

DRAFT

MINUTES – 23 MAY 2023



PORT STEPHENS
C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 23 May 2023, commencing at 5:39pm.

PRESENT:

In Person

Mayor Ryan Palmer
Cr Leah Anderson
Cr Giacomo Arnott
Cr Matthew Bailey
Cr Chris Doohan
Cr Glen Dunkley
Cr Peter Francis
Cr Peter Kafer
Cr Steve Tucker
Cr Jason Wells
General Manager
Acting Corporate Services Group Manager
Development Services Group Manager
Facilities and Services Group Manager
Governance Section Manager

	There were no apologies or requests for leave of absence received.
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MINUTES ORDINARY COUNCIL - 23 MAY 2023

	<p>Mayor Ryan Palmer – declared a pecuniary conflict of interest in Item 1. The nature of the interest being Mayor Palmer is a Director of the company, who is the applicant.</p> <p>Mayor Ryan Palmer – declared a significant non-pecuniary conflict of interest in Item 8. The nature of the interest is that Mayor Palmer and his family play soccer for the Nelson Bay Football Club.</p> <p>Cr Chris Doohan declared a less than significant non-pecuniary conflict of interest in Item 1. The nature of the interest is Cr Doohan is an employee of a company that is a lease of the overall land parcel.</p> <p>Cr Leah Anderson declared a significant non-pecuniary conflict of interest in the Urgency Motion. The nature of the interest is Cr Anderson is employed by Kate Washington MP.</p> <p>Cr Matthew Bailey – declared a significant non-pecuniary conflict of interest in confidential Item 1. The nature of the interest is that Cr Bailey is a friend of the owner of Pet Quarters and he has financially supported Cr Bailey’s special charity events.</p>
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114	<p>Councillor Peter Kafer Councillor Jason Wells</p> <p>It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 9 May 2023 be confirmed.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

URGENCY MOTION

Cr Peter Kafer moved to introduce a matter of urgent business under clause 9.3 of the Code of Meeting Practice.

Cr Leah Anderson left the meeting at 5:42pm.

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

115	Councillor Peter Kafer Councillor Glen Dunkley It was resolved that the matter of urgent business be considered by Council.
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Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

Mayor Palmer ruled that the matter was of great urgency.

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

116	Councillor Peter Kafer Councillor Glen Dunkley It was resolved that Council: 1) Notes the ongoing daily situation of young children and adolescents, undertaking continuous anti-social behaviours within, but not confined to, the precincts of the 2 major shopping centres in Raymond Terrace and areas between both, including the bus stop area outside Terrace Central in Sturgeon Street. 2) Requests the General Manager to facilitate, as soon as possible, a meeting with the State Member of Port Stephens Kate Washington MP, Raymond Terrace Police representatives, West Ward Councillors, Centre Management representatives from the 2 shopping centres (or their security companies), any concerned business operators from those 2 centres, representatives from both high schools in Raymond Terrace and representatives from the primary schools in Raymond Terrace. The aim of the meeting is to identify positive outcomes (for everyone involved), work through all the issues currently occurring, to better assist our community to move forward together.
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Cr Giacomo Arnott requested that West Ward Councillors be included in part 2 of the motion, which was accepted by the mover and seconder.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

Cr Leah Anderson returned to the meeting at 5:57pm

DECLARATION OF INTEREST

ORDINARY COUNCIL - 23 MAY 2023



Declaration of Interest form

Agenda item No. 1
 Report title DA 16-2022-815-1 38 Cabbage Tree Rd
 Mayor/Councillor Ryan Palmer declared a Williamstown

Tick the relevant response:

<input checked="" type="checkbox"/>	pecuniary conflict of interest
<input type="checkbox"/>	significant non pecuniary conflict of interest
<input type="checkbox"/>	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is I am a Director
of the company, who is the
applicant.

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)

OFFICE USE ONLY: (Committee of the Whole may not be applicable at all meetings.)

Mayor/Councillor left the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor returned to the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor left the Council meeting at 5.58 pm.

Mayor/Councillor returned to the Council meeting at 6.02 pm.

ORDINARY COUNCIL - 23 MAY 2023



Declaration of Interest form

Agenda item No. 8.
Report title Request for Financial Assistance.
Mayor/Councillor Ryan Palmer. declared a

Tick the relevant response:

<input checked="" type="checkbox"/>	pecuniary conflict of interest
<input type="checkbox"/>	significant non pecuniary conflict of interest
<input type="checkbox"/>	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is that I & my family
and I play soccer for Nelson
Bay Football Club.

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)

OFFICE USE ONLY: (Committee of the Whole may not be applicable at all meetings.)

Mayor/Councillor left the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor returned to the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor left the Council meeting at 6:53 pm.

Mayor/Councillor returned to the Council meeting at 6:58 pm.

ORDINARY COUNCIL - 23 MAY 2023



Declaration of Interest form

Agenda item No. 1

Report title DA 16-2022-815-1 38 Cabbage Tree Rd

Mayor/Councillor Chris Doohan declared a

Tick the relevant response:

<input type="checkbox"/>	pecuniary conflict of interest
<input type="checkbox"/>	significant non pecuniary conflict of interest
<input checked="" type="checkbox"/>	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is I am an employee of a company that is a leasee of this overall parcel of land.

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)

OFFICE USE ONLY: (Committee of the Whole may not be applicable at all meetings.)

Mayor/Councillor left the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor returned to the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor left the Council meeting at 5.58 pm.

Mayor/Councillor returned to the Council meeting at 6.02 pm.

ORDINARY COUNCIL - 23 MAY 2023



Declaration of Interest form

Agenda item No. _____

Report title URGENCY MOTION

Mayor/Councillor LEAH ANDERSON declared a

Tick the relevant response:

<input checked="" type="checkbox"/>	pecuniary conflict of interest
<input type="checkbox"/>	significant non pecuniary conflict of interest
<input type="checkbox"/>	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is I WORK FOR KATE WASHINGTON MP.

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)

OFFICE USE ONLY: (Committee of the Whole may not be applicable at all meetings.)

Mayor/Councillor left the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor returned to the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor left the Council meeting at 5:42 pm.

Mayor/Councillor returned to the Council meeting at 5:57 pm.

ORDINARY COUNCIL - 23 MAY 2023



Declaration of Interest form

Agenda item No. Confidential Sale.

Report title 155 Salamander Way, Salamander Bay

Mayor/Councillor Matthew Daily declared a

Tick the relevant response:

<input type="checkbox"/>	pecuniary conflict of interest
<input checked="" type="checkbox"/>	significant non pecuniary conflict of interest
<input type="checkbox"/>	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is I am a friend of the owner of Pat Quarters and he has financially supported our special charity events.

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)

OFFICE USE ONLY: (Committee of the Whole may not be applicable at all meetings.)

Mayor/Councillor left the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor returned to the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor left the Council meeting at 7.09 pm.

Mayor/Councillor returned to the Council meeting at _____ pm.

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MOTIONS TO CLOSE

ITEM NO. 1

**FILE NO: 23/107911
EDRMS NO: PSC2022-01790**

MOTION TO CLOSE

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (d)j 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 **Proposed Sale of 155 Salamander Way, Salamander Bay**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - 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 - 23 MAY 2023
MOTION**

117	<p>Councillor Glen Dunkley Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (d)j 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 Proposed Sale of 155 Salamander Way, Salamander Bay.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• 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.
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MINUTES ORDINARY COUNCIL - 23 MAY 2023

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Councillor Chris Doohan left the meeting at 5:58pm.
Mayor Ryan Palmer vacated the chair and left the meeting at 5:58pm.
Deputy Mayor, Cr Giacomo Arnott, chaired the meeting in the absence of the Mayor.

ITEM NO. 1

FILE NO: 23/44584
EDRMS NO: 16-2022-855-1

DEVELOPMENT APPLICATION 16-2022-855-1 FOR CARPARK EXTENSION - CONSTRUCTION OF 314 NEW PARKING SPACES INCLUDING STORM WATER DRAINAGE, SECURITY BOOM GATES, PEDESTRIAN PATHWAYS, FENCING AND LIGHTING AT 38 CABBAGE TREE ROAD, WILLIAMTOWN

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2022-855-1 for a carpark extension consisting of the construction of 314 new parking spaces and conversion of 756 airport parking spaces for use as part of the Astra Aerolab Business Park, associated stormwater drainage, security boom gates, pedestrian pathways, fencing and lighting at 38 Cabbage Tree Road, Williamtown (Lot 11 DP 1036501) subject to the conditions contained in **(ATTACHMENT 1)**.

ORDINARY COUNCIL MEETING - 23 MAY 2023 MOTION

118	<p>Councillor Glen Dunkley Councillor Peter Francis</p> <p>It was resolved that Council approve Development Application DA No. 16-2022-855-1 for a carpark extension consisting of the construction of 314 new parking spaces and conversion of 756 airport parking spaces for use as part of the Astra Aerolab Business Park, associated stormwater drainage, security boom gates, pedestrian pathways, fencing and lighting at 38 Cabbage Tree Road, Williamtown (Lot 11 DP 1036501) subject to the conditions contained in (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Those against the Motion: Nil.

The motion was carried.

Deputy Mayor, Cr Giacomo Arnott, vacated the chair.

Mayor Ryan Palmer returned to the meeting at 6:02pm and resumed the chair.
Councillor Chris Doohan returned to the meeting at 6:02pm.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2022-855-1 for a carpark extension consisting of the construction of 314 new parking spaces and conversion of 756 airport parking spaces for use as part of the Astra Aerolab Business Park, associated stormwater drainage, security boom gates, pedestrian pathways, fencing and lighting to Council for determination.

A summary of the DA and property details is provided below:

Subject Land:	38 Cabbage Tree Road, Williamtown (Lot 11 DP 1036501)
Total Area:	75.4 hectares
Zoning:	B7 Business Park RU2 Rural Landscape
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the DA relate to the provision of sufficient car parking.
Owner:	Barr Property and Planning Pty Ltd on behalf of Greater Newcastle Aerotropolis Pty Ltd

The DA has been reported to Council in accordance with Council's 'Council Related Planning Matters Policy'; as the development is being carried out on behalf of Council with a cost of works exceeding \$250,000. An independent third party consultant has reviewed and endorsed the Council staff assessment and recommendation of the DA as required under Clause 5.4 of the 'Council Related Planning Matters Policy'. A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The proposed development is for the extension of the Long Stay 1 car park from 1484 spaces to 1798 spaces (314 new spaces), to support future commercial and industrial development within Stage 1 of the Defence and aerospace Business Park, known as the 'Astra Aerolab'. The Long Stay 1 carpark is comprised of 905 spaces currently under construction (approved under DA16-2021-1153-1) and 579 existing.

The proposed development also involves the conversion of 756 Long Stay 1 spaces to service Stage 1 of the Astra Aerolab development, rather than airport operations. This results in a total of 1070 spaces to service future development within the Astra Aerolab Business Park.

Associated works including the installation of security boom gates, landscaping, extension to approved pedestrian pathways, fencing, lighting, EV charging points, two-way access and round-about, stormwater infrastructure, and earthworks are also proposed as part of the development.

No vegetation clearing is proposed as part of the DA. Vegetation clearing on the site was approved as part of the Astra Aerolab development under DA 16-2009-324-3.

Site Description

The development is proposed to take place at 38 Cabbage Tree Road, Williamtown, legally identified as Lot: 11 DP: 1036501. The site is located to the south west of Newcastle Airport and the Royal Australian Air Force (RAAF) Base Williamtown. Construction of Stage 1 of the Astra Aerolab has commenced and is nearing completion.

The site is accessed via Aerospace Avenue. Aerospace Avenue is the main carriageway through the Astra Aerolab and connects to Williamtown Drive to the east, which services the Newcastle Airport and a small number of commercial uses including a Mercure hotel. The proposed development is located within Stage 2B and 2D of the approved Astra Aerolab Business Park. The proposed car park is intended to be temporary and would be decommissioned when construction of Stage 2B and 2D commence.

The broader Astra Aerolab Business Park, within which the site is located, is zoned B7 – Business Park. Land to the north, including the Newcastle Airport and Williamtown RAAF Base are zoned for various SP2 – infrastructure purposes including Defence, Air Transport Facility and Public Utility uses. Land to the east, south and west of the site primarily consists of rural land and is zoned RU2 Rural Landscape. A number of smaller lots exist to the north east, accessible via Williamtown Drive and include various commercial uses related to the airport.

The site is located within the Williamtown Special Activation Precinct (SAP) which if endorsed, would be implemented under State Environmental Planning Policy (Precincts-Regional) 2021 (Precincts Regional SEPP). The SAP draft master plan was on public exhibition from 25 January 2023 until 22 February 2023. The Williamtown SAP is being prepared by the NSW Department of Planning and Environment in partnership with the NSW Regional Growth Development Corporation. The Williamtown SAP is expected to be finalised in 2023.

Site History

The site forms part of the Astra Aerolab Business Park, first approved by Council in January 2011 (DA No. 16-2009-324-1). The approved Astra Aerolab development comprised subdivision of the land into 103 lots for defence and airport related purposes. A modification application was lodged in February 2019 (DA No. 16-2009-324-2) and was later withdrawn. Another modification application was determined by

Council (16-2009-324-3) in March 2022, which amended the approved lot layout including the reduction in lots from 103 to 101, as well as amendments to the approved road network, staging, stormwater design and conditions.

There are 2 DAs currently lodged with Council that propose to utilise the proposed common user car park subject of this DA. The other DAs include an 8 storey commercial building and an industrial development that are proposed within Stage 1 of the Astra Aerolab.

Key Issues

The key issues identified throughout the assessment of the DA relate to the provision of sufficient car parking. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 3**).

Car parking

The development is for a carpark extension including of the construction of 314 new parking spaces and conversion of 756 Long Stay 1 airport parking spaces to be used for development within Stage 1 of the Astra Aerolab precinct.

Due to the reallocation of car parking, an assessment of the car parking requirements for the airport and Stage 1 of Astra Aerolab has been outlined below.

Airport Car Parking

Newcastle Airport currently has a total of 3,719 car spaces (both constructed and approved). The proposed development involves the reallocation of 756 Long Stay 1 spaces to service Stage 1 developments within the Astra Aerolab precinct, rather than airport operations. This will result in a total of 2,963 being allocated to airport operations.

The resulting total of spaces allocated to the airport still exceeds the 2,134 spaces required under the approved Airport Terminal Building expansion approved under DA 16-2008-940-6, which is based on the airport accommodating 2 million passengers per annum.

On this basis, a sufficient number of car parking spaces will remain available to the airport as a result of the proposed development.

Stage 1 Astra Aerolab Car Parking

The 314 new car parks and existing 756 airport spaces results in a combined total of 1070 that are proposed to service future developments within Stage 1 of Astra Aerolab precinct.

Based on the Traffic Impact Statement (TIS) lodged with this DA and other DAs under assessment by Council in Astra Aerolab, it is estimated that a total of 868 spaces will be required to adequately service Stage 1 developments within the Astra Aerolab in accordance with Council's Development Control Plan (DCP).

On this basis, the proposed car park allocation for Stage 1 of Astra Aerolab is sufficient to cater for anticipated demand.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 3**), the application is considered to be consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site.

The proposed development will result in the provision of sufficient car parking to adequately service both the Newcastle Airport and Stage 1 of the Astra Aerolab development.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Strong economy, vibrant local businesses, active investment	Support sustainable business development in Port Stephens

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes (s7.12)		Should Council resolve to approve the DA, s.7.12 development contributions would be applicable and would be levied in accordance with conditions of consent.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The DA is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act) and associated State Environmental Planning Policies.

A detailed assessment against the environmental planning instruments is contained within the Planners Assessment Report contained at (**ATTACHMENT 3**).

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the recommendation.	Yes
There is a risk that if the DA is refused, the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Medium	Accept the Recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development will support the future development and operation of the Astra Aerolab precinct through the provision of common user car parking facilities. Temporary jobs will be created during the construction of the carpark, combined with flow on impacts for suppliers. The development would not generate long term permanent jobs, however, would facilitate the ongoing and effective delivery of Astra Aerolab, which is expected to be a long term generator of employment within the Williamstown area and wider Port Stephens LGA.

Impacts on the Built Environment

The proposed development is an at grade car park that does not include any built structures. The proposed car parks are in keeping with those existing in the surrounding Newcastle Airport precinct and would not adversely impact the existing character of the airport precinct. The provision of common user car parking facilities that will service Stage 1 developments in Astra Aerolab will allow for superior landscape and built form outcomes as part of future development in the precinct.

Impacts on the Natural Environment

The site contains some remnant vegetation that has already been approved for removal under the parent Astra Aerolab development consent. No further vegetation removal is proposed, beyond that already approved. In addition, the proposed carpark works includes appropriate stormwater management and sediment and erosion controls.

CONSULTATION

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

Internal

Consultation was undertaken with Council's Development Engineering and Development Contributions teams. The referral comments from these officers have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

Consultation was undertaken with the Department of Defence (DoD), Hunter Water Corporation (HWC), Transport for NSW (TfNSW) and the Environment Protection Authority (EPA). The comments provided by the external agencies are discussed within the Planners Assessment Report (**ATTACHMENT 3**) with conditions recommended accordingly (**ATTACHMENT 1**).

Public Exhibition

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Engagement Strategy. The application was exhibited for a period of 14 days from 29 November 2022 to 13 December 2022. No submissions were received during the exhibition period.

OPTIONS

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

ATTACHMENTS

- 1) Conditions of Consent.
- 2) Locality Plan.
- 3) Planners Assessment Report. (Provided under separate cover)

COUNCILLORS ROOM

- 1) Development Plans.

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

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



RECOMMENDED CONDITIONS OF CONSENT DA 16-2022-855-1

1.0 - General Conditions of Consent

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

- (1) **Approved plans and supporting documentation** – Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
DA-02-C02.01.11	B	General Arrangement Plan	Northrop	30.3.2023
DA-02-C02.01	G	Concept Erosion and Sediment Plan	Northrop	30.3.2023
DA-02-C02.11	G	Concept Erosion and Sediment Plan Details	Northrop	30.3.2023
DA-02-C03.01	G	Concept Bulk Earthwork Plan	Northrop	30.3.2023
DA-02-C04.01	G	Concept Grading Plan	Northrop	30.3.2023
DA-02-C05.01	G	Concept Stormwater Management Plan	Northrop	30.3.2023
DA-02-C06.01	G	Concept Landscaping Plan	Northrop	30.3.2023
19202_DPE(Draft)_R3_230330	3	Plan of Easements within Lot 115	Thomas Campbell	-

Document Title.	Reference.	Revision.	Prepared By.	Dated.
Stormwater Management Report	NL182640	B	Northrop	19 October 2022
Traffic	NL182640	C	Northrop	19 October

PORT STEPHENS COUNCIL

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ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



Assessment Statement				2022
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In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- (2) **Separate approval for signs** – A separate development application for any proposed signage must be provide to, and approved by, the Consent Authority or under the provision of the State Environmental Planning Policy (Exempt and Complying Codes) 2008 if applicable prior to the erection or display of any such signs.
- (3) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces', AS 4282 'Control of Obtrusive Effects of Outdoor Lighting' and the National Airports Safeguarding Framework (NASF) Guideline E: 'Managing the Risk of Distractions to Pilots from Lighting in the Vicinity of Airports' guidelines for extraneous lighting near its airfields.
- (4) **Decommission of Car Park** – The car park must be decommissioned prior to the issue of a Subdivision Certificate for Stages 2B and 2D of DA 16-2009-324-3. Prior to decommissioning works commencing, a detailed decommissioning report must be prepared and submitted to Council for review. The decommissioning report must be prepared to the satisfaction of Council.

The decommissioning report must include details for the rehabilitation of the land with fast growing grasses to control sediment and erosion, waste management and disposal, disconnection of services and management of stormwater. The decommissioning report must also include details of how the loss of car spaces have been offset on other land, including any lots that benefit from an easement for car parking. The decommissioning of the car park must not occur unless alternative car parking has been provided for the lots and developments which the carpark serves.

2.0 - Prior to Commencement of Works

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

- (1) **Stormwater/drainage plans** – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).

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

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- (2) **Civil Engineering Plans** - Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, accessways, EV charging points, service installation, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

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

- (3) **Erosion and sediment control plan**– Before the commencement of works, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents:

- the Concept Erosion and Sediment Plan Details Plan, Reference DA-02-C02.11 Revision G, prepared by Northrop and dated 30.3.2023.
- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the BlueBook), and
- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

- (4) **Weed Management** – Weed removal and suppression must be undertaken using approved bush regeneration techniques under the supervision of a suitably qualified and approved bush regenerator and in accordance with the requirements for the NSW Biosecurity Act 2015, associated Regulations and NSW Weed Control Handbook.

The site is to be inspected by a representative of Council's Invasive Species team one week prior to works commencing.

- (5) **Construction site management plan** - Before the commencement of works, the applicant must ensure a construction site management plan is prepared. The plan must include the following matters:

- a) location and materials for protective fencing and hoardings to the perimeter on the site
- b) provisions for public safety
- c) pedestrian and vehicular site access points and construction activity zones
- d) details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- e) protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- f) details of any bulk earthworks to be carried out
- g) location of site storage areas and sheds
- h) equipment used to carry out all works
- i) a garbage container with a tight-fitting lid
- j) dust, noise and vibration control measures
- k) location of temporary toilets
- l) Location of any proposed oil and/or fuel storage.

The applicant must ensure a copy of the approved construction site management plan must be provided to Council and kept on-site at all times during construction.

- (6) **Section 7.12 development contributions** – A monetary contribution is to be paid to Council, pursuant to Section 7.12 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the *Environmental Planning and Assessment Regulation 2000* and outlined in the table below.

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

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Development Contributions Plan.

Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a Registered Associate member or above, of the Australian Institute of Quantity Surveyors.

This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

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

- a) Prior to the Commencement of Works.

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- (7) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.
- (8) **Erosion and sediment controls in place** – Before the commencement of any site or work, the erosion and sediment controls in the erosion and sediment control plan, must be in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (9) **All weather access** – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the construction site for the delivery of materials and use by trades people.
No materials, waste or the like are to be stored on the all-weather access at any time.
- (10) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.
No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all refuse and spoil immediately upon completion of the development.
- (11) **Environmental and Aboriginal Heritage Impacts** – No works are to commence until all land clearing obligations relating to Stage 2B and 2D of DA 16-2009-324-3 have been satisfied, including, but not limited to any General Terms of Approval issued by Heritage NSW and recommendations/obligations within the approved species impact statement.
- (12) **PFAS Management** - Prior to the commencement of works, a Construction Management Plan is to be prepared and include the following actions to manage interaction with PFAS contamination during construction:
- a) An investigation must be undertaken to characterise the potential for PFAS contamination, taking into account the EPA's Williamstown Management Area Maps and identify any potential contact with PFAS affected substances and exposure pathways which will need to be managed during construction activities. PFAS sampling is to be undertaken with the PFAS National Environmental Management Plan.
 - b) Where potential for PFAS contamination exists, it must be identified whether any construction activities will disturb soils above or below the groundwater table or interact/intercept groundwater. Where construction activities have the potential to disturb soils above or below the groundwater table or interact/intercept groundwater, soil sampling for PFAS must be undertaken to identify its presence and concentration (or otherwise), classify the soil in accordance with the EPA's Addendum to the Waste Classification Guidelines (2014) – Part 1: classifying

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.

waste (<https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste>) and identify lawful reuse, treatment and/or disposal options. The discharge of PFAS contaminated ground water to the environment is not permitted.

- c) Any soils and groundwater that is to be excavated or removed from the premises must be fully quantified in tonnes (soil) and litres (groundwater).
- d) Where potential for PFAS contamination exists, suitable mitigation measures must be identified to prevent or limit, as far as possible, PFAS contact and exposure (for both human and environmental health) including appropriate measures to prevent unlawful offsite releases.
- e) Where potential for PFAS contamination exists, an erosion and sediment control plan must be developed in accordance with the EPA endorsed publication "Managing Urban Stormwater – Soils and Construction, 4th Edition" (Landcom, 2004) (or any revision) and any relevant EPA produced addendum publications.

3.0 - During Works

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

- (1) **Hours of work** – Work is only to be carried out between:

7.00am to 5.00pm on Monday to Saturday

No work is to be carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- (2) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

- (3) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed in accordance with the approved plans, safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.

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

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

- (4) **Construction Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Site Management Plan must be introduced during construction of the development.

- (5) **Placement of fill** - Filling must be carried out in accordance with the approved plans and 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.

- (6) **Location of 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.

- (7) **Weed management** – All machinery that has operated in affected areas shall be cleaned thoroughly prior to leaving the site. A wash down area shall be established, and monitored for priority weeds as defined by the NSW Biosecurity Act 2015. Cleaning must include the removal of all mud and plant matter, followed by washing with high pressure water.
An area for storage of contaminated soil that is separate from clean material shall be provided during construction.

- (8) **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.

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



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.

- (9) **Implementation of the 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.
- (10) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.
- (11) **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.

- (12) **Cut and fill** – While work is being carried out, all soil removed from or imported to the site must be managed in accordance with the following requirements:
- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be recorded on a register.

All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

- (13) **Uncovering relics or Aboriginal objects** - While demolition or works are being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- "relic" means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- (b) is of State or local heritage significance; and
 - "Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.
- (14) **Oil and Fuel handling** - Best practice measures for the use, storage and disposal of oils and fuels are to be implemented at all times during construction activities and site operation.

4.0 - Prior to Commencement of Use

The following conditions of consent shall be complied with prior to the commencement of use.

- (1) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed and certified by a suitably qualified engineer.
- (2) **Repair of infrastructure** – Before the commencement of use, the applicant must ensure any public infrastructure damaged as a result of the carrying out of works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.
Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.
- (3) **Completion of landscape and tree works** – Prior to the commencement of use, all landscape and tree-works and the removal of all noxious weed species, must be completed in accordance with the approved plans and any relevant conditions of this consent.
- (4) **Car parking requirements** – Car parking spaces are to be provided in accordance with AS2890.1:2004 Parking facilities – Off-street car parking and the approved plans. Parking must be permanently marked on the pavement surface.
- (5) **Stormwater system Operation and Maintenance Procedure Plan** – An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal.
- (6) **Installation of Barriers** - Barriers must be installed to physically delineate the car parking to be used for the airport from that to be used for the Astra Aerolab precinct,

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.

in accordance with the Figure 3 of the Traffic Assessment Statement prepared by Northrop, dated 19 October 2022, reference: NL182640 to ensure that 1070 spaces are exclusively available for the Astra Aerolab precinct.

- (7) **Right of Access and Easement for Services** - The right of access and easement for services variable width labelled (C) on the approved 'Plan of Easements within Lot 115', reference no. 19202_DPE(Draft)_R3_230330, Revision 3, prepared by Thomas Campbell, is to be registered with NSW Land Registry Services. The benefitting authority is to be nominated as Port Stephens Council.

The authority to release vary or modify is to be nominated as Port Stephens Council.

- (8) **Inter-allotment Drainage Easement** - A right of access and easement benefitting Port Stephens Council is to be created over the inter-allotment drainage channel labelled 'existing conveyance channel' as per the approved Concept Stormwater Management Plan, Drawing DA-02-C05.01, Revision G, dated 30.3.2023. The right of access and easement must cover the full extent of the inter-allotment drainage channel within Lot 11 DP 1036501.

The authority to release vary or modify is to be nominated as Port Stephens Council.

- (9) **Completion of Stage 1 Astra Aerolab** – Use of the car park must not commence until a Subdivision Certificate has been issued for Stage 1 of DA 16-2009-324.

5.0 – Ongoing Use

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

- (1) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.
- If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
- (2) **Bird Strike** - Organic waste and/or storage of commercial bins associated with the proposed development may be attractive to vermin and/or birds and will potentially increase the risk of bird strike operating from Newcastle Airport and RAAF Base Williamstown. All waste bins must be covered/enclosed to reduce the risk of bird strike.
- (3) **Astra Aerolab Car Parking** - A minimum of 983 permanent car parking spaces are to be provided to service Stage 1 of the Astra Aerolab development in accordance

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.

with the approved plans and Figure 3 of the Traffic Assessment Statement prepared by Northrop.

- (4) **Preservation of WSAP Corridor** - The area identified as 'Temporary Car Park Extent' on the approved General Arrangement Plan, Drawing No. DA-02-C01.11, Revision B, dated 30 March 2023, prepared by Northrop, is not to be used for permanent car parking associated with development on another site.
- (5) **Implementation of stormwater system Operation and Maintenance Procedure Plan** – The actions identified in the operation and maintenance Plan for the stormwater system listed in condition 4.0(5) must be implemented for the life of the development.

Advice Note(s):

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
- (2) **Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
- (3) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (4) **Flood information is subject to change** – You are advised that flood information is subject to change if more accurate data becomes available to Council. It is the responsibility of the applicant to use the most up-to-date flood information. Prior to applying for a construction certificate, Council should be contacted to verify the currency of the flood information.
- (5) **Weed Management** - This property has had priority weed as defined by the NSW Biosecurity Act 2015 identified growing on site. As the applicant dealing with this property you are advised that under the Biosecurity Act 2015 you have a legal

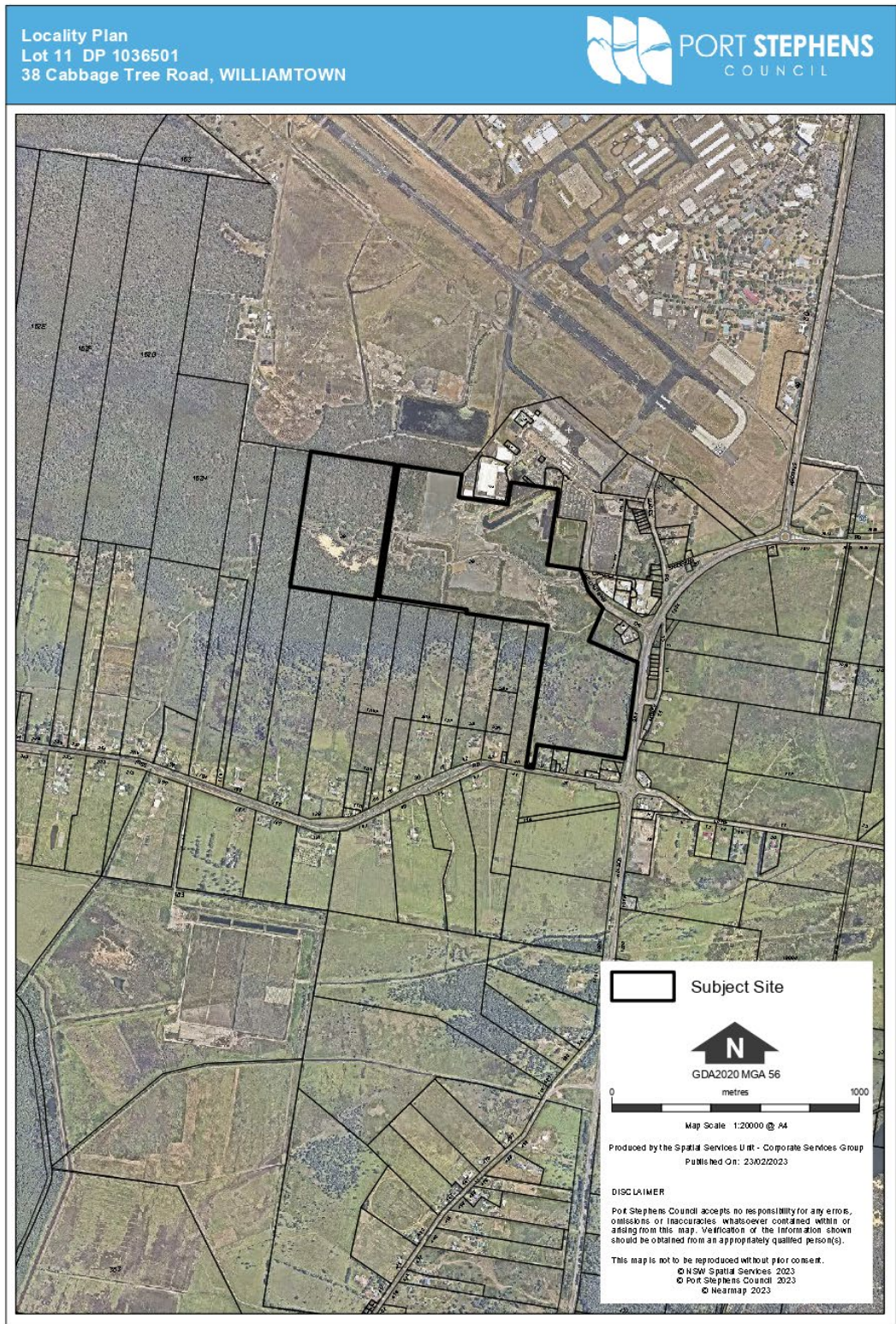
ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.



obligation to prevent, eliminate and minimise the impact caused by weeds. As the applicant you also have an obligation to ensure you advise other persons dealing with this site of the Biosecurity risk. For more information on the identification, control and management of weeds on site please contact Port Stephens Councils' Invasive Species Team on (02) 4988 0392.

- (6) **Responsibility for damage for tree removal/pruning** – 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.

ITEM 1 - ATTACHMENT 2 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 2

**FILE NO: 22/241877
EDRMS NO: 16-2022-626-1**

**DEVELOPMENT APPLICATION (DA) 16-2022-626-1 - SOLAR ENERGY SYSTEM
AT 8 LEISURE WAY, RAYMOND TERRACE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2022-626-1 for a solar energy system at 8 Leisure Way, Raymond Terrace (Lot 2 DP 1006266) subject to the conditions contained in **(ATTACHMENT 1)**.
-

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

119	<p>Councillor Giacomo Arnott Councillor Peter Kafer</p> <p>It was resolved that Council defer Development Application DA No. 16-2022-626-1 for a solar energy system at 8 Leisure Way, Raymond Terrace (Lot 2 DP 1006266) until the Masterplan for Lakeside Sports Complex is completed.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present Development Application (DA) 16-2022-626-1 for a solar energy system to Council for determination.

A summary of the DA and property details is provided below:

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Subject Land:	8 Leisure Way, Raymond Terrace (Lot 2 DP 1006266)
Total Area:	20,036m ²
Zoning:	RE1 Public Recreation
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the DA relate to tree removal, visual impacts and glare impacts to aircraft.

The DA has been reported in accordance with Council's 'Planning Matters to be Reported to Council Policy' as the DA is proposed on Council owned land with a cost of works over \$250,000.

A Locality Plan is provided at **(ATTACHMENT 2)**.

Proposal

The DA is for the installation of a 202.4kW solar energy system to support the Lakeside Leisure Centre at Raymond Terrace. The DA includes the following key aspects:

- 150 solar panels flush mounted on the roof of the existing Lakeside Leisure Centre with an area of 387.65m²
- 310 ground mount panels located towards the southern side boundary (behind the building) with an area of 801.15m²
- Individual solar panels measure 2.279m (L) x 1.134m (W) x 0.34m (H) and 2.58m² in area
- Associated trenching for cable installation and fencing to exclude public access.

Site Description and History

The site comprises a single lot with a total area of 20,036m². The topography of the site has a slight cross fall from the northern side of the lot to the south-eastern side. The site is mostly clear of vegetation, comprising exotic grasses with some native vegetation scattered throughout. The site is zoned RE1 Public Recreation.

The site contains the Lakeside Leisure Centre including swimming pool, and a driveway for access. Residential development is located to the north, south, and west of the site. A commercial premise (Ten Pin Bowling), two sports fields (Lakeside Sports Complex and Lakeside Rugby Field), and a car park are to the east of the site with the Grahamstown Dam further to the north-east.

Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed tree removal, glare and visual impacts. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 3**).

Tree Removal

The development requires the removal of 5 trees to install the ground-mounted panel bank. Two trees marked for removal are koala feed trees, which require off-set planting in accordance with the Port Stephens Comprehensive Koala Plan of Management (CKPoM). The proposed tree removal has been assessed by Council's Environmental Planner and found to be acceptable for the following reasons:

- The 2 koala feed trees marked for removal are young, do not contain any evidence of habitation and appear to be saplings from a row of trees located in the adjoining vegetated land to the south
- The site is identified as clear on the Koala Habitat Planning Map and therefore, there is no expectation of koalas traversing or habituating the subject site or areas adjoining the site
- The planting of 12 koala feed trees as replacement plantings is recommended as a condition of consent
- The ground-mounted panel bank has been located away from the heavily vegetated area to the south of the site.

As a result, the DA is consistent with the CKPoM and no adverse impacts would occur to koalas.

Visual Impacts

The ground-mounted panel bank and fencing will be partially visible from west-bound traffic along Richardson road, and from the adjoining carpark/sports fields to the east.

A condition requiring the installation of landscape screening around the ground-mounted panels has been recommended to screen the development and soften the interface with the existing landscape.

Glare Impacts to Aircraft

The DA was referred to the Department of Defence given the proximity of the site to the Williamstown RAAF Base. The Department of Defence requested that a condition of consent be imposed to ensure that solar panels do not comprise reflective materials and note that Defence may request modification to the panels should the panels be found to cause glare. A condition of consent reflecting these requirements has been included in the recommended conditions at (**ATTACHMENT 1**).

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 3**), the DA is consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. Subject to the recommended conditions, there will be no adverse impact on the natural or built environment.

The DA has been suitably designed to address the site constraints and will not result in hazardous or offensive development.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
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		
Developer Contributions (\$7.11)	No		N/A
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The DA is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act) and associated State Environmental Planning Policies as listed above.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the recommendation.	Yes

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is refused, the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The DA provides a renewable energy source that will service the energy demands of the Lakeside Leisure Centre, therefore assisting in the transition toward cleaner electricity generation. Furthermore, the proposal will generate direct employment opportunities during construction, therefore having a positive impact on the local economy. Overall, there are no anticipated adverse social or economic impacts as a result of the DA.

Impacts on the Built Environment

The solar panels are significantly setback from the road frontage and are located primarily out of public view. Landscape screening will further mitigate any adverse impacts to the built environment. Fencing is proposed to be provided to protect the panels and inverters from public access and potential vandalism. Overall, the DA is compatible with the surrounding built environment. The proposed solar panels are located over the proposed Stage 2 upgrade works associated with the Leisure Centre. The solar panels are of a construction material that can be relocated in the event Council receives funding to undertake the Stage 2 upgrade works at the Leisure Centre.

Impacts on the Natural Environment

The DA is not expected to adversely impact the natural environment. The proposed removal of 2 koala feed trees has been found to be acceptable by Council's Natural Systems Section, subject to offset planting of 12 trees. Overall, the DA has been found to have minimal impacts on the natural environment.

CONSULTATION

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

Internal

Consultation was undertaken with Council's Local Infrastructure Contributions and Natural Systems Sections. The referral comments have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). All internal referral officers supported the DA subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

Consultation was undertaken with the Department of Defence and Ausgrid. The referral comments have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). Both external agency's supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

Public Notification

The DA was notified in accordance with the requirements of the Port Stephens Council Community Participation Plan. The notification period was from 22 August 2022 to 6 September 2022. No submissions were received during this period.

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS ROOM

- 1) Development Plans.

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

TABLED DOCUMENTS

Nil.



RECOMMENDED CONDITIONS OF CONSENT DA 16-2022-626-1

1.0 - General Conditions of Consent

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

- (1) **Approved plans and supporting documentation** – Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
PV100	A	Site Plan	The Green Guys Group	20/06/2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- (2) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (3) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
- (4) **Protect existing vegetation and natural landscape features** – No vegetation or natural landscape features other than that authorised for removal, pruning by this Consent must be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.
- (5) **Supply of Electricity** - Satisfactory arrangements are to be made with Ausgrid with respect to the proposed solar energy system which will form part of the development. It is the Applicant's responsibility to enter into the required connection contract. Information on how to apply for a connection to the network is provided on Ausgrid's website <https://www.ausgrid.com.au/Connections/Get-connected>
- (6) **Bushfire safety** – The site is located within a bushfire prone area and must comply

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with NSW Rural Fire Service document "Planning for Bushfire Protection 2019" (PBP2019). In this regard the following is required:

- a) A 10m asset protection zone is to be established and maintained as an inner protection area for the life of the development.
- b) A Bushfire Emergency Management and Operations Plan is to be prepared that identifies all relevant risks and mitigation measures associated with the construction and operation of the solar farm. The Bushfire Emergency Management and Operations Plan is to include:
 - Detailed measures to prevent or mitigate fires igniting;
 - Work that should not be carried out during total fire bans;
 - Availability of fire-suppression equipment, access and water; storage and maintenance of fuels and other flammable materials;
 - Notification of the local NSW RFS Fire Control Centre for any works that have the potential to ignite surrounding vegetation, proposed to be carried out during a bush-fire fire danger period to ensure weather conditions are appropriate; and
 - Appropriate bush fire emergency management planning.

(7) **Non-reflective material** – Solar panels are to comprise non-reflective materials.

(8) **Tree Removal/Pruning** – Removal of two Swamp Mahogany at the northwest corner of the 'Ground Mounted Panel Bank" as shown on the 'Site plan', drawing number PV100, prepared by The Green Guys Group, dated 20/06/2022 and below are approved for removal/pruning:

- 3 x *Acacia terminalis*
- 2 x *Eucalyptus robusta* (Swamp Mahogany)

(9) **Protect Existing Vegetation and Natural Landscaping Features** – Approval to remove existing vegetation is not to occur until the issue of the Construction Certificate.

No Vegetation or natural landscape features other than that authorised for removal, pruning by this Consent must be disturbed, damaged or removed, No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.

(10) **Roof Mounted Equipment** – All roof mounted equipment such as solar panels, air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.

2.0 – Prior to Issue of a Construction Certificate

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



- (1) **Construction Certificate** – The following information must be provided to the Certifying Authority with the Construction Certificate application:
 - a) Detailed Landscape Plan detailing screening for the highlighted area on the site plan that complies with PBP 2019 and Council's Tree Technical Specifications.
- (2) **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.

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** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. 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 Certifier and the person who appointed the principal certifier;
 - e) if the principal certifier is a registered certifier
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.

The notice must be lodged on the NSW planning portal.

- (3) **Notice commencement of work** – Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of



the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

- a) the name and address of the person;
- 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 numbers and date of issue of the development consent and construction certificate;
- e) a statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before the work commences have been satisfied; and
- f) the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.

- (4) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (5) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.
No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.
- (6) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, construction or subdivision works approved by this consent must not commence until the following has been satisfied:
 - a) a Construction Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and
 - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (7) **Tree protection measures** - Before the commencement of any site or building work, the PCA must ensure the measures for tree protection are in place.
- (8) **Fencing** – Before the commencement of any site or building work, the PCA must ensure that all fencing approved within this DA are a transparent type (e.g. chain link/mesh).



4.0 - During Works

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

- (1) **Hours of work** – The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00am to 5.00pm on Monday to Saturday

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- (2) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

- (3) **Compliance with the Building Code of Australia** – Building work must be carried out in accordance with the requirements of the Building Code of Australia.

- (4) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.

- (5) **Uncovering relics or Aboriginal objects** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that



comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

- (6) **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.

- (7) **Protection of Trees /Existing Street Trees** - Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites' and the following:
 - a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.
- (8) **Tree Removal/Pruning** - All approved tree removal/Pruning is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.

5.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development. The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Completion of landscape works** – All landscape works are to be undertaken in accordance with the approved landscape plan and conditions of this Development Consent.
- (3) **Completion of landscape and tree works** - Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 and the removal of all noxious



weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

- (4) **Landscape Plan / Street Tree Plan** - The following tree species must be planted where there is sufficient land within Lot 2 DP 1006266, or a portion of the replacement trees may be replanted on receiving land as approved by Council:

a) 12 x *Eucalyptus robusta* Swamp Mahogany \geq 10L pot size

The planting must be installed on the subject lot and/or land approved by Council prior to the operation of the development.

6.0 – Ongoing Use

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

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

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

- (2) **Asset Protection Zones** – The 10m Asset Protection Zone (APZ) must be maintained to the standard of an Inner Protection Area (IPA) for the life of the development.

- (3) **Maintenance of Replacement Plantings / Revegetation** - Replacement trees are to be maintained (e.g. through the use of mulch and watering) until maturity, or for a period of 5 years from planting.

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

- (4) **Glare** – It is advised that during operation, should the solar panels be found to cause glare problems for pilots, the Department of Defence (DoD) may request that the panels be suitably modified to extinguish glare as necessary.

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) **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public

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ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



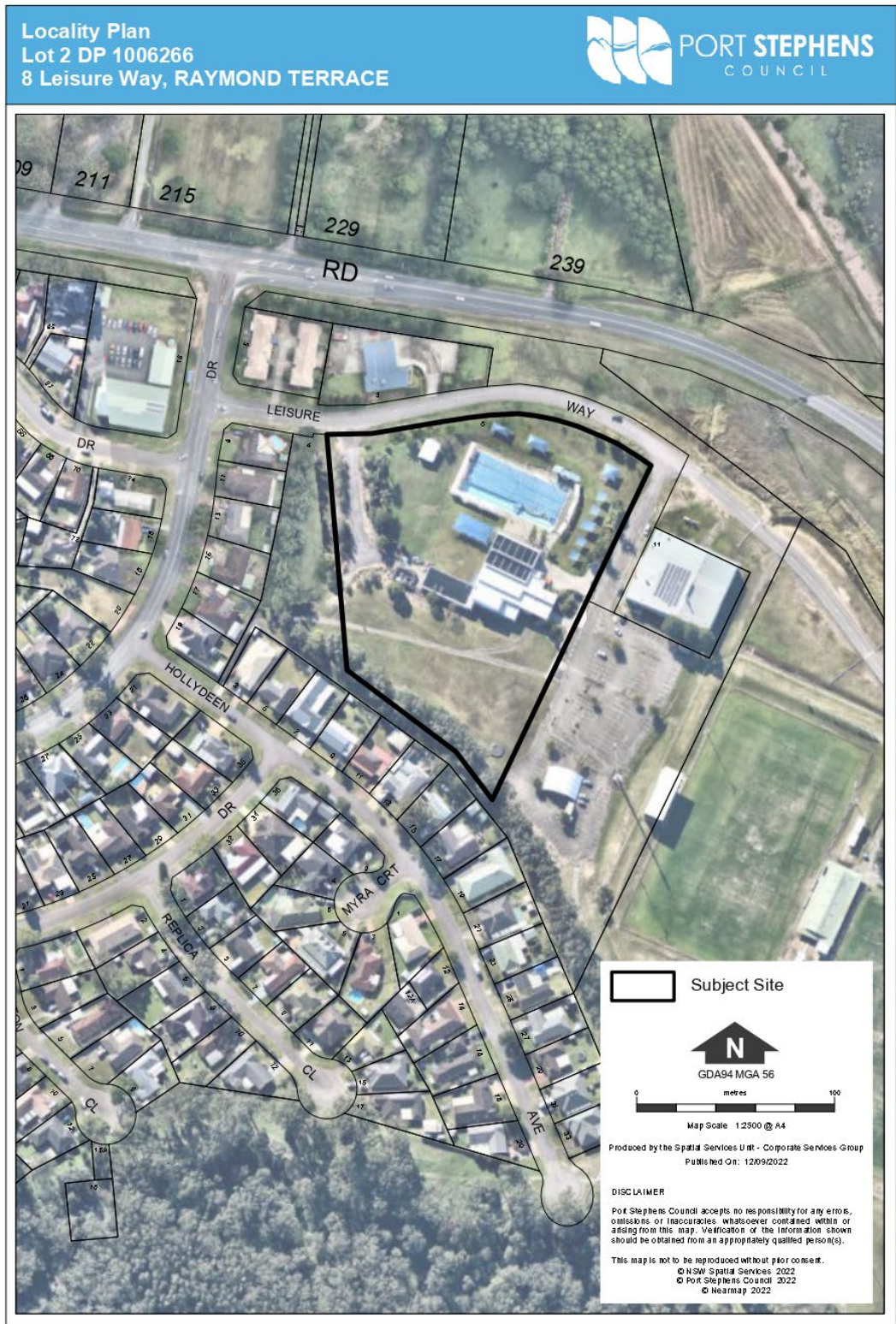
roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.

- (3) **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
- (4) **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
- (5) **Hunter Water Infrastructure - Hunter Water stamped plans – Prior to the commencement of works**, the person having the benefit of this consent shall contact Hunter Water Corporation (HWC) to ensure that the approved works do not impact upon existing or proposed HWC infrastructure. A copy of the information received by HWC shall be provided to Council within 10 days of receipt. Should HWC require modification to the approved development a Section 4.55 Modification Application and/or modified Construction Certificate Application should be lodged.
- (6) **Requirements of PCA - Issuing of OC – Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.
Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.
- (7) **Works near/adjoining electricity network assets** – There are electricity network assets adjacent to the proposed development as per the easement identified on the deposited plan for the sites. Workcover Document "Code of Practice - Work Near Overhead Powerlines" outlines the minimum safety separation requirements between overhead power lines to plant, equipment and scaffolding within the development during construction. It is a statutory requirement that this document is followed at all times throughout the construction phase.
- (8) **Bird Strike Advice** – As the subject site is located in an area mapped by the Department of Defence as "Birdstrike Group B", organic waste and/or the storage of bins associated with any future development must be covered and/or enclosed and limited on-site.

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ITEM 2 - ATTACHMENT 2 LOCALITY PLAN.



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PORT STEPHENS
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DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2022-626-1
Development Description	Installation of solar energy system
Applicant	PORT STEPHENS COUNCIL
Land owner	PORT STEPHENS COUNCIL
Date of Lodgement	11/08/2022
Value of Works	\$334,479.00
Submissions	0

PROPERTY DETAILS

Property Address	8 Leisure Way RAYMOND TERRACE
Lot and DP	LOT: 2 DP: 1006266
88B Restrictions on Title	Nil
Current Use	Community Facility
Zoning	RE1 PUBLIC RECREATION
Site Constraints	Bush Fire Prone Land – Vegetation Buffer; Stormwater Drainage Requirement Area - Infiltration; Combined Corridor Map – Stepping Stone; NSW Wild Life Atlas – Fauna; Acid Sulfate Soil – Class 5, 4; Koala Habitat Planning Map – Clear; ANEF2025 – 25-30; RAAF Height Trigger Map – Runway centre-line, 15m; RAAF Bird Strike – Group B; Flood Prone Land.
State Environmental Planning Policies	State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 4 Koala Habitat Protection; State Environmental Planning Policy (Resilience and

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Hazards) 2021 – Chapter 2 Remediation of Land;
 State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2 Infrastructure.

PROPOSAL

The proposed development seeks consent to install a 202.4kW solar energy system at the Lakeside Sports Complex. This large-scale system consists of 150 solar panels flush mounted on the roof of the existing Lakeside Leisure Centre with an area of 387.65m² and a separate bank of 310 ground mount panels located towards the southern side boundary (behind the building) with an area of 801.15m². The individual solar panels measure 2.279m (L) x 1.134m (W) x 0.34m (H) and 2.58m² in area. The ground-mounted panel bank will be installed on raised concrete piers that are anchored into an S-Rack mounting device that will be 670mm (L) x 670mm (W) x 760mm (H) and 801.15m² in area. Associated works include trenching for cable installation and fencing to restrict access. The proposed site plan is shown in Figure 1 below. Port Stephens Council is the landowner and proponent of the project.

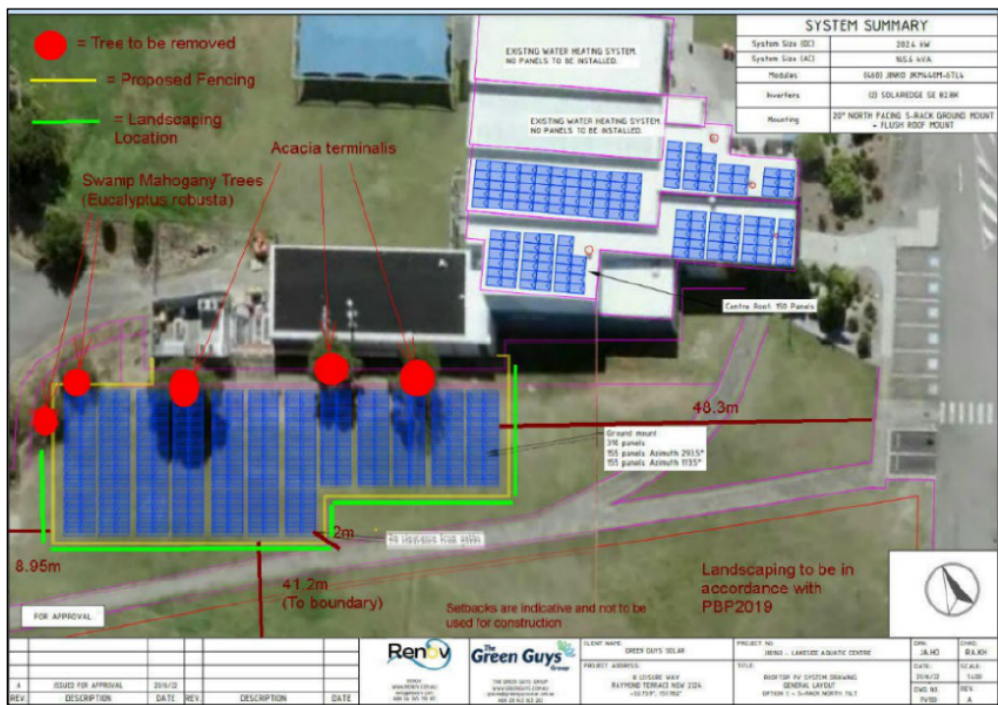


Figure 1: Proposed site plan

SITE DESCRIPTION

The subject site is legally identified as Lot 2 DP 1006266 at 8 Leisure Way, Raymond Terrace (the 'site'). The topography of the site has a slight cross fall from the northern side of the lot to the south eastern side. The site contains the Council owned Lakeside Leisure Centre, a swimming pool, and a driveway for access as shown in Figure 2 below. Residential development is located to the north, south, and west of the site. A commercial premise (Ten Pin Bowling), two sports fields (Lakeside Sports Complex and Lakeside Rugby Field), and a car park are to the east of the site with the Grahamstown Dam further to the east.



Figure 2: Aerial GIS imagery of the subject site shaded in blue

SITE HISTORY

The site has a number of applications on Council’s digital records. These are detailed below:

File Number	Description	Outcome	Date
16-1998-1786-1	Leisure and Aquatic Centre	A	01/03/1999
16-2000-862-1	Amenities Building	AC	06/07/2000
16-2003-1192-1	Aluminium Awnings – Additions to Existing Recreation Facility	AC	04/09/2003
16-2012-415-1	2012 Annual NSW Aboriginal Rugby League Knockout Event	AC	25/09/2012

There is no history of contamination or previous approvals that would impact the proposed development.

SITE INSPECTION

A site inspection was carried out on 08/09/2022. The subject site can be seen in the images below:



Image 1: Proposed location of the ground mounted panel bank



Image 2: View towards the leisure centre carpark and location of the ground mounted panels



Image 3: View towards buildings proposed for roof mounted panels



Image 4: View towards the entrance of the leisure centre and buildings proposed for roof-mounted panels



Image 5: View from the existing pedestrian path to buildings proposed for roof mounted panels and section of ground mounted panels



Image 6: Swamp Mahogany tree proposed for removal



Image 7: Proposed location for replacement tree planting



Image 8: Second Swamp Mahogany tree proposed for removal

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**PLANNING ASSESSMENT**

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

Internal

Local Infrastructure Contributions – The application was referred to the Local Infrastructure Contributions section to calculate any applicable development contributions. The referral notes that in accordance with the Port Stephens Local Infrastructure Contributions Plan, S7.12 contributions are not applicable to public infrastructure carried out by or on behalf of Council.

Natural Systems – The application was referred to the Natural Systems Section to assess the proposed tree removal. Councils Environmental Planner conducted a site inspection on 21 September 2022. Five trees are proposed for removal to facilitate the proposal. The five tree species include:

- 3 x *Acacia terminalis*
- 2 x *Eucalyptus robusta* (Swamp Mahogany)

Eucalyptus robusta is a preferred Koala feed tree, as such, 12 replacement trees must be planted in accordance with the Port Stephens Tree Technical Specification. No hollows or nests were observed in the above trees. Subject to conditions of consent, the application is supported by the Natural Systems Section.

Comment: All referral officers have supported the application.

External

Department of Defence – The application was referred to the Department of Defence given the sites proximity to the Williamtown RAAF Base. The initial referral response raised concern regarding potential glare impacts resulting from the proposed solar panels. Defence requested that an appropriate condition to ensure that potential glare impacts are mitigated and monitored during and following installation to ensure that aircraft safety for operations from RAAF Base Williamtown are not compromised, be included in any approval. As a result, a condition of consent has been recommended to address the Department of Defence's concerns.

Ausgrid – The application was referred to Ausgrid for comment due to the proximity of the development to overhead power lines and a connection application. Ausgrid raised no objection to the proposal. Advice was provided noting minimum clearances to Ausgrid assets appear to not be encroached by the development. Advice was also provided regarding a connection application. An advisory note reflecting the Ausgrid comments has been included in the recommended conditions of consent.

Environmental Planning and Assessment Act 1979**Section 4.46 - Integrated development**

Section 4.46 EP&A Act provides that development is integrated development if in order to be carried out, the development requires development consent and one or more other approvals. The proposed development does not require any of the approvals listed under S.4.46 and therefore is not integrated development.

Section 4.14 – Consultation and development consent (certain bushfire prone land)

The site is mapped as bushfire prone land - vegetation buffer and as such triggers assessment under the NSW RFS Planning for Bushfire Protection 2019 (PBP 2019).

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Section 8.3.5 of PBP 2019 applies to wind and solar farms. While the PBP does not specifically mention solar energy systems, it is deemed appropriate to apply the development criteria to this development for the following reasons:

- The Transport and Infrastructure SEPP was brought into effect in 2022 and included a new definition of Solar Energy System, the PBP however, was last updated in 2019 before the creation of the definition for a Solar Energy System. Under the previous SEPP, the application would have been defined as a Solar Farm, which is consistent with the PBP 2019 definition.
- Given the Solar Energy System is of a comparable size in power generation as Solar Farms that have been approved recently in the LGA, it is considered that the provisions for a wind and solar farms are applicable to the development.
- There is sufficient vegetation in the surrounding area of the proposed ground mounted panel bank that warrants consideration of potential bushfire risks to the proposal.

PBP 2019 states that the following should be provided for wind and solar farms:

- A minimum 10m APZ for the structures and associated buildings/infrastructure; and
- The APZ must be maintained to the standard of an IPA for the life of the development. Infrastructure for the purposes of requiring APZ excludes:
 - Road access to the site; and
 - Power or other services to the site and associated fencing.

Due to the development requiring vegetation management for the creation of the APZ, it is recommended that a condition of consent be imposed requiring the preparation of a Vegetation Management Plan, and a Bushfire Emergency Management and Operations Plan.

Through the establishment and maintenance of a 10m APZ and the recommended conditions requiring compliance with PBP 2019, the proposal conforms to the requirements of PBP 2019.

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 (Biodiversity and Conservation) 2021Chapter 4 Koala Habitat Protection 2021

This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The site has been identified as 'clear' on the koala habitat mapping, however it was noted on a site inspection that two of the trees are preferred koala habitat. The development proposes to remove five trees of the following varieties:

- 3 x *Acacia terminalis*
- 2 x *Eucalyptus robusta* (Swamp Mahogany)

Eucalyptus robusta is a preferred Koala feed tree, as such, 12 replacement trees with a $\geq 10L$ pot size must be planted as per the Port Stephens Tree Technical Specification. A condition of consent has been recommended to this effect.

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Additionally, conditions have been recommended relating to the retention of all trees not marked for removal on the Site Plan, the planting of landscaping, and the on-going maintenance of the landscaping.

Subject to the recommended conditions of consent, the proposed development will not result in any adverse impacts to koala habitat and the proposal is consistent with the requirements of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP 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 Solar Energy System is not listed as a possible contaminating use, per Table 1 of the Guidelines. Noting this, the proposed development satisfies the requirements of Chapter 4 of this SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

The aim of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* is to facilitate the effective delivery of infrastructure across the State by –

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) *providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) *providing opportunities for infrastructure to demonstrate good design outcomes.*

Pursuant to Division 4 of the SEPP, the proposal is a 'solar energy system', which is defined as:

Solar energy system means any of the following systems—

- (a) *a photovoltaic electricity generating system used for the primary purpose of generating electricity for a land use—*
 - i. *carried out on the land on which the system is located, or*
 - ii. *carried out by the owner of the system on adjoining land,*
- (b) *a solar hot water system,*
- (c) *a solar air heating system.*

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

In accordance with Clause 2.36, development for the purpose of a solar energy system may be carried out by any person with consent on any land. The subject site is zoned RE1 Public Recreation. Therefore, in accordance with Clause 2.36, the proposed solar farm energy system is permissible with consent.

As per Clause 2.122 of the SEPP, the proposal is not classed as a traffic-generating development under Schedule 3. A referral under this Clause to Transport for NSW is therefore not required.

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as a 'solar energy system' which is not permissible with consent in the RE1 Public Recreation zone under the PSLEP 2013. Notwithstanding, in accordance with Clause 2.36 of the Transport and Infrastructure SEPP, development for the purpose of solar energy system may be carried out by any person with consent on prescribed non-residential zone (including RE1 Public Recreation). The Transport and Infrastructure SEPP prevails over the land use permissibility of the PSLEP 2013 under the overriding provisions of Section 2.7 of the SEPP.

The objectives of the RE1 Public Recreation zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The development addresses the objectives of the zone by facilitating a compatible land use whilst continuing to maintain the public recreation character of the land. The site would still be able to be utilised for public recreation, with the solar farm providing electricity generation for the existing facilities. On this basis, the proposal aligns with the objectives of the zone.

Clause 4.3 – Height of Buildings

The site is not identified on the Height of Buildings map. The solar panels are to be located flush on the roof of the existing building, and therefore will not result in any significant increase to the building height. The ground-mounted solar panels will have a maximum height of 0.76m, which is less than the height of existing structures on the subject site and will the ground-mounted panel bank will surrounded by a 2.1m chain-link fence that is screened with compliant landscaping. The ground-mounted panel bank is also primarily out of view of any residential housing to the south or west of the site and it is considered unlikely to cause adverse impacts to the amenity or character of the area. Given this, the height of the proposed development is considered to be consistent with the character of the area, and will reflect the hierarchy of centres and land use structures. The existing buildings will remain unchanged and is compliant with this clause.

In addition, the building height definition within the PSLEP 2013 means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

In accordance with part (b) of the definition, the roof mounted solar energy panels are considered to be of a similar characterisation to communication devices and therefore excluded from the building height calculation.

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**Clause 5.21 – Flood Planning**

The subject site is located on land mapped as being Flood Prone land, however, the proposed development is positioned outside the affected areas. As a result, the development does not require any flood controls.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 5 and 4 acid sulfate soils. The proposed development is not anticipated to entail excavations below 1 metre and therefore it is not expected that acid sulfate soils would be encountered during works. It is noted that the ground-mounted solar panel bank is installed above the existing ground level (EGL) into an S-PACK mounting system and is considered unlikely to disturb ASS.

Clause 7.2 – Earthworks

The proposal includes minor earthworks that will not extend below 1m from EGL. The works proposed include the construction of footings for the fencing and a trench to connect the wires from the ground-mounted panel bank to the wall-mounted inverter. The works are unlikely to disrupt drainage patterns, adversely impact neighbouring amenity or environmentally sensitive areas, subject to recommended conditions relating to sediment and erosion control.

Clause 7.5 – Areas Subject to Aircraft Noise

The proposed development is located on land identified as being within the 20-25 Australian Noise Exposure Forecast (ANEF) contour, however, the proposed development does not increase human exposure to aircraft noise. A referral was sent to the Department of Defence (DoD), and in response, no objection was made to the proposal regarding the impacts of aircraft noise.

Clause 7.6 – Essential Services

The subject site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from hard stand areas can be catered for in accordance with Councils requirements. The subject land also maintains direct access to Leisure Way, meeting the requirements of this clause.

A referral was sent to Ausgrid, to which they raised no major concerns with the proposal but noted the developments proximity to Ausgrids assets and that the Workcover Code of Practice 2006 – Work Near Overhead Powerlines must be complied with during works. Advice was also provided regarding the need for a connection application. As a result, all essential services are available to the site and the proposal is compliant with 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 B1 – Tree Management

The proposed development seeks to remove five trees and disturb exotic grassland and therefore the provisions of this Chapter apply. The five tree species include:

- 3 x *Acacia terminalis*
- 2 x *Eucalyptus robusta* (Swamp Mahogany)

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Eucalyptus robusta is a preferred Koala feed tree, as such, 12 replacement trees with a pot size that is equal to or greater than 10L must be planted as per the Port Stephens Tree Technical Specification. No hollows or nests were observed in the above trees.

Subject to the recommended conditions of consent, the proposed tree removal satisfies the requirements of this chapter.

Chapter B2 – Natural Resources

The site contains environmentally sensitive features including koala habitat and therefore the requirements of this Chapter apply. The proposed development would result in no adverse environmental impacts and is therefore consistent with this Chapter, in that:

- A site inspection was conducted on 21 September 2022 that identified more than 5 *Eucalyptus robusta* (Swamp Mahogany) trees on the site, with 2 located inside the footprint of the ground mounded solar bank and are proposed for removal.
- The two (2) Swamp Mahogany trees marked for removal were young, fragmented from established patches of vegetation, not containing any habitat, and appeared to be saplings from a set of Swamp Mahogany trees located in the vegetated land directly to the south.
- The site is identified as 'clear' on the koala Habitat Planning Map and therefore, there is no expectation of koalas traversing or habituating the subject site or areas adjoining the site.
- The site contains minimal native vegetation, with much of the vegetation being disturbed and consisting of exotic grassland which provides limited habitat for threatened flora and fauna species.
- The planting of 12 Swamp Mahogany trees as a replacement for the 2 Swamp Mahogany trees that are approved for removal is recommended as a condition of consent.
- The ground-mounted panel bank has been located away from the heavily vegetated area to the south of the site.

As a result, the development is considered to be consistent with the CKPoM in that where possible impacts to significant vegetation have been avoided, and the provision of 12 offset plantings will ensure that there is no adverse impacts to the koala habitat of the local area.

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 the clause 7.1 PSLEP 2013 discussion above, the proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS. In this regard, the development is consistent with the objective and requirements of the DCP.

Noise

The separation distances incorporated into the development will limit any significant impacts on the adjoining residential development. The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Additionally, it is not expected that ongoing use of the solar panels will have adverse noise impacts as any inverters have been appropriately located away from residential areas. Subject to conditions, the application is satisfactory in regards to noise management.

Earthworks

As discussed at clause 7.2 of the PSLEP 2013 above, the proposed development involves minor earthworks. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Waste

To ensure waste is managed responsibly during construction, a condition of consent has been recommended requiring a rubbish containment area to be established prior to the commencement of works on site.

Chapter B4 – Drainage and Water Quality

The proposal does not create any additional impervious area and does not trigger the requirement for any additional water quality or detention measures. Any run-off from the panels will either be captured by the existing approved stormwater management system of the Lakeside Leisure Centre, or fall directly to the ground as it currently does. Subject to conditions of consent, the development is compliant with the objectives of this control.

Chapter B5 – Flooding

The subject land is mapped as being within the Flood Planning Area. Following from the discussion against clause 5.21 of the PSLEP 2013 above, the proposed development is outside the flood affected area and therefore no specific flood controls apply.

Chapter B6 – Williamstown RAAF Base - 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 2013 above, and found to be acceptable in this instance.

Chapter B8 – Road Network and Parking

The proposal is not considered likely to result in adverse traffic impacts to the surrounding road network. The solar energy system will be accessed via the existing crossover from Leisure Way, which does not require any upgrade to support the proposal. There is sufficient parking supply available in the existing car park during construction and ongoing maintenance.

Chapter C – Development Types

The proposed development is defined as ‘solar energy system’. The PSDCP 2014 does not contain controls that are applicable to the proposed use of the land and the subject site is zoned as RE1 Public Recreation which does not have a specific chapter in the DCP. Notwithstanding, a merits based assessment against the controls identified in Chapter C3 is considered to be the most appropriate as the nature of the Solar Energy System is a large scale energy production system that will act in an equivalent manner to industrial development such as Solar Farms.

Chapter C3 – Industrial

Reference	Control	Assessment
Objective C3.A Requirement C3.1	<p>Building Height</p> <ul style="list-style-type: none"> To ensure the height of buildings is appropriate for the context and character of the area To ensure building heights reflect the hierarchy of centres and land use structure 	<p>No changes to the existing buildings are proposed. The installation of the roof panels will be flush on the roof. It is considered to have an insignificant impact on the height of the building.</p>
Objective C3.B Requirement C3.2-C3.5	<p>Building Siting and Design</p> <ul style="list-style-type: none"> To ensure development is situated within an appropriate building envelope 	<p>No changes to the form, bulk, or style of the existing buildings are proposed. The proposed panels are located partially away from public view.</p> <p>The solar energy system does not detract from the amenity of the area and</p>

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Reference	Control	Assessment
		the minor removal of vegetation is appropriate with offset planting to be imposed as a condition of consent. As a result, the development is considered to meet the objectives of this control.
Objective C3.D Requirement C3.9-C3.11	Fencing <ul style="list-style-type: none"> • To avoid the dominance of fences on the streetscape and similar hostile design, and to soften the built environment in industrial areas 	The proposed security fencing is 2.1m from the existing ground level (EGL) and located 0.9m from the ground-mounted panel bank and connecting to the existing fencing and structures on site. The fencing is appropriately located to ensure that public access to the panels and inverters is restricted.
Objective C3.E Requirement C3.12-C.19	Facades and Articulation <ul style="list-style-type: none"> • To ensure facades consist of appropriate materials and colours that contribute to streetscape amenity • To ensure weather protection is provided at building entrances 	The panel and fencing colours will be conditioned to use materials that are sympathetic to the natural environment and existing site context.
Objective C3.F Requirements C3.20-C3.23	Landscaping <ul style="list-style-type: none"> • To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees. • To encourage landscaping between buildings for screening. • To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area. • To minimise the visual impact and noise pollution generated by development on nearby residential areas and road contours • To use land efficiently and minimise disturbance to the local natural environment • To integrate existing landscape features and/or architecture into development • To reduce energy consumption through microclimate regulation • To reduce air borne pollution by reducing the heat island effect • To intercept stormwater to reduce stormwater runoff 	The proposed fencing will be visible from the public areas surrounding the site and requires landscaping to soften the visual impact. Requirements for landscaping have been included as a recommended condition of consent, including compliance with the PBP 2019 and the PSC Tree specification guide.

ITEM 2 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.

Reference	Control	Assessment
Objective C3.G Requirement C3.24	<ul style="list-style-type: none"> To ensure signage is complimentary to its surroundings 	No signage is proposed.

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

There are no clauses of the regulations applicable to the proposed development

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 proposal will result in both positive social and economic impacts. The proposal will provide renewable energy sources that will service the Lakeside leisure Centre, therefore assisting in the transition towards cleaner electricity generation. Furthermore, the proposal will generate direct employment opportunities during both construction and operation, therefore having a positive impact on the local economy.

Impacts on the Built Environment

The proposed development is considered to be compatible with the public recreational context of the area. The solar panels are significantly setback from the road frontage or located on existing buildings, and have been designed and located so as to avoid adverse impacts on the use of or access to existing structures and facilities on the site. Appropriate fencing and landscaping will also be provided to protect the panels and inverters from public access and reduce visual impacts. Therefore, the proposal is not considered likely to result in adverse impacts to the built environment.

Impacts on the Natural Environment

The proposed development has been found to have minimal impacts on the natural environmental as detailed in throughout this report because:

- The site is identified as 'clear' koala habitat on the Koala Habitat Planning Map and therefore, there is no expectation of koalas traversing or habituating the subject site or areas adjoining the site;
- The proposed removal of 2 Swamp Mahogany trees will be offset by the planting of 12 Swamp Mahogany trees at an alternative location on site.
- The trees to be removed are young and do not contain any hollows or signs of habitation.

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

The subject site is suitable for the proposed development based on the site being suitably zoned (RE1 Public Recreation), and will not contribute to or result in land use conflict with surrounding development. The site also has sufficient space to allow for the proposal without restricting the current recreational use of existing facilities. The proposal is considered unlikely to have adverse environmental impacts on the subject site or surrounding areas.

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

The application was exhibited from 22 August 2022 to 6 September 2022 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. No submissions were received with relation to the subject development proposal.

Section 4.15(1)(e) the public interest

The proposal is considered to be in the public interest for the following reasons:

- The proposed development is consistent with the objectives of the RE1 Public Recreation zone under the PSLEP 2013 and is also permissible with consent under the Transport and Infrastructure SEPP 2021;
- The on-going development of renewable energy is considered to be of social and economic importance to the wider LGA and will provide benefits to the local economy during construction and on completion;
- The proposal has been designed and sited to minimise its environmental impacts and conditions recommended to offset the proposed tree removal.

Section 7.12 – Fixed development consent levies

In accordance with the Local Infrastructure Contributions Plan, Section 7.12 contributions are not applicable to the proposed development as it is for Council-related development on Council owned land.

DETERMINATION

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

ITEM NO. 3

**FILE NO: 23/96900
EDRMS NO: 16-2022-223-1**

DEVELOPMENT APPLICATION (DA) 16-2022-223-1 FOR A RESIDENTIAL FLAT BUILDING AT 18 TO 20 SOLDIERS POINT ROAD, SOLDIERS POINT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), subject to the conditions contained in **(ATTACHMENT 1)**.
- 2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

120	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Approve Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), subject to the conditions contained in (ATTACHMENT 1).2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this 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 Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Crs Leah Anderson and Giacomo Arnott.

The motion was carried.

Councillor Peter Kafer left the meeting at 6:29pm and did not return to the meeting.

BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point, to Council for determination.

The DA was previously reported to Council at its meeting of 28 February 2023 with a recommendation for approval by Council planning staff. At the 28 February 2023 meeting, Council resolved to 'defer Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), to allow for conversations between Council staff and the proponent, with the aim of reducing the building height to comply with the 15m height limit'. (**ATTACHMENT 2**).

Following the 28 February 2023 meeting resolution (**ATTACHMENT 2**), Council staff consulted with the applicant to reduce the building height and undertake further community consultation. In response, the applicant advised consultation had occurred with a local community group, with a focus of explaining the context of the proposed development and responding to community objections raised during notification of the DA. Following the consultation process between the applicant and Council staff, the applicant elected to proceed to determination by elected Council without design amendments or a reduction in height.

Council planning staff and Urban Design Panel (UDP) remain supportive of the proposed development and height variation request as outlined in the Planners Assessment Report provided at (**ATTACHMENT 3**).

A summary of the DA and property details is provided below:

Subject Land:	18 and 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122)
Total Area:	1,339.4m ²
Zoning:	B1 Neighbourhood Centre
Submissions:	First notification - 8 in objection of development and 1 in support. Second notification – 2 in objection of development and 2 in support.
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height, overshadowing, traffic and parking.

	The proposed development at its highest point is 17.4m which exceeds the 15m height limit and represents a 16% (2.4m) variation to the development standard.
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This DA was originally reported to Council in accordance with Council's 'Planning Matters to be Reported to Council Policy' as the previous DA requested to vary a development standard, Clause 4.3 – Height of Buildings by greater than 10%.

A locality plan is provided at **(ATTACHMENT 4)**.

Proposal

The application seeks consent for the construction of a 5 storey residential flat building (RFB) comprising 18 apartments, ground floor café, demolition of an existing dwelling and shed, associated landscaping, civil works, car parking and 19 lot strata subdivision. Specific details of the proposal include:

- 1 x café tenancy with internal and external seating (located on ground level)
- 4 x 2-bedroom units, 11 x 3-bedroom units and 3 x 4-bedroom units (located throughout levels 1-4)
- Car parking area containing 47 spaces (located on ground level and basement level)
- Communal area (located on Level 1)
- Ground level foyer, lobby, lift and pedestrian entrance.

The entry and exit point to the car parking area is provided via Soldiers Point Road. Landscaping has been provided in the front and rear setback to provide visual screening from the street frontage and adjoining properties and to increase the amenity qualities of the development for future occupants and the streetscape.

Site Description and History

The subject site is located at 18 and 20 Soldiers Point Road, Soldiers Point which will be consolidated to form an irregular shaped lot with a relatively flat topography and a total area of 1,339.4m². The site is located on the corner of Soldiers Point Road and Bennett Lane, within a well-established residential and commercial area. The site has an eastern frontage of 20.57m to Soldiers Point Road and a northern frontage of 50.935m to Bennett Lane. The site is largely undeveloped with a double storey brick dwelling and ancillary metal shed located over the south west corner of the site.

Soldiers Point Road is an established urban centre, undergoing a transition from low density residential to medium rise multi-dwelling and apartment type developments. The character of the area is typified by medium and low density developments, comprising older apartment stock in the form of 3 and 4 storey walk-up residential flat buildings, single dwellings and modern high density infill developments.

The site benefits from an existing development consent (16-2002-1220-1) for a similar development (4 Level Residential/Commercial Building and Carpark) on 18

Soldiers Point Road, which utilised Bennett Laneway for 2 car access points/driveways. Physical works have commenced on this development consent, and the consent is active.

Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed exceedance of the building height development standard, overshadowing, traffic and parking. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 3**).

Building Height

The proposal exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens LEP 2013 (PSLEP). The proposed development at its highest point is 17.4m which exceeds the 15m height limit and represents a 16% (2.4m) variation to the development standard. The building design has undergone multiple iterations from the pre-lodgement concept stage through consultation with Council staff and the Urban Design Panel (UDP) to the final design presented to Council in this DA. Through consultation with Council staff and the UDP, the architect has reduced the overall building height by removing the rooftop communal area and associated lift and stair access. Despite the removal of the rooftop communal area, the building still exceeds the LEP height limit by 2.4m.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. That request has been reviewed and the following is noted:

- The proposed height of the development is consistent with the high density infill developments located north of the site. It is noted two comparable mixed-use residential flat buildings located north of the site at 12-14 Soldiers Point Road (17.15m) and 6-8 Soldiers Point Road (18.8m) exceed the 15m height controls prescribed for the B1 Neighbourhood Centre Zone;
- Strict compliance with the standard would result in an inferior built form and planning outcome for the subject site, exposing the lift overrun and plant equipment creating unsightly visual impacts on the surrounds as is typical with older style high rise and unit blocks;
- The existing and approved development along the Soldiers Point Road commercial strip demonstrates a higher density transition in the context and character of the locality, in which the proposal is consistent with. Moreover, the existing residential development in its current form is out of context with the character of the area having regard to the existing and approved shop top housing developments to the north;
- Despite the proposed height variation, the proposal results in negligible off site impacts including visual and amenity impacts, overshadowing and view loss as demonstrated by shadow diagrams prepared by the applicant;
- The proposal is generally compliant with the Apartment Design Guidelines and the Port Stephens Council Development Control Plan (DCP) controls;

- The objectives of Clause 4.3 are achieved despite the non-compliance with the numerical standard.

Overshadowing

A shadow diagram analysis was submitted with the application. Due to the orientation of the lot, overshadowing is primarily concentrated to the neighbouring single storey buildings (20A and 22 Soldiers Point Road) to the south. Some overshadowing would also occur in the morning to the dwellings at 21, 23 and 25 Sunset Boulevard to the west.

It is noted there will be solar access impact to the private open space (POS) of neighbouring sites to the south, however the POS of 22 Soldiers Point Road is already constrained by solar access in that it is located on the southern aspect and already impacted by the existing dwelling on the subject site and neighbouring dwelling on 20A Soldiers Point Road. Notwithstanding, most north facing windows of the affected buildings would receive direct sunlight during mid-winter. The overshadowing is considered reasonably unavoidable given the orientation of the lot is such that overshadowing of this extent is inevitable from any development that achieves the 15m height limit. The site is also characterised by being the southernmost landholding located within the B1 zoned precinct in Soldiers Point, therefore any building height above 9m is likely to result in some form of overshadowing to 22 Soldiers Point Road.

Some overshadowing of the dwellings at 21, 23 and 25 Sunset Boulevard to the west of the site would occur between the hours of 9:00am to 11:00am mid-winter. However, all POS, open space and living areas would maintain a minimum of 2 hours solar access, in accordance with ADG requirements.

Traffic Impact and Parking

The potential impacts from the proposed development to the local road network have been assessed as being satisfactory. The applicant submitted a Traffic Impact Assessment (TIA) report to assess the proposal with respect to access, parking, traffic generation and infrastructure capacity.

With regard to traffic generation, the TIA report calculated the additional traffic generated by the development will be up to 15 vehicle trips per hour (vtph) in the AM and 12 vtph in the PM peak periods. The local and state road network has sufficient spare capacity to cater for the additional traffic without adversely impacting on the traffic flow levels of service (LoS) experienced by motorists on the road network. The minimal amount of traffic generated by the development will not adversely impact on intersections on the local and state road network. The new access onto Soldiers Point Road will operate with uninterrupted flow conditions. The TIA has been reviewed by Council's Traffic Engineer who endorsed the conclusions. To manage traffic during construction, a condition is recommended requiring that a traffic management plan be prepared prior to the issue of a Construction Certificate.

Car parking provision for the proposed development comprises 47 on-site car parking spaces to cater for the residential apartments and café tenancy with access provided via Soldiers Point Road. The parking provision complies with the Port Stephens DCP 2014 Section B8 – Road Network and Parking. Furthermore, the proposed on-site car park layout and dimensions comply with the Australian Standard AS2890.1-2004 Parking facilities – Off-street car parking. Council’s Development Engineers have reviewed and endorsed car parking layout plans, subject to conditions of consent.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 3**), the DA is considered to be consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. There will be no adverse impact to the natural or built environment.

It is considered that the DA has been suitably designed to address the site constraints and despite the variation to the building height development standard, will not result in unreasonable overshadowing, privacy or adverse visual impacts.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Strong economy, vibrant local businesses, active investment	Support sustainable business development in Port Stephens

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		Should Council determine to approve the DA, s.7.11 development contributions amounting to \$360,000.00 would be applicable, and would be levied in accordance with conditions of consent.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with relevant planning instruments including the EP&A Act, LEP 2013 and DCP 2014.

Detailed assessments against these requirements are contained within the Planners Assessment Report provided at **(ATTACHMENT 3)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, a third party may appeal the determination.	Low	Accept the recommendation.	Yes
There is a risk that if the DA is refused, Council will be held liable for damage or consequences.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a mixed use development that will provide additional infill housing opportunities in the area as well as the provision of a new commercial premises, which will provide employment opportunities and contribute to the commercial viability of Soldiers Point.

The proposal will allow for the use of existing services and facilities in the locality without requiring upgrades that burden the public. The construction of the proposed development will provide employment opportunities in the locality and support the local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities. There are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

The proposed development is considered to result in a positive contribution to the built environment by providing a modern architecturally designed building within the Soldiers Point commercial centre. The proposal is considered to be compatible and appropriate for the context and character of the area as existing development along Soldiers Point Road is characterised by 4 and 5 storey developments in the form of 'shop top housing' similar to the proposal.

Impacts on the Natural Environment

The proposed development is not considered to impact upon the natural environment as it does not contain any significant vegetation, koala habitat or threatened species habitat. The stormwater management has been appropriately designed to reduce potential impacts on the natural environment.

CONSULTATION

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

Internal

Internal Consultation was undertaken with Council's Development Engineering, Building Surveying, Development Contributions, Spatial Services teams and Councils Urban Design Panel (UDP). The referral comments from these officers have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

External Consultation was undertaken with Ausgrid due to the sites proximity to overhead power lines. In response, no objection to the DA was made. The comments provided by Ausgrid were considered during the detailed assessment and are discussed within the Planners Assessment Report (**ATTACHMENT 3**).

Public Exhibition

The application was exhibited from 10 May 2022 to 24 May 2022, in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. There were 9 submissions received during this period.

The application was re-notified after the submission of amended plans and documentation from the applicant from 11 November 2022 to 24 November 2022, with notification extended for a further 14 days. During this notification period, 2 submissions in support of the amended design and 2 submissions opposing the amended design were received by Council.

A detailed response to these submissions is provided in the Planners Assessment Report in (**ATTACHMENT 3**).

OPTIONS

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

3) Reject the recommendations.

ATTACHMENTS

- 1) Conditions of Consent.
- 2) Ordinary Council Meeting Minutes 28 February 2023.
- 3) Planners Assessment Report. (Provided under separate cover)
- 4) Locality Plan.

COUNCILLORS ROOM

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

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

TABLED DOCUMENTS

Nil.



RECOMMENDED 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 supporting documentation** – Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
2070-DA1 -1	I	Site and Roof Plan	OA+D	21/10/2022
2070-DA1 - 07	I	Basement	OA+D	21/10/2022
2070-DA1 - 08	I	Ground	OA+D	21/10/2022
2070-DA1 - 09	I	Level 1	OA+D	21/10/2022
2070-DA1 – 10	I	Level 2	OA+D	21/10/2022
2070-DA1 - 11	I	Level 3	OA+D	21/10/2022
2070-DA1 - 12	I	Level 4	OA+D	21/10/2022
2070-DA1 - 13	I	Level 5	OA+D	21/10/2022
2070-DA1 - 14	I	Section	OA+D	21/10/2022
2070-DA1 – 15	I	Elevations	OA+D	21/10/2022
2070-DA1 – 16	G	Elevations	OA+D	21/10/2022
6689-HYDRO-2 1	B	Stormwater Management Plan	Land Development Solutions	2/08/2022
6689-HYDRO-2 2	B	Stormwater Management Plan	Land Development Solutions	2/08/2022
6689-SEDIMENT-1.dwg 1 of 2	A	Erosion and Sediment Control Plan	Land Development Solutions	17/02/2022
6689-SEDIMENT-1.dwg 2 of 2	A	Erosion and Sediment Control Plan	Land Development Solutions	17/02/2022

PORT STEPHENS COUNCIL

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6689-REGRADING -1.dwg 1 of 2	A	Site Regrading Plan	Land Development Solutions	17/02/2022
6689-SP1 – Sheets 1-8	-	Draft Strata Subdivision Plans	Jason Lee Harman	-
2109 DA02	B	Landscape Concept Plan – Groundlevel	The Garden Craftsman	16/02/2022
2109 DA03	B	Planting Plan – Groundlevel	The Garden Craftsman	16/02/2022
2109 DA04	B	Concept & Planting Plan – Level 1	The Garden Craftsman	16/02/2022
2109 DA05	B	Concept & Planting Plan – Level 2	The Garden Craftsman	16/02/2022
2109 DA06	B	Concept & Planting Plan – Level 3	The Garden Craftsman	16/02/2022
2109 DA07	B	Concept & Planting Plan – Level 4	The Garden Craftsman	16/02/2022
2109 DA09	B	Site Construction Details	The Garden Craftsman	16/02/2022
2109 DA10	B	Public Domain Construction Details – Street Trees	The Garden Craftsman	16/02/2022

Document Title.	Prepared By.	Dated.
Arborist Report Impact Assessment	Area Tree Vet	23 August 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- (2) **Surrender of Development Consent** – The applicant must surrender the consent relating to **DA No. 16-2002-1220-1** for a 4 Storey Mixed Use Development (Residential/Commercial Building and Carpark) by submitting an application for

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'Surrender of a Consent' to Port Stephens Council in accordance with *Clause 68 of the Environmental Planning & Assessment Regulation 2021*. This must be done prior to the issue of the first Construction Certificate.

- (3) **Limits of consent** – This consent does not approve:
- a) The fit out or hours of operation of the café tenancy.
 - b) Signage.

The above must be approved under a separate development application.

- (4) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (5) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:
- a) protect and support the adjoining premises from possible damage from the excavation; and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given consent in writing that condition not applying, and a copy of that written consent is provided to the PCA prior to the excavation commencing.

- (6) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

The sign must be maintained while the work is being carried out and is to be removed when the work is completed.

- (7) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- (8) **Roof mounted equipment** – All roof mounted equipment such as air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.
- (9) **Design quality of development** - The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.

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- (10) **Separate approval for signs** – A separate development application for any proposed signage, must be provide to, and approved by, the Consent Authority or under the provision of the State Environmental Planning Policy (Exempt and Complying Codes) 2008 if applicable prior to the erection or display of any such signs.
- (11) **External agency approvals** – The requirements from the Ausgrid Referral (dated 7 December 2021. Reference 1900111251 must be complied with prior to, during, and at the completion of the development.

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

2.0 – Prior to Issue of a Construction Certificate

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

- (1) **Design amendments** – Before the issue of a construction certificate, the applicant must submit, to the satisfaction of Council, construction certificate plans (and specifications) detailing the following amendments to the approved plans and supporting documentation stamped by Council.
- a) Swept paths are to be updated taking into consideration the location of columns and any other obstructions.
 - b) Swept path for MRV vehicle to be provided showing forward entry and exit.
 - c) Calculations to be provided showing that that the post-development flow rate and volume is less than the predevelopment flow rate and volume for all storm events up to and including the 1% annual exceedance probability (AEP) storm event. Any top up system volume is not to be included in the volume for OSD.
 - d) The driveway ramp long-section to provide dimensions. Ramp to be in accordance with AS2890.1
 - e) The awning area is bypassing any water quality or detention and discharges directly to the kerb. The awning area is to be incorporated into the MUSIC model to ensure water quality targets are achieved.
- (2) **Driveway Gradients and Design** – For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking' and:
- a) the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and
 - b) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.

Details demonstrating compliance must be provided to the Certifying Authority.

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- (3) **Civil engineering plans** - Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, accessways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

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

- (4) **Stormwater/drainage plans** – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).

Details demonstrating compliance must be provided to the Certifying Authority.

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

- (5) **Footings and Excavation near Council Property** – All works proposed within the zone of influence of Council's asset/s are to be designed and certified by a qualified Geotechnical or Structural Engineer.

Plans and specifications demonstrating compliance with this requirement must be submitted to the Certifying Authority.

- (6) **Dilapidation report** - Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

Note. Condition only applies to developments in a high slip area, significant topography with close nearby properties and building works proposed on boundaries.

- (7) **Potential acid sulfate soils** - A geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Potential Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.

The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.

- (8) **Erosion and sediment control plan** – Before the issue of a construction certificate, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- Council's development control plan,

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- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the BlueBook), and
- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

- (9) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings. Footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the Roads Act 1993.
- (10) **Landscape plan / street tree plan** – Street trees must be planted at no cost to Council and in the location(s) specified on the Landscape Plan prepared by The Garden Craftsman, dated 16 February 2022 Rev B.
Details demonstrating compliance must be provided to the Certifying Authority.
- (11) **Design verification – SEPP 65** – A design verification statement from a qualified NSW Registered Architect must be submitted to the Certifying Authority confirming the Construction Certificate plans and specifications are consistent with the Development Application approval.
- (12) **Garbage room** – Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, must be constructed in accordance with the approved plans and the following:
- a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;
 - b) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room; and
 - c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.
- Details demonstrating compliance must be provided to the Certifying Authority.
- (13) **Car parking details** – Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans, which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking and Council's development control plan.
- (14) **Construction site management plan** - Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:
- a) location and materials for protective fencing and hoardings to the perimeter on the site
 - b) provisions for public safety

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- c) pedestrian and vehicular site access points and construction activity zones
- d) details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- e) protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- f) details of any bulk earthworks to be carried out
- g) location of site storage areas and sheds
- h) equipment used to carry out all works
- i) a garbage container with a tight-fitting lid
- j) dust, noise and vibration control measures
- k) location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

Note. Condition only applies to dual occupancy developments and above.

- (15) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of 18 additional lots, pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$11,790
Civic Administration – Works Depot	\$1,266	\$22,788
Town Centre Upgrades	\$3,412	\$61,416
Public Open Space, Parks and Reserves	\$2,085	\$37,530
Sports & Leisure Facilities	\$1,961	\$35,298
Cultural & Community Facilities	\$1,332	\$23,976
Road Works	\$3,570	\$64,260
Shared Paths	\$3,286	\$59,148
Bus Facilities	\$9	\$162
Fire & Emergency Services	\$245	\$4,410
Flood & Drainage	\$1,877	\$33,786
Kings Hill Urban Release Area	\$302	\$5,436
TOTAL		\$360,000

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

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- a) Building work - prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.

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.

- (16) **Long service levy** – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.

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) **Home Building Act requirements** - Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —
 - a) In the case of work for which a principal contractor is required to be appointed—
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - b) In the case of work to be done by an owner-builder—
 - (iii) the name of the owner-builder, and
 - (iv) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (2) **Home Building Act – Insurance** - In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (3) **Notice of Principal Certifying Authority appointment** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the

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Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. 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 Certifier and the person who appointed the principal certifier;
- e) if the principal certifier is a registered certifier
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.

The notice must be lodged on the NSW planning portal.

- (4) **Notice commencement of work** – Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

- a) the name and address of the person;
- 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 numbers and date of issue of the development consent and construction certificate;
- e) a statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before the work commences have been satisfied; and
- f) the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.

- (5) **Signs on site** – A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifier for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being

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carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

- (6) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and
 - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (7) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works. An awning is to be erected that would sufficiently prevent any substance from the construction work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.
- (8) **Demolition work** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility. Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility. Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.
- (9) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (10) **All weather access** – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time.
- (11) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.

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No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

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

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

- (13) **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.

4.0 - During Works

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

- (1) **Implementation of BASIX commitments** - While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- (2) **Shoring and adequacy of adjoining property (if applicable)**- If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
- a) Protect and support the building, structure or work from possible damage from the excavation, and
 - b) Where necessary, underpin the building, structure or work to prevent any such damage.

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

- (3) **Hours of work** – The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
7.00am to 5.00pm on Monday to Saturday

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The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- (4) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

- (5) **Compliance with the Building Code of Australia** – Building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:

- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.

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

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

- (7) **Location of 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.
- (8) **Surveys by a registered surveyor** – While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —

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- a) All footings/ foundations
 - b) At other stages of construction – any marks that are required by the principal certifier.
- (9) **Construction Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development.
- (10) **Traffic Management Plan implementation** - All construction traffic management procedures and systems identified in the approved Construction Traffic Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (11) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
- a) Connected to an approved stormwater management system.
- (12) **Disposal of stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.
- (13) **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.
- (14) **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.
- (15) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.
- (16) **Construction noise** – While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

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- (17) **Uncovering relics or Aboriginal objects** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- "relic" means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- "Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

- (18) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.

- (19) **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.

- (20) **Cut and fill (if applicable)** – While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.

5.0 - Prior to Issue of a Subdivision Certificate

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

- (1) **Strata Plan of Subdivision** – Sections 37 and 37A of the Strata Schemes (Freehold Development) Act 1973 require an application to be provided to Council for approval prior to the issue of the certified Strata Plan of subdivision.

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 16-2022-223-1 and of compliance with the relevant conditions of consent, prior to the issuing of a Strata Plan of Subdivision.

Note: The final Strata Plan of Subdivision must be prepared to a quality suitable for lodgement with the NSW Land Registry Services.

- (2) **Restriction on issue of Strata Plan of Subdivision** – An Occupation Certificate for the building must be issued by the PCA prior to the issue of any Strata Plan of subdivision associated with this development consent 16-2022-223-1.

Documentary evidence of the issue of the Occupation Certificate must be provided to Council in conjunction with the application for the Strata Plan of Subdivision.

- (3) **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.

- (4) **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.

- (5) **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.

- (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.

ITEM 3 - ATTACHMENT 1 CONDITIONS OF CONSENT.

- (7) **Section 88B Instrument** – The applicant must prepare a Section 88B Instrument which incorporates the following 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;
 - c) easement for on-site detention;
 - d) positive covenant over the on-site detention / water quality facility for the maintenance, repair and insurance of such a facility;
 - e) retaining wall, positive covenant, and restriction to user;
 - f) restriction as to user over sub-surface drainage pipes contained within the building area of allotments;
 - g) restriction as to user over any lots adjacent to a public reserve stipulating dividing fence type;
 - h) restriction as to user preventing the alteration of the final overland flow path shape, and the erection of any structures (other than open form fencing) in the overland flow path without the written permission of Council;
 - i) restriction as to user creating an easement for support and maintenance 900mm wide adjacent to the “zero” lot line wall;

5.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.
- The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Survey Certificate** – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.
- (3) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
- Note:** A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.
- (4) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:
- a) Electricity;

ITEM 3 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- b) Water;
- c) Sewer; and
- 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.

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

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

- (6) **Repair of infrastructure** – Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

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

- (8) **Works as Executed Plans and any other documentary evidence** - Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- (a) All stormwater drainage systems and storage systems

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

- (9) **Geotechnical Compliance Certificate** – A Certificate of Compliance prepared by a qualified Geotechnical Engineer must be provided to the Principal Certifying Authority stating that the works detailed in the Geotechnical Report have been undertaken under the Engineer's supervision and to the Engineer's satisfaction, and that the assumptions relating to site conditions made in preparation of the report were validated during construction.

This certificate must accompany the Works as Executed plans.

- (10) **Completion of landscape and tree works** – Before the issue of any occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with *AS 4373-2007 Pruning of amenity trees* and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

ITEM 3 - ATTACHMENT 1 CONDITIONS OF CONSENT.

- (11) **Car parking requirements** – A minimum of 9 car parking spaces including 2 disabled car parking spaces are to be dedicated to the Commercial Premises (café). Parking must be permanently marked on the pavement surface.

There are to be a minimum 6 parking spaces marked for visitors, which must be signposted as “visitor parking”.

Car parking for residential units must be provided in accordance with the following minimums:

- One bedroom unit – 1 car space
- Two bedroom unit – 1 car space
- Three bedroom unit – 2 car spaces
- Four bedroom unit – 2 car spaces

Residential car parking is to be permanently numbered on the pavement.

There are to be 2 motorcycle parking spaces provided in accordance with the approved plans.

All car parking is to be provided in accordance with AS2890 and the approved plans.

- (12) **Car Parking Design** - Before the issue of any occupation certificate, Council's Development Engineer must be satisfied height clearance warnings and safety devices such as safety mirrors, have been incorporated into the car parking area.
- (13) **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.
- (14) **Roof Design** – The roof design must include the installation of PV Solar Panels.
- (15) **Lot Consolidation** - Before the issue of any occupation certificate, Lot 8 DP 26597 and Lot 92 DP 577122 are to be consolidated.

A copy of the Registered Plan of consolidation must be provided to the Principal Certifying Authority.

6.0 – Ongoing Use

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

- (1) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Removal of graffiti** – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (3) **Parking areas to be kept clear** – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.

ITEM 3 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- (4) **Privacy screen** – Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.
- (5) **Residential air conditioning units** – During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.
- (6) **Fire Safety Schedule** – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of Fire and Rescue NSW in accordance with the *Environmental Planning & Assessment Regulations 2000*.
- (7) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.

If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
- (8) **Waste management and collection** – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (e.g. footpaths, roadways, plazas, reserves) at any time.
- (9) **Communal Area Access** – All residents of the development are to have access to all communal areas, including the open communal area on Level 1.

Advice Note(s):

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

ITEM 3 - ATTACHMENT 1 CONDITIONS OF CONSENT.



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

- (4) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (5) **Premise standard** – It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA).
Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
- (6) **Responsibility for damage for tree removal/pruning** – 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.
- (7) **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 the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.
- (8) **Street Addressing** - Prior to occupying the development or release of subdivision certificate (whichever occurs first) the approved dwellings are to be identified as follows:

- CP – 20 Soldiers Point Road, SOLDIERS POINT
- PT 1 – 101/20 Soldiers Point Road, SOLDIERS POINT
- PT 2 – 102/20 Soldiers Point Road, SOLDIERS POINT
- PT3 – 103/20 Soldiers Point Road, SOLDIERS POINT
- PT 4 – 104/20 Soldiers Point Road, SOLDIERS POINT
- PT 5 – 105/20 Soldiers Point Road, SOLDIERS POINT
- PT 6 – 106/20 Soldiers Point Road, SOLDIERS POINT
- PT 7 - 201/20 Soldiers Point Road, SOLDIERS POINT
- PT 8 - 202/20 Soldiers Point Road, SOLDIERS POINT
- PT 9 - 203/20 Soldiers Point Road, SOLDIERS POINT
- PT 10 - 204/20 Soldiers Point Road, SOLDIERS POINT
- PT 11 - 301/20 Soldiers Point Road, SOLDIERS POINT

ITEM 3 - ATTACHMENT 1 CONDITIONS OF CONSENT.



- PT 12 – 302/20 Soldiers Point Road, SOLDIERS POINT
- PT 13 – 303 /20 Soldiers Point Road, SOLDIERS POINT
- PT 14 - 304/20 Soldiers Point Road, SOLDIERS POINT
- PT 15 – 401/20 Soldiers Point Road, SOLDIERS POINT
- PT 16 - 402/20 Soldiers Point Road, SOLDIERS POINT
- PT 17 – 403/20 Soldiers Point Road, SOLDIERS POINT
- PT 18 - 404/20 Soldiers Point Road, SOLDIERS POINT
- PT 19 – G01/20 Soldiers Point Road, SOLDIERS POINT

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.

- (9) **Signage** – You are advised that any proposed advertising signs that are not shown on the approved plans, or classified as exempt development, are subject to a separate Development Application to Council.

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

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Biodiversity and Conservation) 2021 and State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

1. Confirm and clarify the terms of Council's Approval;
2. Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
3. Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
4. Set standards and performance measures for acceptable environmental performance; and
5. Provide for the ongoing management of the development.

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

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

ITEM 3 - ATTACHMENT 1 CONDITIONS OF CONSENT.



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

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

RIGHT OF REVIEW

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

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

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

**ITEM 3 - ATTACHMENT 2 ORDINARY COUNCIL MEETING MINUTES 28
FEBRUARY 2023.**

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Councillor Peter Francis returned to the meeting at 6:46pm.

ITEM NO. 3

**FILE NO: 23/12673
EDRMS NO: 16-2022-223-1**

**DEVELOPMENT APPLICATION (DA) 16-2022-223-1 FOR A RESIDENTIAL FLAT
BUILDING AT 18 TO 20 SOLDIERS POINT ROAD, SOLDIERS POINT**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), subject to the conditions contained in **(ATTACHMENT 1)**.
- 2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.

**ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
MOTION**

**Councillor Leah Anderson
Councillor Jason Wells**

That Council:

- 1) Approve Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), subject to the conditions contained in **(ATTACHMENT 1)**.
- 2) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023**ORDINARY COUNCIL MEETING - 28 FEBRUARY 2023
AMENDMENT**

016	<p>Councillor Leah Anderson Councillor Jason Wells</p> <p>It was resolved that Council defer Development Application DA No. 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122), to allow for conversations between Council staff and the proponent, with the aim of reducing the building height to comply with the 15m height limit.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Amott, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to present a Development Application (DA) 16-2022-223-1 for a residential flat building comprising 18 units, ground floor café, basement parking and strata subdivision at 18 to 20 Soldiers Point Road, Soldiers Point, to Council for determination.

A summary of the DA and property details is provided below:

Subject Land:	18 and 20 Soldiers Point Road, Soldiers Point (Lot 8 DP 26597, Lot 92 DP 577122)
Total Area:	1,339.4m ²
Zoning:	B1 Neighbourhood Centre
Submissions:	First notification - 8 in objection of development and 1 in support. Second notification – 2 in objection of development and 2 in support.
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height, overshadowing, traffic and parking.

**ITEM 3 - ATTACHMENT 2 ORDINARY COUNCIL MEETING MINUTES 28
FEBRUARY 2023.****MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023**

	The proposed development at its highest point is 17.4m which exceeds the 15m height limit and represents a 16% (2.4m) variation to the development standard.
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A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The application seeks consent for the construction of a 5 storey residential flat building (RFB) comprising 18 apartments, ground floor café, demolition of an existing dwelling and shed, associated landscaping, civil works, car parking and 19 lot strata subdivision. Specific details of the proposal include:

- 1 x café tenancy with internal and external seating (located on ground level)
- 4 x 2-bedroom units, 11 x 3-bedroom units and 3 x 4-bedroom units (located throughout levels 1-4)
- Car parking area containing 47 spaces (located on ground level and basement level)
- Communal area (located on Level 1)
- Ground level foyer, lobby, lift and pedestrian entrance.

The entry and exit point to the car parking area is provided via Soldiers Point Road. Landscaping has been provided in the front and rear setback to provide visual screening from the street frontage and adjoining properties and to increase the amenity qualities of the development for future occupants and the streetscape.

Site Description and History

The subject site is located at 18 and 20 Soldiers Point Road, Soldiers Point which will be consolidated to form an irregular shaped lot with a relatively flat topography and a total area of 1,339.4m². The site is located on the corner of Soldiers Point Road and Bennett Lane, within a well-established residential and commercial area. The site has an eastern frontage of 20.57m to Soldiers Point Road and a northern frontage of 50.935m to Bennett Lane. The site is largely undeveloped with a double storey brick dwelling and ancillary metal shed located over the south west corner of the site.

Soldiers Point Road is an established urban centre, undergoing a transition from low density residential to medium rise multi-dwelling and apartment type developments. The character of the area is typified by medium and low density developments, comprising older apartment stock in the form of 3 and 4 storey walk-up residential flat buildings, single dwellings and modern high density infill developments.

The site benefits from an existing development consent (16-2002-1220-1) for a similar development (4 Level Residential/Commercial Building and Carpark) on 18 Soldiers Point Road, which utilised Bennett Laneway for 2 car access points/driveways. Physical works have commenced on this development consent, and the consent is active.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed exceedance of the building height development standard, overshadowing, traffic and parking. A detailed assessment of the DA is contained within the Planners Assessment Report (**ATTACHMENT 3**).

Building Height

The proposal exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens LEP 2013 (PSLEP). The proposed development at its highest point is 17.4m which exceeds the 15m height limit and represents a 16% (2.4m) variation to the development standard. The building design has undergone multiple iterations from the pre-lodgement concept stage through consultation with Council staff and the Urban Design Panel (UDP) to the final design presented to Council in this DA. Through consultation with Council staff and the UDP, the architect has reduced the overall building height by removing the rooftop communal area and associated lift and stair access. Despite the removal of the rooftop communal area, the building still exceeds the LEP height limit by 2.4m.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. That request has been reviewed and the following is noted:

- The proposed height of the development is consistent with the high density infill developments located north of the site. It is noted two comparable mixed-use residential flat buildings located north of the site at 12-14 Soldiers Point Road (17.15m) and 6-8 Soldiers Point Road (18.8m) exceed the 15m height controls prescribed for the B1 Neighbourhood Centre Zone;
- Strict compliance with the standard would result in an inferior built form and planning outcome for the subject site, exposing the lift overrun and plant equipment creating unsightly visual impacts on the surrounds as is typical with older style high rise and unit blocks;
- The existing and approved development along the Soldiers Point Road commercial strip demonstrates a higher density transition in the context and character of the locality, in which the proposal is consistent with. Moreover, the existing residential development in its current form is out of context with the character of the area having regard to the existing and approved shop top housing developments to the north;
- Despite the proposed height variation, the proposal results in negligible off site impacts including visual and amenity impacts, overshadowing and view loss as demonstrated by shadow diagrams prepared by the applicant;
- The proposal is generally compliant with the Apartment Design Guidelines and the Port Stephens Council Development Control Plan (DCP) controls;
- The objectives of Clause 4.3 are achieved despite the non-compliance with the numerical standard.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023Overshadowing

A shadow diagram analysis was submitted with the application. Due to the orientation of the lot, overshadowing is primarily concentrated to the neighbouring single storey buildings (20A and 22 Soldiers Point Road) to the south. Some overshadowing would also occur in the morning to the dwellings at 21, 23 and 25 Sunset Boulevard to the west.

It is noted there will be solar access impact to the private open space (POS) of neighbouring sites to the south, however the POS of 22 Soldiers Point Road is already constrained by solar access in that it is located on the southern aspect and already impacted by the existing dwelling on the subject site and neighbouring dwelling on 20A Soldiers Point Road. Notwithstanding, most north facing windows of the affected buildings would receive direct sunlight during mid-winter. The overshadowing is considered reasonably unavoidable given the orientation of the lot is such that overshadowing of this extent is inevitable from any development that achieves the 15m height limit. The site is also characterised by being the southernmost landholding located within the B1 zoned precinct in Soldiers Point, therefore any building height above 9m is likely to result in some form of overshadowing to 22 Soldiers Point Road.

Some overshadowing of the dwellings at 21, 23 and 25 Sunset Boulevard to the west of the site would occur between the hours of 9:00am to 11:00am mid-winter. However, all POS, open space and living areas would maintain a minimum of 2 hours solar access, in accordance with ADG requirements.

Traffic Impact and Parking

The potential impacts from the proposed development to the local road network have been assessed as being satisfactory. The applicant submitted a Traffic Impact Assessment (TIA) report to assess the proposal with respect to access, parking, traffic generation and infrastructure capacity.

With regard to traffic generation, the TIA report calculated the additional traffic generated by the development will be up to 15 vehicle trips per hour (vtph) in the AM and 12 vtph in the PM peak periods. The local and state road network has sufficient spare capacity to cater for the additional traffic without adversely impacting on the traffic flow levels of service (LoS) experienced by motorists on the road network. The minimal amount of traffic generated by the development will not adversely impact on intersections on the local and state road network. The new access onto Soldiers Point Road will operate with uninterrupted flow conditions. The TIA has been reviewed by Council's Traffic Engineer who endorsed the conclusions. To manage traffic during construction, a condition is recommended requiring that a traffic management plan be prepared prior to the issue of a Construction Certificate.

Car parking provision for the proposed development comprises 47 on-site car parking spaces to cater for the residential apartments and café tenancy with access provided via Soldiers Point Road. The parking provision complies with the Port Stephens DCP

ITEM 3 - ATTACHMENT 2 ORDINARY COUNCIL MEETING MINUTES 28 FEBRUARY 2023.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

2014 Section B8 – Road Network and Parking. Furthermore, the proposed on-site car park layout and dimensions comply with the Australian Standard AS2890.1-2004 Parking facilities – Off-street car parking. Council's Development Engineers have reviewed and endorsed car parking layout plans, subject to conditions of consent.

Conclusion

As detailed in the Planners Assessment Report (**ATTACHMENT 3**), the DA is considered to be consistent with the aims and objectives of the relevant environmental planning instruments and Council policies applicable to the subject site. There will be no adverse impact to the natural or built environment.

It is considered that the DA has been suitably designed to address the site constraints and despite the variation to the building height development standard, will not result in unreasonable overshadowing, privacy or adverse visual impacts.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Strong Economy, Vibrant Businesses, Active Investment	Support sustainable business development in Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	Yes		Should Council determine to approve the DA, s.7.11 development contributions amounting to \$360,000.00 would be applicable, and would be levied in accordance with conditions of consent
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with relevant planning instruments including the EP&A Act, LEP 2013 and DCP 2014.

Detailed assessments against these requirements are contained within the Planners Assessment Report provided at (**ATTACHMENT 3**).

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, a third party may appeal the determination.	Low	Accept the recommendation.	Yes
There is a risk that if the DA is refused, Council will be held liable for damage or consequences.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed development represents a mixed use development that will provide additional infill housing opportunities in the area as well as the provision of a new commercial premises, which will provide employment opportunities and contribute to the commercial viability of Soldiers Point.

The proposal will allow for the use of existing services and facilities in the locality without requiring upgrades that burden the public. The construction of the proposed development will provide employment opportunities in the locality and support the local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities. There are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

The proposed development is considered to result in a positive contribution to the built environment by providing a modern architecturally designed building within the Soldiers Point commercial centre. The proposal is considered to be compatible and appropriate for the context and character of the area as existing development along Soldiers Point Road is characterised by 4 and 5 storey developments in the form of 'shop top housing' similar to the proposal.

Impacts on the Natural Environment

The proposed development is not considered to impact upon the natural environment as it does not contain any significant vegetation, koala habitat or threatened species habitat. The stormwater management has been appropriately designed to reduce potential impacts on the natural environment.

MINUTES ORDINARY COUNCIL - 28 FEBRUARY 2023

CONSULTATION

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

Internal

Internal Consultation was undertaken with Council's Development Engineering, Building Surveying, Development Contributions, Spatial Services teams and Councils Urban Design Panel (UDP). The referral comments from these officers have been considered as part of the Planners Assessment Report (**ATTACHMENT 3**). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

External Consultation was undertaken with Ausgrid due to the sites proximity to overhead power lines. In response, no objection to the DA was made. The comments provided by Ausgrid were considered during the detailed assessment and are discussed within the Planners Assessment Report (**ATTACHMENT 3**).

Public Exhibition

The application was exhibited from 10 May 2022 to 24 May 2022, in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. There were 9 submissions received during this period.

The application was re-notified after the submission of amended plans and documentation from the applicant from 11 November 2022 to 24 November 2022, with notification extended for a further 14 days. During this notification period, 2 submissions in support of the amended design and 2 submissions opposing the amended design were received by Council.

A detailed response to these submissions is provided in the Planners Assessment Report in (**ATTACHMENT 3**).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent.
- 2) Locality Plan.

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3) Planners Assessment Report. (Provided under separate cover)

COUNCILLORS ROOM

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

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

TABLED DOCUMENTS

Nil.



RECOMMENDED 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 supporting documentation** – Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
2070-DA1 -1	I	Site and Roof Plan	OA+D	21/10/2022
2070-DA1 -07	I	Basement	OA+D	21/10/2022
2070-DA1 -08	I	Ground	OA+D	21/10/2022
2070-DA1 -09	I	Level 1	OA+D	21/10/2022
2070-DA1 -10	I	Level 2	OA+D	21/10/2022
2070-DA1 -11	I	Level 3	OA+D	21/10/2022
2070-DA1 -12	I	Level 4	OA+D	21/10/2022
2070-DA1 -13	I	Level 5	OA+D	21/10/2022
2070-DA1 -14	I	Section	OA+D	21/10/2022
2070-DA1 -15	I	Elevations	OA+D	21/10/2022
2070-DA1 -16	G	Elevations	OA+D	21/10/2022
6689-HYDRO-21	B	Stormwater Management Plan	Land Development Solutions	2/08/2022
6689-HYDRO-22	B	Stormwater Management Plan	Land Development Solutions	2/08/2022
6689-SEDIMENT-1.dwg 1 of 2	A	Erosion and Sediment Control Plan	Land Development Solutions	17/02/2022
6689-SEDIMENT-1.dwg 2 of 2	A	Erosion and Sediment Control Plan	Land Development Solutions	17/02/2022

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6689-REGRADING -1.dwg 1 of 2	A	Site Regrading Plan	Land Development Solutions	17/02/2022
6689-SP1 – Sheets 1-8	-	Draft Strata Subdivision Plans	Jason Lee Harman	-
2109 DA02	B	Landscape Concept Plan – Groundlevel	The Garden Craftsman	16/02/2022
2109 DA03	B	Planting Plan – Groundlevel	The Garden Craftsman	16/02/2022
2109 DA04	B	Concept & Planting Plan – Level 1	The Garden Craftsman	16/02/2022
2109 DA05	B	Concept & Planting Plan – Level 2	The Garden Craftsman	16/02/2022
2109 DA06	B	Concept & Planting Plan – Level 3	The Garden Craftsman	16/02/2022
2109 DA07	B	Concept & Planting Plan – Level 4	The Garden Craftsman	16/02/2022
2109 DA09	B	Site Construction Details	The Garden Craftsman	16/02/2022
2109 DA10	B	Public Domain Construction Details – Street Trees	The Garden Craftsman	16/02/2022

Document Title.	Prepared By.	Dated.
Arborist Report Impact Assessment	Area Tree Vet	23 August 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

- (2) **Surrender of Development Consent** – The applicant must surrender the consent relating to **DA No. 16-2002-1220-1** for a 4 Storey Mixed Use Development (Residential/Commercial Building and Carpark) by submitting an application for



'Surrender of a Consent' to Port Stephens Council in accordance with *Clause 68 of the Environmental Planning & Assessment Regulation 2021*. This must be done prior to the issue of the first Construction Certificate.

- (3) **Limits of consent** – This consent does not approve:
- a) The fit out or hours of operation of the café tenancy.
 - b) Signage.

The above must be approved under a separate development application.

- (4) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (5) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:
- a) protect and support the adjoining premises from possible damage from the excavation; and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given consent in writing that condition not applying, and a copy of that written consent is provided to the PCA prior to the excavation commencing.

- (6) **Sign on building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

The sign must be maintained while the work is being carried out and is to be removed when the work is completed.

- (7) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- (8) **Roof mounted equipment** – All roof mounted equipment such as air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.
- (9) **Design quality of development** - The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.



- (10) **Separate approval for signs** – A separate development application for any proposed signage, must be provide to and approved by, the Consent Authority or under the provision of the State Environmental Planning Policy (Exempt and Complying Codes) 2008 if applicable prior to the erection or display of any such signs.
- (11) **External agency approvals** – The requirements from the Ausgrid Referral (dated 7 December 2021. Reference 1900111251 must be complied with prior to, during, and at the completion of the development.

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

2.0 – Prior to Issue of a Construction Certificate

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

- (1) **Design amendments** – Before the issue of a construction certificate, the applicant must submit, to the satisfaction of Council, construction certificate plans (and specifications) detailing the following amendments to the approved plans and supporting documentation stamped by Council.
 - a) Swept paths are to be updated taking into consideration the location of columns and any other obstructions.
 - b) Swept path for MRV vehicle to be provided showing forward entry and exit.
 - c) Calculations to be provided showing that that the post-development flow rate and volume is less than the predevelopment flow rate and volume for all storm events up to and including the 1% annual exceedance probability (AEP) storm event. Any top up system volume is not to be included in the volume for OSD.
 - d) The driveway ramp long-section to provide dimensions. Ramp to be in accordance with AS2890.1
 - e) The awning area is bypassing any water quality or detention and discharges directly to the kerb. The awning area is to be incorporated into the MUSIC model to ensure water quality targets are achieved.
- (2) **Driveway Gradients and Design** – For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking' and:
 - a) the driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and
 - b) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.

Details demonstrating compliance must be provided to the Certifying Authority.



- (3) **Civil engineering plans** - Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, accessways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

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

- (4) **Stormwater/drainage plans** – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).

Details demonstrating compliance must be provided to the Certifying Authority.

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

- (5) **Footings and Excavation near Council Property** – All works proposed within the zone of influence of Council's asset/s are to be designed and certified by a qualified Geotechnical or Structural Engineer.

Plans and specifications demonstrating compliance with this requirement must be submitted to the Certifying Authority.

- (6) **Dilapidation report** - Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

Note. Condition only applies to developments in a high slip area, significant topography with close nearby properties and building works proposed on boundaries.

- (7) **Potential acid sulfate soils** - A geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Potential Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.

The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.

- (8) **Erosion and sediment control plan** – Before the issue of a construction certificate, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- Council's development control plan,



- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the BlueBook), and
- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

- (9) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings. Footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the Roads Act 1993.
- (10) **Landscape plan / street tree plan** – Street trees must be planted at no cost to Council and in the location(s) specified on the Landscape Plan prepared by The Garden Craftsman, dated 16 February 2022 Rev B.
Details demonstrating compliance must be provided to the Certifying Authority.
- (11) **Design verification – SEPP 65** – A design verification statement from a qualified NSW Registered Architect must be submitted to the Certifying Authority confirming the Construction Certificate plans and specifications are consistent with the Development Application approval.
- (12) **Garbage room** – Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, must be constructed in accordance with the approved plans and the following:
- a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;
 - b) The floor must be impervious material covered at the intersection with the walls, graded and drained to an approved floor waste within the room; and
 - c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.
- Details demonstrating compliance must be provided to the Certifying Authority.
- (13) **Car parking details** – Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans, which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking and Council's development control plan.
- (14) **Construction site management plan** - Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:
- a) location and materials for protective fencing and hoardings to the perimeter on the site
 - b) provisions for public safety



- c) pedestrian and vehicular site access points and construction activity zones
- d) details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- e) protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- f) details of any bulk earthworks to be carried out
- g) location of site storage areas and sheds
- h) equipment used to carry out all works
- i) a garbage container with a tight-fitting lid
- j) dust, noise and vibration control measures
- k) location of temporary toilets.

The applicant must ensure a copy of the approved construction sitemanagement plan is kept on-site at all times during construction.

Note. Condition only applies to dual occupancy developments and above.

- (15) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of 18 additional lots, pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$655	\$11,790
Civic Administration – Works Depot	\$1,266	\$22,788
Town Centre Upgrades	\$3,412	\$61,416
Public Open Space, Parks and Reserves	\$2,085	\$37,530
Sports & Leisure Facilities	\$1,961	\$35,298
Cultural & Community Facilities	\$1,332	\$23,976
Road Works	\$3,570	\$64,260
Shared Paths	\$3,286	\$59,148
Bus Facilities	\$9	\$162
Fire & Emergency Services	\$245	\$4,410
Flood & Drainage	\$1,877	\$33,786
Kings Hill Urban Release Area	\$302	\$5,436
TOTAL		\$360,000

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



- a) Building work - prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.

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.

- (16) **Long service levy** – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.

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) **Home Building Act requirements** - Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —

- a) In the case of work for which a principal contractor is required to be appointed—
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- b) In the case of work to be done by an owner-builder—
 - (iii) the name of the owner-builder, and
 - (iv) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (2) **Home Building Act – Insurance** - In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (3) **Notice of Principal Certifying Authority appointment** – The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the



Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. 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 Certifier and the person who appointed the principal certifier;
- e) if the principal certifier is a registered certifier
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.

The notice must be lodged on the NSW planning portal.

- (4) **Notice commencement of work** – Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:

- a) the name and address of the person;
- 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 numbers and date of issue of the development consent and construction certificate;
- e) a statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before the work commences have been satisfied; and
- f) the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.

- (5) **Signs on site** – A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifier for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being



carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

- (6) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&A Act 1979; and
 - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (7) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.
- An awning is to be erected that would sufficiently prevent any substance from the construction work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.
- (8) **Demolition work** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.
- Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.
- Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.
- (9) **Erosion and sediment controls in place** – Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- (10) **All weather access** – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.
- No materials, waste or the like are to be stored on the all-weather access at any time.
- (11) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.



No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

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

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

- (13) **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.

4.0 - During Works

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

- (1) **Implementation of BASIX commitments** - While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- (2) **Shoring and adequacy of adjoining property (if applicable)**- If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
- a) Protect and support the building, structure or work from possible damage from the excavation, and
 - b) Where necessary, underpin the building, structure or work to prevent any such damage.

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

- (3) **Hours of work** – The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
7.00am to 5.00pm on Monday to Saturday



The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- (4) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

- (5) **Compliance with the Building Code of Australia** – Building work must be carried out in accordance with the requirements of the Building Code of Australia.

- (6) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:

- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.

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

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

- (7) **Location of 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.
- (8) **Surveys by a registered surveyor** – While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —



- a) All footings/ foundations
 - b) At other stages of construction – any marks that are required by the principal certifier.
- (9) **Construction Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Management Plan must be introduced during construction of the development.
- (10) **Traffic Management Plan implementation** - All construction traffic management procedures and systems identified in the approved Construction Traffic Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (11) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
- a) Connected to an approved stormwater management system.
- (12) **Disposal of stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.
- (13) **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.
- (14) **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.
- (15) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.
- (16) **Construction noise** – While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.



- (17) **Uncovering relics or Aboriginal objects** - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- "relic" means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- "Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

- (18) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.

- (19) **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.

- (20) **Cut and fill (if applicable)** – While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.

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) **Strata Plan of Subdivision** – Sections 37 and 37A of the Strata Schemes (Freehold Development) Act 1973 require an application to be provided to Council for approval prior to the issue of the certified Strata Plan of subdivision.

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 16-2022-223-1 and of compliance with the relevant conditions of consent, prior to the issuing of a Strata Plan of Subdivision.

Note: The final Strata Plan of Subdivision must be prepared to a quality suitable for lodgement with the NSW Land Registry Services.

- (2) **Restriction on issue of Strata Plan of Subdivision** – An Occupation Certificate for the building must be issued by the PCA prior to the issue of any Strata Plan of subdivision associated with this development consent 16-2022-223-1.

Documentary evidence of the issue of the Occupation Certificate must be provided to Council in conjunction with the application for the Strata Plan of Subdivision.

- (3) **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.

- (4) **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.

- (5) **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.

- (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) **Section 88B Instrument** – The applicant must prepare a Section 88B Instrument which incorporates the following 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;
 - c) easement for on-site detention;
 - d) positive covenant over the on-site detention / water quality facility for the maintenance, repair and insurance of such a facility;
 - e) retaining wall, positive covenant, and restriction to user;
 - f) restriction as to user over sub-surface drainage pipes contained within the building area of allotments;
 - g) restriction as to user over any lots adjacent to a public reserve stipulating dividing fence type;
 - h) restriction as to user preventing the alteration of the final overland flow path shape, and the erection of any structures (other than open form fencing) in the overland flow path without the written permission of Council;
 - i) restriction as to user creating an easement for support and maintenance 900mm wide adjacent to the "zero" lot line wall;

5.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.
The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.
- (2) **Survey Certificate** – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.
- (3) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
Note: A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.
- (4) **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; and
- 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.

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

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

- (6) **Repair of infrastructure** – Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

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

- (8) **Works as Executed Plans and any other documentary evidence** - Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- (a) All stormwater drainage systems and storage systems

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

- (9) **Geotechnical Compliance Certificate** – A Certificate of Compliance prepared by a qualified Geotechnical Engineer must be provided to the Principal Certifying Authority stating that the works detailed in the Geotechnical Report have been undertaken under the Engineer's supervision and to the Engineer's satisfaction, and that the assumptions relating to site conditions made in preparation of the report were validated during construction.

This certificate must accompany the Works as Executed plans.

- (10) **Completion of landscape and tree works** – Before the issue of any occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with *AS 4373-2007 Pruning of amenity trees* and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.



- (11) **Car parking requirements** – A minimum of 9 car parking spaces including 2 disabled car parking spaces are to be dedicated to the Commercial Premises (café). Parking must be permanently marked on the pavement surface.

There are to be a minimum 6 parking spaces marked for visitors, which must be signposted as "visitor parking".

Car parking for residential units must be provided in accordance with the following minimums:

- One bedroom unit – 1 car space
- Two bedroom unit – 1 car space
- Three bedroom unit – 2 car spaces
- Four bedroom unit – 2 car spaces

Residential car parking is to be permanently numbered on the pavement.

There are to be 2 motorcycle parking spaces provided in accordance with the approved plans.

All car parking is to be provided in accordance with AS2890 and the approved plans.

- (12) **Car Parking Design** - Before the issue of any occupation certificate, Council's Development Engineer must be satisfied height clearance warnings and safety devices such as safety mirrors, have been incorporated into the car parking area.
- (13) **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.
- (14) **Roof Design** – The roof design must include the installation of PV Solar Panels.
- (15) **Lot Consolidation** - Before the issue of any occupation certificate, Lot 8 DP 26597 and Lot 92 DP 577122 are to be consolidated.

A copy of the Registered Plan of consolidation must be provided to the Principal Certifying Authority.

6.0 – Ongoing Use

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

- (1) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Removal of graffiti** – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (3) **Parking areas to be kept clear** – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.



- (4) **Privacy screen** – Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.
- (5) **Residential air conditioning units** – During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.
- (6) **Fire Safety Schedule** – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of Fire and Rescue NSW in accordance with the *Environmental Planning & Assessment Regulations 2000*.
- (7) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.

If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
- (8) **Waste management and collection** – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (e.g. footpaths, roadways, plazas, reserves) at any time.
- (9) **Communal Area Access** – All residents of the development are to have access to all communal areas, including the open communal area on Level 1.

Advice Note(s):

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



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

- (4) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (5) **Premise standard** – It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA).
Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
- (6) **Responsibility for damage for tree removal/pruning** – 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.
- (7) **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 the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.
- (8) **Street Addressing** - Prior to occupying the development or release of subdivision certificate (whichever occurs first) the approved dwellings are to be identified as follows:
 - CP – 20 Soldiers Point Road, SOLDIERS POINT
 - PT 1 – 101/20 Soldiers Point Road, SOLDIERS POINT
 - PT 2 – 102/20 Soldiers Point Road, SOLDIERS POINT
 - PT 3 – 103/20 Soldiers Point Road, SOLDIERS POINT
 - PT 4 – 104/20 Soldiers Point Road, SOLDIERS POINT
 - PT 5 – 105/20 Soldiers Point Road, SOLDIERS POINT
 - PT 6 – 106/20 Soldiers Point Road, SOLDIERS POINT
 - PT 7 - 201/20 Soldiers Point Road, SOLDIERS POINT
 - PT 8 - 202/20 Soldiers Point Road, SOLDIERS POINT
 - PT 9 - 203/20 Soldiers Point Road, SOLDIERS POINT
 - PT 10 - 204/20 Soldiers Point Road, SOLDIERS POINT
 - PT 11 - 301/20 Soldiers Point Road, SOLDIERS POINT



- PT 12 – 302/20 Soldiers Point Road, SOLDIERS POINT
- PT 13 – 303 /20 Soldiers Point Road, SOLDIERS POINT
- PT 14 - 304/20 Soldiers Point Road, SOLDIERS POINT
- PT 15 – 401/20 Soldiers Point Road, SOLDIERS POINT
- PT 16 - 402/20 Soldiers Point Road, SOLDIERS POINT
- PT 17 – 403/20 Soldiers Point Road, SOLDIERS POINT
- PT 18 - 404/20 Soldiers Point Road, SOLDIERS POINT
- PT 19 – G01/20 Soldiers Point Road, SOLDIERS POINT

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.

- (9) **Signage** – You are advised that any proposed advertising signs that are not shown on the approved plans, or classified as exempt development, are subject to a separate Development Application to Council.

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

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Biodiversity and Conservation) 2021 and State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- Subject to the recommended conditions the proposed development will be provided with adequate essential services required under the PSLEP.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any submission issues raised have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination. Council has given due consideration to community views when making the decision to determine the application.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

1. Confirm and clarify the terms of Council's Approval;
2. Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
3. Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
4. Set standards and performance measures for acceptable environmental performance; and
5. Provide for the ongoing management of the development.

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

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



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

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

RIGHT OF REVIEW

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

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

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

ITEM 3 - ATTACHMENT 2 ORDINARY COUNCIL MEETING MINUTES 28 FEBRUARY 2023.

ITEM 3 - ATTACHMENT 2 LOCALITY PLAN.



116 Adelaide Ct, West, Baywood Terrace NSW 2224. Ph: 02 (02) 46810255 Fax: (02) 49272612 Email: council@portstephens.nsw.gov.au

ITEM 3 - ATTACHMENT 4 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 4

**FILE NO: 23/88622
EDRMS NO: 58-2017-10-1**

DRAFT AMENDMENT TO DEVELOPMENT CONTROL PLAN (2014) CHAPTER D17: STOCKTON RIFLE RANGE

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submission received during the public exhibition period (**ATTACHMENT 1**).
- 2) Endorse the Port Stephens Development Control Plan 2014 – Chapter D17: Stockton Rifle Range (**ATTACHMENT 2**).
- 3) Provide public notice that the amendment to the Port Stephens Development Control Plan has been approved in accordance with the Environmental Planning and Assessment Regulation 2000.

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

121	<p>Councillor Giacomo Arnott Councillor Jason Wells</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Receive and note the submission received during the public exhibition period (ATTACHMENT 1).2) Endorse the Port Stephens Development Control Plan 2014 – Chapter D17: Stockton Rifle Range (ATTACHMENT 2).3) Provide public notice that the amendment to the Port Stephens Development Control Plan has been approved in accordance with the Environmental Planning and Assessment Regulation 2000.
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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 Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to advise Council of the outcomes of the consultation undertaken on the draft Port Stephens Development Control Plan 2014 (DCP) Chapter D17: Stockton Rifle Range (**ATTACHMENT 2**) (the 'amendment') and to seek Council endorsement to make the plan.

On 27 July 2021, Minute No. 194 (**ATTACHMENT 3**), Council adopted Chapter D17 to set out urban design and planning guidelines for future development of the site, known as the Stockton Rifle Range. At this time, Council also resolved to authorise delegation to amend the Port Stephens Local Environmental Plan 2013 to rezone part of the site to allow residential development and to prepare a Voluntary Planning Agreement (VPA) to manage sand dune transgression on the eastern side of the development footprint. A locality plan is available at (**ATTACHMENT 4**).

On 20 May 2022, the Port Stephens Local Environmental Plan (Map Amendment No.3) was made. This amendment rezoned part of the site from C2 Environmental Conservation to R3 Medium Density Residential Zone. However, the area of land rezoned by the Department of Planning and Environment was not consistent with the development footprint in Council's adopted planning proposal, as the VPA to manage sand dune transgression was not executed. Without a mechanism to manage sand dune transgression, rezoning of the affected part of the site could not be supported. The plan showing the adopted zoning footprint is available at (**ATTACHMENT 5**).

On Wednesday 5 April 2023, Councillors were invited to undertake a site inspection. A representative from Defence Housing Australia, as well as their planning consultant and members of the Strategic Planning Team were available to answer questions about the site and the DCP amendment.

The draft DCP seeks to amend the adopted site-specific chapter for the Rifle Range in order to reflect zoning the footprint and improve development outcomes on the site. The opportunity was also taken to include minor changes to ensure a more streamlined site-specific chapter.

A summary of changes is as follows:

- Updated masterplan to reflect the amended zoning footprint, this includes the realignment of roads and reconfiguration of some lots.
- Revised heritage requirements to better reflect the remaining heritage values on the site and to reduce repetition of legislative requirements.
- Removed the Central Park Precinct, and incorporated this area into the Flexible Housing Precinct.
- Updated some controls within the Flexible Housing Precinct to ensure consistency with other parts of the DCP and to improve clarity.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

- Included controls for solar access to ensure that solar access to adjoining properties is given adequate consideration and reasonable access to sunlight is maintained for occupants of new dwellings, given the size and orientation of some of the smaller lots.
- Amended requirements for landscaping within the central park to ensure that it functions primarily as a faunal movement corridor.

A detailed explanation of the amendments is provided within **(ATTACHMENT 6)**.

At its meeting on 14 March 2023, Minute No. 047 **(ATTACHMENT 7)**, Council endorsed the draft amendment for public exhibition. 1 submission, from the proponent, was received during the public exhibition period. Minor changes have been made to Figure DAK in response to the submission. These changes are detailed in the explanation of amendments **(ATTACHMENT 6)** and in the Submissions table **(ATTACHMENT 1)**.

No other post-exhibition changes have been made to the amendment.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Program to develop and implement Council's key planning documents

FINANCIAL/RESOURCE IMPLICATIONS

There are no known financial or resource implications for Council as a consequence of the proposed recommendations. The public exhibition will be managed within the existing budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 23 MAY 2023

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

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

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

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

Port Stephens Development Control Plan 2014 (DCP)

Section B of the DCP outlines general provisions applicable to most development applications and development types, Section C of the DCP outlines requirements and objectives applicable to specific development types (such as ancillary development), and Section D applies to specifically mapped areas.

Sections B and C of the DCP will apply to development where there are no site-specific controls.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the DCP amendment is not made, resulting in an ideal development outcome not being achieved on the site.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The strategic planning process has considered social, economic and environmental implications.

The amendment will improve development outcomes on the site and allow residential development to occur on zoned land.

CONSULTATION

Preliminary consultation with key stakeholders has been undertaken by the Strategy and Environment Section to identify and consider any issues prior to public exhibition.

Internal

Internal consultation has been undertaken with the Development Planning, Natural Systems, Engineering Services and Community Assets Teams.

External

The draft DCP has been prepared in consultation with the landholder, Defence Housing Australia.

Consultation with relevant government agencies was undertaken on the planning proposal and the adopted version of the DCP. The amendment does not propose changes to matters raised by agencies during previous consultation.

Notice of the public exhibition was sent to the Department of Community Justice and Property & Development NSW, who are responsible for the Stockton Centre, which adjoins the Rifle Range to the south. It was advised that it is premature for the State to comment on the Draft amendment ahead of the NSW Government finalising its position on the future use of the Stockton Centre site.

Community

The amendment was publicly exhibited for 28 days from Thursday 16 March 2023 to Thursday 13 April 2023, in accordance with the Environmental Planning and Assessment Regulations 2021.

A notice of the public exhibition was placed on the 'public exhibition' page on Council's website and advertised on social media. The social media post was viewed by 1,337 users, 35 of which used the link to view the public exhibition material.

1 submission, from the proponent, was received during the public exhibition period. The submission is summarised and addressed in **(ATTACHMENT 1)**.

Changes have been made to Figure DAK in response to the submission. The change includes extending the Flexible Housing Precinct overall lots with a minimum lot size of 200m², amending the road hierarchy to enable compliance with public transport requirements and straightening the line work so that the plan is reflective of areas which have been identified for stormwater detention basins. More detail is provided in the explanation of amendments **(ATTACHMENT 6)** and in the response to submissions **(ATTACHMENT 1)**.

OPTIONS

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

ATTACHMENTS

- 1) Submissions table.
- 2) Draft Development Control Plan (2014): Chapter D17 - Stockton Rifle Range.
- 3) 27 July 2021, Minute No. 194.
- 4) Locality plan.
- 5) Zoning plan.
- 6) Explanation of amendments.
- 7) 14 March 2023, Minute No. 047.

COUNCILLORS ROOM

- 1) Submissions Table.

TABLED DOCUMENTS

Nil.

Attachment 1: Submissions Table

Submission Author	Comment	Response
Defense Housing Australia	<p>It was requested that Figure DAK be amended by:</p> <ol style="list-style-type: none">1. extending the Flexible Housing Precinct to cover all parts of the site that have a minimum lot size of 200m².2. changing the location of the Collector Road to the eastern boundary of the Central Park.3. Straightening the linework representing the detention basins so that it is more reflective of areas which have been identified for basins.	Figure DAK has been amended.

ITEM 4 - ATTACHMENT 2 DRAFT DEVELOPMENT CONTROL PLAN (2014):
CHAPTER D17 - STOCKTON RIFLE RANGE.

D17

D17 Stockton Rifle Range

Application

This part applies to the land identified in Figure DAJ as Stockton Rifle Range Land Application Map

D17.A Heritage

Objective

To restore, maintain, and reinterpret heritage features and areas of archaeological potential.

Development controls

D17.1	Subdivision development is to ensure the Heritage Anti-Aircraft Battery is stabilised and remnants of the rifle range stop butt are retained for heritage interpretation.
D17.2	Subdivision development is to ensure pedestrian access, wayfinding and heritage information signage is provided within the site.
D17.3	The street network shall be generally consistent with the alignment of the existing rifle range firing mounds.
D17.4	Subdivision development shall ensure the coastal forest to the north of the existing rifle range footprint is retained to protect areas of archaeological potential.
D17.5	The first subdivision development is to consider the recommendations of the Aboriginal Cultural Heritage and Archaeological Assessment Report – Residential Development Planning Proposal – Stockton Rifle Range, Stockton (Umwelt 2017).

D17.B Ecology

Objective

To enhance the coastal dune ecology of the site within the broader Stockton Peninsula ecological context.

Development controls

D17.6 ⁵	Landscaping provided with development shall be limited to endemic species for public and private landscaping.
D17.7	Residential lots shall be setback from the Stockton Beach dunes by a minimum of 50m as shown on Figure DAK.
D17.8	Subdivision development shall ensure the Stockton Beach dunes area is revegetated to stabilise the dune and to provide north-south ecological continuity along the dune edge.

ITEM 4 - ATTACHMENT 2 DRAFT DEVELOPMENT CONTROL PLAN (2014):
CHAPTER D17 - STOCKTON RIFLE RANGE.

D17

Development controls

D17.96	<p>Subdivision development is to ensure that the public open space required by D17.185 provides for a faunal movement corridor between coastal forests to the north and south of the site and should be designed to ensure the effective movement of:</p> <ul style="list-style-type: none"> • Koala; and • Squirrel glider <p>Within corridors:</p> <ul style="list-style-type: none"> • Where possible, mature trees should be retained. • Trees, or clumps of vegetation, should be spaced no greater than 30 metres apart. • New planting must be locally endemic native species. • A strip of vegetation is to be provided within the central portion of the public open space area with a minimum width of 40m. Within this section, trees or clumps of vegetation, should be spaced no greater than 30m apart.
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D17.C Street layout, access and circulation

Objective

To ensure the **local street** network is interconnected and facilitates movement, accessibility and pedestrian comfort.

Development controls

D17.40 7	<p>Subdivision development is to provide a street layout that is generally consistent with Figure DAK.</p>
D17.41 8	<p>The subdivision of a lot that proposes a road layout that prevents the effective connectivity of the wider street network will not be supported.</p>
D17.42 9	<p>Subdivision development is to provide a shared path layout that is consistent with Figure DAK.</p>
D17.43 10	<p>Subdivision development is to provide footpaths along all local streets.</p>
D17.44 11	<p>Subdivision development is to ensure the vehicle and pedestrian access to the site via Popplewell Road at Taylor Road is constructed as a Local Sub-Arterial collector road (as shown in Figure DAK).</p>
D17.45 12	<p>Subdivision development is to ensure the second vehicle and pedestrian access to the site via Popplewell Road is constructed as a Local Sub-Arterial local street (as shown in Figure DAK).</p>
D17.46 13	<p>Subdivision development is to ensure the street grid maintains provision for a future street connection to the Stockton Centre site to the south as shown in Figure DAK.</p>
D17.47 14	<p>The first subdivision development is to include:</p> <ul style="list-style-type: none"> • Signalisation of the Vardon Road and Nelson Bay Road intersection; and • Upgrades to Vardon Road and Popplewell Road to facilitate a Local Sub-Arterial collector bus route.

ITEM 4 - ATTACHMENT 2 DRAFT DEVELOPMENT CONTROL PLAN (2014):
CHAPTER D17 - STOCKTON RIFLE RANGE.

D17

D17.D Public open space

Objective

To identify, acquire, and protect a central part of the site as a local public park.

To identify and protect a central part of the site as a local public park and faunal movement corridor.

Development controls

D17.18 15	Subdivision development is to provide public open space of a minimum area of 1.5 hectares in the centre of the site, as shown in Figure DAK.
D17.19 16	Subdivision development is to ensure that the crime prevention through environmental design (CPTED) principles are implemented during the design of paths that are not adjacent to a road. This must include the provision of pedestrian lighting, clear sight lines, and universally accessible design features to promote safety and accessibility.

D17.E Landscape

Objective

To provide landscaping that is appropriate for the coastal bushland context, and that integrates with housing development.

Development controls

D17.20 17	All local streets within the subdivision development shall feature informal endemic street tree plantings.
D17.21 18	Access to the adjacent land to the north and east must be limited by physical barriers to limit ecological impacts. These measure can include the installation of bollards or koala sensitive fencing appropriate barriers or fencing.
D17.22 19	Landscaping is provided as follows: <ul style="list-style-type: none"> • If the lot has an area of at least 200m² but not more than 300m² - 10% of the area of the lot • If the lot has an area of at least 300m² but not more than 450m² - 15% of the area of the lot • A principle landscaped area, measuring at least 1.5m wide and at least 3m long, must be provided as part of the development.

D17.F Solar Access

Objective

To ensure that reasonable access to sunlight is maintained for occupants of new dwellings.

Precinct specific controls

D17.20	Subdivision development within the Flexible Housing Precinct (Figure DAJ) is to include lot size and dimensions for north and south facing lots that ensure future dwellings can contain adequate solar access to private open space areas. The lot size and dimensions are to be informed by solar diagrams with indicative building massing.
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ITEM 4 - ATTACHMENT 2 DRAFT DEVELOPMENT CONTROL PLAN (2014):
CHAPTER D17 - STOCKTON RIFLE RANGE.

D17

Precinct specific controls

- D17.21 A minimum of 2 hours of sunlight must be available between 9am and 3pm on June 21, to at least 50% of the private open space for development located within the Flexible Housing Precinct (Figure DAJ).
- D17.22 A minimum of 50% of private open space of adjoining dwellings must remain unaffected by any shadow for a minimum of 2 hours between 9am-3pm on June 21 for a development located within the Flexible Housing Precinct (Figure DAJ).

D17.FG Setbacks, bulk and scale

Objective

To facilitate a diversity of housing within the development area.

Development controls

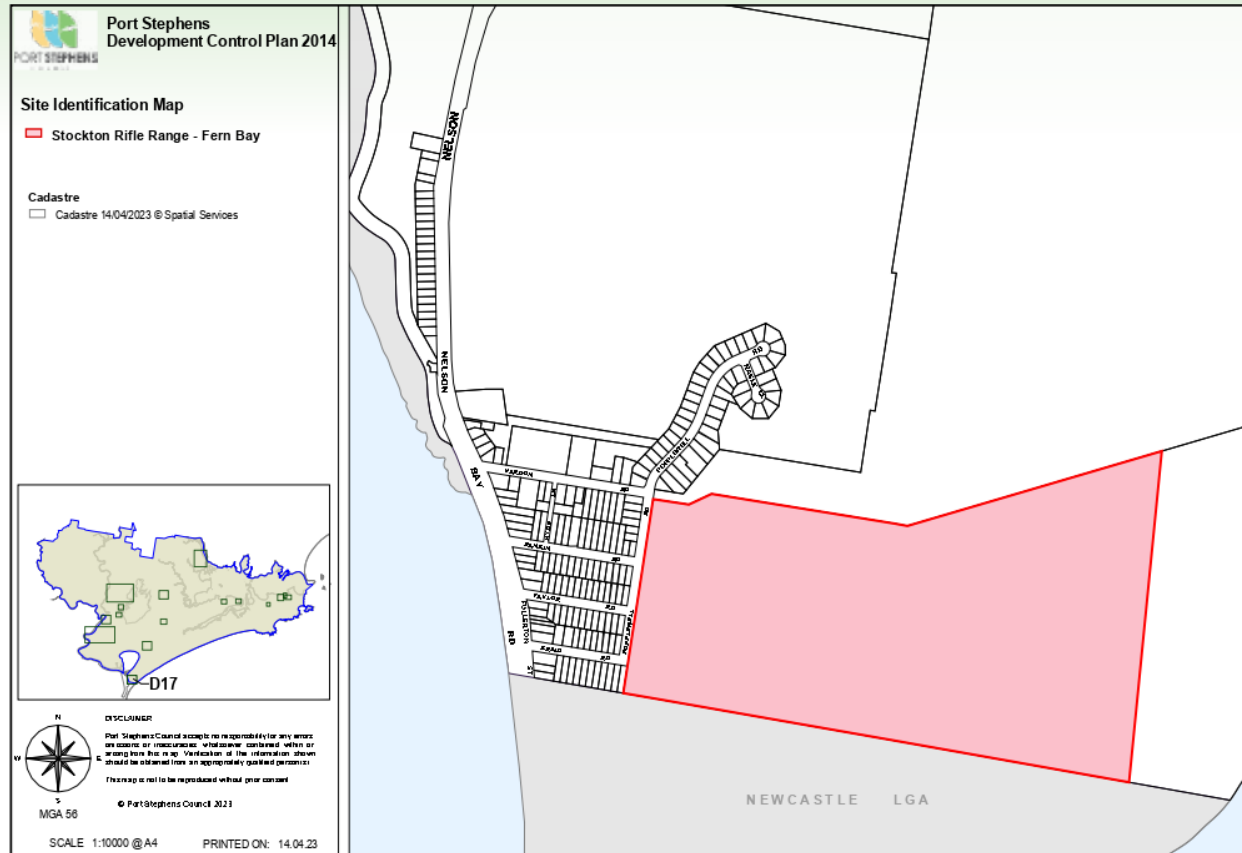
- D17.23 A residential lot that has an area less than 500m² is capable of supporting a rectangular building footprint of 8m x 12m provide a minimum lot width of 8m.
Note: lots greater than 500m² are defined in C1.2.

Precinct specific controls

- D17.24 The following setbacks must be provided for development on lots less than 300m² that are located within the Flexible Housing Precinct (Figure DAK):
- Zero setback to side (only 1 side if no rear land access)
 - 2m to any road frontage
 - 5.5 to garage from the road frontage
 - 4m to rear (ground & upper floor) — no rear access
 - Zero setback to rear if land has rear access
 - 16m² private open space, minimum 4mx4m
 - Minimum 2m to any road frontage
 - Minimum 0.9m to side for ground level
 - 0m to one side only (ground and upper storeys)
 - Minimum 1.5m to side for upper storeys
 - Minimum 4m to rear for ground level
 - Minimum 6m to rear for upper storeys
 - Minimum 5.5m to garage from the road frontage
 - 16m² private open space, minimum dimensions of 4mx4m
- D17.25 The following setbacks must be provided for development within the central park precinct (Figure DAK):
- 2m to primary road frontage
- D17.25 Rear setbacks for north and south facing lots less than 300m² within the Flexible Housing Precinct (Figure DAK) are to be informed by solar diagrams and must ensure adequate solar access is available to the site and adjoining properties.

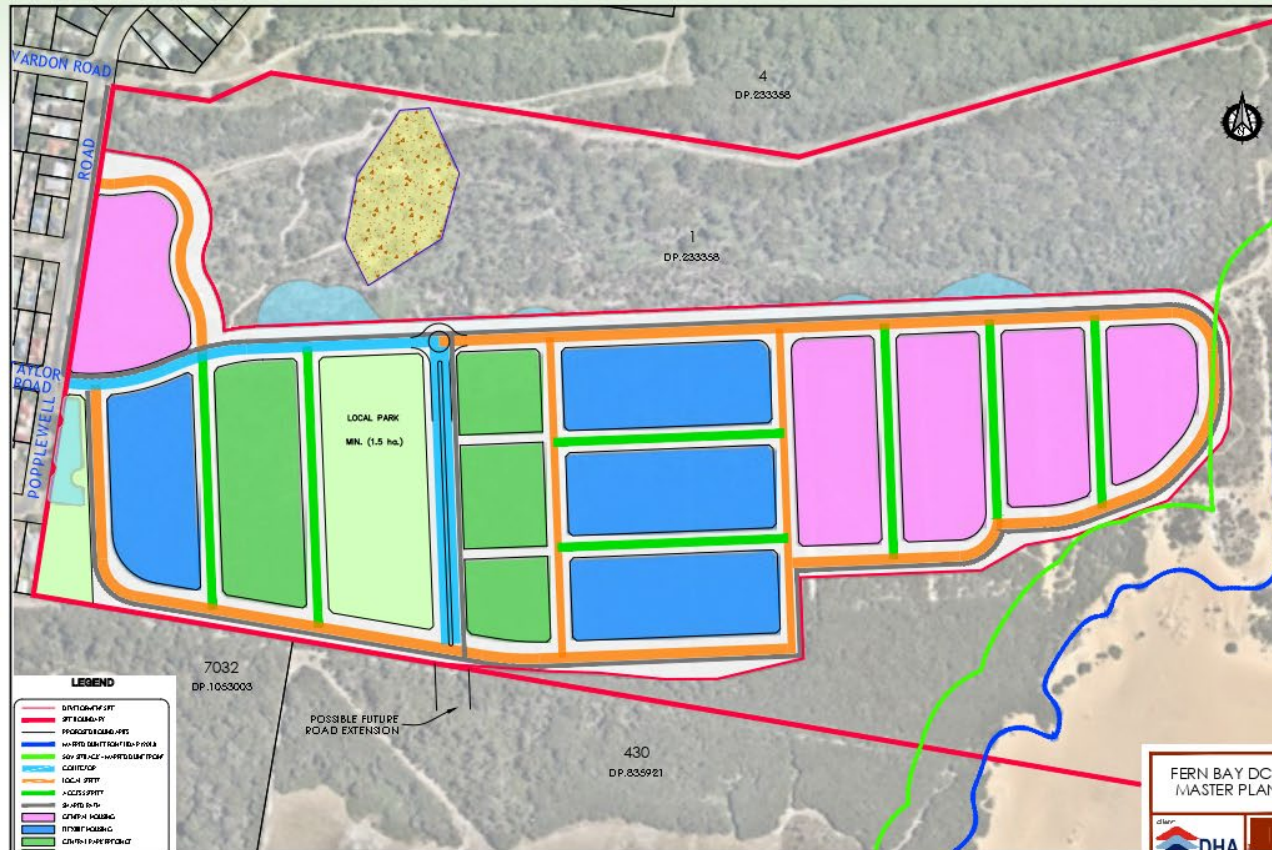
D17

Figure DAJ: Stockton Rifle Range Land Application Map



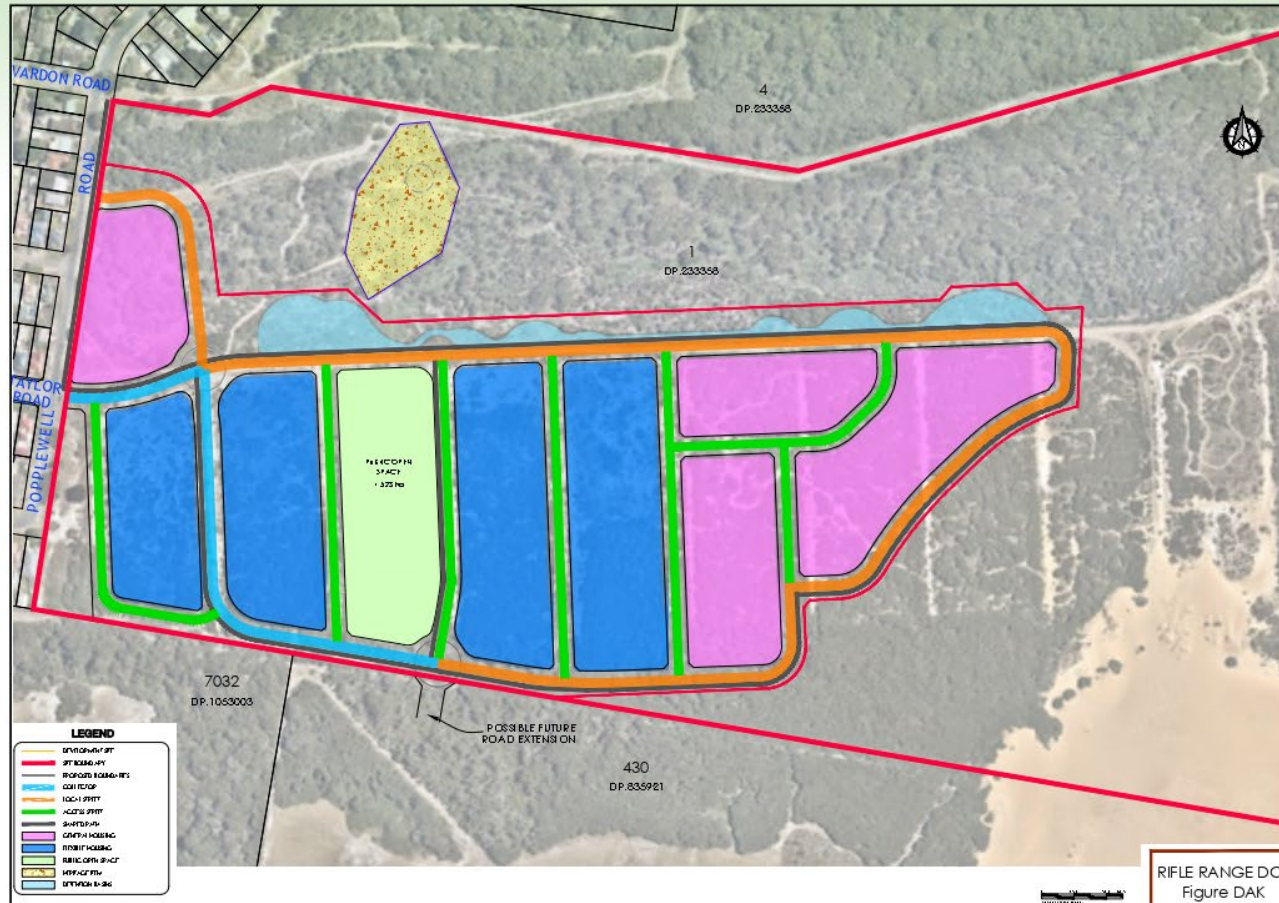
D17

Figure DAK: Flexible Housing Precinct



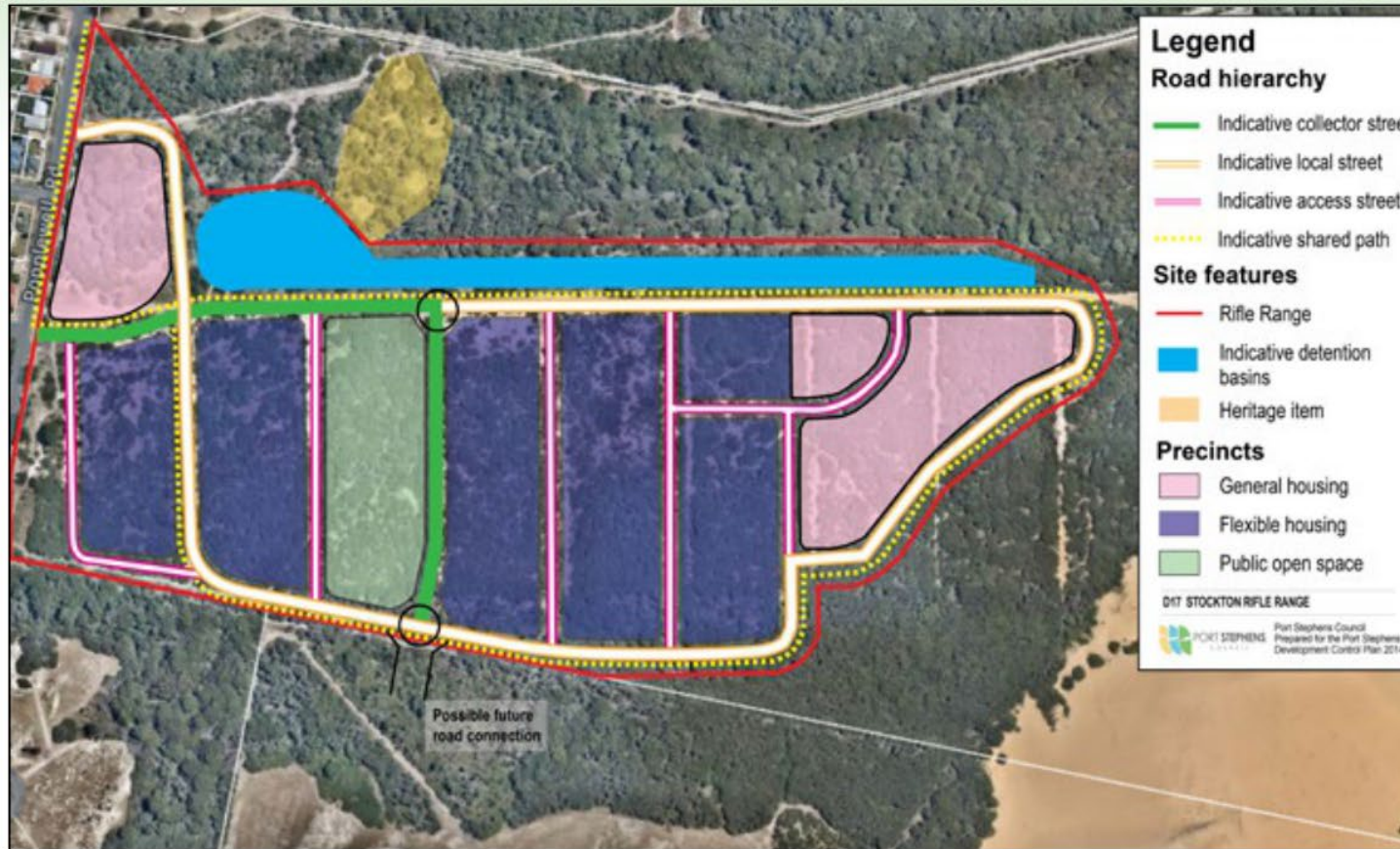
D17

Figure DAK: Flexible Housing Precinct - exhibition version



D17

Figure DAK: Flexible Housing Precinct - post exhibition



MINUTES ORDINARY COUNCIL - 27 JULY 2021

ITEM NO. 4

FILE NO: 21/162643
EDRMS NO: 58-2017-10-1**RIFLE RANGE PLANNING PROPOSAL, DEVELOPMENT CONTROL PLAN AND VOLUNTARY PLANNING AGREEMENT**REPORT OF: JANELLE GARDNER - STRATEGY & ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the amendments to the planning proposal (**ATTACHMENT 2**) and related amendment to the Port Stephens Development Control Plan 2014 (**ATTACHMENT 3**) for 14 Popplewell Road, Fern Bay (Lot 5, DP233358), to rezone part of the subject land from E2 Environmental Conservation to R3 Medium Density Residential, to apply a mixed minimum lot size of 200m² and 500m², and to apply maximum building heights of 9 and 15 metres.
- 2) Receive and note the submissions received during public exhibition of the planning proposal and related amendment to the Port Stephens Development Control Plan 2014 (**ATTACHMENT 4**).
- 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).
- 4) Approve the related amendment to the Port Stephens Development Control Plan 2014 in accordance with clause 21 of the Environmental Planning and Assessment Regulation 2000 (NSW) and provide public notice in accordance with those Regulations.
- 5) Agree to the preparation and exhibition of a draft Voluntary Planning Agreement to manage sand dune transgression in accordance with the letter of offer dated 23 April 2021 (**ATTACHMENT 5**).
- 6) If no submissions are received, approve the Voluntary Planning Agreement as exhibited for execution.

**ORDINARY COUNCIL MEETING - 27 JULY 2021
MOTION**

194	<p>Councillor Ken Jordan Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <p>1) Note the amendments to the planning proposal (ATTACHMENT 2) and related amendment to the Port Stephens Development Control</p>
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MINUTES ORDINARY COUNCIL - 27 JULY 2021

	<p>Plan 2014 (ATTACHMENT 3) for 14 Popplewell Road, Fern Bay (Lot 5, DP233358), to rezone part of the subject land from E2 Environmental Conservation to R3 Medium Density Residential, to apply a mixed minimum lot size of 200m² and 500m², and to apply maximum building heights of 9 and 15 metres.</p> <ol style="list-style-type: none">2) Receive and note the submissions received during public exhibition of the planning proposal and related amendment to the Port Stephens Development Control Plan 2014 (ATTACHMENT 4).3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).4) Approve the related amendment to the Port Stephens Development Control Plan 2014 in accordance with clause 21 of the Environmental Planning and Assessment Regulation 2000 (NSW) and provide public notice in accordance with those Regulations.5) Agree to the preparation and exhibition of a draft Voluntary Planning Agreement to manage sand dune transgression in accordance with the letter of offer dated 23 April 2021 (ATTACHMENT 5).6) If no submissions are received, approve the Voluntary Planning Agreement 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: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, 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 advise Council of the outcome of the exhibition of the planning proposal (**ATTACHMENT 2**) and related amendment to the Port Stephens Development Control Plan 2014 (**ATTACHMENT 3**) for 14 Popplewell Road, Fern Bay (Lot 5, DP233358) and note the submissions received (**ATTACHMENT 4**).

The report seeks authorisation to exercise delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 (LEP) and to approve the amendment to the Port Stephens Development Control Plan 2014 (DCP). Authorisation is also sought to prepare and exhibit a voluntary planning agreement (VPA) in accordance with the letter of offer dated 23 April 2021 (**ATTACHMENT 5**).

MINUTES ORDINARY COUNCIL - 27 JULY 2021

The site is known as 'the Rifle Range' and a locality plan is provided at **(ATTACHMENT 1)**. The site is identified for residential rezoning in the Fern Bay and North Stockton Strategy.

The planning proposal will rezone part of the land from E2 Environmental Conservation to R3 Medium Density Residential. The planning proposal will amend the minimum lot size and height of building maps to reflect the proposed rezoning and to support a range of residential densities. The planning proposal will facilitate around 300 new homes (subject to development consent).

The DCP sets out urban design and planning guidelines for the future development. The DCP will ensure that the likely impacts of future development are adequately managed.

The VPA is necessary to ensure that sand dune transgression is adequately managed by Defence Housing Australia (the Developer) as part of any future development of the site. The VPA and explanatory note will be notified and exhibited for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000. The VPA will be exhibited and executed prior to gazettal of the rezoning.

The planning proposal and DCP were publicly exhibited from 3 June 2020 to 3 July 2020. Five submissions from community members/groups were received. In accordance with the Gateway determination, the planning proposal was referred to public authorities, and six submissions were received. All submissions are addressed in **(ATTACHMENT 4)**.

A summary of the planning proposal is set out below:

Date lodged:	18 March 2018
Proponent:	Defence Housing Australia (DHA)
Subject property:	14 Popplewell Road, Fern Bay
Lot Number:	Lot 5, DP233358
Site area:	111 hectares
Site area proposed to be rezoned:	17 hectares
Current zoning:	E2 Environmental Conservation
Proposed zoning:	Part of the land to be zoned R3 Medium Density Residential and part to remain E2 Environmental Conservation
Existing Minimum Lot Size:	40 hectares
Proposed Minimum Lot Size:	200m ² and 500 m ² (R3) and 40 hectares (E2)
Existing Maximum Building Height:	No maximum building height specified

MINUTES ORDINARY COUNCIL - 27 JULY 2021

Proposed Maximum Building Height:	9 and 15 metres (R3) and no maximum building height (E2)
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Council previously resolved to adopt the planning proposal and forward it to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination and authority to make the plan.

On 25 November 2019, DPIE issued a Gateway determination (**ATTACHMENT 6**), requiring the planning proposal to be updated to:

- Identify the site as an 'urban release area' to enable the State government to collect State infrastructure contributions for future development
- Provide detail on proposed storm water management measures and water sensitive urban design.

The Gateway determination authorises Council to make the amendments to the LEP to give effect to the planning proposal following public exhibition.

Existing and current use

The site is currently vacant and non-operational.

Approximately 17 hectares of the 111 hectare site is being proposed for rezoning. This part of the site is largely disturbed and any existing vegetation is considered to be of low quality. The development footprint also avoids the parts of the site with high Aboriginal cultural value.

Purpose of the amendment

The planning proposal will facilitate future housing (around 300 new homes, subject to development consent) and increase opportunities for housing diversity. There will be a mix of lot sizes and building heights on the site which will facilitate a range of urban densities and housing choices.

DHA provide housing for members of the Commonwealth defence force and their families. The proximity of the site to the Williamtown RAAF base makes it a desirable location for new housing.

Suitability of the subject land

The site is suitable for residential development as environmental impacts can be minimised and it is located within walking distance to facilities and services in Fern Bay. The site is accessible via motor vehicle, public transport or cycling to nearby employment areas in Williamtown and Newcastle. The Fern Bay and North Stockton Strategy also identifies the site for future urban development as it is within proximity to the proposed North Stockton Town Centre.

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COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
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		
Developer Contributions (\$7.11)	Yes		The proposal will generate developer contributions to contribute towards the delivery of necessary local community infrastructure. The VPA will not impact the obligations of the Developer to pay local infrastructure contributions under the Port Stephens Local Infrastructure Contributions Plan 2020.
External Grants	No		
Other	Yes		\$33,598 Stage 1 and Stage 2 rezoning fees.

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that insufficient land is available in Fern Bay for residential needs.	Medium	Adopt the recommendations.	Yes
There is a risk that future development on the site is impacted by sand dune transgression.	High	Adopt the recommendations.	Yes

MINUTES ORDINARY COUNCIL - 27 JULY 2021

There is a financial risk that Council will be responsible for funding sand transgression mitigation in the future.	High	Adopt the recommendations.	Yes
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Voluntary Planning Agreement (VPA)

The Developer submitted a letter of offer to enter into a VPA for the management of sand dune transgression (**ATTACHMENT 5**). The terms of the VPA will ensure works are carried out by the Developer to minimise the impacts of sand dune transgression including:

- A dune rehabilitation and maintenance program for weed removal and planting
- Designated beach access ways and fencing
- A transgression monitoring program.

The VPA will not impact the obligations of the Developer to pay local infrastructure contributions under the Port Stephens Local Infrastructure Contributions Plan 2020.

Port Stephens Development Control Plan 2014 (DCP)

The DCP includes changes to:

- Adopt a masterplan for the future development of the site
- Provide controls for the management, interpretation and celebration of the site's heritage values
- Require landscaping for future development
- Specify requirements for the signalisation of the Vardon Road and Nelson Bay Road intersection and local road upgrades
- Controls relating to setbacks, the bulk and scale of new development
- Require a 1.5ha area of public open space which will also be a fauna movement corridor.

The DCP reflects the comments received from agencies and the community during consultation.

Port Stephens Local Environmental Plan 2013 (LEP)

The planning proposal seeks to rezone approximately 17ha of land R3 Medium Density Residential. The objectives of the R3 Medium Density Residential zone are listed in the LEP as:

- To provide for the housing needs of the community within a medium density residential environment
- To provide a variety of housing types within a medium density residential environment

MINUTES ORDINARY COUNCIL - 27 JULY 2021

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Amending the LEP will permit (with development consent) the development of the site in accordance with the masterplan, which is consistent with the objectives of this zone.

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

Part 3 of the EP&A Act provides the framework for amending a local environmental plan. DPIE issued a Gateway determination under section 3.34 of the EP&A Act specifying that the planning proposal should proceed to exhibition, subject to conditions and consultation requirements. Council is authorised to act as the local plan making authority to make the plan by the Gateway determination. Should Council adopt the recommendations, arrangements will be made for the drafting of the amendment to the LEP to give effect to the planning proposal.

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

The VPA will be prepared in accordance with section 7.4 of the EP&A Act. The VPA will be notified and exhibited for 28 days in accordance with section 7.5 of that Act.

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

Division 2 of Part 3 of the EP&A Regulations specifies the requirements for public participation when a DCP is amended. The public exhibition of the DCP Amendment has satisfied these requirements.

Clause 25D provides requirements for notification of the VPA and clause 25E requires an explanatory note be prepared for exhibition. The explanatory note and VPA will be notified and exhibited in accordance with the EP&A Regulations.

Hunter Regional Plan 2036

The Hunter Regional Plan 2036 supports the renewal of the site to deliver a diversity of housing, serving the housing needs of the local population and supporting the Williamstown RAAF base and making the most efficient use of infrastructure.

Greater Newcastle Metropolitan Plan

The planning proposal responds to the outcomes of the Greater Newcastle Metropolitan Plan 2036 by delivering a mix of housing densities that balances development and the surrounding environment. The planning proposal will enable defence staff and other families to live close to jobs, including future jobs in the Williamstown State Activation Precinct (Williamstown SAP).

MINUTES ORDINARY COUNCIL - 27 JULY 2021Port Stephens Local Strategic Planning Statement (LSPS)

The LSPS identifies the 20-year vision for land use in Port Stephens and sets out social, economic and environmental planning priorities for the future. The planning proposal is consistent with the planning priorities of the Port Stephens Local Strategic Planning Statement. In particular, it will provide diverse housing within proximity to employment centres in an area that can be adequately serviced and has limited environmental value. The site is well connected to strategic centres.

Port Stephens Local Housing Strategy (Live Port Stephens)

Live Port Stephens is the overarching strategy to guide land use planning decisions for new housing in Port Stephens. The planning proposal is consistent with *Live Port Stephens* as it will increase housing supply, housing diversity, affordable housing choices close to employment opportunities, and will provide access to open space and recreational areas, including Stockton Beach.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The planning proposal will deliver social and economic benefits to the existing and future community, including:

- Providing public access to open space and recreation areas
- Employment through construction jobs to carry out subdivision and building works
- Increased population to support the viability of a future retail services in accordance with the Fern Bay and North Stockton Strategy
- Improved traffic safety through the upgrade of the Vardon Road / Nelson Bay Road intersection
- Housing supply to support the Williamstown SAP and the broader community.

The planning proposal results in improved environmental outcomes as it retains the E2 Environmental Conservation zoning over the parts of the site identified as having high value and intact ecological communities and will result in rehabilitation and revegetation of sand dune areas.

CONSULTATIONInternal

Consultation with internal stakeholders has been undertaken to inform the planning proposal, DCP, and consideration of the VPA offer including with Development Engineering, Development Assessment and Compliance and Natural Resources units and Council's Development Contributions Analysis Team. No objections were raised.

MINUTES ORDINARY COUNCIL - 27 JULY 2021External

The following public authorities were consulted on the planning proposal and DCP in accordance with the Gateway determination:

- Heritage NSW
- National Parks and Wildlife Service
- NSW Rural Fire Service
- Department of Planning, Industry and Environment (Biodiversity and Conservation Division)
- Worimi Local Aboriginal Land Council
- Transport for NSW
- Federal Department of Defense (no submission received).

No public authorities objected to the planning proposal. A summary of submissions is at **(ATTACHMENT 4)**.

Community

In accordance with the Gateway determination, the planning proposal and DCP were exhibited for 28 days, from 3 June 2020 to 3 July 2020. Five community submissions were received. Key issues addressed following the agency and public consultation included:

- Sand dune transgression – a Sand Dune Management Plan has been prepared for the site to ensure development is not impacted by sand dune transgression. A VPA is proposed to secure the works proposed.
- Ecology – the proposed residential zone is limited to the disturbed parts of the site with low ecological value. Controls in the DCP will reinforce a biodiversity corridor through the site, connecting northern and southern vegetation communities.
- Aboriginal cultural heritage – areas of high Aboriginal cultural and heritage value are retained within existing E2 zoned land. The outcomes have been informed by consultation with the Worimi and other registered Aboriginal parties, and the recommendations of the Aboriginal Cultural Heritage and Archaeological Assessment Report.
- Traffic safety – The DCP requires the upgrade of Vardon Road and Nelson Bay Road intersection to include traffic signals. This will increase safety for both motorists and pedestrians.

The submission summary and response table at **(ATTACHMENT 4)**.

A 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 with details of any post-exhibition changes.

OPTIONS

- 1) Accept the recommendations.

MINUTES ORDINARY COUNCIL - 27 JULY 2021

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Rifle Range Planning Proposal. (Provided under separate cover)
- 3) Draft Rifle Range Development Control Plan.
- 4) Submissions Table.
- 5) Letter of offer to enter into VPA. (Provided under separate cover)
- 6) Gateway determination 25 November 2019.

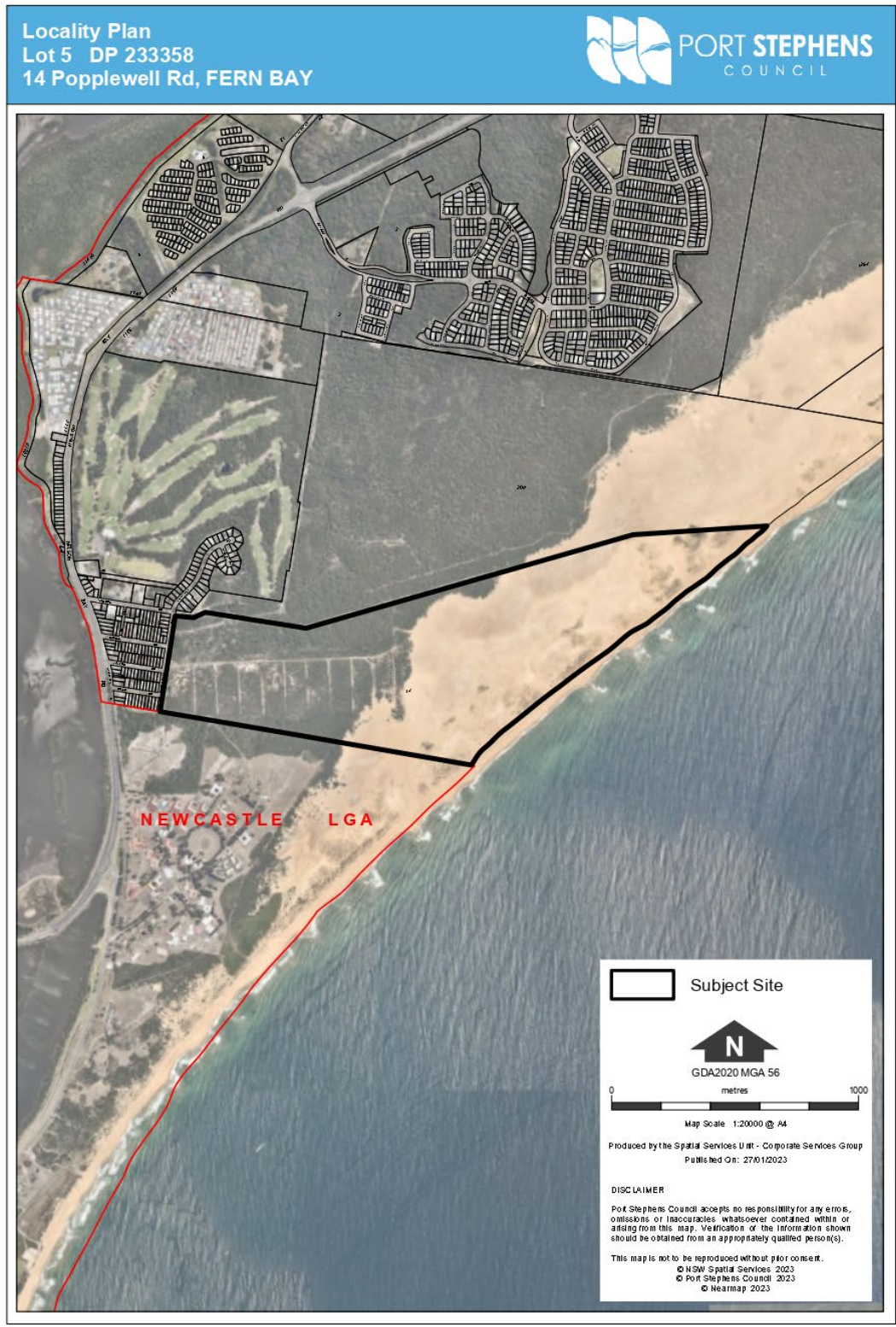
COUNCILLORS ROOM

- 1) Copy of submissions.
- 2) Planning proposal attachments and background studies.

TABLED DOCUMENTS

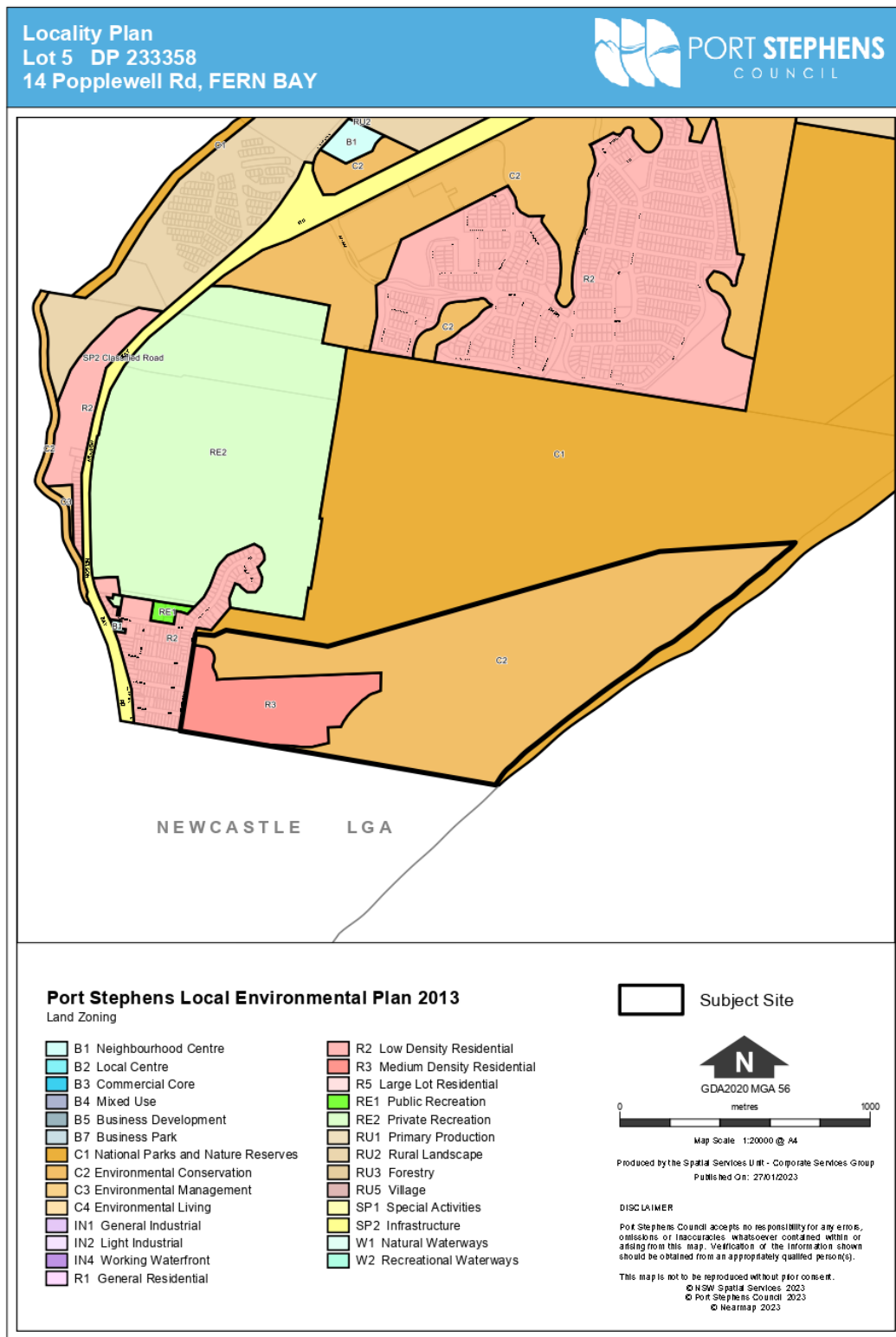
Nil.

ITEM 4 - ATTACHMENT 4 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM 4 - ATTACHMENT 5 ZONING PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM 4 - ATTACHMENT 6 EXPLANATION OF AMENDMENTS.

Attachment 5: Explanation of Amendments

Clause No.	Amendment	Explanation
Whole document	Controls renumbered.	Controls added and removed. This table references the control's new number. However, where a control has been deleted, the previous number is noted.
17.1	Removed the requirement for remnants of the rifle range stop butt to be retained.	The Heritage Report confirmed that there is no remaining built fabric remnant from this element (such as the original target mantlets and stop butts) which now presents as a series of semi cleared tracks at 100yd intervals. The element has been identified as having little conservation value. The road layout generally follows the 100yd intervals, to represent the site's historical use.
17.3	Added the word 'generally' to the following control: The street network shall be generally consistent with the alignment of the existing rifle range firing mounds.	Due to the revised development footprint, some roads on the eastern side of the site needed to be reconfigured and following the alignment of the firing mounds on this portion of the site does not represent the most efficient use of land.
Previously 17.5	Removed requirement for the first subdivision development to consider the recommendations of the Aboriginal Cultural Heritage and Archaeological Assessment Report – Residential Development Planning Proposal – Stockton Rifle Range, Stockton (Umwelt 2017).	This is already a legislative requirement. In addition, reference to 'the first subdivision' may be problematic if there is more than one application to subdivide the land.

ITEM 4 - ATTACHMENT 6 EXPLANATION OF AMENDMENTS.

17.5	Removed requirement for private landscaping to be endemic species.	Council has a lack of control over private landscaping. Requirement remains for public landscaping to be endemic.
Previously 17.7	Removed requirement for residential lots to be setback from the Stockton Beach dunes by a minimum of 50m.	Due to the revised development footprint, the risk that future development of the site is affected by sand dune transgression has been removed. Residential development is now setback significantly more than 50m from the dunes.
Previously 17.8	Removed requirement for the Stockton Beach dunes area to be revegetated to stabilise the dune and to provide north-south ecological continuity along the dune edge.	The revised footprint has resulted in a significant area of native vegetation that will remain undisturbed, and will provide north-south ecological continuity along the dune area.
17.6	Removed reference to koala and squirrel glider. Amended the landscaping requirements for the park so that a central strip of vegetation is to be provided with a minimum width of 40m.	Reference to specific fauna species was removed as other species are likely to use the corridor. An ecological assessment to be lodged with the DA will detail which species traverse the site and should be catered for in the corridor. The central park is surplus to Council's requirement for open space, with the existing facilities in Fern Bay being the primary open space for the suburb. The main function of the central park is a faunal movement corridor, and it will have minimal open space embellishments. The landscaping control ensures that the park functions as a suitable faunal movement corridor.
17.11	Changed from Local Sub-Arterial to Collector Road	Updated to be consistent with current terminology.
17.12	Changed from Local Street to Local Sub-Arterial	
17.14	Changed from Local Sub-Arterial bus route to Collector bus route	

ITEM 4 - ATTACHMENT 6 EXPLANATION OF AMENDMENTS.

D17.D	Changed the objective of D17.D to: To identify and protect a central part of the site as a local public park and faunal movement corridor.	To ensure that the primary function of the central park is a faunal movement corridor.
17.18	Changed from bollards and koala sensitive fencing to appropriate barriers or fencing.	Changed wording to allow flexibility in the type of barrier provided. The type of fencing will be determined at the DA stage, when the ecology assessment confirms the species that will likely use the central faunal movement corridor.
17.20 – 17.22	New controls added regarding solar access.	To ensure that subdivision design and applications for residential development consider solar access.
17.24	Included a minimum 0.9m side setback for ground level.	Side setback for ground level was not previously specified, so the standard 0.9m has been included to clarify.
17.24	Amended to require 0m setback to one side only (ground and upper storeys)	Changed so that wording is consistent with other parts of DCP and updated to clarify that it applies to ground and upper storeys.
17.24	Changed to require a minimum 6m rear setback for upper storeys, rather than 4m.	Changed to be consistent with other parts of the DCP.
17.24	Removed control allowing a zero setback to rear if land has rear access.	Rear land access is no longer proposed.
Previously 17.25	Removed the control allowing 2m setback to primary road frontage in the Central Park Precinct.	The Central Park Precinct was removed due to the revised masterplan. The Flexible Housing Precinct controls now apply to this part of the site.
17.25	Included a control requiring rear setbacks certain lots in the Flexible Housing Precinct to be informed by solar diagrams.	To ensure that solar access to adjoining properties is given adequate consideration and reasonable access to sunlight is maintained for occupants of new dwellings given the size and orientation of some of the smaller lots.

ITEM 4 - ATTACHMENT 6 EXPLANATION OF AMENDMENTS.

Figure DAK	<p>The Masterplan has been updated to reflect revised zoning footprint.</p> <p>Replacement of Central Park Precinct with Flexible Housing Precinct.</p>	<p>Due to the revised zoning footprint, the masterplan needed to be updated. This included the reconfiguration of some lots and the realignment of roads to cater for the change and improve development outcomes for the site.</p> <p>Due to the reconfiguration of lots, the Central Park Precinct is no longer included. The Flexible Housing Precinct and General Housing Precinct align with the mapped minimum lot sizes throughout the site.</p>
Post exhibition changes		
Figure DAK	<p>The Flexible Housing Precinct has been extended to cover the portion of the site that has a minimum lot size of 200m² under the Port Stephens Local Environmental Plan 2013.</p> <p>The road hierarchy has been amended by changing the location of the Collector Road to the eastern boundary of the Central Park.</p> <p>The linework representing the detention basins has been straightened.</p>	<p>To ensure development standards are consistent on all land in the precinct with a minimum lot size of 200m².</p> <p>To enable compliance with DCP control B8.17, which requires all dwellings to be within a 400m walking catchment of bus stops.</p> <p>In addition, a Collector Rd on the park boundary, rather than a narrower Access Street, will provide more space for on-street parking for people using the park and reduce congestion in this area.</p> <p>To be more reflective of areas which have been identified for basins. The exact location of basins will be determined through more detailed design at the development application stage.</p>

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

ITEM NO. 2

FILE NO: 23/7847
EDRMS NO: 58-2017-10-1**DRAFT AMENDMENT TO PORT STEPHENS DEVELOPMENT CONTROL PLAN
(2014) CHAPTER D17: STOCKTON RIFLE RANGE**REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES**RECOMMENDATION IS THAT COUNCIL:**

- 1) Exhibit the draft Port Stephens Development Control Plan 2014 – Chapter D17: Stockton Rifle Range (**ATTACHMENT 1**) for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 (NSW) and Environmental Planning and Assessment Regulation 2000 (NSW).
- 2) If no submissions are received, approve the plan as exhibited, without a further report to Council, and provide public notice in accordance with the Environmental Planning and Assessment Regulation 2000.

**ORDINARY COUNCIL MEETING - 14 MARCH 2023
MOTION**

047	Councillor Giacomo Arnott Councillor Jason Wells It was resolved that Council: <ol style="list-style-type: none">1) Exhibit the draft Port Stephens Development Control Plan 2014 – Chapter D17: Stockton Rifle Range (ATTACHMENT 1) for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 (NSW) and Environmental Planning and Assessment Regulation 2000 (NSW).2) That a report be provided to Council following public exhibition.
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Cr Peter Kafer moved the following amendment to amend item 2 of the motion, which was accepted by the mover and seconder and merged into the original motion.

“That a report be provided to Council following public exhibition.”

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

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 Leah Anderson, Giacomo Amott, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement to place the draft Port Stephens Development Control Plan 2014 – Chapter D17: Stockton Rifle Range (the draft DCP) (**ATTACHMENT 1**) on public exhibition for 28 days.

On 27 July 2021, Council adopted Chapter D17 to set out urban design and planning guidelines for future development of the site, known as the Stockton Rifle Range. At this time, Council also resolved to authorise delegation to amend the Port Stephens Local Environmental Plan 2013 to rezone part of the site to allow residential development, and to prepare a Voluntary Planning Agreement (VPA) to manage sand dune transgression on the eastern side of the development footprint. A locality plan is available at (**ATTACHMENT 2**).

On 20 May 2022, the Port Stephens Local Environmental Plan (Map Amendment No.3) was made. This amendment rezoned part of the site from C2 Environmental Conservation to R3 Medium Density Residential Zone. However, the area of land rezoned by the Department of Planning and Environment was not consistent with the development footprint in Council's adopted planning proposal, as the VPA to manage sand dune transgression was not executed. Without a mechanism to manage sand dune transgression, rezoning of the affected part of the site could not be supported. The plan showing the adopted zoning footprint is available at (**ATTACHMENT 3**).

The draft DCP seeks to amend the adopted site-specific chapter for the Rifle Range in order to reflect the amended footprint and improve development outcomes on the site. The opportunity was also taken to include minor changes to ensure a more streamlined site-specific chapter.

A summary of changes is as follows:

- Updated masterplan to reflect the amended zoning footprint, this includes the realignment of roads and reconfiguration of some lots
- Revised heritage requirements to better reflect the remaining heritage fabric on the site and to reduce repetition of legislative requirements
- Removed the Central Park Precinct, and incorporated this area into the Flexible Housing Precinct

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

- Updated some controls within the Flexible Housing Precinct to ensure consistency with other parts of the DCP and to improve clarity
- Included controls for solar access to ensure that solar access to adjoining properties is given adequate consideration and reasonable access to sunlight is maintained for occupants of new dwellings, given the size and orientation of some of the smaller lots
- Amended requirements for landscaping within the central park to ensure that it functions primarily as a faunal movement corridor.

A detailed explanation of the amendments is provided at (**ATTACHMENT 4**).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are no known financial or resource implications for Council as a consequence of the proposed recommendations. The exhibition will be managed within the existing budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

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

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

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

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

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

Port Stephens Development Control Plan 2014 (DCP)

Section B of the DCP outlines general provisions applicable to most development applications and development types, Section C of the DCP outlines requirements and objectives applicable to specific development types (such as ancillary development), and Section D applies to specifically mapped areas.

Sections B and C of the DCP will apply to development where there are no site-specific controls.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the DCP amendment is not made, complicating the Development Application for residential development on the site.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The amendment will improve development outcomes on the site and allow residential development to occur on zoned land. A Development Application for the subdivision of the site will not be accepted until the draft DCP is adopted.

CONSULTATION

Preliminary consultation with key stakeholders has been undertaken by the Strategy and Environment Section to identify and consider any issues prior to exhibition.

Internal

Internal consultation has been undertaken with the Development Planning, Natural Systems, Engineering Services and Community Assets Teams.

External

The draft DCP has been prepared in consultation with the landholder, Defence Housing Australia.

MINUTES ORDINARY COUNCIL - 14 MARCH 2023

Consultation with relevant government agencies was undertaken on the planning proposal and the adopted version of the DCP. The amendment does not propose changes to matters raised by agencies during previous consultation.

Community

If supported, the amendment will be placed on public exhibition for a period of 28 days. The amendment will be made available on Council's website in accordance with the Environmental Planning and Assessment Amendment (public exhibition) Regulation 2020, and Community Participation Plan (CPP).

Submissions on the amendment will be invited during the public exhibition period and, if submissions are received, they will be considered in a future report back to Council with any detail of any post-exhibition changes to the draft DCP.

OPTIONS

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

ATTACHMENTS

- 1) Draft Port Stephens Development Control Plan 2014 - Chapter D17: Stockton Rifle Range.
- 2) Locality plan.
- 3) Zoning plan.
- 4) Explanation of amendments.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

**FILE NO: 23/89619
EDRMS NO: PSC2022-01782**

**SUBDIVISION OF COUNCIL OWNED LAND AT 3 INDUSTRIAL PLACE,
MEDOWIE**

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE
SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare and submit a development application for subdivision of 3 Industrial Place, Medowie.

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

122	Councillor Jason Wells Councillor Peter Francis It was resolved that Council prepare and submit a development application for subdivision of 3 Industrial Place, Medowie.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek endorsement to prepare and submit a development application for the development of Lot 12 DP 813265 (3 Industrial Place, Medowie). The land has an area of 5.5 hectares, is undeveloped operational land and zoned IN2 Light Industrial (**ATTACHMENT 1**).

The concept development footprint (approximately 1.9 hectares) and the area to be retained (approximately 3.6 hectares) is detailed in (**ATTACHMENT 2**). The development footprint utilises the northern portion of the site which is predominantly cleared of vegetation. The proposed access road will be derived from Industrial Place and will utilise the existing Asset Protection Zone along the western boundary of the

MINUTES ORDINARY COUNCIL - 23 MAY 2023

site. The area to be retained is the area of the site which consists of dense vegetation.

The proposed development would be finalised on review of required engineering and design documents, however the development footprint will not be increased from the concept development footprint as detailed in **(ATTACHMENT 2)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage the property portfolio in accordance with the Property Investment Strategy.

FINANCIAL/RESOURCE IMPLICATIONS

Consultants will be appointed to prepare supporting documentation for the development application and all costs associated with the development application fees will be funded from the Strategic Property Reserve.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The development application will be prepared per the Environmental, Planning and Assessment Act (EP&A Act), the Port Stephens Local Environmental Plan (LEP), Port Stephens Development Control Plan (DCP) and all applicable legislative requirements.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the recommendation is not supported the income source created from the development would not be achieved.	Medium	Adopt the recommendation.	

There is a risk that if the recommendation is not supported there will be inadequate supply of industrial land in Medowie.	Medium	Adopt the recommendation.	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There is limited industrial zoned land in Medowie and the site is some of the last undeveloped industrial zoned land in the locality. The subdivision of the site will create additional industrial land in close proximity to the Medowie town centre, and will further support the growing needs of the Medowie region.

The development is consistent with the Medowie Strategy and will continue to strengthen the Medowie Town Centre. The construction and ongoing employment generated by the development will support the economic growth of the area.

The concept development has been designed to utilise the already degraded portions of the site, being the cleared area for the development footprint and the existing Asset Protection Zone for access. The concept development has avoided areas of dense vegetation.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategic Property team. The purpose of the consultation is to assist in the preparation of the concept development footprint.

Internal

- Principal Property Planner
- Strategic Property Coordinator
- Civil Assets Manager
- Project Support Team Leader

External

- Ecologist – Narla Environmental

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Concept Development Plan.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM 5 - ATTACHMENT 2 CONCEPT DEVELOPMENT PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800253 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 6

**FILE NO: 23/117992
EDRMS NO: PSC2022-03935-00003**

FEES AND CHARGES 2023 TO 2024

REPORT OF: GLEN PETERKIN - ACTING FINANCIAL SERVICES SECTION
MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the draft Additional Fees and Charges 2023 to 2024 (**ATTACHMENT 1**).
- 2) Places the draft Additional Fees and Charges 2023 to 2024 (**ATTACHMENT 1**) on public exhibition for a period of 28 days and, should no submissions be received, adopt the Additional Fees and Charges 2023 to 2024 without a further report to Council.

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

123	<p>Councillor Leah Anderson Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorses the draft Additional Fees and Charges 2023 to 2024 (ATTACHMENT 1) subject to the following inclusion: "with a change on page 185 which reads "this fee will be applied at the discretion of the Strategic Planning Coordinator" be changed to "at the discretion of the Group Manager of Development Services".2) Places the draft Additional Fees and Charges 2023 to 2024 (ATTACHMENT 1) on public exhibition for a period of 28 days and, should no submissions be received, adopt the Additional Fees and Charges 2023 to 2024 without a further report to Council.
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Cr Giacomo Arnott proposed the following wording be including in the motion, which was accepted by the mover and seconder.

Add to the end of point 1, "with a change on page 185 which reads "this fee will be applied at the discretion of the strategic planning coordinator" be changed to "at the discretion of the group manager of development services".

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement to place the Additional Fees and Charges outlined in **(ATTACHMENT 1)** on public exhibition for a period of 28 days and invite submissions in accordance with the Local Government Act 1993 in order to have the draft Additional Fees and Charges adopted by the required date of 30 June 2023.

The Additional Draft Fees and Charges **(ATTACHMENT 1)** reflect those that were omitted from the annual Draft Fees and Charges 2023 to 2024 document that Council endorsed at its 11 April 2023 meeting, alongside the Integrated Planning and Reporting suite of documents.

Council experienced a software upgrade technical issue in the program Council utilises to produce the Fees and Charges document which resulted in the Fees and Charges in **(ATTACHMENT 1)** being omitted. Council has since implemented measures to avoid any future occurrences.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver the program for the Integrated Planning and Reporting Framework

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, POLICY AND RISK IMPLICATIONS

Council is required to undertake integrated planning and reporting activities in accordance with the Local Government Act, Local Government (General) Regulation 2021 (Local Government Regulation) and the NSW Government's Integrated Planning and Reporting Guidelines (IPR Guidelines) and Handbook (IPR Handbook) September 2021. Sections 403 to 406 and 608 to 610 of the Local Government Act outline the specific requirements for developing the IP&R documents and Fees and Charges.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the Draft Additional Fees and Charges are not exhibited, Council will be unable to levy charges.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Community Strategic Plan, Delivery Program and Operational Plan and the Fees and Charges are founded on a quadruple bottom line basis of social, economic, environmental and governance factors through 4 interconnected focus areas: Our Community, Our Place, Our Environment and Our Council. The 4 focus areas provide a structure for planning in each of the documents, enabling Council to address key actions while aiming to holistically meet the community's vision of 'A great lifestyle in a treasured environment'.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section when reviewing the Fees and Charges.

In accordance with local government legislation, the Draft Additional Fees and Charges will go on public exhibition.

The Additional Fees and Charges document will be available for download from Council's website.

OPTIONS

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

ATTACHMENTS

- 1) Draft Additional Fees and Charges 2023 to 2024.

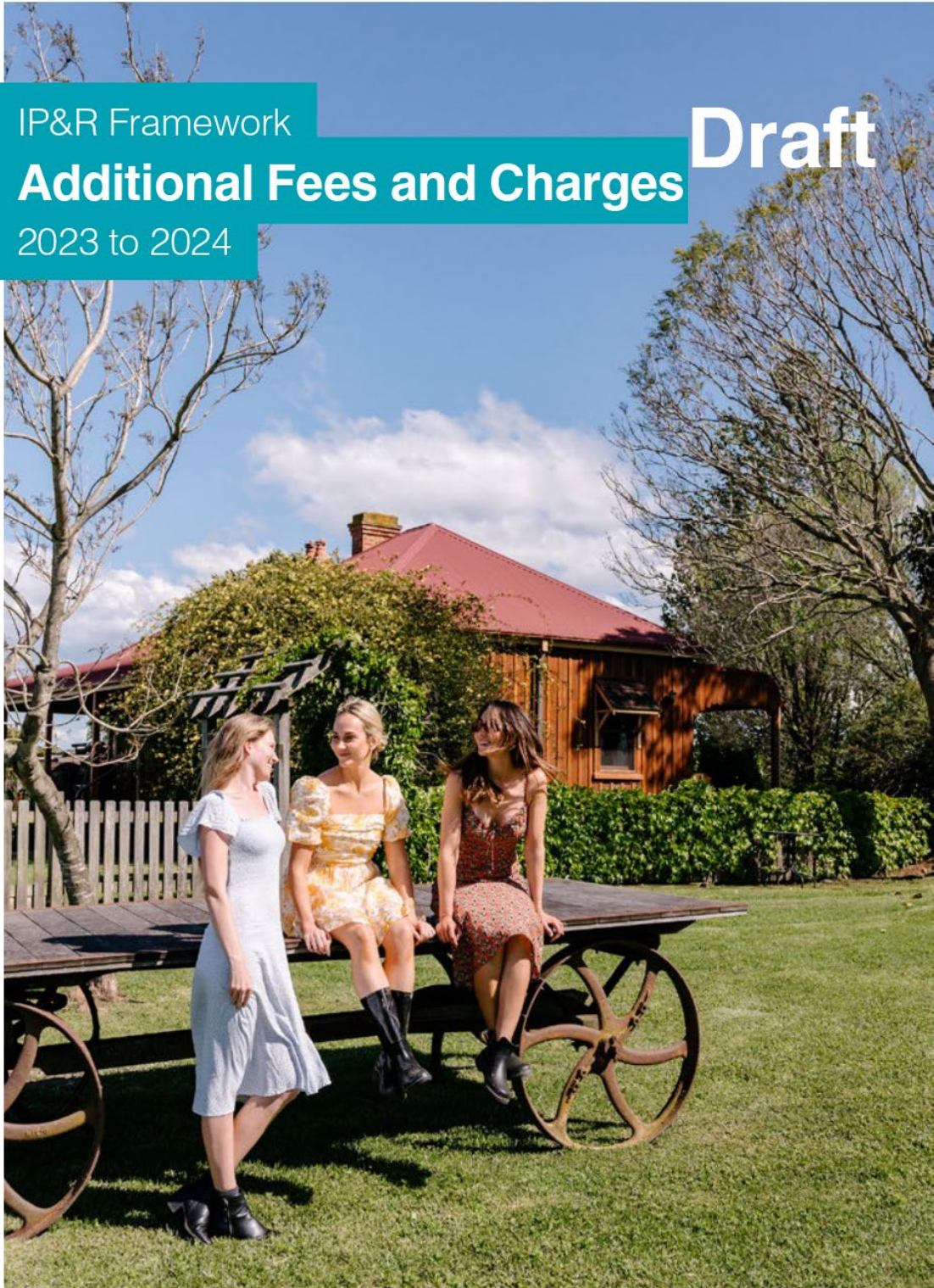
COUNCILLORS ROOM

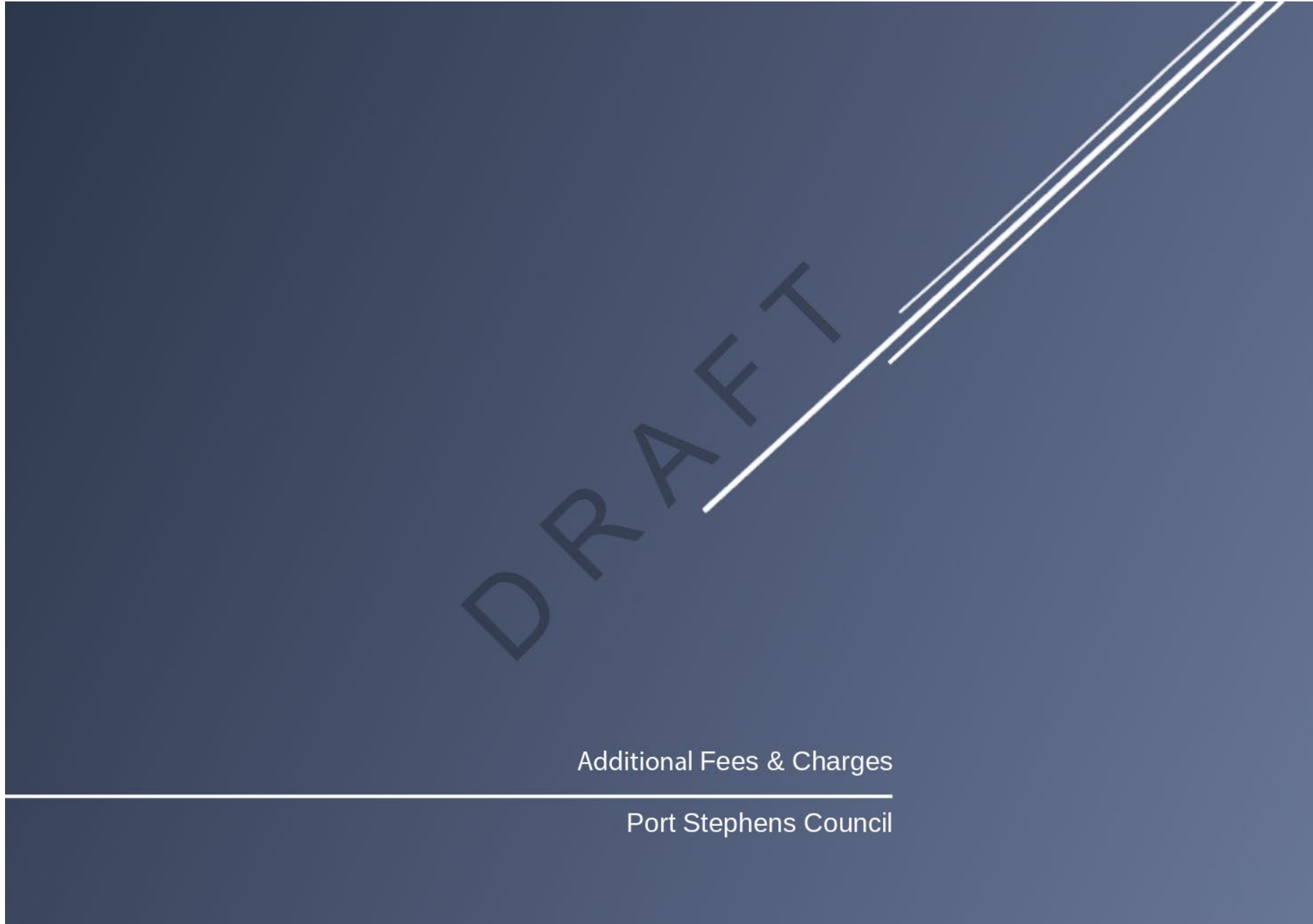
Nil.

TABLED DOCUMENTS

Nil.

IP&R Framework
Additional Fees and Charges **Draft**
2023 to 2024





ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Port Stephens Council

Administration Services

Financial Management

Tenders

Leases/Licenses

Property Licenses

Key Bond	One off fee charged upon the commencement of the lease/licence, refundable upon the return of the key(s) at the end of the lease/licence agreement	\$0.00	\$50.00	\$0.00	\$50.00			Market pricing
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Licences

Commercial Operator's Licence – Water/Land Activities – Category 1

Category 1 Location: Shoal Bay Foreshore Boat Ramp (A), Shoal Bay Foreshore Adjacent Public Wharf (B), Shoal Bay Beach Road Adjacent Harbourside Haven (C), Shoal Bay Foreshore at intersection of Harwood Avenue and Beach Road (D), Nelson Bay Foreshore on Victoria Parade adjacent to Kiosk and Carpark, Nelson Bay Foreshore on Victoria Parade adjacent Fly Point amenities. These locations are suitable for example for Catamarans, Paddle Boarding, Kayaking, and other tourism and adventure activities.

Category 1 Location: Fly Point (suitable as dive site), Nelson Bay Foreshore on Victoria Parade adjacent to kiosk and carpark (bike hire and tours)

Licence fee	Annual fee	Commercial operators earning revenue above \$52,000 per annum after the first 12 months, at Councils discretion will be subject to an independnet market rent review. All commercial operators are to provide audited financial statements to council by 30th September each year.			Per licence	Market pricing
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ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Commercial Operator's Licence – Water/Land Activities – Category 2

Category 2 Location: Birubi Beach, Fingal Beach (A), Fingal Beach (B), One Mile Beach. These locations are suitable for example for Surf School, other tourism, adventure and beach activities.

Category 2 Location: Dutchman's Beach 1, Dutchman's Beach 2, Fitzgerald Bridge Boat Ramp, Roy Wood Reserve. These locations are suitable for example for Catamarans, Paddle Boarding, Kayaking, other tourism and adventure activities.

Licence fee	Annual fee	Commercial Operators earning revenue above \$52,000 per annum after the first 12 months, at Councils discretion will be subject to an independent market rent review. All Commercial Operators are to provide audited financial statements to council by 30th September each year.	Per licence	Market pricing
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Commercial Operator's Licence – Water/Land Activities – Category 3

Category 3 Location: Fisherman's Bay Foreshore Reserve, Bagnall Beach Foreshore adjacent Pantawarra Street, Caswell Reserve, George's Reserve, Forster Park Foreshore, Peace Park Boat Ramp, Taylors Beach.

These locations are suitable for example for Catamarans, Paddle Boarding, Kayaking, and other tourism and adventure activities.

Category 3 Location: Bagnall Beach Foreshore adjacent Pantawarra Street. This location is suitable for example for Bike hire and tours.

Licence fee	Annual fee	Commercial Operators earning revenue above \$52,000 per annum after the first 12 months, at Councils discretion will be subject to an independent market rent review. All Commercial Operators are to provide audited financial statements to council by 30th September each year.	Per licence	Market pricing
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Commercial Operator's Licence – Land-based Activities

The following sites are suitable for example for Boot Camps, Personal Training, Tai Chi, Pilates, and other suitable Fitness activities: Birubi Beach, Robinson Reserve, Conroy Park, Fingal Bay Foreshore Reserve, Fingal Bay Oval, Fingal Beach (A), Fingal Beach (B) Boat ramp end, Tom O Dwyer Oval, Fisherman's Bay Park, Hinton Foreshore, Stuart Park, Aliceton Reserve, Lionel Morton Oval, Kooindah Park, Mallabula Sports Complex, Boyd Oval, Coachwood Drive Reserve 2, Ferodale Sports Park, Kindlebark Oval, Yulong Oval, Bill Strong Oval, Dutchman's Beach Reserve, Fly Point Reserve, Little Beach Reserve, Neil Carroll Park, Tomaree Sports Complex, One Mile Beach, Alton Park Reserve, Boomerang Park, King Park Sports Complex, Lakeside Reserve 2, Lakeside Reserve 3, Lakeside Sports Complex, Ross Walbridge Reserve, Vi Barnett Oval, Bagnall Beach Road Detention Basin, Joe Redman Reserve, Korora Oval, Salamander Sports Complex, Brandon Park, Seaham Park, Everitt Park, Bowthorne Park.

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ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
Commercial Operator's Licence – Land-based Activities [continued]								
Licence fee	Annual fee	Commercial Operators earning revenue above \$52,000 per annum after the first 12 months, at Councils discretion will be subject to an independent market rent review. All Commercial Operators are to provide audited financial statements to council by 30th September each year.				Per licence		Market pricing
Commercial Operator's Market Licence – More than 4 times per year								
Licence fee	Annual fee	Commercial Operators earning revenue above \$52,000 per annum after the first 12 months, at Councils discretion will be subject to an independent market rent review. All Commercial Operators are to provide audited financial statements to council by 30th September each year.				Per licence		Market pricing
Commercial Operator's Not for Profit Licence								
Commercial Operator's Mobile Food/Retail Licence & Permit								
Licence fee	Annual fee	Commercial Operators earning revenue above \$52,000 per annum after the first 12 months, at Councils discretion will be subject to an independent market rent review. All Commercial Operators are to provide audited financial statements to council by 30th September each year.				Per licence		Market pricing
Electrical Inspection Charge		\$370.00	\$336.36	\$33.64	\$370.00	Per Inspection		Market pricing
Property Licences								
Licence Administration - Community Licences	Minimum Administration Fee for establishment and management of licence.	\$213.00	\$230.00	\$0.00	\$230.00			Market pricing

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Parking

Smart Parking Meters

Smart Parking Permit - Non-LGA Business Permit	For businesses located outside Port Stephens Council Local Government Area who regularly work in and around metered parking scheme zones	\$139.00	\$150.00	\$0.00	\$150.00	Per vehicle		Market pricing
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Publications

Development Plans

Contribution Plans

Available free on web

Control Plans

Available free on web

Integrated Plans

Integrated Plans Fee	Plans include Integrated Plans, Resource Strategy Plus postage and handling at cost. Available free on web	\$143.00	\$154.50	\$0.00	\$154.50	Per set		Full cost pricing
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ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
Reports								
Reports Fee	Annual Report, End of Term Report, Customer Survey Reports, Fees and Charges Per volume plus postage and handling at cost. Available free on web	\$48.00	\$52.00	\$0.00	\$52.00	Per report		Full cost pricing

Spatial Services

Maps/Plans

GIS Electronic Files

pdf or jpg format

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
Community Services and Events								
Cemetery Operations								
Cemetery – Other fees								
Weekend Internment Fee	Burial fee for weekend and public holiday interments. Including ashes in plot.	\$350.00	\$342.84	\$34.28	\$377.12	Per occurrence		Market pricing

Cemetery – Memorial Trees

Waste Management Services

Collection Services

Kerbside Collection

For a kerbside collection, contact Council's contractor, Suez, on 1300 734 470 or book on-line through PSC's website.

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Development & Building Services

Rezoning and Reclassification

Rezoning Requests

Basic (Category A) - Planning Proposals

Low impact and low yield development. Includes Section 3.22 amendments, minor additional permitted uses. A low level of assessment, consultation and coordination is required. No, or minimal, supporting studies are required. An accompanying development control plan is not required.

This fee also applies to planning proposals that are consistent with a Place Strategy. The total of all stages except for the Stage 1 - Scoping, is to be paid at Lodgement. With regard to planning proposals that are consistent with a Place Strategy, this fee will be applied at the discretion of the Strategic Planning Coordinator.

Stage 1 – Scoping/pre-lodgement advice	Fee includes up to 25 hours of work by Council staff. Additional hours will be invoiced to the applicant at an hourly rate of \$214 per hour. The fee is to be paid prior to Council staff accepting the scoping report.	\$0.00	\$5,350.00	\$0.00	\$5,350.00	Per proposal		
Stage 2 - Lodgement/Gateway request	Fee includes up to 35 hours of work by Council staff. Additional hours will be invoiced to the applicant at an hourly rate of \$214 per hour	\$0.00	\$7,490.00	\$0.00	\$7,490.00	Per proposal		
Stage 3 – Post Gateway /exhibition	Fee includes up to 80 hours of work by Council staff. Additional hours will be invoiced to the applicant at an hourly rate of \$214 per hour.	\$0.00	\$17,120.00	\$0.00	\$17,120.00	Per proposal		Full cost pricing

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Standard (Category B) - Planning Proposals

Locally significant urban release areas and development. Significant additional permitted uses. A medium to high level of assessment, consultation and coordination is required. A medium to high number of supporting studies is required. An accompanying development control plan may be required.

Stage 1 – Scoping/pre-lodgement advice	Fee includes up to 35 hours of work by Council staff including rezoning request assessment prior to lodgement. Any additional hours will be invoiced to the applicant at \$214 per hour. The fee is to be paid prior to Council staff accepting the scoping report.	\$0.00	\$7,490.00	\$0.00	\$7,490.00	Per proposal		Full cost pricing
Stage 2 - Lodgement/Gateway request	Fee includes up to 70 hours of work by Council staff. Any additional hours will be invoiced to the applicant at \$214 per hour.	\$0.00	\$14,980.00	\$0.00	\$14,980.00	Per proposal		Full cost pricing
Stage 3 – Post Gateway /exhibition	Fee includes up to 150 hours of work by Council staff. Any additional hours will be invoiced to the applicant at \$214 per hour.	\$0.00	\$32,100.00	\$0.00	\$32,100.00	Per proposal		Full cost pricing

Complex (Category C) - Planning Proposals

Large scale urban release areas and development. A high level of assessment, consultation and coordination is required. A high number of supporting studies is required. A development control plan is required.

continued on next page ...

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
Complex (Category C) - Planning Proposals [continued]								
Stage 1 – Scoping/pre-lodgement advice	Fee includes up to 50 hours of work by Council staff including rezoning request assessment prior to lodgement. Any additional hours will be invoiced to the applicant at \$214 per hour. The fee is to be paid prior to Council staff accepting the scoping report.	\$0.00	\$10,700.00	\$0.00	\$10,700.00	Per proposal		Full cost pricing
Stage 2 - Lodgement/Gateway request	Fee includes up to 280 hours of work by Council staff. Any additional hours will be invoiced to the applicant at \$214 per hour.	\$0.00	\$59,920.00	\$0.00	\$59,920.00	Per proposal		Full cost pricing
Stage 3 – Post Gateway /exhibition	Fee includes up to 300 hours of work by Council staff. Any additional hours will be invoiced to the applicant at \$214 per hour.	\$0.00	\$64,200.00	\$0.00	\$64,200.00	Per proposal		Full cost pricing

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Applications (including DAs, CCs, CDCs and s.68)

Development Applications

Application Fees

Fees are based on value of development as determined by Council's authorised officer for the purposes of setting fees equitably and fairly. For the purposes of this Schedule, a fee unit is—

(a) in the financial years ending on 30 June 2022 and 30 June 2023—\$100, and

(b) in each subsequent financial year—the amount calculated as follows—

\$100 x A/B

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2023.

Additional Application Fees

Electronic referral and review of DA by an Urban Design Panel		\$1,500.00	\$1,500.00	\$0.00	\$1,500.00			
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Notification and Advertising Fees

*Note - Council shall refund so much of the additional portion of the fee as not spent in giving the notice.

Building Works Construction Certificate Fees

Application Fees

All application fees are to be as per a pre-lodgement quotation based upon the finished market value of works as determined by Council, the professionalism of the submission, the applicant or applicants agent and the business relationship with the Council

Complying Development Certificate Fees

Application Fees

Variable component building works – Based on the value of the building and all development works as determined by Council's Building Surveyor

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Certification

Building Inspection Fees

Residential Development Fees

For all additional inspections in excess of those listed additional inspection fees including GST are applicable

Commercial/Industrial Development/ Residential Fees (class2-9)

For all additional inspections in excess of those listed additional inspection fees including GST are applicable

Class 2, 3 & 4 Additional Inspection Fees

Additional residential fees under s61 EP&A (DC&FS)Regs 2021

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Engineering & Works

Civil Works

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
Recreation & Leisure Services								
Aquatic Centres – Lakeside Leisure Centre								
General Admission								
Single Visit								
Entry - Child	Casual entry for children 4 - 11 years	\$5.20	\$5.00	\$0.50	\$5.50	Per visit		
Entry - Companion/Carers	Casual Entry for Companion Card Holders	\$0.00	\$0.00	\$0.00	\$0.00	Per visit		Free (zero priced)
Membership								
Pool membership - Corporate Discount - Single	Corporate membership discount applicable to pool membership - adult single weekly direct debit		Corporate Single Direct Debit discount 5% (10+ Employees) Corporate Single Direct Debit discount 10% (500+ Employees) Corporate Single Direct Debit discount 15% (1000+ Employees) Corporate Single Direct Debit discount 20% (5000+ Employees)			Per week		
Programs								
Aquatic Education								
Swimming Lesson - School	Includes pool entry	\$8.00	\$9.00	\$0.00	\$9.00	Per lesson		
Special								
Visitor 7 day Pass - Single	7 day pass from date of purchase, offered December/January Only upfront payment	\$34.00	\$31.82	\$3.18	\$35.00	Per week		Market pricing

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ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
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Special [continued]

Visitor 7 day Pass - Family	7 day pass from date of purchase, offered December/January Only upfront payment. Family is defined as members of family on a medicare card or proof of residence at the same address.	\$134.40	\$122.73	\$12.27	\$135.00	Per week		Market pricing
Pool Hire Fee 50m	Entire 50m pool - per hour	\$257.50	\$240.91	\$24.09	\$265.00	Per Hour		Market pricing
Pool Hire Fee Leisure Pool	Entire Leisure Pool - Per hour	\$206.00	\$195.45	\$19.55	\$215.00	Per Hour		
Hydro Functional Kickstarter Pass	6 Week Membership	\$62.00	\$60.73	\$6.07	\$66.80			Market pricing
Pool Inflatable Hire	\$100 per hours, min 3 hours	\$300.00	\$272.73	\$27.27	\$300.00			Market pricing

Aquatic Centres – Tilligerry Aquatic Centre

General Admission

Multiple Visits

Multi Visit Pass - Concession Single 20 Visits	Six month expiry term, 20 visits for price of 18 visits. (Concession Card Holders- including Veterans, Pension, Health Care Card, Student, Disability)	\$74.20	\$73.64	\$7.36	\$81.00	Per 20 Visits		Market pricing
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Single Visit

Entry - Child	Casual Entry for children 4-11 years	\$5.20	\$4.73	\$0.47	\$5.20	Per visit		Market pricing
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ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
Single Visit [continued]								
Entry - Companion/Carers	Casual Entry for Companion Card Holders	\$0.00	\$0.00	\$0.00	\$0.00			Free (zero priced)
Membership								
Pool membership – Corporate Discount – Single	Corporate membership discount applicable to pool membership - adult single weekly direct debit		Corporate Single Direct Debit discount 5% (10+ Employees) Corporate Single Direct Debit discount 10% (500+ Employees) Corporate Single Direct Debit discount 15% (1000+ Employees) Corporate Single Direct Debit discount 20% (5000+ Employees)			Per week		Market pricing
Programs								
Aquatic Education								
Swimming Lesson - School	Includes pool entry	\$8.00	\$9.00	\$0.00	\$9.00	Per lesson		Market pricing
Special								
Pool Hire Fee 25m	Entire 25m - per hour	\$206.00	\$195.45	\$19.55	\$215.00	Per Hour		Market pricing
Pool Inflatable Hire	\$100 per hr, min 3 hrs	\$300.00	\$272.73	\$27.27	\$300.00			Market pricing

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Year 23/24 Fee (excl. GST)	Year 23/24 GST	Year 23/24 Fee (incl. GST)	Unit	Legislation	Pricing Policy
Aquatic Centres – Tomaree Aquatic Centre								
General Admission								
Multiple Visits								
Multi Visit Pass – Concession Single 20 visits	Six month expiry term, 20 visits for price of 18 visits (Concession Card Holders- including Veterans, Pension, Health Care Card, Student, Disability)	\$92.70	\$90.00	\$9.00	\$99.00	Per 20 Visits		Market pricing
Single Visit								
Entry - Child	Casual Entry for children 4-11 years	\$5.20	\$5.00	\$0.50	\$5.50	Per visit		Market pricing
Entry - Companion/Carers	Casual Entry for Companion Card	\$0.00	\$0.00	\$0.00	\$0.00			Free (zero priced)
Waterslide All Day Family Ride Pass	Family is defined as members of family on a Medicare card or proof of residence at the same address	\$51.50	\$50.00	\$5.00	\$55.00			Market pricing
Membership								
Pool membership – Corporate Discount – Single	Corporate membership discount applicable to pool membership - adult single weekly direct debit		Corporate Single Direct Debit discount 5% (10+ Employees)			Per week		Market pricing
			Corporate Single Direct Debit discount 10% (500+ Employees)					
			Corporate Single Direct Debit discount 15% (1000+ Employees)					
			Corporate Single Direct Debit discount 20% (5000+ Employees)					

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
Programs								
Aquatic Education								
Swimming Lesson - School	Includes pool entry	\$8.00	\$9.00	\$0.00	\$9.00	Per lesson		Market pricing
Special								
Pool Hire Fee 50m	Entire 50m Pool - per hour	\$257.50	\$254.55	\$25.45	\$280.00	Per Hour		Market pricing
Pool Hire Fee Leisure Pool	Pool Hire Fee Leisure Pool - per hour	\$206.00	\$201.82	\$20.18	\$222.00	Per Hour		Market pricing
Pool Inflatable Hire	\$100 per hr, min 3 hrs	\$300.00	\$272.73	\$27.27	\$300.00			Market pricing

Sports Facilities Categories

Category 1 Facilities

King Park Complex, Lakeside Sports Complex, Tomaree Sports Complex

Category 2 Facilities

Bill Strong Oval, Ferodale Sports Complex, Mallabula Sports Complex, Salamander Sports Complex, Salt Ash Equestrian Centre, Yulong Park, Lakeside Building 2, Meeting Room

Category 3 Facilities

Boomeranh Park, Bowthorne Oval, Boyd Park, Brandon Park, Fingal Bay Oval, Green Wattle Creek Equestrian Centre, Karuah Oval, Kindlebark Oval, Salamander Bay Oval, Stuart Park, Vi Barnett Field

Sports Councils Facilities Hire

Category 2

Salt Ash Sports Ground

ITEM 6 - ATTACHMENT 1 DRAFT ADDITIONAL FEES AND CHARGES 2023 TO 2024.

Name	Description	Year 22/23 Fee (incl. GST)	Fee (excl. GST)	Year 23/24 GST	Fee (incl. GST)	Unit	Legislation	Pricing Policy
Community Services and Events								
Cemetery Operations								
Cemetery – Memorial Trees								
Halls & Community Centres								
Soldiers Point Hall								
Hourly Rate	For-profit hirers & private bookings	\$22.00	\$21.82	\$2.18	\$24.00	Per hour		Market pricing
Hourly Rate	Registered charities & community groups	\$16.60	\$16.36	\$1.64	\$18.00	Per hour		Market pricing
Hourly Rate	Regular hirers	\$13.40	\$13.18	\$1.32	\$14.50	Per hour		Market pricing

Waste Management Services

Collection Services

Kerbside Collection

For a kerbside collection, contact Council's contractor, Suez, on 1300 734 470 or book on-line through PSC's website.

ITEM NO. 7

**FILE NO: 23/98575
EDRMS NO: PSC2017-00180**

QUARTERLY BUDGET REVIEW TO 31 MARCH 2023

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget (**ATTACHMENT 1**) presented as the Quarterly Budget Review to 31 March 2023.
-

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION**

124	<p>Councillor Leah Anderson Councillor Matthew Bailey</p> <p>It was resolved that Council approve the discretionary changes to the adopted budget (ATTACHMENT 1) presented as the Quarterly Budget Review to 31 March 2023.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the issues that have affected the 2022 – 2023 budget. These issues are detailed in the Quarterly Budget Review to 31 March 2023 (**ATTACHMENT 1**). The statement sets out the details of the variations between Council's original budget and the proposed budget.

The latest Quarterly Budget Review to 31 March 2023 has shown a minor decrease to the projected operating surplus from the December 2022 quarter. The key drivers of this result include a positive uplift from increased patronage in childcare and holiday park services which has increased fees income, employees costs and

MINUTES ORDINARY COUNCIL - 23 MAY 2023

consumables expenditure. This uplift has been offset by recognition of expenditure from the July 2022 flood recovery effort that will not be reimbursed and the expenditure of a grant received in prior years. In addition, a number of new grants for operational and capital purposes have been included along with the associated expenditure.

Adjustments to Council income and expenditure are put forward in this report to ensure Council maintains a modest surplus for this financial year. Ongoing conservative financial management is required in the near future to combat continuing external inflationary pressures.

The summary (**ATTACHMENT 1**) best represents the situation as well as it is presently known.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Manage implementation of the Long Term Financial Plan 2022 to 2032.

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result is as follows:

	Surplus (\$)	Deficit (\$)
Budget 2022 - 2023		\$1,137,000
September 2022 review	\$202,000	
December 2022 review	\$346,000	
March 2023 review	\$304,000	

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council's financial position is precarious as a result of a number of economic factors. Despite an improvement seen in the underlying result for the financial year 2022 – 2023, it is prudent that Council continues to monitor the budget carefully to ensure minimal risk to the organisation and community.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the underlying operating result may remain in a deficit for an unforeseeable amount of time.	High	The Long Term Financial Plan will be reviewed regularly to ensure that expenditure remains sustainable and that revenue is at appropriate levels.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's budget is fundamental for operational sustainability and the provision of facilities and services to the community. The budget will continue to be carefully monitored while the financial outlook continues with a higher level of uncertainty.

CONSULTATION

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

Formal communication and meetings have been held and it is recommended to submit the Quarterly Budget Review to 31 March 2023 to Council for formal adoption.

Internal

- Executive Team.

External

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Quarterly Budget Review to 31 March 2023.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



"A great lifestyle in a treasured environment"

2022 – 2023
Quarterly Budget Review Statement
March 2023

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ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

1) Executive Summary

The quarterly budget review has been compiled during a period of instability, not only for Council but for the industry as a whole. While many possible scenarios have and will continue to be modelled, the following summary best represents the current situation. Financial performance is generally measured using three primary statements, each are discussed in detail in the attached report. A summary of the predicted outcomes are as follows:

Profit & Loss Statement – operational budget

	Surplus ('000)	Deficit ('000)
Original budget – expected result		(\$1,137k)
September 2022 review	\$202k	
December 2022 review	\$346k	
March 2023 review	\$304k	

The decrement of \$42k is primarily due to:

Increased income from:

Grants	\$4,167k
Interest & Investment Income	\$700k
User Charges & Fees – child care	\$613k
User Charges & Fees – holiday parks	\$640k

Decreased income from:

User Charges & Fees – parking	\$300k
User Charges & Fees – development assessment	\$279k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

Increased expenditure from:

Employee costs – child care	\$337k	
Materials & contracts	\$5,246k	
Which is made up of:		
• grants		\$4,167k
• disaster recovery		\$433k
• service contracts & asset maintenance		\$646k

Capital Works Program – capital budget

	<u>Gross</u>	<u>Grants</u>	<u>Net</u>
Original budget – total spend	\$32,377k	\$19,573k	\$12,804k
September 2022 review	\$71,847k	\$36,585k	\$35,262k
December 2022 review	\$64,692k	\$30,838k	\$33,853k
March 2023 review	\$81,983k	\$32,464k	\$49,518k

The increase of \$17,291k is principally due to:

Capital reinvestment	\$15,000k (increase)
New capital grants being recognised	\$1,626k (increase)
Prior financial year grants now being spent – flood assistance	\$962k (increase)
Other capital projects	\$297k (decrease)

*Total capital works program includes \$5,140k for airport works. The capital program for Council is \$81,983k - \$5,140k = \$76,843k.

Cash flow

Original budget – cash projected	\$68,164k
September 2022 review	\$66,908k
December 2022 review	\$68,462k
March 2023 review	\$58,846k

The decrease in the anticipated cash position to 30 June 2023 is principally due to the reinvestment of sale proceeds.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

1) Executive Summary - continued

Categorising the changes by Group:

Corporate Services: The operating budget change in this group was \$6,135k (favourable). The operating budget changes predominately relate to the profit on sale of land in Fingal Bay, interest income, royalties and forecast income from the Holiday Parks.

Capital budget changes were \$14,455k (unfavourable) and relates to the provision for a property purchase.

Development Services: Operating budget changes for this group were \$79k (unfavourable). The operating budget changes predominately relate to the inclusion of new grants, increase in forecast haulage contributions and the decrease in forecasted income from building and development assessment.

There were no capital budget changes for the quarter.

Facilities & Services: The operating budget change in this group was \$1,203k (unfavourable). The operating budget changes predominately relate to the unfunded portion of disaster recovery efforts, decrease in parking fees income, asset maintenance requirements which have been offset by the increase in forecast revenue from child care.

Changes in the capital budget were \$1,210k (unfavourable) which is mainly due the spending of flood assistance grants that Council received last financial year.

General Manager's Office: There were no budget changes this quarter.

Newcastle Airport: There were no budget changes this quarter.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

Operating Budget	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	49,437	-	389	506	6,135	56,466	52,306
Development Services	(8,423)	-	-	-	(79)	(8,502)	(4,510)
General Manager's Office	(6,958)	-	88	24	-	(6,847)	(5,364)
Facilities & Services	(32,264)	-	1,638	(385)	(1,203)	(32,214)	(15,907)
Newcastle Airport	(1,156)	-	-	-	-	(1,156)	426
Operating Surplus/(Deficit) before capital grants	637	-	2,115	144	4,853	7,749	26,951
Less: Gain on sale	(250)	-	(776)	-	(4,031)	(5,057)	(156)
Less: Fair value increases	(843)	-	-	-	-	(843)	-
Less: Royalties	(1,836)	-	-	-	(864)	(2,700)	(1,874)
Less: Newcastle Airport	1,156	-	-	-	-	1,156	(426)
Add: NAP Dividend	-	-	-	-	-	-	-
Underlying Operating Surplus/(Deficit)	(1,137)	-	1,339	144	(42)	304	24,495

Capital Budget	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Corporate Services	(4,200)	(1,092)	614	10	(14,455)	(19,123)	(741)
Development Services	4,633	-	-	2,167	-	6,800	6,788
Facilities & Services	(8,097)	(16,160)	(5,821)	(768)	(1,210)	(32,055)	(9,107)
General Manager's Office	-	-	-	-	-	-	-
Newcastle Airport	(5,140)	-	-	-	-	(5,140)	(3,855)
Total	(12,804)	(17,252)	(5,207)	1,409	(15,665)	(49,518)	(6,915)

Note - + = inflow () = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRs.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.**2) Introduction**

Clause 203(1) of the *Local Government (General) Regulation 2021* requires Council's responsible accounting officer to prepare and submit a Quarterly Budget Review Statement (QBRS) to Council. The QBRS must show, by reference to the estimated income & expenditure that is set out in the operational plan, a revised estimate of income and expenditure for the year.

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

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

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

The QBRS is composed of the following components:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

3) Responsible Accounting Officer's Statement

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

The following statement is made in accordance with clause 203(2) of the *Local Government (General) Regulations 2021*.

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/3/2023 indicates that Council's projected financial position will be satisfactory at year-end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Zoe Pattison

Acting Responsible Accounting Officer, Port Stephens Council

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

4) Income & Expenses Budget Review Statement

Consolidated Income Statement	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Rates and Annual Charges	68,994	-	-	-	-	68,994	69,028
User Charges & Fees Income	47,079	-	192	(812)	674	47,133	41,504
Interest & Investment Income	1,063	-	200	653	700	2,616	2,007
Other Income	7,412	-	(611)	-	864	7,666	6,094
Grants and Cont.	12,776	-	1,041	724	4,167	18,707	10,312
Grants and Cont.(Capital)	19,573	12,909	4,103	(5,746)	1,626	32,464	23,175
Fair value gains	843	-	-	-	-	843	-
Net Gain on Sale	250	-	776	-	4,031	5,057	156
Total Revenue	157,989	12,909	5,701	(5,181)	12,062	183,480	152,276
Employee Costs	56,552	-	(73)	124	337	56,940	41,224
Borrowing Costs	1,710	-	-	-	-	1,710	1,608
Materials & Contracts	55,932	-	(502)	(2,876)	5,246	57,800	40,724
Other Expenses	4,586	-	69	3,174	-	7,829	5,108
Depreciation & Impairment	18,999	-	(10)	-	-	18,989	13,486
Total Expenditure	137,779	-	(517)	422	5,583	143,267	102,150
Operating Surplus/(Deficit) after capital grants	20,210	12,909	6,218	(5,602)	6,479	40,213	50,126
Operating Surplus/(Deficit) before capital grants	637	-	2,115	144	4,853	7,748	26,951
Less: Net Gain on sale	(250)	-	(776)	-	(4,031)	(5,057)	(156)
Less: Fair value increases	(843)	-	-	-	-	(843)	-
Less: Royalties	(1,836)	-	-	-	(864)	(2,700)	(1,874)
Less: Newcastle Airport	1,156	-	-	-	-	1,156	(426)
Add: NAP Dividend	-	-	-	-	-	-	-
Underlying Operating Surplus/(Deficit)	(1,137)	-	1,339	144	(42)	304	24,495

Notes:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRs.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

Council's original operating budget for 2022-2023 was incorporated as part of the Integrated Plans that were adopted by Council on 28 June 2022.

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the March Quarterly Budget Review. This has altered from an original projected underlying deficit of \$1,137,000 to a revised surplus of \$304,000.

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

REVENUE	Budget Change	
	\$'000	F/U
Rates and Annual Charges	-	-
No change.		
User Charges and Fees	674	F
User charges and fees has decreased due to <ul style="list-style-type: none"> • Decrease in forecasted income from parking fees and development assessment income • Increase in forecasted income from childcare and holiday parks 		
Grants and Contributions provided for Operating Purposes	4,167	F
Operating grants and contributions have increased due to <ul style="list-style-type: none"> • New road maintenance grants – \$1,584k • Contributions for disaster recovery - \$1,122k • New environmental grants – \$424k • New vibrant spaces grants - \$410k • New strategic planning grants for homelessness and CBD development - \$357k • Increase in forecasted income from haulage operations – \$200k • New grants for fire readiness - \$70k 		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

Interest and Investment Revenue	700	F
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Investment revenue has been reforecast as a result of increasing interest rates and investment practises.

Other Income	864	F
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Increase in forecasted income from sand mining royalties.

Grants and Contributions provided for Capital Purposes	1,626	F
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Capital grants & contributions have increased primarily due to the following projects:

- Grants for Avenue of the Allies rehabilitation – \$788k
 - Grants for the Little Beach infrastructure upgrades - \$545k
 - Contributions for Nelson Bay tennis club upgrades – \$231k
 - Grants for the mobile library – \$63k
-

Net Gains from the Disposal of Assets	4,031	F
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Recognition of the profit from the sale of vacant land at Squire street Fingal Bay.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

EXPENDITURE	\$'000	Budget Change F/U
Borrowing Costs	-	-
No change.		
Depreciation, Amortisation and Impairment	-	-
No change.		
Employee Benefits and On-Costs	337	U
Employee benefits has increased due to bringing additional salary costs incurred from increased patronage of children services.		
Materials and Contracts	5,246	U
Materials and contracts have decreased primarily due to:		
<ul style="list-style-type: none"> • Recognition of costs associated with new grants & contributions – \$4,176k • Unfunded costs associated with disaster recovery - \$433k • Stockpile management costs - \$200k • Asset maintenance costs - \$146k • Vacant property demolition costs - \$100k • Expenditure of grants from prior years – \$96k • Increased costs from childcare patronage - \$60k • Extension of surf lifesaving contracts - \$35k 		
Other Expenses	-	-
No change		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

5) Capital Budget Review Statement

Consolidated - Summary	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Grants and Cont.(Capital)	19,573	12,909	4,103	(5,746)	1,626	32,464	23,175
Total Receipts	19,573	12,909	4,103	(5,746)	1,626	32,464	23,175
Capital Equipment & Contracts	31,377	30,161	9,310	(7,156)	2,916	66,608	29,901
Property Acquisition & Development	1,000	-	-	-	14,375	15,375	189
Total Payments	32,377	30,161	9,310	(7,156)	17,291	81,983	30,090
Capital Surplus/(Deficit)	(12,804)	(17,252)	(5,207)	1,409	(15,665)	(49,518)	(6,915)

This statement sets out the details of variations between Council's original capital budget and revised capital budget. There are budgetary changes proposed in this quarter which result in a decrease in the capital program by the value of \$17.3m.

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

INCOME	\$'000	Budget Change F/U
Capital Grants & Contributions	1,626	F

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

- Grants for Avenue of the Allies rehabilitation – \$788k
- Grants for the Little Beach infrastructure upgrades - \$545k
- Contributions for Nelson Bay tennis club upgrades – \$230k
- Grants for the mobile library – \$63k

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

EXPENDITURE	\$'000	Budget Change F/U
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Property Acquisition and Development	14,375	U
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This budget has increased to allow for capital reinvestment using sale proceeds.

Capital Equipment and Contracts	2,916	U
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Capital equipment and contracts has increased primarily due to the following projects:

- Avenue of the Allies scope extension - \$788k (increase)
 - Drainage, flooding & disaster readiness improvements shire wide - \$975k (increase)
 - Little Beach upgrades – \$545k (increase)
 - Nelson Bay tennis club upgrades – \$230k (increase)
 - Mobile library improvements – \$68k (increase)
 - Bill strong oval surface upgrade – \$46k (increase)
 - Other projects - \$264k (increase)
-

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

The capital works program by section is as follows:

Consolidated - Detailed	2023 Original Budget	Budget revotes & carry forwards	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	2023 Revised Budget	2023 YTD Actuals
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Capital Funding							
Capital Grants & Contributions	19,573	12,909	4,103	(5,746)	1,626	32,464	23,175
Total Capital Funding	19,573	12,909	4,103	(5,746)	1,626	32,464	23,175
Capital Expenditure							
Corporate Services Group							
Commercial Property Reserve & Cluster Plan							
Holiday Parks	1,700	282	(614)	(10)	-	1,358	437
Property Development & Investment	1,000	-	-	-	14,375	15,375	189
Commercial Property Total	2,700	282	(614)	(10)	14,375	16,733	626
Business Improvement Technology & ICT	1,500	810	-	-	80	2,390	115
Corporate Services Group Total	4,200	1,092	(614)	(10)	14,455	19,123	741
Facilities and Services							
Assets							
Fleet Maintenance	2,000	-	-	750	185	2,935	1,841
Drainage and Flooding	1,200	81	-	-	310	1,591	1,133
Corporate & Community Buildings	250	38	1,260	-	(221)	1,327	615
Assets Total	3,450	119	1,260	750	274	5,853	3,589
Community Services							
Domestic Waste Management	98	-	852	30	-	980	61
Library Services	310	60	-	-	9	379	235
Community Services	408	60	852	30	9	1,359	296
Capital Works							
Capital Works Construction	19,179	28,890	7,812	(7,926)	2,553	50,508	21,609
Capital Works Total	19,179	28,890	7,812	(7,926)	2,553	50,508	21,609
Facilities and Services Total	23,037	29,069	9,924	(7,146)	2,836	57,720	25,494
Newcastle Airport	5,140	-	-	-	-	5,140	3,855
Total Capital Expenditure	32,377	30,161	9,310	(7,156)	17,291	81,983	30,090
Net Outlay	12,804	17,252	5,207	(1,409)	15,665	49,518	6,915

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

6) Reserve Balances

This statement sets out the budgeted reserve balances and funding source change.

Reserves	Opening Balance	Rollover Transfers	Operating Transfers in / (out)	Financing Transfers in / (out)	Transfers between Reserves	Original Budget	Budget Revision Sept Qtr	Budget Revision Dec Qtr	Budget Revision Mar Qtr	Closing Balance
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Administration Building Reserve	377	(38)	(11)	-	-	(250)	-	-	-	78
Asset Rehabilitation Reserve	1,704	(1,438)	4,100	0	-	(3,600)	(136)	-	319	948
Commercial Properties Reserve	1,986	(4,329)	2,527	(2,122)	-	(1,000)	13,253	-	(7,827)	2,489
Community Loans	-	-	200	-	-	-	-	-	-	200
Crown Reserves	1,744	(282)	1,984	(401)	-	(3,000)	664	10	640	1,358
Developer Contributions	13,928	(753)	6,958	-	-	(1,189)	(300)	2,194	(239)	20,599
Domestic Waste	3,335	-	2,222	-	-	(323)	(872)	-	-	4,362
Drainage Reserve	-	(81)	1,211	-	-	(1,200)	-	-	70	(0)
Election Reserve	-	-	258	-	-	-	-	-	-	258
Federal Assistance Grant Reserve	5,507	-	(5,507)	-	-	-	-	-	-	-
Fleet Reserve	384	(2,377)	5,131	-	-	(2,000)	-	(750)	-	388
IT Reserve	-	(810)	2,310	-	-	(1,500)	-	-	-	-
Newcastle Airport	13,144	-	4,323	-	-	(5,042)	-	-	-	12,425
Other Waste Services Reserve	250	-	(117)	-	-	-	(3)	(30)	-	100
Parking Meters Reserve	125	(20)	777	-	-	(50)	-	275	(300)	807
Repealed Funds Reserve	2,830	(1,052)	-	-	-	-	-	52	(580)	1,250
Roads / Environmental Reserve	358	(377)	425	-	-	(425)	18	-	-	-
Section 355C Committees	697	-	-	-	-	-	-	-	-	697
Unexpended Grants Reserve	10,162	-	(591)	-	-	(8,597)	-	-	(975)	-
Sustainable Energy and Water Reserve	-	-	217	-	-	-	-	-	(150)	67
Unexpended Loan Funds Reserve	269	(5,665)	397	5,000	-	-	-	-	-	-
Ward Funds Reserve	23	-	(23)	-	-	-	-	-	-	-
Natural Disaster	7,000	-	-	-	-	-	-	-	-	7,000
Grant Co Cont	3,000	-	-	-	-	-	-	-	-	3,000
Resilience	3,000	-	-	-	-	-	-	-	-	3,000
Community Halls	0	-	47.63	-	-	-	-	-	-	48
Bonds and Retentions	731	-	-	-	-	-	-	-	-	731
Total	70,553	(17,222)	26,837	2,477	-	(28,176)	12,625	1,752	(9,041)	59,805

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

7) Cash Flow Statement (Consolidated)	Original Budget	Revotes & Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Cash Flows from Operating Activities						
Receipts:						
Rates and Annual Charges	66,623	-	-	-	-	66,623
User Charges & Fees Income	47,079	-	192	(812)	674	47,133
Interest & Investment Revenue Received	1,063	-	200	653	700	2,616
Other	7,427	-	(611)	-	864	7,680
Grants and Contributions	29,721	12,909	5,143	(5,022)	5,793	48,544
Payments:						
Employee Benefits & On-Costs	(57,259)	-	73	(124)	(337)	(57,647)
Borrowing Costs	(1,713)	-	-	-	-	(1,713)
Materials & Contracts	(55,795)	-	502	2,876	(5,246)	(57,663)
Other	(3,653)	-	(69)	(3,174)	-	(6,895)
Net Cash provided (or used in) Operating Activities	33,493	12,909	5,431	(5,602)	2,448	48,678
Cash Flows from Investing Activities						
Receipts:						
Proceeds from disposal of Property Plant & Equipment	250	-	14,875	-	-	15,125
Proceeds from development & land sales	-	-	-	-	5,227	5,227
Payments:						
Purchase of Real Estate, Infrastructure, Property Plant & Equipment and Intangibles	(32,377)	(30,161)	(9,310)	7,156	(17,291)	(81,983)
Net Cash provided (or used in) Investing Activities	(32,127)	(30,161)	5,565	7,156	(12,064)	(61,631)
Cash Flows from Financing Activities						
Receipts:						
Proceeds from borrowings	-	5,000	-	-	-	5,000
Payments:						
Repayment of Leases, Borrowings & Advances	(3,753)	-	-	-	-	(3,753)
Net Cash provided (or used in) Financing Activities	(3,753)	5,000	-	-	-	1,247
Net Increase/(Decrease) in Cash & Cash Equivalents	(2,387)	(12,252)	10,997	1,553	(9,616)	(11,705)
plus: Cash & Investments - beginning of year (*)	70,551	-	-	-	-	70,551
Cash & Investments - end of the year	68,164	(12,252)	10,997	1,553	(9,616)	58,846

*opening balance adjustment made to reflect 30 June 2022 actual closing balance

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.**Cash Flow Statement Funding Reconciliation**

The 'Recommended Changes to Budget' in the March QBR constitute an overall decrease in Council's cash flow position by \$9.6M (unfavourable) and is predominantly due to the capital reinvestment to regain lost operating income from the sale of 437 Hunter street.

PSC is clearly solvent based on the current and estimated cash position from the review changes. PSC's current cash position as per the March investment report was \$83.6m.

8) Budget Review Contracts and Other Expenses

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

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

- Were entered into during the quarter ending 31/3/2022; and
- Have a value equal to or more than \$50,000.

Part B of the report shows expenditure as at 31/3/2022 for:

- Consultancies
- Legal fees

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRs.

ITEM 7 - ATTACHMENT 1 QUARTERLY BUDGET REVIEW TO 31 MARCH 2023.

**Part A
Contracts Listing**

Contractor	Contract Details and Purpose	Contract Value inc GST	Contract Commencement Date	Contract End Date	Budgeted (Y/N)
ANNA BAY SAND & EARTHMOVING	BILL STRONG OVAL, NELSON BAY - GROUND	50,050	8/12/2022	19/01/2023	Y
HUNTER FAUNA & FLORA CONTROLS PTY LTD	RFQ131-2022 PEST CONTROL SERVICES - HOLIDAY PARKS	59,092	1/01/2023	31/12/2023	Y
TRACT CONSULTANTS PTY LTD	LOA - RAYMOND TERRACE SUB-PRECINCTS MASTER PLAN	118,140	18/01/2023	18/07/2023	Y
BROWNING FAMILY TRUST	RFQ137-2022 SALAMANDER SPORTS COMPLEX	93,672	1/02/2023	1/05/2023	Y
RUDDS PLUMBING & EXCAVATIONS PTY LTD	44B SQUIRE - CONSTRUCTION SEWER & WATER WORK	63,980	20/02/2023	20/03/2023	Y
COATS HIRE OPERATIONS PTY LTD	VAR TO PO 186941/188026 HIRE SCHEDULE 8607519,	52,450	30/10/2022	30/11/2022	Y
SYKES GROUP PTY LTD	QUOTE QUO-18318-W5V8M8-4 - LAGOONS ESTATE – SUPPLY	182,516	15/01/2023	29/01/2023	Y
HANSON CONSTRUCTION MATERIALS PTY LTD	DGB20 EXBIN & DELIVER - CLARENCE TOWN ROAD	137,883	8/03/2023	22/03/2023	Y
MR C VLASSOPOULOS	44B SQUIRE STREET - SEWER WORKS	100,000	11/02/2023	11/05/2023	Y
TELSTRA NETWORK & SERVICES	SR218943-2 - 21/02/2023 - SWAN BAY RD SEG160,	72,786	21/02/2023	21/05/2023	Y
COATES HIRE OPERATIONS PTY LTD	VAR TO PO 186941/188026 HIRE SCHEDULE 8607519,	54,198	30/11/2022	31/12/2022	Y
SPORTSZONE GROUP PTY LTD	RFQ018-2023 NELSON BAY TENNIS - COURT RESURFACING	129,449	3/03/2023	3/05/2023	Y
AUDIT OFFICE OF NEW SOUTH WALES	FINANCIAL AUDIT 2023	110,556	7/03/2023	7/05/2023	Y
QUARRY PRODUCTS (NEWCASTLE) PTY LTD	SUPPLY BASE PAVEMENT GRAVEL	69,597	30/03/2023	30/04/2023	Y
COMPUTER SYSTEMS (AUSTRALIA) PTY LIMITED	HPE ARUBA 6200F 48G CLASS4 POE 4SFP+ 740W SWITCH x	63,689	1/04/2023	31/03/2024	Y
SNAUWAERT AUSTRALIA PTY LIMITED	RFQ026-2023 BRANDON PARK - SPORTS COURT SURFACE	59,990	1/03/2023	31/03/2023	Y
OLYMPIC FENCING NSW PTY LTD	RFQ038-2023 KING PARK - BARRIERS AND FENCING	59,019	1/04/2023	31/05/2023	Y
OLYMPIC FENCING NSW PTY LTD	RFQ019-2023 NELSON BAY TENNIS CLUB – FENCING	57,800	7/04/2023	20/05/2023	Y
VENDORPANEL PTY LTD	25 MAR 2023 TO 24 MAR 2024 - VENDORPANEL	57,608	25/03/2023	24/04/2024	Y
COATES HIRE OPERATIONS PTY LTD	VAR TO PO 186941/188026 HIRE SCHEDULE 8607519,	54,199	31/12/2022	31/01/2023	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRS.

Part B

Consultancy & Legal Expenses

Expense	Expenditure YTD (\$)	Budgeted (Y/N)
Consultancies		
Holiday Parks	33,979	Y
Property Development	74,317	Y
Engineering	57,062	Y
Development Planning	53,950	Y
IT	28,015	Y
Environment	25,362	Y
Other	13,656	Y
Construction	121,443	Y
Total consultancies	407,784	
Legal Fees		
Advice	48,185	Y
Litigation	204,017	Y
Total legal fees	252,203	

Expense - Litigation	Expenditure YTD (\$)
Local Government Law	86,743
Environmental Law	1,806
Planning and Development Law	115,468
Total	204,017

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/3/2023 and should be read in conjunction with other documents in the QBRs.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Mayor Ryan Palmer vacated the chair and left the meeting at 6:53pm.
Deputy Mayor, Cr Giacomo Arnott, chaired the meeting in the absence of the Mayor.

ITEM NO. 8

FILE NO: 23/101073
EDRMS NO: PSC2021-04206

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: TIMOTHY CROSDALE - 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 Ward funds to the following:-
 - a) 44th Division 50th Reunion - East Ward funds - \$1500 donation towards Navy Reunion event.
 - b) Shoal Bay Public School P&C Committee - East Ward funds - \$1000 donation towards the purchase of new freezers for the school canteen.
 - c) Nelson Bay Football Club – Cr Glen Dunkley - Rapid response - \$500 donation towards the purchase of new uniforms for the upcoming season.

ORDINARY COUNCIL MEETING - 23 MAY 2023

MOTION

125	<p>Councillor Glen Dunkley Councillor Leah Anderson</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the following:-<ol style="list-style-type: none">a) 44th Division 50th Reunion - East Ward funds - \$1500 donation towards Navy Reunion event.b) Shoal Bay Public School P&C Committee - East Ward funds - \$1000 donation towards the purchase of new freezers for the school canteen.c) Nelson Bay Football Club – Cr Glen Dunkley - Rapid response - \$500 donation towards the purchase of new uniforms for the upcoming season.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Those against the Motion: Nil.

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:

WARD FUNDS

44 th Division 50 th Reunion (HMAS Leeuwin-Collins/ Walton 44 th Recruit)	This group of sailors joined the Navy junior recruit system in July 1973 and together served approximately 2,500 combined years of service to our country.	\$1500	Donation towards Navy Reunion event.
Shoal Bay Public School P&C Committee	The Shoal Bay P&C assist the school with fundraising to provide additional resources and facilities for students.	\$1000	Donation towards new freezers for school canteen.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Nelson Bay Football Club	The Nelson Bay Football Club is a community based club providing growth and development across multiple age groups.	\$500	Donation towards new uniforms for the upcoming season.
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COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Provide the Community Financial Assistance Program

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.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

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 undertaken 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 the request.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Deputy Mayor, Cr Giacomo Arnott, vacated the chair.
Mayor Ryan Palmer returned to the meeting at 6:58pm and resumed the chair.

ITEM NO. 9

FILE NO: 23/107915
EDRMS NO: PSC2022-02308

INFORMATION PAPERS

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 23 May 2023.

No:	Report Title	Page:
1	April 2023 Cash and Investments	231
2	Medowie Library	235
3	Contribution to Works For Kerb and Guttering Construction Policy - Request for Information	239
4	Annual Disclosure of Interest Returns for 2022 to 2023	252
5	Delegations Report	255
6	Council Resolutions	257

ORDINARY COUNCIL MEETING - 23 MAY 2023
MOTION

126	Councillor Jason Wells Councillor Chris Doohan It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 23 May 2023. <hr/> No: Report Title 1 April 2023 Cash and Investments 2 Medowie Library 3 Contribution to Works For Kerb and Guttering Construction Policy - Request for Information 4 Annual Disclosure of Interest Returns for 2022 to 2023 5 Delegations Report
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MINUTES ORDINARY COUNCIL - 23 MAY 2023

	6	Council Resolutions
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Cr Jason Wells foreshadowed a matter arising.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING - 23 MAY 2023
MATTER ARISING**

127	Councillor Jason Wells Councillor Chris Doohan It was resolved that Council request the General Manager to prepare a report on potential funding options for a lounge library at Medowie.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 22/325565
EDRMS NO: PSC2017-00180**

APRIL 2023 CASH AND INVESTMENTS

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 30 April 2023.

The invested funds are set aside for:

Restricted Cash	
Reserve	As at April 2023 \$'000
External	
Deposits, retentions and bonds	859
Grants and Contributions	9,631
Developer contributions (inc Haulage)	22,202
Domestic Waste Management	6,285
Crown Reserve	7,766
Internal	
Asset Rehab/Reseals	2,966
Drainage	473
Commercial Property	15,196
Election Reserve	225
Federal Assistance Grant in Advance	-
Fleet	1,544
Resilience fund	3,000
Grants Co-contribution	3,000
Emergency & Natural Disaster	7,000
Other Waste	335
Council Parking	467
IT	2,180
Sustainable energy and water reserve	213
Unexpended loan funds	1,672
Repealed	2,672
Transport levy	320

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Admin Building	398
Ward Funds	66
Community Halls	36
Community Loans	200
Total	88,706

The variance in the Cash and Investment Report (**ATTACHMENT 1**) and the table above is explained below.

Cash and Investment Report	79,096
Variance Cash Reserves to Bank Account	(9,610)

Variance Due to:

Outstanding State Roads payments	464
Loans not funded through a reserve	333
Outstanding GST refund	350
Contract Asset (Outstanding Grant Payments)	3,414
Outstanding Natural Disaster Funding	1,413
Total Variance	5,974

Cash Shortfall	(3,636)
(due to timing of income and expenditure)	

ATTACHMENTS

1) Cash and Investments - April 2023.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS - APRIL 2023.

Cash and Investments Held as at 30 April 2023

ISSUER	Broker	Rating*	Type	Investment Date	Yield (%)	Term (days)	Maturity Date	Amount Invested	Market Value
Commonwealth Bank of Australia	CBA	AA	TD	9-May-22	3.17%	365	9-May-23	1,000,000	1,030,918
Westpac	Westpac	AA	TD	16-Feb-22	1.12%	454	16-May-23	1,000,000	1,002,240
BNK Bank	Curve	NR	TD	23-Nov-22	4.42%	180	22-May-23	1,000,000	1,019,133
National Australia Bank	Curve	AA	TD	28-Nov-22	4.15%	182	29-May-23	1,000,000	1,017,396
Police Credit Union	IAM	NR	TD	22-Dec-22	4.48%	181	21-Jun-23	1,000,000	1,015,833
Bank of Queensland	BOQ	BBB	TD	2-Jun-22	3.40%	389	26-Jun-23	1,500,000	1,546,389
AMP Bank	Laminar	BBB	TD	2-Aug-22	4.20%	332	30-Jun-23	825,000	850,726
Defence Bank	IAM	BBB	TD	21-Jun-22	4.38%	379	5-Jul-23	1,000,000	1,037,560
Illawarra Credit Union	Laminar	BBB	TD	3-Jun-22	3.52%	403	11-Jul-23	1,000,000	1,031,921
Westpac	Westpac	AA	TD	16-Feb-22	1.30%	517	18-Jul-23	1,000,000	1,002,600
AMP Bank	IAM	BBB	TD	18-Aug-22	4.15%	340	24-Jul-23	1,000,000	1,028,993
Auswide Bank	IAM	BBB	TD	26-Apr-23	4.57%	91	26-Jul-23	5,000,000	5,002,504
Arab Bank	IAM	NR	TD	26-Apr-23	4.50%	91	26-Jul-23	5,000,000	5,002,466
Macquarie Bank	IAM	A	TD	26-Apr-23	4.42%	91	26-Jul-23	5,000,000	5,002,422
Macquarie Bank	IAM	A	TD	27-Apr-23	4.42%	90	26-Jul-23	525,861	526,052
Westpac	Westpac	AA	TD	3-Jun-22	3.28%	424	1-Aug-23	1,000,000	1,005,212
Mutual Bank	Curve	BBB	TD	2-Jun-22	3.40%	438	14-Aug-23	1,000,000	1,030,926
AMP Bank	Laminar	BBB	TD	29-Jul-22	4.45%	382	15-Aug-23	1,000,000	1,033,527
AMP Bank	Laminar	BBB	TD	2-Aug-22	4.45%	384	21-Aug-23	825,000	852,258
AMP Bank	IAM	BBB	TD	25-Aug-22	4.25%	361	21-Aug-23	500,000	514,438
AMP Bank	Laminar	BBB	TD	1-Sep-22	4.25%	368	4-Sep-23	700,000	719,643
Australian Unity Bank	Curve	BBB	TD	1-Jun-22	3.40%	468	12-Sep-23	1,000,000	1,031,019
Commonwealth Bank of Australia	CBA	AA	TD	17-Jun-22	4.39%	467	27-Sep-23	1,000,000	1,014,313
Commonwealth Bank of Australia	CBA	AA	TD	17-Jun-22	4.41%	481	11-Oct-23	1,000,000	1,014,378
Commonwealth Bank of Australia	CBA	AA	TD	17-Jun-22	4.42%	495	25-Oct-23	1,000,000	1,014,410
Westpac	Westpac	AA	TD	16-Feb-22	1.48%	629	7-Nov-23	1,000,000	1,002,960
Commonwealth Bank of Australia	CBA	AA	TD	17-Jun-22	4.45%	524	23-Nov-23	1,000,000	1,014,508
Summerland Credit Union	IAM	NR	TD	30-Nov-22	4.72%	362	27-Nov-23	1,000,000	1,019,527
ING Bank	ING	A	TD	24-Jun-22	4.22%	531	7-Dec-23	1,000,000	1,035,841
QBANK	Ord Minnett	BBB	TD	2-Dec-22	4.70%	374	11-Dec-23	975,000	993,707
Commonwealth Bank of Australia	CBA	AA	TD	17-Jun-22	4.48%	552	21-Dec-23	1,000,000	1,014,606
ING Bank	ING	A	TD	24-Jun-22	4.33%	559	4-Jan-24	1,000,000	1,036,775
ING Bank	ING	A	TD	29-Jun-22	4.35%	566	16-Jan-24	1,000,000	1,036,349
Westpac	Westpac	AA	TD	8-Aug-22	4.00%	532	22-Jan-24	1,000,000	1,000,658
Westpac	Westpac	AA	TD	8-Aug-22	4.00%	539	29-Jan-24	1,000,000	1,000,219
Westpac	Westpac	AA	TD	28-Jan-22	1.53%	732	30-Jan-24	1,000,000	1,000,084
Westpac	Westpac	AA	TD	28-Jan-22	1.53%	746	13-Feb-24	1,000,000	1,000,084
Westpac	Westpac	AA	TD	16-Feb-22	1.72%	741	27-Feb-24	1,000,000	1,003,440
Westpac	Westpac	AA	TD	1-Sep-22	4.30%	557	11-Mar-24	1,000,000	1,007,068
Bank Vic	IAM	BBB	TD	3-Feb-23	4.62%	409	18-Mar-24	1,000,000	1,010,885
Westpac	Westpac	AA	TD	14-Oct-22	4.53%	542	8-Apr-24	1,000,000	1,001,986
Judo Bank	IAM	BBB	TD	22-Apr-22	3.35%	732	23-Apr-24	825,000	825,606
Summerland Credit Union	Curve	NR	TD	23-Nov-22	4.60%	523	29-Apr-24	1,000,000	1,019,912
Judo Bank	IAM	BBB	TD	22-Apr-22	3.35%	746	7-May-24	825,000	825,606
Macquarie Bank	Curve	A	TD	1-Sep-22	4.41%	627	20-May-24	1,000,000	1,029,118

ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS - APRIL 2023.

Cash and Investments Held as at 30 April 2023

ISSUER	Broker	Rating*	Type	Investment Date	Yield (%)	Term (days)	Maturity Date	Amount Invested	Market Value
Commonwealth Bank of Australia	CBA	AA	TD	7-Feb-23	4.65%	475	27-May-24	1,000,000	1,003,695
Macquarie Bank	Curve	A	TD	1-Sep-22	4.41%	649	11-Jun-24	1,000,000	1,029,118
Westpac	Westpac	AA	TD	23-Aug-22	4.35%	685	8-Jul-24	1,000,000	1,007,866
Westpac	Westpac	AA	TD	23-Aug-22	4.35%	692	15-Jul-24	1,000,000	1,007,866
Australian Military Bank	Curve	BBB	TD	25-Aug-22	4.40%	704	29-Jul-24	1,000,000	1,029,896
Police Credit Union	IAM	NR	TD	14-Feb-23	5.02%	538	5-Aug-24	1,000,000	1,010,315
Westpac	Westpac	AA	TD	21-Feb-23	5.01%	538	12-Aug-24	1,000,000	1,009,334
Bank Vic	IAM	BBB	TD	15-Mar-23	5.02%	544	9-Sep-24	1,000,000	1,006,327
ING Bank	ING	A	TD	23-Dec-22	4.68%	655	8-Oct-24	1,000,000	1,016,412
ING Bank	ING	A	TD	23-Dec-22	4.70%	661	14-Oct-24	1,000,000	1,016,482
Westpac	Westpac	AA	TD	3-Nov-22	4.90%	732	4-Nov-24	1,000,000	1,011,545
Summerland Credit Union	Curve	NR	TD	23-Nov-22	4.65%	719	11-Nov-24	1,000,000	1,020,129
Summerland Credit Union	Curve	NR	TD	23-Nov-22	4.65%	726	18-Nov-24	1,000,000	1,020,129
ING Bank	IAM	A	TD	2-Dec-22	4.50%	724	25-Nov-24	1,000,000	1,018,370
ING Bank	IAM	A	TD	2-Dec-22	4.50%	738	9-Dec-24	1,000,000	1,018,370
Commonwealth Bank of Australia	CBA	AA	TD	20-Dec-22	4.71%	731	20-Dec-24	1,000,000	1,015,356
Commonwealth Bank of Australia	CBA	AA	TD	8-Feb-23	4.74%	733	10-Feb-25	1,000,000	1,003,766
Summerland Credit Union	Curve	NR	TD	15-Mar-23	5.05%	726	10-Mar-25	1,000,000	1,006,364
AMP Bank	IAM	BBB	TD	20-Apr-23	5.00%	732	21-Apr-25	1,000,000	1,001,370
Total Term Deposits (\$)								74,500,861	75,478,927
Macquarie Bank	Laminar	A	At Call		3.55%			0	0
Total Investments (\$)								74,500,861	75,478,927
Cash at Bank (\$)								3,617,501	3,617,501
Total Cash and Investments (\$)								78,118,362	79,096,428
Cash at Bank Interest Rate		3.70%							
3 month BBSW		3.66%							
Weighted Average Investment Rate of Return on TD's		4.14%							
TD = Term Deposit									
*Standard & 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									
Glen Peterkin									
Acting Group Manager - Corporate Services									

ITEM NO. 2

**FILE NO: 23/74757
EDRMS NO: PSC2017-00019**

MEDOWIE LIBRARY

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

BACKGROUND

The purpose of this report is to provide information as requested in the Notice of Motion (**ATTACHMENT 1**) Council Meeting 8 February 2022, Minute No. 016.

A number of options to provide a greater level of service to the growing population of Medowie have been examined.

As documented in the Notice of Motion background, the population of Medowie has grown and the NSW State Library People, Places Guidelines and Standards suggests 1 Branch Library for every 20,000 people and 1 Library Lounge for every 10,000 people. While the population of Medowie is just over 10,000 people, given the topography and demographics of Medowie, it is no surprise that a greater library profile has been requested. Medowie's population does not warrant a branch library, however a lounge library is a viable solution.

To substitute the required library lounge service, Council operates a Mobile Library Service. At present the Mobile Library Service (Truck) is at maximum capacity in our Local Government Area (LGA) and services Medowie 5 times a fortnight, making stops at Ferodale Road and Kindlebark Drive. To increase the frequency would result in a reduction of service at other Mobile Library stops in our LGA. Like Medowie, all other stops are well utilised. To maintain the existing services and increase the frequency of visits to Medowie would require an additional Mobile Library truck. Given current financial constraints, this is not viable, and would result in an oversupply of this service for our LGA.

In addition to the Mobile Library, a street library was constructed as part of the Medowie 7 Day Makeover and is operating in the park adjacent to the Medowie Community Centre. While a great community initiative, it is acknowledged that this service is no substitute for a Library Lounge, though it does supplement the Mobile Library.

As noted above, without the Mobile Library Service, a Library Lounge in Medowie would be warranted. In review of other Councils Library Lounge arrangements, they are usually attached to civic buildings that have consistent openings and/or are staffed. It is an option to convert some of the Medowie Community Centre into a designated space. However, the current configuration of the building provides some limitations, in that all designated spaces are already utilised, there are no community applicants to administer the operations of the building, and Council's tight financial

status resulting in resources to staff an additional service area, has resulted in the option to house a Library Lounge at the Medowie Community Centre as unfeasible.

To address the need of a Library Lounge for the growing population of Medowie, a Library Lounge will be placed in Council's Capital Works Plus Program, with this program to be considered as part of the suite of projects in the Developers Contribution Plan at the next review. The Library Lounge will be considered as part of future planning for 38 Ferodale Road.

ATTACHMENTS

- 1) Council Resolution - Medowie Library - Minute No. 016 - 8 February 2022.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - MEDOWIE LIBRARY -
MINUTE NO. 016 - 8 FEBRUARY 2022.**

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 21/288522

EDRMS NO: PSC2017-00019

MEDOWIE LIBRARY

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes the strong population growth in Medowie over the last few years, and ongoing predicted growth with several residential developments in progress.
- 2) Asks the General Manager to prepare a report on the viability of a street library or more regular visits from the mobile library to deliver library services to the growing population in Medowie.

**ORDINARY COUNCIL MEETING - 8 FEBRUARY 2022
MOTION**

016	Councillor Giacomo Arnott Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Notes the strong population growth in Medowie over the last few years, and ongoing predicted growth with several residential developments in progress.2) Asks the General Manager to prepare a report on the viability of a library lounge or more regular visits from the mobile library to deliver library services to the growing population in Medowie.
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Councillor Glen Dunkley left the meeting at 8:14pm.
Councillor Glen Dunkley returned to the meeting at 8:16pm.

The motion was carried.

**BACKGROUND REPORT OF: JOHN MARETICH – ASSETS SECTION
MANAGER**

BACKGROUND

The purpose of this report is to provide background information to allow consideration of the Notice of Motion.

**ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - MEDOWIE LIBRARY -
MINUTE NO. 016 - 8 FEBRUARY 2022.****MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022**

The population of Medowie has grown. The NSW State Library People, Places Guidelines and Standards suggests 1 Branch Library for every 20,000 people and 1 Library Lounge for every 10,000 people. Based on this guideline and funding sources, it has been considered that the Raymond Terrace main branch library would continue to meet the near future population growth in Medowie. Noting that a library lounge may soon be needed in Medowie.

Until such time that the library lounge is required, the Mobile Library is a service that Council provides to the Medowie community. At present, the Mobile Library visits Medowie 5 times per fortnight making stops at Ferodale Road and Kindlebark Drive.

A street library was constructed as part of the recent Medowie 7 Day Makeover and is operating out of the park adjacent to the Medowie Community Centre.

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.

ITEM NO. 3

**FILE NO: 23/74807
EDRMS NO: PSC2009-6551**

**CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION
POLICY - REQUEST FOR INFORMATION**

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

BACKGROUND

The purpose of this report is to provide information as requested in the Policy Review – Contribution to Works for Kerb and Guttering Construction Policy (**ATTACHMENT 1**) Council Meeting 8 February 2022, Minute No. 007.

The intent of the policy is to allow Council to charge residents a contribution to works for the construction of new kerb and guttering built adjacent to their property. This charge is triggered when Council is undertaking an upgrade of the road pavement as part of Council’s Capital Works Program. This income is budgeted for as part of the project. Reducing this income would result in less works being delivered.

Council installs kerb and guttering to primarily aid in the management of stormwater. Kerb and guttering improves the ability to control and collect surface water runoff from the road pavement. This in turn reduces the scouring effects of water which damages road pavements and road shoulders which leads to potholes and silt build up in drains and waterways. Hence improving water control and quality. Kerb and guttering is also regarded by the community as having a direct benefit to landowners.

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

At the last Policy Review a number of questions were raised. The answers to these questions are below. The questions raised and answers have been provided below.

Questions	Answers
How many homes were asked to contribute to kerb and guttering works in each calendar year from 2015 onwards?	115.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

How many homes paid their contribution in full in each calendar year from 2015 onwards?	100 with 13 on a payment plan or recouped through deceased estates / sale.
How many homes disputed their requirement to contribute in each calendar year from 2015 onwards?	8 objected with only 2 are unpaid.
When Council last went to the public asking them if they generally agreed with contributing to kerb and guttering works in order to increase the amount of kerb and guttering works able to be undertaken by Council?	This policy has been in place for some decades and the last 2 policy reviews, being 13 August 2019 (Minute 186), previous to that 23 June 2015 (Minute 175) resulted in little feedback from the community. Anecdotally the community is keen to have kerb and gutter and as a whole are willing to pay.

ATTACHMENTS

- 1) Council Resolution - Policy Review - Contribution to Works for Kerb and Guttering Construction Policy - Min. No 007 - 8 February 2022.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

ITEM NO. 6

FILE NO: 21/342430
EDRMS NO: PSC2009-06551

POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note submission (**ATTACHMENT 1**).
- 2) Revoke the Contributions to Works for Kerb and Gutter Construction policy dated 13 August 2019 (Minute No. 183).
- 3) Adopt the revised Contributions to Works for Kerb and Gutter Construction policy shown at (**ATTACHMENT 2**).

**ORDINARY COUNCIL MEETING - 8 FEBRUARY 2022
MOTION**

007	<p>Councillor Chris Doohan Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Receive and note submission (ATTACHMENT 1).2) Revoke the Contributions to Works for Kerb and Gutter Construction policy dated 13 August 2019 (Minute No. 183).3) Adopt the revised Contributions to Works for Kerb and Gutter Construction policy shown at (ATTACHMENT 2).4) Request the General Manager to prepare a report to Council, outlining the following:<ol style="list-style-type: none">i) How many homes were asked to contribute to kerb and guttering works in each calendar year from 2015 onwardsii) How many homes paid their contribution in full in each calendar year from 2015 onwardsiii) How many homes disputed their requirement to contribute in each calendar year from 2015 onwardsiv) When Council last went to the public asking them if they generally agreed with contributing to kerb and guttering works in order to increase the amount of kerb and guttering works able to be undertaken by Council.
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The motion was carried.

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.**MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022****BACKGROUND**

The purpose of this report is seek Council's endorsement of the revised Contributions to Works for Kerb and Gutter Construction Policy (policy) shown as **(ATTACHMENT 2)**.

Council approved to place the policy on public exhibition at the 28 September 2021 Council meeting. While no submissions were made, a question was raised during discussion of the policy at the Council meeting. Further discussion following the meeting was undertaken between the then Councillor and Council staff in relation to the matter. This has been regarded as a submission and has been summarised in **(ATTACHMENT 1)**. Additional wording has been incorporated into clause 3.12 in the advertised policy. This relates to how Council charge a contribution to works for kerb and guttering for strata and community title land.

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

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

Reasons for the recommendation to endorse this policy are:

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

During the Public Exhibition, 1 submissions was received which has been summarised in **(ATTACHMENT 1)**. As a result of the submission, clause 3.12 in the advertised policy was modified to include additional information.

Please note that yellow highlighting in the attached policy indicates an amendment has been made and strikethrough text is to be deleted. Text highlighted in blue shows amendments that have been made following public exhibition.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Infrastructure and Facilities	Plan civil and community infrastructure to support the community.

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

FINANCIAL/RESOURCE IMPLICATIONS

The total cost of construction for kerb and guttering varies from year to year depending on the type and volume of projects scheduled in the Capital Works Program. The kerb and gutter annual contribution income typically ranges from \$30,000 - \$60,000. A number of projects were exempt from contributions due to removal and reconstruction of existing kerb and guttering or adjacent to land in which the policy does not allow for the collecting of funds.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that collecting Contribution to Works for Kerb and Guttering will impose additional costs to landowners leading to community dissatisfaction and financial hardship.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

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

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

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

CONSULTATION

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

Internal

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

External

The draft policy was placed on Public Exhibition for a period of 28 days from 29 September 2021 to 26 October 2021.

During the public exhibition period, 1 submission was received and is summarised in **(ATTACHMENT 1)**.

OPTIONS

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

ATTACHMENTS

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

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

ITEM 6 - ATTACHMENT 1 SUBMISSION.

Policy Review – Contribution to Works for Kerb and Gutter Construction Policy

No.	Author of submission	Comment	Council response
1	Staff	During the last term of Council, a question was raised from the floor of Council to do with how strata titles are proportioned and that the current policy document does not address this with enough detail.	Additional detail has been added into section 3.12 of the policy to address strata titles as well as community land and private internal roads.

ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

ITEM 6 - ATTACHMENT 2 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



FILE NO: PSC2009-06551

TITLE: CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION

OWNER: ASSETS SECTION MANAGER

1. PURPOSE:

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

2. CONTEXT/BACKGROUND:

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

3. SCOPE:

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

Policy

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ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

ITEM 6 - ATTACHMENT 2 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



circumstances when Council is unable to notify property owners prior to works and of costs, the owners are still liable to pay the contribution.

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

a) Non Pensioners

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

b) Pensioners

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

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

3.11 Assessing the Application Based on Land Zoning

Policy

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ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

ITEM 6 - ATTACHMENT 2 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



a) The applicability of any contribution is based on the land zoning of the property. List of land zones where a contribution is applicable for Kerb and Gutter:

- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B7 Business Park
- IN1 General Industrial.

3.12 Boundary Location & Calculations of Construction Costs

a) There are three different rate structures to be applied once the zone applicability has been established:

- Front boundaries: 50.0% of the average construction cost
- Corner Lots - Side & Front boundaries: 33.3% of the average construction cost
- Rear boundaries: 25.0% of the average construction cost.

b) The length used in the calculations is the length of the property boundary, but not more than the actual length of the kerb and gutter being constructed.

~~e) In the case of properties with strata title or community title the cost shall be shared equally between all strata title and community title holders.~~

c) In the case of properties with strata title the cost shall be shared between all lot owners in the same proportions as unit entitlement for the scheme under s.267 Strata Schemes Management Act 2015.

d) In the case of properties with community title and private internal roads the cost shall be recovered from the community association.

e) In the case of properties with community title and public internal roads the cost shall be recovered from the adjoining owner of land whether that be a community, precinct or neighbourhood association or individual precinct or neighbourhood lot owner.

Policy

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ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

ITEM 6 - ATTACHMENT 2 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



4. DEFINITIONS:

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

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

5. STATEMENT:

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

6. RESPONSIBILITIES:

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

7. RELATED DOCUMENTS:

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

Policy

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ITEM 3 - ATTACHMENT 1 COUNCIL RESOLUTION - POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY - MIN. NO 007 - 8 FEBRUARY 2022.

MINUTES ORDINARY COUNCIL - 8 FEBRUARY 2022

ITEM 6 - ATTACHMENT 2 CONTRIBUTION TO WORKS FOR KERB AND GUTTER CONSTRUCTION POLICY.

Policy



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EDRMS container No.	PSC2009-06551	EDRMS record No.	TBA
Audience	Port Stephens Residents, Assets and Financial Services Sections		
Process owner	Assets Section Manager		
Author	Assets Section Manager		
Review timeframe	Two 3 years	Next review date	TBA
Adoption date	23/6/2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	09/02/2010	Assets Section Manager		018
2	23/06/2015	Assets Section Manager	Adopted by Council.	175
3	13/8/2019	Assets Section Manager	Review and updated to new Corporate Template. 2.3 Make one change – replace "to" with "the". No submissions from Public Exhibition. Adopted by Council.	183
5	TBA	Assets Section Manager	Reviewed and updated to new Corporate Template.	TBA

Policy

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ITEM NO. 4

**FILE NO: 23/107889
EDRMS NO: PSC2022-01241**

ANNUAL DISCLOSURE OF INTEREST RETURNS FOR 2023 TO 2024

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

BACKGROUND

The purpose of this report is to advise Council of the Mayor, Councillors and persons designated for the submission of pecuniary interest returns for the period 1 July 2023 to 30 June 2024.

Elected Members

Mayor Ryan Palmer
Cr Leah Anderson
Cr Giacomo Arnott
Cr Matthew Bailey
Cr Glen Dunkley
Cr Chris Doohan
Cr Peter Francis
Cr Peter Kafer
Cr Steve Tucker
Cr Jason Wells

General Manager's Office

General Manager
Governance Section Manager
Legal Services Manager
Lawyer

Corporate Services Group

Group Manager Corporate Services
Organisation Support Section Manager
Financial Services Section Manager
Business Development & Marketing Manager
Corporate Analyst
Holiday Parks Section Manager
Principal Property Planner
Strategic Property Coordinator

Development Services Group

Building & Certification Coordinator
Building Surveyor (3)
Building Surveyor (Fire Safety)
Cadet Environmental Health Officer
Communications and Customer Experience Section Manager
Compliance Coordinator
Development and Compliance Section Manager
Development Compliance Officer (3)
Development Planner (3)
Development Planning Coordinator
Environmental Health Officer (2)
Environmental Health Team Leader
Environmental Officer
Environmental Planner
Environmental Planning Team Leader
Environmental Management Team Leader
Environmental Strategy Team Leader
Group Manager Development Services
Natural Systems Coordinator
Principal Building Surveyor
Principal Strategic Planner
Ranger (4)
Ranger Team Leader
Senior Building Surveyor
Senior Building Surveyor – Certifications
Senior Building Surveyor (Fire Safety)
Senior Development Planner (2)
Senior Environmental Health Officer
Senior Environmental Planner
Senior Ranger
Senior Strategic Planner (2)
Senior Strategic Planner – Growth and Infrastructure
Strategic Planner (3)
Strategic Planning Coordinator
Strategy and Environment Section Manager
Sustainability Officer
Vegetation Management Officer
Vibrant Places Team Leader
Waste & Compliance Coordinator

Facilities & Services Group

Assets Section Manager
Capital Works Section Manager
Community Services Section Manager
Group Manager Facilities & Services

Public Domain and Services Section Manager
Senior Development Engineer

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

**FILE NO: 23/101070
EDRMS NO: PSC2009-00965**

DELEGATIONS REPORT

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

BACKGROUND

The purpose of this report is to advise Council of each occasion the Mayor and/or General Manager have exercised their delegations, other than under section 226 and 335 of the Local Government Act 1993, which are conferred on each role.

The report at **(ATTACHMENT 1)** provides details of the delegation exercised, such as the delegated authority, the date and the reason for exercising the delegation.

ATTACHMENTS

1) Delegations Report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 DELEGATIONS REPORT.**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
26 April 2023	Clause 178 of the Local Government (General) Regulation 2022	Acceptance of a quote for Tomaree Sports Complex - Lighting Upgrade.	General Manager	23 May 2023
2 May 2023	Code of Meeting Practice	Approval of Public Access - Establishment of a Heritage Council and Event Planning and Management.	Mayor	23 May 2023
4 May 2023	Clause 178 of the Local Government (General) Regulation 2022	Acceptance of a quote to complete asphalt works at Government Road, Nelson Bay.	General Manager	23 May 2023
4 May 2023	Clause 178 of the Local Government (General) Regulation 2022	Acceptance of a quote to use a recycled product to complete asphalt resurfacing at Medowie and Raymond Terrace.	General Manager	23 May 2023
4 May 2023	Code of Meeting Practice	Approval of Public Access - Establishment of a Heritage Council.	Mayor	23 May 2023

ITEM NO. 6

**FILE NO: 23/101071
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

REPORT OF: TIMOTHY CROSDALE - 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.

ATTACHMENTS

- 1) Corporate Services Group Council resolutions.
- 2) Development Services Group Council resolutions.
- 3) Facilities & Services Council resolutions.
- 4) General Manager's Office Council resolutions.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 CORPORATE SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division: Corporate Services	Date From: 27/08/2023
	Committee:	Date To: 09/05/2023
	Officer:	Printed: Wednesday, 10 May 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/06/2023	12/10/2022	22/273002
1						
10 May 2023						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/06/2023	12/10/2022	22/273002
2						
10 May 2023						
Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/11/2022	Hazell, Tim	Special Rate Variation - Revised Integrated Planning and Reporting Documents - Rate Rise Options Engagement	30/06/2023	9/11/2022	22/300562
1						
10 May 2023						
Recommendation endorsed. Council submitted an application to the Independent Pricing and Regulatory Tribunal for a Special Rate Variation in January 2023. Application pending assessment.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/06/2023		20/288489
2						
199						
10 May 2023						
Completion of the acquisition is subject to completion of the road works, as finished levels are required to inform the survey. The road works have been substantially delayed due to continued adverse weather conditions.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/05/2021	Pattison, Zoe	Car parking in Shoal Bay	30/06/2023	12/05/2021	21/123694
1						
10 May 2023						
Construction of the car park is subject to adoption of a Plan of Management for the land. The land has been added to the draft Plan of Management for the Shoal Bay Holiday Park. Public Exhibition of the draft Plan of Management has concluded and a post exhibition report is currently being prepared.						

ITEM 6 - ATTACHMENT 1 CORPORATE SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division: Corporate Services	Date From: 27/08/2023
	Committee:	Date To: 09/05/2023
	Officer:	Printed: Wednesday, 10 May 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
243	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	30/12/2023		
10 May 2023 Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

ITEM 6 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Action Sheets Report	Division: Development Services	Date From: 14/09/2021
	Committee:	Date To: 09/05/2023
	Officer:	Printed: Wednesday, 10 May 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	Health Facilities in Port Stephens	15/12/2023	12/04/2023	
5 095		Pearl, Steven				23/92450
10 May 2023						
Council is reviewing work plans to include the adopted recommendations in work programs. Council is preparing correspondence to further advocate for government investment in public hospitals and associated tertiary education and/or research facilities in Port Stephens. Council is in correspondence with the Port Stephens Local Health Committee regarding the nomination of Councillors as local government representatives.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	NSW Electric Vehicle Strategy	11/08/2023	12/04/2023	
3 093		Pearl, Steven				23/92450
10 May 2023						
Council is undertaking consultation with stakeholders to establish a framework for the proposed Development Control Plan (DCP) amendments. Council is aiming to report the DCP amendments to the 8 August 2023 meeting. Investigations have commenced into available grant funding opportunities. Potential sites have been identified for EV chargers, the feasibility of these sites are currently being reviewed and the Expression of Interest for EV charging providers is currently being developed, subject to site feasibility.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pearl, Steven	Development Application Information	31/07/2023	12/04/2023	
3 103		Pearl, Steven				23/92450
17 Apr 2023						
Council staff have commenced discussions with the 'DA Tracker' software vendor in relation to adding additional fields. A report will be provided to Council in relation to providing additional information on 'DA Tracker'.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/05/2023	Lamont, Brock	Planning Proposal for Part of 100 and 174A Salamander Way, Salamander Bay	12/05/2023	10/05/2023	
1 109		Pearl, Steven				23/115742
10 May 2023						
Council resolved to adopt the planning proposal, preparations have commenced to submit the planning proposal to the NSW Dept of Planning and Environment requesting they exercise their plan making authority to amend the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW) to reclassify the subject land.						

ITEM 6 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Development Services **Date From:** 14/09/2021
Committee: **Date To:** 09/05/2023
Officer: **Printed:** Wednesday, 10 May 2023

Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	Housing Affordability	29/09/2023	12/04/2023	
6 105		Pear, Steven				23/92450
10 May 2023						
Council has commenced drafting an Affordable Housing Action Plan. A Councillor briefing has been undertaken on 18 April 2023, seeking feedback. A draft action plan is forecasted to be placed on public exhibition in July 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	22 Homestead Street, Salamander Bay	11/07/2023	12/04/2023	
5 088		Pear, Steven				23/92450
10 May 2023						
Council is investigating options for the rezoning of 22 Homestead Street, Salamander Bay. Council has commenced benchmarking and investigations into the feasibility of developing an Environmental Management Plan for the relevant lots. A report is forecasted to be presented to Council for consideration at the 11 July 2023 meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/03/2023	Lamont, Brock	Draft Development Control Plan - Housekeeping	8/08/2023	15/03/2023	
3 048		Pear, Steven				23/69308
10 May 2023						
The endorsed Port Stephens Development Control Plan 2014 has been adopted. Council is undertaking consultation with internal stakeholders and impacted landholders regarding a further review of Chapter D12 - Richardson Road. A draft amendment is forecasted to be presented to Council at the 8 August 2023 meeting, seeking endorsement to commence public exhibition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/09/2021	Lamont, Brock	Port Stephens Waterway Strategy	29/12/2023	15/09/2021	
1 240		Pear, Steven				21/252518
10 May 2023						
Council was unsuccessful in the Regional NSW - Business Case and Strategy Development Fund grant, other funding sources are currently being investigated. Funding is being sought for consultants to prepare the Port Stephens Waterways Strategy.						

ITEM 6 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Development Services **Date From:** 14/09/2021
Committee: **Date To:** 09/05/2023
Officer:
Action Sheets Report **Printed: Wednesday, 10 May 2023**

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/03/2023	Gardner, Janelle	Policy Review: Media Liaison Policy	16/06/2023	15/03/2023	
5050		Pearl, Steven				23/69308
10 May 2023						
Media Liaison Policy public exhibition period closed 15 April 2023, and 1 submission was received. A report is being drafted to be presented to Council for consideration at the 13 June 2023 meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/03/2023	Lamont, Brock	Street Tree Strategy	11/08/2023	29/03/2023	
1070		Pearl, Steven				23/81000
10 May 2023						
Council has commenced benchmarking and investigations on the development of a Street Tree Strategy. A report is forecasted to be presented to Council at the 8 August 2023 meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/03/2023	Lamont, Brock	Matter Arising - LEP Amendment to review building height controls	15/12/2023		
		Pearl, Steven				
10 May 2023						
Council has commenced consultation with external stakeholders and continues to investigate options for the resolved LEP amendment. A draft amendment is forecasted to be presented to Council at the 12 December 2023 meeting, seeking endorsement to submit the planning proposal to the NSW Department of Planning and Environment for a Gateway determination.						

ITEM 6 - ATTACHMENT 3 FACILITIES & SERVICES COUNCIL RESOLUTIONS.



Action Sheets Report	Division: Facilities & Services	Date From: 09/02/2021
	Committee:	Date To: 09/05/2023
	Officer:	Printed: Wednesday, 10 May 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/03/2023	Maretich, John	Naming of Athletics Track at Vi Barnett Oval	31/05/2023	29/03/2023	
4 073		Kable, Gregory				23/81000
10 May 2023 Currently designing sign to be ordered and installed as soon as possible.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/07/2022	Maretich, John	Smart Parking	31/05/2023	27/07/2022	
2		Kable, Gregory				22/199431
10 May 2023 Staff compiling details to report back to Council at the meeting to be held on 27 June 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/05/2023	Maretich, John	Construction of a Building	22/12/2023	10/05/2023	
1 113		Kable, Gregory				23/115742
10 May 2023 Staff will investigate and prepare a report as per Council resolution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	31/12/2023	12/04/2023	
2 085		Kable, Gregory				23/92450
10 May 2023 Once the reserve has been subdivided as per the Medowie Place Plan, an application will be submitted to the Geographical Naming Board to name the recreation precinct after Geoff Dingle.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	Raymond Terrace Seven Day Makeover	30/06/2023		
17 228		Kable, Gregory				21/218740
10 May 2023 This will be discussed with the Councillors in the lead up to William Street, Stage 2 which is funded through the Streets of Shared Spaces grant. There is the possibility to incorporate a Business Boosters Program to create great business vibrancy in Raymond Terrace.						

ITEM 6 - ATTACHMENT 3 FACILITIES & SERVICES COUNCIL RESOLUTIONS.



Division: Facilities & Services **Date From:** 09/02/2021
Committee: **Date To:** 09/05/2023
Officer: **Printed:** Wednesday, 10 May 2023

Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Maretich, John	MEDOWIE REGIONAL PLAYGROUND AND TOWN CENTRE	30/06/2023		
2012		Kable, Gregory				21/33235
10 May 2023						
The regional playground was addressed in the Medowie Place Plan report that was presented to Council in the meeting held 11 April 2023, Min No. 094.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/05/2022	Maretich, John	Review of Dog Off Lead Areas - Boat Harbour Beach	30/06/2023	27/05/2022	
4		Kable, Gregory				22/136825
10 May 2023						
Report was endorsed by Council at its meeting held 24 May 2022, Minute No. 133. A review will be carried out in 12 months as per the Council resolution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Gutsche, Tammy	Change to Lease Arrangements for Fingal Bay Surf Life Saving Club and Commercial Tenancies	30/06/2023	13/10/2021	
8270		Kable, Gregory				21/274186
10 May 2023						
Lease for Saltwater Restaurant has been executed. Still waiting on solicitors for Longboat Café and Fingal Surf Club to finalise these leases.						

ITEM 6 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE COUNCIL RESOLUTIONS.



Action Sheets Report	Division: General Manager's Office	Date From: 11/04/2023
	Committee:	Date To: 09/05/2023
	Officer:	Printed: Wednesday, 10 May 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Crosdale, Timothy	Request for Financial Assistance	25/05/2023	12/04/2023	
9 099						23/92450
10 May 2023						
Awaiting necessary paperwork to process payments.						

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 – 23 MAY 2023 MOTION

128	Councillor Chris Doohan Councillor Peter Francis It was resolved that Council move into confidential session.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Glen Dunkley, Peter Francis, Peter Kafer, Ryan Palmer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

Councillor Matthew Bailey left the meeting at 7:09pm and did not return to the meeting.

CONFIDENTIAL

ITEM NO. 1

**FILE NO: 23/86232
EDRMS NO: PSC2022-01790**

PROPOSED SALE - 155 SALAMANDER WAY, SALAMANDER BAY

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

**ORDINARY COUNCIL MEETING - 23 MAY 2023
AMENDMENT**

129	<p>Councillor Giacomo Arnott Councillor Leah Anderson</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Authorise the sale of Council owned land on the confidential terms and conditions set out in this report.2) Authorise the General Manager to negotiate variations to contract conditions as required, excluding the sale price of the lot.3) Authorises the Mayor and General Manager to sign all relevant documents to finalise the sale on behalf of Council as its authorised representatives.4) Commence the Development Application process for subdivision.5) Authorise the proceeds of the sale to remain in the Strategic Property Reserve to enable future development on 155 Salamander Way, Salamander Bay.6) That Council be provided with a copy of the Contract for Sale on the Confidential Councillor Dashboard 7 days before the execution of the contract.
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The amendment on being put became the motion, which was carried.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Crs Chris Doohan and Glen Dunkley.

MINUTES ORDINARY COUNCIL - 23 MAY 2023

MOTION

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Crs Chris Doohan and Glen Dunkley.

The motion was carried.

ORDINARY COUNCIL MEETING – 23 MAY 2023

MOTION

130	Councillor Jason Wells Councillor Leah Anderson It was resolved that Council move out of confidential session.
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There being no further business the meeting closed at 7:25pm.