

MINUTES – 12 DECEMBER 2023



PORT STEPHENS C O U N C I L

Minutes of Ordinary meeting of Port Stephens Council held in the Council Chambers, Raymond Terrace on – 12 December 2023, commencing at 6:42pm.

PRESENT:

Mayor Ryan Palmer
Cr Leah Anderson
Cr Giacomo Arnott
Cr Glen Dunkley
Cr Peter Francis
Cr Peter Kafer
Cr Steve Tucker
Cr Jason Wells
General Manager
Director Community Futures
Director Corporate Strategy and Support
Director Facilities and Infrastructure
Governance Section Manager

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

293	<p>Councillor Jason Wells Councillor Glen Dunkley</p> <p>It was resolved that the apology from Cr Matthew Bailey be received and noted.</p> <p>Note: Cr Chris Doohan was previously granted leave of absence for 12 December 2023.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

	<p>Mayor Ryan Palmer declared a significant non-pecuniary conflict of interest in Urgency Motion No.1 The nature of the interest is Mayor Palmer is assisting the Northern Hawks in the 2024 season as a volunteer.</p> <p>Cr Glen Dunkley declared a significant non-pecuniary conflict of interest in Urgency Motion No.1 The nature of the interest is Cr Dunkley is assisting the Northern Hawks as a volunteer as well as Raymond Terrace Rugby League.</p> <p>Cr Peter Francis declared a less than significant non-pecuniary conflict of interest in Item 3. The nature of the interest is Cr Francis is a financial member of the Muree Golf Club.</p> <p>Mayor Ryan Palmer declared a pecuniary conflict of interest in Item 5. The nature of the interest is Mayor Palmer is a Director of a company that owns land in Shoal Bay.</p> <p>Cr Glen Dunkley declared a pecuniary conflict of interest in Item 5. The nature of the interest is Cr Dunkley's family owns property in the area included in the Shoal Bay Place Plan.</p>
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MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

294	Councillor Steve Tucker Councillor Jason Wells It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 28 November 2023 be confirmed.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott,, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

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

URGENCY MOTION 1

Mayor Ryan Palmer vacated the chair and left the meeting at 6:45pm.
Councillor Glen Dunkley left the meeting at 6:45pm.

The Deputy Mayor, Cr Leah Anderson chaired the meeting in the absence of the Mayor.

The chairperson ruled the motion was of great urgency.

ORDINARY COUNCIL MEETING - 12 DECEMBER 2023 MOTION

295	Councillor Peter Kafer Councillor Giacomo Arnott It was resolved that Council: 1) Notes the strong results from the Raymond Terrace Magpies in their 2023 season and congratulate all players and administrators on a great season. 2) Notes that there are field usage disputes occurring around Lakeside field 1 between the historical and current primary user, the Raymond Terrace Magpies, and primary users of Tomaree Sports Complex, the Northern Hawks. 3) Requests the General Manager to: a. Approve the most recent field user agreement submitted by the Raymond Terrace Magpies without amendment by Close of Business 15 December 2023.
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MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

	b. Requires any amended field user agreements for Lakeside field 1 that the Raymond Terrace Magpies do not support, to come to the floor of Council for consideration.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

Councillor Glen Dunkley returned to the meeting at 6.49pm.
Mayor Ryan Palmer returned to the meeting at 6.49pm and resumed the chair.
Councillor Peter Kafer left the meeting at 6:49pm.

Cr Giacomo Arnott moved to introduce a matter of urgency under clause 9.3 of the Code of Meeting Practice.

URGENCY MOTION 2

Mayor Palmer ruled the motion was of great urgency.

ORDINARY COUNCIL MEETING - 12 DECEMBER 2023 MOTION

296	Councillor Giacomo Arnott Councillor Leah Anderson It was resolved that Council: 1) Notes that Development Application SSD-6125-Mod-3 has recently been publicly exhibited by the Department of Planning, for an extension and amendments to the Cabbage Tree Road Sand Quarry. 2) Notes that Port Stephens Council made a technical submission on the proposal. 3) Requests the General Manager to: a. Lodge as a supplementary submission, the document provided in the 8 December PS News document which is a submission from the elected Council. b. Append the supplementary submission to the minutes of the Council meeting (within this urgency motion item) for community knowledge and understanding.
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Councillor Peter Kafer returned to the meeting at 6:51pm.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

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

Those against the Motion: Mayor Ryan Palmer.

The motion was carried.

SUBMISSION



13 December 2023

Department of Planning & Environment
Locked Bag 5022
Parramatta NSW 2124

APPLICATION NO: SSD-6125-Mod-3 (Our Ref. 25-2015-8-3)
PROPOSAL: Cabbage Tree Road Sand Quarry Mod 3 Extension and Amendments
PROPERTY: 398 Cabbage Tree Road, WILLIAMTOWN

Attention: Kristina Robinson

Dear Madam,

This submission has been prepared on behalf of the elected representatives of Port Stephens Council, raising concern on various matters associated with the proposed Cabbage Tree Road Sand Quarry Modification, which seeks approval for an extension and other amendments. It is acknowledge Council previously submitted a response to the Modification Report on 10 November 2023, however the elected Council have supplementary concerns in addition to those raised in the previous Council staff submission. These matters are outlined below.

1. Council forms the view that the proposal is not considered a "minor modification", on the basis that a 9.5% increase in annual haulage is significant, the change from electricity to diesel will increase noise and impacts on surrounding properties, and the impact of a 9.5% increase in annual haulage will have a major impact on local roads and road safety.
2. Requests the proponent provide market information which outlines the demand for their product, which is being used to justify the requested increase in annual haulage.
3. Reject the proposed extension to 10A-E and 7C-E on the basis that 10A-E is only 45m from the boundary of 350 Cabbage Tree Road Williamtown, and 165m from the closest building, which is deemed to have an unacceptable impact on neighbouring properties. In addition, the proposed extension to 10A-E and 7C-E will have unacceptable impacts on preferred Koala habitat; of which no consideration to the CKPOM is made. Council suggests these amendments result in negative social and environmental impacts that are not in the public interest.

PORT STEPHENS COUNCIL

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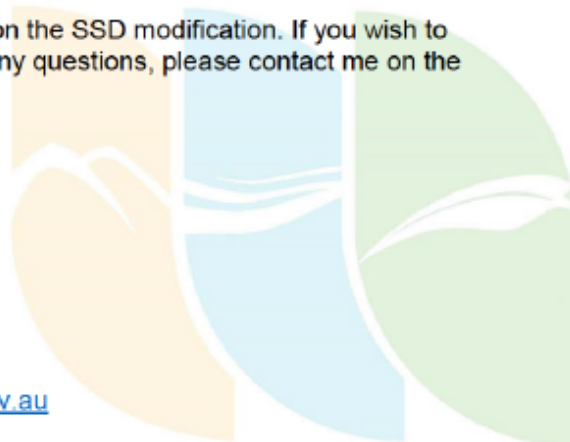


4. Reject the proposed import of VENM on the basis that the impact on the local road network will be significant. The approved haulage rates are for material extracted from site, not for material being brought in from elsewhere and processed on site. The consideration of additional truck movements on the surrounding road network should be supported by a Traffic Impact Assessment.
5. Rejects the proposal to use excavators and dump trucks to transport materials and require the use of electrically powered conveyers to be the primary method of sand transportation, to reduce noise, dust, groundwater impacts, and emissions.
6. Requests further justification on the need to reduce the number of processing plant locations from eight to two, noting that the likely reason for eight processing plants was to reduce movement on the site and therefore noise for surrounding residents (and emission generation).
7. Reject the request to modify the statement of commitments as opposed to the use of Management Plans.
8. Requests further justification to the final usage of the site, observing the proposal states that there would be no change to the finalisation of usage of the site, but elsewhere, notes that "the proposed amendment will provide a minor increase in quarry longevity and duration of employment for quarry employees", and also that the "increased sand extraction will also provide continuing royalties for Port Stephens Council". It is unclear how no extension in the life of the quarry will result in these stated outcomes.
9. Reject the proposed amendments to the Statement of Commitments, as each proposed amendment reduces transparency and interactivity with the community.
10. Requests further justification on the impacts to Koala Habitat associated with the proposed expansion areas.

Council requests the above matters be considered as part of the assessment and addressed by the proponent as part of a Response to Submissions (RtS) Report.

Thank you for the opportunity to comment on the SSD modification. If you wish to discuss the matters raised above or have any questions, please contact me on the number below and I will be happy to help.

[Redacted] Faithfully
[Redacted] Peart
Community Futures
Port Stephens Council
Phone: [Redacted]
Email: Steven.Peart@portstephens.nsw.gov.au



PORT STEPHENS COUNCIL

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DECLARATION OF INTEREST

ORDINARY COUNCIL - 12 DECEMBER 2023



Declaration of Interest form

Agenda item No. Urgency Motion 1

Report title Urgency Motion 1

Mayor/Councillor Palmer 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 assisting the Northern Hawks
in the 2024 season as a volunteer.

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 6.15 pm.

Mayor/Councillor returned to the Council meeting at 6.49 pm.

ORDINARY COUNCIL - 12 DECEMBER 2023



Declaration of Interest form

Agenda item No. URGENCY MOTION 1

Report title URGENCY MOTION 1

Mayor/Councillor DUNKLE 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 Assisting the Northern Hawks as a volunteer as well as Raymond Terrace Junior Rugby League.

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 6.45 pm.

Mayor/Councillor returned to the Council meeting at 6.49 pm.



Declaration of Interest form

Agenda item No. 3 _____

Report title **DEVELOPMENT APPLICATION 16-2023-215-1 - 5 INTO 2 LOT SUBDIVISION AT 7 WALKER CRESCENT, RAYMOND TERRACE (MUREE GOLF COURSE)** /Councillor Francis

declared a Tick the relevant response:

	pecuniary conflict of interest
	significant non pecuniary conflict of interest
X	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is _

I am a financial member of the Muree Golf 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 7.23 pm.

Mayor/Councillor returned to the Council meeting at 7.33 pm.

ORDINARY COUNCIL - 12 DECEMBER 2023



Declaration of Interest form

Agenda item No. 5

Report title Draft Shoal Bay Place Plan

Mayor/Councillor Dunkley 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 Family owns property in the area include in the Shoal Bay Place Plan

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 8.10 pm.

Mayor/Councillor returned to the Council meeting at 8.23 pm.

ORDINARY COUNCIL - 12 DECEMBER 2023



Declaration of Interest form

Agenda item No. 5

Report title Draft Shoal Bay Place Plan.

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 I'm a Director
of a company that owns land in
Shoal Bay.

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 8.09 pm.

Mayor/Councillor returned to the Council meeting at 8.23 pm.

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 23/286253
EDRMS NO: 16-2023-452-1**

DEVELOPMENT APPLICATION 16-2023-452-1 FOR A 3 STOREY DWELLING AND RETAINING WALLS AT 19 TAREEBIN ROAD, NELSON BAY

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2023-452-1 for a 3 storey dwelling and retaining walls at 19 Tareebin Road, Nelson Bay (Lot: 1 DP: 1063226) subject to the conditions contained in recommended conditions of consent (**ATTACHMENT 1**).
- 2) Supports the Clause 4.6 variation request to the building height for the reasons outlined within this report.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

297	<p>Councillor Steve Tucker Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Approves Development Application DA No. 16-2023-452-1 for a 3 storey dwelling and retaining walls at 19 Tareebin Road, Nelson Bay (Lot: 1 DP: 1063226) subject to the conditions contained in recommended conditions of consent (ATTACHMENT 1).2) Supports 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 Leah Anderson, Giacomo Arnott, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Cr Giacomo Arnott foreshadowed a matter arising.

ORDINARY COUNCIL MEETING - 12 DECEMBER 2023 MATTER ARISING

298	Councillor Giacomo Arnott Councillor Steve Tucker It was resolved that Council requests the General Manager to present options for LEP amendments for the ridge-top area surrounding Tareebin Road, regarding building heights, to Councillors by the end of February 2024 in a two-way briefing."
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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, 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) 16-2023-452-1 for a 3-storey dwelling and retaining walls to Council for determination.

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

Subject Land:	19 Tareebin Road, Nelson Bay (Lot: 1 DP: 1063226)
Total Area:	635.9m ²
Zoning:	R2 Low Density Residential Zone
Submissions:	0
Key Issues:	The key issues identified throughout the assessment of the DA relate to building height. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 21.22% (1.91m).

The DA has been reported to Council in accordance with Council's 'Council Related Planning Matters Policy' as the DA includes a request to vary a development standard by greater than 10%. The development standard is Clause 4.3 – Height of Buildings and the extent of the variation is 21.22% (1.91m).

A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The DA seeks consent for the removal of existing vegetation on the site and the construction of a 3 storey dwelling and retaining walls. The proposed dwelling will be provided with a double garage, 5 bedrooms, and open plan living and dining spaces. Access to the proposed dwelling is to be via a shared crossover from the existing private access road along the sites western boundary.

Site Description and History

The subject site is legally identified as Lot 1 DP 1063226 and generally known as 19 Tareebin Road, Nelson Bay. The site has a significant fall from the west to the east and is currently vacant of any structures. The site has 2 road frontages, 1 to the east (Tareebin Road) and 1 to the west (private road). The site is largely surrounded by low density residential development with Caruparinga Park situated further to the west.

Key Issues

The key issues identified throughout the assessment of the DA relate to the proposed exceedance of the building height. A detailed assessment of the DA is contained within the Assessment Report **(ATTACHMENT 3)**.

Building Height

The DA exceeds the maximum allowable building height for the site prescribed under Clause 4.3 of the Port Stephens LEP 2013 (LEP). The DA proposes a maximum building height of 10.91m, which exceeds the 9m height limit by 1.91m, representing a 21.22% variation to the development standard.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the LEP. Council staff are satisfied with the proposed height variation on the following grounds:

- (a) The proposed development is considered to be appropriate for the context of the area in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land (cl 4.6(4)(a)(ii))
- (b) The height variation is restricted to the roof components of the proposed dwellings and does not result in impacts to existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties (cl 4.6(4)(a)(ii))
- (c) The proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwellings step down with the topography of the land to reduce the scale and overall height of the development which is

consistent with other development in the locality and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii))

- (d) The height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact on local amenity and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii)). Moreover, the building height variation is considered appropriate as the building heights for dwellings along Tareebin Road are constructed or approved over the 9m LEP height limit, which informs the impact of the proposed development on the existing and future character. This includes an approved dwelling at 21 Tareebin Road that has an approved height of 11.23m; 17 Tareebin Road that has an approved height of 9.8m, semi-detached dwellings at 23 Tareebin Road that have an approved height of 11.03m, and a dual occupancy at 21C Tareebin Road which has an approved height of 11.32m. The height variations to these dwellings surrounding the site are attributed to the challenging topography of the immediate locality and requirement to establish building footprints capable of supporting a dwelling.

The proposed development is considered to satisfy the objectives of Clause 4.6, as the design will achieve a better outcome in these particular circumstances, noting the objectives of the development standard are achieved notwithstanding the non-compliance. The proposed building is considered to be appropriate in the context of the site.

It is considered that the applicant's Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify varying the height of buildings standard. On this basis, the building height variation is supported. A detailed assessment against Clause 4.6 is contained within the Assessment Report (**ATTACHMENT 3**).

Vegetation Removal

The subject site is not located on land that contains items of environmental significance, nor does the application require biodiversity offsets. The site is however currently mapped as containing 'preferred koala habitat'.

Council's Natural Systems Officers surveyed the site and found that there was no preferred Koala habitat or hollow bearing trees located on the site. Therefore, it was found that the proposal is unlikely to result in a significant impact to koalas.

In regard to other species, a targeted survey and habitat assessment for threatened flora species 'Diuris arenaria' and 'Prostanthera densa' was undertaken by Council's Natural Systems Officers. This survey revealed that the habitat was deemed unsuitable and no individuals were observed.

Accordingly, the vegetation proposed for removal is not identified as being of high environmental value and, therefore, is supported for removal.

Conclusion

As detailed in the 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. There will be no adverse impact to the natural or built environment.

The proposed development is consistent with Council's Local Housing Strategy in that it provides infill housing within the Tomaree area and increases diversity of housing choice. The provision of infill housing is also consistent with the Greater Newcastle Metropolitan Plan (GNMP), which has a target for 60% of new dwellings within Greater Newcastle to be infill housing by 2036.

It is considered that the DA has been suitably designed to address the site constraints and will not result in significant privacy, view loss or amenity issues.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Deliver an annual program for Council to provide development services to enhance public safety, health and liveability

FINANCIAL/RESOURCE IMPLICATIONS

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

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

The non-compliances with the LEP, the Port Stephens Development Control Plan 2014 (DCP 2014) are considered acceptable and consistent with the relevant control objectives. A detailed assessment against the environmental planning instruments is contained within the 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 represents a modern residential development and will provide additional housing to service the needs of the community. The dwelling will allow for the development of currently vacant land in an already established residential area. The construction of the proposed development will provide employment opportunities in the locality during the short term 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.

As assessed throughout the report, the proposed development has been designed to respond to the site constraints whilst also reducing potential adverse impacts to neighbouring properties.

Overall, there are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment

Whilst the height of the dwelling exceeds the maximum height limit, the development has been designed to correspond with the significant slope of the land without requiring significant earthworks or creating adverse amenity impacts to neighbouring

properties. Overall, it is considered that the proposed development will make appropriate use of an existing vacant site with no adverse impacts to the surrounding built environment in terms of bulk or scale.

Impacts on the Natural Environment

The proposed development is not expected to negatively impact the natural environment. As noted throughout this assessment, the site is not located on land that contains any species of environmental significance. The site does contain vegetation, which has not been identified as being of high environmental value and therefore, is supported for removal.

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, Natural Systems, and Spatial Services teams. The referral comments from these officers have been considered as part of the Assessment Report (**ATTACHMENT 3**). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

External Consultation was not required for this development.

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 17 August 2023 to 31 August 2023. No submissions were received during the exhibition period.

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS' ROOM

1) Development Plans (available via the Councillors' Dashboard).

Note: Any third party reports referenced in this report can be uploaded to the Councillors' Dashboard 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.

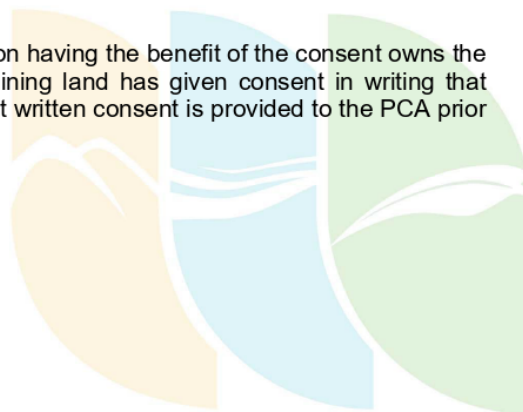
Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.
22E074 All Drawings	A	Architectural Plans	Port Stephens Design	4/7/2023

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) **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.



PORT STEPHENS COUNCIL

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ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



- (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) **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.

- (5) **Approved Report Recommendations** - Construction of the development must comply with the recommendations of the following:

- a) Section 7 Geotechnical Guidelines for Site Development of Limited Geotechnical Investigation prepared by 5QS Consulting Engineers dated 3 February 2023 (report ref: 221199)

- (6) **Koala Friendly fencing** - Fencing must not compromise the potential for safe movement of koalas across the site. Where fencing is required, fencing must be:

- a) Open post and rail or post and wire (no barbed wire on the bottom strand); or
A suitable alternative as approved by Council's Natural Systems Team.

- (7) **Habitat Tree Removal** - Removal of approved trees/vegetation must be supervised by a suitably qualified and experienced fauna ecologist.

If the ecologist identifies any fauna species inhabiting a tree approved for removal, all clearing works shall cease and the animal given 24 hours to vacate. If the animal is a threatened species and has not vacated within this time, a plan for the relocation of the animal shall be developed by the ecologist.

Clearing of all habitat trees (including nest or drey trees) shall involve soft-felling techniques, which are to be implemented under the guidance of the ecologist. The ecologist shall be responsible for any fauna handling and relocations where required

Documentary evidence of the clearance supervision works shall be provided to Council's Natural Systems Section prior to the issue of an Occupation Certificate.

- (8) **Protect existing vegetation and natural landscape features** - Approval to remove approved 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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



All tree(s) / vegetation located on the Council road reserve between Lot 1; DP 1063226 and Tareebin Road must be retained in perpetuity.

- (9) **Tree removal/pruning** – All trees/vegetation located on Lot 1; DP 1063226 are approved for removal/pruning, under the supervision of a suitably qualified ecologist.
- (10) **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.

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) **Stormwater Disposal** - Prior to issue of a Construction Certificate, a detailed stormwater drainage plan is to be submitted to the certifying authority for a system capable of catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event. The detailed plans are to be in accordance with Councils Infrastructure Specification as well as the current Australian Rainfall and Runoff guidelines using the current Hydrologic Soil Mapping data for Port Stephens available from Council, and include the following information:

- All detained stormwater runoff must be directed to the onsite stormwater management infiltration system with calculations provided to demonstrate the proposed system is capable restricting post developed flows to pre developed flows for all storm events up to and including the 1% AEP
- Identification of an emergency overland flow path for major storm events, that is directed to the public drainage system;

Details demonstrating compliance must be provided to the Certifying Authority.

(2) **Retaining walls** – All retaining walls must be designed and certified by a suitably qualified Structural Engineer. The retaining wall plans must also demonstrate that they do not constrain the functionality any stormwater infrastructure, including rain gardens.

Details demonstrating compliance must be provided to the Certifying Authority

(3) **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'

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

(4) 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.

(5) 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.

3.0 - Prior to Issue of a Subdivision Works Certificate

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

Nil

4.0 - 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

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



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) **Compliance with Home Building Act (if applicable)-** 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;

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- 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) **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).
- (7) **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.

- (8) **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.

- (9) **Damage report – Public Infrastructure** – The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping)

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

within the vicinity of the development, the absence of such notification signifies that no damage exists.

- (10) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roads Act Approval Certificate under Section 138B of the Roads Act 1993. – Left on as stormwater connection will be required at the bottom of the lot.

- (11) **Tree protection measures** - Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

- (12) **Protection of trees /existing street trees** – Protection of trees to be retained must be in accordance with AS4970 '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.

- (13) **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.

5.0 - 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

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



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) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

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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.

- (7) **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.
- (8) **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.
- (9) **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'.
- (10) **Tree protection** – While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970-2009 *Protection of trees on development sites* and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.
- (11) **Bush fire safety** – The site is located within a bushfire prone area and must comply with NSW Rural Fire Service document "Planning for Bushfire Protection 2019." In this regard the following is required:
 - a) Proposed dwelling must comply with the construction requirements of Planning for Bushfire Protection on each elevation for a Bushfire Attack Level (BAL) of:
 - i) Northern elevation – BAL 29;
 - ii) Western elevation – BAL 29;
 - iii) Southern elevation – BAL 29; and
 - iv) Eastern elevation – BAL 19.
 - b) The entire property must be managed as an 'Inner Protection Area' as outlined within PBP2019.
 - c) Compliance with Appendix 3 of PBP2019.
 - d) Compliance with the specific requirements of Chapter 7 of PBP2019.
 - e) Verandahs, Deck, Steps and Landings shall comply with Clause 7.5.2 of PBP2019 for additional BAL construction requirements.

Details demonstrating compliance must be provided to the Certifying Authority.

Where a bush fire report has not been carried out, the building must comply with Planning for Bushfire Protection 2019 and AS 3959 2018. 'Construction of Buildings in Bushfire Prone Areas' Level 29 construction on the Northern, Western, and Southern

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

elevations and BAL 19 on the Eastern elevation. The entire property must be managed as an 'Inner Protection Area' as outlined within Appendix 4 of Planning for Bushfire Protection 2019.

- (12) **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.

6.0 - Prior to Issue of a Subdivision Certificate

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

Nil

7.0 - 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) **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.
- (3) **Repair of infrastructure** – Before the issue of an occupation certificate, the

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



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.

- (4) **Landscape Planting** - Before the issue of an occupation certificate, the applicant must complete all landscaping in accordance with the criteria listed in *Figure DK – Hill Tops* of Section D.6C of the Port Stephens Development Control Plan 2014.
- (5) **Post-construction dilapidation report** - Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:
 - (a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
 - (b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

8.0 – Ongoing Use

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

- (1) **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.
- (2) **Privacy screen** – Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.
- (3) **Maintenance of landscaping** – Landscaping must be maintained in accordance with the 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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



Advice Note(s):

- (1) **'Dial Before you Dig Australia'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig Australia” 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) **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.

- (4) **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.

- (5) **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.

- (6) **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.

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- (7) **Building materials not permitted on Council's footpath/road reserve**– No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.

- (8) **House Number**– **Prior to the issue of any Occupation Certificate**, a house address number shall be displayed in a prominent area, visible from the adjacent road.

- (9) **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.

**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).
- 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.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



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

RIGHT OF REVIEW

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

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

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

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

NIL

SCHEDULE 5 - APPROVALS UNDER SECTION 4.46

NIL

ITEM 1 - ATTACHMENT 2 LOCALITY PLAN.





PORT STEPHENS
COUNCIL

DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2023-452-1
Development Description Is the development description correct <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Three storey dwelling and retaining walls
Applicant	PORT STEPHENS ENGINEERS
Land owner	SLH Developments Pty Ltd
Date of Lodgement	11/08/2023
Value of Works Is the estimated cost of works suitable? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$738,000.00
Building Classification <i>If Applicable</i>	1a –Three Storey Dwelling 10b – Retaining Walls
Application Type	<input checked="" type="checkbox"/> DA <input type="checkbox"/> CC
Is Notification Required	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

PROPERTY DETAILS

Property Address	19 Tareebin Road NELSON BAY
Lot and DP	LOT: 1 DP: 1063226
88B Restrictions on Title Council imposed that aren't suspended under cl 1.9A LEP?	<p>The following restrictions are shown on the Deposited Plan;</p> <p>Restriction 1 – Easement for Services variable width – (A) Restriction 2 – Right of Carriageway variable width – (B) Restriction 3 – Restriction on the use of land</p> <p>With reference to the restrictions above, it is noted that restriction 3 is the only restriction whereby Council is the beneficiary. Therefore, Restrictions 1 and 2 referenced above are noted only.</p> <p>With specific reference to Restriction 3, the following is listed on the 88B planning instrument;</p>

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

Terms of easement, profit a prendre, restriction, or positive covenant numbered three, referred to in abovementioned plan:

Each lot so burdened will not make a submission of a Construction Certificate application to Port Stephens Council or an accredited Certifier unless the submission is accompanied by a Geotechnical Assessment of the lot and is cross referenced to Structural Engineer detail.

Name of person or authority empowered to release, vary or modify the terms of easement or restrictions numbered three, referred to in abovementioned plan:

The Council of Port Stephens

As this application is DA only, this restriction is noted and requires no further assessment.

In addition to the above, the Deposited plan also shows a 6m wide easement along the southern side boundary marked 'X'. This restriction is noted as 'Restrictions on the Use of Land, vide DP 852889'.

With reference to DP 852889, Lot 3 was burdened by a 'Restriction As To User' in the associated 88B instrument, benefiting The Council of Port Stephens.

The terms of the Restriction were, that: *no building shall be erected or shall remain erected on the subject land so burdened until the subject land is amalgamated into the title of an adjoining lot.*

The terms of the easement were satisfied in 2000, when Lot 3 of DP 852899 was amalgamated into Lot 13 of DP 1010034.

In addition to this, Lot 13 of DP 1010034 was subdivided in 2004 when the DP 1063226 (and the subject site) was created. Therefore the terms of the easement have been satisfied and the restriction does not apply.

It is noted that a small portion of wall is located within the easement on either side of the driveway. This wall is for safety purposes to prevent vehicles from driving off the driveway and down the embankment when accessing the property.

Current Use	The site is currently a vacant lot
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	<p>The Development Constraints layer on Councils GIS mapping system lists the following as constraints impacting the subject site;</p> <ol style="list-style-type: none"> 1. Bushfire Prone Land – Vegetation Buffer 2. Acid Sulfate Soils (Planning Categories Map) – Class 5 3. Consolidated Comprehensive Koala Plan of Management (CKPoM) Map – Preferred Koala Habitat 4. Port Stephens Rural Residential Strategy – Exclusionary Criteria – City Plan (Draft) 5. Housing Investigation Area Exclusionary Criteria

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

6. State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 2 Vegetation in Non-Rural areas.
7. Slope 20% - PS Rural Lands Strategy (2011) – City Plan
8. Land Slip Areas - slip
9. Stormwater Drainage Requirement Areas – Land locked catchment.
10. Combined Corridor Map – Local Link and Landscape Habitat Link

PROPOSAL

This development application seeks consent for the removal of existing vegetation on the site, the construction of a three storey dwelling and associated landscaping (including retaining walls) per Figure 1 below.

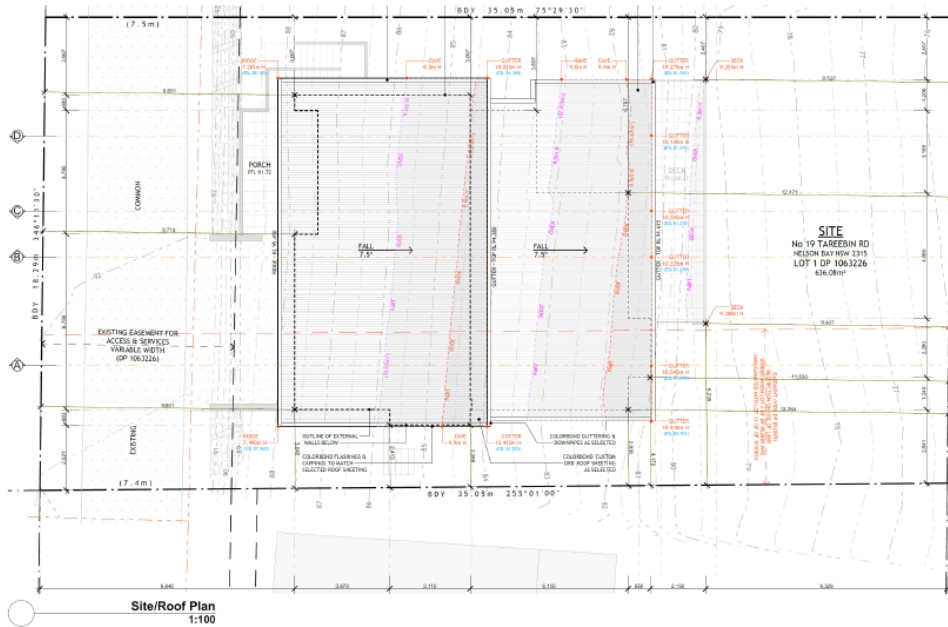


Figure 1 – Proposed Site Plan

The proposed dwelling will be provided with a double garage, five bedrooms, open plan living and dining spaces. Access to the proposed dwelling is to be via a shared crossover from the existing private access road along the sites western boundary.

The site has a significant cross fall of 15m from the west to the east (starts at approximately 91m AHD and falls to approximately 76m AHD). To respond to the topography, the dwelling is proposed to be a stepped design to compliment the fall of the site. To facilitate the development and create suitable building footprints, the proposal requires the construction of retaining walls and earthworks with a maximum cut of 1.1m proposed.

In accordance with the Port Stephens Local Environmental Plan 2013 (PSLEP), the maximum height of buildings for the site is 9m. The maximum height of the proposed dwelling is 10.91m which is 1.91m or 21.22% above the PSLEP height limit. Therefore, given this variation, the proposal is required to be reported to Council for determination in accordance with the 'Planning Matters reported to Council' policy.

SITE DESCRIPTION

The subject site is legally identified as Lot 1 DP 1063226 and generally known as 19 Tareebin Road, Nelson Bay. The site has a significant fall from the west to the east and is currently vacant of any structures, refer to Figure 2 below. The site has two road frontages, one to the east (Tareebin Road) and one to the west (private road).

The site is largely surrounded by low density residential development with Caruparinga Park situated further to the west.



Figure 2

SITE HISTORY

The subject site has a number of historical applications as outlined in the table below;

Application Type and No.	Proposal	Determination
DA 16-2000-1111-1	16 Dwellings	Approved – December 2000
DA 16-2000-1111-2	S.96 Amendment	Approved – February 2001
DA 16-2002-2167-1	1 into 3 Lot Subdivision	Approved – May 2003

SITE INSPECTION PHOTOS

A site inspection was carried out on the 21st of September 2023.

The subject site can be seen in photos 1-4 below;



Photo 1: Subject site as viewed from Tareebin Road



Photo 2: Site frontage as viewed from the private road



Photo 3: Vegetation on the subject site as viewed from the private road



Photo 4: Vegetation on the subject site as viewed from the private road

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.**ASSESSMENT NOTES**

The proposed development has been assessed against the Port Stephens Local Environment Plan 2013 (PS LEP), Port Stephens Development Control Plan 2014 (PS DCP) and all relevant statutory instruments as outlined within the body of this report. The assessment has revealed that the proposed development meets the objectives of these items and can be approved subject to consent conditions.

REQUESTS FOR FURTHER INFORMATION (RFIs)

Date: 17 August 2023

RFI details: On the basis of the referral to Natural Systems, the following request for additional information was made;

A preliminary assessment has been completed and the following information is requested before the application can be assessed further;

1. An ecological assessment is to be carried out that includes a koala habitat assessment in accordance with Appendix 4 and 6 of Councils Comprehensive Koala Plan of Management. In addition to this, the assessment must also include a targeted survey and assessment of 'Prostranthera densa'.

Once you submit this information the application can be assessed further,

With reference to the above, a site inspection was undertaken by Councils Natural Systems officers on 8/9/2023 to confirm threatened species presence, koala habitat, hollow bearing trees and suitability of habitat for 'Prostranthera densa'.

The advice provided by Natural Systems was that given the information collected during the site inspection, Natural Systems officers were satisfied that the development no longer needs an ecological assessment to accompany the DA, and can be suitably mitigated through relevant conditioning. These recommended conditions were provided and form part of the recommended conditions set.

REFERRALS

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below.

Internal

Development Engineer – The proposal was referred to Council's Development Engineer to review the proposed access arrangement and stormwater design. Their comments are summarised as follows;

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

Stormwater

- The lot is zoned R2 and identified as drainage requirement area requiring to achieve onsite infiltration up to and including the 1% AEP. Site coverage is also exceeded therefore additional detention will need to be conditioned in addition to basic requirements.
- SOEE and plans note that the stormwater strategy for the site will detail all roof water (191.4m²) is to be collected in rainwater tanks (min. 2kL) and reticulated to Basix requirements. Tank overflows are to be piped into an approved infiltration / detention system with discharge directed to the Tareebin Road kerb & gutter.
- Prior to CC a detailed stormwater management plan will need to be submitted demonstrating the location and sizing of the on-site Infiltration system as well as a location of the legal point of discharge onto Tareebin Road. (E302 below).

Access

The site is accessible via existing right of carriageway. This land is not classed as road reserve however conditioning for a S138 application should be added to the consent to ensure compliance with AS2890.01 and a formalised access approval is sought prior to OC.

With reference to the above, the application was supported by Councils Engineering team subject to conditions, which have been included within the recommended conditions set.


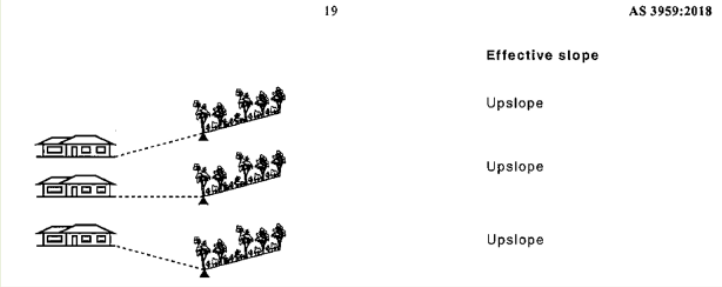
Natural Systems - Given the presence of vegetation on the site that is proposed to be removed, the proposal was referred to Council's Natural Systems team for review. Council's Natural Systems Officers conducted a site inspection and found that although the site is mapped as preferred koala habitat under the Comprehensive Koala Plan of Management (CKPoM), no preferred Koala habitat is located on site. In addition to this, no hollow-bearing trees were observed onsite. Due to the site inspection information, and low risk of impacts to threatened entities and targeted surveys completed, an Ecological assessment was deemed to not be required. In lieu of an ecological assessment, suitable mitigation measures have been provided by Natural Systems. These mitigation measures are included in the proposed conditions of consent.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

S4.12 - APPROVALS (SEC 68 LGA)

Sub- Clause	Compliant	Notes – Application type
3	<input type="checkbox"/> A application has been made under Section 68 of the Local Government Act 1990 for the following: <input type="checkbox"/> An application is required under the Local Government Act 1990 for the following: ie. Manufactures Home or OSMS approval	<input checked="" type="checkbox"/> N/A The Hunter Water Corporation Stamped site plan submitted with the application indicates that Water and Sewer are available for connection. Therefore, a Section 68 Application is not required.

S4.14 - Consultation and development consent (certain bushfire prone land)

Sub- Clause	Compliant	Notes (where needed or if not compliant)
1	<input checked="" type="checkbox"/> Development is within bushfire prone land and conforms to the specifications and requirements of the PBP, or; <input type="checkbox"/> A certificate has been provided by a suitability qualified bushfire consultant of which confirms the bushfire risk assessment rating and identifies relevant specifications and requirements for compliance with PBP.	<p>The subject site is mapped as being within Bushfire prone land. More specifically, Councils mapping layer shows the site as being within the NSW Rural Fire Service 'Vegetation Buffer' category.</p> <p>The Bushfire Assessment report submitted with the application has identified that the nearest threat to the proposed dwelling is the 'forest' to the west. This threat is measured to be approximately 33m as per Figure 3 below.</p>  <p>Figure 3</p> <p>In addition to the calculated distance and identification of the threat, the Bushfire assessment report has categorised the 'forest' as being 'upslope/flat' terrain. Given Councils GIS mapping indicates the contour line at the start of the 'threat' to be approximately 104 and the contour of the start of the subject site to be approximately 92, this verifies that the proposed dwelling will be lower than the threat. An extract from AS3959:2018 shown in Figure 4 below visually verifies this;</p>  <p>Figure 4</p> <p>With reference to the above, and the BAL assessment methodologies found within AS3959:2018 and the NSW RFS Planning for Bushfire Protection 2019 document, the most appropriate BAL level for the site is BAL 29 for the North, South</p>

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

		<p>and West Elevations and BAL 19 on the Eastern elevation due to shielding. An extract is shown from the NSW RFS Planning for Bushfire Protection 2019 in Figure 5 below which outlines the BAL determination;</p> <p>Table A1.12.5 Determination of BAL, FFDI 100 - residential developments</p> <table border="1"> <thead> <tr> <th rowspan="2">KEITH VEGETATION FORMATION</th> <th colspan="5">BUSH FIRE ATTACK LEVEL (BAL)</th> </tr> <tr> <th>BAL-FZ</th> <th>BAL-40</th> <th>BAL-29</th> <th>BAL-19</th> <th>BAL-12.5</th> </tr> </thead> <tbody> <tr> <td></td> <td colspan="5">Distance (m) asset to predominant vegetation class</td> </tr> <tr> <td>Reinforest</td> <td>< 8</td> <td>8 -< 11</td> <td>11 -< 16</td> <td>16 -< 23</td> <td>23 -< 100</td> </tr> <tr> <td>Open (wet and dry sclerophyll) including Coastal Swamp Forest, Pine Plantations and Sub-Alpine Woodland</td> <td>< 18</td> <td>18 -< 24</td> <td>24 -< 33</td> <td>33 -< 45</td> <td>45 -< 100</td> </tr> <tr> <td>Grassy and Semi-Arid Woodland (including Mallee)</td> <td>< 9</td> <td>9 -< 12</td> <td>12 -< 18</td> <td>18 -< 26</td> <td>26 -< 100</td> </tr> <tr> <td>Forested Wetland (excluding Coastal Swamp Forest)</td> <td>< 7</td> <td>7 -< 10</td> <td>10 -< 14</td> <td>14 -< 21</td> <td>21 -< 100</td> </tr> <tr> <td>Tall Heath</td> <td>< 12</td> <td>12 -< 16</td> <td>16 -< 23</td> <td>23 -< 32</td> <td>32 -< 100</td> </tr> <tr> <td>Short Heath</td> <td>< 7</td> <td>7 -< 9</td> <td>9 -< 14</td> <td>14 -< 20</td> <td>20 -< 100</td> </tr> <tr> <td>Arid Shrublands (acacia and chenopod)</td> <td>< 5</td> <td>5 -< 6</td> <td>6 -< 9</td> <td>9 -< 14</td> <td>14 -< 100</td> </tr> <tr> <td>Freshwater Wetlands</td> <td>< 4</td> <td>4 -< 5</td> <td>5 -< 7</td> <td>7 -< 11</td> <td>11 -< 100</td> </tr> <tr> <td>Grassland</td> <td>< 8</td> <td>8 -< 10</td> <td>10 -< 15</td> <td>15 -< 22</td> <td>22 -< 50</td> </tr> </tbody> </table> <p>Figure 5</p> <p>It is noted that BAL 12.5 has been incorrectly indicated in the submitted BAL assessment report. This has been discussed with the applicant and they were advised that BAL 29 was the most appropriate with a reduction in BAL level for the eastern elevation to be BAL 19 due to shielding in accordance with AS3959:2018.</p> <p>A condition has been included in the proposed condition set.</p>	KEITH VEGETATION FORMATION	BUSH FIRE ATTACK LEVEL (BAL)					BAL-FZ	BAL-40	BAL-29	BAL-19	BAL-12.5		Distance (m) asset to predominant vegetation class					Reinforest	< 8	8 -< 11	11 -< 16	16 -< 23	23 -< 100	Open (wet and dry sclerophyll) including Coastal Swamp Forest, Pine Plantations and Sub-Alpine Woodland	< 18	18 -< 24	24 -< 33	33 -< 45	45 -< 100	Grassy and Semi-Arid Woodland (including Mallee)	< 9	9 -< 12	12 -< 18	18 -< 26	26 -< 100	Forested Wetland (excluding Coastal Swamp Forest)	< 7	7 -< 10	10 -< 14	14 -< 21	21 -< 100	Tall Heath	< 12	12 -< 16	16 -< 23	23 -< 32	32 -< 100	Short Heath	< 7	7 -< 9	9 -< 14	14 -< 20	20 -< 100	Arid Shrublands (acacia and chenopod)	< 5	5 -< 6	6 -< 9	9 -< 14	14 -< 100	Freshwater Wetlands	< 4	4 -< 5	5 -< 7	7 -< 11	11 -< 100	Grassland	< 8	8 -< 10	10 -< 15	15 -< 22	22 -< 50
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<p>1A</p>	<p><input type="checkbox"/> The proposal does not conform to the relevant specifications and requirements and has been referred to the NSW RFS for assessment concerning measures to be taken with respect to protection of persons, property and the environment as a result of bushfire impacts.</p>	<p><input checked="" type="checkbox"/> N/A</p> <p>The submitted information indicates the proposal conforms to the relevant specifications found within AS3959:2018 and the NSW Rural RFS Planning for Bushfire Protection 2019. A condition of consent will be added to the draft conditions of consent document.</p>																																																																							

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S4.15 – Matters for Consideration

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

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE and HARZARDS 2021) (COASTAL MANAGEMENT)		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
2.1-2.15	<input type="checkbox"/> Development is within the Coastal Management Areas and the SEPP applies including (coastal wetlands, coastal vulnerability area, coastal environment area, coastal use area) <input checked="" type="checkbox"/> The development will not significantly impact the biophysical, hydrological or ecological integrity of the adjacent (coastal wetlands, littoral rainforest, coastal vulnerability area, coastal environment area, coastal use area)	<input checked="" type="checkbox"/> N/A The proposal is not mapped as being within the Coastal management area and therefore this section does not apply. Given this, the proposed development is not deemed to impact the coastal wetlands.
4.6	<input checked="" type="checkbox"/> The land has not been identified Contaminated Lands	A review of Councils records has revealed that the land has not been identified as contaminated lands.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2004		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
6	<input checked="" type="checkbox"/> The proposed BASIX affected development, or buildings that become BASIX affected development (conversion of garage for example) is accompanied by a BASIX certificate	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units. A valid BASIX certificate (certificate no. 1323048S) has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

STATE ENVIRONMENTAL PLANNING POLICY (Biodiversity and Conservation) Koala Habitat Protection		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
Non-rural lands		
Section 4.8	<input checked="" type="checkbox"/> The subject site contains koala habitat, however, the proposed development is consistent with Council's Comprehensive Koala Plan of Management.	<p>The subject site is mapped as being subject to the relevant requirements of Chapter 2, Vegetation in Non-Rural Areas of the Biodiversity and Conservation Sepp.</p> <p>This chapter aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.</p> <p>Part 2.3 of the chapter contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The chapter further provides that Council may issue a permit for tree removal.</p> <p>On the basis of the site inspection and advice from Councils Natural Resources Team, the removal of the existing trees and vegetation is supported for the following reasons;</p> <ul style="list-style-type: none"> i) A site inspection revealed that there was no preferred Koala habitat or hollow bearing trees located on the site ii) A targeted survey and habitat assessment for threatened flora species 'Diuris arenaria' and 'Prostanthera densa' was undertaken during D. arenaria flowering period on 08/09/23 by Councils Natural Systems officers and habitat was deemed unsuitable and no individuals observed. iii) Mitigation measures have been recommended via recommended conditions of consent which will be included in the draft condition set. One of which requires that the

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		<p>removal of trees/vegetation must be supervised by a suitably qualified and experienced fauna ecologist.</p> <p>With reference to the above, and more specifically the site inspection completed by Natural Systems Officers, it has been determined that although the site is mapped as preferred koala habitat under the CKPoM, no preferred Koala habitat is located on site and the proposed tree/vegetation clearing will have minimal impact provided the recommended conditions of consent are adopted.</p>
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PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
	<input checked="" type="checkbox"/> The relevant clauses and objectives of the PSC LEP 2013 have been considered as part of the assessment.	As this report has detailed, the relevant clauses and objectives of the PS LEP have been considered as part of this assessment.
1.9A	<input checked="" type="checkbox"/> DP & 88B Instrument - There is an 88B in place, where PSC is beneficiary, which impacts on the proposed development?	<p>As mentioned at the beginning of the report, there is an easement where PSC is the beneficiary that impacts the proposed development at construction stage only. The easement requires a geotechnical report be obtained prior to the applicant lodging a construction certificate application with a certifier. As this is DA only, this restriction requires no further consideration.</p> <p>It is worth noting that despite the above, a geotechnical report has been submitted with the application.</p> <p>In addition to the above, it is also noted that a restriction labelled 'X' was also identified on the DP however this is deemed to be void due to the amalgamation of the lot.</p>
2.1	<input checked="" type="checkbox"/> Permissible in zone and meets zone objectives.	<p>The site is zoned R2 Low Density Residential in accordance with the PSLEP 2013.</p> <p>The proposed development is defined as 'Dwelling Houses', which is a permissible land use with consent in the R2 zone. The proposal is considered to be consistent with</p>

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		the objectives of the zone in that it will provide additional housing within an established residential area and is compatible with surrounding development.
2.7	<input type="checkbox"/> Demolition proposed and is not included as exempt under the SEPP. <input type="checkbox"/> Potential asbestos contained with condition of consent added.	<input checked="" type="checkbox"/> N/A No demolition is required or proposed as part of this application. There are no structures currently on the subject site.
4.1	<input type="checkbox"/> The proposal is consistent with the Lot Size Map;	<input checked="" type="checkbox"/> N/A This proposal does not involve subdivision and therefore this clause is not applicable.
4.3	<input type="checkbox"/> Proposed development is under maximum building height; OR, <input type="checkbox"/> There is no maximum building height and the development satisfies the objectives of the clause.	<p>In accordance with the PSLEP Height of Buildings map, the maximum permissible building height on the site is 9m. The proposed development has a maximum height of 10.91 metres measured from the existing ground level, representing a non-compliance with Clause 4.3. The proposed height variation is 21.22% (1.91m) and therefore is required to be reported to Council for determination in accordance with the 'Planning Matters reported to Council' policy.</p> <p>A Clause 4.6 written request to vary the height development standard has been prepared for the proposal and is provided at Attachment 1 to this report.</p>
4.6	<input checked="" type="checkbox"/> Proposed development proposed to vary the development standards of the LEP	<p>A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. Council staff are satisfied with the proposed height variation on the following grounds:</p> <p>(a) the proposed development is considered to be appropriate for the context of the area in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land (cl 4.6(4)(a)(ii));</p> <p>(b) the height variation is restricted to the roof components of the proposed dwellings and does not result in impacts to existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties (cl 4.6(4)(a)(ii));</p>

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		<p>(c) the proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwelling steps down with the topography of the land to reduce the scale and overall height of the development which is consistent with other development in the locality and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii));</p> <p>(d) the height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact on local amenity and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii)).</p> <p>The proposed development is considered satisfy the objectives of Clause 4.6, as the design will achieve a better design outcome in these particular circumstances, noting the objectives of the development standard are achieved notwithstanding the non-compliance. The proposed building is considered to be appropriate in the context of the site.</p> <p>It is considered that the applicant's written Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the maximum building height standard and compliance with the standard is unnecessary in the circumstances of this application. On this basis, the height variation is supported.</p> <p>A detailed assessment against clause 4.6 can be found at Attachment 1 of this report.</p>
5.10	<p><input checked="" type="checkbox"/> There are no heritage items / archaeological sites / Aboriginal objects or places / conservation areas located on the subject site; OR</p> <p><input type="checkbox"/> The proposal includes impact on a heritage item / Archaeological site / Aboriginal object or place / conservation area;</p>	<p>Councils mapping system has identified that there are no heritage items / archaeological sites / Aboriginal objects or places / conservation areas located on the subject site at the time of the assessment.</p>

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5.21	<input checked="" type="checkbox"/> Development within flood planning area but no anticipated flood risk to life and property, or change in flood characteristics.	<p>The subject site has not been identified as flood prone land.</p>
7.1	<input checked="" type="checkbox"/> Potential Class 5 Acid Sulfate Soils (ASS); OR, <input type="checkbox"/> Potential Class 4 ASS with no works more than 2m below ground level; OR, <input type="checkbox"/> Potential Class 3 ASS with no works more than 1m below ground level; OR, <input type="checkbox"/> Potential Class 2 ASS with no works below ground level; OR, <input type="checkbox"/> Potential Class 1 ASS and an acceptable management plan has been submitted.	<p>The subject site is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 5 metres and therefore it is not expected that acid sulfate soils would be encountered during works.</p>
7.2	<input checked="" type="checkbox"/> Earthworks required, but do not have negative impacts on surrounding properties.	<p>Given the slope of the site earthworks are required to facilitate the proposed development. Given the development is proposed as a stepped design, the earthworks required have been minimised. Conditions have been recommended requiring that any fill used is to be Virgin Excavated Natural Material (VENM).</p> <p>A Geotechnical Assessment was prepared for the proposal by 5QS Consulting Group. A number of recommendations were provided to ensure the development is constructed to an appropriate standard and to minimise impacts on slope hazard, drainage, soil stability and adjoining properties. The recommendations include the requirement for engineering designed retaining walls, excavations and filling. A condition has been recommended that the development be constructed in accordance with the recommendations of the Geotechnical Assessment. Subject to compliance with these conditions, the development is not likely to have a detrimental impact on environmental functions or processes, neighbouring uses or features of the surrounding land.</p>
7.4	<input type="checkbox"/> Airspace Operation – The proposed development does not penetrate the Limitation or Operations Surface height identified on GIS mapping	<input checked="" type="checkbox"/> N/A <p>Not mapped as being within an 'airspace operation' area and therefore no limitation requirements.</p>

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7.5	<input type="checkbox"/> Within ANEF 20 contour or higher but does not result in an increased number of people affected by aircraft noise.	<input checked="" type="checkbox"/> N/A Not mapped as being within the ANEF 20 contour and therefore no additional consideration is required.
7.6	<input checked="" type="checkbox"/> Essential services are available to the site where required. <input type="checkbox"/> The development requires an Onsite Waste management System (OSMS)	The Hunter water stamped plan submitted with the application indicates that reticulated water and sewer is available. No OSMS system is required. A network area check with has indicated that the subject site will have electricity available for connection.
7.8	<input type="checkbox"/> Development is within the drinking water catchment but will not result in a significant adverse impact on water quality or flows.	<input checked="" type="checkbox"/> N/A The subject site is not mapped as being within a drinking water catchment area.
7.9	<input type="checkbox"/> Subject land contains mapped wetlands, but development does not result in adverse impacts on ecology or water flows.	<input checked="" type="checkbox"/> N/A The subject site is not mapped as wetlands and therefore the development is unlikely to have adverse impacts on ecology or water flows.

s4.15(1)(a)(ii) – Any Draft EPI

NIL

s4.15(1)(a)(iii) – Any DCP

PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014		
Clause	Compliant (Check where appropriate)	Notes (where needed or if not compliant)
Part A	<input checked="" type="checkbox"/> The relevant clauses and objectives of the PSC DCP have been considered as part of the assessment.	The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.
B1	<input checked="" type="checkbox"/> Trees to be removed do not require approval as outlined in B1.1.	This part applies to development that proposes to remove or prune trees or other vegetation within non-rural areas and therefore applies to the site. The proposal seeks to remove the existing vegetation on the site. The application was therefore referred to Council’s Natural Systems Officer for review. It was found that the vegetation proposed for removal has low amenity or ecological value and would be unlikely to result in significant impacts on threatened species. The proposed tree removal was therefore supported.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

B2	<input checked="" type="checkbox"/> Not in proximity of items of environmental significance. <input checked="" type="checkbox"/> Land does not contain koala habitat or development is consistent with the CKPoM.	<p>The subject site is not located on land that contains items of environmental significance, nor does the application require biodiversity offsets.</p>										
	<input checked="" type="checkbox"/> Biodiversity Value Map (BDAR) - The development is not within or proposing any vegetation clearing in areas mapped as Biodiversity Value.	<input checked="" type="checkbox"/> N/A <p>The subject site is not mapped as having biodiversity value (BDAR). Therefore no further consideration is required for this part.</p>										
	<input checked="" type="checkbox"/> The development is not clearing native vegetation over the Biodiversity Offsets Scheme Threshold: <table border="1" data-bbox="392 960 667 1559"> <thead> <tr> <th data-bbox="392 960 528 1227">Minimum lot size associated with the property</th> <th data-bbox="533 960 667 1227">Threshold for clearing, above which the BAM and offsets scheme apply</th> </tr> </thead> <tbody> <tr> <td data-bbox="392 1234 528 1317">Less than 1 ha</td> <td data-bbox="533 1234 667 1317">0.25 ha or more</td> </tr> <tr> <td data-bbox="392 1323 528 1406">1 ha to less than 40 ha</td> <td data-bbox="533 1323 667 1406">0.5 ha or more</td> </tr> <tr> <td data-bbox="392 1413 528 1496">40 ha to less than 1000 ha</td> <td data-bbox="533 1413 667 1496">1 ha or more</td> </tr> <tr> <td data-bbox="392 1503 528 1585">1000 ha or more</td> <td data-bbox="533 1503 667 1585">2 ha or more</td> </tr> </tbody> </table>	Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more	<input checked="" type="checkbox"/> N/A <p>The subject site is not mapped as having biodiversity value (BDAR). Therefore no further consideration is required for this part. Therefore no offsets are required.</p>
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply											
Less than 1 ha	0.25 ha or more											
1 ha to less than 40 ha	0.5 ha or more											
40 ha to less than 1000 ha	1 ha or more											
1000 ha or more	2 ha or more											
B3	<input checked="" type="checkbox"/> Earthworks would have minimal environmental	<p>As discussed in clause 7.2 above, the proposed development involves earthworks. The impacts of the proposed earthworks can be mitigated through appropriate</p>										

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

	<p>impacts with conditions on VENM fill and erosion and sediment controls.</p>	<p>construction methods as outlined in the Geotechnical Assessment prepared for the site. The proposal is therefore consistent with requirements outlined in the DCP relating to earthworks.</p>
<p>B4 Water Quality & Drainage</p>	<p><input type="checkbox"/> The development meets the requirements of Figure FD for Maximum impervious surface area.</p> <p>Lots less than 900m² = 60% max Lots 900 - 2000m² = 40% max Lots 200 – 5000² = 30% max Lots greater than 5000m² = 7.5% max</p> <p><input type="checkbox"/> The development meets the requirements of Figure FB for no water quality measure required.</p> <p><input type="checkbox"/> Development is with the GIS drainage problem area.</p> <p><input type="checkbox"/> Development is with the GIS drainage requirements area.</p>	<p>As the subject site is located within the 'Hill Tops' area D6.5 of the DCP applies. Therefore this section of the DCP is noted only.</p> <p>Requirement D6.5 of the DCP notes that sites with an impervious area exceeding 50% in the Hill Tops area are required to provide onsite detention. The proposed development has an impervious area of greater than 50% and therefore onsite detention is required.</p> <p>The Statement of Environmental Effects and plans note that the stormwater strategy for the site is for all roof water (191.4m²) to be collected in rainwater tanks (min. 2kL) and reticulated to BASIX requirements. Tank overflows are to be piped into an approved infiltration / detention system with discharge directed to the Tareebin Road kerb & gutter.</p> <p>Councils Engineering team have reviewed this information and advised that a condition can be placed on the consent that requires a detailed stormwater management plan is submitted demonstrating the location and sizing of the on-site Infiltration system as well as a location of the legal point of discharge onto Tareebin Road prior to the issue of a Construction Certificate. This condition is included in the recommended conditions of consent.</p>
<p>B5</p>	<p><input type="checkbox"/> Proposed development is on flood prone land; AND, <input type="checkbox"/> A flood certificate has been submitted with the application and the finished levels are consistent with Table 2: Development Suitability Table; AND, <input type="checkbox"/> The submitted documents are consistent with Figure</p>	<p>Council records indicate that the proposed development is not on flood prone land.</p>

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

	BI: Development Suitability Table.	
B6	<input type="checkbox"/> Development within noise planning area is consistent with Clause 7.5 of the LEP – Aircraft Noise; AND <input type="checkbox"/> An Acoustic report has been provided supporting the proposed development	Council records indicate that the proposed development is not within a noise planning area and therefore clause 7.5 of the LEP does not apply.
B7	<input type="checkbox"/> Development relates to a heritage item or conservation area, however is of minor nature or would not impact on the significance of the item; <input checked="" type="checkbox"/> No expected impact to Aboriginal heritage.	<p>Council records indicate that the proposed development does not relate to a heritage item and is not within a heritage conservation area.</p> <p>Council records indicate that there will be no expected impact to Aboriginal heritage.</p>
C4	<input checked="" type="checkbox"/> Proposal ensures development provides continuity to the street and setbacks comply with C4.B <input checked="" type="checkbox"/> Development appropriately activates the street with habitable rooms where applicable. <input checked="" type="checkbox"/> The proposed development would be sympathetic to the streetscape as it is consistent with the existing development in its form, height, bulk, design and materials and does not adversely affect the amenity of neighbouring properties or the public domain.	<p>C4.B Setbacks</p> <p>The subject site is located within the Nelson Bay West precinct, specifically the area identified as the Hill Tops precinct. Therefore, the proposal is subject to differing front and side setback requirements to those listed within Chapter C4. The front and side setbacks proposed are noted below and discussed in further detail in the assessment against Chapter D6.</p> <p>The proposed dwelling provides the following setbacks:</p> <ul style="list-style-type: none"> • The minimum front setback provided is 9.65m. This is compliant with the Chapter D6 front setback requirement of 6m. • The minimum side setback for the ground floor is 2.4m which exceeds the 0.9m ground floor setback requirement. • The minimum side setbacks for the upper floors is 2.4m. These setbacks are non-compliant with the Chapter D6 requirement of 3m. This is discussed further below <p>Chapter D6 does not provide specific rear setback requirements for the Hill Tops precinct of Nelson Bay West and therefore the rear setbacks noted within Chapter C4 apply. The minimum rear setback proposed is 9.4m which exceeds the 6m requirement found within Chapter C4.</p>

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

	<p>☒ The development satisfy the C4.D for private open space</p> <p>☒ The development satisfy the C4.E for off-street parking</p>	<p><u>C4.6 – Garage Setback</u></p> <p>The garages are not setback 1m behind the building line as per the DCP, but rather form the front building line. Given the significant slope of the site and need for a suspended slab driveway, it is considered that the location of the garages is suitable. Furthermore, the private road streetscape that the garages front is characterised by garages of a similar form located within the front setbacks due to the topography of the land.</p> <p>C4.C Streetscape and Privacy</p> <p><u>C4.12 Passive Surveillance</u></p> <p>The proposal does not provide habitable rooms to the private street frontage given the garages are located along this frontage. However, habitable rooms front the Tareebin Road frontage providing appropriate passive surveillance to the public street.</p> <p><u>C4.14 Streetscape Character</u></p> <p>The proposal is considered to be consistent with surrounding development, particularly those located on the east of Tareebin Road, in that they have also been designed to respond to the slope of the sites. Surrounding dwellings are modern in nature and a similar form to the proposed development. Therefore, the proposal is considered to be sympathetic and compatible with the surrounding development.</p> <p><u>C4.15, C4.16, C4.17 and C4.18 Privacy and Two Storey Developments</u></p> <p>The dwellings balconies face east towards Tareebin Road and are therefore orientated toward the front of dwellings along elevation. As such, there is limited opportunity for overlooking to the adjacent properties along Tareebin Road. The proposed window placements also do not create opportunity for overlooking and it is noted that a privacy screen has also been added to a portion of the northern side of the balcony. The proposal as currently presented, is generally consistent with other dwellings within the vicinity.</p> <p>C4.D Private Open Space</p> <p><u>C4.20 Private Open Space Dimensions</u></p> <p>Due to the topography of the site, it is difficult for the proposed dwelling to provide private open space in accordance with C4.19. As such, this provision allows the</p>
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development to achieve compliance via meeting the criteria referenced in C4.20. This is as follows;

Where development cannot provide private open space on the ground floor, provisions shall be made for a balcony of not less than 20m² with a minimum width of 3m for the use as private open space.

With this noted, the plans show the decks on both the mid-level and lower levels exceed the requirements of this part.

C4.21 and C4.22 Solar Access

As shown in the shadow diagrams, the private open space of the proposed dwelling receives a minimum of 2 hours of sunlight between 9am – 3pm mid-winter.

The solar access for the private open space of the dwelling to the north of the site is not impacted by the proposed development.

The site to the south is largely clear of overshadowing from the proposed development between 9am – 12pm in mid-winter, as shown in Figures 6, 7, 8, and 9 which is compliant with the DCP.

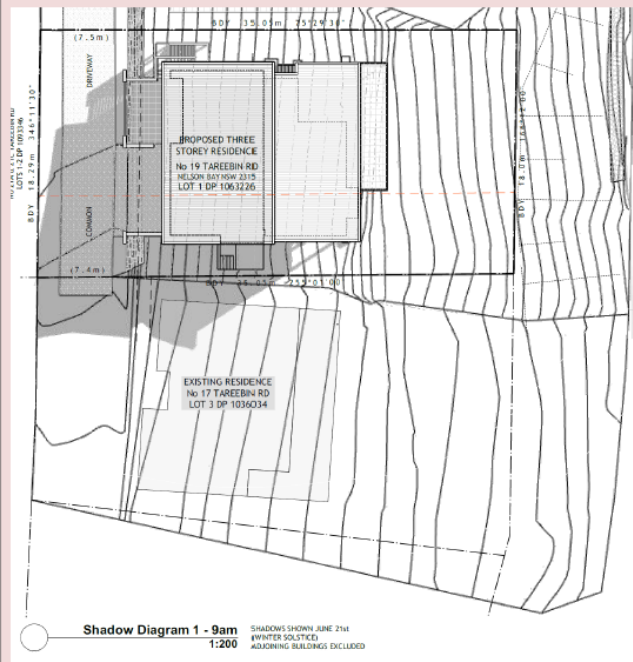
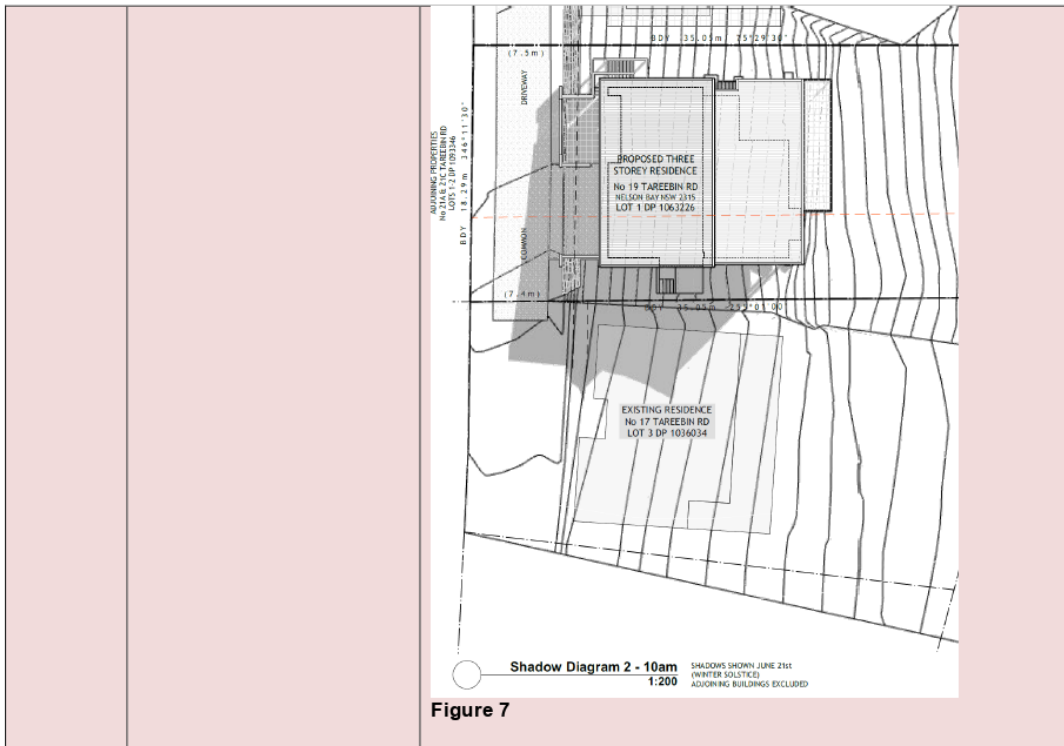
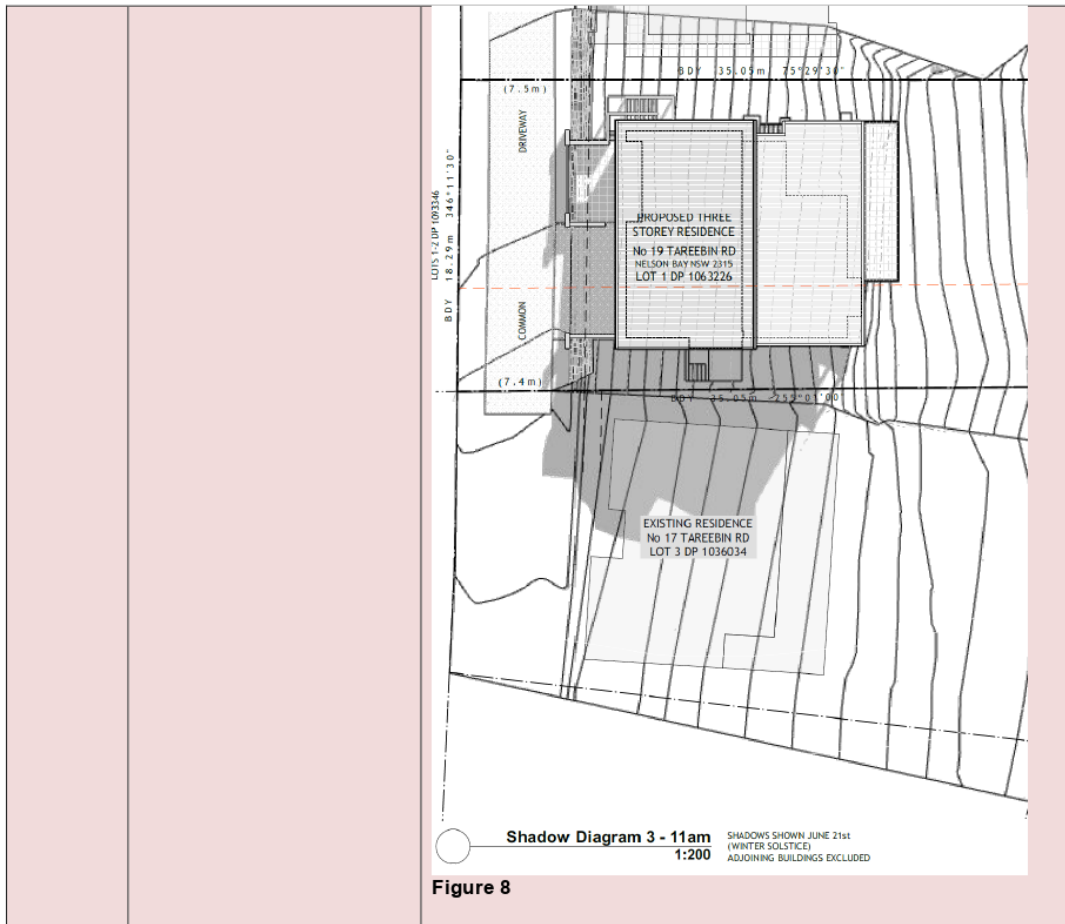


Figure 6

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.



ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.



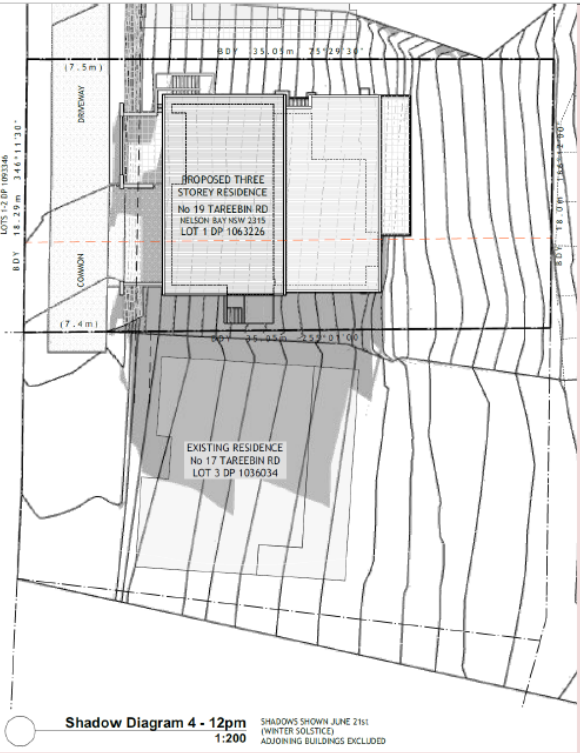
		 <p>Shadow Diagram 4 - 12pm 1:200 SHADOWS SHOWN JUNE 21st (WINTER SOLSTICE) ADJOINING BUILDINGS EXCLUDED</p>
<p>C8</p>	<p><input type="checkbox"/> Residential Shed in a residential zone (except R5 Large Lot</p>	<p>C8.22, C8.23 and C8.24 - Retaining Walls The maximum retaining wall height of 1m has been noted, however, the height of the retaining walls will exceed this</p>

Figure 9

C4.E Carparking and garages

The driveway exceeds the minimum width of 3m. The garage door is shown to be 5m in width which is below the 6m maximum.

C4.F Landscaping

N/A - the site is within the Hill Tops precinct of Nelson Bay West, therefore the landscape controls contained in Chapter D6 apply.

C4.G – Site Facilities and Services

The dwelling has adequate space for a drying deck and sufficient space for waste storage in the garage.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

	<p>Residential adhered to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Maximum gross floor area of 72m²; <input type="checkbox"/> Maximum height of 3.6m; <input type="checkbox"/> Minimum side and rear setback of 0.9m; and <input type="checkbox"/> Minimum 1m behind the building line or setback; or <input type="checkbox"/> The proposed shed exceeds the requirements of C8.1 however demonstrates consistency with the exceptions for residential sheds on Land zoned R5 Large Lot Residential. <input type="checkbox"/> Sheds on R5 Large Lot residential achieves the requirements under Figure CO or the exceptions listed under C8.4. <input type="checkbox"/> Rural Shed in a rural zone adheres to: <ul style="list-style-type: none"> <input type="checkbox"/> minimum 10m side and rear boundary setback; <input type="checkbox"/> minimum 5m setback from another building; and <input type="checkbox"/> Colour scheme consistent with the existing character of the area. <input type="checkbox"/> Swimming pools achieve the appropriate boundary setback and decking height requirements. 	<p>limit due to the topography of the land and construction methods.</p> <p>A condition will be recommended for the consent to require all walls to be of masonry construction.</p> <p>The plans indicate that all required retaining walls are located within the subject site.</p>
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ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

	<input checked="" type="checkbox"/> Fencing and/or retaining walls achieves the location and height requirements. <input type="checkbox"/> Shipping containers complies with C8.18 to C8.20.	
	Additional Considerations	
	<input checked="" type="checkbox"/> Noxious Weeds - The site identified as being affected by Noxious Weeds	The subject site is not mapped as having noxious weeds therefore no additional consideration or conditions are needed.
	<input checked="" type="checkbox"/> Land Slip - The site located with a Land Slip zone	The subject site is mapped as being landslip. As referenced above, a prior to the issue of a construction certificate condition is recommended to obtain a geotechnical report in line with the 88B restriction. It is noted that a limited geotechnical report has already been provided.
	<input checked="" type="checkbox"/> Driveways - The proposed driveway located clear of kerb inlet pits, street trees, signage, etc?	The proposed driveway meets this criteria.
	<input type="checkbox"/> Contaminated land - The land is identified as contaminated lands on the PSC register	Council records do not indicate this land as being contaminated.

Chapter D6 – Nelson Bay West

The subject site is located within the Nelson Bay West area and therefore Chapter D6 applies. The site is specifically within the 'Hill Tops' area and therefore controls specific for this area is applicable to the proposed development. An assessment against the relevant controls of Chapter D6 is provided below.

Reference	Control	Assessment
Objective D6.A Requirement D6.1	Setbacks <ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain 	The proposed dwelling provides the following setbacks: The minimum front setback provided is 9.65m. This is compliant with the Chapter D6 front setback requirement of 6m.

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

		<p>The minimum side setback for the ground floor is 2.4m which exceeds the 0.9m ground floor setback requirement.</p> <p>The minimum side setbacks for the upper floors is 2.4m. These setbacks are non-compliant with the Chapter D6 requirement of 3m. This is discussed further below</p> <p>Chapter D6 does not provide specific rear setback requirements for the Hill Tops precinct of Nelson Bay West and therefore the rear setbacks noted within Chapter C4 apply. The minimum rear setback proposed is 9.4m which exceeds the 6m requirement found within Chapter C4.</p> <p>The side setback variations are considered to be acceptable for the following reasons:</p> <ul style="list-style-type: none"> • Given the stepped design and articulation of each dwelling, the encroachments on each level are minor in nature and not a result of excessive dwelling bulk. The cumulative total of elements within the 3m northern side boundary equates to 8m² representing only 7.6% of the total side setback area. • The cumulative total elements within the 3m southern side boundary equates only to 6.05m² representing 5.74% of the total setback area. These areas are highlighted in yellow on the plans for ease of view. • The side setback encroachments do not exacerbate overlooking or overshadowing impacts as a result of the development. Further, limited windows have been provided along the side elevations of each dwelling to further reduce potential overlooking. • The reduced side setbacks are not out of character with the existing built environment and do not represent excessive bulk or scale. <p>On the above grounds, the proposed dwelling design is supported and consistent with the objectives of the DCP control.</p>
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ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

Objective D6.B Requirement D6.5	<p>On-site detention</p> <ul style="list-style-type: none"> To regulate the impacts on the capacity of the public drainage system 	<p>Requirement D6.5 of the DCP notes that sites with an impervious area exceeding 50% in the Hill Tops area are required to provide onsite detention. As previously referenced, on the advice of Councils Development Engineers, appropriate on-site detention is capable of being provided at the site. The application has been supported by Councils Engineers with recommended conditions requiring the applicant demonstrate compliance with this part prior to the issue of a construction certificate.</p>
Objective D6.C Requirement D6.6	<p>Landscaping</p> <ul style="list-style-type: none"> To ensure landscaping is within context through the appropriate selection of species and site coverage 	<p>Requirement D6.6 notes that development within the Hill tops area is to provide 50% of the site for landscaping. This will be a condition of consent whereby the applicant must demonstrate compliance with this part prior to the issue of an occupation certificate.</p>

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

NIL

s4.15(1)(a)(iv) – The regulations

NIL

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

	Notes (where needed)
<p><input checked="" type="checkbox"/> Social and Economic Environment: There would be beneficial impacts as a result of the development.</p>	<p>The proposed development represents a modern residential development and will provide additional infill housing to service the needs of the community which is consistent with the Port Stephens Local Housing Strategy and the Greater Newcastle Metropolitan Plan. The dwelling will allow for the development of currently vacant land in an already established residential area. The construction of the proposed development will</p>

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

	<p>provide employment opportunities in the locality during the short term 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.</p> <p>As assessed throughout the report, the proposed development has been designed to respond to the site constraints whilst also reducing potential adverse impacts to neighbouring properties.</p> <p>Overall, there are no anticipated adverse social or economic impacts as a result of the proposed development.</p>
<p><input checked="" type="checkbox"/> Built Environment: The proposed development would not cause harm to the existing character.</p>	<p>Whilst the height of the dwellings exceeds the maximum height limit, the development has been designed to correspond with the significant slope of the land without requiring significant earthworks or creating in adverse amenity impacts to neighbouring properties. Overall, it is considered that the proposed development will make appropriate use of an existing vacant site with no adverse impacts to the surrounding built environment in terms of bulk or scale.</p>
<p><input checked="" type="checkbox"/> Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.</p>	<p>The proposed development is not expected to negatively impact the natural environment. As noted throughout this assessment, the site is not located on land that contains any species of environmental significance. The site does contain vegetation, which has not been identified as being of high environmental value and therefore, is supported for removal.</p>

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

The suitability of the site is detailed above in the assessment report notes.

The matters for consideration under s4.15 of the Environmental Planning and Assessment Act 1979 have been reviewed, and it is considered the development is suitable for the subject land.

The subject site is located within an established residential area with the site currently vacant of any development. Whilst the site does have constraints including a significant cross fall, the site is capable of supporting the proposed residential development through an appropriate design response. As assessed throughout the report, there are no anticipated impacts on adjoining properties or the wider locality as a result of the development. The proposal is compliant with the

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

applicable planning framework and policies, and on these grounds, the site is suitable for the development.

s4.15(1)(d) – Any submissions

The application was exhibited in accordance with the provisions of the Port Stephens Council Community Engagement Strategy between 17 August 2023 and 31 August 2023. No submissions were received with relation to the subject development proposal during this period.

s4.15(1)(e) – The public interest

The proposal is considered to be in the public interest as it involves the construction of a dwelling within an established residential area, which will provide for additional residential accommodation in the locality to service the needs of the community. In addition, the development is not anticipated to have any significant adverse impacts on surrounding properties or the natural environment

CONSENT / CONDITIONS SELECTION			
Code	Condition Group Description	BASIX Required?	
<input checked="" type="checkbox"/> 13	Single Dwelling	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	1323048S
<input checked="" type="checkbox"/> 14	Ancillary Structures/sheds/retaining walls	N/A	
<input type="checkbox"/> 15	Swimming Pool	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	BASIX No.
<input type="checkbox"/> 18	Residential Alterations & Additions	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	BASIX No.
<input type="checkbox"/> 20	Demolition	N/A	

Additional Conditions

[\(FREQUENTLY USED CONDITIONS\)](#)

GENERAL CONDITIONS OF CONSENT

- B506 Manufactured Home
- B507 OSMS Approval

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- C201 Const. Cert.
- C202 Engineer Cert.
- C204 Free flow of water
- C206 ASS
- C304 Flood Risk Man. Plan
- C308 Retaining walls
- C509 Privacy-Screening

ITEM 1 - ATTACHMENT 3 ASSESSMENT REPORT.

PRIOR TO COMMENCEMENT OF WORKS

- | | | | | |
|---|---|---|---|--|
| <input checked="" type="checkbox"/> D105
Const. Cert | <input type="checkbox"/> D202
Demo. work | <input type="checkbox"/> D208
Eng. Report Alts
& Adds | <input type="checkbox"/> D301
Flood Design
Measures | <input type="checkbox"/> D502
Ground &
Surface water
man. |
|---|---|---|---|--|

DURING WORKS

- | | | | | | |
|--|---|---|---|---|--|
| <input type="checkbox"/> E204
Excavations &
backfill | <input type="checkbox"/> E205
Swimming pool
fence design | <input type="checkbox"/> E207
Finished Floor
Lvl | <input checked="" type="checkbox"/> E208
Building Height | <input type="checkbox"/> E303
Placement of Fill | <input type="checkbox"/> E304
Completion of
Flood Mound |
| <input type="checkbox"/> E306
Location of
Stockpiles | <input type="checkbox"/> E307
Truck wash
down | <input checked="" type="checkbox"/> E401
Tree Protection
Measures | <input checked="" type="checkbox"/> E402
Tree
Removal/Pruning | <input type="checkbox"/> E403
Weed
Management | <input type="checkbox"/> E501
Installation of
Manufactured
Home |
| <input type="checkbox"/> E502
Ground &
Surface Water
Management | <input checked="" type="checkbox"/> E503
Bush Fire
Safety-
Dwellings | <input type="checkbox"/> E504
Bush Fire Safety | <input type="checkbox"/> E610
Delivery
Register | <input type="checkbox"/> E611
Fill Material | |

PRIOR TO ISSUE OF OCUPATION CERTIFICATE

- | | | | | | |
|--|---|---|---|---|--|
| <input type="checkbox"/> G202
Upgrade with
the BCA | <input type="checkbox"/> G203
Fire Safety Cert. | <input type="checkbox"/> G204
Survey Cert. | <input type="checkbox"/> G212
Aircraft Noise | <input type="checkbox"/> G213
Smoke Alarms | <input type="checkbox"/> G508
Installation of
Manufactured
Home |
| <input type="checkbox"/> G615
OSSM
Inspection | <input type="checkbox"/> G616
Const.
accordance with
Acoustic Report | <input type="checkbox"/> | | | |

ONGOING USE

- | | | | | |
|---|---|--|--|--|
| <input type="checkbox"/> H201
Privacy Screen | <input type="checkbox"/> H202
Residential Air
Conditioning
Units | <input type="checkbox"/> H203
Secondary
Dwelling
Prohibited | <input type="checkbox"/> H204
Shed Use
Limitations | <input type="checkbox"/> G208
Fire Safety
Schedule |
|---|---|--|--|--|

ADVISORY NOTES

- | | | | | | |
|--|--|--|--|---|--|
| <input type="checkbox"/> ADV2
Dividing Fences | <input type="checkbox"/> ADV8
Flood
Information is
Subject to
Change | <input type="checkbox"/> ADV9
Flood
Emergency
Response Plan | <input type="checkbox"/> ADV11
Flood
Evacuation Plan | <input type="checkbox"/> ADV15
Responsibility
for
damage for tree
removal/pruning | <input type="checkbox"/> ADV26
Weed
Management |
|--|--|--|--|---|--|

HWC Stamp Plan Required	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Pile Driving Conditions required?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Has a Construction Certificate been applied for?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

APPROVED DOCUMENTS TO BE INCLUDED IN THE CONSENT						
Plan No.	Revision No.	Plan Title.	Drawn By.	Dated.	STAMP WITH	
					DA	CC
22E074 All Sheets	A	Architectural Plans	Port Stephens Design	4/7/2023	<input checked="" type="checkbox"/>	<input type="checkbox"/>

DETERMINATION

It is recommended that the development application be:

Approved Deferred Intent to Refuse Refused

Officer Name: **Tristan Sullivan**

Date: **2 November 2023**

Officer Signature:

ITEM NO. 2

FILE NO: 23/154463
EDRMS NO: 16-2023-173-1

DEVELOPMENT APPLICATION 16-2023-173-1 FOR A FUNCTION CENTRE AT 5 KOALA PLACE, BOAT HARBOUR

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2023-173-1 for a Function Centre at 5 Koala Place, Boat Harbour (Lot: 273 DP: 871058) subject to the conditions contained in **(ATTACHMENT 1)**.
-

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

299	<p>Councillor Leah Anderson Councillor Peter Kafer</p> <p>It was resolved that Council approves Development Application DA No. 16-2023-173-1 for a Function Centre at 5 Koala Place, Boat Harbour (Lot: 273 DP: 871058) subject to the conditions contained in (ATTACHMENT 1), and the inclusion of the following amendments:</p> <p>Amendments to recommended conditions</p> <p>Amend Condition 2.0 (9)(a) to remove the requirement for a restriction of title relating to domestic dogs.</p> <p>2.0 - Prior to issue of Occupation Certificate</p> <p>(9) Section 88B Instrument – The applicant must prepare a Section 88B Instrument which incorporates the following easements, positive covenants and restrictions to user where necessary:</p> <p>a) A restriction on the title of LOT: 273 DP: 871058, that where fencing is required, fencing must be Koala friendly and must not compromise the potential for safe movement of koalas across the site.</p> <p>Amend Condition 3.0 (2) to increase the capacity of events to 80 patrons.</p>
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	<p>3.0 – Ongoing Use (2) Event Capacity –The capacity of the functions is restricted to a maximum of 80 patrons at any one time.</p> <p>New ongoing use conditions</p> <p>3.0 – Ongoing Use (21) Domestic Dogs – Any domestic dogs on site are to be kept on-leash at all times.</p> <p>(22) Catering Vehicles – Catering vehicles including unloading/loading activities and the use of generators are not to be located adjacent to site boundaries including in parking areas along the sites access driveway.</p>
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Councillor Giacomo Arnott left the meeting at 7:04pm.
 Councillor Giacomo Arnott returned to the meeting at 7:06pm.

The amended conditions were accepted by the seconder.

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, 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 a Development Application (DA) 16-2023-173-1 for a Function Centre to Council for determination.

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

Subject Land:	5 Koala Place, Boat Harbour (Lot: 273 DP: 871058)
Total Area:	2.041ha
Zoning:	RE2 Private Recreation
Submissions:	23 including 1 petition with 30 signatures
Key Issues:	The key issues identified throughout the assessment of the development relate to noise, traffic and ecology.

The DA has been reported in accordance with Council's Planning Matters to be Reported to Council Policy as it has been called to Council by Councillors Leah Anderson and Giacomo Arnott (**ATTACHMENT 2**).

A locality plan is provided at (**ATTACHMENT 3**).

Proposal

The application seeks consent to operate a function centre on the site in conjunction with the existing tourist and visitor accommodation (known as The Oasis). The proposed operational details associated with the function centre use are as follows:

- Weddings and functions catering for up to 70 people
- Wellness retreats catering for up to 20 people
- No amplified music will be permitted within the covered deck area. Amplified music is only proposed to be permitted in the enclosed building
- Function centre catering is to be provided by a private contractor using temporary facilities (ie from a vehicle or similar)
- Operating hours for the functions are proposed as follows:
 - Sunday to Thursday 8am to 10pm
 - Saturday and Sunday 8am to 11pm
 - The applicant has advised that it is unlikely that the site will hold more than 2 functions in any week.

Most functions at the site are expected to be in the form of weddings. People booking functions on the site are also required to book the existing tourist accommodation cabins on site. It is proposed that functions and associated food serving will be held on the existing covered deck. The location of amplified music and the dance floor will be in an adjacent enclosed area.

No building works or removal of high value trees is proposed as part of the development.

Site Description

The subject site is known as 5 Koala Place, Boat Harbour and legally described as Lot: 273 DP: 871058. The lot is a battle axe shaped lot with frontage to Koala Place to the east. The site is currently used as tourist and visitor accommodation and contains a number of cabins, a communal area, a dam and a pool. The site is currently heavily vegetated. The site is surrounded by a mixture of land uses including another tourist and visitor accommodation development to the direct east (Wanderers Retreat) and residential properties to the direct north, south and west.

Site History

There are a number of historic applications on the site largely relating to the existing tourist and visitor use. The existing tourist and visitor accommodation and associated

structures was approved under DA 16-1998-1928-1. The DA was approved over 3 stages with 5 tourist cabins at each stage. It appears that only 9 cabins have been constructed. The wellness centre that is proposed to be utilised in conjunction with the proposed function centre was approved under DA 16-2009-424-1.

The outdoor deck structure which is proposed to be utilised for functions was constructed without consent and is subject to a current Building Information Certificate (BIC). The BIC is currently being assessed by Council's Development Compliance team. A condition has been recommended that an Occupation Certificate is not to be issued for the function centre until the BIC has been issued by Council.

Key Issues

The key issues identified throughout the assessment of the proposed development relate to noise, traffic and ecology impacts. A detailed assessment of these matters is contained within the Planner's Assessment Report (**ATTACHMENT 4**).

Noise and Amenity Impacts

Noise and amenity impacts resulting from the proposed development were raised in a number of submissions received during the notification period. A Noise Impact Assessment (NIA) was prepared for the proposal by Spectrum Acoustics Pty Ltd dated August 2023. The NIA considered the criteria for general noise admissions, sleep disturbance and traffic noise to assess the potential noise impacts from the proposal. Sound testing was undertaken on the site as a part of the NIA to allow for the accurate prediction of noise levels resulting from activities associated with the proposal including from music and people. Sound testing included identification of the nearest sensitive receivers.

The NIA found that the proposal was largely compliant with relevant Independent Liquor and Gaming Authority (ILGA) criteria and disturbance criteria of NSW Noise Policy for Industry (NPI). The results from the testing found that noise emissions from people in the outdoor open deck area would be up to 17 dB below the default minimum NPI sleep disturbance trigger level of 52 dB(A), L_{max}. Levels from music within the enclosed function area with doors closed would be 9 dB below the ILGA criterion at the nearest receiver to the north. It was found that levels up to 3 dB above the ILGA criterion could occur at 1 receiver when the enclosed function areas doors are open, based on the sound power level of 100 dB(A) for music. According to the NIA, this noise level is representative of a loud band producing levels that would be very uncomfortable to people within the room and prohibit conversation. The operator of the development has indicated that they do not intend to allow for this level of music. Noting this, a condition has been recommended restricting the sound power level to be a maximum of 95 dB(A) to ensure criterion is not exceeded.

Overall, the NIA supported the proposal noting it would be reasonable to condition that in the event of repeated noise complaints, a compliance measurement be commissioned to either confirm compliance or inform any required noise controls such as noise screens or setting limits on music volume. Council's Environmental

Health Officer reviewed the findings of the NIA and supported this recommendation. A further condition is recommended that if the operation of the development results in non-compliance with the NIA, the function centre use is to cease for 30 days or until such time as mitigation work is undertaken to achieve compliance with the noise mitigation measures.

In addition to the above, acknowledging the public and neighbour concerns relating to noise impacts from the proposal, a condition is recommended that the proposed function centre be subject to a 1 year trial. Following the trial period, a further application may be lodged by the applicant to allow for the continuation of the use for a further period. A condition to this effect has been included in the recommended conditions.

In addition to the NIA, a Noise Management Plan (NMP) was included within the Event Management Plan. The NMP identifies a number of management procedures to reduce noise impacts. This includes the requirements for any door or window openings to be closed within the indoor function space when amplified music is being played and that the contact details of the event manager are to be supplied to all nearby residents.

It is noted that there are inconsistencies between what is within the NMP and what is proposed. There are also further concerns from Council staff regarding on-site noise management. As such a condition has been recommended requiring the NMP to be updated prior to the issue of an Occupation Certificate to reflect the following operational conditions in regard to noise management:

- No amplified music permitted in outdoor areas at any time
- Other non-amplified music is permitted in outdoor areas until 8pm on Fridays and Saturdays and 6pm on Sundays – Thursdays. Any music outside must cease at this time
- The on-site event manager is to stay on-site for 1 hour once the event has finished to ensure that visitors have quietly and safety existed the venue or returned to onsite accommodation and to ensure no parties or amplified music have started.

Subject to the findings of the NIA and imposition of the operational and noise management conditions contained in **(ATTACHMENT 1)**, the proposed development is considered satisfactory in regards to noise management.

Traffic

Concern was raised in submissions regarding the potential traffic and parking impacts resulting from the proposed development. The proposal seeks consent for functions with a capacity of 70 patrons. The existing tourist and visitor accommodation use on the site can currently cater for a total of 72 guests. People utilising the function centre will be required to book the accommodation and therefore the uses will not operate independently. Rather, the same number of people attending the site for a function is the same as what is currently experienced when

the tourist and visitor accommodation use is operating at full capacity. Peak hours are generally considered to be between 8:00am to 9:00am and 4:00pm to 5:00pm. Larger functions are unlikely to commence within these peak hours and therefore it is considered unlikely to exacerbate traffic on the road network.

In regard to car parking, a total of 41 car parking spaces are provided on site, with some of these car parking spaces associated with the existing cabins. As previously noted, the tourist and visitor use and the proposed function centre are not proposed to operate independently from each other and therefore the shared car parking is considered acceptable. There is no car parking rate for function centres in the Development Control Plan (DCP) and therefore a merit based assessment was undertaken for the development. It is also noted that to comply with Council's DCP, the tourist and visitor use would only need to provide one space per cabin, which would equal to 9 car parks, meaning a further 32 car parking spaces are being provided for the function centre use.

It is considered that many of the guests attending events would car pool to the function centre and accommodation. A conservative rate of 2 people per car was used. This would generate the requirement for 35 car parking spaces based on a 70 guest function. The car parking provided on-site exceeds this rate. It is acknowledged that parking will be utilised by vendors of events such as for those catering and providing music. The excess parking spaces provided could cater for these additional users. Further, there is ample opportunity for car park stacking adjacent to existing cabins. The use of buses could also reduce the parking demand generated from the function centre use.

As part of the Traffic Management Plan (TMP) prepared for the proposed development, the applicant has proposed a parking attendant to be onsite during each event to direct guests entering, parking and leaving the venue. All parking spaces are to be clearly signposted. A condition has been recommended stating that the parking attendant is to ensure all on-site parking spaces are full prior to any use of on-street parking.

Ecology

The site is considered an environmentally sensitive area, containing preferred koala habitat and locally listed wetlands. The development application seeks consent for the removal and trimming of vegetation as required for bushfire management as follows:

- A 1 metre cleared curtilage enabling pedestrian access is to be provided around the outside of all buildings
- *Murraya* sp. and *Callistemon* sp. within 6m of all buildings are to be removed or trimmed."

Impacts to existing flora and fauna has been considered as part of the Planner's Assessment Report (**ATTACHMENT 4**). The removal of minor vegetation in proximity to existing approved buildings on site to comply with bushfire requirements is

considered to result in negligible impacts. The vegetation proposed for removal is not inclusive of high value vegetation or any preferred koala feed trees. Council's Natural Systems officer was supportive of the removal of these species noting they are not high value nor materially contribute to the nearby koala corridor.

Further, Council's Natural Systems officer was supportive of selective canopy pruning where required for APZ management. It was recommended that a condition be included on the consent requiring that any canopy pruning be undertaken by an AQF Level 3 qualified Arborist and that it must not compromise the health of any trees or remove any habitat features including nests or hollows. The recommended condition also states that all pruning must avoid all preferred koala feed tree species (*Eucalyptus robusta* and *Eucalyptus tereticornis*). Other conditions have also been recommended on the consent to address potential indirect impacts to native fauna. These are as follows:

- The requirement for any new and existing lighting to comply with Appendix A of the Department of Climate Change, Energy, the Environment and Water 'National Light Pollution Guidelines for Wildlife' (2023) to minimise lighting impacts to fauna species, particularly the koala.
- Where fencing is required it must be koala friendly so as not to compromise the potential for safe movement of koalas across the site.
- The requirement for the installation of high visibility koala warning signage of minimum size 450mm x 450mm.
- A restriction of traffic speed to 10 kilometres per hour.
- All amplified music (including battery operated speakers) is only permitted inside the enclosed function area.

In terms of ecological impact, the proposal is largely compatible and suitable for the site. It is considered that the proposed function centre is not likely to have adverse impacts on the natural environment subject to compliance with the recommended conditions.

Conclusion

As detailed in the Planner's Assessment Report (**ATTACHMENT 4**), 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. There will be no adverse impact to the natural or built environment.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and Safe Place to Live	Support sustainable business development in Port Stephens

FINANCIAL/RESOURCE IMPLICATIONS

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

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

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

A detailed assessment against these environmental planning instruments is contained within the assessment report contained at **(ATTACHMENT 4)**.

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

It is considered that the proposal will have positive social and economic impacts subject to compliance with recommended operational conditions. The function centre

will attract visitors and tourists to Boat Harbour who will utilise existing facilities and local businesses that will provide beneficial monetary stimulus. Moreover, the use will provide employment opportunities for the locality.

Impacts on the Built Environment

There are no physical works proposed and therefore the building environment will remain unchanged.

Impacts on the Natural Environment

The proposed additional use for a function centre is not considered likely to have adverse impacts on the natural environment subject to compliance with the recommended conditions. As noted in the assessment report, the RFS issued a Bush Fire Safety Authority on the basis that the site in its current state already complies with the Asset Protection Zone requirements outlined in Planning for Bushfire Protection 2019. Only minor removal and trimming of some existing vegetation is required, with no removal of significant vegetation or preferred koala feed trees proposed. Indirect impacts have been managed through lighting and other site management conditions.

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, Natural Systems, Development Contributions, Compliance Officer, Environmental Health, and Building Surveying teams. The referral comments from these officers have been considered as part of the Planner's Assessment Report (**ATTACHMENT 4**). The internal referral officers supported the DA, subject to the recommended conditions of consent (**ATTACHMENT 1**).

External

Consultation was undertaken with the NSW Rural Fire Service (RFS) as the proposal is considered integrated development. The application was supported by the RFS with a Bushfire Safety Authority and General Terms of Approval issued for the development. The comments provided by the RFS are discussed further within the Planner's Assessment Report (**ATTACHMENT 4**).

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 15 April 2023 to 29 April 2023. A total of 23 submissions including 1 petition with 30 signatures was received during this time. The key issues raised from the public exhibition are outlined in the Planner's Assessment Report **(ATTACHMENT 4)**.

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent.
- 2) Call to Council form.
- 3) Locality Plan.
- 4) Planner's Assessment Report.

COUNCILLORS' ROOM

- 1) Development Plans (available via the Councillors' Dashboard).
- 2) Unredacted submissions (available via the Councillors' Dashboard).

Note: Any third party reports referenced in this report can be uploaded to the Councillors' Dashboard 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) **Time limited approval** – Pursuant to Section 4.17(1)(d) of the Environmental Planning & Assessment Act 1979, the approved use is limited to a period of 1 year from the date of the release of the Occupation Certificate.

A further modification application must be provided to, and determined by, the Council prior to the expiration of this time period if the applicant intends to continue the use. If a modification application is not determined prior to the expiry of this consent, then the approved use must cease.

Council's consideration of a proposed continuation of the trial period will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions and any substantiated complaints received.

It is recommended that where an applicant intends to continue the use, a modification application be lodged with the Council at least 3 months prior to the expiry of this consent.

- (2) **General terms of approval** – The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.

The General Terms of Approval are:

1. NSW Rural Fire Service, Reference: DA20230405001442-CL55-1, dated 18 September 2023.

A copy of the General Terms of Approval is attached to this determination notice.

- (3) **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.
1 of 4 2324032	N/A	Site Plan	Eco Dimensions	01/09/2023
2 of 4 2324032	N/A	Car Parking	Eco Dimensions	01/09/2023
4 of 4 2324032	N/A	Flood Plan	Eco Dimensions	01/09/2023

Document title	Version No.	Prepared by	Dated.
The Oasis One Mile Event Management Plan	N/A	Glenn Short	03/03/2023

ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

Noise Impact Assessment	232307-10017-R0	Spectrum Acoustics	August 2023
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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.

- (4) **Separate approval for signs** – A separate development application for any 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.
- (5) **Outdoor lighting** - Any new and existing outdoor lighting must comply with Appendix A of the Department of Climate Change, Energy, the Environment and Water 'National Light Pollution Guidelines for Wildlife' (2023) to minimise lighting impacts to fauna species, particularly the koala.
- (6) **Marquee** – No consent is given for a marquee on site unless installed under the provision of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- (7) **Vegetation Removal/Pruning** – All ground and shrub vegetation located within 1m of a wall of any Council approved dwelling or building identified on Drawing Number 1OF4 of Proposed Function Centre Site Plan, prepared by ECODIMENSIONS, dated 01/09/23 is approved for removal.

All *Murraya* species located within 6m of a wall of any Council approved dwelling or building identified on Drawing Number 1OF4 of Proposed Function Centre Site Plan, prepared by ECODIMENSIONS, dated 01/09/23 are approved for removal or pruning.

All *Callistemon* species located within 6m of a wall of any Council approved building identified on Drawing Number 1OF4 of Proposed Function Centre Site Plan, prepared by ECODIMENSIONS, dated 01/09/23 is approved for pruning only.

Where vegetation management is required to maintain approved APZs, only canopy pruning is permitted. Any canopy pruning must be selective and undertaken by an AQF Level 3 qualified Arborist. Canopy pruning must not compromise the health of any trees or remove any habitat features including nests or hollows, and all pruning must avoid all preferred Koala feed tree species (*Eucalyptus robusta* and *Eucalyptus tereticornis*).

- (8) **Protect Existing Vegetation and Natural Landscape Features** – No vegetation or natural landscape features other than that authorised for pruning/removal by this Consent must be disturbed, damaged or removed. No additional works or

ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

access/parking routes transecting the protected vegetation must be undertaken without Council Approval.

All trees and native vegetation located within LOT: 273 DP: 871058, other than that approved for pruning or removal in Condition B401 of this Consent (16-2023-173-1), must be retained.

This condition overrides the provisions of the NSW Rural Fire Service 10/50 entitlement and the exempt provisions for tree removal, specified in Section B1 of the Port Stephens Development Control Plan 2014.

- (9) **Food Preparation** – No food preparation associated with the function centre use is to occur in the facilities provided on site. All food preparation is to be provided within a temporary food stall/facility. Temporary food stalls/facilities must meet the requirements of the Food Standards Code and comply with Standard 3.2.2 and 3.2.3, as well as the relevant guidelines.
- (10) **Koala Friendly Fencing** – Where fencing is required, fencing must not compromise the potential for safe movement of koalas across the site. Fencing must be:
- a) Open post and rail or post and wire (no barbed wire on the bottom strand) and a minimum 300mm gap below bottom rail and ground level; or
 - b) A suitable alternative as approved by Council's Natural Systems Team.
- (11) **Tree Pruning** – All approved tree pruning is subject to all 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'.

2.0 - 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 for the purpose of a function centre.
- 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) **Building Information Certificate** – A Building Information Certificate for the outdoor covered deck (identified as 'function area' on the approved plans) must be issued by Council prior to the issuing of an Occupation Certificate.
- (3) **Upgrade with the BCA** – Pursuant to Section 62 of the Environmental Planning and Assessment Regulation 2021, Council as the consent authority for this development application has determined that the following upgrades must be undertaken prior to the issue of an occupation certificate for the change of use:

ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

- a) Install emergency lighting in the existing building/s to comply with E4.2, E4.4 of NCC 2019 (Amdt 1) Volume 1 and AS 2293.1-2018.
 - b) Ensure all required exits have appropriate exit signs installed to meet compliance with E4.5, NSW E4.6 and E4.8 of NCC 2019 (Amdt 1) Volume 1.
 - c) Ensure that all doors, required by E4.5 are installed with braille exit signage to meet compliance with D3.6 of NCC 2019 (Amdt 1) Volume 1.
 - d) Install portable fire extinguishers in the existing building to comply with E1.6 of NCC 2019 (Amdt 1) Volume 1 and AS 2444-2001.
- (4) **Car parking requirements** – A minimum of 41 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked. All car parks that are not already paved, must be paved with gravel.
- (5) **Section 7.12 development contributions** - A monetary contribution is to be paid to Council for any works above \$100,000, 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 208(4) of the *Environmental Planning and Assessment Regulation 2021* 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%

A cost of works summary is to be provided for the outdoor covered deck (identified as 'function area' on the approved plans). If required, the payment of the fixed development consent levy is to be accompanied by the 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.

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 issue of the Occupation Certificate.
- (6) **Bushfire safety** – Certification by a suitably qualified bushfire consultant must be provided to the Principal Certifying Authority demonstrating that the site complies with the NSW RFS General Terms of Approval (Reference: DA20230405001442-CL55-1, dated 18 September 2023). No consent is given for impacts to vegetation

ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

other than that provided in Condition 1.0(7) of this consent. If it is found that vegetation removal is required to comply, further assessment and approval is required by Council.

- (7) **Flood Evacuation Plan** – A flood evacuation plan must be provided prior to the issuing of an Occupation Certificate. The flood evacuation plan must indicate that permanent, fail-safe, maintenance free measures are incorporated in the development to ensure that timely, orderly and safe evacuation of people and potential pollutant material from the buildings on-site should a flood occur.
- (8) **Koala Signage** – High visibility Koala warning signage of minimum size 450mm x 450mm, must be installed at regular intervals along internal roads, and maintained in good condition.
- (9) **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) A restriction on the title of LOT: 273 DP: 871058, that prohibits the keeping of any domestic dog(s) on site at any time, including within any of the accommodation or event buildings or structures.
 - b) A restriction on the title of LOT: 273 DP: 871058, that where fencing is required, fencing must be Koala friendly and must not compromise the potential for safe movement of koalas across the site.
- (10) **Event Management Plan** – Prior to the issue of an Occupation Certificate, the event management plan must be updated to be consistent with the ongoing use conditions listed in Section 3.0 of this consent. The updated Event Management Plan must be provided to Council for endorsement prior to the issue of an Occupation Certificate.
- (11) **Outdoor Lighting** – Prior to issue of an Occupation Certificate the applicant must ensure all new and existing outdoor lighting complies with Appendix A of the Department of Climate Change, Energy, the Environment and Water 'National Light Pollution Guidelines for Wildlife' (2023), and is suitable for minimising lighting impacts to fauna species, particularly the Koala.

Details demonstrating compliance must be provided to and approved by Council's Natural Systems Section and the PCA.
- (12) **Traffic Speed Restriction** – Prior to the issue of an Occupation Certificate, signage must be installed stating that all internal roads are restricted to a speed limit of 10kmph.

3.0 – Ongoing Use

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

- (1) **Hours of operation** – The function centre is to only operate for the following hours:

ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

Day	Hours of Operation
Friday and Saturday	8:00am – 11:00pm
Sunday – Thursday (inclusive of public holidays)	8:00am – 10:00pm

All music on site must stop at the completion of events. All patrons must vacate the site or return to cabins on site within half an hour following completion of events.

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

- (2) **Event Capacity** –The capacity of the functions is restricted to a maximum of 70 patrons at any one time.
- (3) **Existing Accommodation** – People booking the facility for functions must also book the accommodation on site.
- (4) **Music** – The following applies to music during events:
 - a) No amplified music (including use of battery operated speakers) is permitted in outdoor areas at any time (identified as 'function area' on the approved plans). Amplified music is only permitted within the enclosed function room identified as 'music/dance floor' on the approved plans.
 - b) When amplified music is on inside the indoor function room (identified as 'music/dance floor' on the approved plans), all doors and windows must remain closed except for when people exit/enter the building.
 - c) Amplified music in the indoor function room ('music/dance floor) is not to exceed the sound power level of 95 dB(A).
 - d) Other non-amplified music is permitted in outdoor areas (identified as 'function area' on approved plans) until 8pm on Fridays and Saturdays and 6pm on Sundays – Thursdays. Any music played in outdoor areas must cease at this time.
 - e) Microphones are permitted in outdoor areas (identified as 'function area' on the approved plans) until 8pm on Fridays and Saturdays and 6pm on Sundays – Thursdays. Any microphones being used in outdoor areas must cease at this time.
- (5) **On-site Event Manager** – The on-site event manager must be in attendance for the duration of events and for an hour after the event finishes to ensure people have left the premise or returned to the accommodation in a respectful manner.
- (6) **Toilets** – Portable toilets must be provided at a rate of 1 per 20 patrons. Amenities must be located in areas cleared of vegetation and must not obstruct parking.

ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

- (7) **Number of Events** – No more than 1 wedding is permitted between Friday and Saturday. No more than 1 wedding is permitted between Sundays – Thursday. Other non-wedding events may occur.
- (8) **Amenity** – The business must be conducted, and customers controlled at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations and residential or business premises.
- (9) **Offensive noise** – The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the Protection of the Environment Operation Act 1997 and must comply with the NSW Noise Policy for Industry 2017 (as amended).
- (10) **Pedestrian Easement** – Access to the pedestrian easement must be closed after sunset during events.
- (11) **Traffic Management** – A traffic manager must be present when people arrive at the site. The traffic manager must guide visitors to available parking spaces prior to on-street parking being used.
- (12) **Complaints Management** – A complaints register is to be created for the venue and must note all complaints received during operation (inclusive of both weekend and weekday events) including a general description of the issue the complaint relates to. The complaints register is to be made available to Council upon request.
- (13) **Maneuvering of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (14) **Driveways to be maintained** – All access crossings and driveways must be maintained in good order for the life of the development.
- (15) **Parking areas to be kept clear** – At all times, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.
- (16) **Management of asset protection zones** - During occupation and ongoing use of the building, the applicant must ensure the site is managed, in accordance with the RFS General Terms of Approval (Reference: DA20230405001442-CL55-1, dated 18 September 2023), Planning for Bushfire Protection 2019 and the NSW Rural Fire Service's document Standards for Asset Protection Zones.
- (17) **Traffic speed restriction** –Traffic speeds on all internal roads are restricted to 10kmph, and must be signposted.
- (18) **Event Management** – Events and functions at all times must be conducted in accordance with this development approval and the approved 'The Oasis One Mile Event Management Plan' along with other supporting management plans.

ITEM 2 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.

- (19) **Noise Management** – Upon receipt of offensive noise complaint, whereby Council is identified as the Appropriate Regulatory Authority; and at the cost of the owner/operator, the following must occur:
- a) a suitably qualified acoustic consultant must be engaged to undertake acoustic monitoring to verify compliance with NSW EPA Noise Policy for Industry 2017 (as amended) and the Acoustic Assessment Report (No. 232307-10017-R0, prepared by Spectrum Acoustics, dated August 2023) and any relevant conditions of this consent. If the operation of the development results in non-compliance with the acoustic assessment, the development use is to cease after 30 days, until such time as mitigation work is undertaken to achieve compliance with the any recommendations provided.
- (20) **Bushfire Emergency Management Plan** – The development must be carried out in accordance with the approved Bushfire Emergency Management Plan (BEMP) prepared by Bushfire Environmental Management Consultancy Pty Ltd, Version 3, dated 25 May 2023.

Advice Note(s):

- (1) **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.
- (2) **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.
- (3) **Vegetation Removal** – If any vegetation removal is found to be required in addition to that identified in Condition 1.0(7) of this consent, further assessment and approval will be required by Council and the application may require preparation of a Biodiversity Development Assessment Report and may not be supported.
- (4) **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 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.

The site has been identified as being affected by Biosecurity Matter – Chinese Violet, Salvinia, Heteranthera, Long Leaf Willow and Crofton Weed. Any soil or waste being transported offsite must be disposed of at an appropriately licenced waste facility. Failure to do so may constitute an offence under Section 23 of the NSW Biosecurity

Act 2015. A Biosecurity Permit issued by Council in accordance with Section 333 of the NSW Biosecurity Act 2015 is required prior to removal from the site.

ITEM 2 - ATTACHMENT 2 CALL TO COUNCIL FORM.



116 Adelaide Street,
Raymond Terrace NSW 2324

PO Box 42
Raymond Terrace NSW 2324

p (02) 4988 0255 | f (02) 4987 3612
e council@portstephens.nsw.gov.au

DX 21406 | ABN 16 744 377 876

Call to Council form

Development Application

DEVELOPMENT APPLICATION (DA) CALL TO COUNCIL REQUEST

We (Mayor/Councillor/s)

Name:

Name:

Name:

request that DA number:

for DA description:

located at:

be reported to Council for determination.

REASON

SIGNATURE OF APPLICANT/S

Signature

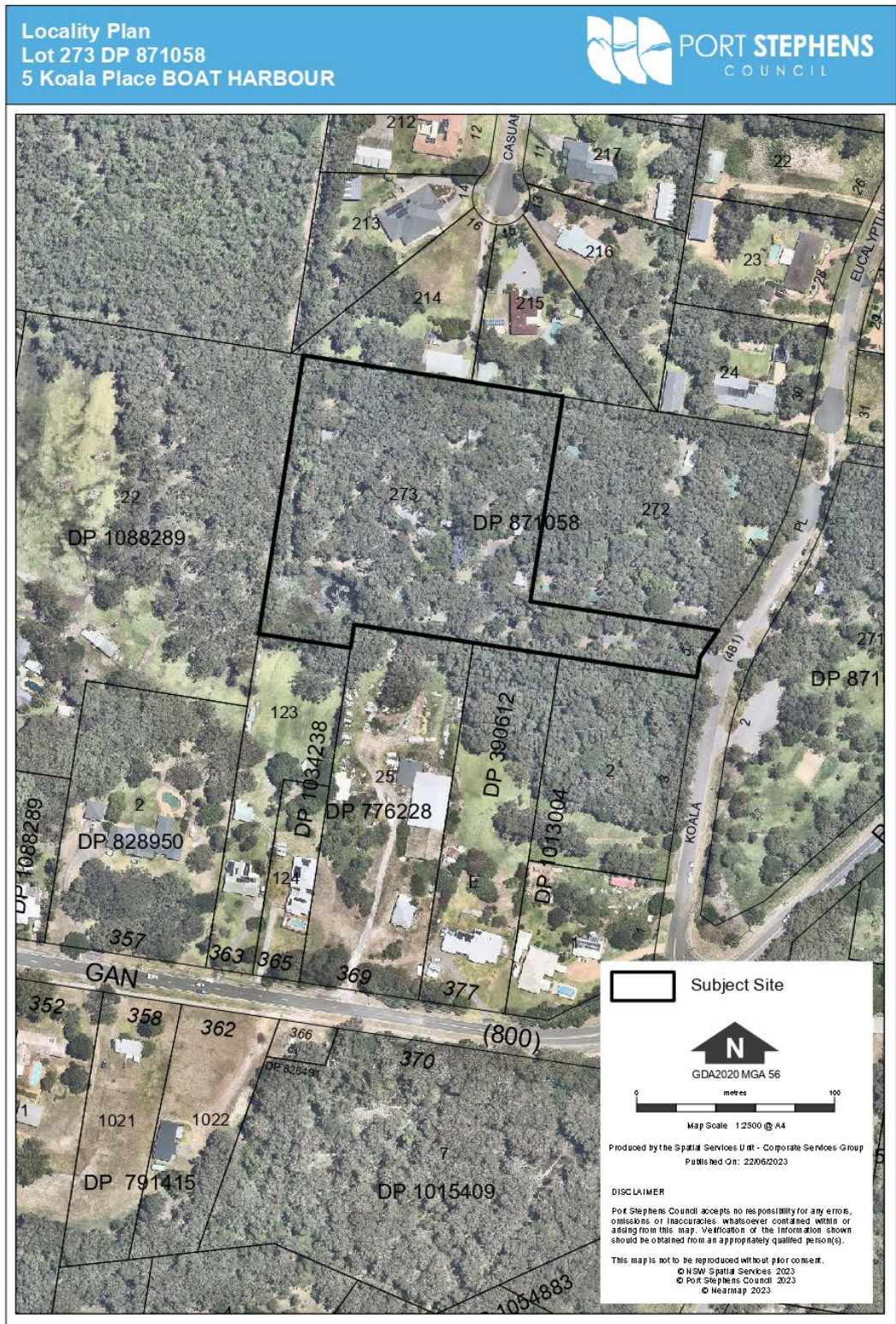
Signature

Signature

PRIVACY

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

ITEM 2 - ATTACHMENT 3 LOCALITY PLAN.





**PORT STEPHENS
COUNCIL**

DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2023-173-1
Development Description	Function Centre
Applicant	Resolve Urban Planning
Land owner	MRS C R MCDOUGALL
Date of Lodgement	03/04/2023
Value of Works	\$0.00
Submissions	23 including 1 petition with 30 signatures

PROPERTY DETAILS

Property Address	5 Koala Place BOAT HARBOUR
Lot and DP	LOT: 273 DP: 871058
88B Restrictions on Title	Easement to drain water (lot burdened) Easement for right of footway (lot benefited) Restriction to user – regarding fill and floor levels
Current Use	Tourist and Visitor Accommodation
Zoning	RE2 PRIVATE RECREATION
Site Constraints	Weed Infestations Bushfire Prone Land – Vegetation Buffer and Category 1 Acid Sulfate Soils – Class 3 Koala Habitat – Preferred, Buffer over Clear Endangered Ecological Communities – Swamp Sclerophyll Forest Biodiversity Values Mapped Stormwater Drainage Requirement Area Combined Corridor Map – Local Link, Landscape Habitat Link, Core Habitat NSW Wildlife Atlas – Fauna Watercourse

ITEM 2 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

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	LEP Mapped Wetland
State Environmental Planning Policies	State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021

PROPOSAL

The application seeks consent to operate a function centre on the site in conjunction with the existing tourist and visitor accommodation (known as 'The Oasis').

The proposed operational details associated with the function centre use are as follows:

- Weddings and functions catering for up to 70 people;
- Wellness retreats catering for up to 20 people;
- No amplified music will be permitted within the covered deck area. Amplified music is only proposed to be permitted in the enclosed building;
- Function centre catering is to be provided by a private contractor using temporary facilities (i.e from a vehicle or similar);
- Operating hours for the functions are proposed as follows:
 - Sunday to Thursday 8am to 10pm
 - Saturday and Sunday 8am to 11pm
 - The applicant has advised that it is unlikely that the site will hold more than 2 functions in any week.

Most functions at the site are expected to be in the form of weddings. People booking functions on the site are also required to book the existing tourist accommodation cabins on site. It is proposed that functions and associated food serving will be held in the existing covered deck which is circled in red in Figure 1 below. The location of amplified music and the dance floor will be in an adjacent enclosed area. This area is circled in blue in Figure 1 below.

No building works are proposed as part of this application. Minor vegetation removal / pruning is proposed to comply with bushfire requirements. No removal of koala feed trees is proposed.

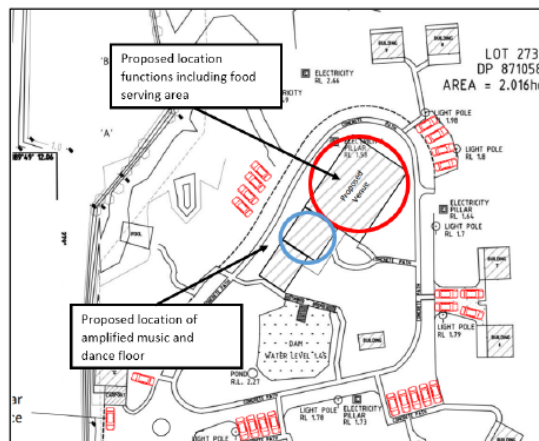


Figure 1. Proposed location of functions

Car Parking

A total of 41 car parking spaces are currently provided to the site, situated along the access road and internal to the site near the cabins, refer to Figure 2 below.

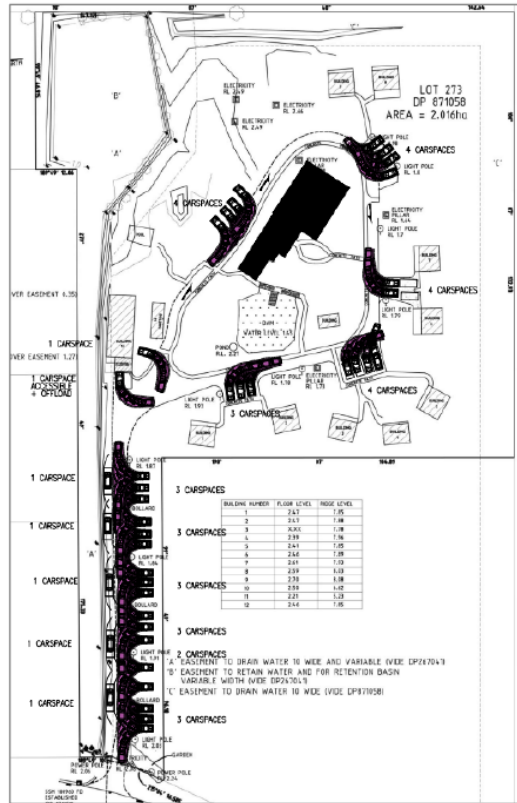


Figure 2. Proposed location of parking throughout the site

Amenities

The existing cabins have a single bathroom containing one toilet and shower. Toilets required during events will be provided via portable amenities blocks.

Event Management

An Event Management Plan was lodged with the application. The plan included a number of management procedures including a bushfire emergency plan, a noise management plan and traffic management plan. These are discussed in further detail below.

Bushfire Management

The site is bushfire prone and therefore a Bushfire Emergency Management Plan (BEMP) has been prepared for the proposal by Bushfire Environmental Management Consultancy Pty Ltd (BEMC). The BEMP acknowledges that proposals of this nature result in people gathering in unfamiliar locations heightening risk especially when evacuating. As such, the BEMP was developed to reduce risk for patrons in the event of a bushfire event.

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The BEMP states that the plan should be made available to visitors of the facility and distributed to staff of the site, Council's Emergency Management Officer and other appropriate authorities such as the NSW RFS each year prior to the start of the bushfire danger period.

The BEMP outlines strategies to minimise the potential for spread of fires on the site and establishes bushfire management procedures. The BEMP identifies that the principle actions for the site is to evacuate (rather than to shelter in place). Evacuation processes, triggers and off-site meeting points are identified in the BEMP.

Traffic Management

A Traffic Management Plan (TMP) has been included in the Event Management Plan. The TMP identifies that a parking attendant will be onsite during events to direct guests entering, parking and leaving the venue. All parking spaces will be clearly signposted.

Noise Management

A Noise Management Plan (NMP) is included within the Event Management Plan. The NMP identifies that all external windows and doors must be closed when amplified music is played and that any amplified music must cease by 11:00pm. The operational hours for events on Sundays – Thursdays differ to this time with events to propose to cease at 10:00pm. A condition has been recommended accordingly.

The NMP notes that amplified entertainment is permitted in the outdoor area before 8pm and that only acoustic music is permitted outside after these hours. However, it is noted that this is not requested in the Statement of Environmental Effects nor was it assessed in the Noise Impact Assessment (NIA). A condition has been recommended to restrict the location of amplified music accordingly.

The NMP notes that an event manager will be on site at all times during functions, that staff will receive training in regard to noise control procedures and contact details of the event management are to be supplied to all nearby residents.

Marquee

The Event Management Plan makes reference to a marquee. It is noted that the Statement of Environmental Effect does not mention proposed use of a marquee on site nor does the site plan show a location for it. Therefore, the provision of a marquee has not been assessed as a part of this application and a condition has been included in the recommended conditions noting this.

SITE DESCRIPTION

The subject site is known as 5 Koala Place, Boat Harbour and legally described as Lot 273 DP 871058. The lot is a battle axe shaped lot with frontage to Koala Place to the east (refer to Figure 3). The site is currently used as tourist and visitor accommodation and therefore contains a number of associated buildings including a number of cabins, a communal area, a dam and a pool. The site is currently heavily vegetated. The site is surrounded by a mixture of land uses including another tourist and visitor accommodation development to the direct east (Wanderers Retreat) and residential properties to the direct north, south and west.

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Figure 3. Site Aerial

SITE HISTORY

There have been a number of applications lodged over the site which are summarised in the following table.

Application No.	Proposal Description	Determination	Date Determined
DA 16-1998-1978-1	Storage Shed	Approved	December 1998
DA 16-1998-1928-1	Tourist Cabins	Approved	February 1999
S96 Modification DA 16-1998-1928-1	Tourist Cabins	Approved	December 1999
S96 Modification DA 16-1998-1978-1	Storage Shed	Approved	March 2000
DA 16-2001-1277-1	Garden Structure	Approved	October 2001
DA 16-2002-444-1	Meeting Room within Tourist Facility	Approved	April 2002
DA 16-2007-24-1	Carpport	Approved	January 2007
DA 16-2009-424-1	Recreation Facility	Approved	October 2009

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DA 16-2010-558-1	Extension to Existing Shed (Recreational Facility)	Approved	October 2010
DA 16-2014-628-1	Drainage Works	Approved	March 2015

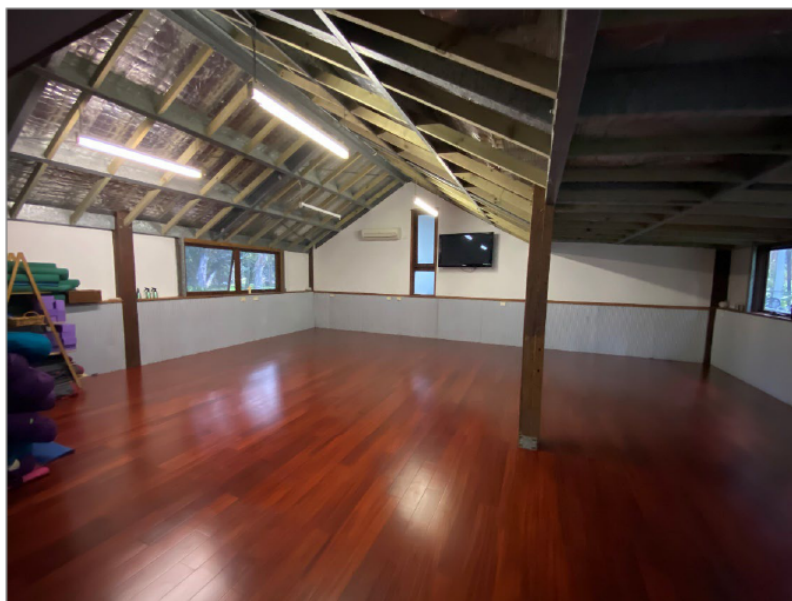
The existing tourist and visitor accommodation and associated structures was approved under DA 16-1998-1928-1. The DA was approved over three stages with 5 tourist cabins at each stage. Only 9 cabins have been constructed. The wellness centre that is proposed to be utilised in conjunction with the proposed function centre was approved under DA 16-2009-424-1.

The outdoor deck structure which is proposed to be utilised for functions was constructed without consent and is subject to a current Building Information Certificate (BIC). The BIC is currently being assessed by Council's Development Compliance team. A condition has been recommended that an Occupation Certificate is not to be issued for the function centre until the BIC has been issued by Council.

In addition to the above, there have been a number of noise complaints against the site in the past. Most being complaints being in 2012, 2013 and 2014. These complaint related to noise associated with events being held on the site. It is noted a new landowner and venue operator are proposing the use of the site as a function centre. The previous illegal works and complaints were associated with previous landowners and venue operators.

SITE INSPECTION

A site inspection was carried out on 26 April 2023. The subject site can be seen in photographs 1-7 below:



Photograph 1. Enclosed building where music is proposed to be played

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Photograph 2. Covered deck area to be used for functions (except for music)



Photograph 3. Access ramp between the covered deck and enclosed function space

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Photograph 4. Example of car parking provided for existing cabins



Photograph 5. Existing access driveway from Koala Place

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Photograph 6. Parking area to be provided on northern side of driveway



Photograph 7. Parking to be provided on southern side of driveway

PLANNING ASSESSMENT

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below:

Internal

Development Engineering

Comment:	<p>The application was referred to Council's Development Engineer to assess the proposal from a traffic and flooding perspective.</p> <p>In regard to flooding, Council's Development Engineer raised no objection noting no new buildings or hardstand areas were proposed. Notwithstanding, it was recommended that an advice note be included on the consent stating a Flood Evacuation Plan should be prepared. This has been included as a recommended condition of consent rather than an advice note.</p> <p>In regard to traffic, Council's Traffic Engineer raised no concern. Given the operators intend to require people having functions on site to book accommodation, no Traffic Impact Assessment (TIA) was considered necessary. Moreover, there is only a minor difference between the venue and accommodation capacity, noting the capacity of people staying on site is 72 and the functions are proposed to cater for 70 people. This is discussed further against Chapter B8 of the Port Stephens Development Control Plan (DCP).</p> <p>Council's Development Engineers recommended that the parking areas provided along the existing access driveway be paved with gravel. A condition has been recommended to this effect.</p>
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Building Surveyor

Comment:	<p>The application was referred to Council's Building Surveyor for comment. It was found that the proposal would result in a change in building classification for both the covered deck area and the enclosed room. Noting this, Council's Building Surveyor identified that upgrades are completed in accordance with Section 62 of</p>
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	<p>the Environmental Planning and Assessment Regulation (the Regulations) 2021. A condition has been recommended to this effect accordingly. This is discussed in further detail under the assessment against the Regulations.</p>
Natural Systems	
Comment:	<p>The application was referred to Council's Natural Systems officer for assessment. Concern was raised that the bushfire requirements outlined in the NSW Rural Fire Services referral would require the removal of high value vegetation on site that had not be assessed via an Ecological Impact Assessment or Biodiversity Development Assessment Report. However, the NSW RFS confirmed that the only vegetation requiring removal were those specifically listed in the referral being:</p> <ul style="list-style-type: none"> - A 1 metre cleared curtilage enabling pedestrian access is to be provided around the outside of all buildings; and - <i>Murraya</i> sp. and <i>Callistemon</i> sp. within 6m of all buildings are to be removed or trimmed." <p>Council's Natural Systems officer was supportive of the removal of these species noting that they did not contribute to the koala corridor and they are within proximity to existing structures. Further, Council's Natural Systems officer was supportive of selective canopy pruning where required. Council's Natural Systems officer recommended a condition be included on the consent requiring that any canopy pruning be undertaken by an AQF Level 3 qualified Arborist and that it must not compromise the health of any trees or remove any habitat features including nests or hollows, and all pruning must avoid all preferred Koala feed tree species (<i>Eucalyptus robusta</i> and <i>Eucalyptus tereticornis</i>).</p> <p>In addition to the above, ongoing management of this site is required to ensure it remains compliant with Planning for Bushfire Protection 2019 requirements. Council's Natural Systems Officer did not raise concern over this requirement.</p> <p>Other conditions to minimise potential direct and indirect impacts on koala and other nocturnal animals have also been recommended. These include conditions regarding lighting, limiting traffic speed, signposting and amplified music to be indoors.</p>
Compliance Officer	
Comment:	<p>The application was referred to Council's Compliance Officer given a Building Information Certificate (BIC) is currently being assessed for a structure located on the site that is to be used as part of future proposed events. A condition has been recommended that an Occupation Certificate for the function centre is not to be issued until the BIC has been issued.</p>
Environmental Health	
Comment:	<p>The application was referred to Council's Environmental Health Officer. It was originally requested that a Noise Impact Assessment be provided to Council along with further information regarding the existing on-site sewer system and whether it can cater for the proposed function centre use.</p> <p>A Noise Impact Assessment (NIA) was submitted in response to Council's request prepared by Spectrum Acoustics. Council's Environmental Health Officer was satisfied with the findings of the NIA subject to conditions. These conditions have</p>

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been included in the recommended conditions. It is noted that a further discussion against noise impacts has been prepared against Chapter B3 of the DCP.

In regard to the on-site sewer system, the applicant advised that portable amenities will be brought on site to cater for events and therefore no change to the existing loads for the OSMS are proposed. A condition has been recommended regarding the provision of portable amenities as part of events and functions.

In regard to food and catering, Council's Environmental Health Officer recommended conditions be included on the consent stating that the cooking facilities on the site are not to be used and that the temporary food stalls are to meet the requirements of the Food Standards Code and comply with Standard 3.2.2 and 3.2.3, as well as the relevant guidelines. These conditions have been included in the recommended conditions.

Development Contributions

Comment: The application was referred to Council's Development Contributions Officer. The referral notes that s7.12 contributions are applicable for the unapproved deck structure. A condition has been included on the consent accordingly. However, it is noted that s7.12 contributions only apply to developments with a cost of works over \$100,000.

All internal referral officers have supported the application with conditions.

External

NSW Rural Fire Service

Comment: The application was referred to the NSW RFS as integrated development in accordance with s100B of the Rural Fires Act 1997. The RFS issued a Bushfire Safety Authority and General Terms of Approval (GTA) which is discussed further below.

All external referral officers have supported the application with conditions.

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 is considered integrated development as the proposal is located on bushfire prone land and the function centre is proposed to be used in conjunction with the existing tourist and visitor accommodation use on site. Tourist and visitor accommodation uses are a special fire protection purposes (SFPP) and therefore require approval from the NSW RFS in accordance with s100B of the Rural Fires Act.

The application was referred to the NSW RFS who supported the proposal subject to conditions identified in their Bush Fire Safety Authority (BFSA). The conditions relate to asset protection zones (APZs), construction standards, property access, provisions of services, landscaping and creation of a Bush Fire Emergency Management and Evacuation Plan.

The BFSA issued for the proposal by the NSW RFS was based on the findings of the Bush Fire Assessment Report and the Response to RFI document which were both prepared by Bushfire

ITEM 2 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

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Environmental Management Consultancy Pty Ltd (BEMC). The report assessed the proposal against the Planning for Bushfire Protection 2019 document and overall found the proposal to be consistent with its objectives.

The BFSA conditioned that a 1m cleared curtilage for pedestrian access it to be provided outside of all buildings and any *Murraya* sp. and *Callistemon* sp Trees within 6m of all buildings are to be removed or trimmed. Council's Natural Systems Officer reviewed this requirement and was supportive.

In regard to APZ requirements, the Bush Fire Assessment Report found that the site complied with the required APZ requirements. The APZ referenced in the Bush Fire Assessment Report forms part of the RFS BFSA and General Terms of Approval. The NSW RFS has confirmed with Council the BFSA and supporting conditions was based on there being no further vegetation removal required in order for the site to comply with the APZ to satisfy Planning for Bushfire Protection 2019, but rather it would need to continue to be maintained in its current state. Noting this, conditions have been recommended to clearly state what vegetation is approved for removal or pruning. A condition has also been recommended stating that selective canopy pruning is approved so as long as it is undertaken by an AQF Level 3 qualified Arborist, will not compromise the health of any trees or result remove any habitat features including nests or hollows. The condition also states and all pruning must avoid all preferred koala feed tree species (*Eucalyptus robusta* and *Eucalyptus tereticornis*).

A Bushfire Emergency Management Plan (BEMP) was conditioned by the NSW RFS but has already been prepared for the site by BEMC. It outlines strategies to minimise the potential for spread of fires on the site and establishes bushfire management procedures. The BEMP identifies that the principle actions for the site is to evacuate (rather than to shelter in place). Evacuation processes, triggers and off-site meeting points are identified in the management plan. The NSW RFS BFSA states that a BEMP is required to be prepared in accordance with a number of requirements. The BEMP already prepared appears to be generally consistent with the requirements outlined by the NSW RFS. Notwithstanding, the BFSA conditions will continue to apply and any inconsistencies in the BEMP will need to be updated accordingly.

In addition to the above, a condition has also been recommended requiring that a suitably qualified bushfire consultant certifies that the site is compliant with the BFSA prior to the issue of an Occupation Certificate for the use. If it is found during the certification process that site does not comply with the BFSA requirements and additional clearing not approved by the consent is deemed to be required, further assessment by Council through a modification or new DA will be required to be undertaken including further ecological studies.

Noting the above, the Bush Fire Safety Authority issued by the NSW RFS has been referenced within a recommended condition and will be provided to the applicant with the consent should the application be approved. The conditions regarding vegetation removal and certification have also been recommended.

Section 4.15 - Matters for consideration

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. The matters of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the*

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- proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- that apply to the land to which the development application relates,*
- (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,*
 - (c) the suitability of the site for the development,*
 - (d) any submissions made in accordance with this Act or the regulations,*
 - (e) the public interest.*

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) 2021

Chapter 2 – Vegetation in Non-Rural Areas

Chapter 2 Vegetation in Non-Rural Areas of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Part 2.3 of the chapter contains provisions similar to those contained in the former (now repealed) Clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The chapter further provides that Council may issue a permit for tree removal.

The development application seeks consent the removal and trimming of vegetation required by the NSW RFS referral (being *Murraya* sp. and *Callistemon* sp Trees within 6m of all buildings). Council's Natural Systems officer reviewed these requirements and was supportive subject to conditions. Removal of significant or high value vegetation is not required as part of this development.

Chapter 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.

Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Port Stephens Local Government Area. Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site. In Port Stephens, the relevant plan is the Comprehensive Koala Plan of Management (CKPoM).

The site is mostly mapped as containing preferred koala habitat. There is a small portion of the site in the south western corner that is mapped as being a buffer over cleared land. A site visit undertaken by Council's Natural Systems officer confirmed that the site contains preferred koala habitat. Some vegetation is proposed to be removed and/or trimmed to comply with bushfire

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requirements, however, this does not consist of any koala feed tree species (*Eucalyptus robusta* and *Eucalyptus tereticornis*). A condition has been recommended to this effect.

Council's Natural Systems officer noted that there is potential for cumulative impacts to koalas in the locality, predominantly through the degradation of "core" corridors in the landscape and access to preferred koala habitats for feeding resources. However, it was acknowledged that habitat provided within the site is to be retained and is already subject to existing impacts associated with the tourist and visitor accommodation use on site, which maintains a similar level of activity to the proposed function centre. Notwithstanding, a number of conditions have been recommended to mitigate potential impacts on the local koala population, these include:

- The requirement for any new and existing lighting to comply with Appendix A of the Department of Climate Change, Energy, the Environment and Water 'National Light Pollution Guidelines for Wildlife' (2023) to minimise lighting impacts to fauna species, particularly the koala.
- Where fencing is required it must be koala friendly so as not to compromise the potential for safe movement of koalas across the site.
- The requirement for the installation of high visibility koala warning signage of minimum size 450mm x 450mm.
- A restriction of traffic speed to 10 kilometres per hour.

In addition to the above, all amplified music including the use of battery operated speakers is to be played within the enclosed function room only and no function is to operate past 10pm Sunday – Thursday and 11pm Fridays and Saturdays.

Noting the above, it is considered that the proposed development will not have a significant impact on the local koala population and therefore complies with this policy and the Comprehensive Koala Plan of Management (CKPoM).

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 and there are no records of potentially contaminating activities occurring on the site, per Table 1 of the Guidelines. Noting this, the proposed development satisfies the requirements of Chapter 4 of this SEPP.

Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed development is defined as a function centre which is permissible with consent in the RE2 Private Recreation zone. The development addresses the objectives of the zone by providing a recreational activity (function centre) that is compatible with the existing tourist and visitor accommodation use on the site.

Clause 5.10 – Heritage conservation

The objectives of this clause are as follows—

- (a) *to conserve the environmental heritage of Port Stephens,*

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(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

(c) to conserve archaeological sites,

(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

In accordance with Clause 5.10.(4) the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

The proposed development is not located within or in proximity to any local or state listed heritage items or conservation areas. A search of the Aboriginal Heritage Management Systems did not reveal any previously recorded Aboriginal sites in proximity to the proposed development.

Clause 5.21 – Flood Planning

Clause 5.21(2) provides that the consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development complies with the following matters—

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses*

Clause 5.21(3) provides that in deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

The proposed development is located on land mapped as being Flood Planning Area, specifically being a low hazard storage area. No new structures are proposed to be constructed on the site. As such, the proposal is not expected to adversely affect flood behaviour.

The proposed use as a function centre is considered compatible with the local and catchment flood behaviour of the land. A condition has been recommended requiring a Flood Emergency Evacuation Plan to be prepared prior to the issue of an Occupation Certificate.

Clause 7.6 – Essential Services

Cause 7.6 provides that development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. The essential services include the following:

- (a) the supply of water,*
- (b) the supply of electricity,*

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- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

The subject site is currently serviced by reticulated electricity and maintains vehicle access from Koala Place. The site is currently serviced by an on-site sewer management system as reticulated sewer is not available. Moreover, portable amenities are proposed to be installed on site for functions. On this basis, the proposal is considered to meet the requirements of this clause in terms of servicing.

Clause 7.9 – Wetlands

The objective of this clause is to ensure that wetlands are preserved and protected from the impacts of development. Before determining a development application for development on land to which this clause applies, the consent authority must consider—

- (a) *whether or not the development is likely to have any significant adverse impact on the following—*
 - (i) *the condition and significance of the existing native fauna and flora on the land,*
 - (ii) *the provision and quality of habitats on the land for indigenous and migratory species,*
 - (iii) *the surface and groundwater characteristics of the land, including water quality, natural water flows and salinity, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Further, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The proposal is located on land identified as wetland. The application seeks consent for an additional use on the site and does not proposed any new structures. Minor vegetation clearing is proposed to comply with bushfire requirements. This vegetation removal is not expected to have an impact on flora and fauna utilising the wetland area. Further, conditions have been recommended to mitigate potential impacts these include the requirement for any new and existing lighting to comply with Appendix A of the Department of Climate Change, Energy, the Environment and Water 'National Light Pollution Guidelines for Wildlife' (2023) and the requirement for amplified to music only to be played in the enclosed function room. Given no major physical works are proposed to the site, surface and groundwater characteristics, including water quality, natural water flows and salinity will not be materially altered from current conditions.

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 (PSDCP 2014)

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

CHAPTER B – GENERAL PROVISIONS

Chapter B is applicable to the proposal as assessed below.

B1 – TREE MANAGEMENT

This chapter applies to the removal or pruning of trees or other vegetation within non-rural areas and gives effect to SEPP (Biodiversity and Conservation) 2021 by listing those trees or other vegetation that require approval.

The development application seeks consent the removal and trimming of vegetation required by the NSW RFS referral (being *Murraya* sp. and *Callistemon* sp Trees within 6m of all buildings). Council's Natural Systems officer reviewed these requirements and was supportive subject to conditions. Removal of significant vegetation is not required.

B2 – NATURAL RESOURCES

This chapter applies to development located within 500m of environmentally sensitive areas, development that contains koala habitat, noxious weeds or development that is seeking to use biodiversity credits.

The site itself is an environmentally sensitive area and contains preferred koala habitat and therefore this Chapter of the DCP applies. The development application seeks consent the removal and trimming of vegetation required by the NSW RFS referral as follows:

- A 1 metre cleared curtilage enabling pedestrian access is to be provided around the outside of all buildings.
- *Murraya* sp. and *Callistemon* sp. within 6m of all buildings are to be removed or trimmed."

Council's Natural Systems officer was supportive of the removal of these species noting they are not high value nor materially contribute to the nearby koala corridor. Further, Council's Natural Systems officer was supportive of selective canopy pruning where required for APZ management. It was also recommended that a condition be included on the consent requiring that any canopy pruning be undertaken by an AQF Level 3 qualified Arborist and that it must not compromise the health of any trees or remove any habitat features including nests or hollows. The recommended condition also states that all pruning must avoid all preferred koala feed tree species (*Eucalyptus robusta* and *Eucalyptus tereticornis*).

Other conditions have also been recommended on the consent to address potential impacts to native fauna. These are as follows:

- The requirement for any new and existing lighting to comply with Appendix A of the Department of Climate Change, Energy, the Environment and Water 'National Light Pollution Guidelines for Wildlife' (2023) to minimise lighting impacts to fauna species, particularly the koala.
- Where fencing is required it must be koala friendly so as not to compromise the potential for safe movement of koalas across the site.
- The requirement for the installation of high visibility koala warning signage of minimum size 450mm x 450mm.
- A restriction of traffic speed to 10 kilometres per hour.
- All amplified music (including battery operated speakers) is only permitted inside the enclosed function area.

Noting the above, it is considered that the proposal is consistent with the objectives and requirements this chapter.

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B3 – ENVIRONMENTAL MANAGEMENT

Chapter B3 contains provisions relating to noise, air quality and earthworks, as outlined in the following sections.

Noise

As per Control B3.2, developments for function centres that include weddings are required to provide a Noise Impact Assessment (NIA). A NIA was prepared for the proposal by Spectrum Acoustics Pty Ltd dated August 2023. The NIA was prepared based on the proposed operational hours of:

- Sunday to Thursday 8am to 10pm
- Saturday and Sunday 8am to 11pm

The NIA considered the criteria for general noise admissions, sleep disturbance and traffic noise to assess the potential noise impacts from the proposal. Sound testing was undertaken on the site to allow for the accurate prediction of noise levels resulting from activities associated with the proposal. The NIA identified the two nearest sensitive receivers which are located to the north (R1) and east (R2) of the site. During the acoustic testing, sound level meters were placed throughout the site with four being located in close proximity to the area where functions are to be held and the other two located adjacent to the identified sensitive receivers (but within the subject sites boundaries), refer to Figure 3 below. Measurements taken external to the building including at the sites boundaries for the two sensitive receivers were taken with the doors of the proposed function centre open.

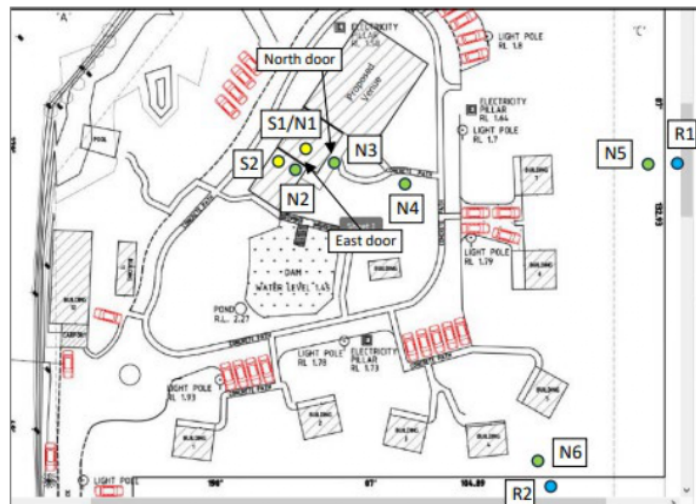


Figure 3. Location of sound meters and sensitive receivers

The results from the testing found that noise emissions from people in the outdoor open deck area would be up to 17 dB below the default minimum NPI sleep disturbance trigger level of 52 dB(A),Lmax. Levels from music within the enclosed function area with doors closed would be 9 dB below the ILGA criterion at the nearest receiver, R1 to the north. It was found that levels up to 3 dB above the ILGA criterion could occur at R1 when the enclosed function areas doors are open, based on the sound power level of 100 dB(A) for music. According to the NIA, this noise level is representative of a loud band producing levels that would be very uncomfortable to people within the room and prohibit conversation. The operator of the development has indicated that they do not intend to allow for this level of music. Notwithstanding, a condition has been recommended

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requiring amplified music not to exceed a sound power level of 95 dB(A) to ensure criterion is not exceeded.

Overall, the NIA supported the proposal noting it would be reasonable to condition that in the event of repeated noise complaints, a compliance measurement be commissioned to either confirm compliance or inform any required noise controls such as noise screens or setting limiting on music volume. Council's Environmental Health Officer reviewed the findings of the NIA and supported this recommendation. They also recommended that if it is found that the operation of the development results in non-compliance with the acoustic assessment, the development use is to cease after 30 days or until such time as mitigation work is undertaken to achieve compliance with the above.

In addition to the above, there is public interest concerns relating to noise impacts from the proposal. It is therefore recommended that the proposed function centre be subject to a one year trial. Following the trial period, a further application may be lodged by the applicant to formalise the use for a further period. A condition to this effect has been included in the recommended conditions.

In addition to the NIA, a Noise Management Plan (NMP) was included within the Event Management Plan. The NMP identifies a number of management procedures to reduce noise impacts. This includes the requirements for any door or window openings to be closed within the indoor function space when amplified music is being played and that the contact details of the event manager are to be supplied to all nearby residents.

It is noted that there are inconsistencies between what is within the NMP and what is proposed. There are also further concerns from Council staff regarding on-site noise management. As such a condition has been recommended requiring the NMP to be updated prior to the issue of an Occupation Certificate to reflect the following operational conditions in regard to noise management:

- No amplified music permitted in outdoor areas at any time.
- Other non-amplified music is permitted in outdoor areas until 8pm on Fridays and Saturdays and 6pm on Sundays – Thursdays. Any music outside must cease at this time.
- The on-site event manager is to stay on-site for one hour once the event has finished to ensure that visitors have quietly and safety existed the venue or returned to onsite accommodation and to ensure no parties or amplified music have started.

Subject to the aforementioned conditions, the application is satisfactory in regards to noise management.

Air Quality

The proposal is not expected to have impacts on air quality.

B4 – DRAINAGE AND WATER QUALITY

The development will not increase impervious areas on the site nor are major construction works proposed. Council's Development Engineer recommended that the new parking areas to be provided along the existing access driveway be paved with gravel. This gravel is required to be permeable. Therefore, the proposal is consistent with this Chapter of the DCP.

B5 – FLOODING

This section applies to all development on flood prone land. The subject land is mapped as being within the Flood Planning Area. As discussed against Clause 5.21 of the PSLEP, no new structures are proposed to be constructed on the site. As such, the proposal is not expected to adversely affect flood behaviour.

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The proposed use as a function centre is considered compatible with the low hazard flood fun behaviour of the land subject to the preparation of a Flood Evacuation Plan. A condition has been recommended requiring this to be prepared prior to the issue of an Occupation Certificate.

B8 – ROAD NETWORK AND PARKING

This section applies to development with the potential to impact on the existing road network or create demand for on-site parking.

Traffic Impacts

The proposal is not considered likely to have a significant impact on the existing road network for the following reasons:

- The proposal seeks consent for the use of the site as a function centre to cater of a total of 70 guests. The existing tourist and visitor accommodation use on the site can currently cater for a total of 72 guests. People utilising the function centre will be required to book the accommodation and therefore the uses will not operate independently of one another. Rather, the same number of people attending the site for a function, is the same as what is currently experienced when the tourist and visitor accommodation use is operating at full capacity.
- Sufficient on-site car parking is proposed to be provided and therefore it is not expected that offsite/on-street car parking will be required. Car parking provision is discussed further below.
- Peak hours are generally considered to be between 8:00am – 9:00am and 4:00pm – 5:00pm. Larger functions are unlikely to commence within these peak hours and therefore it is considered unlikely to exacerbate traffic on the road network.

Further to the above, Council's Traffic Engineer reviewed the proposed development and supported the proposal subject to conditions.

On-site Parking Provisions

The DCP does not have a car parking rate for function centres but rather requires a Traffic Impact Assessment (TIA) to determine whether onsite parking is suitable. However, a TIA was not provided to Council for assessment. Notwithstanding, the proposed car parking is considered to be suitable as disused below.

A total of 41 car parking spaces are provided on site, with some of these car parking spaces associated with the existing cabins. As previously noted, the tourist and visitor use and the proposed function centre are not proposed to operate independently from each other and therefore the shared car parking is considered acceptable.

Further, it is also noted that to comply with Council's DCP, the tourist and visitor use would only need to provide one space per cabin which would equal to 9 car parks, meaning a further 32 car parking spaces are being provided for the function centre use.

It is considered that many of the guests attending events would car pool to the function centre and utilise the existing accommodation. Previous assessments for function centres have considered a typical car occupancy rate of 3 people per car. Using this rate, a total of 24 car parking spaces would be required to cater for 70 guests. A more conservative rate would be 2 people per car which would generate the requirement for 35 car parking spaces. The car parking provided on site exceeds this conservative assumption rate. It is acknowledged that parking will be utilised by vendors of events such as for those catering and providing music. The excess parking spaces provided could cater for these additional users. Further, there is opportunity for car park stacking adjacent to existing cabins. The use of buses could also reduce the parking demand generated from the function centre use.

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In addition, as per the Traffic Management Plan (TMP) prepared for the development, the applicant has proposed a parking attendant to be onsite during each event to direct guests entering, parking and leaving the venue. All parking spaces are to be clearly signposted. A condition has been recommended stating that the parking attendant is to ensure all on-site parking spaces are full prior to any use of on-street parking.

Noting the above, it is considered that the proposal provided suitable car parking onsite without relying on street car parking.

On-site Parking Access

The site is currently access via a battle-axe driveway from Koala Place. This will remain unchanged. All cars entering the site are capable of entering and exiting the site in a forward direction.

The existing access is considered suitable for the proposed development.

CHAPTER C – DEVELOPMENT TYPES

Chapter C of the DCP does not provide specific controls for function centres. The proposal also does not involve any building works, as such Chapter C is not applicable.

CHAPTER D – SPECIFIC AREAS

The proposed development is not located within an area where a DCP Specific Area chapter applies.

Section 4.15(1)(a)(iiia) – Any planning agreement or draft planning agreement entered into under section 7.4

Nil

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

Section 62 Requirements

The proposal involves the change of use to the existing buildings on site however, does not propose works and therefore Clause 62 – consideration of fire safety applies. The outdoor deck structure was constructed without any development approval and therefore does not support a current building classification. A Building Information Certificate is currently being assessed for this structure. The new building classification for the deck and indoor function room will be a Class 9b, being used for the purpose of social gatherings.

To achieve BCA compliance for the structures utilised as part of the proposed use, the following upgrades are required and have been included as a recommended condition of consent to be satisfied prior to the issuing of an Occupation Certificate:

- i. Install emergency lighting in the existing building/s to comply with E4.2, E4.4 of NCC 2019 (Amdt 1) Volume 1 and AS 2293.1-2018
- ii. Ensure all required exits have appropriate exit signs installed to meet compliance with E4.5, NSW E4.6 and E4.8 of NCC 2019 (Amdt 1) Volume 1.
- iii. Ensure that all doors, required by E4.5 are installed with braille exit signage to meet compliance with D3.6 of NCC 2019 (Amdt 1) Volume 1.
- iv. Install portable fire extinguishers in the existing building to comply with E1.6 of NCC 2019 (Amdt 1) Volume 1 and AS 2444-2001.

The required BCA upgrades will not conflict with the recommended conditions of consent including those relating to lighting minimisation measures associated with indirect koala impacts.

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

Social and Economic Impacts

It is considered that the proposal will have positive social and economic impacts subject to compliance with recommended operational conditions. The function centre will attract visitors and tourists to Boat Harbour who will utilise existing facilities and local businesses that will provide beneficial monetary stimulus. Moreover, the use will provide employment opportunities for the locality.

Impacts on the Built Environment

There are no physical works proposed and therefore the building environment will remain unchanged.

Impacts on the Natural Environment

The proposed additional use for a function centre is not considered likely to have impacts on the natural environment subject to compliance with the recommended conditions. As noted in the assessment report, the RFS issued a Bush Fire Safety Authority on the basis that the site in its current state already complies with the Asset Protection Zone requirements outlined in the Planning for Bushfire Protection 2019 document. Only minor removal and trimming of some existing vegetation is required, with no removal of significant vegetation or preferred koala feed trees propose.

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

The subject site is currently utilised for tourist and visitor accommodation. The proposal seeks to provide an additional use on the site being a function centre, which is proposed to operate in conjunction with the tourist and visitor accommodation use. All functions are proposed to be held within existing structures on the site and sufficient space for car parking is already provided, therefore no construction works are required to support the proposed use. In regard to operational and amenity management, it is considered that the recommended operational and management conditions including the one year trial will minimise the potential noise and amenity impacts resulting from proposal on the nearby properties.

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

Public Submissions

The application was exhibited from 15 April 2023 to 29 April 2023, in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. A total of 23 submissions including 1 petition with 30 signatures was received during this time. The matters raised during the exhibition period have been summarised in the table below.

Matter raised	Response
<p><u>Lack of consultation</u> Concern was raised that no consultation was undertaken prior to lodgment of the DA.</p>	<p>Consultation prior to lodgment of a DA is not a legislated requirement. Notwithstanding, the application was both advertised and notified by Council for a period of 14 days in accordance with Council's Community Engagement Strategy.</p>
<p><u>Conflict with surrounding land uses</u></p>	<p>The site is zoned RE2 private recreation with function centres being permissible with consent. A number of management</p>

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<p>Concern was raised that the proposed development conflicts with the surrounding land uses which are largely zoned C4 Environmental Living.</p>	<p>procedures are proposed to ensure that conflict between the site and the neighboring C4 zoned land are minimised. These include noise and traffic management, a trial period and complaints register.</p>
<p><u>Past non-compliant use</u></p> <p>It was noted that this site has previously operated functions including large wedding events. Concern was raised that the proposal is a similar model requiring people to book the accommodation in conjunction with the event which led to extended periods of noise and antisocial behavior.</p> <p>It was noted that complaints were made to Council during the time these events were held (2016-2018) and the use ceased. Most of the concern raised during were in relation to noise and amenity impacts.</p>	<p>Council staff acknowledge the past non-compliant use of the site for functions and events. The subject application seeks to formalise the site for functions as part of this application by a new operator and landowner. The formalisation of the function centre use through the development approval will enable the imposition of rigid management procedures to reduce amenity impacts, which will be enshrined by the consent should the application be supported.</p>
<p><u>Noise Impacts</u></p> <p>A substantial concern raised in all submissions received were in relation to noise impacts. The following was noted in submissions received:</p> <ul style="list-style-type: none"> - The noise created at functions is out of harmony with the intention and existing ambiance of the neighbourhood and interferes with residents' rights to a peaceful and serene neighbourhood. - The site location will exacerbate noise given it is located on lower land creating an amphitheatre effect. - Concern was raised that there are no indoor areas to hold the events particularly parts of events where music and microphones are used. - The noise impacts will not end at close time proposed for functions but rather people will go back to their cabins and continue to make noise. It was noted that these cabins are closer to the boundary and therefore exacerbate noise impacts. - People leaving the function centre are loud, impacting amenity of neighbors. - It was noted that noise from events impacts not only the residents but also businesses operating. - Noise from previous events on site have result in sleep disturbance and significant loss of amenity. 	<p>The site is zoned RE2 Private Recreation. Function centres are permissible within the RE2 zone. A Noise Impact Assessment (NIA) was prepared for the proposal, which included noise testing across the site and nearby adjacent sensitive receivers. The NIA prepared found that noise generated from the development is consistent with relevant noise criteria (being the Independent Liquor and Gaming Authority (ILGA) criteria and the NSW Noise Policy for Industry (NPfI) criteria). Ultimately the NIA supported the proposal, subject to noise management measures. The noise management measures include that no amplified music is played outside at any time and is required to be within the enclosed function room. The function room has been sound proofed to mitigate noise emissions from amplified music.</p> <p>Council staff have also recommended a number of conditions to further address noise concerns by the public, which include a 12 month trial period, a complaints register and the requirement for an on-site manager to stay on site for 1 hour following completion of events to ensure visitors leave the site in a respectful manner and no further parties start.</p> <p>It is noted that at the time the noise assessment was prepared on behalf of the objector, Council had not yet received the NIA from the applicant for the DA. The NIA</p>

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<ul style="list-style-type: none"> - Concern with the ending time being at 11:00pm. <p>A noise assessment was conducted as a part of one submission received. The findings of this assessment is summarised below.</p> <ul style="list-style-type: none"> - The noise assessment noted that if the wedding function centre were approved, this would change the characteristics of the entire site, including the use of the existing cabins. This is because guests now staying on site would largely know each other resulting in further gatherings following the ending of events. - The noise assessment noted that the existing acoustic environment is typically controlled by natural noise sources such as breeze through foliage, wildlife and the surf. It was noted that a wedding function centre would likely unreasonably interfere with neighbouring properties. - The assessment noted the noise criteria from licensed venues and states that the proposal would be unlikely to comply. - The assessment recommended the following: <ul style="list-style-type: none"> o A NIA be undertaken for the proposed development and that seven day monitoring be undertaken as a part of it. o All noise sources from the proposal be assessed including patrons outside, guests arrive and leaving. o It was recommended that that the proposal be assessed against the NSW Liquor and Gaming (formerly Office of Liquor, Gaming and Racing (OLGR)) requirements. 	<p>prepared for the proposal assessed the surrounding receivers and ambient noise baseline on the basis that the site is characteristic of a rural acoustic type environment. The relevant criteria for general noise admissions, sleep disturbance and traffic noise including the NSW Liquor and Gaming (formerly Office of Liquor, Gaming and Racing (OLGR)) requirements were then considered for the development. The noise modelling undertaken as part of the NIA found noise generation from the proposed function centre to be compliant with the noise criteria requirements of Independent Liquor and Gaming Authority (ILGA) criteria and disturbance criteria of NSW Noise Policy for Industry. Subject to the recommended conditions, the proposed function centre will have acceptable impacts in accordance with the relevant NSW noise guidelines.</p>
<p><u>Site Management</u></p> <p>Concern was raised that the site will be unsupervised once events cease. It was noted that this had happened in the past and result in anti-social behavior and significant amenity impacts to neighboring properties.</p>	<p>Council staff have recommended a condition be included on the consent requiring the event manager to remain on site for 1 hour after events cease to ensure that people exit the site in a respectful manner or have returned to onsite accommodation and to ensure no parties or amplified music have started.</p>

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<p><u>Parking</u></p> <p>Concern was raised that insufficient car parking is provided to cater for the volume of guests attending events including vendors of events.</p> <p>Concern was raised that this would result in people using Koala Place to park which is cause disruption to residents and damage to the surrounding environment. It was also noted that this would be an unsafe environment for pedestrians particularly given there are no pathways.</p> <p>It was noted that when events were held in the past people visiting the site parked on the street, within other sites car parking areas and blocked driveways. Concern was raised that this would happen again.</p>	<p>On-site parking has been assessed as being sufficient for those attending events and for vendors. As per the Traffic Management Plan (TMP) prepared for the proposal, a parking attendant will be onsite during each event to direct guests entering, parking and leaving the venue. All parking spaces are to be clearing signposted. A condition has been recommended stating that the parking attendant is to ensure all on-site parking spaces are full prior to any use of on-street parking.</p>
<p><u>Environmental concerns</u></p> <p>A large number of submissions raised concern over potential ecological impacts associated with the proposal. It was noted that the proposal is inconsistent with the objectives of the RE2 zone which requires land uses "to protect and enhance the natural environment". These impacts would be via way of noise and light.</p> <p>It was noted that the site is an important koala corridor with a number of other native species also identified on the site. Concern was raised that the proposal will have significant impacts on the existing fauna due to the noise and light spill.</p> <p>Opposition to any vegetation on clearing on the site was noted. Particularly due to its importance as a koala corridor.</p> <p>Concern was raised that an Ecological Impact Assessment was not submitted with the DA.</p>	<p>Impacts to existing flora and fauna has been considered in the assessment of the application. Removal of some minor vegetation in proximity to existing approved buildings on site is required to comply with bushfire requirements. This does not include significant vegetation or any preferred koala feed trees. Council's Natural Systems officer supported the removal on this basis.</p> <p>Other conditions have also been recommended to further ensure that potential indirect impacts to fauna are mitigated. These conditions relate to lighting, koala friendly fencing, limiting traffic speed, signposting and amplified music to be indoors.</p>
<p><u>Enclosed Area</u></p> <p>One submission raised concern that the enclosed area is too small to cater for the functions and therefore the open areas will be uses. It was noted that the open areas are a source of noise and unwanted music.</p>	<p>A condition has been recommended stating that no amplified music is to be outside the enclosed function room. If this is not complied with, it would be a breach of the conditions of consent.</p>

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<p><u>Emergency Access</u> Concern was raised that insufficient emergency access was provided.</p>	<p>Access is considered to be sufficient. The NSW RFS supported the proposal with respect to emergency access.</p>
<p><u>Bushfire</u> Concern that the bushfire report provided with the application was insufficient and did not appropriately assess the site characteristics. Concern was raised in regard to safely evacuating people from the site. It was questioned whether the proposed on-site refuge was suitable in a bushfire.</p>	<p>The NSW RFS reviewed the bushfire assessment report prepared for the proposal and ultimately supported the application subject to conditions. The referral from the NSW RFS has been included in the recommended conditions of consent. The Bushfire Emergency Management Plan prepared for the site relies on evacuation of people from the property rather shelter on site. The enclosed building is proposed to be used as a shelter for roll call/gathering purposes prior to evacuation off site.</p>
<p><u>Outdoor Deck Structure</u> A submission raised concern that the outdoor deck proposed to be used for functions was built illegally and therefore has no soundproofing and it is not enclosed. Concern was raised that Council was giving retrospective approval to the structure as a part of this application.</p>	<p>The outdoor deck area was constructed without consent and is not enclosed nor is it proposed to be enclosed. As per the recommended conditions, amplified music is not permitted on the outdoor deck area. No other music is permitted after 8pm on Fridays and Saturdays and 6pm Sunday – Thursday. The outdoor deck is subject to a Building Information Certificate (BIC) that is currently under assessment. The BIC seeks to “regularise” building work that has been carried out unlawfully. This DA only seeks consent for the use of the deck structure. A condition has been recommended stating that prior to an issue of an Occupation Certificate, the BIC must be issued.</p>
<p><u>Location of function centre</u> Concern was raised regarding the proposed location of the function centre within the site. It was noted that there is a line of site from this location to the neighboring properties impacting amenity.</p>	<p>The function centre use is proposed within existing buildings on the site. These buildings are appropriately setback from neighboring property boundaries. Other amenity concerns have been addressed through operational restrictions and management plans.</p>

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<p><u>Inconsistency between documents</u></p> <p>A number of submissions raised concern and confusion over inconsistency between documents lodged as follows:</p> <ul style="list-style-type: none"> • The number of guests per function. • The operational hours proposed. • The location of amplified music. 	<p>The inconsistencies are acknowledged. The proposal seeks consent for the following:</p> <ul style="list-style-type: none"> • 70 guests per function • Operation of Functions: <ul style="list-style-type: none"> ○ Sunday to Thursday 8am to 10pm ○ Saturday and Sunday 8am to 11pm • Amplified music is only permitted in the enclosed function area.
<p><u>Impacts on nearby businesses</u></p> <p>Concern was raised that the proposed development would impact upon the commercial viability of nearby businesses due to the operation of the function centre particularly due to anti-social behavior from people attending functions and noise impacts.</p> <p>It was noted that the nature of people utilising these commercial businesses would be impacted and a social impact assessment should have been undertaken.</p>	<p>Subject to compliance with the proposed management procedures and the recommended operational conditions, it is considered that the proposal is not likely to have significant adverse impacts on the commercial viability of neighboring properties. Notwithstanding, a 1 year trial has been recommended to allow monitoring of the function centre and effectiveness of the management conditions. Following the trial period, a further application may be lodged by the applicant to enable longer term use of the function centre. Council's consideration of a proposed continuation of the trial period will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions and any substantiated complaints received.</p>
<p><u>Recommendations should the application be approved</u></p> <p>Some submissions provided recommendations for conditioning the proposal should it be supported. These were as follows:</p> <ul style="list-style-type: none"> - An Environmental Impact Study must be carried out prior to any DA approval - A maximum of twelve events per year - The outdoor structure to be enclosed and sound proofed - A maximum of 50/60 guests in total per event (this number differed between submissions) - Events to end at 8pm and no on-going parties to occur. - Provision of an on-site manager - Sound monitoring at key locations on borders and neighbouring properties - No more than 30 vehicles on site at any time. - No live bands 	<p>The recommendations received are noted. Council staff have recommended the following conditions:</p> <ul style="list-style-type: none"> • No more than 70 guests per event. • No amplified music in outdoor areas. All amplified music is to be within the enclosed function centre room with any opening remaining closed whilst music is playing. • Other (non-amplified) music must cease at 8pm on Fridays – Saturdays and 6pm Sundays – Thursdays. • No more than 1 wedding between Fridays and Saturdays and 1 wedding between Sundays and Thursdays. Other non-wedding events may occur. • Closure of the pedestrian access pathway after sunset. • Temporary toilets to be provided at a rate of 1 per 20 guests. • No marquees unless they comply with the provisions of the State

ITEM 2 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

16-2023-173-1

<ul style="list-style-type: none"> - No amplified noise including PA systems - Visual barriers to be constructed between event location and neighbouring residences. - No use of parking in battle-axe driveway between 6pm – 8am. - Closing of pedestrian easement from sunset to 8am to limit noise impact. - Request for no marquees. - Provision of adequate toilets. - Bar service to cease 1 hour before event closure. - The event management procedures from Tanilba House should be considered for the proposal. 	<p>Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <ul style="list-style-type: none"> • Event manager to remain on site one hour after event ceases to manage the movement of guests whether they are exiting or returning to onsite cabins.
<p><u>Amenities</u></p> <p>Concern was raised in regard to the use of amenities within cabins to cater for the proposal.</p>	<p>A condition has been recommended requiring that temporary toilets are to be provided on site at a rate of 1 per 20 guests.</p>
<p><u>Frequency of functions</u></p> <p>Concern was raised regarding the number of functions to be held per week noting that the Statement of Environmental Effects states that there is expected to be two. It was noted that given people are staying on site this would exacerbate the time people are at the site and therefore noise and amenity impacts.</p>	<p>A condition has been recommended requiring that no more than 1 wedding per weekend (Fridays and Saturdays) and 1 wedding per week (Sunday – Thursday) is to occur. Other events may occur.</p>
<p><u>Use of Pedestrian path</u></p> <p>One submission requested that access to this path be restricted after sunset.</p>	<p>A condition to this effect has been recommended.</p>

Section 4.15(1)(e) the public interest

On the basis of consideration of the development against the relevant planning provisions, it is considered that the proposal is in the public interest subject to the additional restrictions recommended by Council staff being imposed. The recommended operational conditions will protect the amenity of neighbouring properties and reduce adverse impacts. Further, the proposal is considered to be in the public interest as the proposal will attract visitors and tourists to Boat Harbour who will utilise existing facilities and local businesses that will provide beneficial monetary stimulus to the area.

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

N/A

Section 7.12 – Fixed Development Consent Levies

ITEM 2 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

16-2023-173-1

Fixed development contributions apply to the unapproved deck structure. As such a condition has been recommended accordingly. However, it is noted that s7.12 contributions only apply where the cost of works exceed \$100,000.

DETERMINATION

The application is recommended to be approved, subject to the recommended conditions of consent provided.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Councillor Peter Francis left the meeting at 7:23pm.

ITEM NO. 3

**FILE NO: 23/305560
EDRMS NO: 16-2023-215-1**

DEVELOPMENT APPLICATION 16-2023-215-1 - 5 INTO 2 LOT SUBDIVISION AT 7 WALKER CRESCENT, RAYMOND TERRACE (MUREE GOLF COURSE)

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves Development Application DA No. 16-2023-215-1 for a 5 into 2 lot Torrens title Subdivision at 1C and 1A Freeth Street, 7 and 9 Walker Crescent, 2A Elizabeth Avenue, Raymond Terrace (LOT: 33 DP: 40136, LOT: 202 DP: 610043, LOT: 31 DP: 753161, LOT: 8 SEC: 24 DP: 758871, LOT: 1 SEC: 22 DP: 758871) subject to the recommended conditions of consent contained in **(ATTACHMENT 1)**.
- 2) Supports the Clause 4.6 Variation request to the minimum lot size for the reasons set out within this report.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

300	<p>Councillor Peter Kafer Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Approves Development Application DA No. 16-2023-215-1 for a 5 into 2 lot Torrens title Subdivision at 1C and 1A Freeth Street, 7 and 9 Walker Crescent, 2A Elizabeth Avenue, Raymond Terrace (LOT: 33 DP: 40136, LOT: 202 DP: 610043, LOT: 31 DP: 753161, LOT: 8 SEC: 24 DP: 758871, LOT: 1 SEC: 22 DP: 758871) subject to the recommended conditions of consent contained in (ATTACHMENT 1).2) Supports the Clause 4.6 Variation request to the minimum lot size for the reasons set out within this report.
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Cr Giacomo Arnott foreshadowed a matter arising.

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

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

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

Those against the Motion: Nil.

The motion was carried.

ORDINARY COUNCIL MEETING - 12 DECEMBER 2023 MATTER ARISING

301	<p>Councillor Giacomo Arnott Councillor Peter Kafer</p> <p>It was resolved that Council request the General Manager to:</p> <ol style="list-style-type: none">1) Note the importance of Councillors receiving all information relating to a development application (DA) to allow them to fully assess each DA in accordance with the requirement under the Environmental Planning and Assessment Act at section 4.15 Evaluation, which requires the consent authority (in this case Councillors) to evaluate:<ol style="list-style-type: none">a) Any environmental planning instrument, andb) Any proposed instrument that is or has been the subject of public consultation and that has been notified to the consent authority, andc) Any Development Control Plan (DCP), andd) Any planning agreement under section 7.4 or any draft planning agreement, ande) The Regulations, andf) The likely impacts of the development, including environmental, both natural and built, and social and economic impacts, andg) The suitability of the site for the development, andh) Any submissions made, andi) The public interest2) Notes that members of the Hunter and Central Coast Regional Planning Panel have access to every single bit of documentation for every DA that they assess, to allow them to adhere to the section 4.15 requirements, with an example list of documentation from a recent DA including: Aboriginal Cultural Heritage Report, Access Report, Acoustic Report, Agency advice (Transport for NSW and Port Stephens Council), Agency decision, Arborists reports (including addendum to the report), architectural plans (including drawings and amended sheets), BCA performance requirements compliance statement, biodiversity assessment, biodiversity development assessment report, car parking and vehicle access, civil engineering plans (both stormwater plans and cut and fill plans), the clause 4.6 variation request, the contamination report, a cost estimate report, the council assessment report, the design verification statement, the erosion & sediment control plan, the generated DA form, the
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	<p>generated pre-DA form, the regional planning panel forms, the geotechnical report, the landscape plan, including drawings and landscape schematics, the notification plan, a memorandum, response to draft conditions, council's RFI response for stormwater, requests for information, stormwater modelling, external referral to Ausgrid, external referral to RMS, RAAF bird strike report, swift parrot statement, sustainable development plan, Pre DA meeting minutes, S50 application confirmation, Hunter Water stamped plans, crime prevention through environmental design report, owner's consent form, public submissions, record of kick-off briefings, site plans including construction and operational waste management plans, statement of environmental effects, stormwater drainage plans, submitters list, survey plans, and a traffic report.</p> <p>3) Ensure that for every DA that is to be assessed & Determined by Councillors at a public Council meeting, the following will occur starting from 2024:</p> <p>i. A folder will be created in the dashboard (bigtincan) for each DA, where all documentation uploaded to Council's system which is related to the DA will be placed.</p> <p>ii. A short report may be prepared by Council's planners directing Councillors to which pieces of documentation it believes are relevant or not to the DA, to allow Councillors to make their own decision, as the consent authority, for which documents should be considered in their assessment.</p> <p>iii. All documents will be uploaded at the same time as the release of Council papers to Councillors, to allow Councillors time to review and assess.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, 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) No. 16-2023-215-1 for a 5 into 2 lot Torrens title Subdivision at 1C and 1A Freeth Street, 7 and 9 Walker Crescent, 2A Elizabeth Avenue, Raymond Terrace to Council for determination. A summary of the DA and property details is provided below:

Subject Land:	1C and 1A Freeth Street, 7 and 9 Walker Crescent, 2A Elizabeth Avenue, Raymond Terrace (LOT: 33 DP: 40136, LOT: 202 DP:
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MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

	610043, LOT: 31 DP: 753161, LOT: 8 SEC: 24 DP: 758871, LOT: 1 SEC: 22 DP: 758871)
Total Area:	36.45ha
Zoning:	RE2 – Private Recreation
Submissions:	0
Key issues:	Variation to the PSLEP 2013 minimum lot size for 1 of the proposed lots and the realignment of the historic and unorderly cadastral boundaries across the site.

The DA has been reported to Council in accordance with Council's Planning Matters to be Reported to Council Policy as the DA includes a request to vary a development standard by greater than 10%.

The development standard sought for variation is Clause 4.1 – Minimum Subdivision Lot Size of the Port Stephens LEP (PSLEP) 2013 and the extent of the variation is 92.5%.

A locality plan is provided at **(ATTACHMENT 2)**.

Proposal

The development application seeks consent for a 5 into 2 lot Torrens title subdivision. The subject site currently contains 5 lots, with four of these lots below the PSLEP 2013 minimum lot size. The application proposes to consolidate and realign the existing boundaries resulting in 2 lots. The cadastral realignment of the site will result in the Muree Golf Course being contained entirely on one lot (Lot 1), and the seniors housing development, approved by Council staff under DA16-2022-414-1, being contained entirely on a separate lot (Lot 2). The proposed subdivision will result in the following allotments:

- Lot 1 - 1.5ha – containing the approved seniors housing development
- Lot 2 - 36.2ha – residual lot containing the Muree Golf Course.

No changes are proposed to the built form of the golf course or approved seniors housing development. The subdivision is required to create a separate development allotment from golf course owned land for the seniors housing development. The development does not seek consent for any physical works, only a 'paper' type subdivision.

Site Description

The site is comprised of 5 existing properties, known as 1C and 1A Freeth Street, 7 and 9 Walker Crescent, and 2A Elizabeth Avenue, Raymond Terrace. The site is currently operated as the Muree Golf Club. Vegetation corridors exist throughout the site, primarily between fairways. Access is provided from Walker Crescent to the west, with the club house and car parking located within the northern portion of the

site. The site is a highly modified environment as a result of the current use, however, the planted vegetation 'screens' which traverse the site act as modified habitat corridors.

Adelaide Street, which is part of the Old Pacific Highway, forms the eastern boundary of the site. The site is adjoined to the immediate north, and east by detached residential dwellings. Lands to the west of the site contain Council's Raymond Terrace Depot and Boomerang Park. Further to the west are detached residential dwellings and the Raymond Terrace town centre. To the south of the site is bushland and the Pacific Highway.

Site History

A Site Compatibility Certificate (SCC) for seniors housing was approved on 7 October 2020 by the Hunter and Central Coast Regional Planning Panel (HCCRPP) over the land proposed to be Lot 1 under the proposed subdivision.

The development partner, Lincoln Place, lodged a development application with Council for a seniors housing development in accordance with the SCC approved in October 2020. The Lincoln Place development application was approved on 23 June 2023 under DA16-2022-414-1. The approved seniors housing development comprised a staged construction of 6 residential flat buildings comprising 98 dwellings, relocation of existing shed, associated car parking, access roads, clearing, site works and landscaping.

The approval of the seniors housing development on the site (DA16-2022-414-1) is relevant to this subdivision as it will be contained on the proposed Lot 1.

Key Issues

The key issues identified in the assessment of the development relates to the lot size of proposed Lot 1 (1.5ha) which is a contravention of the standard under Clause 4.1 - minimum subdivision lot size of the PSLEP 2013. A detailed assessment of the development and proposed variation is contained within the Planner's Assessment Report provided at **(ATTACHMENT 3)**.

Minimum Lot Size

The proposed subdivision includes 1 lot (Lot 1) which is under the minimum lot size for the site prescribed under Clause 4.1 of the PSLEP 2013. Lot 1 is proposed to have a lot size of 1.5ha, which represents an 18.5ha departure from the 20ha minimum lot size.

A request to vary the minimum lot size development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. The request has been reviewed and the following is outlined in the variation request as grounds to vary the standard:

- The site currently contains 5 lots, 1 of which is 30.2 hectares with the others being 0.18ha, 0.05ha, 0.009ha, 0.36ha, and 0.002ha respectively. Therefore, 4 of the existing lots are currently undersized with a variation range of 90% to 99% to the 20ha PSLEP minimum lot size.
- The existing undersized lots are not of a size or configuration suitable to accommodate the proposed or other potential land uses permissible in the RE2 zone. The subdivision will create suitably sized allotments that can be developed appropriately in accordance with the RE2 zone objectives and Clause 4.1(a).
- The proposal will not result in the fragmentation of rural areas given its location within an urban area.
- The zone objectives and objectives of Clause 4.1 are achieved despite the non-compliance.
- The proposed subdivision makes better use of the available land by rationalising the historical and unorderly cadastral boundaries across the site.

Based on the above grounds, it is considered the zone objectives and objectives of Clause 4.3 are achieved despite the non-compliance. There are also sufficient environmental planning grounds to justify contravening the lot size standard and compliance with the standard is unnecessary in the circumstances of this application.

It is considered that the Clause 4.6 variation request provided by the applicant adequately demonstrates that there are sufficient environmental planning grounds to justify varying the minimum subdivision lot size standard. On this basis, the minimum subdivision lot size variation is recommended for support. A detailed assessment against Clause 4.6 is contained within the Planners Assessment Report **(ATTACHMENT 3)**.

Conclusion

As detailed in the Planner's Assessment Report **(ATTACHMENT 3)**, the application is considered to be consistent with the aims and objectives of the relevant environmental planning instruments applicable to the proposed development.

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

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		Development contributions are not applicable as no additional lots are proposed.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), Port Stephens Local Environmental Plan 2013 (PSLEP), Port Stephens Development Control Plan 2014 (DCP 2014) and associated State Environmental Planning Policies. A detailed assessment against these environmental planning instruments is contained within the Planner’s Assessment Report contained at **(ATTACHMENT 3)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
If the DA is approved, there is a risk that the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the recommendation.	Yes
If the DA is refused, there is a risk that 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 proposed development provides positive impacts including, the separation of the 18-hole golf course as a recreation asset and the proposed seniors housing development. This will facilitate the orderly development of additional housing stock

on the site to meet demand for seniors living. The subdivision will also allow for separation of on-site facilities, improved management of the golf course areas, thereby creating opportunities for combined social recreation and entertainment in a safe manner.

Impacts on the Built Environment

No physical works or changes to the built environment are proposed as part of the application. The proposed development is for subdivision only seeking to establish future allotments to better enable future development on the site. There are no adverse impacts on the built environment as a result of the proposed development.

Impacts on the Natural Environment

The proposed development does not propose any physical works and additionally, no vegetation is proposed to be removed. Therefore, there are no adverse impacts to the natural environment as a result of the proposal.

CONSULTATION

Consultation with internal sections and external referral agencies was undertaken, with no objections raised with regard to the proposed development. Consultation was undertaken with the public through the notification process.

An integrated referral was sent to the Rural Fire Service (RFS) due to the development being for subdivision of land that supports residential development and is identified as bushfire prone. The NSW Rural Fires Service provided General Terms of Agreement (GTAs) which are attached in the recommended conditions of consent at **(ATTACHMENT 1)**.

Public Exhibition

The DA was advertised and notified in accordance with the requirements of the Port Stephens Council Community Participation Plan. The application was exhibited for a period of 14 days from 10 July 2023 to 24 July 2023. During that time, no public submissions were received.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Recommended Conditions of Consent.
- 3) Planner's Assessment Report.

COUNCILLORS' ROOM

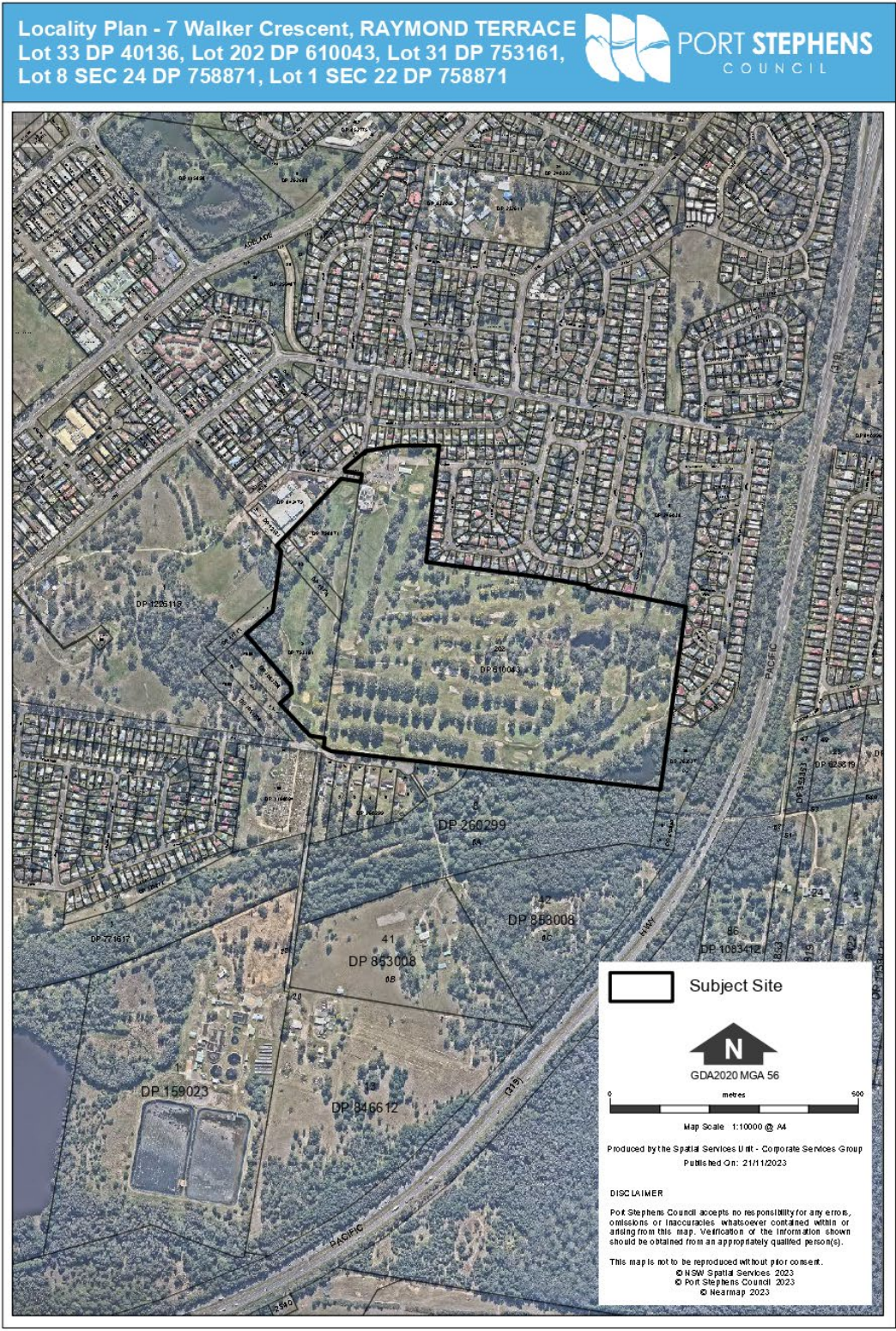
1) Development Plans (available via the Councillors' Dashboard).

Note: Any third party reports referenced in this report can be uploaded to the Councillors' Dashboard upon request.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 LOCALITY PLAN.



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

RECOMMENDED CONDITIONS OF CONSENT – DA 16-2023-215-1

1.0 - General Conditions of Consent

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

- (1) **General terms of approval** – The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development. The General Terms of Approval are:

1. NSW Rural Fire Service, DA20231018004691-Original-1, 7 November 2023

A copy of the General Terms of Approval is attached to this determination notice.

- (2) **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.
210910 DSUB, sheet 1 of 2	1	Plan of Proposed Subdivision	Mitchell Keith Ayers	11/11/2022
210910 DSUB, sheet 2 of 2	1	Plan of Proposed Subdivision	Mitchell Keith Ayers	11/11/2022

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. 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.

2.0 - Prior to Issue of a Subdivision Certificate

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

- (1) **Requirement for a Subdivision Certificate** - The application for Subdivision Certificate(s) must be made in accordance with the requirements of Section 54 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 and Section 6.33(1) Environmental Planning and Assessment Act 1979.

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 16-2023-215-1, and of compliance with the relevant conditions of consent, prior to the issuing of a Torrens Plan of Subdivision.

ITEM 3 - ATTACHMENT 2 RECOMMENDED CONDITIONS OF CONSENT.

In addition, one signed original copy of the original plans and/or documents, and final plan of survey/title, must be submitted to Council.

- (2) **Show easements / restrictions on the Plan of Subdivision** - The developer must acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.
- (3) **Subdivision Certificate** – The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all relevant works are complete.
- (4) **Services** - Evidence is to be provided to Council demonstrating that the following 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.

- (4) **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 to drain water benefitting Lot 1 and drainage easement/s over overland flow paths;
 - b) reciprocal rights of way;
 - c) a positive covenant/restriction for management of land as to user that recommendations of the approved Bushfire Assessment Report and RFS General Terms of approval be complied with;
 - d) easement benefitting Lot 1 over the on-site detention / water quality facility and for the maintenance, repair and insurance of the facility.

Advice Note(s):

- (1) **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.



- (2) **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.
- (3) **Works near/adjoining electricity network assets** – There are underground electricity network assets adjacent to the proposed development in Walker Crescent. Any works undertaken adjacent to Ausgrid assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables
- (4) **Council must be nominated as PCA for subdivision works** – Under Section 6.5 of the Environmental Planning & Assessment Act 1979, Council shall be nominated as the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.
- (5) **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.
- (6) **Street Numbering – Prior to Release of Subdivision Certificate**, (whichever occurs first) the approved dwellings are to be identified as follows:
 - a) Lot 1 – 9 Walker Crescent, RAYMOND TERRACE
 - b) Lot 2 – 7 Walker Crescent, RAYMOND TERRACE

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

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



**PORT STEPHENS
COUNCIL**

DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2023-215-1
Development Description	Five into Two Lot Subdivision
Applicant	STIMSON URBAN & REGIONAL PLANNING
Land owner	MUREE GOLF CLUB
Date of Lodgement	29/06/2023
Value of Works	\$0.00
Submissions	0

PROPERTY DETAILS

Property Address	1C Freeth Street RAYMOND TERRACE, 7 Walker Crescent RAYMOND TERRACE, 2A Elizabeth Avenue RAYMOND TERRACE, 9 Walker Crescent RAYMOND TERRACE, 1A Freeth Street RAYMOND TERRACE
Lot and DP	LOT: 33 DP: 40136, LOT: 202 DP: 610043, LOT: 31 DP: 753161, LOT: 8 SEC: 24 DP: 758871, LOT: 1 SEC: 22 DP: 758871
88B Restrictions on Title	Easement for sewerage and right of carriageway
Current Use	Outdoor Recreation Facility (Golf Course)
Zoning	RE2 PRIVATE RECREATION
Site Constraints	Weed Infestation; Bushfire Prone Land – Category 3 & 1, Vegetation Buffer; Acid Sulfate Soils – Class 5, 4, 2; Flood Prone Land; Biodiversity - Swift Parrot (SAll species); High Environmental Value; Consolidated CKPoM Koala Habitat Map – Preferred Koala Habitat Buffer & Link Over Marginal, Cleared Land & Other Vegetation, Supplementary Koala Habitat, Preferred Koala Habitat; Endangered Ecological Communities;

ITEM 3 - ATTACHMENT 3 PLANNER'S ASSESSMENT REPORT.

16-2023-215-1

	Contamination; Stormwater Drainage Problem Area; NSW Wildlife Atlas; Watercourses; Biodiversity Values; Height Trigger Map – RAAF Base Williamtown; Bird Strike – Group A and B.
State Environmental Planning Policies	State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021.

PROPOSAL

The development application seeks consent for a five into two lot Torrens title subdivision. The subject site currently contains five lots, with four of these lots below the minimum lot size. The application proposes to consolidate and realign the existing boundaries resulting in two lots. The cadastral realignment of the site will result in the Muree Golf Course being contained entirely on one lot (Lot 1), and the seniors housing development, approved by Council under DA16-2022-414-1, to be contained entirely on a separate lot (Lot 2). The proposed subdivision will result in the following allotments:

- Lot 1 - 1.5ha – containing the seniors housing development
- Lot 2 - 36.2ha – residual lot containing the Muree Golf Course

No changes are proposed to the built form of the golf course or seniors housing development. The subdivision proposed is required to create a separate development allotment from golf course owned land. Both lots are provided with vehicular access from Walker Crescent and a new internal access road to be constructed to Sabre Avenue. The proposal does not seek consent for any physical works, only the 'paper' subdivision.

In accordance with the Port Stephens Local Environmental Plan (PLSEP) 2013, the minimum lot size for the lots is 20ha. Therefore, proposed Lot 1 is non-compliant with Clause 4.1 of the PSLEP 2013 and proposes a 92.5% variation. Given the application proposes a variation over 10%, the proposal is required to be reported to Council for determination.

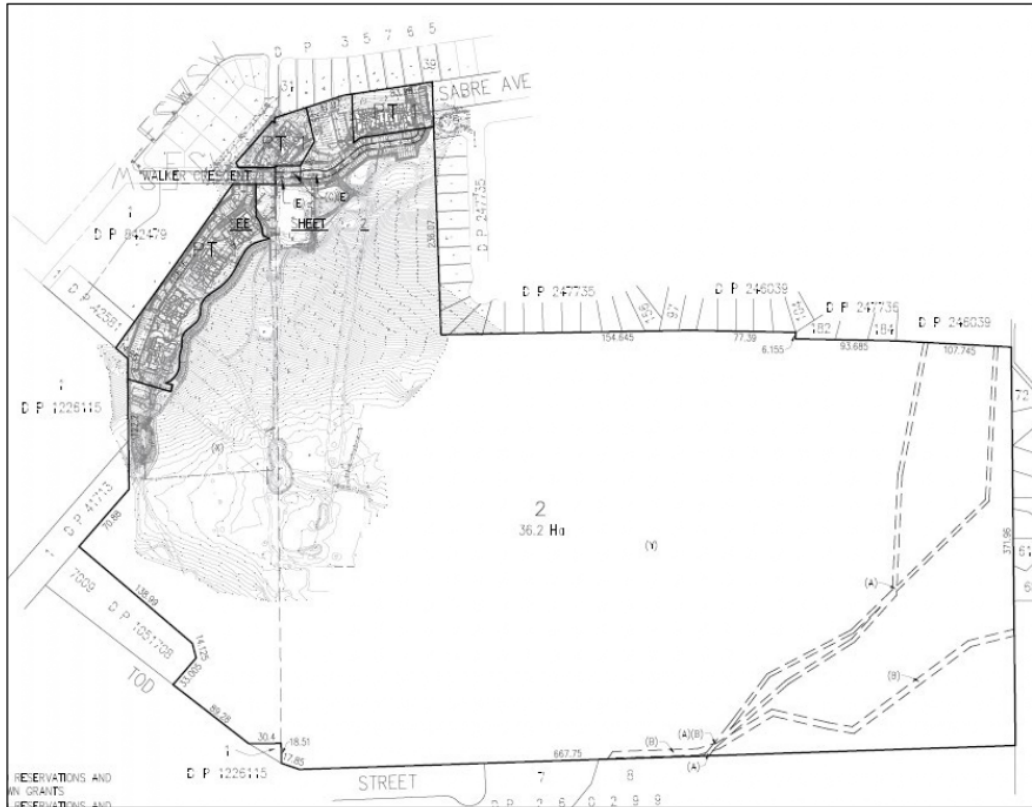


Figure 1: Proposed site plan

SITE DESCRIPTION

The site comprises five allotments in the same ownership having a total land area of approximately 36 hectares and is described as follows:

- **Lot 202, DP 610043** – 1A Freeth Street, Raymond Terrace
- **Lot 33, DP 40136** – 1C Freeth Street, Raymond Terrace
- **Lot 1, Sec 22, DP 758871** – 7 Walker Crescent, Raymond Terrace
- **Lot 8/24, DP758871** – 9 Walker Crescent, Raymond Terrace
- **Lot 31, DP 753161** – 2A Elizabeth Avenue, Raymond Terrace

The sites have the following existing attributes:

- **1A Freeth Street** – 1.875ha with direct access from Walker Crescent and contains part of the 9th hole, as well as ancillary buildings associated with green keeping operations.
- **1C Freeth Street** – 0.5714ha with no direct access and contains a part of holes 9 and 10.
- **7 Walker Avenue** – 30.259ha with direct access from Walker Crescent and contains holes 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, and 18, with a number of man-made dams. Ancillary structures such as the golf club and amenity buildings are also located on this lot.
- **9 Walker Avenue** – 0.0922ha with direct access from Walker Crescent and contains a grassed area used as overflow car parking.
- **2A Elizabeth Avenue** – 3.6283ha with direct access from Elizabeth Avenue and contains part of holes 8, 9, 10, and 11.

The site falls from a natural high point around the existing clubhouse building and car park. Overland flow and site drainage is directed to the ephemeral watercourse which connects with the Grahamstown drain. The site is a highly modified environment as a result of the current use, however, the planted vegetation 'screens' which traverse the site act as modified habitat corridors.

Adelaide Street, which is part of the Old Pacific Highway, forms the eastern boundary to commercial development and connects the township to the highway network at Heatherbrae to south and at Ferodale to the north. To the east of Adelaide Street, the land rises and transitions to a low-density residential environment typified by single, detached dwellings interspersed with small scale villa unit developments. Walker Crescent, a public road, extends into the site from its western edge.

The subject site is adjoined to the immediate north, and east by detached residential dwellings. Land to the west of the site contains a Council depot and Boomerang Park. Further to the west are detached residential dwellings and the Raymond Terrace town centre. To the south of the site is bushland and the Pacific Highway.

The Port Stephens Council Depot is found on adjoining Lot 1, DP 842479. The Depot contains an office, workshop, storage building, and parking areas. The workshop and storage building are located centrally within the Depot site.



Figure 2: Aerial GIS imagery of the current total subject site outlined in red



Figure 3: Aerial GIS imagery of the proposed lot 1 which will contain the Seniors Housing development approved under DA 16-2022-414-1 outlined in red and the Muree Golf Course on the proposed Lot 2 outlined in blue

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SITE HISTORY

On 9 August 2016 the Department of Planning and Environment issued a Site Compatibility Certificate (SCC) for the development of 61 self-contained seniors housing dwellings. The development was proposed by an alternative developer who did not proceed with preparing a development application under this SCC. The Club has since moved forward with a new development partner (Lincoln Place), for a seniors housing development approved on 23 June 2023 under DA16-2022-414-1.

A second Site Compatibility Certificate (SCC_2019_PORTS_001_00) was lodged 3 July 2019 and was considered and approved on 7 October 2020 by the Hunter and Central Coast Regional Planning Panel (HCCRPP) over the land proposed to be Lot 1 of this application. The SCC included a number of design conditions that were imposed by the HCCRPP and adopted as part of the design approved under DA16-2022-414-1.

The historic development approvals related to the site are detailed in the table below.

Application No.	Proposal Description	Determination	Date Determined
16-2002-939-1	Telecommunication Facility	Approved	06/09/2002
16-2005-606-1	Storage Area – Golf Carts	Approved	08/03/2006
16-2006-997-1	Addition to Club House (3 Open Verandahs)	AC Approved	05/12/2006
16-2008-782-1	Addition & Alteration to Existing Club	Approved	05/12/2006
16-2017-900-1	Seniors Housing	Withdrawn	14/12/2017
16-2022-414-1	Seniors Housing	Approved	02/06/2023

SITE INSPECTION DETAILS

A site inspection was carried out on 7 September 2023. The subject site can be seen in the photographs below.

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Photograph 1: View towards Walker Crescent and a portion of the proposed Lot 1



Photograph 2: View towards the club house and the proposed Lot 2

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Photograph 3: View of existing car parking



Photograph 4: View toward Sabre Avenue from the end of the parking area

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Photograph 5: View along the eastern boundary and existing 18th hole



Photograph 6: View towards club house, existing shed, and the 1st tee box



Photograph 7: View from the 9th hole fairway towards the clubhouse



Photograph 8: View from the clubhouse towards the western boundary

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Photograph 9: View from the 9th fairway towards the existing greenkeepers sheds



Photograph 10: View from the eastern boundary towards the Council Depot

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PLANNING ASSESSMENT

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the S4.15 Matters for Consideration below:

Internal

Development Engineering

Comment: No objections, application supported with conditions.

Spatial Services

Comment: No objections, application supported with conditions.

All internal referral officers have supported the application with conditions.

External (non-integrated)

Ausgrid

Comment: The application was referred to Ausgrid under the provisions of SEPP (Transport and Infrastructure) 2021 (SEPP Infrastructure) due to the development being within proximity to electricity assets and to provide advice on the supply of energy to the site. Ausgrid provided advice relating to works within close proximity to overhead powerlines and requisite safety distances. The advice noted that any relocation of powerlines is at full cost to the applicant. Ausgrid also provided advice on the process to connect future dwellings to the network.

Rural Fire Service (RFS)

Comment: The proposed development required an integrated referral under s100B of the Rural Fires Act 1997 due to the development including the subdivision of bush fire prone land that could lawfully be used for residential purposes. The approved seniors housing development approved under DA16-2022-414-1 is classified as a special fire protection purpose supporting a residential use. Accordingly, the application was referred to RFS and subsequently supported with conditions under Division 4.8 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

All external referral officers have supported the application with conditions.

Strategic Planning Framework

Hunter Regional Plan 2036 (2016)

The Hunter Regional Plan 2036, released in November 2016 is a 20-year strategy guiding the future development of the Hunter area, including the Greater Newcastle area. The plan provides an overarching framework to guide the future development of the Hunter as a leading regional economy, with a focus on maintaining and enriching biodiversity, enhancing communities and providing a greater choice of housing and jobs.

The Hunter Regional Plan (HRP) focuses on concentrating development in existing areas with good access to public transport, established services and infrastructure to increase the appeal of these places for new residents and enhance a sense of community. In addition, the HRP promotes a well-planned, functional and compact settlement that does not encroach on sensitive land uses. Expecting growth to occur in strategic centres, local centres and urban renewal corridors to support economic and population growth, as well as a mix of uses over the next 20 years.

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This is supported by the relevant planning directions:

Direction 20: Revitalise existing communities

Direction 21: Create a compact settlement

Direction 23: Grow centres and renewal corridors

It is noted that the proposed development is not within the nominated areas for the delivery of housing, but it is located in an existing area close to services and facilities and was supported under the Site Compatibility Certificate. The proposed subdivision will allow for the golf course and seniors housing development to be separated into separate allotments, which is considered to enable orderly development of housing for the area.

Greater Newcastle Metropolitan Plan 2036 (2018)

The Greater Newcastle Metropolitan Plan 2036 (GNMP) was launched on 17 September 2018 and comprises the first Metropolitan Plan for a non-capital city in Australia. The Plan outlines strategies for the delivery of services, infrastructure and development across the Greater Newcastle area. It prioritises the provision of additional housing in infill areas, aligned with the provision of infrastructure. The prioritised areas reflect those in the HRP, being strategic centres and urban renewal corridors. The GNMP sets a target for 60% of new dwellings in Greater Newcastle Councils being in infill areas. This is reinforced through Strategy 16: Prioritise the delivery of infill housing opportunities within existing urban areas and the action (16.1) to "focus new housing in existing urban areas, particularly within strategic centres and along urban renewal corridors".

The GNMP identifies that in 2016 the population of the Hunter Region aged 65 and over, represented 17.9% of the population and predicted that in 2036 this will increase to 23.5% of the Region's population. It also states that providing housing diversity and choice will improve affordability, help meet the needs of an ageing population and support the reduction of household size. To achieve increased housing, is accepted through a variety of housing types, including secondary dwellings, apartments, townhouses and villas.

The proposal for five into two Torrens title subdivision will result in the self-serviced seniors housing approved on the site being located on a separate allotment from the adjoining golf course, and to consolidate and rationalise the existing boundaries to better delineate the current development on the site. No changes are proposed to the built form or the approved structures, rather the intent of this development is to allow for future orderly development over the site. The proposal is considered to assist in achieving the strategic need for more diverse housing in order to meet the needs of an ageing population as recognised in the Metropolitan Plan.

The development will provide an opportunity for infill housing by providing accommodation that is suited to ageing in place.

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 and satisfies action 4.1 in the Port Stephens Local Strategic Planning Statement. Raymond Terrace is identified as an area that can provide opportunities for growing local centres through small scale renewal, for example townhouse redevelopments or shop top housing in centres. Raymond Terrace is identified as an attractive, affordable and vibrant centre with homes for people seeking shorter trips to work in Heatherbrae, Williamstown and Tomago, and easy access to other centres in Greater Newcastle. The Live Port Stephens Strategy prioritises infill housing developments in existing and well serviced regional centres, including Raymond Terrace. The proposed development is consistent with the Priority directions in the Live Port Stephens Strategy by enabling infill residential apartments on a site with minimal constraints and sufficient infrastructure to cater for increased demand and nearby services.

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

The proposed development required an integrated referral under s100B of the Rural Fires Act 1997 due to the development including the subdivision of bush fire prone land that could lawfully be used for residential purposes. The approved seniors housing development under DA 16-2022-414-1 is classified as a special fire protection purpose and is a residential in nature. Accordingly, the application was referred to RFS and subsequently supported with conditions under Division 4.8 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

General Terms of Approval (GTA) were issued by the RFS on 7 November 2023, include conditions related to the following:

- Asset Protection Zones;
- Construction Standards; and
- Water and Utility Services.

The GTAs have been attached to the recommended conditions.

Section 4.15 - Matters for consideration

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. The matters of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (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,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

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) 2021**Chapter 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.

Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Port Stephens Local Government Area. Section 4.8 requires that the application must be consistent with the approved Koala Plan of Management that applies to the site. In Port Stephens, the relevant plan is the Comprehensive Koala Plan of Management (CKPoM).

The site is identified as containing areas of Preferred Koala Habitat between the fairways and Supplementary Koala Habitat. The application does not propose to remove any trees or vegetation, and is therefore consistent with the CKPoM.

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.

A Detailed Site Investigation Report (DSI) and Remedial Action Plan prepared by Alliance (dated November 2021) was submitted with the seniors housing development application. Site investigations were undertaken for the site as part of the DSI, including fieldwork observations and soil testing. The DSI identified a number of unacceptable land contamination risks at the site, which require management and remediation, in order for the site to be suitable for the proposed land use.

Contamination and remediation will be managed under the seniors housing development approval (DA16-2022-414-1) in accordance with the approved Contamination Report and Remediation Action Plan. The subject subdivision proposal does not propose any physical works and is considered to be satisfactory subject to recommended conditions. As a result, the proposed development is satisfies the requirements of Chapter 4 of this SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021**Chapter 2 – Infrastructure**

Section 2.48(2) requires consultation with the local power authority – Ausgrid, where a development involves works in proximity to electrical utility infrastructure. The application was referred to Ausgrid, requesting comments about potential safety risks. In response, Ausgrid supported the development with conditions as noted above in this report.

State Environmental Planning Policy (Housing) 2021**Part 5 – Housing for Seniors or People with a Disability**

State Environmental Planning Policy (Housing) 2021 applies to development applications for the purposes of seniors housing. However, given the parent application (DA 16-2022-414-1) relies on a Site Compatibility Certificate which was issued on 7 October 2020, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 is the applicable instrument through savings and transitional provisions under Schedule 7 of SEPP Housing 2021.

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State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy (Housing for Senior and People with a Disability) 2004 (Seniors Housing SEPP) applies under transitional and savings provisions given the proposed development is for the purposes of seniors housing and relies upon a SCC. The purpose of the Seniors Housing SEPP is to encourage the provision of housing which meets the needs of seniors or people with a disability.

There are no design changes to the setbacks approved under DA 16-2022-414-1 in regard to distance of the seniors housing development to the adjoining zones, clubhouse, or ADG requirements.

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

The site is zoned RE2 Private Recreation. The site was granted development consent (DA16-2022-414-1) in July 2023 for a 'seniors housing (self-contained)' development, which is not permissible with consent in the RE2 Private Recreation Zone. Notwithstanding, a Site Compatibility Certificate (SCC) was issued by The Department of Planning Infrastructure and Environment on 7 October 2020, in accordance with Part 1A of SEPP Seniors Housing, which certifies that:

- The site is suitable for more intensive development.
- The development described in the SCC application will be compatible with the surrounding environment if the proposal is significantly modified.
- Development for the purposes of seniors housing of the kind proposed is compatible with the surrounding land uses only if it satisfies certain requirements specified in the SCC.

Part 1A of SEPP Seniors Housing enables permissibility of the development, notwithstanding the permissibility under the PSLEP.

The site contains Muree Golf Course, which is considered to be an outdoor recreation facility (golf course). The original application/approval cannot be found on Councils records systems as it is expected to date back to the 1940's. Notwithstanding, there are a number of approvals over the site which relate to the golf club and ancillary structures/restaurant. Outdoor recreation facilities (golf course), is permissible with consent in the RE2 Private Recreation zone.

The proposed subdivision will not impact the approved use nor its compliance with the objectives of the zone in that the site will continue to provide a recreational purpose on suitable land.

Clause 2.6 – Subdivision—consent requirements

Land to which this Plan applies may be subdivided, but only with development consent. The proposed development involves Torrens title subdivision which is permitted by this clause.

Clause 4.1 – Minimum Subdivision Lot Size

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

The subject site includes a minimum lot size of 20ha, and proposes a five into two lot subdivision.

The proposed allotments as a result of the subdivision are as follows:

- Lot 1 - 1.5ha – containing the seniors housing development
- Lot 2 - 36.2ha – residual lot containing the Muree Golf Course

As per the above, proposed Lot 2 exceeds the minimum lot size, however, proposed Lot 1 is non-compliant at 1.5 ha and proposes a 92.5% variation to the minimum lot size standard. As such, a Clause 4.6 variation has been prepared for the proposal and is provided at Attachment 1.

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Clause 4.6 – Exceptions to development standards

As discussed against clause 4.1 above, the application includes a proposed variation to the minimum lot size. The development standard is 20ha and the proposed lot size of the development is 1.5ha, representing a 92.5% variation.

A request to vary the lot size 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 outlined in the variation request:

- The site currently contains 5 lots, 1 of which is 30.2 hectares with the others being 0.18ha, 0.05ha, 0.009ha, 0.36ha, and 0.002ha respectively. Therefore, 4 existing lots are currently undersized with a range of 90% to 99% variation to the 20ha minimum.
- The existing undersized lots is not of a size or configuration suitable to accommodate other potential land uses permissible in the RE2 zone. The proposed subdivision will create a suitably sized lot that can be developed appropriately in accordance with the RE2 zone objectives and Clause 4.1(a).
- The proposal will not result in the fragmentation of rural areas given it is location within an urban area.
- The zone objectives and objectives of Clause 4.1 are achieved despite the non-compliance.

Based on the above, it is considered the zone objectives and objectives of Clause 4.3 are achieved despite the non-compliance. There are also sufficient environmental planning grounds to justify contravening the lot size standard and compliance with the standard is unnecessary in the circumstances of this application.

On this basis, the lot size variation is recommended for support. A detailed assessment against Section 4.6 is contained within **Attachment 1 - Clause 4.6 Assessment Report**.

In September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which changes the operation of the clause across all Local Environmental Plans. The amendment includes savings provisions that allow for development applications made on or before 1 November 2023 to be determined as if the changes had not commenced. Given the application was lodged before 1 November 2023, the Clause 4.6 has been assessed against the former Clause 4.6 provisions.

Clause 5.10 – Heritage conservation

The objectives of this clause are as follows—

- (a) *to conserve the environmental heritage of Port Stephens,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

In accordance with Clause 5.10.(4) the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

Aboriginal places of heritage significance

The seniors housing development application was submitted with an Aboriginal Heritage Information Management Systems (AHIMS) report, which searched an area of 1000m around the approximate centre of Muree Golf Course. Two recorded artefacts have previously been recorded in the southern part of Boomerang Park, well away from the subject site. The remaining recorded findings are

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located near the Pacific Highway and have no proximity to the proposed development. The future development footprint is limited to existing trafficable areas of the Muree golf course (including the workshop and associated pathways, as well as the club car park). Noting the application is for a paper subdivision with no physical works, impacts to Aboriginal heritage items are unlikely to occur.

European heritage

The site is not located within a heritage conservation area, nor are any items of local or state heritage significance located on the site. The nearby "Boomerang Park", including former stone quarry and mature tree planting are identified under Schedule 5 of the PSLEP as items of environmental heritage with local significance. The proposed development is not within close proximity to these items and consequently does not impact on the values that are recognised as part of the heritage significance of these items. There is significant separation between the proposed development, and those aspects of the heritage item that are considered contributory.

Noting the proximity of the development from any nearby Aboriginal artefacts or items of heritage significance, the proposal is not considered to have an adverse impact on Aboriginal or European heritage. Accordingly, the proposed development is consistent with the objectives of Clause 5.10.

Clause 5.21 – Flood Planning

Proposed Lot 2 is located on land mapped as being Flood Planning Area, with proposed Lot 1 being flood free. This area represents as an ephemeral stream from the north east that falls to the south west. The flooding category is considered to be appropriate for out outdoor recreation facility (golf course), and the development is for a paper subdivision which results in the consolidation of lots. As a result, the proposal will not have any adverse impacts to flood behaviour.

Clause 7.1 – Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject land is mapped as containing potential Class 2, 4, and 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below existing ground level and therefore it is not expected that acid sulfate soils would be encountered during works.

Clause 7.6 – Essential Services

Cause 7.6 provides that development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. The essential services include the following:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

The subject site is serviced by reticulated water, electricity and sewer. Further, the application has demonstrated that stormwater drainage resulting from future development areas can be catered for in accordance with Councils requirements. The subject land also maintains direct access to Walker Crescent, meeting the requirements of this clause.

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

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

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

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

CHAPTER B – GENERAL PROVISIONS**B1 – TREE MANAGEMENT**

This chapter applies to the removal or pruning of trees or other vegetation within non-rural areas and gives effect to SEPP (Biodiversity and Conservation) 2021 by listing those trees or other vegetation that require approval.

The application does not propose to remove any vegetation or trees. As a result, the development is compliant with the requirements of this section.

B2 – NATURAL RESOURCES

This chapter applies to development located within 500m of environmentally sensitive areas, development that contains koala habitat, noxious weeds or development that is seeking to use biodiversity credits. The site is partly mapped on the Biodiversity Values map. Large parts of the site and development area are already cleared of native vegetation and contain grassed fields or areas of physical ground disturbance. Due to the existing recreational land uses and other factors such as the adjacent residential areas, the development area contains relatively limited biodiversity value. The subdivision does not propose any vegetation or tree removal, and therefore is consistent with the requirements of this Chapter.

Given the ongoing management of the area for the purpose of a golf course, there is likely to be limited presence of any noxious weeds. Conditions have been included relating to management of noxious weeds if presence is discovered during site works.

B3 – ENVIRONMENTAL MANAGEMENT

Chapter B3 contains provisions relating to acid sulfate soils, noise, air quality and earthworks, as outlined in the following sections.

Acid Sulfate Soils

The objective of this section is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within clause 7.1 discussion above, 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 objectives and requirements of the DCP.

Noise

There are no physical works proposed as part of the development, therefore nuisance or offensive noise will not be emitted from the site.

Air Quality

The proposed Torrens title subdivision would not cause any ongoing air quality impacts as part of the development.

Earthworks

As discussed at clause 7.2 above, the proposed subdivision development does not involve earthworks.

B4 – DRAINAGE AND WATER QUALITY

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This section applies to development that:

- Increases impervious surfaces; or
- Drains to the public drainage system; or
- Involves a controlled activity within 40m of waterfront land.

The seniors housing development (DA16-2022-414-1) was approved with a stormwater management plan that includes adequate quality and quantity controls in accordance with the requirements of this section.

The approved stormwater management system has been designed according to the current version of the Port Stephens Council DCP, relevant PSC Technical Manuals, AS3500.3 Stormwater Drainage, and Australian Rainfall and Runoff. Stormwater runoff from the proposed development will be directed through a new in-ground pipe drainage network into underground/above ground detention system and on-site detention basin (OSD) located to the south of the proposed maintenance shed. Runoff from new roof areas of the proposed redevelopment will be directed to above-ground rainwater re-use tanks via a first-flush device. Re-use water will be available for use in toilets and some garden irrigation. Stormwater runoff from hardstands, car parks and vehicle access driveways will be directed to grated surface inlet pits and into the in-ground piped network.

Under DA 16-2022-414-1, Councils Development Engineer assessed the stormwater management design as being consistent with the Infrastructure Specification and requirements of B4 of the PSDCP.

The subject subdivision application was referred to Councils Development Engineer for review, and was supported with generic conditions. A condition of consent has been imposed for the resulting lots to be suitably burdened by covenants and downstream easements prior to the issue of a subdivision certificate (SC) which will ensure that all flows are contained and directed appropriately from the seniors housing development to the on-site detention basin.

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 above, the proposed development is acceptable in this regard.

B7 – HERITAGE

This section applies to development that is situated on land that contains a heritage item or within a heritage conservation area.

As discussed against Clause 5.10 above, the site is not located within a heritage conservation area, nor are any items of local or state heritage significance located on the site. Noting the application is for a paper subdivision with no physical works, impacts to Aboriginal and European heritage items are unlikely to occur.

B8 – ROAD NETWORK AND PARKING

This section applies to development with the potential to impact on the existing road network or create demand for on-site parking.

Traffic Impacts

Access to both new lots is suitably serviced via Walker Crescent and Sabre Avenue with conditions for physical completion of all upgrades required by DA16-2022-414-1 to be completed prior to release of a subdivision certificate (SC).

On-site Parking Provisions

This proposal does not seek consent for any physical works, only the paper subdivision. Parking considerations for the golf course and seniors housing development were assessed under DA 16-

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2022-414-1. As a result, the on-site parking provisions to the sites remain appropriate. No changes to parking arrangements are proposed under the subdivision application.

On-site Parking Access

This proposal does not seek consent for any physical works, only the paper subdivision. Parking considerations for the golf course and seniors housing development were assessed under DA 16-2022-414-1. As a result, the on-site parking access remains appropriate. No changes to access arrangements are proposed under the subdivision application.

CHAPTER C – DEVELOPMENT TYPES

The proposed development includes subdivision and therefore Chapter C1 is applicable.

C1 – SUBDIVISION

C1.A – All Subdivision – Lot Size and Dimensions

Objective

- To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements

Control

C1.1 – Lot size

Subdivision adheres with *Local Environmental Plan Part 4*.

Assessment

Proposed Lot 1 does not adhere with the Local Environmental Plan (LEP) minimum lot size map. Notwithstanding, an assessment of the variation under Clause 4.6 to vary the development standard pursuant to Clause 4.1 has been undertaken and found to be acceptable in this circumstance. The development seeks to consolidate and re-subdivide the site to enable Lot 1 to contain the approved seniors housing development that has been issued a site suitability certificate for that location, and Lot 2 will continue to be utilised as an outdoor recreation facility for the gold course.

This subdivision will not impact the current operations of the golf course or seniors housing development. The proposed subdivision will not impact the street frontage with access continuing to be provided from Walker Crescent. As a result, despite the numerical non-compliance, the development is considered to meet the objectives of this chapter. A detailed discussion on the proposed lot sizes is contained in **Attachment 1** of this report.

C1.B – All Subdivision – Street Trees

Objective

- To ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines

Control

C1.5 – Street tree requirements

Street trees are required as a component of the road reserve for the following:

- Residential subdivisions;
- Commercial subdivisions;
- Industrial subdivisions creating 10 or more lots.
 - Street trees are provided in accordance with the tree technical specification.

Tree Planting Guidelines of the tree technical specification provides guidance to the application of the tree technical specification to determine the total number of trees to be provided.

C1 – SUBDIVISION	
Assessment	Street trees are not proposed nor considered appropriate for the proposed subdivision.
C1.C – All Subdivision – Solar Access	
Objective	
<ul style="list-style-type: none"> To maximise solar access for residential dwellings 	
Control	<p><u>C1.7 – Solar access</u> Residential subdivision addresses the following guidelines for solar access. Any inconsistency clearly justifies how alternative energy efficiency is achieved.</p> <ul style="list-style-type: none"> Where possible, lots should be oriented to provide one axis within 30 degrees east and 20 west of true solar north; Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling; Topography and landform should inform the subdivision layout in order to maximise solar access opportunities.
Assessment	There are no residential dwellings on the site, however those nearby will not be impacted by the proposed subdivision. The senior's housing development considered solar access, and this application does not propose any changes to the approved built form.
C1.D – All Subdivision – Public Scale Drainage	
Objective	
<ul style="list-style-type: none"> To ensure further guidance is provided for subdivision that is consistent with B4 Drainage and Water Quality and the Infrastructure Specification (where relevant) 	
Control	<p><u>C1.8 – Inter-allotment drainage</u> Each lot must be able to be gravity drained through the drainage system to public drainage.</p>
Assessment	Stormwater management on site will remain unchanged by the subdivision proposal. Any future application on the site will be required to upgrade the stormwater management as required.
Control	<p><u>C1.9 – Inter-allotment drainage</u> Inter-allotment drainage may be required for subdivision where a lot does not drain directly to the road kerb.</p>
Assessment	The stormwater management plan approved under DA 16-2022-414-1 would require inter-allotment drainage benefitting Lot 1 over Lot 2. A condition of consent has been recommended for downstream easements to be formalised prior to the release of the subdivision certificate.
Control	<p><u>C1.10 – Drainage reserves</u> An overland flow path is provided for the 1% Annual Exceedance Probability (AEP) storm event and is a drainage reserve dedicated to Council as operational land.</p>

ITEM 3 - ATTACHMENT 3 PLANNER'S ASSESSMENT REPORT.

16-2023-215-1

C1 – SUBDIVISION	
Assessment	Stormwater management on site will remain unchanged by the proposal. Any future application on the site will be required to upgrade the stormwater management as required.

Section 4.15(1)(a)(iiia) – Any planning agreement or draft planning agreement entered into under section 7.4

No planning agreements, draft or otherwise, have been entered into under section 7.4.

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

There are no regulations applicable to the proposed development.

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

Social and Economic Impacts

The proposed development provides positive impacts including, the separation of the 18-hole golf course as a recreation asset, and the seniors housing development. This will facilitate the orderly development of additional of housing stock to meet demand for seniors living, additional on-site facilities, improved management of the golf course areas creating additional opportunities for social recreation and entertainment.

Impacts on the Built Environment

The proposed development will not have any adverse impacts to the built environment as these considerations have been assessed and considered as part of the seniors housing development under DA 16-2022-414-1. This application does not propose to alter, add or remove any items of the existing or approved built environment.

Impacts on the Natural Environment

The proposed development will not have any adverse impacts to the natural environment being for the purpose of a paper subdivision. This application does not propose to alter, add or remove any items of environmental significance.

The parent seniors housing development includes an approved stormwater water system that manages stormwater in accordance with Councils quantity and quality requirements. Accordingly, the impacts to the natural environment are acceptable and the proposal includes supplementary plantings consisting of primarily native plantings, improving the environmental value of the site.

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

The site is considered to be suitable for the proposed development having regard to the characteristics of the site, existing approvals and the locality within and the more immediate surrounding lands bordering Muree Golf Club and course grounds. The site has access to all relevant services and the proposed subdivision makes better use of the available land by rationalising complex and unorderly cadastral boundaries across the site. The application sufficiently addresses the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development. There are no site constraints that would prohibit the proposed development. The site is therefore considered suitable for the proposed development.

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

Page 23 of 24

16-2023-215-1

Public Submissions

The application was exhibited from 10 July 2023 to 24 July 2023 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 proposed development will allow for the orderly development and on-going management of both the seniors housing estate and the Muree Golf Course. There are no additional impacts to the built environment or built form from the subdivision. The proposed development will also contribute to the longevity of the Muree Golf Club operations by providing a suitable development that preserves the historic integrity of the site as a golf club, whilst separating it from the portion of the site for seniors housing.

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

Section 7.11 contributions to not apply as the subdivision would not result in additional dwelling opportunities.


DETERMINATION

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

JEREN R MYERS

Development Planner

(Community Futures)



PORT STEPHENS COUNCIL ATTACHMENT 1 – CLAUSE 4.6 ASSESSMENT REPORT

Clause 4.6 – Exceptions to Development Standards

In September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which changes the operation of the clause across all Local Environmental Plans. The amendment includes savings provisions that will allow for development applications made on or before 1 November 2023 to be determined as if the changes had not commenced. Given the application was lodged before 1 November, the Clause 4.6 has been assessed against the former Clause 4.6 provisions.

CLAUSE OBJECTIVES AND EXCLUSIONS

Clause 4.6(1) – Clause Objectives

Clause 4.6 provides a mechanism to vary the development standards, such as minimum lot size, prescribed within PSLEP2013. The objectives of the clause are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6(2) – Exclusions to the operation of clause 4.6

The development standard(s) is not excluded from the operation of clause 4.6 (Refer clauses 4.6(2); 4.6(6); and 4.6(8) of PSLEP).

PROPOSED REQUEST

Clause 4.6(3) – Request to vary development standards

The development application includes a written request to vary development standard(s) in the *Port Stephens Local Environmental Plan 2013* (PSLEP).

The relevant development standard(s) and the extent of the proposed variation(s) is:

Development Standard	Proposed Variation	Extent of Variation (%)
Clause 4.1(3) of the PSLEP	18.5ha	92.5%

As the proposed variation is greater than 10%, the development application will be determined by the elected Council.



Clause 4.6(3)(a) – Compliance is unreasonable or unnecessary

Clause 4.6(3)(a) requires the application to justify the contravention of the development standard(s) by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The Clause 4.6 request makes reference to *Wehbe v Pittwater Council* (2007) LEC 827 (*Wehbe*), to which Chief Justice Preston noted that the starting point with any request for a variation is to demonstrate that compliance with the development standard is unreasonable or unnecessary which should generally be started by showing the proposal can meet the objectives of the development standard. The Clause 4.6 request notes that that the objectives of the standard are achieved notwithstanding non-compliance with the standard in that:

- The proposed lot sizes are suitable for the purposes for which it is intended, without negatively impacting on nearby or adjoining sites.
- The proposal would not result in the fragmentation of rural areas given it is located within an urban area.
- The resultant lots will accommodate a seniors development and golf course that are considered to be compatible with the locality and intended zone objectives.

The applicant submits it would be unreasonable to enforce strict compliance of the standard given that the proposal satisfies the intent of the approved Site Compatibility Certificate, and:

- The proposal does not impact on the visual amenity or minimise loss of privacy or solar access.
- The applicant notes that the approved seniors housing development which is to be located on one of the resultant lots is a high quality design, having been the subject of a detailed assessment by the Hunter Regional Planning Panel, and Council's Urban Design Panel.
- The proposal provides a high-quality urban form and results in buildings that will contribute to a varying skyline given the height limit in this locality.
- The proposed development meets the objectives of the zone and the minimum lot size standard, and it contributes to the provision of necessary land uses within the Port Stephens LGA in locations that are in close proximity to services and facilities.

Notwithstanding the comments and observations made above, many positive outcomes arising from this development proposal support the 'unnecessary' application of the development standards. As proposed, the development includes the following key aspects in support of the variations sought:

- The proposed subdivision will have no perceptible impact on existing or future development.



PORT STEPHENS
COUNCIL

ATTACHMENT 1 – CLAUSE 4.6 ASSESSMENT REPORT

- The subdivision is required to allow for the future seniors housing development to be established separately to the operation of the golf club.
- There is no relationship between the design of the proposed development and the outcomes sought as part of this application.
- The application will result in a consolidation of historic titles for the golf club which is seen as a positive outcome.
- The existing cadastral boundaries of the site are complex and unorderly with no clear delineation of uses or site features.

Clause 4.6(3)(b) – Sufficient environmental planning grounds

Clause 4.6(3)(b) requires an application to justify the contravention of the development standard(s) by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

In the matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC, it was found that an application under Clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater* [2007] NSW LEC 827 and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP.
- Whether there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity).
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs; and
- All three elements of clause 4.6 have to be met and it is best to have different reasons for each, but it is not essential.

The applicant submits that the potential environmental planning benefits justify the contravention of the development standard for the following reasons:

- The creation of the proposed lots are required to facilitate the future development of the site for seniors living purposes, while minimising impacts to the function and operation of the golf club.
- There will be no negative design or built environmental outcomes arising as a result of supporting the variation.



PORT STEPHENS
COUNCIL

ATTACHMENT 1 – CLAUSE 4.6 ASSESSMENT REPORT

ASSESSMENT

Clause 4.6(4) – Assessment of request to vary development standards

Clause 4.6(4)(a)(i) - Adequacy of the applicant's request

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied the Clause 4.6 Application has adequately addressed the matters set out in clause 4.6(3) of the PSLEP listed above.

As stated in the preceding section, in *Wehbe* the Land and Environment Court identified five ways in which a request to vary a development standard may be determined to be well founded. These reasons include:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard,
2. The underlying objective or purpose of the development standard is not relevant to the development,
3. The objective or purpose of the development standard would be defeated or thwarted if compliance was required,
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard, and
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as applied to the land.

The applicant's Clause 4.6 Variation request asserts that compliance with Clause 4.1 (minimum lot size) is unreasonable or unnecessary having regard to the first test set down in *Wehbe*, being that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

Having regard to the first test set down in *Wehbe*, it is noted that the objectives of Clause 4.1 is to ensure lot sizes are able to accommodate development that is suitable for its purpose and to prevent the fragmentation of rural areas.

The site currently contains 5 lots, 1 of which is 30.2 hectares with the others being 0.18ha, 0.05ha, 0.009ha, 0.36ha, and 0.002ha. Therefore, four (4) existing lots are currently undersized with a range of 90% to 99% variation to the 20ha minimum. The proposal seeks to reconfigure the existing lot layout, to create orderly allotments that will accommodate the seniors housing development and existing golf course, both of which are considered to be consistent with the RE2 zoning objectives.

Proposed Lot 1 will contain the approved seniors housing development approved under DA 16-2022-414-1, with a Site Suitability Certificate provided by the NSW government to support this development.



PORT STEPHENS
COUNCIL

ATTACHMENT 1 – CLAUSE 4.6 ASSESSMENT REPORT

Moreover, the site is not located within a rural zone nor will it result in the fragmentation of rural area.

On this basis, the objectives of Clause 4.1 are achieved, notwithstanding the non-compliance and therefore compliance with the standard is unnecessary in this instance. Moreover, the proposed subdivision makes better use of the available land by rationalising the historic complex and unordered cadastral boundaries that exist across the site.

The second, third, fourth and fifth tests set down in *Wehbe* are not considered relevant to the current application, for the reasons set out below:

- The underlying purpose and objective of the minimum lot size standard are still relevant to the development,
- The objective or purpose of the development standard would not be defeated or thwarted if compliance was required,
- The development standard has not been abandoned or destroyed as the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard.
- The zoning of the subject site is suitable.

Clause 4.6(4)(a)(ii) - Public interest – consistency with objectives of the standard and objectives of the zone

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

As outlined above, notwithstanding the non-compliance with the standard, the objectives of clause 4.1 are achieved noting that the proposed subdivision would facilitate future development on the site suitable to the zone whilst not resulting in the fragmentation of rural areas. Furthermore, the proposal is consistent with the zoning objectives in that the proposed subdivision will not result in any environmental impacts, create unreasonable demand on services or conflict with any natural hazards. Rather, the subdivision will facilitate additional development on the site which will contribute to providing compatible land uses in a recreational setting.

Clause 4.6(4)(b) - Concurrence of the Secretary

In accordance with the assumed concurrence, notified in [Planning Circular PS 08-003](#), the concurrence of the Secretary has been obtained (Clause 4.6(4)(b) of PSLEP).



PORT STEPHENS
COUNCIL

ATTACHMENT 1 – CLAUSE 4.6 ASSESSMENT REPORT

CONCLUSION

The proposed development is considered to be consistent with the objectives of Clause 4.6 given it will achieve better outcomes for and from the development in these particular circumstances because the objectives of the development standard are achieved notwithstanding non-compliance and the proposal is considered to be appropriate in the context of the site.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

302	Councillor Giacomo Arnott Councillor Glen Dunkley It was resolved that Notice of Motion 1 be brought forward and dealt prior to item 4.
------------	---

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

Those against the Motion: Nil.

The motion was carried.

NOTICE OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 23/327050

EDRMS NO: PSC2021-04195

TOMAREE LODGE

MAYOR: RYAN PALMER

THAT COUNCIL:

- 1) Congratulates the community and the Tomaree Headland Heritage Group for their tireless advocacy on the future use of Tomaree Lodge.
- 2) Takes a strategic leadership role by demonstrating to the NSW Government its interest in the future of the Tomaree Lodge.
- 3) Explores operational options and future management options that do not negatively affect Council's finances, with the community, the Tomaree Headland Heritage Group and any other interested groups.
- 4) Commits to playing a role in planning the future of the Tomaree Lodge site being led by the NSW Government, including taking the necessary steps to formally establish a Master Plan.
- 5) Acknowledges that currently up to \$1.8 million is being spent on security and maintenance of the site and request that the NSW Government commits some of this funding be put forward for future planning.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

303	<p>Mayor Ryan Palmer Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Congratulates the community and the Tomaree Headland Heritage Group for their tireless advocacy on the future use of Tomaree Lodge.2) Takes a strategic leadership role by demonstrating to the NSW Government its interest in the future of the Tomaree Lodge.3) Explores operational options and future management options that do not negatively affect Council's finances, with the community, the Tomaree Headland Heritage Group and any other interested groups.4) Commits to playing a role in planning the future of the Tomaree Lodge site being led by the NSW Government, including taking the necessary steps to formally establish a Master Plan.
------------	--

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

- | | |
|--|--|
| | 5) Acknowledges that currently up to \$1 million is being spent on security and maintenance of the site and request that the NSW Government commits some of this funding be put forward for future planning. |
|--|--|

Councillor Peter Francis returned to the meeting at 7:33pm.

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

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: STEVEN PEART – COMMUNITY FUTURES DIRECTOR

BACKGROUND

Port Stephens Council (Council) understands that the Tomaree Lodge site holds significant value to the Port Stephens local community.

Council supports the NSW Government's commitment to retain the site in public hands for public and recreational use.

Council made a submission to the Department of Communities and Justice (DCJ) on 23 December 2022 as part of the Future use of Tomaree Lodge consultation process (**ATTACHMENT 1**).

More than 500 survey responses and submissions were received throughout the consultation process, which DCJ is now collating and assessing. This included a number of submissions from local community groups, including that of Tomaree Headland Heritage Group.

It is understood that DCJ continues to consider options for Tomaree Lodge, and remains committed to retaining the site for public and recreational use, in ways that celebrate its heritage significance, cultural importance and protect its unspoilt beauty and environmental value.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

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

ATTACHMENTS

- 1) Tomaree Lodge - Submission - 23 December 2023.

ITEM 1 - ATTACHMENT 1 TOMAREE LODGE - SUBMISSION - 23 DECEMBER 2023.

NSW Department of Communities and Justice
Locked Bag 5000
Parramatta NSW 2124
Via Email: tomaree@facns.nsw.gov.au

Future use of Tomaree Lodge.

The NSW Government has confirmed its commitment to retain the Tomaree Lodge Site at Port Stephens for community use.

As part of this commitment, the NSW Government is now seeking input from the community to help inform decision making on the future of the site. The following considerations are guiding this process:

- The NSW Government seeks ideas that will then be weighed and considered against parameters such as community benefit, cultural and heritage considerations.
- The NSW Government has determined that the site will remain in the public's hands for community and recreational use only.
- The site cannot be sold, re-developed, used for residential purposes, or loaned out to commercial interests.

Port Stephens Council understands the significance of the Tomaree Lodge site and the value this site holds within our local community.

Council acknowledges the importance of the greater Tomaree Headland and its deep cultural connection to Aboriginal people. This site also has a strong connection to European history, architecture and military heritage which is recognised through the site's listing on the State Heritage Register.

The site is located adjacent to key State conservation areas in the Tomaree National Park and the Port Stephens Great Lakes Marine Park. The site has significant environmental value and is home to a range of important flora and fauna species. Council strongly supports the NSW Government's commitment to retaining the site in public hands.

In considering the options for the future use of the Tomaree Lodge, Council is supportive of an approach that ensures future use is respectful of the sites important history, is accessible to the entire community, is safe in design, is sensitive to the sites environmental value and is subject to a sustainable operating model that ensures a high quality community and visitor experience into the future.

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ITEM 1 - ATTACHMENT 1 TOMAREE LODGE - SUBMISSION - 23 DECEMBER 2023.



In this regard, Council believes the following priorities should be clearly defined prior to making further commitments to the future of the Tomaree Lodge:

The State;

- Reaches agreement and definition of strategic principles for the site to guide future uses and decision making
- Ensures that any future use of the site gives sufficient consideration and design response to the wider Shoal Bay area
- Completes sufficient matters of due diligence to ensure that unexpected or unforeseen issues are not passed on to any potential management body
- Completes sufficient community consultation and engagement relating to any potential future uses being considered beyond this exhibition process
- Ensures that a framework for future site management and operations is developed concurrently to provide visibility and awareness of running costs and constraints to any potential management body

In order for potential management bodies to make an informed decision about future uses of the site, Council encourages the NSW Government to prepare and publically release due diligence documentation.

Port Stephens Council looks forward to continuing to work with the NSW Government and key stakeholder groups like the Worimi Local Aboriginal Land Council and Tomaree Lodge Heritage Group in exploring the future of the Tomaree Lodge site.



Mayor Ryan Palmer
Port Stephens
Dec 23, 2022



Tim Crosdale
General Manager
Port Stephens Council

Telephone enquiries
Mathew Egan – Principal Strategic Planner
(02) 4988 0121
Please quote file no: PSC2016-02097-0002



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COUNCIL REPORTS

ITEM NO. 4

**FILE NO: 23/159335
EDRMS NO: PSC2016-02183**

DISPLAY OF DEVELOPMENT APPLICATION INFORMATION ON DA TRACKER

REPORT OF: EVERT GROBBELAAR - DEVELOPMENT AND COMPLIANCE
SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Continues to display DA information during the notification period in accordance with the requirements of the Environmental Planning and Assessment Act 1979 (EP&A).
-

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

304	<p>Councillor Giacomo Arnott Councillor Jason Wells</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1. Notes its desire to improve transparency and access to information for the public.2. Requests the General Manager to:<ol style="list-style-type: none">a) From 1 February 2024, retain all published development application (DA) documents on the DA Tracker in perpetuity on the DA Tracker website in the same form as when it was published. Retention of DA documents should not be retrospective for DA's submitted prior to 1 February 2024.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Mayor Ryan Palmer.

The motion was carried.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
AMENDMENT**

	<p>Mayor Ryan Palmer Councillor Glen Dunkley</p> <p>That Council defer the item to a Council meeting in early 2024 following a Two Way Conversation/workshop with the Mayor and Councillors.</p>
--	--

Those for the Motion: Mayor Ryan Palmer, Crs Glen Dunkley and Steve Tucker.

Those against the Motion: Crs Leah Anderson, Giacomo Arnott, Peter Francis, Peter Kafer and Jason Wells.

The motion was lost.

BACKGROUND

The purpose of this report is to present information relating to displaying development application information on Council's DA Tracker. At its meeting of 11 April 2023, Minute No. 103 (**ATTACHMENT 1**), Council endorsed a Notice of Motion (NoM) requesting "a report back to Council with benchmarking and recommendations on how to display the documents associated with all DAs on the DA Tracker system on Council's website, and how long those documents should be available for after they are uploaded".

Council has an obligation to make Council records available subject to various pieces of legislation; including the Government Information (Public Access) Act 2009 (NSW) (GIPA Act), Copyright Act 1968 and the Environmental Planning and Assessment Act 1979 (EP&A Act). Council endeavours to provide access, through other means where possible.

Council makes development application (DA) information available to members of the public during the notification period as stipulated by the EP&A Act. The EP&A Act provides a level of protection with respect to copyright during the public exhibition period, however once outside of the allowable notification period, the DA information is removed from the DA tracker in order to not constitute an infringement of Copyright.

In addition, the Information and Privacy Commission (NSW) (the IPC) released a knowledge update, dated December 2019, entitled 'The GIPA Act and Copyright', which outlines the issues faced by local councils in navigating the conflicting requirements under the Copyright Act, GIPA Act and the EP&A Act. The IPC recommends that local councils should not publish any copyright material on websites or provide any copies (including by email) under the GIPA Act unless the copyright owner has expressly consented. However, for the purpose of fulfilling

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Council's functions under the EP&A Act, councils should continue to provide copies of DA plans and other copyright material, relying on the indemnity afforded through the notification period as stipulated by the EP&A Act.

As such, the display of additional DA information online outside of the notification period as stipulated by the EP&A Act would be deemed in contravention of the GIPA requirements.

Based on the benchmarking and review of Council's legal obligations, it is recommended Council continue to only display DA information during the notification period, in accordance with the Environmental Planning and Assessment Act 1979 (EP&A) and Government Information (Public Access) Act 2009 (GIPA).

Post determination of a development application, DA information is available through the GIPA Act process.

Council considered a Notice of Motion at its meeting on 13 July 2021 (**ATTACHMENT 2**), which provides additional background to Council's obligations and the process in dealing with requests for access to information.

Council should be mindful that if an alternate recommendation is endorsed, there remains a risk that such an endorsement could be deemed unlawful and in contravention of legislation such as the Copyright Act 1968, the Government Information (Public Access) Act 2019 and the Privacy and Personal Information Protection Act 1998.

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

Council could be challenged on providing information in perpetuity on DA Tracker, in contravention to GIPA.

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if Council publishes DA plans and other documents outside of the notification period under the EP&A Act, legal indemnification may not be afforded.	Medium	Accept the recommendation.	Yes

CONSULTATION

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

Internal

Consultation has been undertaken with Council's Governance Section Manager and the Executive Team.

External

Benchmarking of other Councils was undertaken which found varying results in relation to displaying documents on DA Tracker either during exhibition or in perpetuity.

OPTIONS

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

ATTACHMENTS

- 1) Council Minute No. 103, 11 April 2023.
- 2) Notice of Motion - 13 July 2021.

COUNCILLORS' ROOM

- 1) Benchmarking Data.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023**NOTICE OF MOTION****ITEM NO. 3****FILE NO: 23/82198****EDRMS NO: PSC2021-04195****DEVELOPMENT APPLICATION INFORMATION****COUNCILLOR: GIACOMO ARNOTT****THAT COUNCIL:**

- 1) Notes that Dungog Council, Upper Hunter Council, Canterbury-Bankstown Council, Woollahra Council and many others currently display the name of the owner of sites on their DA Tracker websites hosted in their Council's websites.
- 2) Notes that many other Councils currently retain all DA documents on their websites, from when the documents are lodged and in perpetuity.
- 3) Agrees that this information being displayed to the community is important for transparency, accountability and to ensure that the community has faith in Council's governance system for DAs.
- 4) Requests the General Manager to:
 - a) Begin displaying the name of the owner of sites in a new field on the DA Tracker system on Council's website starting as soon as possible, but from 1 June 2023 at the latest, along with the name of the Applicant as is current practice.
 - b) Provide a report back to Council with benchmarking and recommendations on how to display the documents associated with all DAs on the DA Tracker system on Council's website, and how long those documents should be available for after they are uploaded.
 - c) Prepare a new system for anyone who makes a submission on a DA, whereby each submitter is provided with the option of having their name and/or suburb made public on their submission, or having it redacted.
 - d) Ensure that the contents of a submission to a DA are made available for the public, except where those submissions identify other individuals who have not consented to having their information provided in the submission.

**ORDINARY COUNCIL MEETING - 11 APRIL 2023
MOTION**

103	Councillor Giacomo Arnott Councillor Steve Tucker
	It was resolved that Council:

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

- 1) Notes that Dungog Council, Upper Hunter Council, Canterbury-Bankstown Council, Woollahra Council and many others currently display the name of the owner of sites on their DA Tracker websites hosted in their Council's websites.
- 2) Notes that many other Councils currently retain all DA documents on their websites, from when the documents are lodged and in perpetuity.
- 3) Agrees that this information being displayed to the community is important for transparency, accountability and to ensure that the community has faith in Council's governance system for DAs.
- 4) Requests the General Manager to:
 - a) Begin displaying the name of the owner of sites in a new field on the DA Tracker system on Council's website starting as soon as possible, but from 1 June 2023 at the latest, along with the name of the Applicant as is current practice.
 - b) Provide a report back to Council with benchmarking and recommendations on how to display the documents associated with all DAs on the DA Tracker system on Council's website, and how long those documents should be available for after they are uploaded.
 - c) Prepare a new system for anyone who makes a submission on a DA, whereby each submitter is provided with the option of having their name and/or suburb made public on their submission, or having it redacted.
 - d) Ensure that the contents of a submission to a DA are made available for the public, except where those submissions identify other individuals who have not consented to having their information provided in the submission.

Those for the Motion: 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.

**BACKGROUND REPORT OF: STEVEN PEART – GROUP MANAGER
DEVELOPMENT SERVICES**
BACKGROUND
Display of Development Application Information

Council has implemented an ePlanning system which includes an online portal (DA Tracker) where members of the public can view the status of development

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

applications (DAs) under assessment, view submissions and obtain copies of the final determination.

The plans and documentation lodged with the DA are available to view during the exhibition period. The intent of the ePlanning system is to provide greater customer service and transparency by enabling members of the public to view plans online and to reduce the amount of staff time spent answering basic development questions.

The implementation of the ePlanning system raised the question of Council's copyright obligations in respect of DA matters as a disparity exists between State and Federal legislation relating to the provision of information by Council for public consumption. The Environmental Planning and Assessment Act 1979 (NSW) and the Government Information (Public Access) Act 2009 (NSW) both encourage transparency and the provision of information to the public, however, there is a view that DA plans and documentation are protected by the Copyright Act 1968 (Cth).

Consequently, there is a conflict between Council's obligations to make certain information relating to DAs publicly available for the public interest and transparency purposes, and the restrictions on Council under the Copyright Act.

Despite the risk of copyright infringement, other Councils currently publish DA information online and more Councils appear to be taking this approach in the interest of improved transparency.

Display of land ownership and submissions

DA information that is submitted by an applicant for a DA and also public submissions received on DAs contain a significant amount of personal information.

This means that the balancing test under s13 of the GIPA Act must be undertaken with regard to information access. Council must consider whether there is an overriding public interest against disclosure of information if there are public interest considerations against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure.

The Information and Privacy Commission has published Guideline 3: For local government – personal information in development applications. This provides direction to Councils on publishing information on the website, which is to the whole at large.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

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

ATTACHMENTS

Nil.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

Councillor Chris Doohan left the meeting at 9:13pm.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 21/177266

EDRMS NO: PSC2017-00019

PUBLICATION OF DEVELOPMENT APPLICATION INFORMATION

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes its desire to engage meaningfully with the public through the Development Application process.
- 2) Makes all information on Development Applications accessible via DA Tracker in perpetuity.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

178	<p>Councillor Giacomo Arnott</p> <p>Mayor Ryan Palmer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Notes its desire to engage meaningfully with the public through the DA process.2) Seek external legal advice on how to reduce the risk to Council in making DA information more accessible to the public via online methods and consideration of:<ul style="list-style-type: none">• publishing DA information online until the determination of the DA; and• following determination publishing the stamped plans which are to remain online in perpetuity.3) Seek OLG and Dept of Planning advice.
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Councillor Chris Doohan returned to the meeting at 9:18pm prior to voting.

The motion was carried.

MINUTES ORDINARY COUNCIL - 13 JULY 2021**BACKGROUND REPORT OF: KATE DRINAN – ACTING GROUP MANAGER
DEVELOPMENT SERVICES****BACKGROUND**

Council's endorsed Community Engagement Strategy (CES) reflects its commitment to involving the community in effective engagement during the development assessment process. Section 2 of the CES – Community Participation Plan (CPP) sets out how and when Council will engage the community across our planning functions under the Environment Planning and Assessment Act 1979 (EP&A Act). The CPP includes the mandatory requirements for notification and advertising of development applications.

Council has an obligation to make Council records available subject to various pieces of legislation (including the Government Information (Public Access) Act 2009 (NSW), Copyright Act 1968 and the EP&A Act). Council endeavours to provide access, through other means where possible.

Council makes development application (DA) information available to members of the public during the notification period as stipulated by the EP&A Act. Council is permitted to display this information, contrary to the narrow provisions provided under the Copyright Act. Once outside of the allowable notification period, the DA information is removed from the DA tracker in order to not constitute an infringement of Copyright.

Outside of the notification period, the DA information is available to view at the Council administration building.

Council's position on the publication of DA information is based on a number of factors, including:

1. Requirements of the Government Information (Public Access) Act 2009.
2. Requirements of the Copyright Act 1968.
3. Requirements of the Environmental Planning and Assessment Act 1979.
4. NSW Civil & Administrative Tribunal decisions, namely:
 - a) Sandy v Kiama Municipal Council [2019] NSWCATAD 49
 - b) Hoggett v Campbelltown City Council [2019] NSWCATAD 258
 - c) Amos v Central Coast Council [2018] NSWCATAD 101
 - d) Brown v Wingecarribee Shire Council (No 2) [2020] NSWCATAD 225
5. Information and Privacy Commission's factsheet.
6. Advice from the Privacy Commissioner.
7. Council's consideration of legal advice.

MINUTES ORDINARY COUNCIL - 13 JULY 2021

- 8. Potential liability impacts as a result of a breach.
- 9. The GIPA Act provides no protection for officers under s113 of the GIPA Act. Further explanation provided in the Information and Privacy Commission's factsheet.

Council should be mindful if such a motion is passed it would be deemed unlawful and in contravention of legislation such as the Copyright Act 1968, the Government Information (Public Access) Act 2019 and the Privacy and Personal Information Protection 1998. As such, if passed, the General Manager may not be able to implement the resolution of Council.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Internal resources. A risk based approach to the publishing of DA information may have financial implications which have not been budgeted for.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

ATTACHMENTS

Nil.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Mayor Ryan Palmer vacated the chair and left the meeting at 8.09pm.
Councillor Glen Dunkley left the meeting at 8.10pm.

The Deputy Mayor, Cr Leah Anderson chaired the meeting in the absence of the Mayor.

ITEM NO. 5

FILE NO: 23/169887
EDRMS NO: PSC2021-00320-0009

DRAFT SHOAL BAY PLACE PLAN

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the draft Shoal Bay Place Plan Engagement Report (**ATTACHMENT 1**).
- 2) Endorses the draft Shoal Bay Place Plan (**ATTACHMENT 2**) to be placed on public exhibition from 29 January 2024 to 25 February 2024. Should no submission be received, the draft Shoal Bay Place Plan be adopted, without further report to Council.

ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION

305	<p>Councillor Leah Anderson Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Notes the draft Shoal Bay Place Plan Engagement Report (ATTACHMENT 1).2) Endorses the draft Shoal Bay Place Plan (ATTACHMENT 2) to be placed on public exhibition from 29 January 2024 to 25 February 2024. Should no submission be received, the draft Shoal Bay Place Plan be adopted, without further report to Council.
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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, 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 exhibit the draft Shoal Bay Place Plan (**ATTACHMENT 2**) from 29 January 2024 to 25 February 2024. This time frame allows for the Christmas holiday period, provides opportunity for engagement during the Public Exhibition period and alignment with other key engagement activities, including the Port Stephens Housing Strategy Review.

Place Plans are plans that put people and places first. Place Plans start with our community values and priorities, and identify the unique local character of a place and the ways our community can shape, enhance or protect these aspects.

A Place Plan is guided by strategic documents and puts a local filter on all of Council's existing strategies to make one easy-to-read, action-oriented plan. It also includes an analysis of potential opportunities for a place in line with the community's vision. Actions in Place Plans guide the way we plan for future land use, invest in new infrastructure, attract investment, and activate our streets.

The draft Shoal Bay Place Plan aims to build on the community's values and priorities that are performing well and puts a focus on the elements that require improvement. Council held a series of workshops, surveys and meetings with the local businesses and community members to explore these priorities and ideas for Shoal Bay in more detail (**ATTACHMENT 1**).

As an outcome of this engagement, the draft Shoal Bay Place Plan responds to these priorities by including key actions relating to:

- Encouraging community involvement and community led projects
- The preparation of a draft Smart Parking Infrastructure Plan
- Investigation of the potential for infill housing delivery in the local area.

Community involvement

The Shoal Bay Place Plan includes a range of actions that can be undertaken by the community and local businesses with the support of Council. These actions have been developed through extensive consultation undertaken during the development of the Place Plan. Key projects are mapped in the draft Shoal Bay Place Plan and will be used to inspire and encourage community led improvements.

Smart Parking Infrastructure Plan

At its meeting of 26 September 2023, Minute No. 218 (**ATTACHMENT 3**), Council considered a report seeking support for the introduction of Smart Parking and installation of Smart Parking infrastructure in Shoal Bay.

A draft Smart Parking Infrastructure Plan (SPIP) has been developed and includes a list of potential projects that would be funded by Smart Parking revenue. The SPIP has been compiled based on the outcomes of the technical investigations and feedback from Council. Community engagement has been undertaken on the Smart Parking program which included feedback on the draft SPIP and changes to parking regulations in the Shoal Bay area.

Reported previously to Council, noting that the draft SPIP would be included in the Shoal Bay Place Plan, allowing for further engagement activities to be integrated into the public exhibition period for the draft Place Plan. This will provide the community with an extra opportunity to review the proposed SPIP and make comments prior to the Shoal Bay Place Plan being adopted.

Investigation of infill housing opportunities

Council is currently undertaking a review of the Local Housing Strategy in response to the NSW housing crisis. As part of this work, Port Stephens has been reviewed for areas that may be able to facilitate infill housing. Shoal Bay is a highly attractive location and demand for new housing in the area is considered high.

To ensure that the high demand and future projected growth of Shoal Bay is appropriately planned for, community consultation was undertaken on the potential of new housing. A workshop was held on the existing and desired character, future land use, potential heights and design controls that they would like to see in place to guide the future development of Shoal Bay.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Develop a strategic program for Place Plans

FINANCIAL/RESOURCE IMPLICATIONS

The public exhibition of the draft Shoal Bay Place Plan and associated community engagement activities will be undertaken using existing budgets.

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

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

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

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the draft Shoal Bay Place Plan does not meet community expectations.	Low	<p>Accept the recommendation.</p> <p>Extensive community engagement during the exhibition period will assist Council to understand community expectations and identify possible changes to be made to the draft Shoal Bay Place Plan.</p>	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social

Place Plans aim to enhance the liveability of places in Port Stephens to improve community wellbeing. They respond to the community's values and aspirations. Place Plans enable a collaborative approach between residents, businesses and Council to deliver great place outcomes.

The draft Shoal Bay Place Plan contains actions to inspire community involvement in creating a better place through conservation, beautification, connectivity and activation.

Economic

Shoal Bay is ideally positioned to leverage the growing visitor economy. Recent investments in the foreshore area and the Tomaree Coastal Walk will not only attract new visitors but are expected to offer opportunities for existing and future businesses.

Additional investment in infrastructure and services is expected to improve liveability and wellbeing of the broader community. Upgrades to business areas, local events, and improved shopfronts to improve economic outcomes can be led by businesses and supported by Council and the community.

Environmental

Shoal Bay residents place a high value on the natural environment and the draft Place Plan aims to protect and celebrate this important asset. The draft plan recognises this and identifies a number of opportunities for projects, including clean up days, beachfront stabilisation and environmental volunteering.

CONSULTATION

Internal

The draft Shoal Bay Place Plan has been prepared in consultation with the relevant sections of the Community Futures, Facilities and Infrastructure and Corporate Strategy and Support Directorates.

External

The Strategic Planning and Community Engagement teams have worked extensively with the Shoal Bay community to prepare a draft Shoal Bay Place Plan that accurately reflects the community's values and aspirations.

The engagement activities included:

- Liveability Index survey completed in 2020
- Community workshops commenced in 2022:
 - Workshop 1 – Exploring findings of the survey and setting priorities.
 - Workshop 2 – Generating ideas and making action plans
 - Workshop 3 – Focus on character, future land use, height, and design controls
 - Workshop 4 – Discuss parking & movement
- An online survey to check-in on draft actions with the workshop participants in 2023.

The draft Shoal Bay Place Plan Engagement Report (**ATTACHMENT 1**) provides detailed information about the outcomes of the various engagement activities.

If endorsed, the draft Shoal Bay Place Plan will be exhibited for an extended period until 25 February 2024, allowing for the Christmas shutdown period.

Outcomes of the public exhibition process and any changes made to the draft plan would be reported to Council for endorsement with the final version of the Shoal Bay Place Plan.

OPTIONS

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

ATTACHMENTS

- 1) Draft Shoal Bay Place Plan Engagement Report. (Provided under separate cover)
- 2) Draft Shoal Bay Place Plan. (Provided under separate cover)
- 3) Minute No. 218, 26 September 2023.

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023

ITEM NO. 5

**FILE NO: 23/209689
EDRMS NO: PSC2019-05143**

SMART PARKING - SHOAL BAY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Acknowledges the Smart Parking Community Engagement Report for Shoal Bay (**ATTACHMENT 1**).
- 2) Endorses the installation of Smart Parking Infrastructure for Shoal Bay.
- 3) Continues to provide free Smart Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.

**ORDINARY COUNCIL MEETING - 26 SEPTEMBER 2023
MOTION**

218	<p>Councillor Glen Dunkley Councillor Matthew Bailey</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Acknowledges the Smart Parking Community Engagement Report for Shoal Bay (ATTACHMENT 1).2) Endorses the installation of Smart Parking Infrastructure for Shoal Bay.3) Continues to provide free Smart Parking in Port Stephens for residents, rate payers and employees of local businesses. Time based restrictions to apply.
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Councillor Jason Wells returned to the meeting at 6:45pm.
Councillor Peter Francis left the meeting at 6:47pm.

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

Those against the Motion: Nil.

The motion was carried.

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023**BACKGROUND**

The purpose of this report is to present a package of information that responds to the Council resolution of 26 July 2022 (**ATTACHMENT 2**) relating to Shoal Bay Smart Parking implementation to the parking areas of Government Road, Shoal Bay Road, Lillian Street, Tomaree Road, Bullecourt Street and Messines Street as shown in the Shoal Bay Smart Parking Extents map. (**ATTACHMENT 3**). Information relating to other proposed Smart Parking will be presented to Council in future reports.

Smart Parking is designed to improve the turn-over of parking spaces to create more equitable access to parking in the Shoal Bay town centre. Smart Parking also provides a revenue stream to support local infrastructure projects. The existing resident and business Park Free Permit Scheme currently used in Nelson Bay will be extended to include Smart Parking in Shoal Bay.

This report has been arranged into the following Smart Parking milestones to provide evidence that clear steps have been undertaken in the implementation of the Smart Parking program.

- Council Resolution to Investigate
- Technical Investigations
- Financial Assessment
- Infrastructure Plan
- Community Engagement
- Local Traffic Committee
- Council Adoption
- Community Engagement (Closing the Loop)
- Execution

Council resolution to investigate

The Council resolution to investigate Smart Parking at Shoal Bay was made on 10 December 2019 (**ATTACHMENT 5**).

Technical Investigations

The technical investigations sought to identify what traffic, parking or road safety issues may be present and their potential solutions. For the subject locations, Council engineering staff undertook site inspections, measurements and assessments in addition to a traffic management studies, being the Shoal Bay Traffic Survey report (September 2021) and Shoal Bay Parking Assessment Report (January 2022). The reports identify that during peak periods parking space utilisation is approaching capacity, and further that, additional supply is needed in combination with expansion of paid parking as a demand management tool.

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023Financial Modelling

Financial modelling was undertaken to assess whether the activation of Smart Parking was financially sustainable and to forecast projected funds available for contribution to the draft Infrastructure Plans.

The financial assessment for Shoal Bay has confirmed that the capital and operational costs of delivering Smart parking infrastructure was sustainable and forecast \$415,000 per annum contribution to the Shoal Bay Precinct Smart Parking Reserve based on current adopted Fees and Charges rates (**ATTACHMENT 6**).

Smart Parking is designed to drive revenue from visitors to enable additional investment in local infrastructure works. With the up-coming peak period it is financially beneficial to install the meters prior to Christmas 2023. Delays in installation will have a negative impact on the Long Term Financial Plan and result in a delay of the delivery of infrastructure works.

Infrastructure Plan

The draft Infrastructure Plan was compiled from outcomes of the technical investigations, the draft Shoal Bay Place Plan, Council resolutions and community engagement

The Shoal Bay Smart Parking Infrastructure Plan will form part of the draft Shoal Bay Place Plan (Place Plan). Details of the infrastructure to be funded will be aligned to the priorities of the community and the final actions within the draft Place Plan.

As part of the public exhibition of the draft Place Plan, an active community engagement approach will be undertaken to help focus responses and submissions on both the actions within the draft Place Plan and the associated infrastructure plan. The findings of this engagement will be reported Council following the public exhibition period.

Community Engagement

Community engagement on Smart Parking sought community input into the Infrastructure Plan, Smart parking settings, and changes to parking regulation.

The results of the engagement are detailed in the Shoal Bay Smart Parking Engagement Report May 2022 (**ATTACHMENT 4**) and Shoal Bay Smart Parking Engagement Report April 2023. (**ATTACHMENT 1**). Key findings included:

- The Shoal Bay community is generally supportive for the installation of Smart Parking in Shoal Bay to assist with a range of parking and movement issues.
- There was strong support for the Smart Parking scheme including the permits to allow free parking for employees of local businesses, residents and rate payers of the Port Stephens local government area.

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023

- The Government Road car park at the corner of Shoal Bay Road was the most preferred location for business parking permits.
- The Government Road car park at the corner of Shoal Bay Road was the highest priority infrastructure project.
- There was some concern that a one-way arrangement would have a negative impact on local streets.
- There were some concerns that Smart Parking had potential reduced visitation and the impact on local businesses.
- There were some concerns about Smart Parking pushing vehicles into the residential streets which are outside the Smart Parking extent.
- There was a desire to continue Tomaree Road and other local road improvements as per the Capital Works Program.

Local Traffic Committee

All regulatory controls on roads must be approved by the Local Traffic Committee. At the September 2023 meeting, the Local Traffic Committee assessed and endorsed the proposal. Local Traffic Committee meeting minutes (**ATTACHMENT 7**).

Council Adoption

This report is the milestone to in achieving endorsement for implementation of Smart Parking in Shoal Bay.

Community Engagement

Further engagement activities will be integrated into the public exhibition period for the draft Place Plan. This will include a guided submission process and community drop in sessions. Meetings with key stakeholders to be undertaken to check in on the actions within the draft Place Plan and the associated infrastructure plan.

Execution

Following Council resolution, the meters can be installed and operational within 6 weeks. Regulatory and environmental approvals have been obtained.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Infrastructure and facilities	Provide asset and engineering services to meet customer demand

FINANCIAL/RESOURCE IMPLICATIONS

Shoal Bay Smart Parking Program income and expenditure is included in the Long Term Financial Plan forecast and Capital Works Program for the current financial year. Smart Parking is designed to drive revenue from visitors to enable additional

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023

investment in local infrastructure works. With the up-coming peak period it is financially beneficial to install the meters prior to Christmas 2023. Delays in installation will have a negative impact on the Long Term Financial Plan and result in a delay of the delivery of infrastructure works.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$250,000	Funding included in the Capital Works Program.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

If Smart Parking does not commence in Shoal Bay before December this year, adjustments will need to be made to the existing Long Term Financial Plan.

LEGAL, POLICY AND RISK IMPLICATIONS

The proposed Shoal Bay Smart Parking system benefits from the existing Park Free Permits, fees and charges and management frameworks established with the existing Shoal Bay Smart Parking Scheme.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the estimates of uptake of paid parking are too high leading to revenue forecasts/capital work projections not being met.	Medium	<ul style="list-style-type: none"> Regular monitoring and reporting of financial performance. Update projections within quarterly budget review. Follow competitive procurement processes. 	Yes

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023

<p>There is a risk that visitor willingness to pay for parking may lead to lower visitation.</p>	<p>Medium</p>	<ul style="list-style-type: none"> • Reinvest proceeds from paid parking into projects that increase satisfaction with area and encourage return visits. • Continue Place Activation Program of events, entertainment and beautification aimed at increasing visitation. • Promotion of access to 15 minutes free parking throughout the day, plus free parking before 8.30am and after 5.30pm every day. 	<p>Yes</p>
<p>There is risk that long term financial plan income budgets may not be met if the installation of parking infrastructure is delayed</p>	<p>Medium</p>	<ul style="list-style-type: none"> • Adopt the resolution. 	<p>Yes</p>

SUSTAINABILITY IMPLICATIONS

Consideration has been given to the Social, Economic and Environmental Implications of the proposed Smart Parking Installation.

Continuation of the residents, rate payers and workers Park Free Permit scheme has been reconfirmed through Council's adopted Fees and Charges 2023-24 and achieved as a zero fee item. **(ATTACHMENT 5)**.

Financial modelling has been completed showing a sustainable return on investment that is forecast to provide an ongoing source of funds which will be contributed to infrastructure projects within the Shoal Bay Smart Parking precinct. These projects cater not only to our local residents but also aim to provide an enjoyable experience for our visitors, encouraging them to return.

The Smart Parking funded Place Activation Program for Shoal Bay is proposed to be established with an aim of providing events, entertainment and beautification, increasing visitation and experience within Shoal Bay.

The parking meters will increase parking turnover and increase adherence to timed parking restrictions and are solar panel driven to reduce the reliance on electricity.

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Assets Section and the Communications Section and is summarised below with their mitigation measures discussed earlier in this report.

Internal

- Financial Services Section
- Assets Section
- Compliance Tea.
- Information Communication and Technology Team
- Digital transformation Team
- Communications and Engagement Teams
- Customer Experience Team
- Mayor and Councillors

External

The results of the community engagement program are detailed in the Shoal Bay Smart Parking Engagement Report May 2022 (**ATTACHMENT 4**) and Shoal Bay Smart Parking Engagement Report April 2023 (**ATTACHMENT 1**).

OPTIONS

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

ATTACHMENTS

- 1) Shoal Bay Community Engagement Report Smart Parking April 2023.
- 2) Council Resolution - Smart Parking - Min. No. 194, 26 July 2022.
- 3) Shoal Bay Smart Parking Scheme Extents.
- 4) Shoal Bay Community Engagement Report Smart Parking - May 2022.
- 5) Council Resolution - Smart Parking - Min. No. 261, 10 December 2019.
- 6) 2023/24 Smart Parking Fees and Charges.
- 7) Local Traffic Committee Minutes - Shoal Bay Smart Parking.

COUNCILLORS ROOM

- 1) Northern Transport Planning and Engineering Pty Ltd "Traffic Survey Report" (September 2021).
- 2) Northern Transport Planning and Engineering Pty Ltd "Shoal Bay Parking Assessment Report" (January 2022).
- 3) Transport for NSW "Pay Parking Guidelines" (November 2019).
- 4) Transport for NSW "Permit Parking Guidelines" (November 2021).

MINUTES ORDINARY COUNCIL - 26 SEPTEMBER 2023

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Mayor Ryan Palmer returned to the meeting at 8:23pm and resumed the chair.
Councillor Glen Dunkley returned to the meeting at 8:23pm.

ITEM NO. 6

FILE NO: 23/290538
EDRMS NO: PSC2021-01862

COMMUNITY WELLBEING STRATEGY

REPORT OF: JANELLE GARDNER - COMMUNICATIONS AND CUSTOMER
EXPERIENCE SECTION MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Draft Port Stephens Community Wellbeing Strategy as shown in **(ATTACHMENT 1)**.
- 2) Place the draft Port Stephens Community Wellbeing Strategy on public exhibition for a period of 28 days and should no submission be received, the strategy be adopted, without further report to Council.

ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION

306	<p>Councillor Leah Anderson Councillor Jason Wells</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the Draft Port Stephens Community Wellbeing Strategy as shown in (ATTACHMENT 1).2) Place the draft Port Stephens Community Wellbeing Strategy on public exhibition for a period of 28 days and should no submission be received, the strategy be adopted, without further report to Council.3) Develop an 'Easy Read' version of the Wellbeing Strategy and Disability Inclusion Action Plan for public exhibition.
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Councillor Peter Kafer left the meeting at 8:23pm and did not return to the meeting.
Councillor Giacomo Arnott left the meeting at 8:23pm.

Cr Jason Wells requested the inclusion of point 3 in the motion, which was accepted by the mover.

Councillor Giacomo Arnott returned to the meeting at 8:26pm.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, 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 for the draft Port Stephens Community Wellbeing Strategy (the Strategy) (**ATTACHMENT 1**) and to place the Strategy on Public Exhibition from 29 January 2024 to 25 February 2024, allowing for the Christmas shutdown period.

The Port Stephens Community Wellbeing Strategy has been designed to align the goals of social planning with the principles of liveability. The Strategy provides a roadmap for implementing measures that will improve the overall wellbeing of the community. By bringing together directions from a number of existing strategies and policies, the Strategy recognises the complexity and interconnectedness of elements that collectively contribute to the wellbeing of the community.

This Strategy draws on actions from the Ageing Strategy, the Port Stephens Crime Prevention Plan, the Port Stephens Disability Inclusion Access Plan (DIAP) and, the Port Stephens Multicultural Policy to deliver an integrated approach to wellbeing. The strategy establishes the principles and the framework for Council and the community to work in partnership to create a place where individuals, regardless of their age, background or ability can lead healthy, happy and connected lives

The draft Community Wellbeing Strategy outlines key objectives across three focus areas:

- Access and inclusion – creating inclusive and welcoming places that encourage participation in community life.
- Safe and secure – ensuring our community feels safe in our public spaces.
- Connect and contribute – building resilience, capacity and skills to ensure our community can adapt and thrive in times of change.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Community Wellbeing	Develop and implement the Community Wellbeing Strategy (CWS) to provide services and support for a diverse community

FINANCIAL/RESOURCE IMPLICATIONS

As the Strategy will be implemented with external grant funding and as part of ongoing operations, there are no direct financial resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	Yes		External grant applications are to be submitted as part of the implementation program.
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Disability Inclusion Act 2014 commits the NSW Government to creating a more inclusive community in which mainstream services and community facilities are accessible to people with a disability to help them achieve their full potential. The Act requires the NSW Government and all public agencies, including local governments to develop a DIAP. The objectives of the Port Stephens DIAP have been integrated into the Strategy and the full DIAP is included as attachment **(ATTACHMENT 2)** to the Strategy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the Disability Inclusion Act 2014 if it does not have a Disability Inclusion Action Plan.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendations will provide the framework for Council, the community and key partners to improve wellbeing, safety, inclusion and access.

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

CONSULTATION

Consultation with key stakeholders has been undertaken by the Communications and Customer Experience section.

Internal

Internal stakeholders have been involved in preparing the Strategy through a series of workshops as well as the review of draft actions and priorities.

External

Consultation for the Strategy has been undertaken over a series of conversations since 2021.

Phase One was completed in 2021 and aimed to understand the priorities for improving inclusivity, wellbeing and access in Port Stephens. Phase 2, completed in July and August 2023, included consultation on the proposed themes, key objectives and actions. Over 700 individuals provided feedback across the various engagement phases.

Community Wellbeing Strategy Engagement Reports for Phase 1 and Phase 2 have been included in **(ATTACHMENT 2)**.

In accordance with Local Government legislation, the Strategy will be placed on Public Exhibition for 28 days from 29 January 2024. Further engagement will be undertaken with the community during this period to seek their feedback and input into the actions outlined in the Strategy.

OPTIONS

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

ATTACHMENTS

- 1) Draft Community Wellbeing Strategy. (Provided under separate cover)
- 2) Community Wellbeing Strategy Engagement Report - Phase 1 and Phase 2. (Provided under separate cover)

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

**FILE NO: 23/281839
EDRMS NO: PSC2021-04206**

REQUESTS FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-
 - a) Nelson Bay Rugby Club - Mayoral funds – \$2000 donation towards new goal posts at Bill Strong Oval.
 - b) Port Stephens Sister Cities Committee – Mayoral funds - \$700 donation towards purchase of books for 2024 school-based education program.
 - c) Hunter Region Botanic Gardens – West Ward funds - \$1500 donation towards new batteries for mobility vehicle to assist those with disabilities.
 - d) Rotary Club of Raymond Terrace – Cr Leah Anderson – Rapid response funds - \$500 donation towards Domestic Violence Awareness Day barbeque.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

307	<p>Councillor Leah Anderson Councillor Glen Dunkley</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-</p> <ol style="list-style-type: none">a) Nelson Bay Rugby Club - Mayoral funds – \$2000 donation towards new goal posts at Bill Strong Oval.b) Port Stephens Sister Cities Committee – Mayoral funds - \$700 donation towards purchase of books for 2024 school-based education program.c) Hunter Region Botanic Gardens – West Ward funds - \$1500 donation towards new batteries for mobility vehicle to assist those with disabilities.d) Rotary Club of Raymond Terrace – Cr Leah Anderson – Rapid response funds - \$500 donation towards Domestic Violence Awareness Day barbeque.
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MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, 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 determine and, where required, authorise payment of financial assistance to recipients judged by the Mayor and or Councillors as deserving of public funding. The Grants and Donations Policy gives the Mayor and Councillors a wide discretion either to grant or to refuse any requests.

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

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

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

The requests for financial assistance are shown below:

MAYORAL FUNDS

Nelson Bay Rugby Club	Nelson Bay Rugby Club plays in the Premier Division of the Newcastle Hunter Rugby Union Competition.	\$2000	Donation towards new goal posts at Bill Strong Oval.
Port Stephens Sister Cities Committee	The Sister Cities Committee strengthens partnerships between Australian and international communities.	\$700	Donation towards purchase of books for 2024 school-based education program.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

WARD FUNDS

Hunter Region Botanic Gardens	The Hunter Region Botanic Gardens are managed and maintained by volunteers for the enjoyment and education of the people of the Hunter region and visitors from Australia and overseas.	\$1500	Donation towards new batteries for mobility vehicle to assist those with disabilities to tour the gardens.
Rotary Club of Raymond Terrace	Rotary is a network of neighbours, friends, leaders, and problem-solvers who see a world where people unite and take action to create lasting change.	\$500	Donation towards Domestic Violence Awareness Day BBQ.

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, POLICY AND RISK IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

- 1) Accept the recommendations.
- 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.

ITEM NO. 8

FILE NO: 23/329530
EDRMS NO: PSC2022-02308**INFORMATION PAPERS**REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER
DIRECTORATE: GENERAL MANAGER'S OFFICE**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 12 December 2023.

No:	Report Title	Page:
1	Carbon Neutrality 2025	213
2	Royal Australian Historical Society Conference - Conference Report	228
3	Report on the Local Government NSW Annual Conference - 12-14 November 2023 - Rosehill	239
4	Delegations Report	252
5	Council Resolutions	254

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

308	Councillor Jason Wells Councillor Leah Anderson It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 12 December 2023. ----- No: Report Title 1 Carbon Neutrality 2025 2 Royal Australian Historical Society Conference - Conference Report 3 Report on the Local Government NSW Annual Conference - 12-14 November 2023 - Rosehill 4 Delegations Report 5 Council Resolutions
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MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, 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: 23/278678
EDRMS NO: 79-2022-3-1**

CARBON NEUTRALITY 2025

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
DIRECTORATE: COMMUNITY FUTURES

BACKGROUND

The purpose of this report is to provide a quarterly update on the development and implementation of a Carbon Neutral Action Plan for Council operations in accordance with the Council resolution from 11 April 2023, Minute No. 092 (**ATTACHMENT 1**).

On 12 October 2021, Minute No. 275 (**ATTACHMENT 2**), Council committed to achieving carbon neutrality for Council operations by 2025.

INFORMATION

The below table provides an update on the deliverables required to prepare and implement a Carbon Neutral Action Plan for Council operations.

Deliverable	Status
Engage Carbon Specialist.	Complete.
Review and update emissions data.	Complete.
Audit emission sources and establish potential emission reduction strategies.	Complete.
Modelling and evaluation of emissions reduction strategies and pathways.	Draft Complete.
Preparation and adoption of the Action Plan – An Action Plan outlining the actions and costs required to reduce emissions and achieve Carbon Neutral status by 2025 will be prepared.	In Progress.
Implementation and monitoring of the Action Plan – Implementation of the actions outlined in the Action Plan will begin with ongoing monitoring of each action's progress.	Upcoming.

Emissions Data

Council's carbon footprint calculation for the 2022 financial year has been completed, available in Table 1.

Table 1: Port Stephens Council Carbon Footprints for 2021 and 2022 financial years including annual emissions reductions.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Financial Year	Annual Emissions (t-CO ₂ e.p.a)	Annual Emission Reduction (%)
2021	12,547	Nil.
2022	7,586	39.6%

Two of the largest sources of Council's emissions are from electricity and fleet fuel usage. These are described in more detail below.

Electricity Usage

Council's electricity usage in the 2022 financial year was responsible for 25.2% of the total carbon footprint. In January 2022, Council signed a renewable Power Purchase Agreement (PPA) which ensures 100% of Council's electricity is provided from renewable energy sources. This initiative has reduced Council's emissions from electricity to zero.

Notwithstanding the PPA, Council has also undertaken a number of projects which have further reduced Council's electricity consumption. These projects include:

- A \$900,000 investment in solar panels installed across Council's pools, depots and community buildings
- The conversion of Council managed streetlights to LEDs
- Upgrading of sports field lighting to LEDs at Yulong Oval, Nelson Bay Netball Courts, Brandon Park, Nelson Bay Tennis Courts and Soldiers Point Tennis Courts
- Council is currently undertaking further upgrades to field lighting at Tomaree Sports Complex, Salamander Bay and Bowthorne Oval, Wallalong.

The further investment in renewable energy projects serves to reduce Council's overall energy consumption and allows for these utilities savings to be reinvested into sustainability projects.

A breakdown of Council's electricity usage in 2022, which is now being used to target areas for future reduction projects, is available in Table 2.

Table 2: Breakdown of Port Stephens Council electricity usage for the 2022 financial year.

Council asset	Percentage (%)
Sports, parks, public lighting and amenities	33.1%
Street lighting	23.8%
Swimming pools	20.8%
Buildings	17.4%
Depots	2.6%

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Council asset	Percentage (%)
Other	1.5%
Emergency services	0.8%
Total	100%

Fleet Fuel Usage

Council's fleet includes a wide range of vehicles including light commercial, heavy vehicles and heavy plant (eg excavators, loaders and tractors). Investment in low or no emission vehicles and plant will make a significant impact on Council's carbon footprint. Council is currently trialling a number of low emission small plant equipment, including, EV mowers and hand tools. Council continues to investigate viable long-term solutions for vehicles and plant.

A breakdown of the fuel usage from Council's fleet vehicles in 2022 is shown in Table 3 below.

Table 3: Port Stephens Council Fleet fuel consumption for the 2022 financial year.

Fuel Type	Percentage (%)
Diesel	96.5%
Petrol	3.5%
Ethanol	0.1%
Total	100%

ATTACHMENTS

- 1) Minute No. 092, 11 April 2023.
- 2) Minute No. 275, 12 October 2021.

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

ITEM NO. 2

**FILE NO: 22/109005
EDRMS NO: 79-2022-3-1**

CARBON NEUTRALITY PROJECT UPDATE

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the status update for the Carbon Neutrality project.
- 2) Endorse the allocation of funding for the preparation of the Port Stephens Carbon Neutral Action Plan.

**ORDINARY COUNCIL MEETING - 11 APRIL 2023
MOTION**

092	<p>Councillor Leah Anderson Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note the status update for the Carbon Neutrality project.2) Endorse the allocation of funding for the preparation of the Port Stephens Carbon Neutral Action Plan.3) Quarterly updates be provided in the Council Information Papers on the Carbon Neutrality Action Plan and how Council is tracking to meet the target in 2025.
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Councillor Peter Kafer returned to the meeting at 7:52pm.
Councillor Matthew Bailey returned to the meeting at 7:52pm.

Cr Anderson requested the following amendment, which was consented to be included in the motion.

“That quarterly updates be provided in the Council Information Papers on the Carbon Neutrality Action Plan and how Council is tracking to meet the target in 2025.”

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

Those against the Motion: Nil.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

The motion was carried.

BACKGROUND

The purpose of this report is to provide a progress update and identify next steps in the development of a Carbon Neutral Action Plan for Port Stephens Council.

At its meeting of 12 October 2021, Minute No. 275 (**ATTACHMENT 1**), Council resolved to:

- 1) Commit to the goal of achieving carbon neutrality for Council operations by 2025.
- 2) Determine a suitable funding source to support Council in achieving this goal.
- 3) Provide a report to Council on a roadmap to achieving carbon neutrality.

Council has implemented a number of initiatives to reduce operational greenhouse gas (GHG) emissions. A summary of activities and initiatives is as follows:

- Participating in a Power Purchasing Agreement to secure 100% renewable energy from the electricity grid
- Installing a solar photovoltaic system on Council's Administration Building, reducing annual energy consumption by 25%
- Installing solar photovoltaic systems on many of Council's libraries, community centres and Rural Fire Service buildings
- Installing solar pool pre-heating at Lakeside Leisure Centre, Tomaree Aquatic Centre and Tilligerry Aquatic Centre
- Installing solar photovoltaic system and water tank at Salamander Waste Transfer Station
- Use of recycled glass 'greencrete' in capital works projects
- Installing Building Management Systems and Programmable Logic Controllers at our Administration Building, Lakeside Leisure Centre and many sports and community buildings to deliver energy efficiencies and lower operating costs
- Installing variable-speed drives (VSD) at Lakeside Leisure Centre, Kangaroo Street and Stockton Street flood pumps to reduce energy consumption
- Installing energy-saving LED field lighting at sports facilities
- Installing energy-saving LED lighting at Council's Administration Building, Tomaree Library and Community Centre, Council works depots, surf clubs, community centres and halls
- Reduction in overall waste to landfill through reuse of recycled materials and materials diversion. During the data collection period, Council saved 8,865 kg of CO₂-e of GHG emissions by utilising recycled materials over virgin materials
- Cross organisational consultation, data collection and gap analysis in partnership with NSW Sustainability Advantage to establish carbon baseline figures and establish key focus areas.

Whilst the initiatives that Council has put in place have greatly reduced the organisations GHG emissions, a number of areas remain as the focus for further

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

emissions reductions in order to achieve Carbon Neutral status by the target date of 2025.

The focus areas for continued and future GHG emission reductions include electricity consumption (51%), Councils operational waste to landfill (27%), commuting (13.2%), and fleet vehicles and machinery emissions (8.8%).

In order to progress the project further, Council requires specialist knowledge and expertise that is not resourced within the organisation. Sustainability specialist providers in this industry have been contacted to provide estimated costs for the services required by Council to continue to progress the project.

Should the recommendation be accepted, a sustainability specialist would be engaged through Council's procurement process to undertake the summarised scope of work below:

Deliverables	
Comprehensive Carbon Audits (10 to 15 sites)	Audit of Council's highest emissions producers such as: <ul style="list-style-type: none"> • Aquatic centres • Waste facilities • Administration buildings • Holiday parks • Libraries • Depots
Comprehensive Cost Benefit Analysis	Consideration and recommendation of emissions reduction options including: <ul style="list-style-type: none"> • Operational process efficiencies, data collection, monitoring and reporting improvements. • Projected emissions reductions and scenario modelling. • Estimated costs to implement actions. • Estimated costs to maintain operations. • Payback period from operational savings.
Carbon Neutral Action Plan	Preparation of document and agreed action plan for Council endorsement.

Council sought an estimated quote for the provision of the above services, with the assistance from carbon neutral experts. The provision of the above services is estimated at \$47,000 (inc. GST). Cost is subject to Council's procurement process to ensure best value of services, and therefore the final cost may change. To continue to progress this project, the allocation of funding for this purpose is requested.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Environmental Sustainability	Develop and deliver a program for Council leading the way to a climate positive future and mitigating environmental risks.

FINANCIAL/RESOURCE IMPLICATIONS

There is an immediate financial implication for the Carbon Neutrality project to resource the requisite skills and expertise.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	Yes	Est. \$47,000	Sustainability Reserve. Adoption of the recommendation will resource the next phase of the Carbon Neutrality project.
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There is not a legal requirement for Council to achieve carbon neutrality. Local Government plays an important role in reducing Australia's GHG emissions in their role as community leaders and creating environmentally sustainable regions. This assists in working towards the NSW State Government's target of achieving net zero emissions by 2050.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a reputational risk that Council would not achieve its commitment to Carbon Neutrality of Council's operational emissions by 2025 should resources not be allocated.	Medium	Accept the recommendation.	Yes
There is a financial risk that Council would need to fund the emissions gap to achieve its commitment to Carbon Neutrality of Council's operational emissions by 2025 should resources not be allocated.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's commitment to achieving carbon neutrality for Council operations by 2025 is an ambitious target that requires sufficient resourcing to be reached. Responding to climate change protects the natural and built environment for the benefit of the community and generations to come. Resourcing this project would reduce potential damage to Council assets, reduce disruption to the delivery of Council's services, reduce future costs associated with GHG emissions and set the example for the Port Stephens community.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section for technical refinement and awareness of the intent of the plan.

Internal

- Community Services Section
- Assets Section
- Finance Section
- Organisational Support Section

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

External

- NSW Government – Sustainability Advantage

OPTIONS

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

ATTACHMENTS

- 1) Minute No. 275, 12 October 2021.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 21/268337

EDRMS NO: PSC2017-00019

CARBON NEUTRALITY

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Commit to the goal of achieving carbon neutrality for Council operations by 2025.
- 2) Determine a suitable funding source to support Council in achieving this goal
- 3) Provide a report to Council on a roadmap to achieving carbon neutrality.

**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021
MOTION**

275	<p>Mayor Ryan Palmer Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Commit to the goal of achieving carbon neutrality for Council operations by 2025.2) Determine a suitable funding source to support Council in achieving this goal3) Provide a report to Council on a roadmap to achieving carbon neutrality.
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The motion was carried.

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

BACKGROUND

Climate change is a significant global challenge that directly impacts the Port Stephens community. Impacts such as increased sea level rise, intensity and frequency of storms, bushfire and rainfall patterns are challenging the way we manage our environment.

MINUTES ORDINARY COUNCIL - 12 OCTOBER 2021

Over the past few years, Council has implemented a number of initiatives to reduce our carbon footprint. These include:

- Installation of solar photovoltaic systems at Council's Administration Building, Salamander Waste Transfer Station, libraries, community centres and Rural Fire Service buildings.
- Installation of solar pool pre-heating at Lakeside Leisure Centre, Tomaree Aquatic Centre and Tilligerry Aquatic Centre.
- Use of recycled glass 'greencrete' in the upgrade of Taniilba Bay roundabout.
- Installation of Building Management System and Programmable Logic Controller at our Administration Building, Lakeside Leisure Centre and many sports and community buildings to deliver energy efficiencies and lower operating costs.
- Installation of water-saving irrigation and stormwater harvesting at Medowie Park and Kindiebark Oval.
- Installation of variable-speed drives at Lakeside Leisure Centre plus Kangaroo Street and Stockton Street flood pumps to save energy consumption.
- Installation of energy-saving LED field lighting at Ferodale Netball Courts, Tomaree Netball Courts and Tomaree Sports Complex, Administration Building, Tomaree Library and Community Centre, Council works depots, Birubi Surf Club and a number of community centres and halls.

The New South Wales State Government has adopted emission reduction and renewable energy policies that aim to achieve zero carbon emissions by 2050. Port Stephens Council will support these actions by committing to ensuring Council operations are carbon neutral by 2025.

To achieve this, Council will ensure any emissions released into the atmosphere from the organisation's activity will be balanced by the equivalent amount of emissions being removed. Council will work closely with the community, business and all levels of government to influence behaviour change, reduce energy demand and protect and enhance the natural environment. Council will:

- Undertake a review of current emissions to determine the baseline
- Commit to monitoring emissions on an annual basis
- Work with our community to develop a Sustainability Strategy
- Implement actions via the Integrated Planning and Reporting framework that deliver carbon neutrality
- Advocate to the NSW Environment Minister, the Hon Matt Kean and Premier, the Hon Dominic Perrottet, to request assistance in achieving carbon neutrality.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

ITEM 1 - ATTACHMENT 1 MINUTE NO. 092, 11 APRIL 2023.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

ITEM 2 - ATTACHMENT 1 MINUTE NO. 275, 12 OCTOBER 2021.

MINUTES ORDINARY COUNCIL - 12 OCTOBER 2021

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

ATTACHMENTS

Nil.

There being no further business the meeting closed at 8.05pm.

MINUTES ORDINARY COUNCIL - 12 OCTOBER 2021

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 21/268337

EDRMS NO: PSC2017-00019

CARBON NEUTRALITY

COUNCILLOR: RYAN PALMER

THAT COUNCIL:

- 1) Commit to the goal of achieving carbon neutrality for Council operations by 2025.
- 2) Determine a suitable funding source to support Council in achieving this goal
- 3) Provide a report to Council on a roadmap to achieving carbon neutrality.

**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021
MOTION**

275	<p>Mayor Ryan Palmer Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Commit to the goal of achieving carbon neutrality for Council operations by 2025.2) Determine a suitable funding source to support Council in achieving this goal3) Provide a report to Council on a roadmap to achieving carbon neutrality.
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The motion was carried.

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

BACKGROUND

Climate change is a significant global challenge that directly impacts the Port Stephens community. Impacts such as increased sea level rise, intensity and frequency of storms, bushfire and rainfall patterns are challenging the way we manage our environment.

MINUTES ORDINARY COUNCIL - 12 OCTOBER 2021

Over the past few years, Council has implemented a number of initiatives to reduce our carbon footprint. These include:

- Installation of solar photovoltaic systems at Council's Administration Building, Salamander Waste Transfer Station, libraries, community centres and Rural Fire Service buildings.
- Installation of solar pool pre-heating at Lakeside Leisure Centre, Tomaree Aquatic Centre and Tilligerry Aquatic Centre.
- Use of recycled glass 'greencrete' in the upgrade of Tanilba Bay roundabout.
- Installation of Building Management System and Programmable Logic Controller at our Administration Building, Lakeside Leisure Centre and many sports and community buildings to deliver energy efficiencies and lower operating costs.
- Installation of water-saving irrigation and stormwater harvesting at Medowie Park and Kindlebark Oval.
- Installation of variable-speed drives at Lakeside Leisure Centre plus Kangaroo Street and Stockton Street flood pumps to save energy consumption.
- Installation of energy-saving LED field lighting at Ferodale Netball Courts, Tomaree Netball Courts and Tomaree Sports Complex, Administration Building, Tomaree Library and Community Centre, Council works depots, Birubi Surf Club and a number of community centres and halls.

The New South Wales State Government has adopted emission reduction and renewable energy policies that aim to achieve zero carbon emissions by 2050. Port Stephens Council will support these actions by committing to ensuring Council operations are carbon neutral by 2025.

To achieve this, Council will ensure any emissions released into the atmosphere from the organisation's activity will be balanced by the equivalent amount of emissions being removed. Council will work closely with the community, business and all levels of government to influence behaviour change, reduce energy demand and protect and enhance the natural environment. Council will:

- Undertake a review of current emissions to determine the baseline
- Commit to monitoring emissions on an annual basis
- Work with our community to develop a Sustainability Strategy
- Implement actions via the Integrated Planning and Reporting framework that deliver carbon neutrality
- Advocate to the NSW Environment Minister, the Hon Matt Kean and Premier, the Hon Dominic Perrottet, to request assistance in achieving carbon neutrality.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 12 OCTOBER 2021

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

ATTACHMENTS

Nil.

There being no further business the meeting closed at 8.05pm.

ITEM NO. 2

**FILE NO: 23/305604
EDRMS NO: PSC2021-03482**

**ROYAL AUSTRALIAN HISTORICAL SOCIETY CONFERENCE - CONFERENCE
REPORT**

**REPORT OF: JASON WELLS - COUNCILLOR
DIRECTORATE: GENERAL MANAGER'S OFFICE**

BACKGROUND

The purpose of this report is to provide information on the 2023 Royal Australian Historical Society Conference held in Wagga Wagga from 21-22 October 2023 **(ATTACHMENTS 1 and 2)**.

ATTACHMENTS

- 1) Royal Australian Historical Society Conference Program.
- 2) Key Points from Conference.

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 ROYAL AUSTRALIAN HISTORICAL SOCIETY
CONFERENCE PROGRAM.

Last Updated: 28 August 2023



RAHS CONFERENCE
The Way Ahead
Local and community histories
for our future
Wagga RSL, 21–22 October 2023



Fitzmaurice Street, c.1890 [Wagga Wagga and District Historical Society]

The City of Wagga Wagga is the perfect location to explore the 2023 Conference Theme – *The Way Ahead: Local and Community Histories for our Future*. Today the people who call Wagga Wagga home – Wiradyuri people, other First Nations people from across Australia, and non-indigenous people from Australia and around the world – reflect its rich and diverse history. The commitment to remembering and honouring this history both now and for future generations can be seen with the launch of the redeveloped Museum of the Riverina Botanic Gardens site. The museum is dedicated to telling stories about the people and events that helped shape the City of Wagga Wagga and the Riverina Region. This commitment to local and community histories includes an outreach program that supports thirty-eight Riverina museum collections.

We are sure you will enjoy the RAHS Conference program and exploring this region's museums and historical sites. The RAHS Conference website includes ideas to make the most of your visit to Wagga Wagga and the Riverina Region. We would like to thank the Wagga Wagga and District Historical Society for sharing resources from their collections on the conference website:
<https://www.rahs.org.au/2023-rahs-conference/>

Friday 20 October 2023

Pre-conference Drinks 5.30 pm – 7 pm

Hosted by Wagga Wagga and District Historical Society (WWDHS)

Join conference delegates, members of the WWDHS and guests at the pre-conference drinks at the Museum of the Riverina Historic Council Chambers site, corner of Baylis Street and Morrow Street, Wagga Wagga. Constructed in 1881 by renowned local builder Charles Hardy (Hardy & Co.), the venue for the pre-conference drinks provides an opportunity to enjoy the architectural heritage of the City of Wagga Wagga.

ITEM 2 - ATTACHMENT 1 ROYAL AUSTRALIAN HISTORICAL SOCIETY CONFERENCE PROGRAM.

DAY 1 OF 2: SATURDAY 21 OCTOBER 2023

Session A Welcome and Keynote address	
Chair: Lynne Allen, RAHS Councillor, RAHS Affiliated Societies Committee	
8.30 am	Registration
9.15 am	Welcome to Country
9.30 am	Welcome to the RAHS Conference, RAHS President's Address
9.45 am	The Lesley Muir Address: Adjunct Associate Professor Bruce Pennay OAM <i>Looking for ways ahead: A local response from Albury-Wodonga</i>

10.30 am – 11.00 am: Morning tea and book sales

Session B Local and community histories: Stories from the Riverina	
Chair: Graham Shirley, RAHS Councillor, RAHS Affiliated Societies Committee	
Sharing local and community histories deepens our connection to a place. Our speakers in Session B will allow us to learn about the Riverina Region and how the community shares its histories.	
11.00 am	Michelle Maddison: <i>Tom Castro: The man that never was</i>
11.30 am	Stephen Gapps: <i>The Wiradyuri Wars 1824–1842. Connecting local resistance along the colonial frontier</i>
12.00 pm	Bill Spiers: <i>Marie (Molly) Narelle (1870–1941): 'The Australian Queen of Irish Song'</i>

12.30 pm – 1.30 pm: Lunch and book sales

Session C Local and community histories: Digitising the Past	
Chair: Lorraine Neate, RAHS Affiliated Societies Committee, Illawarra Museum and Historical Society	
Digitisation projects are a way of preserving our histories and engaging with our communities. All projects have benefits and challenges, which our speakers in Session C will share with you to inspire and support your local and community history projects.	
1.30 pm	Greg Ryan: <i>Expanding Your Digital Footprint on Trove</i>
2.00 pm	Dr Ann Hardy: <i>Living Histories Digitisation Lab: Community Engagement and Digitisation Projects</i>
2.30 pm	Wayne Doubleday: <i>Digitisation – Is it really the panacea we've been searching for?</i>

3.00 pm – 3.30 pm: Afternoon tea and book sales

Tours and Dinner	
3.30 pm	Conference Tour: Museum of the Riverina, Botanic Gardens Site
6.30 pm	Conference Dinner at Wagga Wagga RSL

ITEM 2 - ATTACHMENT 1 ROYAL AUSTRALIAN HISTORICAL SOCIETY CONFERENCE PROGRAM.

DAY 2 OF 2: SUNDAY 22 OCTOBER 2023

Session D The business of local and community history	
Chair: Suzanne Holohan, RAHS General Manager	
9.15 am	Join members of the RAHS Affiliated Societies Committee to discuss issues that impact the future sustainability of our history groups and societies.
10.15 am	Honouring our history volunteers – Certificates of Achievement

10.30 am – 11.00 am: Morning tea and book sales

Session E Local and community histories: Voices from the Past	
Chair: Angela Phippen, RAHS Affiliated Societies Committee, local studies librarian	
Oral histories capture voices from the past and illuminate personal experiences. Our speakers in Session E speakers will highlight the unique perspectives that oral histories give us and how they can be shared with our communities.	
11.00 am	Fran O'Flynn: <i>Collecting Contemporary Oral Histories, sharing new stories</i>
11.30 am	Alison Wishart: <i>Using oral history to enhance local and family history research</i>
12.00 pm	Graham Shirley: <i>Oral histories – Use and Reuse</i>

12.30 pm – 1.30 pm: Lunch and book sales

Session F Local and community histories: The Future	
Chair: Peter Hobbins, Head of the Knowledge team at the Australian National Maritime Museum	
The final session of the conference will focus directly on the future. Dr Peter Hobbins will lead a panel discussion with speakers from history institutions and organisations.	
1.30 pm	Dr Penelope (Penny) Stannard: <i>Museums of History NSW</i>
2.00 pm	Matt Henderson: <i>Tocumwal Aviation Museum</i>
2.30 pm	Sam Leah: <i>Museum of the Riverina</i>

3.00 pm – 3.15 pm: Conference Wrap-Up and Close



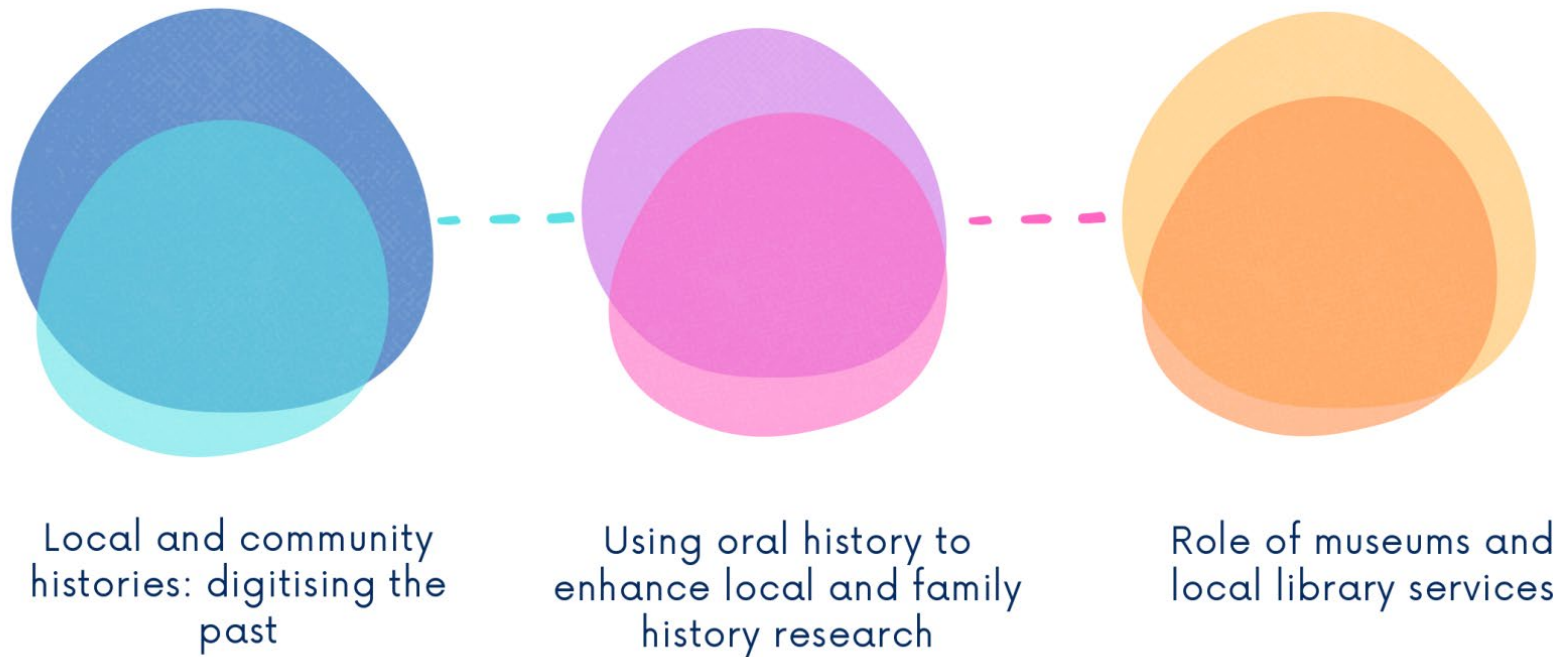
RAHS CONFERENCE
The Way Ahead
 Local and community histories
 for our future
 Wagga RSL, 21–22 October 2023





ROYAL AUSTRALIAN
HISTORICAL SOCIETY
2023 Conference

Wagga Wagga - 21st-22nd October



main topics of focus

local and community histories: digitising the past


- important method to preserve and conserve artefacts.
- not every artefact needs to be preserved.
- consideration needed to store digitised records for an extended period of time.
- Digital Preservation Coalition
<https://www.dpconline.org/>
- Albury-Wodonga great example of utilising volunteer expertise - after heritage review



using oral history to enhance local and family research


- innovative oral history project at Goulburn, run by the local studies library team and volunteers.
- builds colour and depth to archival records.
- fills in some of the gaps in written historical records.





role of museums and local library services

- library services along with volunteer assistance can digitise records including photographs and old rate books.
- possible grant funding includes -



<https://www.nsw.gov.au/grants-and-funding/community-heritage-grants>

<https://www.dcceew.gov.au/parks-heritage/heritage/organisations/australian-heritage-council>

- providing a platform to share the work of local history groups.
- importance of providing engaging video content.

role of museums and local library services

- great example of local library hosting website space devoted to local history - <https://goulburn.spydus.com/cgi-bin/spydus.exe/MSGTRN/WPAC/HOME>
- possible resource to utilise University of Newcastle students to assist in community projects.
- also to collaborate with City of Newcastle local studies.



Where to next?

- Enhance council library website with local heritage section, utilising volunteers from Heritage Advisory Group to build content.
- Acknowledge the value and importance of local history by incorporating interactive heritage walks on council website.
- Seek to host the 2025 Royal Australian Historical Society conference in Port Stephens.



ITEM NO. 3

**FILE NO: 23/318437
EDRMS NO: PSC2021-04212**

**REPORT ON THE LOCAL GOVERNMENT NSW ANNUAL CONFERENCE - 12-14
NOVEMBER 2023 - ROSEHILL**

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

BACKGROUND

The purpose of this report is to provide information on the Local Government NSW Annual Conference (the Conference) held at the Rosehill Gardens Racecourse in the City of Parramatta from 12 to 14 November 2023. The Conference Program is included at **(ATTACHMENT 1)**.

The Conference commenced on Sunday 12 November 2023 with the presentation of the 2023 AR Bluett Memorial Award and the official opening of the Conference. The 2023 recipients of the AR Bluett Award were Inner West Council in the Metro category and Singleton Council in the Regional/Rural category.

Following this was a panel discussion including State members and research groups to discuss challenges around the housing crisis. The panel discussion highlighted that the housing crisis is not an issue limited to particular areas of the country but rather an issue that all councils across NSW are grappling with.

Day 2 of the Conference included addresses from the LGNSW President, Cr Darriea Turley AM and the Minister for Local Government the Hon Ron Hoenig MP. In addition, the Australian Local Government Association President, Cr Linda Scott, also provided an update to the delegation.

The remainder of the day was dedicated to the consideration of the business paper consisting of 131 motions on matters ranging from financial sustainability, elections, governance, workforce and skills, waste, housing, community, climate change and energy, planning, emergency management, environment, biodiversity, biosecurity, roads, transport, infrastructure and land. In addition, there were 107 category 2 motions (ie motions that are not debated) covering issues such as improving cyber security in regional and rural NSW, escalating costs of local government elections, the emergency services levy, financial assistance grants, pensioner rebates, waste and recycling, rural and regional health care services and funding for rural and regional roads. This included the 2 motions put forward by Council to the Conference.

A copy of the record of decisions from the Conference can be found at the following link on the Local Government NSW website:

[LGNSW Annual Conference 2023 Record of Decisions](#)

The final day of the Conference included a panel presentation around the Financial Sustainability for Councils. The key issues raised through the panel session included the recent IPART review of rate methodology, emergency response and recovery funding, cost-shifting to local government and access to sustainable funding programs for councils.

A very informative presentation was provided on the demographics of Australia through to 2035 and the impacts on our workforce. The workforce is undergoing generational change with increasing Gen Y (millennials) and Gen Z cohort being part of the labour force. Some broad thought provoking ideas were also presented about the ongoing change to the workforce through the continued entry of Gen Alpha into the workforce over the next 10 years, particularly as this relates to communications, technology and the number of careers people are expected to undertake over their working life. It is clear from the data that local government will not be immune to these demographic shifts.

This was followed by a panel session to discuss ways for local government to access a future workforce from under-employed markets. This included industry leaders outlining the opportunities of increased employment from under-employed sectors including women, older workforce segments and people with a disability.

Next, the Grattan Institute provided an overview of the findings of its released study into a more sustainable road funding model for local government. The study outlines a number of areas for further consideration for Federal and State levels of government in providing a sustainable and effective roads funding model for councils. The report can be found at the following [link](#).

The Conference closed with informative sessions by the Commonwealth Department of Home Affairs around cyber security and by the NSW ICAC around insights and lessons from a range of local government related investigations.

During the Conference a number of LGNSW executive and board positions were subject to an election by voting delegates. The outcome of the election for these positions is detailed [here](#).

The 2024 Conference will return to the regions and will be hosted by Tamworth Regional Council from 17 to 19 November 2024.

ATTACHMENTS

- 1) LGNSW 2023 Annual Conference Program.

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.

PROGRAM



Conference Program

12 November

<p>12.30pm- 6.00pm</p>	<p>Registration Operational</p> <p>LGNSW stand open from 1pm</p> <p>Exhibition open from 1pm</p> <p>12.30pm-2.00pm: Optional off-site visit to PHIVE at Parramatta Square, hosted by City of Parramatta Council (FULL - waitlist only available).</p>
<p>2.30pm- 3.00pm</p>	<p>Afternoon Tea in exhibition area</p>
<p>3.00pm- 5.00pm</p>	<p>Plenary Room</p> <p>3pm to 3.05pm - David Reynolds, Chief Executive LGNSW intro</p> <p>3.05pm to 3.10pm - Welcome to Country</p> <p>3.10pm to 3.20pm - President's Welcome</p> <p>3.20pm to 3.25pm - Lord Mayor, City of Parramatta</p> <p>3.25pm to 3.45pm - AR Bluett Memorial Awards presentation</p> <p>3.45pm to 3.50pm - Kristy McBain MP, Federal Minister for Regional Development, Local Government and Territories</p> <p>3.55pm to 4.55pm - The Housing Crisis, Let's Collaborate on Solutions Forum. Panel: Rose Jackson MLC, Scott Farlow MLC and Emeritus Professor Peter Phibbs, Henry Halloran Research Trusts, University of Sydney</p> <p>5.00pm to 5.05pm - Address by President's Welcome Reception Partner Landcom</p>

ITEM 3 - ATTACHMENT 1 LGNSW 2023 ANNUAL CONFERENCE PROGRAM.

<p>5.15pm- 7.30pm</p>	<p>President's Welcome Reception, exhibition area, Rosehill Gardens</p> <p>7.30pm: Bus transfers to Rosehill and Parramatta CBD hotels. Delegates make own arrangements for dinner.</p>
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* **Conference program** may be subject to change

PROGRAM



Conference Program

13 November

From 7.30am

Doors open - Registration operational.

ITEM 3 - ATTACHMENT 1 LGNSW 2023 ANNUAL CONFERENCE PROGRAM.

<p>8.00am- 9.00am</p>	<p>Level 1 AEC Voting for LGNSW Board President, Vice-Presidents, Treasurer and Directors (voting for all positions at the one time)</p>
<p>9.00am- 9.10am</p>	<p>Distribution of electronic voting handsets and delegates are seated in the Grand Pavilion plenary room</p>
<p>9.10am- 9.15am</p>	<p>Conference intro and Welcome: David Reynolds, Chief Executive LGNSW</p>
<p>9.15am- 9.25am</p>	<p>Opening Address by Cr Darriea Turley AM, President LGNSW</p>
<p>9.25am- 9.35am</p>	<p>Address from Ron Hoenig MP, Minister for Local Government – representing NSW Premier Chris Minns MP</p>
<p>9.35am- 9.45am</p>	<p>LGNSW Chief Executive David Reynolds thanks Minister for Local Government and explains voting on motions procedure and housekeeping</p>
<p>9.45am- 10.45am</p>	<p>Opening of the Federal and State conferences, adoption of standing orders, business sessions and consideration of motions and conference business.</p> <p>Presentation of financial reports by Cr Nathan Hagarty, LGNSW Treasurer</p> <p>From about 10.15am: Start of consideration of motions and conference business</p>

ITEM 3 - ATTACHMENT 1 LGNSW 2023 ANNUAL CONFERENCE PROGRAM.

<p>10.45am-11.45am</p>	<p>Morning refreshments. Trade exhibition operational</p> <p>11.00am-11.30am: AEC Voting for LGNSW Board President, Vice-Presidents, Treasurer and Directors (Voting for all positions at the one time) on Level 1</p>
<p>11.45am-11.50am</p>	<p>Address by Elite partner Statewide Mutual</p>
<p>11.50am-12.55pm</p>	<p>Consideration of Conference Business (continued)</p>
<p>1.00pm-2.15pm</p>	<p>Delegate lunch in trade exhibition area, sponsored by Distinguished Partner Active Super</p> <p>1.00pm-2.00pm: AEC Voting period for LGNSW Board President, Vice-Presidents, Treasurer and Directors (Voting for all positions at the one time) on Level 1</p>
<p>1.00pm-2.15pm</p>	<p>Premier Partner – StateCover Mutual Members’ Lunch (invitation only)</p> <p>GMs and CEOs join StateCover Mutual for member networking and lunch (level 2)</p>
<p>2.20pm-3.25pm</p>	<p>Consideration of Conference Business (continued)</p>
<p>3.30pm-4.30pm</p>	<p>Afternoon Refreshments. Trade exhibition operational (ground level)</p> <p>3.30pm-4pm: AEC Voting period for LGNSW Board President, Vice-Presidents, Treasurer and Directors (Voting for all positions at the one time) on Level 1</p>

ITEM 3 - ATTACHMENT 1 LGNSW 2023 ANNUAL CONFERENCE PROGRAM.

<p>4.30-4.40pm</p>	<p>ALGA update. Cr Linda Scott, President ALGA</p>
<p>4.40pm-5.30pm</p>	<p>Consideration of Conference Business continued</p>
<p>5.30pm-6.30pm</p>	<p>Networking in Trade Exhibition (Level 1)</p>
<p>6.30pm-10.30pm</p>	<p>Pre-dinner drinks in Trade Exhibition (Level 1)</p> <p>From 7.00pm: LGNSW Conference Dinner (Level 2). Elite Partner - Statewide Mutual. Entertainment with Jelly Bean Jam.</p> <p>Presentation of Local Government Service Awards</p>

* **Conference program** may be subject to change

PROGRAM



Conference Program

14 November

ITEM 3 - ATTACHMENT 1 LGNSW 2023 ANNUAL CONFERENCE PROGRAM.

<p>7.30am- 8.45am</p>	<p>ALGWA (NSW) Breakfast Sponsored by ALGWA Breakfast Partner Maddocks.</p> <p>MC: Stephanie Brantz.</p> <p>Speaker: Federal eSafety Commissioner Julie Inman Grant</p>
<p>From 7.30am</p>	<p>LGNSW Information Desk and Exhibition and light refreshments - Exhibition Centre</p>
<p>9.00am- 10.05am</p>	<p>Plenary Room MC: Stephanie Brantz</p> <p>Financial Sustainability for Councils: panel session followed by Q&A. Panel members are Carmel Donnelly PSM, Chair IPART; Dr Amanda Cohn MLC, Greens spokesperson for Local Government; David Mehan MP, Parliamentary Secretary to the Treasurer; Peter Tegart, Always-Thinking Advisory and Facilitator for this panel</p>
<p>10.05am- 10.15am</p>	<p>Keynote address by NSW Leader of the Opposition: Mark Speakman, MP</p>
<p>10.15am- 10.55am</p>	<p>Refreshment break in trade exhibition, ground floor. Trade Exhibition operational</p>
<p>10.55am- 11.30am</p>	<p>Keynote address by Mark McCrindle, McCrindle (https://mccrindle.com.au/) - Towards 2035: Securing our future workforce</p>

ITEM 3 - ATTACHMENT 1 LGNSW 2023 ANNUAL CONFERENCE PROGRAM.

<p>11.35am- 12.05pm</p>	<p>Plenary Room Panel session followed by Q&A: Sourcing our Future Workforce from under-employed markets. With Tig Armstrong, Work and Stay; Helen McCabe, Future Women and Jobs Academy; Jane Spring AM, Chair Disability Council NSW; Mark McCrindle, facilitator for this panel,</p>
<p>12.05pm- 12.45pm</p>	<p>Plenary Room Keynote: Towards a sustainable road funding model for Local Government, With Marion Terrill, Transport and Cities Program Director, Grattan Institute</p>
<p>12.45pm- 1.45pm</p>	<p>Lunch served in trade exhibition area. Trade exhibition operational</p>
<p>1.45pm- 2.15pm</p>	<p>Ky Blackman, First Assistant Secretary, Counter Foreign Interference Co-ordination Centre, Department of Home Affairs Topic: Counter Foreign Interference Partnerships in Local Government with Q&A</p>
<p>2.15pm- 2.45pm</p>	<p>The Hon. Helen Murrell SC, Commissioner, NSW Independent Commission Against Corruption (ICAC) Topic: Outcomes from Significant Local Government-Related Investigations</p>
<p>2.45pm- 3.00pm</p>	<p>Final remarks from President LGNSW, including announcement of location for Annual Conference 2024 Annual Conference concludes.</p>

* **Conference program** may be subject to change

ITEM NO. 4

**FILE NO: 23/281878
EDRMS NO: PSC2009-00965**

DELEGATIONS REPORT

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
DIRECTORATE: 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 4 - ATTACHMENT 1 DELEGATIONS REPORT.**MAYOR AND GENERAL MANAGER DELEGATION REPORT**

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
20/11/2023	Code of Meeting Practice	Approval of Public Access application - Tomaree Lodge	Mayor	12/12/2023
21/11/2023	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tender T101-2023 for security services.	General Manager	12/12/2023
21/11/2023	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tender T105-2023 for Holiday Parks security services.	General Manager	12/12/2023
27/11/2023	Code of Meeting Practice	Approval of Public Access application - Ramsar Listing for Mambo Wanda Wetlands	Mayor	12/12/2023

ITEM NO. 5

**FILE NO: 23/305620
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER
DIRECTORATE: 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) Community Futures resolutions.
- 2) Corporate Strategy and Support resolutions.
- 3) Facilities and Infrastructure resolutions.
- 4) General Manager's Office resolutions.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



Division: Community Futures
Committee:
Officer:
Date From: 14/09/2021
Date To: 28/11/2023
Printed: Wednesday, 29 November 2023
Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	Draft Amendment to Port Stephens Development Control Plan 2014 – Chapter B5 Flooding	16/02/2024	29/11/2023	
1		Pear, Steven				23/324875
29 Nov 2023						
Council resolved to place the draft Amendment to Port Stephens Development Control Plan 2014 - Chapter B5 on public exhibition. The public exhibition period commenced 9am 30 November 2023 and will conclude at 5pm 12 February 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	Administrative Amendment to the Port Stephens Local Environmental Plan 2013	29/03/2024	29/11/2023	
3		Pear, Steven				23/324875
29 Nov 2023						
Council resolved to adopt items 4, 6, 7 and 8 of the planning proposal to amend the Port Stephens Local Environmental Plan 2023. The planning proposal, exclusive of the items 1, 2, 3 and 5, was forwarded to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan. Council is working to complete the additional actions as endorsed within the resolution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	29/03/2024	29/11/2023	
4		Pear, Steven				23/324875
29 Nov 2023						
Council resolved to continue to support, promote and recognise the important ecological value of the Mambo Wanda Wetlands and include an action within the Port Stephens Coastal Management Program to update the Mambo Wetlands Plan of Management. Council is working to complete the additional actions as endorsed within the resolution.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/11/2023	Lamont, Brock	Revised Exceptions to Development Standards Policy	22/12/2023	15/11/2023	
4		Pear, Steven				23/300006
29 Nov 2023						
Council resolved to place the revised Exceptions to Development Standards policy on public exhibition for a 28 day period. The public exhibition period commenced 22 November 2023.						

ITEM 5 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



Action Sheets Report	Division: Community Futures	Date From: 14/09/2021
	Committee:	Date To: 28/11/2023
	Officer:	Printed: Wednesday, 29 November 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/10/2023	Lamont, Brock	Draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road	16/02/2024	25/10/2023	
3		Pearl, Steven				23/278354
29 Nov 2023						
Council resolved to place the draft Port Stephens Development Control Plan 2014 - Chapter D12 Richardson Road on public exhibition. The exhibition period commenced Thursday 2 November 2023, for a 28 day period. A return report is forecasted to be presented to Council in February 2024.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/10/2023	Lamont, Brock	Port Stephens Offshore Wind Power Zone	23/02/2024	25/10/2023	
1		Pearl, Steven				23/278354
29 Nov 2023						
The General Manager has written to the requested delegates as outlined within the motion. Council is working to complete all outstanding actions as endorsed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Planning Proposal for 39, 39A and 41 Brocklesby Road, Medowie (Precinct F)	22/12/2023	11/10/2023	
1		Pearl, Steven				23/262411
29 Nov 2023						
Council resolved to adopt the planning proposal to amend the Port Stephens Local Environmental Plan 2013 for land at 39A, 39 and 41 Brocklesby Road, Medowie (Lots 1 and 2 DP 1291794 and Lot 2 DP 508780). The planning proposal was forwarded to NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan. The draft DCP will be exhibited once a Gateway determination is received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/10/2023	Lamont, Brock	Draft Port Stephens Development Control Plan - Road Network and Parking (electric vehicles)	29/02/2024	11/10/2023	
2		Pearl, Steven				23/262411
29 Nov 2023						
The public exhibition period closed 13 November 2023, 1 submission was received. A return report is forecasted to be presented to Council in February 2024.						

ITEM 5 - ATTACHMENT 1 COMMUNITY FUTURES RESOLUTIONS.



Division: Community Futures
Date From: 14/09/2021
Committee:
Date To: 28/11/2023
Officer:
Printed: Wednesday, 29 November 2023
Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	Housing Affordability	30/03/2024	12/04/2023	
6 105		Pearl, Steven				23/92450
29 Nov 2023						
Council's Local Housing Strategy (LHS) review will integrate all outstanding housing-related actions (including the Affordable Housing Action Plan). The draft LHS is expected to be presented to Council for consideration in March 2024. Targeted consultation and community awareness commenced with a stakeholder 'Housing Forum' hosted on 10 November 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 10/10/2023	Lamont, Brock	URGENCY MOTION: Wind Farm Industry	23/02/2024		
		Pearl, Steven				
29 Nov 2023						
The General Manager has written to the requested delegates as outlined within the motion, and are negotiating a Councillor briefing. Council is working to complete all outstanding actions as endorsed.						

ITEM 5 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Action Sheets Report	Division: Corporate Strategy and Support	Date From: 27/08/2013
	Committee:	Date To: 28/11/2023
	Officer:	Printed: Wednesday, 29 November 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Pattison, Zoe	Sale of closed roads in Raymond Terrace	31/03/2024	29/11/2023	
1		Pattison, Zoe				23/324875
29 Nov 2023						
Recommendation endorsed to closing roads 1 and 2. Council staff to undertake an EOI for road 3 and provide a report back to Council for consideration of whether to continue with the road closure.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/11/2023	Latham, Kim	Review of the Terms of Reference for the Port Stephens Beachside Holiday Parks - Holiday Van Consultative Committee	31/03/2024	15/11/2023	
6		Pattison, Zoe				23/300006
29 Nov 2023						
Matter considered at the Council meeting on 14 November 2023 with a request to undertake further consultation with the wider Holiday Van Owners. Consultation is currently underway and a report will be provided back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/08/2023	Pattison, Zoe	Raymond Terrace Gateway Site Masterplan	30/06/2024		
1 193		Pattison, Zoe				23/214729
29 Nov 2023						
Recommendation endorsed. Council staff will undertake a Masterplan for part of the Gateway site in Raymond Terrace and provide a report back to Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Pattison, Zoe	22 Homestead Street, Salamander Bay	31/03/2024	12/04/2023	
5 088		Pattison, Zoe				23/92450
29 Nov 2023						
Council investigated options for the rezoning of 22 Homestead Street, Salamander Bay, and the development of a Vegetation Management Plan, to provide the best opportunity to enable a successful long-term rehabilitation of the site. A report is being prepared and will be presented to Council for consideration in due course.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/06/2024	12/10/2022	
1		Pattison, Zoe				22/273002
29 Nov 2023						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

ITEM 5 - ATTACHMENT 2 CORPORATE STRATEGY AND SUPPORT RESOLUTIONS.



Division: Corporate Strategy and Support
Date From: 27/08/2013
Date To: 28/11/2023
Committee:
Officer:
Printed: Wednesday, 29 November 2023
[Action Sheets Report](#)

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/06/2024	12/10/2022	
2		Pattison, Zoe				22/273002
29 Nov 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 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/06/2024		
2 199		Pattison, Zoe				20/288489
29 Nov 2023 Contracts and survey plan are being prepared. Completion of the acquisition is subject to registration of the plan.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	30/06/2024		
243		Pattison, Zoe				
29 Nov 2023 Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

ITEM 5 - ATTACHMENT 3 FACILITIES AND INFRASTRUCTURE RESOLUTIONS.



Division: Facilities and Infrastructure **Date From:** 11/04/2023
Committee: **Date To:** 28/11/2023
Officer: **Printed:** Thursday, 30 November 2023

Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/11/2023	Maretich, John	Policy Review - Information & Direction Signs in Road Reserves Policy	31/03/2024	29/11/2023	
10		Kable, Gregory				23/324875
29 Nov 2023						
As per resolution, the policy will be placed on public exhibition.						

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	30/06/2024	12/04/2023	
2 085		Kable, Gregory				23/92450
29 Nov 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
User Defined		Maretich, John	Matter Arising: Add various items to the Works Plan Plus	30/06/2024		
		Kable, Gregory				
29 Nov 2023						
As per resolution, staff will add the items to the Capital Works Plus Plan which will be placed on public exhibition.						

ITEM 5 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE RESOLUTIONS.



Action Sheets Report	Division: General Manager's Office	Date From: 11/04/2023
	Committee:	Date To: 28/11/2023
	Officer:	Printed: Wednesday, 29 November 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Walker, Ashley	Financial Assistance	31/12/2023	12/04/2023	
3 083		Crosdale, Timothy				23/92450
29 Nov 2023						
Awaiting necessary paperwork to process payments.						

QUESTIONS ON NOTICE

ITEM NO. 1

**FILE NO: 23/328916
EDRMS NO: PSC2021-04203**

QUESTIONS ON NOTICE / QUESTIONS WITH NOTICE

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receives and notes the information provided in response to Questions on Notice / Questions with Notice.
-

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

309	Councillor Peter Francis Councillor Jason Wells It was resolved that Council receives and notes the information provided in response to Questions on Notice / Questions with Notice.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, 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 provide a response to a question taken on or with notice in accordance with the Code of Meeting Practice.

Item:	Item No. 2 – Draft Local Infrastructure Contributions Plan – Amendment 3
Councillor:	Cr Jason Wells
Date Received:	28 November 2023
Question with Notice:	Cr Wells queried the financial estimate for OSF11 – Aliceton Reserve, Karuah – landscaping, playground and recreation facilities.

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

Response:

The financial estimate in the existing plan for OSF11 is confirmed as \$250,000.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 23/308841

EDRMS NO: PSC2021-04195

ADVERTISING SIGNS - NELSON BAY ROAD

COUNCILLOR: LEAH ANDERSON

THAT COUNCIL:

- 1) Acknowledges some members of the community are concerned about the number of advertising signs along Nelson Bay Road, their impact on amenity, and the risk they pose to motorists.
- 2) Requests the General Manager prepare a report detailing the current approach to compliance for unapproved signs and options for undertaking an 'unapproved road side signage campaign'.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

310	<p>Councillor Leah Anderson Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Acknowledges some members of the community are concerned about the number of advertising signs along Nelson Bay Road, their impact on amenity, and the risk they pose to motorists.2) Requests the General Manager prepare a report detailing the current approach to compliance for unapproved signs and options for undertaking an 'unapproved road side signage campaign'.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: STEVEN PEART – DIRECTOR COMMUNITY FUTURES**BACKGROUND**

Council has been approached on numerous occasions by members of the community concerned about amenity and safety issues caused by road side signage along Nelson Bay Road that is potentially unauthorised.

Council takes a risk based approach to compliance in line with Council's Compliance policy, which relies on the NSW Ombudsman's Guidelines for Enforcement as its framework. Unauthorised signage compliance is undertaken by Council's Compliance Team following complaints from community members, or after routine inspections from various Council officers. Like any potential unauthorised activity, the decision to take compliance action is made having consideration to the potential impacts, safety risks and whether or not the decision to pursue the matter is in the public interest from a cost/benefit perspective.

Council's Compliance Team is responsible for a diverse range of compliance activities including unauthorised development, environmental health inspections and the broad range of Rangers' activities.

It is noted that many of the road side signs along Nelson Bay Road are large, significant structures that have been in place for many years. Consideration of an unapproved road side signage campaign would need to be reviewed against the current resourcing requirements of the Compliance Team.

Preparing a report detailing the current approach to compliance for unapproved signs and options for undertaking an "unapproved road side signage campaign" will provide Council sufficient information to decide whether such a campaign is in the public interest from a cost/benefit perspective.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 23/327917

EDRMS NO: PSC2021-04195

7 DAY MAKEOVER - RAYMOND TERRACE

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes the need for a community-led program of works and improvements in the Raymond Terrace CBD.
- 2) Notes the success of the 7 day makeover programs elsewhere in Port Stephens.
- 3) Requests the General Manager to:
 - a) Investigate running a makeover-style program in-house to reduce costs using learnings from the previous makeovers in Port Stephens.
 - b) Commence the discussion with Creative Communities International to obtain quotes for the cost of a 7 Day Makeover program at Raymond Terrace.
 - c) Report back to Council with the cost of running the program in-house compared with Creative Communities to determine which pathway will be adopted to deepen community involvement in improving the Raymond Terrace CBD.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

311	<p>Councillor Giacomo Arnott Councillor Peter Francis</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Notes the need for a community-led program of works and improvements in the Raymond Terrace CBD.2) Notes the success of the 7 day makeover programs elsewhere in Port Stephens.3) Requests the General Manager to:<ol style="list-style-type: none">a) Investigate running a makeover-style program in-house to reduce costs using learnings from the previous makeovers in Port Stephens.
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MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

	<p>b) Commence the discussion with Creative Communities International to obtain quotes for the cost of a 7 Day Makeover program at Raymond Terrace.</p> <p>c) Report back to Council by the end of February 2024 with the cost of running the program in-house compared with Creative Communities to determine which pathway will be adopted to deepen community involvement in improving the Raymond Terrace CBD.</p>
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER

BACKGROUND

The purpose of this background is to provide information in relation to this Notice of Motion.

The 7 Day Makeover program was created by the company called Creative Communities International (CCI) and has previously run successful programs at Anna Bay and Medowie in 2019 and 2021 respectively.

The program is run and managed by CCI with assistance from Council, though the focus is on what the community can do to create a vibrant and usable space. This program not only brings community together increasing social interactions and connections, but improves the visual amenity of a town. This, in turn, leads to increasing numbers using the town space, leading to improved safety and increased business transactions for the neighbouring businesses.

There are currently no dedicated funds allocated to the project and the outcome of proceeding with this project is based on Council gaining a grant or some other source of funds being allocated to the project.

Should Council resolve to support this motion, a workshop will be arranged to discuss the scope and scale of the intended makeover program. Clarity and agreement on scale and scope will enable accurate identification of costs and inform any discussions with CCI in accordance with our procurement obligations and processes.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

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

ATTACHMENTS

Nil.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: 23/328088

EDRMS NO: PSC2021-04195

TOWN CENTRE IMPROVEMENTS COMMUNICATIONS

COUNCILLOR: GIACOMO ARNOTT

THAT COUNCIL:

- 1) Notes the importance of consultation with the community and Councillors on all town centre improvement activities to ensure the Council's directions and ideas are consistent with the wants and needs of the community.
- 2) Notes that when town centre improvements occur, it can often lead to questions or concern from the community, and Councillors need to be equipped to answer questions.
- 3) Requests the General Manager to:
 - a) Ensure that all Council town centre improvements are reported to Councillors either in established quarterly catch ups or, where there is short notice, in direct emails to all relevant ward Councillors outlining Council's proposal and seeking feedback prior to the start of works, including extra works outside original scopes of works.

**ORDINARY COUNCIL MEETING - 12 DECEMBER 2023
MOTION**

312	<p>Councillor Giacomo Arnott Councillor Jason Wells</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Notes the importance of consultation with the community and Councillors on all town centre improvement activities to ensure the Council's directions and ideas are consistent with the wants and needs of the community.2) Notes that when town centre improvements occur, it can often lead to questions or concern from the community, and Councillors need to be equipped to answer questions.3) Requests the General Manager to:<ol style="list-style-type: none">a) Ensure that all Council town centre improvements are reported to Councillors either in established quarterly catch ups or, where there is short notice, in direct emails to all relevant ward Councillors outlining
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MINUTES ORDINARY COUNCIL - 12 DECEMBER 2023

	Council's proposal and seeking feedback prior to the start of works, including extra works outside original scopes of works.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND REPORT OF: JANELLE GARDNER – COMMUNICATIONS SECTION MANAGER

BACKGROUND

Council's Communications and Engagement Strategy identifies the important role Councillors have in sharing news and information on Council projects and programs with the local community. We also know that our Councillors are often the first point of contact for community enquiries and concerns and we are committed to ensuring all Councillors are well informed and aware of Council projects and works, particularly in our town centres and public spaces.

Projects and works across our town centres are delivered by Council as part of our annual works plans. Town Centre improvement projects are generally identified through town centre strategies, public domain plans, infrastructure plans and, more recently place plans, all of which are formally adopted by Council. Given these documents are strategic in nature, the details of town centre improvement projects are subject to further detailed design and engagement with Councillors. These projects are largely externally grant funded meaning that the objectives, scope and timing is also agreed with the external funding body which needs to be formally acquitted.

Officers will ensure that all Council led town centre improvements are communicated to Ward Councillors via the established quarterly Ward Catch Ups, emails, two-way briefings and PS News. Council staff will also ensure that any changes to agreed programs of work are communicated clearly with relevant Ward Councillors prior to works commencing.

Should Council resolve in accordance with this motion, further discussions will be had with Councillors to agree on what is considered a town centre improvement project for the purposes of this motion. It is critical that this is agreed with Councillors so that teams have clarity on what is consulted and when, to ensure there is balance between delivery and Councillors' ability to be engaged outside of normal scheduled engagement processes.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

There being no further business the meeting closed at 9:04pm.