Palmer attend the AICD Company Directors Course?</li><li>b. At what location did Mayor Palmer attend the AICD Company Directors Course?</li><li>c. At what cost did Mayor Palmer attend the AICD Company Directors Course?</li></ol></li></ol>
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The Notice of Motion lapsed without a seconder.

**BACKGROUND REPORT OF: WAYNE WALLIS – GENERAL MANAGER**

**BACKGROUND**

Council at its meeting held Tuesday 13 November 2018 resolved by Minute No. 131 to endorse the enrolment of the Mayor and Deputy Mayor to undertake the Company

## MINUTES ORDINARY COUNCIL - 11 FEBRUARY 2020

Directors course as part of their professional development plan and in line with their roles with Newcastle Airport on behalf of the Council as a shareholder.

The offer was also extended to all Councillors to undertake the course as part of their professional development plan.

The Company Directors Course attended by Mayor Palmer was a full time 5 day course (excluding weekends) commencing on Wednesday 16 January 2019 and concluding on Tuesday 22 January 2019.

The 5 day Company Directors Course was held at the Australian Institute of Company Directors facilities, located in Collins Street, Melbourne.

In attending the 5 day Company Directors Course the following costs were incurred by Council:

Course fee	\$7930.00
Travel	\$337.11
Meals/Accommodation	\$1678.60
<b>Total:</b>	<b>\$9945.71</b>

### ATTACHMENTS

Nil.

# CONFIDENTIAL ITEMS

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

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

## ORDINARY COUNCIL MEETING – 11 FEBRUARY 2020 MOTION

<b>026</b>	<b>Councillor Ken Jordan</b> <b>Councillor Paul Le Mottee</b>  It was resolved that Council move into confidential session.
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The following Council officers were present for the Confidential Session:

Public Relations and Marketing Coordinator  
Digital Marketing and Social Media Officer

**CONFIDENTIAL**

**ITEM NO. 1**

**FILE NO: 19/377979  
EDRMS NO: PSC2005-1866**

**RENEWAL OF OPTUS LEASE - 9 TARRANT ROAD, SALAMANDER BAY**

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>027</b>	<p><b>Councillor Paul Le Mottee Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Resolve to enter into a lease over Council owned land on the confidential terms and conditions detailed in this report.</li><li>2) Authorise the General Manager to negotiate amendments to the final terms and conditions of the lease as required, except for the commencing rent.</li><li>3) Authorise the Mayor and General Manager to affix the Council Seal and execute all documentation required to effect registration of the Lease.</li></ol>
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The motion was carried.

**CONFIDENTIAL**

**ITEM NO. 2**

**FILE NO: 19/381423  
EDRMS NO: PSC2018-01103**

**COMPULSORY ACQUISITION OF PART 879 SWAN BAY ROAD, SWAN BAY  
FOR ROAD WIDENING PURPOSE**

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>028</b>	<p><b>Councillor Giacomo Arnott Councillor Paul Le Mottee</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Agree to acquire part of Lot 1 DP 434383 by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 for road widening purposes.</li><li>2) Make application to the Minister and the Governor for approval to acquire part of Lot 1 DP 434383 by compulsory process under section 203 of the Roads Act 1993.</li><li>3) Authorise the General Manager and the Mayor to sign and affix the seal to all documentation required for the compulsory acquisition.</li></ol>
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The motion was carried.



**CONFIDENTIAL**

**ITEM NO. 3**

**FILE NO: 19/391675  
EDRMS NO: PSC2017-01868**

**PROPOSED SALE OF LOT 7, CENTRAL AVENUE, SALAMANDER BAY**

REPORT OF: JANET MEYN - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 11 FEBRUARY 2020  
MOTION**

<b>029</b>	<p><b>Councillor Jaimie Abbott Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Resolve to sell Lot 7 DP 11239352, known as 8 Central Avenue, Salamander Bay on the confidential terms and conditions disclosed in this report.</li><li>2) Authorise the Mayor and General Manager to affix the Council Seal and sign all documents necessary to exchange contracts and settle the sale.</li></ol>
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The motion was carried.

Cr Arnott requested his vote be recorded against the motion.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2020  
MOTION**

<b>030</b>	<b>Councillor Ken Jordan Councillor Chris Doohan</b>  It was resolved that Council move out of confidential session.
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There being no further business the meeting closed at 8.23pm.