

ORDINARY COUNCIL MEETING 13 FEBRUARY 2018

NOTICE OF RESCISSION

ITEM NO. 1

FILE NO: 17/249368

EDRMS NO: PSC2017-00020

**PLANNING PROPOSAL – REZONE AND AMEND THE MINIMUM LOT SIZES AT
111 SOUTH STREET (LOT 14 DP1079392) AND 1C SYLVAN AVENUE (LOT 11
DP1105086), MEDOWIE**

COUNCILLOR: JOHN NELL
RYAN PALMER
GLEN DUNKLEY

THAT COUNCIL:

Rescind its decision of 12 December 2017 on Item No. 3 Planning Proposal –
Rezone and amend the minimum lot sizes at 111 South Street (Lot 14 DP1079392)
and 1C Sylvan Avenue (Lot 11 DP1105086), Medowie.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
MOTION**

	<p>Councillor John Nell Mayor Ryan Palmer</p> <p>That Council rescind its decision of 12 December 2017 on Item No. 3 Planning Proposal – Rezone and amend the minimum lot sizes at 111 South Street (Lot 14 DP1079392) and 1C Sylvan Avenue (Lot 11 DP1105086), Medowie.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is
required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Glen Dunkley and John Nell.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Sarah
Smith and Steve Tucker.

The motion was lost.

ITEM NO. 1

**FILE NO: 18/10551
EDRMS NO: PSC2017-02843**

**PLANNING PROPOSAL - MINOR ZONE BOUNDARY ADJUSTMENT, 100
SALAMANDER WAY, SALAMANDER BAY**

REPORT OF: MARC GOODALL - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (**ATTACHMENT 1**) to amend the *Port Stephens Local Environmental Plan 2013* (LEP) which seeks to rectify minor mapping inconsistencies at 100 Salamander Way, Salamander Bay by:
 - a. Rezoning 0.11ha of land from E2 Environmental Conservation to SP2 Infrastructure: School/Child Care Centre; and
 - b. Rezoning 0.15ha of land from SP2 Infrastructure: School/Child Care Centre to E2 Environmental Conservation.
- 2) Approve the public exhibition of the Planning Proposal in accordance with the gateway determination issued under the *Environmental Planning and Assessment Act 1979* (EP&A Act) (s56) (**ATTACHMENT 2**).
- 3) Waive Stage 2 and Stage 3 fees for the Planning Proposal, given the amendment corrects a mapping anomaly and is of a minor nature.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
MOTION**

004	<p>Mayor Ryan Palmer Councillor Giacomo Arnott</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
MOTION**

005	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal (ATTACHMENT 1) to amend the <i>Port Stephens Local Environmental Plan 2013</i> (LEP) which seeks to rectify minor mapping inconsistencies at 100 Salamander Way, Salamander Bay by: <ol style="list-style-type: none"> a. Rezoning 0.11ha of land from E2 Environmental Conservation to SP2 Infrastructure: School/Child Care Centre; and b. Rezoning 0.15ha of land from SP2 Infrastructure: School/Child Care Centre to E2 Environmental Conservation. 2) Approve the public exhibition of the Planning Proposal in accordance with the gateway determination issued under the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) (s56) (ATTACHMENT 2). 3) Waive Stage 2 and Stage 3 fees for the Planning Proposal, given the amendment corrects a mapping anomaly and is of a minor nature.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 2

**FILE NO: 17/224060
EDRMS NO: PSC2017-01980**

**PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014 (AMENDMENT NO. 4)
- MINOR AMENDMENTS AND CORRECTIONS**

REPORT OF: MARC GOODALL - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the submissions received during the exhibition period of the Draft Port Stephens Development Control Plan 2014 (Amendment No.4).
- 2) Adopt the Port Stephens Development Control Plan (Amendment No. 4) – Minor Amendments and Corrections (**TABLED DOCUMENT 1**).
- 3) Provide 14 days public notice of the intention to replace the Port Stephens Development Control Plan (Amendment No. 2) with Port Stephens Development Control Plan (Amendment No. 4) in accordance with the *Environmental Planning and Assessment Regulation 2000* (s23).

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor Giacomo Arnott</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
MOTION**

006	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Note the submissions received during the exhibition period of the Draft Port Stephens Development Control Plan 2014 (Amendment No.4). 2) Adopt the Port Stephens Development Control Plan (Amendment No. 4) – Minor Amendments and Corrections (TABLED DOCUMENT 1). 3) Provide 14 days public notice of the intention to replace the Port Stephens Development Control Plan (Amendment No. 2) with Port Stephens Development Control Plan (Amendment No. 4) in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (s23).
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 3

**FILE NO: 18/649
EDRMS NO: PSC2016-01959**

**UPDATE TO DEVELOPMENT CONTROL PLAN CHAPTER D9 NORTH MEDOWIE,
MEDOWIE (THE BOWER ESTATE)**

REPORT OF: MARC GOODALL - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to prepare a draft update to chapter D9 North Medowie (The Bower Estate) (**ATTACHMENT 1**) of the Port Stephens Development Control Plan 2014 in accordance with the provisions of section 74C of the *Environmental Planning and Assessment Act 1979* (NSW).
- 2) Place the draft update to chapter D9 North Medowie (The Bower Estate) on exhibition for 28 days.
- 3) If no submissions are received, adopt the draft update without a post-exhibition report to Council.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Chris Doohan Councillor Glen Dunkley</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Cr Ken Jordan.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
MOTION**

007	<p>Mayor Ryan Palmer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Prepare a draft update to chapter D9 North Medowie (The Bower Estate) (ATTACHMENT 1) of the Port Stephens Development Control Plan 2014 in accordance with the provisions of section 74C of the <i>Environmental Planning and Assessment Act 1979</i> (NSW).2) Place the draft update to chapter D9 North Medowie (The Bower Estate) on exhibition for 28 days.3) If no submissions are received, adopt the draft update without a post-exhibition 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: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Cr Ken Jordan.

ITEM NO. 4

**FILE NO: 17/236963
EDRMS NO: PSC2015-00487**

**PROPOSED AMENDMENT TO THE PORT STEPHENS RURAL RESIDENTIAL
POLICY**

REPORT OF: MARC GOODALL - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Rural Residential policy and Appendix 1 – Rural residential Policy Assessment Criteria at **(ATTACHMENTS 1 and 2)** in order to place on exhibition for a period of 28 days.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Jaimie Abbott Councillor Glen Dunkley</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Crs Giacomo Arnott, John Nell and Steve Tucker.

**ORDINARY COUNCIL MEETING - 13 FEBRUARY 2018
MOTION**

008	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council endorse the draft Rural Residential policy and Appendix 1 – Rural residential Policy Assessment Criteria at</p>
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	(ATTACHMENTS 1 and 2) in order to place on exhibition for a period of 28 days.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Crs Giacomo Arnott, John Nell and Steve Tucker.

ORDINARY COUNCIL MEETING 27 FEBRUARY 2018

ITEM NO. 1

**FILE NO: 18/18974
EDRMS NO: 16-2015-852-4**

**SECTION 96 APPLICATION TO MODIFY DETERMINATION NO. 16-2015-852-1
FOR A COMMUNITY FACILITY, RECREATIONAL FACILITY (OUTDOOR),
ASSOCIATED EARTHWORKS, SIGNAGE AND CAR PARKING AT 36 AND 36A
FERODALE ROAD, MEDOWIE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the Section 96 application for Development Application 16-2015-852-4 subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 27 FEBRUARY 2018
MOTION**

001	<p>Mayor Ryan Palmer Councillor Paul Le Mottee</p> <p>It was resolved that Council that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 27 FEBRUARY 2018
MOTION**

002	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council approve the Section 96 application for Development Application 16-2015-852-4 subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 27 MARCH 2018

ITEM NO. 1

**FILE NO: 18/22200
EDRMS NO: 16-2016-631-2**

**SECTION 4.55 MODIFICATION OF CONSENT - APPLICATION TO MODIFY
DETERMINATION NO. 16-2016-631-1 FOR A RESIDENTIAL FLAT BUILDING
(INCORPORATING 8 STOREY APARTMENT COMPLEX WITH UNDERGROUND
CAR PARKING) AT 11-13 CHURCH STREET, NELSON BAY**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Section 4.55(1A) (formerly Section 96(1A)) Modification No.16-2016-631-2 for a Residential Flat Building (Incorporating 8 Storey Apartment Complex with Underground Car Parking) at 11-13 Church Street, Nelson Bay (Lots 17 & 18 Section 7 DP8611), subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 27 MARCH 2018
MOTION**

053	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor Paul Le Mottee</p> <p>That the recommendation be adopted.</p>
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The Development Services Group Manager advised the Chair that the oversupply of parking spaces listed on page 21 of the agenda should read 10 spaces, not 29 space.

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

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 27 MARCH 2018
MOTION**

054	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that Council approve Section 4.55(1A) (formerly Section 96(1A)) Modification No.16-2016-631-2 for a Residential Flat Building (Incorporating 8 Storey Apartment Complex with Underground Car Parking) at 11-13 Church Street, Nelson Bay (Lots 17 & 18 Section 7 DP8611), subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 2

**FILE NO: 18/20414
EDRMS NO: PSC2017-03039**

**PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013 - MINOR
AMENDMENTS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the proposed amendments to the *Port Stephens Local Environmental Plan 2013 (ATTACHMENT 1)* which rectify drafting errors by:
 - a. Rezoning privately owned land at Lot 1 DP 1186184 from NP1 National Parks and Reserves to RU2 Rural Landscape with a minimum lot size of 20ha.
 - b. Replacing the reference to "DP79221" in clause 5 of Schedule 1 to the *Port Stephens Local Environmental Plan 2013* with "DP792211".
 - 2) Authorise the exercise of delegations to make the plan under Section 3.36 of the *Environmental Planning and Assessment Act 1979*.
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**ORDINARY COUNCIL MEETING - 27 MARCH 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

Councillor Paul Le Mottee left the meeting at 7:08pm in Open Council, and did not return to the meeting, as this item was dealt with last.

**ORDINARY COUNCIL MEETING - 27 MARCH 2018
MOTION**

055	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the proposed amendments to the <i>Port Stephens Local Environmental Plan 2013</i> (ATTACHMENT 1) which rectify drafting errors by: <ol style="list-style-type: none"> a. Rezoning privately owned land at Lot 1 DP 1186184 from NP1 National Parks and Reserves to RU2 Rural Landscape with a minimum lot size of 20ha. b. Replacing the reference to "DP79221" in clause 5 of Schedule 1 to the <i>Port Stephens Local Environmental Plan 2013</i> with "DP792211". 2) Authorise the exercise of delegations to make the plan under Section 3.36 of the <i>Environmental Planning and Assessment Act 1979</i>.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

ITEM NO. 3

**FILE NO: 17/85029
EDRMS NO: PSC2013-05184**

**PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014 (AMENDMENT NO. 3)
- PART B5 FLOODING**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Draft Development Control Plan 2014 (Amendment No.3) Chapter B5 – Flooding (**ATTACHMENT 1**) for public exhibition in accordance with the *Environmental Planning and Assessment Act 1979 (NSW) (s3.45)*.
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**ORDINARY COUNCIL MEETING - 27 MARCH 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Glen Dunkley Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 27 MARCH 2018
MOTION**

056	<p>Councillor Chris Doohan Councillor Ken Jordan</p>
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	It was resolved that Council endorse the Draft Development Control Plan 2014 (Amendment No.3) Chapter B5 – Flooding (ATTACHMENT 1) for public exhibition in accordance with the <i>Environmental Planning and Assessment Act 1979 (NSW) (s3.45)</i> .
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 10 APRIL 2018

ITEM NO. 1

FILE NO: 18/59846
EDRMS NO: 16-2016-679-2

**MODIFICATION OF CONSENT - APPLICATION TO MODIFY DETERMINATION
NO. DA 16-2016-679-1 FOR MULTI-DWELLING HOUSING (8 TWO STOREY
UNITS) AND ASSOCIATED STRATA TITLE SUBDIVISION AT 2 BAGNALL
AVENUE, SOLDIERS POINT**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Section 4.55 (1A) Modification No. 16-2016-679-2 for Multi-Dwelling Housing (8 Two Storey Dwellings) and Associated Strata Title Subdivision at 2 Bagnall Avenue. Soldiers Point, subject to the conditions contained in **(ATTACHMENT 3)**.

Councillor Jaimie Abbott returned to the meeting at 5:50pm in Committee of the Whole.

**ORDINARY COUNCIL MEETING - 10 APRIL 2018
MOTION**

003	<p>Councillor Giacomo Arnott Councillor Sarah Smith</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Giacomo Arnott</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Paul Le Mottee, John Nell and Sarah Smith.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 10 APRIL 2018
MATTER ARISING**

	<p>Councillor John Nell Councillor Giacomo Arnott</p> <p>It was resolved that Council refer to intersection concerns in the vicinity of 2 Bagnall Avenue, Soldiers Point to the Local Traffic Committee.</p>
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**ORDINARY COUNCIL MEETING - 10 APRIL 2018
MOTION**

<p>004</p>	<p>Councillor Jaimie Abbott Councillor Paul Le Mottee</p> <p>It was resolved that Council approve Section 4.55 (1A) Modification No. 16-2016-679-2 for Multi-Dwelling Housing (8 Two Storey Dwellings) and Associated Strata Title Subdivision at 2 Bagnall Avenue, Soldiers Point, subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Paul Le Mottee, John Nell and Sarah Smith.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 10 APRIL 2018
MATTER ARISING**

	<p>Councillor Jaimie Abbott Councillor Paul Le Mottee</p> <p>It was resolved that Council refer to intersection concerns in the vicinity of 2 Bagnall Avenue, Soldiers Point to the Local Traffic Committee.</p>
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ITEM NO. 2

**FILE NO: 18/29615
EDRMS NO: PSC2017-02843**

**MINOR ZONE BOUNDARY ADJUSTMENT AT 100 SALAMANDER WAY,
SALAMANDER BAY**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the making of an amendment to the Port Stephens Local Environmental Plan 2013 (**ATTACHMENT 1**) which seeks to rectify minor mapping inconsistencies at 100 Salamander Way, Salamander Bay by:
 - a. Rezoning 0.11ha of land from E2 Environmental Conservation to SP2 Infrastructure: School/Child Care Centre; and
 - b. Rezoning 0.15ha of land from SP2 Infrastructure: School/Child Care Centre to E2 Environmental Conservation.
- 2) Authorise the exercise of delegations to make the plan under Section 3.36 of the *Environmental Planning and Assessment Act 1979*.

**ORDINARY COUNCIL MEETING - 10 APRIL 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor Glen Dunkley</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Paul Le Mottee, John Nell, and Sarah Smith.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 10 APRIL 2018
MOTION**

005	<p>Councillor Jaimie Abbott Councillor Paul Le Mottee</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse the making of an amendment to the Port Stephens Local Environmental Plan 2013 (ATTACHMENT 1) which seeks to rectify minor mapping inconsistencies at 100 Salamander Way, Salamander Bay by: <ol style="list-style-type: none"> a. Rezoning 0.11ha of land from E2 Environmental Conservation to SP2 Infrastructure: School/Child Care Centre; and b. Rezoning 0.15ha of land from SP2 Infrastructure: School/Child Care Centre to E2 Environmental Conservation. 2) Authorise the exercise of delegations to make the plan under Section 3.36 of the <i>Environmental Planning and Assessment Act 1979</i>.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Paul Le Mottee, John Nell, and Sarah Smith.

Those against the Motion: Nil.

ITEM NO. 3

**FILE NO: 18/45988
EDRMS NO: PSC2006-2237**

DRAFT DEVELOPMENT CONTROL PLAN CHAPTER D16 MEDOWIE PLANNING STRATEGY (PRECINCT E)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare the Draft Port Stephens Development Control Plan 2014 Chapter D16 Medowie Planning Strategy (Precinct E) (**ATTACHMENT 1**) in accordance with the provisions of section 3.43 of the *Environmental Planning and Assessment Act 1979* (NSW).
 - 2) Place the Draft Port Stephens Development Control Plan 2014 Chapter D16 Medowie Planning Strategy (Precinct E) on exhibition for a period of 28 days.
 - 3) If no submissions are received during the exhibition period, adopt the Draft DCP without a post-exhibition report to Council.
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**ORDINARY COUNCIL MEETING - 10 APRIL 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor Jaimie Abbott</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Paul Le Mottee, John Nell and Sarah Smith.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 10 APRIL 2018
MOTION**

006	<p>Councillor Jaimie Abbott Councillor Paul Le Mottee</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Prepare the Draft Port Stephens Development Control Plan 2014 Chapter D16 Medowie Planning Strategy (Precinct E) (ATTACHMENT 1) in accordance with the provisions of section 3.43 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW). 2) Place the Draft Port Stephens Development Control Plan 2014 Chapter D16 Medowie Planning Strategy (Precinct E) on exhibition for a period of 28 days. 3) If no submissions are received during the exhibition period, adopt the Draft DCP without a post-exhibition 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: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Glen Dunkley, Paul Le Mottee, John Nell and Sarah Smith.

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 8 MAY 2018

ITEM NO. 1

**FILE NO: 18/67379
EDRMS NO: 16-2018-171-1**

**DEVELOPMENT APPLICATION NO. 16-2018-171-1 FOR A ONE INTO TWO LOT
TORRENS TITLE SUBDIVISION AT 1 SKETCHLEY STREET, RAYMOND
TERRACE (LOT 2 DP31847)**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application (DA) No. 16-2018-171-1 for one lot into two lot Torrens title subdivision at 1 Sketchley Street, Raymond Terrace subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

007	<p>Councillor Chris Doohan Councillor Glen Dunkley</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

008	<p>Councillor Chris Doohan Councillor Paul Le Mottee</p> <p>It was resolved that Council approve Development Application (DA) No. 16-2018-171-1 for one lot into two lot Torrens title subdivision at 1 Sketchley Street, Raymond Terrace subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

ITEM NO. 2

FILE NO: 18/73292
EDRMS NO: 16-2017-324-1

DEVELOPMENT APPLICATION NO. 16-2017-324-1 FOR DEMOLITION (EXISTING DUAL OCCUPANCY), CONSTRUCT RESIDENTIAL FLAT BUILDING (12 UNITS), SUBFLOOR CAR PARK, EARTHWORKS AND LANDSCAPING AT 16 CHURCH STREET NELSON BAY (LOT: 0 SP: 12075)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Support the Clause 4.6 exception as it is considered unreasonable and unnecessary to strictly comply with the development standard of Clause 4.3 of Port Stephens LEP 2013 – Height of Building standard for the proposed development at 16 Church Street, Nelson Bay for the following reasons:
 - a) Compliance with the development standard would be unreasonable and unnecessary in the circumstances, as required under the Five Part Test (*Webhe v Pittwater Council*);
 - b) There are sufficient environmental planning grounds to justify the contravention;
 - c) The proposed development represents an increase in residential housing in Nelson Bay;
 - d) The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation;
 - e) The proposed development is an appropriate response to the context of the site;
 - f) The proposed development will not have a significant environmental impact, is in the public interest and better achieves the development standard's objectives;
 - g) The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979); and
 - h) The contravention does not raise any matter of State or Regional Significance.
 - 2) Approve Development Application DA No. 16-2017-324-1 subject to the conditions contained in **(ATTACHMENT 1)**.
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**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Glen Dunkley</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

009	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council:</p> <p>1) Support the Clause 4.6 exception as it is considered unreasonable and unnecessary to strictly comply with the development standard of Clause 4.3 of Port Stephens LEP 2013 – Height of Building standard for the proposed development at 16 Church Street, Nelson Bay for the following reasons:</p> <ul style="list-style-type: none"> a) Compliance with the development standard would be unreasonable and unnecessary in the circumstances, as required under the Five Part Test (Webhe v Pittwater Council); b) There are sufficient environmental planning grounds to justify the contravention; c) The proposed development represents an increase in residential housing in Nelson Bay; d) The development achieves and is consistent with the objectives of the R3 zone, notwithstanding the variation; e) The proposed development is an appropriate response to the context of the site; f) The proposed development will not have a significant environmental impact, is in the public interest and better
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	<p>achieves the development standard's objectives;</p> <p>g) The proposed variation will not hinder the attainment of the object specified in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979); and</p> <p>h) The contravention does not raise any matter of State or Regional Significance.</p> <p>2) Approve Development Application DA No. 16-2017-324-1 subject to the conditions contained in (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

ITEM NO. 3

**FILE NO: 18/68215
EDRMS NO: 16-2017-716-2**

**MODIFICATION APPLICATION NO. 16-2017-716-2 TO WAIVE THE
DEVELOPMENT CONTRIBUTIONS APPLICABLE TO AN APPROVED DUAL
OCCUPANCY AT 15 SOPHIA JANE DRIVE, NELSONS PLAINS (LOT 5
DP881861)**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse the modification application No. 16-2017-716-2 which seeks to waive the development contributions applicable to an approved dual occupancy at 15 Sophia Jane Drive, Nelsons Plains (Lot 5 DP 881861) for the reasons contained in **(ATTACHMENT 2)** of this report.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Cr Steve Tucker.

Those against the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee and John Nell.

The motion on being put was lost.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>That Council waive the development contribution applicable for modification application No. 16-2017-716-2 for the approved dual occupancy at 15 Sophia Jane Drive, Nelsons Plains (Lot 5 DP 881861), based on the reasons outlined in the report which support the variation.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 8 MAY 2018
MOTION**

010	<p>Councillor Chris Doohan Councillor John Nell</p> <p>It was resolved that Council waive the development contribution applicable for modification application No. 16-2017-716-2 for the approved dual occupancy at 15 Sophia Jane Drive, Nelsons Plains (Lot 5 DP 881861), based on the reasons outlined in the report which support the variation.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.