

DRAFT

MINUTES – 9 FEBRUARY 2021



PORT STEPHENS COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 9 February 2021, commencing at 5.43pm.

PRESENT:

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

001	Councillor John Nell Councillor Chris Doohan It was resolved that the apology from Cr Jaimie Abbott be received and noted.
002	Councillor Giacomo Arnott Councillor Chris Doohan It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 8 December 2020 be confirmed.
	There were no Declaration of Interest received.

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 21/19757
EDRMS NO: PSC2017-02127

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) and (d)i 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 **Telstra Telecommunication Shelter - 4 Leisure Way, Raymond Terrace**.
- 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,
 - and
 - commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION

003	<p>Councillor Paul Le Mottee Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c) and (d)i 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 0 on the Ordinary agenda namely Telstra Telecommunication Shelter - 4 Leisure Way, Raymond Terrace.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
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MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

	<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, and• commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it. <p>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</p>
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The motion was carried.

COUNCIL REPORTS

ITEM NO. 1

FILE NO: 21/11654
EDRMS NO: 16-2020-758-1

**DEVELOPMENT APPLICATION 16-2020-758-1 FOR 2 INTO 3 LOT TORRENS
TITLE SUBDIVISION AT 77 AND 93 DAWSON ROAD, RAYMOND TERRACE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2020-758-1 for a 2 into 3 lot
Torrens title subdivision subject to the conditions contained in
(ATTACHMENT 3).

ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION

004	Councillor Paul Le Mottee Councillor Sarah Smith It was resolved that Council approve Development Application DA No. 16-2020-758-1 for a 2 into 3 lot Torrens title subdivision subject to the conditions contained in (ATTACHMENT 1) of this supplementary report.
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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, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present development application (DA) 16-2020-758-1 to Council for determination. The DA has been reported to Council in accordance with Council's 'Planning Matters to be Reported to Council Policy' as Kittyhawk Park is classified as community land under the Local Government Act 1993 (LG Act).

The subject DA relates to land identified as 77 and 93 Dawson Road, Raymond Terrace, legally defined as Lot 23 DP 843416 and Lot 139 DP 264505 respectively (the subject site). The subject site is split zoned, with 77 Dawson Road (Lot 23 DP 843416) zoned R2 Low Density Residential and 93 Dawson Road (Lot 139 DP 264505) zoned RE1 Public Recreation. A locality plan is provided at **(ATTACHMENT 1)**.

Proposal

The development proposes a 2 into 3 lot Torrens title subdivision creating 2 residential allotments and consolidation of a residual part of the R2 Low Density Residential zoned land into Kittyhawk Park that is zoned RE1 Public Recreation.

The resulting development will see proposed Lots 2 and 3 (733m² each) capable of supporting future residential development and part of Lot 1 being absorbed into the Park through the subdivision of the battle-axe handle of 77 Dawson Road (Lot 23 DP 843416). Specifically, the residue battle-axe area of 379m² of land will be amalgamated with Kittyhawk Park for continued use as Public Recreation. The applicant has noted the zoning and classification anomalies associated with the amalgamation of the battle-axe handle with the Park will be resolved as part of a future 'housekeeping' amendment to the Port Stephens Local Environmental Plan 2013.

Site Description

The site is situated at 77 and 93 Dawson Road, Raymond Terrace, legally defined as Lot 23 DP 843416 and Lot 139 DP 264505 respectively. Lot 23 DP 843416 is vacant and contains minimal vegetation and is accessible from Dawson Road. Lot 139 DP264505 contains 'Kittyhawk Park', comprising playground equipment, barbeque facilities, tables and seating and contains a range of vegetation throughout the site, with small, medium and large trees mainly surrounding the barbeque facilities and a row of large trees on the northernmost boundary of the site. This part of the development site is accessed from Dawson Road.

Both land holdings are owned by Port Stephens Council. The land at 77 Dawson Road (Lot 23 DP 843416) is classified as operational land and zoned for residential purposes. 93 Dawson Road (Lot 139 DP 264505) is classified as community land and used for public recreational purposes.

Surrounding development consists primarily of low density residential to the south, east and west. The land to the north of Kittyhawk Park forms part of the Irrawang Swamp, a coastal wetland managed by Hunter Water.

Key Issues

No significant issues arose during assessment of the application. The proposed development is located on land mapped as being Flood Planning Area, however, Council's Development Engineer advised the site is not flood prone under 1% AEP

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and flood free access is available via Dawson Road. Due to the flat nature of the site, a positive covenant was included in the recommended conditions at the request of Council engineers for regrading of proposed Lots 2 and 3, prior to installation of impervious areas to a grade of 1% towards Dawson Road for stormwater discharge.

The proposed development is located on land identified as being within the 20-25 ANEF contour on the RAAF Base Williamtown and Salt Ash Weapons Range 2025 Australian Noise Exposure Forecast Map, however residential development in the 20-25 ANEF contour is considered conditionally acceptable in the Port Stephens Development Control Plan 2014 (DCP).

1 submission was received raising concerns in relation to traffic generation, safety and Kittyhawk Park embellishments. A response to these matters is provided within the Planners Assessment Report provided at **(ATTACHMENT 2)**.

A detailed assessment of the development is contained within the Planners Assessment Report provided at **(ATTACHMENT 2)**.

Conclusion

The proposed development has been assessed and is deemed generally compliant with the objectives and provisions of the relevant environmental planning instruments applicable to the site, including:

- Environmental Planning and Assessment Act 1979
- Port Stephens Local Environmental Plan 2013
- Port Stephens Development Control Plan 2014
- State Environmental Planning Policy No 55 - Remediation of Land

Subsequently, the application has been recommended for approval, subject to the Recommended Conditions of Consent contained in **(ATTACHMENT 3)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Enhance public safety, health and liveability through use of Council's regulatory controls and services.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

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

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Council's Policy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the determination of the application may be challenged in the Land and Environment Court.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The prospective residential lots are positioned within close proximity to existing and planned essential facilities and services, ensuring positive social outcomes for residents. Further, the subdivision will amalgamate the residue area of operational land with Kittyhawk Park, ensuring the park remains viable as a public recreation area.

Additionally, the development would result in 1 additional residential lot that would have the potential to accommodate residential accommodation, contributing to future housing supply in the LGA.

There will be no adverse economic impacts as a result of the proposal.

Impacts on the Built Environment

The application is for the purpose of a paper subdivision, there will be no change to the existing built form.

Impacts on the Natural Environment

There will be no significant impacts to the natural environment as a result of the proposed development given the development area does not contain any items of

environmental significance. The application does not propose any vegetation removal and water quality and drainage can be addressed under subsequent applications on the residential lots.

CONSULTATION

Internal

Consultation was undertaken with Council Development Engineers, who raised no objection to the proposal. The referral comments from these officers were considered as a part of the Planners Assessment Report provided at **(ATTACHMENT 2)**.

External

The application was referred to the Department of Defence as the site is located in the 20 – 25 ANEF contour. No response received within 21 days, therefore concurrence is assumed in accordance with the Port Stephens Development Control Plan 2014 (DCP).

Public Consultation

The application was notified and advertised from 1 December to 15 December 2020, in accordance with the provisions of the Port Stephens Council Community Participation Plan. 1 submission was received raising concern in relation to traffic generation, safety and Kittyhawk Park embellishments. A response to these matters is provided within the Planners Assessment Report provided at **(ATTACHMENT 2)**.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Planners Assessment Report.
- 3) Recommended Conditions.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Unredacted submission.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.

Locality Plan
 LOT 23 DP 843416 - 77 Dawson Rd RAYMOND TERRACE
 LOT 139 DP 264505 - 93 Dawson Rd RAYMOND TERRACE



PORT STEPHENS
COUNCIL



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PORT STEPHENS
COUNCIL

DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2020-758-1
Development Description	Torrens Title Subdivision (2 into 3 lots)
Applicant	MONTEATH & POWYS SURVEYORS
Land owner	Port Stephens Council
Date of Lodgement	18/11/2020
Value of Works	\$6,500.00
Submissions	One

PROPERTY DETAILS

Property Address	77 Dawson Road RAYMOND TERRACE, 93 Dawson Road RAYMOND TERRACE
Lot and DP	LOT: 23 DP: 843416, LOT: 139 DP: 264505
88B Restrictions on Title	Nil relevant
Current Use	Vacant and Public Park
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	Aircraft Noise Planning Area ASS – Class 5 RAAF Base Williamtown - Brid Strike Group B ANEF Contour – 20 – 25 Flood Prone Land - PMF
State Environmental Planning Policies	State Environmental Planning Policy No. 55 – Remediation of Land

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

PROPOSAL

The development proposes a two into three lot Torrens subdivision creating two residential allotments and consolidation of a residual part of the R2 low-density residential land with Kittyhawk Park, currently zoned RE1 Public Recreation. The resulting development will see the proposed Lots 2 and 3 capable for future residential development and Lot 1 being absorbed into the Park for continued use as Public Recreation. There is a provision for access to the newly created lots from Dawson Road.

The applicant has noted the zoning anomaly will be resolved as part of a future 'housekeeping' amendment to the LEP.

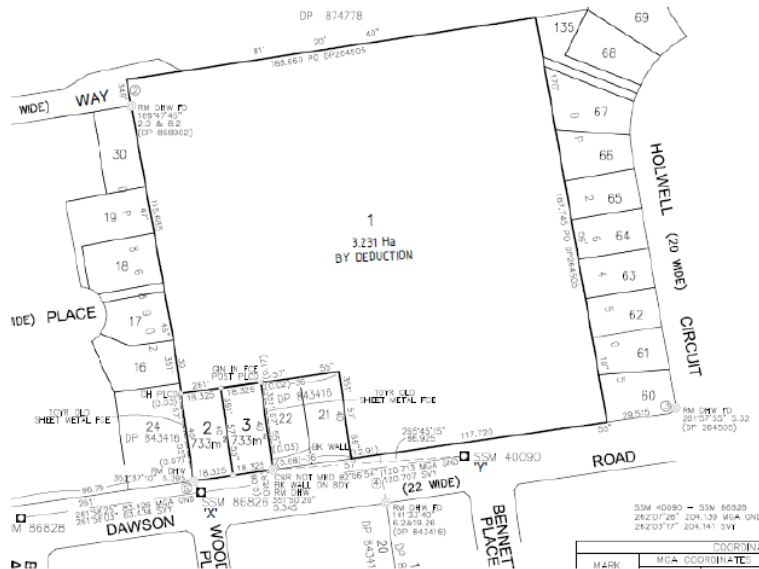


Figure 1 – Proposed lot layout



Figure 2 – Existing lot layout

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

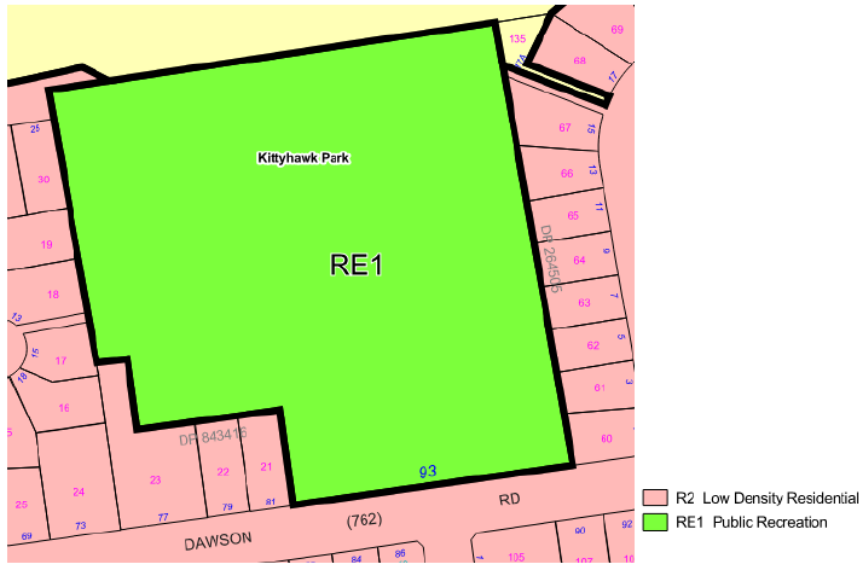


Figure 3 – PSLEP Zone Map

SITE DESCRIPTION

The site is situated at 77 and 93 Dawson Road, Raymond Terrace, legally defined as Lot 23 DP 843416 and Lot 139 DP 264505 respectively. Lot 23 DP 843416 is vacant, contains minimal vegetation and accessible from Dawson Road.

Lot 139 DP264505 is known as 'Kittyhawk Park' supporting playground equipment, barbeque facilities, tables and seating and contains a range of vegetation throughout the site, with small, medium and large trees mainly surrounding the barbeque facilities and a row of large trees on the northernmost boundary of the site. This part of the development site is accessed from Dawson Road.

Both land holdings are owned by Port Stephens Council. The land at 77 Dawson Road (Lot 23 DP 843416) is classified as operational land and zoned for residential purposes, while 93 Dawson Road (Lot 139 DP 264505) is classified as community land and zoned for recreational purposes.

Surrounding development consists primarily of Low Density Residential to the south, east and west. The land to the north of Kittyhawk Park forms part of the Irawang Swamp, a coastal wetland managed by Hunter Water.

SITE INSPECTION

A site inspection was carried out on 12 January 2021. The subject site can be seen in the photographs below:



Photograph 1 – Residential zoned portion of the site fronting Dawson Road



Photograph 2 – Residential zoned portion of the site and adjoining dwelling



Photograph 3 – Kittyhawk Park viewed from Dawson Road

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**PLANNING ASSESSMENT**

The application was assessed, and comments provided, by the following external agencies and internal specialist staff:

Internal

Development Engineer – Supported with conditions.

External

Department of Defence – No response received within 21 days, therefore assumed concurrence.

Environmental Planning and Assessment Act 1979***Section 4.15 - Matters for consideration***

The proposal has been assessed under the relevant matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 4.15(a)(i) - any environmental planning instrument

An assessment has been undertaken against each of the applicable environmental planning instruments (EPI's), as follows:

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

It is noted that the NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system. The land is not within an investigation area, there are no records of potentially contaminating activities occurring on the site, and the proposed use is not listed as a possible contaminating use, per Table 1 of the Guidelines. Noting this, the proposed development satisfies the requirements of SEPP No. 55.

Port Stephens Local Environmental Plan 2013 (LEP)**Clause 2.3 – Zone Objectives and Land Use Table**

The development site is split zoned, with 77 Dawson Road (Lot 23 DP 843416) zoned R2 Low Density Residential and 93 Dawson Road (Lot 139 DP 264505) zoned RE1 Public Recreation. As noted in this report, 93 Dawson Road (Lot 139 DP 264505) supports Kittyhawk Park.

The proposed development is for the purpose of subdivision to enable future development on the 77 Dawson Road (Lot 23 DP 843416) holding. The proposal is consistent with the objectives of the R2 Low Density Zone as the development will:

- provide additional developable land to support the housing needs of the community within a low density residential environment; and
- create additional allotments that will enhance the existing residential amenity and character of Raymond Terrace in the R2 Low Density Residential zoned area of the development site.

The proposal is also consistent with the objectives of the RE1 Public Recreation zone in that:

- it will preserve the natural environment for recreational purposes;
- additional land will be made available to be used for public open space and recreational purposes through the subdivision of the battle-axe handle of 77 Dawson Road (Lot 23 DP 843416) and amalgamation of the residue area of 379m² of land with Kittyhawk Park; and
- allow the land to be continued to be used for public open space or recreational purposes.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**Clause 4.1 – Minimum Subdivision Lot Size**

Clause 4.1 outlines the minimum lot size applicable to the subject sites, as identified on the minimum lot size map, to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls.

The land at 77 Dawson Road (Lot 23 DP 843416) includes a minimum lot size of 500m². The application proposes to subdivide the subject land to achieve two residential lots each 733m² and amalgamate the residue area of 379m² of land with Kittyhawk Park Lot 139 DP264505.

The land zoned RE1 Public Recreation (Lot 139 DP264505) does not have a minimum lot size requirement under PSLEP2013 and therefore the RE1 portion of the development site does not trigger Clause 4.1.

The proposed lots exceed the minimum subdivision lot size requirements 500m², with each proposed lot in the R2 zoned land being 733m². Therefore, the proposed subdivision seeks to create allotments which exceed the minimum lot size specified under the Minimum Lot Size Map, and consequently achieve the objectives and requirements of this clause.

5.2 Classification and reclassification of public land

The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993 (LGA).

The land at 77 Dawson Road (Lot 23 DP 843416) is currently classified as operational land under the LGA. This classification enables dealings (sale) and the use the land (development and permissible uses in the zone) to occur with the same limitations as any other freehold land.

The Lot 23 DP 843416 parcel is zoned R2 Low Density Residential with an area of 1845m². The minimum lot size requirements identified for the subject land is 500m². The application proposes to subdivide the subject land to achieve two residential lots each 733m² and amalgamate the residue area of 379m² of land with Kittyhawk Park Lot 139 DP264505.

Kittyhawk Park is classified as community land under the Local Government Act 1993 (LGA). It is however noted there is no subdivision or development works proposed on this holding, other than amalgamating the residue area of 379m² of land from Lot 23 DP 843416. The applicant has noted the zoning and classification anomaly for the residue parcel of land will be resolved as part of a future ‘housekeeping’ amendment to the LEP.

Clause 5.10 – Heritage conservation

Clause 5.10 aims to conserve the heritage significance of heritage items and heritage conservation areas.

A search of the Aboriginal Heritage Information Management Services (AHIMS) was undertaken on 28 October 2020. The AHIMS search did not identify any Aboriginal sites or deposits on or within a 50-metre buffer of the proposed development site.

There are no local or State listed heritage items located on the site. Further, the site is not located within a Heritage Conservation Area.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 5 Acid Sulfate Soils. The proposed development is essentially a paper subdivision with only minor earthworks proposed to occur, being that of the disturbance of topsoil for the placement of relevant survey marks and regrading for stormwater management.

It is not anticipated proposed or future works on the site will require excavations within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. Therefore it is not expected that acid sulfate soils would be encountered during future works on the residential allotments.

Clause 7.2 – Earthworks

This clause provides that development requiring earthworks must be assessed against select criteria to ensure minimal environmental impacts will be produced during and as a result of development.

Only minor earthworks are proposed to occur under the proposal, being limited to the disturbance of topsoil for the placement of relevant survey marks and minor regrading for stormwater drainage. The minor earthworks will not have negative impacts on surrounding properties. The proposed earthworks are minor in nature and are not anticipated to disrupt nearby drainage patterns, soil stability or future development of the land.

Clause 7.3 – Flood Planning

The proposed development is located on land mapped as being Flood Planning Area. Council's Development Engineer advised the site is not flood prone under 1% AEP. The proposed and existing lots already have direct access to Dawson Road above 1% AEP. Further, the works will not significantly adversely affect the environment or cause avoidable erosion. On this basis, the development is compatible with the flood hazard of the land and risk to life and property is considered acceptable under the proposal. The proposal accords with the provisions of this clause.

Clause 7.5 – Areas Subject to Aircraft Noise

The proposed development is located on land identified as being within the 20-25 ANEF contour on the RAAF Base Williamtown & Salt Ash Weapons Range 2025 Australian Noise Exposure Forecast Map. Under this clause, the consent authority must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise. Noting residential development in the 20-25 ANEF contour is considered conditionally acceptable and the Department of Defence raised no objections, the proposal is considered acceptable in this regard.

Future development on the proposed residential lots will be required to satisfy the relevant indoor design sound levels in AS2021-2000.

Clause 7.6 – Essential Services

The subject site is serviced by reticulated water, electricity and sewer. The subject land also maintains direct access to Dawson Road, meeting the requirements of this clause.

Section 4.15(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition

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

Section 4.15(a)(iii) – any development control plan**Port Stephens Development Control Plan 2014**

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

Chapter B2 – Natural Resources

The proposed development site does not contain items of environmental significance.

The site is not identified as being within 500m of wetlands.

The proposed development does not include the removal of any vegetation.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

The proposed development site is located within the Management Unit Boundaries for Koala Habitat and has been identified as '*Mainly Cleared*', as a result of the site being well maintained and does not contain Koala Habitat.

Chapter B3 – Environmental ManagementAcid Sulfate Soils

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within clause 7.1 discussion above, future or proposed development on the site is unlikely to disturb or expose ASS. In this regard the development is consistent with the objective and requirements of the DCP.

Noise

The proposed subdivision will not increase any levels of noise.

Earthworks

As discussed at clause 7.2 above, the proposed development involves minor earthworks limited to survey works and regarding. Standard conditions have been included for erosion and sediment control.

Chapter B4 – Drainage and Water Quality

The proposed subdivision does not increase the surface run-off. A stormwater management plan would be required upon application for the construction of a dwelling.

It is noted that the site is not located within a stormwater drainage problem area or stormwater drainage requirement area. The topography of the site is flat, therefore Council's Development Engineer provided a condition for an earthworks plan showing the regrade of Lots 2 and 3 to have a 1% grade toward Dawson Road to ensure stormwater managed to achieve a legal point of discharge. Taking into account that the maximum cut (600mm) and fill (600mm) under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the site could viably achieve a level site and drain to Dawson Street.

Chapter B5 – Flooding

The subject land is mapped as being within the Flood Planning Area. Following from the discussion against clause 7.3 of the PSLEP above, the proposed development is acceptable in this regard.

Chapter B6 – Essential Services

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

Chapter B7 – Aircraft Noise and Safety

The impact of aircraft noise on the proposed development has been assessed in the discussion against clause 7.5 of the PSLEP above, and found to be acceptable in this instance. Future development on the proposed residential lots will be required to satisfy the relevant indoor design sound levels in AS2021-2000.

Chapter B9 – Road Network and Parking

There is existing access from Dawson Road and sufficient onsite parking for the future dwellings.

There is existing pedestrian access via the concrete footpath along the frontage of Dawson Road for pedestrian connection to surrounding streets.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

It is noted that there are multiple possible locations for a future driveway and therefore the construction of the driveway is not required as part of this subdivision as it may restrict the future development potential of the lot.

As the proposed development is less than 20 dwellings a traffic impact assessment is deemed not to be required.

On this basis, the proposed development will have a minor impact on the existing road network.

Chapter C – Development Types

The development proposes subdivision, therefore the provisions of chapter C1 are applicable.

Chapter C1 – Subdivision

Reference	Control	Assessment
Objective C1.A Requirement C1.1-C1.5	<p>Block and Street Layout</p> <ul style="list-style-type: none"> To ensure local streets are well connected to the street network with obvious pedestrian and cycle links to higher order streets. To ensure priority is provided to residents' needs when designing local streets to encourage usability To ensure pathways follow desire lines 	There are no new streets or internal roads included as part of the subdivision. Road hierarchy, block and street layout will remain unchanged.
Objective C1.B Requirement C1.6–C1.9	<p>Lot Size and Dimensions</p> <ul style="list-style-type: none"> To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements 	Proposed lots exceed the minimum lot size requirement of 500sqm. All proposed lots can support the required footprint dimensions.
Objective C1.C Requirement C1.10	<p>Solar Access</p> <ul style="list-style-type: none"> To maximise solar access for residential dwellings 	The proposed subdivision can support adequate solar access for future development.
Objectives C1.D Requirement C1.11-C1.15	<p>Public Open Space</p> <ul style="list-style-type: none"> To provide a hierarchy of public open space in accordance with public open space hierarchy To provide parks that are multi-functional To ensure parks achieve centrality by being located near transport nodes, public buildings, waterfronts, libraries or places of public worship To ensure public open space meets the demands of the local community to encourage usability and critical mass 	<p>The application is a minor subdivision and does not require additional public open space provisions.</p> <p>The application proposes to amalgamate the residue area of 379m² of land with Kittyhawk Park, increasing the availability of public open space for existing residents.</p>

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Objectives C1.E Requirement C1.16-C1.18	Infrastructure <ul style="list-style-type: none"> To ensure detailed consideration is provided to the provision of integrated and quality public infrastructure 	All infrastructure available, including kerb / gutter, footpaths, street lighting southern side of Dawson Road, existing bus stop at the south eastern corner of Kittyhawk Park and on southern side of Dawson Road at frontage of two residential lots.
Objective C1.F Requirement C1.19-1.21	Public Scale Drainage <ul style="list-style-type: none"> To ensure further guidance is provided for subdivision that is consistent with B4 Drainage and water quality 	No public scale drainage approach required.

Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no sections of Regulation applicable to the land at the time of this report.

Section 4.15 (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Social and Economic Impacts

The prospective lots are positioned within close proximity to existing and planned essential facilities and services, ensuring positive social outcomes for residents. Further, the subdivision will amalgamate the residue area of land with Kittyhawk Park, ensuring the park remains viable as a public recreation area.

There will be no adverse economic impacts as a result of the proposal.

Impacts on the Built Environment

The application is essentially for the purpose of a paper subdivision, there will be no change to the existing built form.

Impacts on the Natural Environment

There will be no significant impacts to the natural environment as a result of the proposed development as the site does not contain items of environmental significance, nor propose any vegetation removal.

Section 4.15(1)(c) the suitability of the site for the development

The proposal is in keeping with the existing and future character of the subject land, aligns with the objectives of the relevant strategies and deemed to satisfy the relevant development controls and standards as well as being consistent with the objectives of the R2 Low Density Residential Zone and the RE1 Public Recreation Zone. On this basis, it is considered that the site is suitable for the proposed development.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulations

Public Submissions

The application was exhibited from 1 December to 2020 15 December 2020, in accordance with the provisions of the Port Stephens Council Community Participation Plan. One submission was received during this time. The matters raised during the exhibition period have been detailed in the table below.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

No.	Author of submission	Comment	Council response
1	Resident	<p>Traffic Generation</p> <p>Safety of Dawson Road</p> <p>Kittyhawk Park embellishments and signage</p>	<p>The proposal would result in only one additional residential lot. This is a very minor increase and not likely to result in significant traffic generation in the area.</p> <p>There is no nexus for the entire road network to be reviewed as part of this development. However, the comments have been provided to Council's Assets section for consideration.</p> <p>Noted, however signage and park improvements are not a relevant matter for this application. The application seeks to subdivide the residential land and amalgamate the residual parcel into the Park. Signage and embellishments are Facilities and Services matters, not in the remit of this application.</p>

Section 4.15(1)(e) the public interest

The proposed development is consistent with the relevant strategies, is permissible with consent and complies with the relevant policies and controls governing the land. The zoning anomaly will be resolved by Council as part of a future LEP amendment to ensure the residue R2 zoned land aligns with the remainder of Kittyhawk Park, to be reclassified as public land and rezoned to secure its continued use for public recreation.

Section 7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)

The proposed development would realign part of the existing boundaries of the lot, as well as create one additional lot within the R2 zoned land. Given the development would result in an additional lot that would have the potential to accommodate residential accommodation, it is considered that it would increase the demand for public services. Therefore, s7.11 contributions are applicable.

DETERMINATION

The application is recommended to be approved by elected Council, subject to conditions of consent provided as contained in the notice of determination.

RYAN FALKENMIRE

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS.

SCHEDULE 1 – CONDITIONS OF CONSENT

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:

Plan reference/ drawing No.	Name of plan	Prepared by	Date
P1334	Plan of Subdivision of Lot 23 DP843416 & Lot 139 DP264505	Kristopher Richard Humphries	20/10/2020

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

2.0 - Prior to Issue of a Subdivision Works Certificate

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

- (1) **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.
- (2) **Hunter Water Corporation approval** - A Section 50 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.
- (3) **Earthworks Plan** – A bulk earthworks plan is to be provided to the Certifying Authority showing the regrade of Lots 2 and 3 to have a 1% grade toward Dawson Road. Any 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.

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



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.

- (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;

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ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



- 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) **Subdivision Works Certificate Required** – In accordance with the provisions of Section 6.13 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, subdivision works approved by this consent must not commence until the following has been satisfied:
 - a) a Subdivision Works 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.

4.0 - During Works

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

- (1) **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.

- (2) **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.
- (3) **Stockpiles** - Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



- (4) **Delivery Register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered. This register must be made available to Council officers on request and be provided to the Council at the completion of the development.
- (5) **Fill Material** - The only fill material that may be received at the development site is:
- a) Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*;
 - or
 - b) Excavated natural material (ENM) within the meaning of the *POEO Act 1997*;
 - or
 - c) 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 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.

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

5.0 - Prior to Issue of a Subdivision Certificate

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

- (1) **Requirement for a Subdivision Certificate** - The application for Subdivision Certificate(s) must be made in accordance with the requirements of Clause 157 of the *Environmental Planning & Assessment Regulations 2000*.
- The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent [16-2020-758-1], and of compliance with the relevant conditions of consent, prior to the issuing of a Torrens Plan of Subdivision.
- In addition, one signed original copy of the original plans and/or documents, and final plan of survey/title, must be submitted to Council. A USB containing an electronic copy of all relevant documents must also be provided.
- (2) **Show easements / restrictions on the Plan of Subdivision** - The developer must acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.

ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



- (3) **Subdivision Certificate** – The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all engineering works are complete.

Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications and approved plans.

- (4) **Surveyor's Report** – A certificate from a Registered Surveyor must be provided to the Principal Certifying Authority, certifying that all drainage lines have been laid within their proposed easements.

Certification is also to be provided stating that no services or accessways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.

- (5) **Soil classification** - A Soil Classification Report prepared by a qualified person in accordance with the AS 2870 'Residential Slabs and Footings', detailing the general classification of soil type generally found within the subdivision and verifying that compaction of any approved fill material on the lots is in accordance with AS3798 employing "level 1" inspection and testing must be provided to the Principal Certifying Authority.

A classification must be provided for each lot within the subdivision. The Soil Classification Report must also be provided to Council.

- (6) **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.
- d) Gas (where available).

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.

- (7) **Development Contributions** - A monetary contribution is to be paid to Council for the provision of one additional lot, 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 \$
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ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



Civic Administration – Plan Management	\$593	\$593
Civic Administration – Works Depot	\$1,546	\$1,546
Town Centre Upgrades	\$4,165	\$4,165
Public Open Space, Parks & Reserves	\$929	\$929
Sports & Leisure Facilities	\$2,207	\$2,207
Road Works	\$5,188	\$5,188
Shared Paths	\$2,510	\$2,510
Bus Facilities	\$17	\$17
Fire & Emergency Services	\$34	\$34
Flood & Drainage	\$672	\$672
Total		\$17,861

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

- a) Subdivision work - prior to the issue of the **Subdivision 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.

- (8) **Section 88B Instrument** – The applicant must prepare a Section 88B Instrument which incorporates easements, positive covenants and restrictions to user where necessary:
 - a) easement for services;
 - b) easement to drain water and drainage easement/s over overland flow paths.

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) **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 Heritage NSW 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.
- (3) **Works near/adjoining electricity network assets** – There are underground electricity network assets adjacent to the proposed development in Dawson Road. Any works undertaken adjacent to Ausgrid underground assets / Ausgrid assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables
- (4) **Council must be nominated as PCA for subdivision works** – Under Section 6.5 of the *Environmental Planning & Assessment Act 1979*, Council shall be nominated as

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ITEM 1 - ATTACHMENT 3 RECOMMENDED CONDITIONS.



the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.

- (5) **Responsibility for damage** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
- (6) **Street Numbering – Prior to occupying the development or Release of Subdivision Certificate**, (whichever occurs first) the approved dwellings are to be identified as follows:
- a) Lot 1 – 93 Dawson Road, Raymond Terrace
 - b) Lot 2 – 75 Dawson Road, Raymond Terrace
 - c) Lot 3 – 77 Dawson Road, Raymond Terrace

Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering.

Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.

ITEM NO. 2

**FILE NO: 20/365499
EDRMS NO: PSC2020-02125**

DRAFT VOLUNTARY PLANNING AGREEMENT - SALSANDS (NSW) PTY LTD

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Voluntary Planning Agreement between Council and Salsands (NSW) Pty Ltd, together with the accompanying explanatory note **(ATTACHMENT 2)**.
- 2) Exhibit the draft Voluntary Planning Agreement and explanatory note for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000.
- 3) If no submissions are received, approve the Voluntary Planning Agreement and explanatory note as exhibited for execution.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

005	<p>Councillor Glen Dunkley Councillor Sarah Smith</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the draft Voluntary Planning Agreement between Council and Salsands (NSW) Pty Ltd, together with the accompanying explanatory note (ATTACHMENT 2).2) Exhibit the draft Voluntary Planning Agreement and explanatory note for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000.3) If no submissions are received, approve the Voluntary Planning Agreement and explanatory note as exhibited for execution.
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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, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek endorsement to publicly exhibit a draft Voluntary Planning Agreement (VPA) between Council and Salsands (NSW) Pty Ltd (the Developer), together with the accompanying explanatory note.

The draft VPA relates to development consent 16-2018-660-1, granted on 8 July 2019, for the staged development of a business park consisting of office premises, warehouse, cafe, signage, strata subdivision, retaining wall and associated site works at 15 Kara Crescent, Taylors Beach. A site location plan is shown as **(ATTACHMENT 1)**.

The draft VPA is necessary to give effect to a Court imposed condition of consent following a successful conciliation to settle an appeal against the conditions of consent.

During conciliation, the Developer proposed a cost sharing arrangement to settle the matter where the Developer would construct the works and Council would share costs up to \$239,680. The costs have been apportioned so that the Developer is only liable for the value of the benefit their specific development will derive from the works.

Given the public benefits of constructing the works, the potential cost of Court proceedings, and the potential cost of Council wholly funding the works it was agreed to settle the Court appeal. The Court issued orders on 22 July 2020 requiring a VPA be prepared in the following terms:

Under the draft VPA, the Developer will:

- Construct stormwater infrastructure and dedicate land for drainage, including creating right of access over private land for the purposes of maintenance.
- Construct stormwater infrastructure and create an easement to drain water, together with covenants requiring maintenance; and
- Construct and dedicate to Council an associated cul-de-sac turning head in Kara Crescent.

Under the draft VPA, Council will share the costs of the works up to \$239,680 by providing:

- \$50,000 towards the costs of the stormwater infrastructure.
- \$115,000 towards the costs of the road works.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

- An exemption from requirements to pay contributions under section 7.12 of the Environmental Planning and Assessment Act 1979 (NSW), estimated to be \$74,680.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

It is considered that there are overall positive financial implications from the draft VPA, including the avoidance of:

- Cost of Court proceedings if the conciliation was unsuccessful.
- Cost of Council wholly funding the works (should an appeal be successful).
- Nuisance claims in relation to drainage of stormwater from Council owned property.

The exhibition of the draft VPA will be managed within the existing budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Cost sharing arrangements under the draft VPA towards drainage (\$50,000) and road works (\$115,000) will be funded from the Asset budget.
Reserve Funds	No		
Developer Contributions (S7.12)	Yes		The cost sharing arrangements under the draft VPA includes an exemption from requirements to pay infrastructure contributions, estimated at \$74,680.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The draft VPA is necessary to give effect to a Court imposed condition of consent following a successful conciliation to settle an appeal. Legal consultants have been advising and acting on behalf of Council during conciliation.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council could be liable for future damages related to the discharge of stormwater from Council owned property if the works under the draft VPA are not funded and completed.	Medium	The draft VPA will bind the Developer in respect of any future claims related to the discharge of stormwater. Adopt the recommendations.	Yes
There is a risk that Council will be involved in further proceedings if the condition of consent requiring the draft VPA cannot be satisfied.	High	The draft VPA is required by a Court imposed condition of consent that reflects the terms of settlement between Council and the Developer. Adopt the recommendations.	Yes
There is a risk that the cost of the works under the draft VPA have been overestimated.	Low	The costs of the drainage and stormwater infrastructure works have been estimated by a qualified quantity surveyor. Council officers have assessed the costs as appropriate for the scale of works. The Developer's contribution has been apportioned to equate to the benefit the specific development will derive from the works. Adopt the recommendations.	N/A
There is a risk that the exemption from local infrastructure contributions will result in a shortfall of infrastructure or delay infrastructure delivery.	Medium	As set out above, the draft VPA will mitigate financial risks that could result in more extensive shortfalls and infrastructure delivery delays. Adopt the recommendations.	N/A

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

Division 7.1, subdivision 2 of Part 7 of the EP&A Act relates to VPAs. The draft VPA has been prepared in accordance with section 7.4 of the EP&A Act. Should Council resolve to endorse the draft VPA, it will be notified and exhibited in accordance with section 7.5 of that Act.

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

Part 4, division 1A of the EP&A Regulations relates to VPAs. Section 25D provides requirements for notification and section 25E outlines the requirements for draft VPA explanatory notes. The explanatory note has been prepared in accordance with the EP&A Regulations. Should Council resolve to endorse the draft VPA and explanatory note, they will be notified and exhibited in accordance with the EP&A Regulations.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft VPA will ensure necessary public infrastructure is delivered to support the development and will improve outcomes in relation to drainage in the area.

The draft VPA is necessary to give effect to Court orders and, given the public benefits of constructing the works, the potential cost of further Court proceedings and the potential cost of Council wholly funding the works, the draft VPA will result in overall positive social, economic and environmental implications.

CONSULTATION

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

Internal

The draft VPA has been prepared in consultation with the Development Contribution Analysis Team, Assets section, Development Assessment and Compliance section and Council's legal services. There are no objections to the recommendations of this report.

External

The draft VPA and explanatory note will be notified and publicly exhibited in accordance with the EP&A Act and the EP&A Regulations for 28 days. The documents will be made available online and if submissions are received they will be considered in a report back to Council, together with details of any post-exhibition changes.

OPTIONS

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

ATTACHMENTS

- 1) 15 Kara Crescent, Taylors Beach - Site Location Plan.
- 2) Draft Voluntary Planning Agreement and Explanatory Note. (Provided under separate cover)

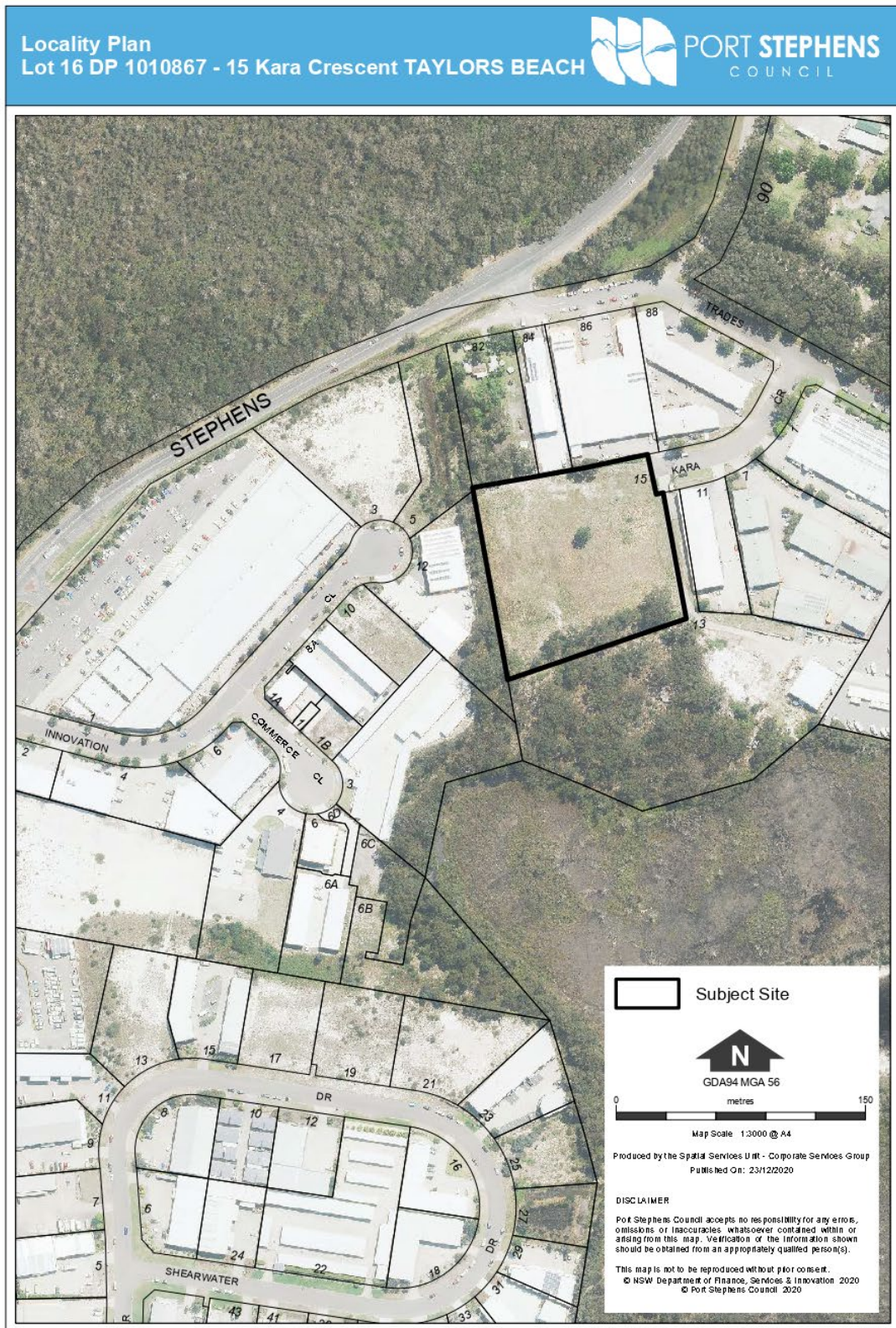
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 15 KARA CRESCENT, TAYLORS BEACH - SITE LOCATION PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49573612 Email: council@portstephens.nsw.gov.au

ITEM NO. 3

**FILE NO: 20/371329
EDRMS NO: PSC2019-02814**

5G SMALL CELL TECHNOLOGY ROLLOUT IN PORT STEPHENS

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the report on 5G small cell infrastructure in Port Stephens **(ATTACHMENT 2)**.
- 2) Investigate opportunities to identify appropriate locations for telecommunications infrastructure on Council owned assets to minimise visual impacts.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

006	<p>Councillor John Nell Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note the report on 5G small cell infrastructure in Port Stephens (ATTACHMENT 2).2) Investigate opportunities to identify appropriate locations for telecommunications infrastructure on Council owned assets to minimise visual impacts.3) Encourage creative telecommunications infrastructure design.
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The motion was carried.

BACKGROUND

The purpose of this report is to provide a high level review of 5G technology, including any visual and health impacts (the report) **(ATTACHMENT 2)**.

On 13 October 2020, Council resolved to prepare a report on the rollout of 5G small cell 'low impact' technology in Port Stephens Minute No. 214 **(ATTACHMENT 1)**.

5G is the fifth generation of mobile technology and uses radio frequency to send and receive data. 5G operates on a higher frequency than existing 4G networks, which allows it to carry more data and at higher speeds. 5G infrastructure is currently being installed around Australia by telecommunications carriers, such as Telstra, Optus and Vodafone. It is anticipated that 5G technology will be operational during 2021.

The report notes that the installation of 5G infrastructure in Port Stephens has already commenced and installation does not generally require consent from Council. The report includes an analysis of the public notification and community consultation requirements that apply when 5G infrastructure is planned and installed.

5G infrastructure can include upgrading existing telecommunications towers as well as co-locating small cell technology on existing infrastructure such as telegraph poles, flag poles (smart poles), buildings, or other vertical structures. The report concludes that upgrades to existing infrastructure and co-location of technology is likely to minimise visual impacts compared to older generation telecommunications facilities such as the telecommunications tower in Raymond Terrace town centre.

The report notes that there may be opportunities for Council to be proactive in identifying appropriate locations for telecommunications infrastructure on Council owned assets to minimise visual impacts.

The report notes the health standards for 5G technology set by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and the Australian Chief Medical Officer has published advice that there is no evidence that 5G technology causes adverse health impacts.

5G connectivity in Port Stephens will support the outcomes identified in Council's Smart City Blueprint to use technology and data to improve the wellbeing of residents, enhance economic activity and improve sustainability. The roll out of 5G small cell technology in our local government area will significantly improve connectivity for residents, visitors and businesses.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known significant legal, policy or risk implications as a result of the recommendations.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the roll out of 5G would result in adverse visual impacts in Port Stephens.	Low	Council can proactively work with telecommunication companies to ensure 5G infrastructure on Council assets is located to minimise visual impacts. Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

As set out in the report, the roll out of 5G small cell technology is unlikely to have any adverse health impacts or significant visual impacts. The potential improvements in connectivity and movement of data (and the subsequent opportunities to implement smart technology to improve the wellbeing of residents, enhance economic activity and improve sustainability), are considered to have positive social, economic and environmental implications.

CONSULTATION

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

Internal

Consultation with the Assets Section and Organisation Support Section, and the Smart City Project Control Group was undertaken in the preparation of the report.

External

In preparation of the Port Stephens Smart City Blueprint, consultation was undertaken with key stakeholders including the Tomaree Business Chamber, Newcastle Airport and the community members of the Town Centre Implementation Panels for Medowie, Raymond Terrace and Nelson Bay. There were no concerns raised over any potential health or visual impacts associated with 5G technology.

To implement the Blueprint, Council is preparing a Smart City Roadmap, which will detail specific actions that could relate to 5G or rely on a 5G network being in place. Community consultation will be undertaken prior to the preparation of the Roadmap and adoption by Council.

OPTIONS

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

ATTACHMENTS

- 1) 13 October 2020 - Ordinary Council Minute No 214.
- 2) Report on 5G technology in Port Stephens.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 13 OCTOBER 2020

NOTICE OF MOTION

ITEM NO. 1

**FILE NO: 20/283121
EDRMS NO: PSC2017-00019**

5G SMALL CELL TECHNOLOGY ROLLOUT WITHIN PORT STEPHENS

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Prepare a report on the 5G Small Cell 'low impact' technology rollout within Port Stephens. This report is to consider the visual impact as well as the radiation risk to human health of this new technology.

**ORDINARY COUNCIL MEETING - 13 OCTOBER 2020
MOTION**

214	<p>Councillor John Nell Councillor Steve Tucker</p> <p>It was resolved that Council prepare a report on the 5G Small Cell 'low impact' technology rollout within Port Stephens. This report is to consider the visual impact as well as the radiation risk to human health of this new technology.</p>
------------	--

Cr Arnott recorded his vote against the motion.

BACKGROUND REPORT OF: JANELLE GARDNER – ACTING STRATEGY & ENVIRONMENT SECTION MANAGER

BACKGROUND

Council officers will prepare a report on the rollout of Fifth Generation (5G) Small Cell technology in Port Stephens and provide information on the statutory framework that applies to the assessment and management of potential visual and health impacts.

5G relates to mobile network technology and is the next generation of mobile phone services. 'Small Cell' refers to the physical infrastructure that facilitates 5G, being smaller than the macro cells required for third generation (3G) and fourth generation (4G) technology.

The rollout of 5G technology will facilitate faster downloads and data transfers. So far in Port Stephens, 5G has been delivered to the rural west, Raymond Terrace and Medowie. It is expected that the technology will shortly be available in other parts of the local government area.

MINUTES ORDINARY COUNCIL - 13 OCTOBER 2020

The rollout of 5G infrastructure is being led by telecommunication companies such as Telstra, Optus and Vodafone. Unless the installation requires the construction of a telecommunication tower, 5G infrastructure is generally exempt from local and State government approval under the federal Telecommunications Act 1997(Cth). Therefore, Council has limited statutory involvement in the planning, assessment and activation of 5G technology in Port Stephens.

Notwithstanding this, there are standards to protect human health and telecommunication companies installing 5G infrastructure can be required to undertake community consultation. This information will be provided in the report to Council.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

There being no further business the meeting closed at 7pm.

ITEM 3 - ATTACHMENT 2 REPORT ON 5G TECHNOLOGY IN PORT STEPHENS.



Author: Senior Strategic Planner – Infrastructure & Growth
Date: 1 December 2020
File No: PSC2019-02814
Subject: Review of 5G small cell infrastructure in Port Stephens

Background:

At the 13 October 2020 meeting, Council resolved to prepare a report on the 5G small cell 'low impact' technology rollout within Port Stephens (minute no. 214).

The report provides a brief introduction to 5G infrastructure and its context within Port Stephens, together with the main issues and implications associated with the matter, including the visual and health impacts.

Introduction:

5G is the fifth generation of mobile technology and, similar to the previous generations, 5G uses radiofrequency to send and receive data. 5G operates on a higher frequency than 4G networks, which not only allows it to carry more data, but also at higher speeds. 5G infrastructure is installed by telecommunication carriers such as Telstra, Optus and Vodaphone.

The installation of mobile technology previously relied upon 'macro cell' infrastructure, typically installed on large towers or taller buildings. But due to 5G operating at higher frequencies, it is generally incapable of carrying data over the same distances. Therefore, whilst 5G does utilise macro cell, small cell (or 'micro cell') infrastructure is vital in the 5G network rollout to ensure appropriate coverage, particularly in small but densely populated areas.

It is important to note that the rollout of 5G technology has already commenced in Port Stephens, as evidenced by the Telstra 5G coverage map shown in Figure 1. To date, the rollout has been restricted to upgrades of existing telecommunications facilities (e.g. towers) using macro cell infrastructure. For more up-to-date coverage information, please visit the Telstra webpage:

<https://www.telstra.com.au/coverage-networks/our-coverage>

ITEM 3 - ATTACHMENT 2 REPORT ON 5G TECHNOLOGY IN PORT STEPHENS.

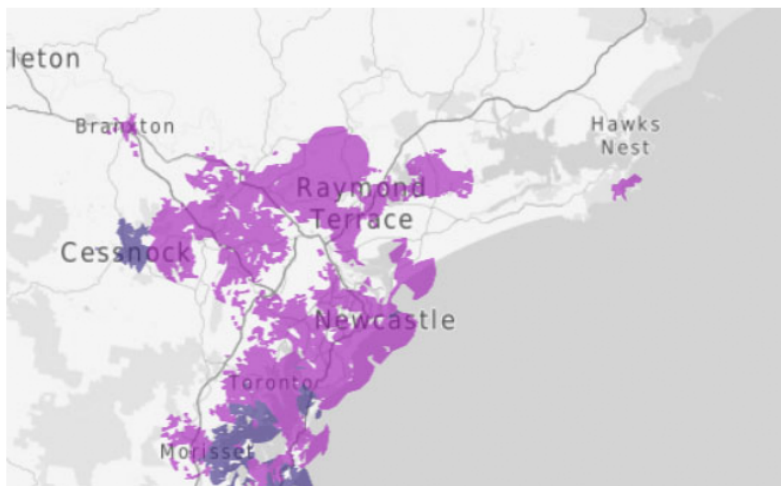


Figure 1: 5G coverage (purple) in Port Stephens LGA as at 1 December 2020

Telstra has indicated that 5G micro cell technology capable of operating at higher frequency (known as mmWave, or ‘millimetrewave’, technology) will begin to be installed nationally in 2021¹. At this stage there is no indication when micro cell technology will reach the Port Stephens area. Due to the higher frequency, mmWave technology is unable to transfer data over long distances or through buildings or thick vegetation; therefore, it is likely that there would be a larger number of small cells required in more locations in the urban environment (e.g. street poles, buildings etc.). The visual and health impact of this is discussed further below.

Issues:

Local government involvement in 5G rollout

Generally, local government has minimal involvement in the planning or approval of telecommunications infrastructure.

The Telecommunications Act 1997 (Cth) and the related Telecommunications (Low Impact Facilities) Determination 2018 establishes the Commonwealth planning framework and criteria for ‘low impact’ telecommunications infrastructure. If the proposed infrastructure satisfies the criteria, the installation is exempt from State laws and exempt from requiring consent from a local council.

Additionally, the State Environmental Planning Policy (Infrastructure) 2007 (NSW) provides that other telecommunications facilities, including microcell installations, are also exempt or may be carried out by public authorities without consent.

Councils may receive applications to assess new telecommunications facilities where there are more likely to be environmental impacts, such as for large towers or in environmentally sensitive locations. Generally, smaller scale facilities and infrastructure, which are often co-located with existing larger facilities, will not require consent from Council.

¹ <https://www.telstra.com.au/content/dam/tcom/personal/consumer-advice/pdf/telstra-5G-fact-sheet.pdf>

ITEM 3 - ATTACHMENT 2 REPORT ON 5G TECHNOLOGY IN PORT STEPHENS.

Notwithstanding the above, the Mobile Phone Base Station Deployment Industry Code 2020 requires telecommunication carriers to consult with affected residents and local councils when planning and installing new telecommunications infrastructure². For example, prior to the installation of small cell infrastructure the carrier is required to notify the landowner, owners and occupiers in the immediate vicinity, nearby sensitive users and the relevant council. These notifications include details such as the location, written description of the facility and a report identifying the Radiofrequency Electromagnetic Energy (EME) is compliant with regulations. Under the code, the carrier is to take into consideration and respond to any submissions made.

Council has received notifications related to the installation of 5G technology on existing infrastructure in Port Stephens in accordance with the above code. These projects related to upgrades for existing telecommunications infrastructure and demonstrated compliance with the relevant regulations. No submissions have been made on these projects given the impacts of these upgrades are likely to be minimal, if any.

Implications:

Visual impact

Currently, the only infrastructure being installed for 5G in Port Stephens is macro cell, similar to the older 3G and 4G technology. This infrastructure is being installed on existing towers with existing telecommunications facilities, and therefore the visual impact is considered to be negligible (see photograph of the existing telecommunications tower in Raymond Terrace in Figure 2).



Figure 2: 5G small cell infrastructure in Canterbury on the left, older generation facilities on an existing tower in Raymond Terrace on the right.

The design and size of micro cell units can vary significantly as well as the infrastructure that is suitable to host the installation. For instance it could be the size of a briefcase

² https://www.commsalliance.com.au/_data/assets/pdf_file/0018/62208/C564_2018-181206.pdf

ITEM 3 - ATTACHMENT 2 REPORT ON 5G TECHNOLOGY IN PORT STEPHENS.

and located on existing street poles, as shown in the Canterbury example in Figure 2, conversely, micro cell technology could be housed in customised smart street lighting poles, such as those in Newcastle (Figure 3).



Figure 3: Smart street lighting in Newcastle

Some of the infrastructure suitable for co-locating small cell 5G infrastructure may be privately owned or may be owned by council or other public authorities. Council may be able to explore opportunities to proactively propose existing Council owned assets in locations where visual impacts are likely to be minimised.

Health impacts

On 24 January 2020, Australian Chief Medical Officer released a statement that there is no evidence that 5G technology causes adverse health impacts³. It is noted that the Electromagnetic Energy (EME) is different to other radiating technology that is harmful, such as nuclear energy or x-rays (Figure 4).

³ <https://www.health.gov.au/news/safety-of-5g-technology>

ITEM 3 - ATTACHMENT 2 REPORT ON 5G TECHNOLOGY IN PORT STEPHENS.

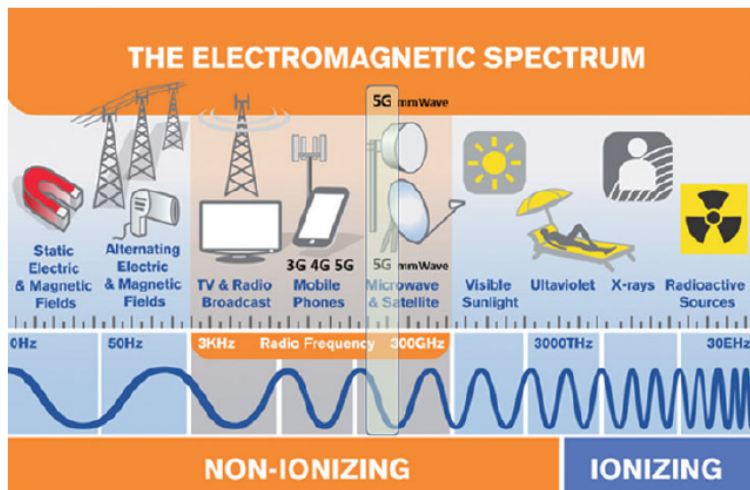


Figure 4: identification of 5G emitting EME on the electromagnetic spectrum⁴

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) sets the regulatory limits of EME for all telecommunication facilities, including 5G small cell. Should infrastructure not meet the ARPANSA standards, it would not be considered ‘low impact’ under the federal and state legislation and would require environmental assessment, including an assessment of the likely impacts on human health.

Telecommunications carriers must prepare EME reports prior to installation, and all 5G infrastructure installed within Port Stephens to date (i.e. macro cell infrastructure) has been well below ARPANSA limits. Furthermore, all research currently undertaken shows that small cell technology is also within ARPANSA standards⁵. Currently there is no credible scientific evidence that suggests that the rollout of 5G small cell infrastructure in Australia will have any adverse impacts on health.

Smart City technology

On 23 June 2020, Council adopted the Smart City Blueprint which seeks to enhance economic growth, improve community wellbeing and protect the environment through digital technology and innovation and the use of data. A guiding principle of the Blueprint is connectivity:

Connecting people with each other and with their surroundings will be a key part in enabling our strategy and achieving our smart district goals. Initiatives should work towards ensuring our community can communicate with each other, with Council and with businesses from anywhere.

The rollout of 5G will significantly improve connectivity through faster download and upload speeds, enabling larger and faster data transfers. The reduction in latency (the time between when data is requested and when it is received) is critical in the implementation of numerous smart city capabilities, such as (but not limited to) the

⁴ Source Telstra 5G, Small Cells and Electromagnetic Energy (EME) fact sheet <https://www.telstra.com.au/content/dam/tcom/personal/consumer-advice/pdf/telstra-5g-and-eme-fact-sheet.pdf>

⁵ <https://www.arpansa.gov.au/news/misinformation-about-australias-5g-network>

ITEM 3 - ATTACHMENT 2 REPORT ON 5G TECHNOLOGY IN PORT STEPHENS.

'Internet of Things', smart poles, digital boards and automated vehicles. Furthermore, 5G will be vital to attracting and retaining emerging industries, such as advanced manufacturing and technology enabled primary industries in Port Stephens.

Overall, Port Stephens residents, businesses and visitors would benefit from the improved connectivity and data collection which are likely to occur as a result of the 5G rollout. Therefore, through the Smart City Blueprint, Council should continue to support improved connectivity and may investigate opportunities to identify appropriate locations for telecommunications infrastructure on Council owned assets to minimise visual impacts.

Recommendations:

- 1) Note the issues and implications identified in this report.
- 2) Investigate opportunities to identify appropriate locations for telecommunications infrastructure on Council owned assets to minimise visual impacts.

Senior Strategic Planner – Infrastructure & Growth

Communication method

- Post on myPort
 - Post on PSC website
 - Memo to section managers
 - Presentation to SLT
 - Snapshot article
 - All staff memo from General Manager
 - 2 way conversation with Councillors
 - Councillors weekly PS newsletter
 - Report to Council
 - Media release
 - Other
-

ITEM NO. 4

**FILE NO: 20/399568
EDRMS NO: PSC2018-02573-007**

POLICY REVIEW: EXCEPTIONS TO DEVELOPMENT STANDARDS

REPORT OF: STEVEN PEART - ACTING GROUP MANAGER DEVELOPMENT SERVICES
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submission (**ATTACHMENT 2**).
- 2) Endorse the revised Exceptions to Development Standards Policy (**ATTACHMENT 1**).
- 3) Revoke the Exceptions to Development Standards Policy dated 25 September 2018, Minute No.095.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

007	<p>Councillor Sarah Smith Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Receive and note the submission (ATTACHMENT 2).2) Endorse the revised Exceptions to Development Standards Policy (ATTACHMENT 1).3) Revoke the Exceptions to Development Standards Policy dated 25 September 2018, Minute No.095.
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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, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Ryan Palmer, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council endorsement for the revised Exceptions to Development Standards Policy (the policy) (**ATTACHMENT 1**) following public exhibition.

The policy aims to provide guidance on the application and administration of Clause 4.6 Exceptions to Development Standards in the Port Stephens Local Environmental Plan 2013 (LEP).

During public exhibition, 1 submission was received which has been summarised at (**ATTACHMENT 2**). In response to the submission, the policy has been updated to refer to the current planning circular published by the NSW Department of Planning, Industry & Environment.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The recommendation will not result in any financial or resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.12)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal or policy implications as a result of the proposed recommendation.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the legislative process will not be clear to some applicants, resulting in delays to the development assessment process.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy:

- Sets out the processes and requirements that apply when development applications are lodged that seek to vary development standards under Clause 4.6 of the LEP.
- Creates opportunities for greater transparency and community participation when decisions are made to vary development standards.

CONSULTATION

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

Internal

Internal consultation was undertaken with the Development Assessment and Compliance section, and the units responsible for administering the policy. No objections were raised.

External

The revised Exceptions to Development Standards Policy was exhibited from 12 November 2020 to 10 December 2020. During public exhibition, 1 submission was received, summarised. In response to the submission, the policy has been updated to refer to the current planning circular published by the NSW Department of Planning, Industry & Environment.

OPTIONS

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

ATTACHMENTS

- 1) Exceptions to Development Standards Policy.
- 2) Submission summary.

COUNCILLORS ROOM

- 1) Copy of unredacted submission.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

Policy



FILE NO: PSC2018-02573-007.
TITLE: Exceptions to Development Standards.
OWNER: Group Manager Development Services.

1. PURPOSE:

1.1 The purpose of this policy is to provide guidance on the application and administration of Clause 4.6 Exceptions to development standards in the Port Stephens Local Environmental Plan 2013 (PSLEP).

2. CONTEXT/BACKGROUND:

2.1 Clause 4.6 Exceptions to Development Standards enables development standards such as minimum lot sizes, height and floor space ratio to be varied in certain circumstances. This clause is included in all local environmental planning instruments across NSW.

2.2 Clause 4.6 Exceptions to Development Standards aims to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for and from development in particular circumstances.

3. SCOPE:

3.1 This policy applies to development applications in the Port Stephens local government area.

3.1 The policy relates specifically to the following Council functions:

3.1.1 Assessment of development applications; and

3.1.2 Review of provisions in the PSLEP and strategic planning.

4. DEFINITIONS:

Development application	An application for consent to carry out development, but does not include an application for a complying development certificate.
Development consent	Approval to carry out development the subject of a development application.
Development standards	The Environmental Planning and Assessment Act 1979 includes a legal definition of 'development standards' (See section 4).

Policy

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ITEM 4 - ATTACHMENT 1 EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

Policy



Development standards are provisions in an environmental planning instrument that guide development to be carried out in accordance with particular requirements under certain circumstances. For example maximum building heights in residential areas, or minimum lot sizes for subdivision in rural areas.

Development standards are a means to achieve a particular environmental planning objectives in an area. Clause 4.6 of the PSLEP provides flexibility to allow planning objectives to be met by varying development standards in certain circumstances.

Clause 4.6 of the PSLEP applies when applications are made for exceptions to development standards.

Environmental planning instrument

A legal instrument that guides development, such as a Local Environmental Plan (e.g. the PSLEP).

5. STATEMENT:

- 5.1 This Policy sets out the processes that apply when development applications are lodged that seek to vary the development standards under Clause 4.6 of the PSLEP. Applicants are advised to refer to the Policy prior to lodging a development application that includes an application under Clause 4.6.
- 5.2 This Policy aims to create opportunities for greater transparency and community participation when decisions are made to vary development standards and to achieve better decision making through robust assessments. It seeks to ensure the assessment and administration of applications to vary development standards includes consideration of the principles established by the NSW Land and Environment Court and the strategic planning context.
- 5.3 This Policy adopts transparent reporting and other recommendations issued by the NSW Department of Planning and Environment and the NSW Independent Commission Against Corruption.
- 5.4 Council will implement the following actions:
 - 5.4.1 Development applications that include a request under Clause 4.6 Exceptions to Development Standards of the PSLEP must be accompanied by the Clause 4.6 Application Form.

Policy

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ITEM 4 - ATTACHMENT 1 EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.



Policy

- 5.4.2 Council will exhibit the Clause 4.6 Application Form accompanying a development application when advertising or notifying an Application.
- 5.4.3 Development applications accompanied by a Clause 4.6 Application Form will be assessed in accordance with Varying Development Standards: A Guide (published August 2011 by the former NSW Department of Planning and Infrastructure).
- 5.4.4 Development applications which include a Clause 4.6 Application Form seeking to vary a development standard by greater than 10% will be determined by the Council.
- 5.4.5 Council will maintain a register of development consents that have included exceptions to development standards and the information will be made publicly available.
- 5.4.6 The Development Assessment and Compliance Team will refer development standards that are the subject of frequent development consents that include exceptions to development standards to the Strategic Planning Team for review. A review will be carried out to ensure the development standards in the PSLEP remain relevant to achieving the environmental planning objectives in an area.

6. POLICY RESPONSIBILITIES:

- 6.1 Development Assessment and Compliance Team (development application assessment).
- 6.2 Strategic Planning Team (Policy review and local environmental plan review).

7. RELATED DOCUMENTS:

- 7.1 Clause 4.6 Application Form.
- 7.2 Port Stephens Local Environmental Plan 2013 (NSW).
- 7.3 Environmental Planning and Assessment Act 1979 (NSW).
- 7.4 Varying Development Standards: A Guide (Former NSW Department of Planning and Infrastructure).
- 7.5 NSW Department of Planning and Environment Circular PS 08-003 17-006 Variations to Development Standards.
- 7.6 ~~NSW Department of Planning and Environment Circular PS 11-014 Reporting Variations to Development Standards.~~
- 7.7 ~~NSW Department of Planning and Environment Circular PS 11-018 Monitoring and Reporting Variations to Development Standards.~~
- 7.86 Corruption Risks in NSW Development Approval Process: Position Paper (NSW Independent Commission Against Corruption).

Policy

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ITEM 4 - ATTACHMENT 1 EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

Policy



- 7.97 Development Assessment Internal Audit Tool (NSW Independent Commission Against Corruption).
- 7.408 Port Stephens Council Discussion Paper – Progress of the Nelson Bay Town Centre & Foreshore Strategy.

Policy

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ITEM 4 - ATTACHMENT 1 EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

Policy



CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2018-02573-007	EDRMS record No.	20/290147
Audience	Councillors, staff and the community		
Process owner	Group Manager Development Services		
Author	Strategic Planning Coordinator		
Review timeframe	2 3 years	Next review date	February 2024
Adoption date	25 September 2018		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.	25 September 2018	Strategic Planning Coordinator	First draft version placed on public exhibition in February 2018. Updated to new template to include paragraph numbering. 5.4.4 – Updated following public exhibition period.	095
2.		Strategic Planning Coordinator	References to Planning Circulars and version control has been updated. Updated review date to reflect new policy review process.	

Policy

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ITEM 4 - ATTACHMENT 2 SUBMISSION SUMMARY.

Policy Review: Exceptions to Development Standards Policy submissions

No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers and Residents Association Inc.	The submission attaches the previous submission made during the exhibition of the policy in 2018 and requests that Council consider the matters raised in that submission.	The matters raised in the previous submission on the exhibition of the policy in 2018 that are relevant to the exhibition of the revised policy in 2020 are summarised and responses provided below.
		Since the policy was adopted in 2018, Council has approved a high rise building in Nelson Bay under the Policy which demonstrates how the policy can be used to subvert the intention of development standards.	There is a clear merit assessment framework under clause 4.6 that enables development standards to be varied for individual development applications. The State government requires all councils in NSW to adopt this clause as part of their local environmental plan. The development application referred to in the submission was assessed according to this framework.
		Council should adopt a strict policy for exceptions to development standards that enforces compliance with development standards.	The policy enables Council to assess development that may achieve planning objectives despite not meeting the required development standards. The policy seeks to create greater opportunities for transparency and community participation when decisions are made to vary development standards and to incorporate the principles established by the courts in decision making under clause 4.6 of the LEP. The policy seeks to improve decision making and processes and is consistent with the objectives of clause 4.6: (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.
		The policy only references earlier Circulars which have been replaced by 17-006.	The policy has been updated.
		Developers receive a 'windfall gain' when development standards are varied and therefore Council should adopt a strict policy for exceptions to development standards that enforces compliance with	The policy has been prepared to respond to the recommendations in the Corruption Risks in NSW Development Approval Process: Position Paper (NSW Independent Commission Against Corruption) and will increase transparency and accountability in the assessment of variations to development standards.

ITEM 4 - ATTACHMENT 2 SUBMISSION SUMMARY.

	development standards.	
	The policy should set out clear criteria for assessing applications for variations to development standards.	The policy adopts the assessment criteria in the: <ul style="list-style-type: none"> • State Government's Clause 4.6 Application Form. • Varying Development Standards: A Guide (published August 2011 by the former NSW Department of Planning and Infrastructure). This criteria includes the principles established by the NSW Land and Environment Court.
	Variations should only be approved in exceptional circumstances.	Clause 4.6, as drafted in the LEP, is not limited in its application to 'exceptional circumstances', however it is limited by the criteria listed in the provisions of clause 4.6 and the principles of the Land & Environment Court. The policy is consistent with this established legal framework.
	The policy should restate all of clause 4.6.	All of the provisions of clause 4.6 apply to applications that seek to vary a development standard. It is not necessary to replicate the clause in the policy.
	The policy should require DAs that vary specific building height or density development standards to be advertised.	Council's adopted Community Participation Plan sets out the development applications that are notified and the applications that are exhibited. The policy cannot override the Community Participation Plan which is a statutory plan made under the planning legislation. The policy does include a commitment from Council to make available the Clause 4.6 Application Form accompanying a development application when advertising or notifying an application.
	DAs that seek to vary a development standard should be peer reviewed.	Every application that is processed by Council is peer reviewed by a more senior planner, whether or not the application includes a variation to a development standard.
	Council should adopt a strict policy that advises applicants seeking major variations to submit planning proposals for changes to the relevant development standards, such as for rezoning or changes to height limits.	In some circumstances a variation to a development standard may be more consistent with the adopted strategic planning framework than the current LEP and clause 4.6 can enable assessment against the adopted strategic planning framework in advance of the gazettal of LEP changes. The policy also provides an appropriate safeguard by requiring all variations greater than 10% to be determined by the elected Council.
	Council should make available a register of approved variations to the public.	In accordance with State government requirements, Council makes available a register of clause 4.6 applications at: https://www.portstephens.nsw.gov.au/grow/development-applications/development-application-process .

ITEM NO. 5

**FILE NO: 20/373341
EDRMS NO: PSC2015-02099**

POLICY REVIEW - FORESHORE VESSEL STORAGE POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Foreshore Vessel Storage Policy shown at **(ATTACHMENT 1)**.
- 2) Place the Foreshore Vessel Storage Policy as amended on public exhibition for a period of 28 days and, should no submissions be received, the policy be adopted without a further report to Council.
- 3) Revoke the Foreshore Dinghy Storage Policy dated 23 July 2019, Minute No. 166, should no submissions be received.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

008	<p>Councillor John Nell Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Foreshore Vessel Storage Policy shown at (ATTACHMENT 1).2) Place the Foreshore Vessel Storage Policy as amended on public exhibition for a period of 28 days and, should no submissions be received, the policy be adopted without a further report to Council.3) Revoke the Foreshore Dinghy Storage Policy dated 23 July 2019, Minute No. 166, should no submissions be received.
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The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement to place the revised Foreshore Dinghy Storage Policy renamed 'Foreshore Vessel Storage Policy' (the policy) **(ATTACHMENT 1)** on public exhibition.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

The revision follows the Notice of Motion of 10 November 2020 (**ATTACHMENT 2**) to amend the policy to allow the inclusion of kayaks and canoes for the same fees as dinghies on the Foreshores at:

- Dutchman's Beach, Nelson Bay
- Tanilba Park, Tanilba Bay
- Foster Park, Tanilba Bay
- Peace Park, Tanilba Bay

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal financial/resource implications as additional vessel storage racks will not be provided.

Registration does not guarantee a position on the vessel storage racks. If storage racks reach capacity, registered vessels will be stored securely in the surrounding area. No storage racks are provided at Tanilba Park, Tanilba Bay.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The recommendation will not result in any financial or resource implications.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The removal of unregistered vessels can occur under the Impoundment Act 1993.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the dinghy storage racks at Foster Park and Dutchman's Beach Reserve will reach capacity.	Medium	Terms and Conditions of registration to state that space on the vessel storage racks is not guaranteed. If full, vessels will need to be stored securely adjacent to the area.	Yes
There is a risk that permitting the storage of kayaks and canoes at the four sites will cause a conflict between reserve users and private vessel owners.	Medium	Vessels at Dutchman's Beach Reserve and Foster Park must be stored in the designated storage area. Port Stephens Council Ranger inspections to manage compliance.	Yes
There is a risk that unauthorised kayaks and canoes may be left at foreshore reserves.	Low	Port Stephens Council Rangers to continue foreshore inspections.	Yes
There is a risk that the head height overhang from kayaks and canoes stored on dinghy racks will cause injury to the public.	Medium	Restrict the permitted length of kayaks/canoes to 3 metres in the policy. This is consistent with dinghy restrictions.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Kayaks and canoes provide recreational enjoyment of Port Stephens waterways. The interaction/balance between the general public recreation use of public land and vessel storage needs to be managed. This Policy provides for the management of vessels to gain a better interaction/balance.

The \$100 annual registration fee is documented and reviewed annually through the Port Stephens Council Fees and Charges process.

CONSULTATION

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

Internal

Review has been undertaken with Community & Recreation Assets.

External

In accordance with local government legislation the draft Foreshore Vessel Storage Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Foreshore Vessel Storage Policy.
- 2) Notice of Motion -10 November 2020 Dinghy Policy Amendment.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2015-02099

TITLE: FORESHORE DINGHY **VESSEL** STORAGE POLICY

OWNER: ASSETS SECTION MANAGER

1. PURPOSE:

1.1 To provide a framework to enable a balance between the storage of dinghies **vessels** and other recreational activities as well as providing a compliance mechanism to manage this balance.

2. CONTEXT/BACKGROUND:

2.4 A Notice of Motion was tabled at the 26 June, 2012 Ordinary Council Meeting to address the issue of dinghy and water vessel storage on council foreshore reserves.

2.21 ~~he action~~ **This policy** was prompted due to the number of dinghies and other **water-vessels** being stored on foreshore reserves. **Vessels provide resident and visitor access to the waterways of Port Stephens, however,** and it was noted that a number of reserves throughout the Port Stephens Council area were cluttered with abandoned dinghies, canoes and catamarans. This was limiting the ability of the residents of Port Stephens and visitors to enjoy our beautiful beaches and waterways. Greater order and management **of vessels** is required to preserve the **equitable access of** foreshore reserves. ~~for the enjoyment of all.~~

2.3 ~~Council adopted the Foreshore Dinghy Storage Policy in April 2015.~~

3. SCOPE:

3.1 Dinghy storage on reserves is permissible under a user pay system where income will be allocated to the maintenance, improvement, enforcement and initial signage of foreshore dinghy storage facilities.

3.2 Kayak and canoe storage on reserves is permissible under a user pay system at designated reserves listed in this policy.

3.3 A permit system will enable Council to identify dinghies **vessels** which have been abandoned on foreshores and subsequently will enable their removal.

4. DEFINITIONS:

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

Dinghy

A single or multi-hulled vessel up to a maximum length of 3.0 metres.

Policy

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Policy

Kayak and canoe	A single hull vessel up to a maximum length of 3.0 meters. Kayaks and canoes are only permitted on foreshores listed in Policy Statement 5.10.
Unauthorised vessel	Is a vessel not included in the 'dinghy' definition, this would include but not limited to any single or multi-hulled vessel over 3.0 metres in length, a medium/large trailable vessel, trailer sailer, catamaran, sailboard, jetski, surfboard, work punt, pontoon, sailboat (fitted with mast), rowing skull, inflatable boat, canoe, kayak, and the like kayaks and canoes that do not meet the above definition.
Derelict vessel	Is a dinghy or other vessel left on public land, which appears to be unseaworthy by the evidence of damage to affect vessel flotation and users safety.
Abandoned vessel	An abandoned vessel is a dinghy or other vessel left on public land, which appears to be un-owned or has no/expired registration.

5. STATEMENT:

- 5.1 Port Stephens Council is committed to providing recreational facilities and services in keeping with Council's vision and key corporate objectives.
- 5.2 This policy will allow Council to fund the maintenance and construction of storage facilities through the collection of fees. The registration will be 12 months, with renewal occurring during July for the financial year. A 6 month registration will be available from January to June of the same financial year.
- 5.3 Dinghy, kayak and canoe storage will be managed to ensure there is minimal environmental impacts.
- 5.4 ~~An inspection will be carried out every three months or~~ inspections will be undertaken as required to determine the percentage of dinghies registered vessels.
- 5.5 Those dinghies vessels not registered will be deemed abandoned and removed from the foreshore.
- 5.6 Dinghies, kayaks, canoes and unauthorised vessels stored outside of the designated dinghy-storage areas are to be removed and impounded by Council authorised officers. These vessels will be held at Council's impound and may be disposed of in accordance with the Impounding Act 1993.
- 5.7 Dinghies, kayaks and canoes without a permit sticker and stored on a dinghy storage rack will also be removed under the Impounding Act 1993.
- 5.8 Owners of unregistered vessels that have been removed from the foreshore will have 3 months to retrieve their vessel. If the vessel has not been claimed after 3 months, it may be sold by tender.
- 5.9 Dinghies will be permitted to be stored on any Council managed foreshore reserve. In the Council managed foreshore reserves that have designated storage areas, dinghies must be stored within the storage area. Council managed foreshore reserves with designated storage areas include:

Policy

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Policy

- Shoal Bay Foreshore Reserve, Shoal Bay
- Marrungbangbaa Reserve, Shoal Bay
- Dutchman's Beach, Nelson Bay
- Corlette Point Park, Corlette
- Roy Wood Reserve, Corlette
- Georges Reserve, Salamander Bay
- Wanda Beach Reserve, Salamander Bay
- Kangaroo Point Reserve, Soldiers Point
- Everitt Park, Soldiers Point
- Sunset Beach, Soldiers Point
- Taylors Beach Foreshore, Taylors Beach
- John Parade Foreshore, Lemon Tree Passage
- Koala Park Reserve, Lemon Tree Passage
- Lilli Pilli Park, Lemon Tree Passage
- Nyrang Reserve, Lemon Tree Passage
- Foster Park, Tanilba Bay
- Peace Park, Tanilba Bay
- Swan Park, Tanilba Bay.

5.10 Kayaks and canoes are permitted to be registered and stored within the designated storage areas of the following reserves:

- Dutchman's Beach, Nelson Bay
- Tanilba Park, Tanilba Bay (no storage area provided)
- Foster Park, Tanilba Bay
- Peace Park, Tanilba Bay.

The registration and storage of kayaks and canoes on all other foreshore reserves is unauthorised.

5.11 Council will review the registration fee for dinghy storage annually.

6. RESPONSIBILITIES:

- 6.1 The Assets Section Manager has overall responsibility for implementation of this policy.
- 6.2 The use of a dinghy is an important method for residents and visitors to enjoy the waterways within the Port Stephens area. The interaction/balance between the general public recreation use of public land and storage of dinghies needs to be managed. This Policy will allow the storage of dinghies to be managed, to ensure equity of access for all.
- 6.3 This policy will allow Council to fund the maintenance and construction of dinghy storage facilities through the collection of fees.
- 6.4 Dinghy storage will be managed to ensure there is minimal environmental impacts.

Policy

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Policy



7. RELATED DOCUMENTS:

- 7.1 State Environmental Planning Policy (Coastal Management) 2018.
- 7.2 Crown Land Domestic Waterfront Licences – Guidelines 2018.
- 7.3 Local Government Act 1993.
- 7.4 Impounding Act 1993.

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au .			
EDRMS container No.	PSC2015-02099	EDRMS record No.	20/402234
Audience	Community, Assets Section, Community and Recreation, Staff and General Manager		
Process owner	Assets Section Manager		
Author	Community and Recreation Coordinator		
Review timeframe	3 years	Next review date	
Adoption date	14/4/2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	14/04/2015	Community and Recreation Coordinator	Adopted by Council.	086
2	23/07/2019	Community and Recreation Coordinator	Reviewed and Updated in Council new Policy Template. Policy Owner – Updated. 2.1, 2.2, 2.3, 5.1 Reworded to improve content.	166

Policy

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Policy

Version	Date	Author	Details	Minute No.
			<p>5.1 Removed due to definitions are identified in 4.1.</p> <p>5.3 Additional wording.</p> <p>7.1, 7.2, 7.3 Removed old policy and added new policy.</p> <p>Adopted by Council.</p>	
3		Community and Recreation Coordinator	<p>Reviewed and Updated in Council new Policy Template.</p> <p>Amendments following Notice of Motion tabled 10 Nov 2020 Ordinary Council meeting to amend policy to permit kayaks/canoes at selected reserves.</p> <p>Title of policy amended to Foreshore Vessel Storage in line with Notice of Motion.</p> <p>1.1, 3.3 & 5.5 Word 'dinghy' interchanged with 'vessel'.</p> <p>2.1, 2.3, 6.2, 6.3 & 6.5 Deleted.</p> <p>2.2 Reworded to improve content.</p> <p>3.2 Added "Kayak and Canoe storage on reserves is permissible under a user pay system at designated reserves list".</p> <p>4.1 Added "Kayak and Canoe" definition. Added "Kayaks and Canoes that do not meet the above definition to "Unauthorised Vessel" definition.</p> <p>5.2 Added "This policy will allow Council to fund the maintenance and construction of storage facilities through the collection of fees.</p> <p>5.3 Added "Dinghy, kayak and canoe storage will be managed to ensure there is minimal environmental impacts.</p> <p>5.4 Reworded to improve content.</p>	

Policy

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Policy

Version	Date	Author	Details	Minute No.
			<p>5.6 & 5.7 Added "kayaks and canoes".</p> <p>5.9 Added additional locations.</p> <ul style="list-style-type: none"> • Marrungbangbaa Reserve, Shoal Bay. • Lilli Pilli Park, Lemon Tree Passage. • Nyrang Reserve, Lemon Tree Passage. • Peace Park, Tanilba Bay. • Swan Park, Tanilba Bay. <p>5.10 Added "Kayaks and canoes are permitted to be registered and stored within the designated storage areas of the following reserves:</p> <ul style="list-style-type: none"> • Dutchman's Beach, Nelson Bay. • Tanilba Park, Tanilba Bay (no storage area provided). • Foster Park, Tanilba Bay. • Peace Park, Tanilba Bay. <p>The registration and storage of kayaks and canoes on all other foreshore reserves is unauthorised."</p> <p>6 Added "The Assets Section Manager has overall responsibility for implementation.</p>	

Policy

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**ITEM 5 - ATTACHMENT 2 NOTICE OF MOTION -10 NOVEMBER 2020
DINGHY POLICY AMENDMENT.**

MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2020

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 20/307943

EDRMS NO: PSC2017-00019

DINGHY POLICY AMENDMENT

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Considers amending the Foreshore Dinghy Storage Policy to allow kayaks to be registered and stored on Council managed foreshore reserves.

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2020
MOTION**

243	Councillor John Nell Councillor Steve Tucker It was resolved that Council amends its Dinghy policy to allow the storage of kayaks and canoes, for the same fees as dinghies, on the Foreshores at: <ol style="list-style-type: none">1. Dutchies Reserve2. Tanilba Park, Tanilba Bay3. Foster Park, Tanilba Bay4. Peace Park, Tanilba Bay
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The motion was carried.

BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER

BACKGROUND

The purpose of this report is to provide context of what vessels are allowed under the current Foreshore Dinghy Storage Policy.

The objective of the current Council adopted policy is to allow boat owners to store their dinghies on the foreshore as a way to access their moored vessels. The policy was initiated due to the high number of dinghies and other water vessels being stored on foreshore reserves. The high volume of vessels being stored was limiting the ability for the residents of Port Stephens and visitors to access and enjoy the beaches and waterways.

**ITEM 5 - ATTACHMENT 2 NOTICE OF MOTION -10 NOVEMBER 2020
DINGHY POLICY AMENDMENT.****MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2020**

At the time of adopting the current policy, it was decided that vessels, other than a dinghy, would not be allowed. Limiting the types of vessels would reduce clutter on the foreshore. Other vessels included kayaks, canoes, stand-up paddleboards and catamarans.

To include kayaks would require a review of the existing policy.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

There being no further business the meeting closed at 7.26pm.

ITEM NO. 6

**FILE NO: 20/378128
EDRMS NO: PSC2017-00178**

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral funds to the following:-
 - a. Marine Rescue Lemon Tree Passage – Mayoral funds – \$500 donation towards the purchase of a safety message banner to be used at boat ramps.
 - b. Plastic Free Port Stephens – Mayoral funds – \$4200 donation towards Project One – aluminium water bottle project (100% recyclable) and Project Two – Terracycle bin at Salamander Bay Recycling Centre.
 - c. Caring for Our Port Stephens Youth (COPSY) – Mayoral funds - \$7000 donation towards 2021 rent at Tomaree Library.
 - d. Karuah Local Aboriginal Land Council – Mayoral funds - \$9911 donation towards a basketball system for Karuah Kinnections Basketball.
 - e. Lions Club of Tilligerry – Mayoral funds - \$1000 donation towards the 2021 Bob Royal Fishing Competition.
 - f. Rotary Club of Nelson Bay – Mayoral funds - \$2400 donation towards sponsorship of charity golf day.
 - g. Nelson Bay Swim Club – Mayoral funds – \$3000 donation for provision of marquees for annual swimming carnival.
 - h. Mayoral Academic Scholarship Program 2021 – Mayoral funds - \$6000 – donation towards academic scholarships.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

009	<p>Councillor Chris Doohan Councillor Giacomo Arnott</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral funds to the following:-</p> <ol style="list-style-type: none">a. Marine Rescue Lemon Tree Passage – Mayoral funds – \$500 donation towards the purchase of a safety message banner to be used at boat ramps.b. Plastic Free Port Stephens – Mayoral funds – \$4200 donation towards Project One – aluminium water bottle project (100% recyclable) and Project Two – Terracycle bin at Salamander Bay Recycling Centre.
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MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

	<p>c. Caring for Our Port Stephens Youth (COPSY) – Mayoral funds - \$7000 donation towards 2021 rent at Tomaree Library.</p> <p>d. Karuah Local Aboriginal Land Council – Mayoral funds - \$9911 donation towards a basketball system for Karuah Kinnections Basketball.</p> <p>e. Lions Club of Tilligerry – Mayoral funds - \$1000 donation towards the 2021 Bob Royal Fishing Competition.</p> <p>f. Rotary Club of Nelson Bay – Mayoral funds - \$2400 donation towards sponsorship of charity golf day.</p> <p>g. Nelson Bay Swim Club – Mayoral funds – \$3000 donation for provision of marquees for annual swimming carnival.</p> <p>h. Mayoral Academic Scholarship Program 2021 – Mayoral funds - \$6000 – donation towards academic scholarships.</p>
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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

Marine Rescue Lemon Tree Passage	Marine Rescue Lemon Tree Passage is a not for profit company limited by guarantee which actively promotes safer boating	\$500	Donation towards a safety message banner to be displayed at boat ramps.
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MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

	within the Port Stephens area.		
Plastic Free Port Stephens	Plastic Free Port Stephens hopes to reduce, and ultimately end, the use of plastic water bottles in Port Stephens.	\$4200	Donation towards an aluminium bottle project and Terracycle bin at Salamander Bay Recycling Centre.
Caring for Our Port Stephens Youth (COPSY)	A community group whose purpose is to ensure the best possible, independent youth health and wellbeing service is available to satisfy the needs of the young people living in Port Stephens.	\$7000	Donation towards 2021 rent at Tomaree Library.
Karuah Local Aboriginal Land Council	Karuah Local Aboriginal Land Council provides Aboriginal cultural education and activities to the children and youth of the community to develop self esteem.	\$9911	Donation towards a basketball system for Karuah Kinnections Basketball.
Lions Club of Tilligerry	Lions Club members are men and women who strive to make a difference in their local community as well as in communities worldwide.	\$1000	Donation towards the 2021 Bob Royal Fishing Competition. Caring for Our Port Stephens Youth (COPSY) is to be a beneficiary of the competition fundraising.
Rotary Club of Nelson Bay	Rotary Clubs are part of an international network of business, professional and community leaders who strive to make the world a better place through practical efforts.	\$2400	Donation towards sponsorship for charity golf day which raises funds for the community.
Nelson Bay Swim Club	Nelson Bay Swim Club provide opportunities for swimmers of all abilities to improve, develop and	\$3000	Donation for the provision of marquees at annual swim carnival.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

	enhance their swimming skills.		
Mayoral Academic Scholarship Program 2021	The Mayoral Academic Scholarship Program helps local students to cover their study costs thanks to the joint initiative by Port Stephens Council and local businesses.	\$6000	Donation for academic scholarships.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

**FILE NO: 21/19768
EDRMS NO: PSC2017-00015**

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 9 February 2021.

No: Report Title

- 1 November 2020 Cash and Investments
 - 2 December 2020 Cash and investments
 - 3 Mayor and Councillors Professional Development Report - July to December 2020
 - 4 Designated Persons' Return
 - 5 Mayor and Councillors Expense Report 1 July 2020 to 31 December 2020
 - 6 Council Resolutions
-

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

010	<p>Councillor Giacomo Arnott Councillor Glen Dunkley</p> <p>It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 9 February 2021.</p> <hr/> <p>No: Report Title</p> <ol style="list-style-type: none">1 November 2020 Cash and Investments2 December 2020 Cash and investments3 Mayor and Councillors Professional Development Report - July to December 20204 Designated Persons' Return5 Mayor and Councillors Expense Report 1 July 2020 to 31 December 2020
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MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

	6	Council Resolutions
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The motion was carried.

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 20/389162
EDRMS NO: PSC2006-6531**

NOVEMBER 2020 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 2020.

ATTACHMENTS

- 1) November 2020 Cash and Investments.
- 2) November 2020 Cash Flow.

ITEM 1 - ATTACHMENT 1 NOVEMBER 2020 CASH AND INVESTMENTS.

CASH AND INVESTMENTS HELD AS AT 30 NOVEMBER 2020									
ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE	
TERM DEPOSITS									
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	
AMP BANK	LAMINAR	BBB+	TD	1.55%	188	10-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 UNITY BANK	CURVE	NR	TD	1.70%	337	7-Jan-21	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	1.60%	211	7-Jan-21	1,000,000	1,000,000	
MUTUAL BANK	MUTUAL BANK	NR	TD	0.95%	159	3-Feb-21	550,000	550,000	
BANK OF SYDNEY	CURVE	NR	TD	1.99%	365	18-Feb-21	750,000	750,000	
JUDO BANK	CURVE	NR	TD	2.00%	363	18-Feb-21	200,000	200,000	
AUSWIDE BANK	FARQUHARSON	BBB	TD	0.75%	168	31-Mar-21	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	1.05%	256	11-May-21	275,000	275,000	
JUDO BANK	CURVE	NR	TD	1.05%	253	11-May-21	300,000	300,000	
AMP BANK	LAMINAR	BBB+	TD	0.80%	295	23-Jun-21	300,000	300,000	
AUSTRALIAN MILITARY BANK	FARQUHARSON	BBB+	TD	1.65%	635	30-Jun-21	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	1.05%	343	4-Aug-21	900,000	900,000	
JUDO BANK	CURVE	NR	TD	1.05%	337	4-Aug-21	300,000	300,000	
MUTUAL BANK	MUTUAL	NR	TD	0.95%	351	18-Aug-21	300,000	300,000	
AMP BANK	LAMINAR	BBB+	TD	0.80%	383	15-Sep-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	15-Oct-21	500,000	500,000	
MUTUAL BANK	MUTUAL BANK	NR	TD	0.90%	159	27-Oct-21	700,000	700,000	
AMP BANK	LAMINAR	BBB+	TD	0.75%	365	25-Nov-21	1,250,000	1,250,000	
AUSWIDE BANK	RIM	BBB	TD	1.73%	701	2-Feb-22	1,250,000	1,250,000	
MACQUARIE BANK	LAMINAR	A+	AT CALL	0.80%	AT CALL	30-Jun-21	2,000,000	2,000,000	
SUB TOTAL (\$)							20,175,000	20,175,000	
TCORP CASH FUND	TCORP	AAA					500,000	502,812	
TCORP SHORT TERM INCOME FUND	TCORP	AAA					2,500,000	2,509,195	
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					3,000,000	3,064,440	
TCORP LONG TERM GROWTH FUND	TCORP	AAA					1,000,000	1,039,165	
INVESTMENTS TOTAL (\$)							27,175,000	27,290,612	
CASH AT BANK (\$)							14,710,055	14,710,055	
TOTAL CASH AND INVESTMENTS (\$)							41,885,055	42,000,667	
CASH AT BANK INTEREST RATE				0.30%					
BBSW FOR PREVIOUS 3 MONTHS				0.90%					
AVG. INVESTMENT RATE OF RETURN ON TDs				1.35%					
TD = TERM DEPOSIT									
AC = AT CALL CASH ACCOUNT									
FRTD = FLOATING RATE TERM DEPOSIT									
*STANDARD AND POORS LONG TERM RATING									
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER									
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									

ITEM 1 - ATTACHMENT 2 NOVEMBER 2020 CASH FLOW.



**Cash flow analysis
30/11/2020**

CASHFLOW STATEMENT

Opening Cash and Investment 1 July 2020
Closing Cash and Investment 30 November 2020
Movement in cash

YTD	Notes
31,502,431	
42,671,003	
11,168,573	

Movement in cash represented by:

Operating Activities

Receipts from ratepayers, customers and government authorities	59,446,692
Payments to suppliers & employees	(36,446,358)
Interest received	153,626
Interest paid	(242,721)
Total	22,911,239

Investing Activities

Receipts from sale of Infrastructure, Property, Plant & Equipment	97,093
Payments for Property, Plant & Equipment	(10,424,751)
Total	(10,327,658)

Financing Activities

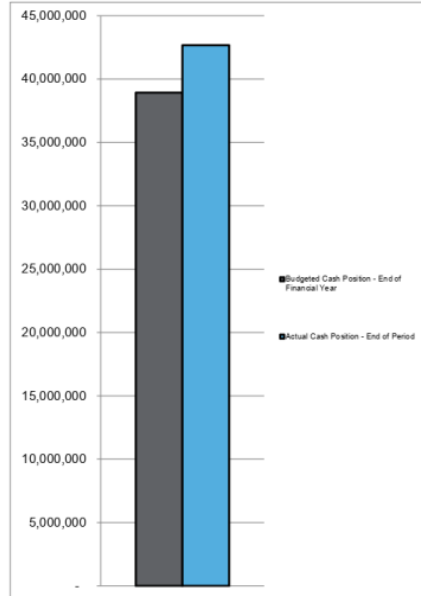
Payment of loans	(1,415,008)
Receipt of new loans	-
Total	(1,415,008)

Total Cash Movement

Plus: Opening Cash and Investment 1 July 2020	31,502,431
Closing Cash and Investment 30 November 2020	42,671,004

Budgeted Cash Movement for the Financial Year	7,420,913
Plus Opening Cash and Investment 1 July 2020	31,502,431
Budgeted Cash and Investment Position 30 June 2021	38,923,344

In front / (behind) on budget	3,747,660
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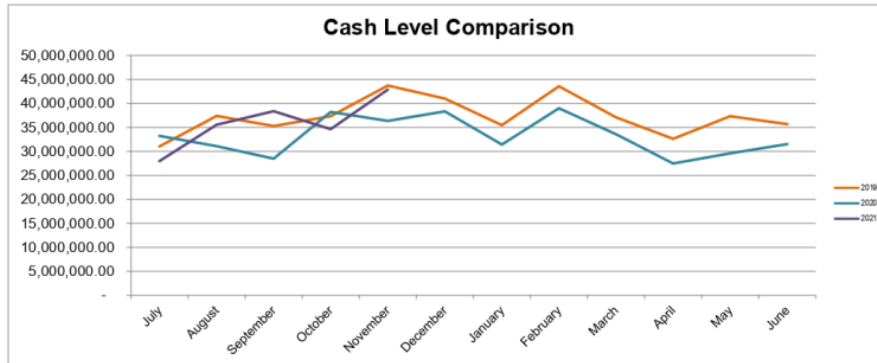


Notes

- 1 Council's cash position is up on the budgeted year end position predominately due to the following reasons:
- Increased income from Holiday Parks and bookings being taken for the busy period
 - Sale of commercial land
 - Second quarter rates have been received

Significant future cash inflows expected in next few months include various 2021 grants and busy season trade.

Significant future cash outflows expected in next few months include: depot relocation, Tomaree sports complex amenities replacement, smart parking meters and pods, Seabreeze estate drainage, Riverflat road realignment, admin building refurbishment, Newline Rd upgrade and sundry plants.



ITEM NO. 2

**FILE NO: 21/10182
EDRMS NO: PSC2006-6531**

DECEMBER 2020 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 2020.

ATTACHMENTS

- 1) December 2020 Cash and Investments.
- 2) December 2020 Cash Flow.

ITEM 2 - ATTACHMENT 1 DECEMBER 2020 CASH AND INVESTMENTS.

CASH AND INVESTMENTS HELD AS AT 31 DECEMBER 2020									
ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE	
TERM DEPOSITS									
AUSTRALIAN UNITY BANK	CURVE	NR	TD	1.70%	337	7-Jan-21	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	1.60%	211	7-Jan-21	1,000,000	1,000,000	
MUTUAL BANK	MUTUAL BANK	NR	TD	0.95%	159	3-Feb-21	550,000	550,000	
BANK OF SYDNEY	CURVE	NR	TD	1.99%	365	18-Feb-21	750,000	750,000	
JUDO BANK	CURVE	NR	TD	2.00%	363	18-Feb-21	200,000	200,000	
AUSWIDE BANK	FARQUHARSON	BBB	TD	0.75%	168	31-Mar-21	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	1.05%	256	11-May-21	275,000	275,000	
JUDO BANK	CURVE	NR	TD	1.05%	253	11-May-21	300,000	300,000	
AMP BANK	LAMINAR	BBB+	TD	0.80%	295	23-Jun-21	300,000	300,000	
AUSTRALIAN MILITARY BANK	FARQUHARSON	BBB+	TD	1.65%	635	30-Jun-21	1,000,000	1,000,000	
JUDO BANK	CURVE	NR	TD	1.05%	343	4-Aug-21	900,000	900,000	
JUDO BANK	CURVE	NR	TD	1.05%	337	4-Aug-21	300,000	300,000	
MUTUAL BANK	MUTUAL	NR	TD	0.95%	351	18-Aug-21	300,000	300,000	
AMP BANK	LAMINAR	BBB+	TD	0.80%	383	15-Sep-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	15-Oct-21	500,000	500,000	
MUTUAL BANK	MUTUAL BANK	NR	TD	0.90%	159	27-Oct-21	700,000	700,000	
AMP BANK	LAMINAR	BBB+	TD	0.75%	365	25-Nov-21	1,250,000	1,250,000	
DEFENDE BANK	CURVE	BBB	TD	0.60%	367	6-Dec-21	600,000	600,000	
AMP BANK	LAMINAR	BBB	TD	0.75%	371	8-Dec-21	550,000	550,000	
AMP BANK	LAMINAR	BBB	TD	0.75%	376	15-Dec-21	350,000	350,000	
JUDO BANK	LAMINAR	NR	TD	0.84%	385	22-Dec-21	350,000	350,000	
JUDO BANK	LAMINAR	NR	TD	0.85%	383	22-Dec-21	550,000	550,000	
NAB	LAMINAR	AA	TD	0.50%	386	23-Dec-21	1,000,000	1,000,000	
DEFENCE BANK	CURVE	BBB	TD	0.60%	399	5-Jan-22	1,000,000	1,000,000	
NAB	LAMINAR	AA	TD	0.50%	399	5-Jan-22	1,000,000	1,000,000	
NAB	LAMINAR	AA	TD	0.50%	413	19-Jan-22	1,000,000	1,000,000	
JUDO BANK	LAMINAR	NR	TD	0.70%	391	19-Jan-22	750,000	750,000	
AUSWIDE BANK	RIM	BBB	TD	1.73%	701	2-Feb-22	1,250,000	1,250,000	
DEFENCE BANK	CURVE	BBB	TD	0.65%	539	22-May-22	1,000,000	1,000,000	
DEFENCE BANK	CURVE	BBB	TD	0.65%	550	7-Jun-22	600,000	600,000	
MACQUARIE BANK	LAMINAR	A+	AT CALL	0.80% AT CALL		30-Jun-21	2,000,000	2,000,000	
SUB TOTAL (\$)							25,325,000	25,325,000	
TCORP SHORT TERM INCOME FUND	TCORP	AAA					6,000,000	6,011,160	
TCORP MEDIUM TERM GROWTH FUND	TCORP	AAA					3,000,000	3,074,101	
TCORP LONG TERM GROWTH FUND	TCORP	AAA					1,000,000	1,044,506	
INVESTMENTS TOTAL (\$)							35,325,000	35,454,767	
CASH AT BANK (\$)							3,878,499	3,878,499	
TOTAL CASH AND INVESTMENTS (\$)							39,203,499	39,333,265	
CASH AT BANK INTEREST RATE				0.30%					
BBSW FOR PREVIOUS 3 MONTHS				0.52%					
AVG. INVESTMENT RATE OF RETURN ON TDs				1.04%					
TD = TERM DEPOSIT									
AC = AT CALL CASH ACCOUNT									
FRTD = FLOATING RATE TERM DEPOSIT									
*STANDARD AND POORS LONG TERM RATING									
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER									
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									

ITEM 2 - ATTACHMENT 2 DECEMBER 2020 CASH FLOW.



**Cash flow analysis
31/12/2020**

CASHFLOW STATEMENT

Opening Cash and Investment 1 July 2020
Closing Cash and Investment 31 December 2020
Movement in cash

YTD	Notes
31,502,431	
<u>40,078,167</u>	
8,575,737	

Movement in cash represented by:

Operating Activities

Receipts from ratepayers, customers and government authorities	70,049,435
Payments to suppliers & employees	(46,643,610)
Interest received	227,864
Interest paid	(286,862)
Total	23,346,827

Investing Activities

Receipts from sale of Infrastructure, Property, Plant & Equipment	97,093
Payments for Property, Plant & Equipment	(13,453,175)
Total	(13,356,082)

Financing Activities

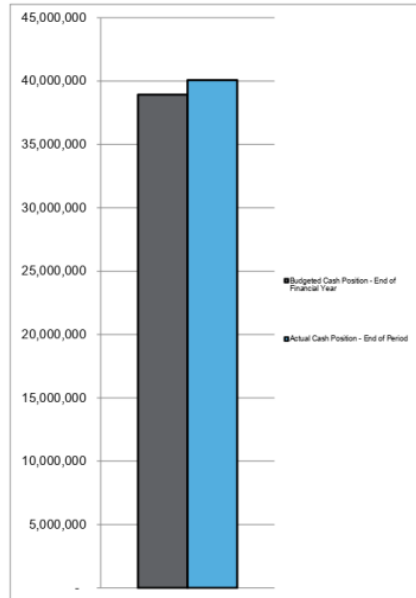
Payment of loans	(1,415,008)
Receipt of new loans	-
Total	(1,415,008)

Total Cash Movement

Plus: Opening Cash and Investment 1 July 2020	31,502,431
Closing Cash and Investment 31 December 2020	40,078,168

Budgeted Cash Movement for the Financial Year	7,420,913
Plus Opening Cash and Investment 1 July 2020	31,502,431
Budgeted Cash and Investment Position 30 June 2021	38,923,344

In front / (behind) on budget	1,154,824
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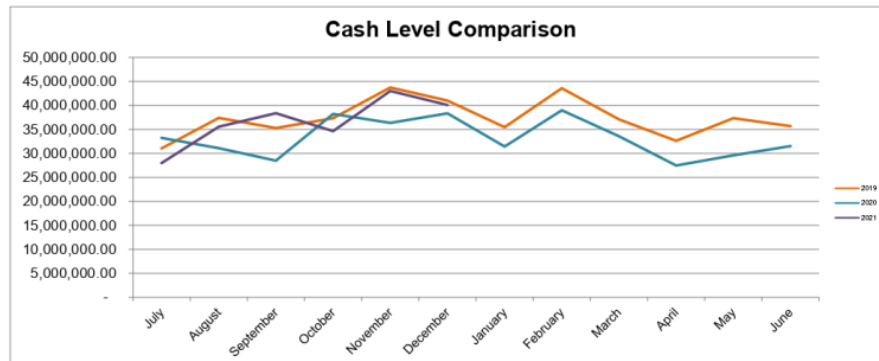
Notes

1 Council's cash position is up on the budgeted year end position predominately due to the following reasons:

- a) Increased income from Holiday Parks and bookings being taken for the busy period
- b) Sale of commercial land
- c) 2nd quarter rates have been received

Significant future cash inflows expected in next few months include various 2021 grants and busy season trade.

Significant future cash outflows expected in next few months include: depot relocation, Tomaree sports complex amenities replacement, smart parking meters and pods, Seabreeze estate drainage, Riverflat road realignment, admin building refurbishment, Newline Rd upgrade and sundry plants.



ITEM NO. 3

**FILE NO: 21/13482
EDRMS NO: PSC2017-00739**

ELECTED MEMBERS PROFESSIONAL DEVELOPMENT REPORT - JULY TO DECEMBER 2020

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 Elected Members in accordance with clause 5.14 of the Councillor Induction and Professional Development Policy for the period July to December 2020.

	Mayor Palmer	Cr Abbott	Cr Arnott	Cr Doohan	Cr Dunkley	Cr Jordan	Cr Le Mottee	Cr Nell	Cr Smith	Cr Tucker
AICD membership renewal*	\$550	\$550						\$550		
AICD course*									\$7425	\$7425
PSCare course	\$95				\$95					
2020 NSW Coastal Forum - online								\$93		
Councillors' Strategic Workshop	\$1047	\$1047	\$1000	\$1047	\$1047	\$869		\$1047	\$1047	
2020 Local Government NSW Annual Conference - online	\$61		\$61	\$61			\$61			
Total	\$1753	\$1597	\$1061	\$1108	\$1142	\$869	\$61	\$1690	\$8472	\$7425

* AICD – Australian Institute of Company Directors.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

**FILE NO: 21/15027
EDRMS NO: PSC2015-02258**

ELECTED MEMBERS EXPENSE REPORT 1 JULY 2020 TO 31 DECEMBER 2020

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 Elected Members 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 2020 to 31 December 2020 (**ATTACHMENT 1**).

The costs in the report are those incurred by the Elected Members 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 costs incurred to Council by Elected Members (including the monthly allowance) for each costing category listed.

ATTACHMENTS

- 1) Elected Members Expense Report 1 July 2020 to 31 December 2020.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Elected Members Expense Report 1 July 2020 to 31 December 2020.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

ITEM 4 - ATTACHMENT 1 ELECTED MEMBERS EXPENSE REPORT 1 JULY 2020 TO 31 DECEMBER 2020.

Elected Members Expense Report 1 July 2020 to 31 December 2020												
		Mayor Ryan Palmer	Cr-Jaimie Abbott	Cr Giacomo Arnott	Cr Chris Doohan	Cr Glen Dunlley	Cr Ken Jordan	Cr Paul Le Motte	Cr John Neil	Cr Sarah Smith	Cr Steve Tucker	TOTALS
Total Number of Council Meetings Attended (11 held)		11	8	11	9	11	7	9	11	10	8	
Total Number of Months Reimbursed during the period		4	5	0	2	5	5	5	5	5	5	
Description of Expense	Limits as per policy											
Councillor Mobile Rental	75% up to \$200 per month											\$0.00
Councillor Mobile Calls		\$252.00	\$406.00						\$27.00			\$685.00
Councillor Landline Phone Rental												\$0.00
Councillor Landline Phone Calls												\$0.00
Councillor Fax Rental												\$0.00
Councillor Fax Calls												
Councillor Internet	75% up to \$60 per month	\$382.00	\$382.00						\$82.00			\$846.00
Councillor Intrastate Travel Expenses	\$7000 per year	\$32.00	\$384.00		\$212.00	\$1,319.00	\$616.00	\$550.00	-\$928.00	\$1,268.00	\$1,836.00	\$5,289.00
Councillor Interstate Travel (out of NSW)	\$2000 per year											\$0.00
Councillor Interstate Accommodation (out of NSW)												\$0.00
Councillors Intrastate Accommodation		\$197.00										\$197.00
Councillor Conferences	\$3000 per year	\$61.00		\$61.00	\$61.00			\$61.00	\$93.00			\$337.00
Councillor Training									\$68.00			\$68.00
Councillor Partner Expenses	Mayor \$1000 per year Crs \$500 per year (excluding LGNSW Annual Con.)	\$179.00			\$47.00	\$179.00			\$179.00	\$47.00		\$631.00
Councillor ICT Devices (incl. Mobile phones)	\$5000 per term	\$1,681.00	\$191.00			\$488.00	\$243.00				\$223.00	\$2,826.00
Councillor Stationery	\$300 per year										\$273.00	\$273.00
Councillor Awards/Ceremonies/Dinners								\$114.00				\$114.00
Councillor Child Care Costs	\$2000 per year		\$1,391.00									\$1,391.00
Councillor Communications Bundle	75% up to \$100 per month landline 75% up to \$100 per month mobile		\$162.00		\$307.00	\$657.00	\$835.00	\$822.00	\$322.00		\$747.00	\$3,852.00
Councillor Professional Development	\$15,000 per term	\$1,692.00	\$1,597.00	\$1,000.00	\$1,047.00	\$1,142.00	\$869.00	\$0.00	\$1,597.00	\$8,472.00	\$7,425.00	\$24,841.00
TOTALS		\$4,476.00	\$4,513.00	\$1,061.00	\$1,674.00	\$3,785.00	\$2,563.00	\$1,547.00	\$1,372.00	\$9,855.00	\$10,504.00	\$41,350.00
Councillor Allowances	Mayor \$84,400 pa Crs - \$24,320pa	\$42,200.00	\$12,160.00	\$12,160.00	\$12,160.00	\$12,160.00	\$12,160.00	\$12,160.00	\$12,160.00	\$12,160.00	\$12,160.00	\$151,640.00
TOTALS		\$46,676.00	\$16,673.00	\$13,221.00	\$13,834.00	\$15,945.00	\$14,723.00	\$13,707.00	\$13,532.00	\$22,015.00	\$22,664.00	\$192,990.00

ITEM NO. 5

**FILE NO: 21/14109
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.

In accordance with the Part 4 – Pecuniary Interest of the Code of Conduct, all designated persons' are required to submit a return. 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 (PSC768).

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Designated Persons' Return.

ITEM NO. 6

**FILE NO: 21/15758
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

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

BACKGROUND

The purpose of this report is to inform the Mayor and Councillors 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.

The General Manager's Office has no outstanding resolutions.

ATTACHMENTS

- 1) Corporate Services Group report.
- 2) Development Services Group report.
- 3) Facilities & Services Group report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 8/12/2020
Action Sheets Report	Officer:	Printed: Monday, 1 February 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/03/2018	Crosdale, Timothy	COMPULSORY ACQUISITION OF AN EASEMENT FOR ACCESS OVER PART OF 6 GOVERNMENT ROAD, SHOAL BAY	30/12/2021	28/03/2018	
13 066		Crosdale, Timothy				18/66656
29 Jan 2021 Awaiting Minister's approval to proceed with the compulsory acquisition. Revised Target Date changed from: 30 Jun 2021 To: 30 Dec 2021						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/02/2019	Crosdale, Timothy	King Street, Raymond Terrace Easements	30/12/2021	14/02/2019	
3		Crosdale, Timothy				19/39843
29 Jan 2021 Awaiting Minister's approval to proceed with the compulsory acquisition. Revised Target Date changed from: 28 Feb 2021 To: 30 Dec 2021						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2019	Crosdale, Timothy	COMPULSORY ACQUISITION OF PART OF VICTORIA PARADE RESERVE NELSON BAY FOR ROAD PURPOSES	30/12/2021	29/05/2019	
6 110		Crosdale, Timothy				19/148388
29 Jan 2021 Waiting on Aboriginal Land Claim determination by Crown Lands. Revised Target Date changed from: 28 Feb 2021 To: 30 Dec 2021						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/07/2019	Crosdale, Timothy	GRANT OF EASEMENTS IN FAVOUR OF AGL - PUNT ROAD, TOMAGO	30/06/2021		
7 169		Crosdale, Timothy				19/200498
29 Jan 2021 Registration is being completed by AGL. Revised Target Date changed from: 26 Feb 2021 To: 30 Jun 2021						

ITEM 6 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 8/12/2020
	Officer:	
Action Sheets Report		Printed: Monday, 1 February 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2020	Crosdale, Timothy	COMPULSORY ACQUISITION OF PART 879 SWAN BAY ROAD, SWAN BAY FOR ROAD WIDENING PURPOSE	30/12/2021	12/02/2020	
2028		Crosdale, Timothy				20/39141
29 Jan 2021 Awaiting Minister's approval to proceed with the compulsory acquisition. Revised Target Date changed from: 25 Feb 2021 To: 30 Dec 2021						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Crosdale, Timothy	Newline Road, Raymond Terrace	30/04/2021		
2199		Crosdale, Timothy				20/288489
29 Jan 2021 Approved. Contracts being prepared. Revised Target Date changed from: 31 Mar 2021 To: 30 Apr 2021						

ITEM 6 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP REPORT.



Outstanding	Division: Development Services	Date From: 26/09/2017
	Committee:	Date To: 8/12/2020
	Officer:	
Action Sheets Report		Printed: Monday, 1 February 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/08/2020	Drinan, Kate	Development Application 16-2019-679-1 for demolition of existing structure and construction of shoptop housing and detached dwelling at 26 King Street, Raymond Terrace	23/03/2021		20/265439
1		Pearl, Steve				
151						
29 Jan 2021						
Council resolved to defer this item. A further report will be submitted to Council on 23 March 2021.						

ITEM 6 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 8/12/2020
Action Sheets Report	Officer:	Printed: Monday, 1 February 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 6 264	Ordinary Council 10/12/2019	Maretich, John Kable, Gregory	Solar Infrastructure	8/03/2021	11/12/2019	19/388450
28 Jan 2021 External consultants draft report on energy lighting efficiency/solar panels options was reviewed by internal staff and By external 3rd party consultant. Project will proceed through normal procurement methods.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 7 265	Ordinary Council 10/12/2019	Gutsche, Tammy Kable, Gregory	GREEN WASTE DROP OFF - SALAMANDER BAY	26/03/2021	11/12/2019	19/388450
28 Jan 2021 Feasibility report will be prepared with the Waste Management Strategy.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 4 042	Ordinary Council 25/02/2020	Lamont, Brock Kable, Gregory	Indoor Sports Facility	30/06/2021	26/02/2020	20/50488
28 Jan 2021 Current discussions with the Dept of Education about co-sharing a single facility has become not viable. Will commence engagement with Sports Council to determine the indoor sporting needs of this community. Business case development and feasibility to be developed once parameters agreed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 1 101	Ordinary Council 9/06/2020	Stewart, Adam Kable, Gregory	Naming of Pathway, Gan Gan Road, Anna Bay	2/03/2021	10/06/2020	20/164033
28 Jan 2021 Proposals have been received from contractors, which will be presented to Central Ward Councillors in early February 2021.						

ITEM 6 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding **Division:** Facilities & Services **Date From:** 26/09/2017
Action Sheets **Committee:** **Date To:** 8/12/2020
Report **Officer:** **Printed:** Monday, 1 February 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Lamont, Brock	REVIEW OF THE OFF LEASH DOG AREAS AND TIMES AT ANNA BAY / BIRUBI POINT, FISHERMANS BAY AND BOAT HARBOUR	2/03/2021		
1 138		Kable, Gregory				20/192934
28 Jan 2021 The first phase of consultation was completed in December 2020. The feedback and comments provided will inform the review recommendations to be exhibited to the community in early 2021 before the Council report is finalised.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Stewart, Adam	Tomaree Headland	31/03/2021		
2 139		Kable, Gregory				20/192934
28 Jan 2021 Discussions ongoing with National Parks as part of their footpath plans as well as other community groups who have a vested interest.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/10/2020	Maretich, John	Policy Review: Information & Direction Signs in Road Reserves	31/03/2021		
6 210		Kable, Gregory				20/304775
28 Jan 2021 Public Exhibition closed on 10 November 2020 with 1 submission received. Report will be prepared and reported back to Council in February 2021.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/11/2020	Miles, Philip	Disposal of Surplus Excavated Materials at Newcastle Airport Development Project Site.	30/09/2021		
11 261		Kable, Gregory				20/358525
28 Jan 2021 Development modification required and legal contracts to be drawn up.						

ITEM 6 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 8/12/2020
	Officer:	
Action Sheets Report		Printed: Monday, 1 February 2021

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/12/2020	Maretich, John	Fly Point and Little Beach Parking/SMART Parking	31/03/2021		
3		Kable, Gregory				20/391301
28 Jan 2021 Report is being prepared and will be reported back to Council in March 2021.						

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 21/7534

EDRMS NO: PSC2017-00019

CARAVAN PARKS / MANUFACTURED HOUSING ESTATES - NOTIFICATION OF INTERNAL RESIDENTS OF ALTERATIONS AND ADDITIONS TO LAND LEASE VILLAGES

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Amend the Community Engagement Strategy to require reasonable attempts be made to notify the relevant residents committee or equivalent in the event that a development application for alterations and additions or a modification application is received for a caravan park/manufactured housing estate.
- 2) Place the revised Community Engagement Strategy on public exhibition for a period of 28 days and should no submissions be received, the strategy be adopted without a further report to Council.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

011	<p>Councillor John Nell Mayor Ryan Palmer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Amend the Community Engagement Strategy to require reasonable attempts be made to notify the relevant residents committee or equivalent in the event that a development application for alterations and additions or a modification application is received for a caravan park/manufactured housing estate.2) Place the revised Community Engagement Strategy on public exhibition for a period of 28 days and should no submissions be received, the strategy be adopted without a further report to Council.
------------	--

The motion was carried.

BACKGROUND REPORT OF: KATE DRINAN – DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER

BACKGROUND

Concern has been raised by some residents of caravan parks/manufactured housing estates that they have not been made aware of proposed changes to their place of residence.

There are approximately 30 caravan parks/manufactured housing estates in the Port Stephens Local Government Area.

Council's Community Engagement Strategy (CES) currently requires certain Development Applications (DAs) and Modification Applications (s4.55) to be notified to surrounding neighbours but does not require notification to the owners/residents of the subject site. The onus is on the owner/operator of the site to inform its residents of the changes.

Formal Council notification of a development applications/modification application to the residents of a caravan parks/manufactured housing estates **is not possible** as Council does not hold the names and addresses of those residents.

However, most caravan parks/manufactured housing estates have a Residents Committee or equivalent. While Council does not hold the names and addresses of those committees, reasonable attempts could be made to obtain this information prior to notification of a DA for alterations and additions or a modification application.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

**ITEM 2 - ATTACHMENT 1 LOCALITY PLAN - 15 PEPPERTREE ROAD,
MEDOWIE**

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 21/17495

EDRMS NO: PSC2017-00019

MEDOWIE REGIONAL PLAYGROUND AND TOWN CENTRE

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Investigates the construction of a regional playground and town centre including amenities at the land known as Lot 5 DP 1264236 - 15 Peppertree Road, Medowie (behind Coles).
 - 2) Investigates grant and other funding opportunities upwards of \$2.5 million for the project.
 - 3) Acknowledges the \$300,000 already committed from the Port Stephens 2020 Program to the construction of new amenities and CBD upgrades in Medowie.
-

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

012	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Investigates the construction of a regional playground and town centre including amenities at the land known as Lot 5 DP 1264236 - 15 Peppertree Road, Medowie (behind Coles).2) Investigates grant and other funding opportunities upwards of \$2.5 million for the project.3) Acknowledges the \$300,000 already committed from the Port Stephens 2020 Program to the construction of new amenities and CBD upgrades in Medowie.
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The motion was carried.

ITEM 2 - ATTACHMENT 1 LOCALITY PLAN - 15 PEPPERTREE ROAD, MEDOWIE**BACKGROUND REPORT OF: RICK MACKENZIE – ACTING ASSETS SECTION MANAGER****BACKGROUND**

The land identified as Lot 5 DP 1264236 - 15 Peppertree Road, Medowie (behind Coles) as shown in the locality plan (**ATTACHMENT 1**) is owned by Port Stephens Council. The site is operational land part zoned R2 – Low Density Residential and RE1 – Public Recreation. The site has a total area of 36,192.85m².

The suburb of Medowie is anticipated to experience high growth to the 2036 planning horizon with the current population of 9,684 people predicted to increase by 70.3% to 16,463. The area's current demographic is predominantly characterised by middle aged couples with children with a notable increase in new residents over 50. The construction of new education, community and recreation facilities in the area is expected to support Medowie's continued growth.

The Medowie Planning Strategy identifies a community desire for a 'consolidated town centre being the 'heart' for the social and economic life of the community. Desired infrastructure works include a town square, new public toilets and shared paths.'

The adopted Recreation Strategy identifies that the provision of high quality open space is 'particularly critical in Planning District 3 – Medowie where high population growth is predicted and there is a lack of recreation facility provision.'

Should this Notice of Motion be supported by the elected Council, staff would be able to undertake further investigations of development constraints, opportunities and estimated costs to develop this site as part of a report for consideration at a future Council meeting.

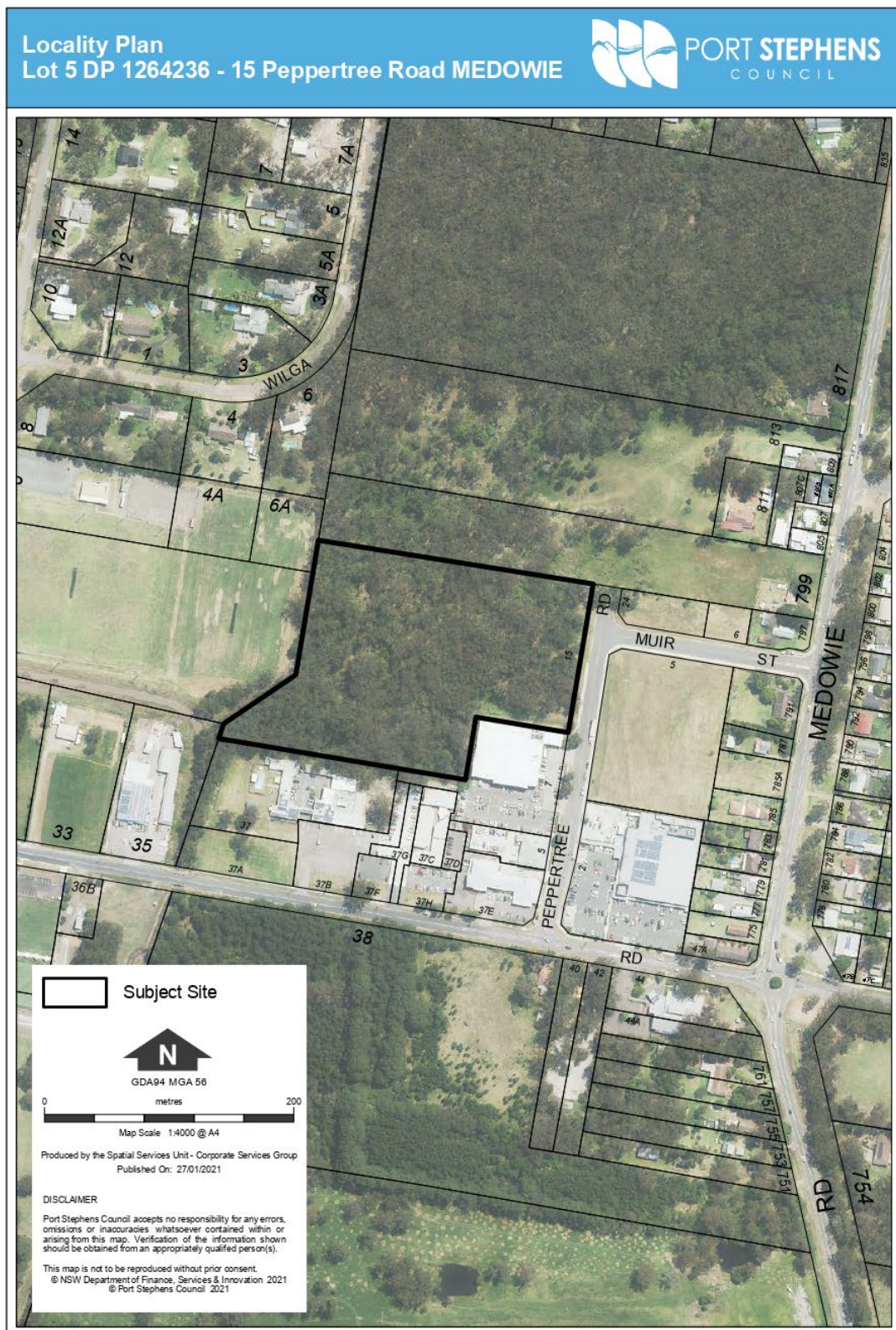
FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

- 1) Locality Plan - 15 Peppertree Road, Medowie.

ITEM 2 - ATTACHMENT 1 LOCALITY PLAN - 15 PEPPERTREE ROAD, MEDOWIE



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 46800255 Fax: (02) 46873612 Email: council@portstephens.nsw.gov.au

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 21/17503

EDRMS NO: PSC2017-00019

NELSON BAY PUBLIC DOMAIN AND CAR PARKING

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Borrows \$5 million over a maximum of 10 years to fund the beginning of the Nelson Bay Public Domain Plan and fund the construction of a new car park in Nelson Bay.
 - 2) Repays the loan from the SMART Parking revenue collected in Nelson Bay.
 - 3) Continues additional capital works, maintenance and marketing in Nelson Bay with the remaining SMART Parking revenue.
-

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

013	<p>Mayor Ryan Palmer Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Borrows \$5 million over a maximum of 10 years to fund the beginning of the Nelson Bay Public Domain Plan and fund the construction of a new car park in Nelson Bay.2) Repays the loan from the SMART Parking revenue collected in Nelson Bay.3) Continues additional capital works, maintenance and marketing in Nelson Bay with the remaining SMART Parking revenue.4) Continues Community Consultation regarding the allocating of the \$5 million loan in relation to:<ol style="list-style-type: none">i) Stages of the Public Domain Planii) Additional car parking
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Councillor Paul Le Mottee left the meeting at 6:40pm prior to voting on Item 3.
Councillor Paul Le Mottee returned to the meeting at 6:45pm prior to voting on Item 3.

The motion was carried.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council receives a full Council report outlining:</p> <ol style="list-style-type: none">1) The financial feasibility of borrowing \$5million over a maximum of 10 years.2) Precisely where a \$5million bucket of money would be spent on the Nelson Bay Public Domain Plan and car parking in the Nelson Bay CBD.3) A full breakdown of smart parking receipts to date, including trends and predictions going forward.4) What might need to be sacrificed in the ordinary budget if the SMART Parking program is unable to 100% cover the costs of this loan.
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The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Acknowledges the precarious financial situation it is in since the COVID-19 pandemic began.2) Agrees that Council being financially stable is exceedingly important while Council and the community works through its recovery from COVID-19.3) Supports the Nelson Bay Public Domain Plan and a carpark being constructed in the Nelson Bay CBD.4) Investigates grant funding and developer contributions that might be able to assist with these projects.
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The amendment lapsed without a seconder.

BACKGROUND REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER

BACKGROUND

The issue of paid car parking in the Nelson Bay town centre has been ongoing for some time. This resulted in a comprehensive program of works being set forward to implement SMART Parking within the Nelson Bay town centre, utilising the funding generated from this parking to further fund significant improvements to the precinct. This program will deliver on a range of projects over the short, medium and long term that includes road upgrades and traffic redirection, increased parking spaces, public domain upgrades and marketing of the town centre.

SMART Parking was installed in late 2020 in conjunction with the first tranche of public domain works centred on traffic flows. While the SMART Parking infrastructure has only been installed for a little over a month, it is difficult to predict with any certainty the additional revenue that may be generated from this initiative. Modelling over a number of years has been necessarily conservative and will be updated when further actual data is collected.

That said, it has been estimated that sufficient cash could be generated to service additional loan funds to accelerate the works program previously identified. While these works were scheduled to be completed over an approximate 10 year period, they could be considered for earlier completion pending resource allocation stemming from the current Strategic Asset Management Plan.

The timing of this accelerated program would need to be carefully considered, pending actual data on revenue collections. It is noted that the revenue from the current financial year has already been allocated to the current installation of SMART Parking and traffic flow works. To ensure adequate cash flow, it will be necessary to ensure collection of parking revenue for a longer period of time, meaning that any consideration of loan funding would have to be made in the 2021/2022 financial year.

While the anticipated cash flow is predicted to be sufficient to fund loan repayments, the resultant interest repayments will have a negative impact on the underlying result for each year. For a loan of \$5 million over 10 years at current indicative rates, this is anticipated to add around \$100k to Council's interest repayments and subsequently reduce the underlying result.

This additional interest repayment cost needs to be factored into the Long Term Financial Plan (LTFP) which is currently being formulated for Council's consideration. While it is reasonable to suggest that the interest repayments could be accommodated within existing parameters, the LTFP will be considered by Council in the coming months and further details would be available at that time.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	550,000 per annum	Loan funding requirements to come from Nelson Bay parking reserve.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: 21/17510

EDRMS NO: PSC2017-00019

ROAD RESEALS ACROSS PORT STEPHENS

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Commits a minimum of \$1 million from the Federal Government's Local Roads and Community Infrastructure Program towards road reseals.
-

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

014	Mayor Ryan Palmer Councillor Chris Doohan It was resolved that Council commits a minimum of \$1 million from the Federal Government's Local Roads and Community Infrastructure Program towards road reseals.
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The motion was carried.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
AMENDMENT**

	Councillor Giacomo Arnott That Council: <ol style="list-style-type: none">1) Commits the \$2.4million from the Federal Government's Local Roads and Community Infrastructure Program towards road reseals.2) Request a report from Council staff on which roads it intends on resealing using this funding, for approval prior to works commencing.
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The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Commits a maximum of \$1 million from the Federal Government's Local Roads and Community Infrastructure Program towards road reseals.2) Request a report from Council staff on which roads it intends on resealing using this funding, for approval prior to works commencing.
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The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
AMENDMENT**

	<p>Councillor Giacomo Arnott</p> <p>That Council:</p> <ol style="list-style-type: none">1) Commits a minimum of \$1 million from the Federal Government's Local Roads and Community Infrastructure Program towards road reseals.2) Request a report from Council staff on which roads it intends on resealing using this funding, for approval prior to works commencing.
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The amendment lapsed without a seconder.

**BACKGROUND REPORT OF: RICK MACKENZIE – ACTING ASSETS SECTION
MANAGER**

BACKGROUND

The purpose of this report is to provide information on this Notice of Motion.

Council's local and regional sealed road network is approximately 669 km long. To maintain a road in an optimum manner, sealing the pavement every 15 to 25 years considerably lengthens the life of a road. The time between reseals depends on a number of factors such as the seal type, traffic, the amount of rain and how the road was initially constructed.

The road seal provides a membrane reducing the amount of water entering the road pavement. Water in pavements is a major contributing factor for road failure. The

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

more often you can reseal within the optimal time period, the less likely water will ingress into the road pavement leading to premature fail. The cost to repair a failed road far outweighs the cost to reseal it in the first place.

Under the Federal Government's Local Roads and Community Infrastructure Program Round 2, Port Stephens Council has been awarded \$2.4 million.

Council staff, in consultation with the Mayor and Councillors, are proposing community projects to be funded under this program. Resealing of our Council road network would meet the criteria under this program.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	Yes	\$1M	Allocate funding in round 2 of the Federal Government's Local Roads and Community Infrastructure Program.
Other	No		

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 5

FILE NO: 21/17507

EDRMS NO: PSC2017-00019

RAYMOND TERRACE CBD UPGRADE

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Commits to applying for \$1 million in grant funding under the NSW Public Spaces Legacy Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan).
- 2) Commits to applying for \$350,000 from the NSW Your High Street Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan).
- 3) Commits \$200,000 from the Federal Government Local Roads and Community Infrastructure Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan).
- 4) Acknowledges the \$750,000 already committed from the Port Stephens 2020 Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan).

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

015	<p>Mayor Ryan Palmer Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Commits to applying for \$1 million in grant funding under the NSW Public Spaces Legacy Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan).2) Commits to applying for \$350,000 from the NSW Your High Street Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan).3) Commits \$200,000 from the Federal Government Local Roads and Community Infrastructure Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan).
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MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

- | | |
|--|--|
| | 4) Acknowledges the \$750,000 already committed from the Port Stephens 2020 Program for the upgrade of Raymond Terrace CBD (informed by the Raymond Terrace Public Domain Plan). |
|--|--|

The motion was carried.

BACKGROUND REPORT OF: JANELLE GARDNER – STRATEGY AND ENVIRONMENT SECTION MANAGER

BACKGROUND

Council has prepared and exhibited a draft Raymond Terrace Public Domain Plan (PDP) which will be reported to Council for adoption on 23 February 2021. The PDP will guide future public domain improvement works within the town centre and has been informed by extensive community consultation.

Council has made a grant application to the NSW Government under the Public Spaces Legacy Program. The funding is subject to implementing accelerated assessment timeframes for development applications and rezoning proposals. If secured, the funding will be available for projects across the local government area, including Raymond Terrace town centre.

The NSW Government has also announced funding for local councils under the Your High Streets Program. An application is currently being prepared to fund works on William Street, Raymond Terrace.

Council has received grant funding from the Federal Government under Round 2 of the Local Roads and Community Infrastructure Program. The program was extended in response to COVID-19 to support local councils deliver priority local road and community infrastructure projects, support jobs and the resilience of local economies to help communities recover from the pandemic.

Council resolved to endorse funding for the Port Stephens 2020 Program including town centre improvements (road upgrade and streetscape) in William Street, Raymond Terrace.

The PDP has been prepared using part of these funds and will guide the town centre improvements to be completed with PSC2020 funding in 2021.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$750,000	PSC2020 community projects adopted by Council on 27 August 2019 (and adjusted on 14 April 2020, Minute No. 044). This funding has also supported the preparation of the PDP.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	Yes	\$1,550,000	\$1 million pending from the NSW Public Spaces Legacy Program. \$350,000 pending from the NSW Your High Street Program. \$200,000 available from the Federal Government Local Roads and Community Infrastructure Program.
Other	No		

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 6

FILE NO: 21/17509

EDRMS NO: PSC2017-00019

SHOAL BAY CAR PARK

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Investigates the use of the Crown Reserve to construct a car park on Crown Land at the corner of Shoal Bay Road and Government Road at Shoal Bay.
-

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

016	Mayor Ryan Palmer Councillor Glen Dunkley It was resolved that Council investigates the use of the Crown Reserve to construct a car park on Crown Land at the corner of Shoal Bay Road and Government Road at Shoal Bay.
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The motion was carried.

**BACKGROUND REPORT OF: TIM CROSDALE – ACTING GROUP MANAGER
CORPORATE SERVICES**

BACKGROUND

The Crown Land Management Act 2016 encourages multiple uses of Crown Land where appropriate, and where the additional use does not pose material harm to the reserve.

Any use of Crown Land must be consistent with the reserve purpose and must consider Native Title and Aboriginal Land Rights.

The land is reserved for public reserve purposes and part is developed and used as a children's playground. Constructing a public car park on the remaining part will formalise the current use, facilitate use of the children's playground, and facilitate use of the adjacent Crown foreshore reserve.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

It is noted that concurrence from Crown Lands will be required prior to Council undertaking any works.

Any construction or earthworks may impact on Native Title and the proposal will have to be assessed under the Future Act Subdivisions of the Native Title Act 1993 (Cth).

All Crown Land is subject to the provisions of Aboriginal Land Rights Act 1984 and may become subject to a claim under that Act at any time. Crown Land subject to a land claim cannot be leased, licensed or developed without the consent of the claimant land council.

The investigation will also need to examine Council's funding options for the necessary construction works.

These issues will be investigated and reported back to Council for consideration.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 7

FILE NO: 21/17512

EDRMS NO: PSC2017-00019

FERN BAY SHARED PATHWAY

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Constructs a shared pathway along Nelson Bay Road in Fern Bay connecting the existing shared pathway all the way towards the City of Newcastle boundary.
 - 2) Commits funding from existing Port Stephens 2020 funding and existing developer contributions.
-

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

017	<p>Mayor Ryan Palmer Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Constructs a shared pathway along Nelson Bay Road in Fern Bay connecting the existing shared pathway all the way towards the City of Newcastle boundary.2) Commits funding from existing Port Stephens 2020 funding and existing developer contributions.
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The motion was carried.

**BACKGROUND REPORT OF: RICK MACKENZIE – ACTING ASSETS SECTION
MANAGER**

BACKGROUND

The purpose of this report is to provide information on this Notice of Motion.

Council is currently designing a shared pathway alongside Nelson Bay Road from Fullerton Street to Vardon Road, Fern Bay. This project is currently under design with initial cost estimates calculated.

MINUTES ORDINARY COUNCIL - 9 FEBRUARY 2021

Funding was committed in August 2019 under the Port Stephens 2020 Community Projects to upgrade the missing shared path link along Nelson Bay Road from the LGA boundary to Bayway Village. There is a shortfall in funding to construct the full length as originally intended. The remaining length of the shared pathway unfunded from Vardon Road to Bayway Village could be funded from the existing Council Developer Contributions Plan.

It should be noted that due to physical constraints, sections of the shared pathway will have a reduced standard, though still meet footpath standards.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$783,112	Existing PS2020 funds (2020/2021 FY).
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		Subject to final design and acquisition costs which are yet to be realised.
External Grants	No		
Other	No		

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 8

FILE NO: 21/6631

EDRMS NO: PSC2020-02288

APPLICATION FOR RENT WAIVER

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Endorse the waiver of rents due to the impacts of COVID-19 to Port Stephens FM as outlined within confidential **(ATTACHMENT 1)** to be funded from the Restart Port Stephens Business Support Package.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

018	Mayor Ryan Palmer Councillor John Nell It was resolved that Council endorse the waiver of rents due to the impacts of COVID-19 to Port Stephens FM as outlined within confidential (ATTACHMENT 1) to be funded from the Restart Port Stephens Business Support Package.
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The motion was carried.

**BACKGROUND REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION
MANAGER**

BACKGROUND

A further request for a rental waiver has been received from Port Stephens FM, asking Council to consider waiving rent due to the impacts of COVID-19 under Council's Debt Recovery and Hardship Policy.

For context, Port Stephens FM is a local community run radio station operating out of the Salamander Bay Community Centre as part of the Tomaree Community Centre complex. The radio station has been broadcasting from this location since 2000 and is run by a group of approximately 40 volunteers. The radio station, while operating as a not for profit organisation, does rely on corporate sponsorships to cover any outgoings such as rent and utility costs.

The current annual rent, including outgoings and subsidies, is detailed in confidential **(ATTACHMENT 1)**.

Port Stephens FM has previously approached Council seeking a waiver of rent due to the effects of COVID-19 and their claim that sponsorship from local businesses had been impacted.

At this time, the rental waiver for Port Stephens FM was not recommended for Council's approval due to a number of factors as detailed in confidential **(ATTACHMENT 1)**.

Whilst a rent waiver was not supported at that time it was agreed that the rent payable as assessed under the lease would be reviewed. This process is currently being undertaken. Council also agreed to defer the collection of the rent for a period of 6 to 12 months as a means to assist the radio station within the current guidelines.

As an alternative to Council's earlier refusal of the request for a rent waiver, Council may consider the provision of an additional 12 months of deferral to have amounts repaid to Council.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Rental Terms - Port Stephens FM.

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 – 9 FEBRUARY 2021 MOTION

019	Councillor Giacomo Arnott Councillor Sarah Smith It was resolved that Council move into confidential session.
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CONFIDENTIAL

ITEM NO. 1

**FILE NO: 20/341666
EDRMS NO: PSC2017-02127**

TELSTRA TELECOMMUNICATION SHELTER - 4 LEISURE WAY, RAYMOND TERRACE

REPORT OF: TIMOTHY CROSDALE - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2021
MOTION**

020	<p>Councillor Giacomo Arnott Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Resolve to enter into a lease over Council owned land on the confidential terms and conditions detailed in this report.2) Authorise the General Manager to negotiate amendments to the final terms and conditions of the lease as required, except for the commencing rent.3) Authorise the Mayor and General Manager to affix the Council Seal and execute all documentation required to effect registration of the lease.
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The motion was carried.

**ORDINARY COUNCIL MEETING – 9 FEBRUARY 2021
MOTION**

021	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that Council move out of confidential session.</p>
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There being no further business the meeting closed at 7.48pm.