

**ORDINARY COUNCIL MEETING – 9 FEBRUARY 2021**

**ITEM NO. 1**

**FILE NO: 21/11654**

**EDRMS NO: 16-2020-758-1**

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

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

GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

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

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

<b>001</b>	<p><b>Councillor Paul Le Mottee</b> <b>Councillor Sarah Smith</b></p> <p>It was resolved that Council approve Development Application DA No. 16-2020-758-1 for a 2 into 3 lot Torrens title subdivision subject to the conditions contained in <b>(ATTACHMENT 1)</b> of this supplementary report.</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 Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

**ITEM NO. 2**

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

**DRAFT VOLUNTARY PLANNING AGREEMENT - SALSANDS (NSW) PTY LTD**

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

**RECOMMENDATION IS THAT COUNCIL:**

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

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

<b>002</b>	<p><b>Councillor Glen Dunkley Councillor Sarah Smith</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Endorse the draft Voluntary Planning Agreement between Council and Salsands (NSW) Pty Ltd, together with the accompanying explanatory note (<b>ATTACHMENT 2</b>).</li> <li>2) Exhibit the draft Voluntary Planning Agreement and explanatory note for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000.</li> <li>3) If no submissions are received, approve the Voluntary Planning Agreement and explanatory note as exhibited for execution.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING – 23 FEBRUARY 2021**

**ITEM NO. 1**

**FILE NO: 21/630**

**EDRMS NO: PSC2019-00821**

**DRAFT LOCAL INFRASTRUCTURE CONTRIBUTION PLAN - AMENDMENT NO. 1**

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

GROUP: DEVELOPMENT SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and note the public submissions received during the exhibition period (**ATTACHMENT 1**).
- 2) Approve the Port Stephens Local Infrastructure Contribution Plan – Amendment No. 1 as amended (**ATTACHMENT 2**).
- 3) Provide public notice that the Port Stephens Local Infrastructure Contribution Plan – Amendment No. 1 has been approved, in accordance with the Environmental Planning and Assessment Regulations 2000 (NSW).

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2021  
MOTION**

<b>003</b>	<p><b>Councillor Jaimie Abbott Councillor Sarah Smith</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Receive and note the public submissions received during the exhibition period (<b>ATTACHMENT 1</b>).</li> <li>2) Approve the Port Stephens Local Infrastructure Contribution Plan – Amendment No. 1 as amended (<b>ATTACHMENT 2</b>).</li> <li>3) Provide public notice that the Port Stephens Local Infrastructure Contribution Plan – Amendment No. 1 has been approved, in accordance with the Environmental Planning and Assessment Regulations 2000 (NSW).</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

**ORDINARY COUNCIL MEETING – 9 MARCH 2021**

**ITEM NO. 1**

**FILE NO: 20/266215  
EDRMS NO: 16-2020-357-1**

**DEVELOPMENT APPLICATION 16-2020-357-1 FOR A SINGLE STOREY  
DWELLING AT 918 NEWLINE ROAD, EAGLETON (LOT 31 DP 840177)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) for the reasons contained in **(ATTACHMENT 3)**.

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

<b>004</b>	<b>Councillor Chris Doohan Councillor Jaimie Abbott</b>  It was resolved that Council defer development application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) for a period of 4 weeks.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**ITEM NO. 2**

**FILE NO: 21/20001  
EDRMS NO: 16-2020-302-1**

**DEVELOPMENT APPLICATION 16-2020-302-1 FOR A DUAL OCCUPANCY (1 EXISTING) AND FLOOD MOUND AT 814 HINTON ROAD, OSTERLEY (LOT 29 DP 871241)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2020-302-1 for a dual occupancy (1 existing) and flood mound at 814 Hinton Road, Osterley (Lot 29 DP 871241) for the reasons contained in **(ATTACHMENT 3)**.

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

<b>005</b>	<b>Councillor Chris Doohan Councillor Jaimie Abbott</b>  It was resolved that Council defer development application 16-2020-302-1 for a dual occupancy (1 existing) and flood mound at 814 Hinton Road, Osterley (Lot 29 DP 871241) for a period of 4 weeks to allow for a site inspection.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**ITEM NO. 3**

**FILE NO: 21/19711  
EDRMS NO: 16-2020-477-1**

**DEVELOPMENT APPLICATION 16-2020-477-1 FOR 2 SEMI-DETACHED DWELLINGS & A 1 INTO 2 LOT TORRENS TITLE SUBDIVISION AT 6 BEENONG CLOSE, NELSON BAY (LOT 196 DP 9165)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2020-477-1 for 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 6 Beenong Close, Nelson Bay (Lot 196 DP 9165) subject to the conditions contained in **(ATTACHMENT 3)**.

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

<b>006</b>	<b>Councillor Jaimie Abbott Councillor Giacomo Arnott</b>  It was resolved that Council defer development application 16-2020-477-1 for 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 6 Beenong Close, Nelson Bay (Lot 196 DP 9165) for inspection.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Paul Le Mottee, Sarah Smith and Steve Tucker.

Those against the Motion: Cr Ken Jordan.

The motion was carried.



**ORDINARY COUNCIL MEETING – 23 MARCH 2021**

**ITEM NO. 1**

**FILE NO: 21/31889  
EDRMS NO: 16-2020-707-1**

**DEVELOPMENT APPLICATION 16-2020-707-1 FOR DEMOLITION OF SINGLE STOREY DWELLING, CONSTRUCTION OF 2 SEMI-DETACHED DWELLINGS AND A 1 INTO 2 LOT TORRENS TITLE SUBDIVISION AT 230 SOLDIERS POINT ROAD, SOLDIERS POINT (LOT 156 DP 27047)**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
- 2) Approve Development Application 16-2020-707-1 for the demolition of a single storey dwelling, construction of 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 230 Soldiers Point Road, Soldiers Point, subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 23 MARCH 2021  
MOTION**

<b>007</b>	<p><b>Councillor Ken Jordan Councillor Steve Tucker</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.</li> <li>2) Approve Development Application 16-2020-707-1 for the demolition of a single storey dwelling, construction of 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 230 Soldiers Point Road, Soldiers Point, subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

**ORDINARY COUNCIL MEETING – 13 APRIL 2021**

**ITEM NO. 1**

**FILE NO: 21/56288  
EDRMS NO: 16-2021-9-1**

**DEVELOPMENT APPLICATION 16-2021-9-1 FOR ALTERATIONS AND ADDITIONS TO AN EXISTING RESIDENTIAL FLAT BUILDING AT 25 SHOAL BAY ROAD, SHOAL BAY (SP 10173)**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
- 2) Approve Development Application 16-2021-9-1 for alterations and additions to an existing residential flat building at 25 Shoal Bay Road, Shoal Bay (SP 10173) subject to the conditions contained in **(ATTACHMENT 3)**.

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

<b>008</b>	<p><b>Councillor Paul Le Mottee Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.</li> <li>2) Approve Development Application 16-2021-9-1 for alterations and additions to an existing residential flat building at 25 Shoal Bay Road, Shoal Bay (SP 10173) subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Ken Jordan, Paul Le Mottee, John Nell, Ryan Palmer and Steve Tucker.

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

**ITEM NO. 2**

**FILE NO: 21/59863  
EDRMS NO: 16-2019-135-1**

**DEVELOPMENT APPLICATION 16-2019-135-1 FOR A SINGLE STOREY  
DWELLING ON AN APPROVED FLOOD MOUND AT 1 SWANREACH ROAD,  
HINTON (LOT 51 DP 1250604).**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse development application 16-2019-135-1 for a single dwelling on an existing flood mound at 1 Swanreach Road, Hinton (LOT 51 DP 1250604) for the reasons contained in **(ATTACHMENT 3)**.

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

<b>009</b>	<b>Councillor John Nell Councillor Giacomo Arnott</b>  It was resolved that Council refuse development application 16-2019-135-1 for a single dwelling on an existing flood mound at 1 Swanreach Road, Hinton (LOT 51 DP 1250604) for the reasons contained in <b>(ATTACHMENT 3)</b> .
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Glen Dunkley, Ken Jordan, John Nell and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

**ITEM NO. 3**

**FILE NO: 21/64900  
EDRMS NO: 16-2020-357-1**

**DEVELOPMENT APPLICATION 16-2020-357-1 FOR A SINGLE STOREY  
DWELLING AT 918 NEWLINE ROAD, EAGLETON (LOT 31 DP 840177)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) for the reasons contained in **(ATTACHMENT 3)**.

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

<b>010</b>	<b>Councillor John Nell Councillor Giacomo Arnott</b>  It was resolved that Council Development Application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) be deferred to the next Ordinary Council meeting to be held on 27 April 2021.
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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, Ken Jordan, John Nell and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

**ITEM NO. 4**

**FILE NO: 21/64925  
EDRMS NO: 16-2020-302-1**

**DEVELOPMENT APPLICATION 16-2020-302-1 FOR A DUAL OCCUPANCY (1 EXISTING) AND FLOOD MOUND AT 814 HINTON ROAD, OSTERLEY (LOT 29 DP 871241)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2020-302-1 for a dual occupancy (1 existing) and flood mound at 814 Hinton Road, Osterley (Lot 29 DP 871241) for the reasons contained in **(ATTACHMENT 3)**.

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

<b>011</b>	<b>Councillor John Nell Councillor Giacomo Arnott</b>  It was resolved that Council refuse Development Application 16-2020-302-1 for a dual occupancy (1 existing) and flood mound at 814 Hinton Road, Osterley (Lot 29 DP 871241) for the reasons contained in <b>(ATTACHMENT 3)</b> .
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan, John Nell and Steve Tucker.

Those against the Motion: Mayor Ryan Palmer and Cr Paul Le Mottee.

The motion was carried.

**ITEM NO. 5**

**FILE NO: 21/64961  
EDRMS NO: 16-2020-477-1**

**DEVELOPMENT APPLICATION 16-2020-477-1 FOR 2 SEMI-DETACHED DWELLINGS & A 1 INTO 2 LOT TORRENS TITLE SUBDIVISION AT 6 BEENONG CLOSE, NELSON BAY (LOT 196 DP 9165)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2020-477-1 for 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 6 Beenong Close, Nelson Bay (Lot 196 DP 9165) subject to the conditions contained in **(ATTACHMENT 3)**.

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

<b>012</b>	<b>Councillor Ken Jordan Councillor Steve Tucker</b>  It was resolved that Council approve Development Application 16-2020-477-1 for 2 semi-detached dwellings and a 1 into 2 lot Torrens title subdivision at 6 Beenong Close, Nelson Bay (Lot 196 DP 9165) subject to the conditions contained in <b>(ATTACHMENT 3)</b> .
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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 Ken Jordan, Paul Le Mottee and Steve Tucker.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott and John Nell.

The motion was carried on the casting vote of the Chair.



**ORDINARY COUNCIL MEETING – 27 APRIL 2021**

**ITEM NO. 1**

**FILE NO: 21/64711  
EDRMS NO: 16-2020-589-1**

**DEVELOPMENT APPLICATION 16-2020-589-1 FOR A DWELLING AND  
ASSOCIATED SHED AT 828 PATERSON ROAD, WOODVILLE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2020-589-1 for a dwelling and associated shed at 828 Paterson Road, Woodville (Lot 1 DP 1258390) for the reasons contained in **(ATTACHMENT 3)**.

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Cr Ken Jordan arrived at 5.38pm during the debate on item 1.

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

<b>013</b>	<p><b>Councillor John Nell Councillor Giacomo Arnott</b></p> <p>It was resolved that Council refuse Development Application 16-2020-589-1 for a dwelling and associated shed at 828 Paterson Road, Woodville (Lot 1 DP 1258390) for the reasons contained in <b>(ATTACHMENT 3)</b>.</p>
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**ORDINARY COUNCIL MEETING - 27 APRIL 2021  
MOTION**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That Council move into recess for minutes to fix the webcast issue.</p>
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The motion lapsed without a 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 Giacomo Arnott, Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

**ITEM NO. 3**

**FILE NO: 21/99198  
EDRMS NO: 16-2020-357-1**

**DEVELOPMENT APPLICATION 16-2020-357-1 FOR A SINGLE STOREY  
DWELLING AT 918 NEWLINE ROAD, EAGLETON (LOT 31 DP 840177)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) for the reasons contained in **(ATTACHMENT 3)**.

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

<b>014</b>	<p><b>Councillor John Nell Mayor Ryan Palmer</b></p> <p>It was resolved that Council approve Development Application 16-2020-357-1 for a single storey dwelling at 918 Newline Road, Eagleton (Lot 31 DP 840177) subject to the attached conditions including deferred commencement conditions requiring the flood mound to be raised to the FPL, the ground floor to be deleted and a PMF flood refuge to be provided and an additional condition requiring the existing shed to be decommissioned for habitable uses prior to the issue of an occupation certificate.</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 Giacomo Arnott, Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.



**PORT STEPHENS COUNCIL  
PLANNING DECISION REGISTER  
2021**

**Section 375A, Local Government Act 1993  
(DLG Circular 08-45)**

The motion was carried.

Councillor Paul Le Mottee returned to the meeting at 5:57pm.

**ITEM NO. 2**

**FILE NO: 21/59882**

**EDRMS NO: 16-2020-796-1**

**DEVELOPMENT APPLICATION 16-2020-796-1 FOR SITE REMEDIATION AND ASSOCIATED VEGETATION CLEARING AT 44B SQUIRE STREET, FINGAL BAY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2020-796-1 for site remediation works and associated vegetation clearing at 44B Squire Street, Fingal Bay (Lot 25 DP 247555) subject to the conditions contained in **(ATTACHMENT 3)**.

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

<b>015</b>	<p><b>Councillor John Nell</b> <b>Councillor Glen Dunkley</b></p> <p>It was resolved that Council approve Development Application 16-2020-796-1 for site remediation works and associated vegetation clearing at 44B Squire Street, Fingal Bay (Lot 25 DP 247555) subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</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 Giacomo Arnott, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING – 25 MAY 2021**

**ITEM NO. 1**

**FILE NO: 21/121926  
EDRMS NO: 16-2020-445-1**

**DEVELOPMENT APPLICATION 16-2020-445-1 FOR A SINGLE STOREY  
DWELLING, SHED AND EARTHWORKS ON AN APPROVED FLOOD MOUND AT  
232 SEAHAM ROAD, NELSONS PLAINS**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse development application 16-2020-445-1 for a dwelling, shed and earthworks on an existing flood mound at 232 Seaham Road, Nelsons Plains (Lot 1 DP 707147) for the reasons contained in **(ATTACHMENT 3)**.

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**ORDINARY COUNCIL MEETING - 25 MAY 2021  
MOTION**

	<p><b>Councillor John Nell Councillor Giacomo Arnott</b></p> <p>That Council refuse development application 16-2020-445-1 for a dwelling, shed and earthworks on an existing flood mound at 232 Seaham Road, Nelsons Plains (Lot 1 DP 707147) for the reasons contained in <b>(ATTACHMENT 3)</b>.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Giacomo Arnott and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Glen Dunkley, Paul Le Mottee, Sarah Smith and Steve Tucker.

The motion was lost.

**ORDINARY COUNCIL MEETING - 25 MAY 2021  
MOTION**

<b>016</b>	<p><b>Mayor Ryan Palmer</b> <b>Councillor Chris Doohan</b></p> <p>It was resolved that Council approve development application 16-2020-445-1 for a dwelling, shed and earthworks on an existing flood mound at 232 Seaham Road, Nelsons Plains (Lot 1 DP 707147) for the following reasons:</p> <p><b>1.0 - General Conditions of Consent</b></p> <p>The following conditions of consent are general conditions applying to the development.</p> <p>(1) <b>Approved plans and documentation</b> – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:</p>																				
	<table border="1"> <thead> <tr> <th>Plan reference/ drawing No.</th> <th>Name of plan</th> <th>Prepared by</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>HTP-201801 02</td> <td>Site Plan</td> <td>Hoover Group</td> <td>11.06.2020</td> </tr> <tr> <td>HTP-201801 03</td> <td>Perspective Views</td> <td>Hoover Group</td> <td>16.12.2019</td> </tr> <tr> <td>HTP-201801 04</td> <td>Floor Plan of Dwelling</td> <td>Hoover Group</td> <td>16.12.2019</td> </tr> <tr> <td>HTP-201801 06</td> <td>Floor Plan of Shed</td> <td>Hoover Group</td> <td>16.12.2019</td> </tr> </tbody> </table>	Plan reference/ drawing No.	Name of plan	Prepared by	Date	HTP-201801 02	Site Plan	Hoover Group	11.06.2020	HTP-201801 03	Perspective Views	Hoover Group	16.12.2019	HTP-201801 04	Floor Plan of Dwelling	Hoover Group	16.12.2019	HTP-201801 06	Floor Plan of Shed	Hoover Group	16.12.2019
Plan reference/ drawing No.	Name of plan	Prepared by	Date																		
HTP-201801 02	Site Plan	Hoover Group	11.06.2020																		
HTP-201801 03	Perspective Views	Hoover Group	16.12.2019																		
HTP-201801 04	Floor Plan of Dwelling	Hoover Group	16.12.2019																		
HTP-201801 06	Floor Plan of Shed	Hoover Group	16.12.2019																		



HTP-201801 07	Elevations of Dwelling	Hoover Group	16.12.2019
HTP-201801 08	Elevations of Dwelling	Hoover Group	16.12.2019
HTP-201801 09	Elevations of Shed	Hoover Group	16.12.2019
HTP-201801 10	Sections	Hoover Group	16.12.2019

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

- (2) **BASIX Certificate** – The applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) for the development to which this consent applies.
- (3) **Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (4) **Home Building Act** – Pursuant to Section 4.17(11) of the Environmental Planning & Assessment Act 1979, residential building work within the meaning of the Home Building Act 1989 shall not be carried out unless the PCA for the development to which the work relates:
  - a) In the case of work for which a principal contractor has been appointed:
    - i. Has been informed in writing of the name and licence number of the principal contractor; and
    - ii. Where required has provided an insurance certificate with the name of the insurer by which work is insured under Part 6 of that Act.
  - b) In the case of work to be carried out by an owner-builder;
    - i. Has been informed in writing of the name of the owner-builder; and





	<p>ii. If the owner-builder is required to hold an owner-builder permit under that Act; has provided a copy of the owner-builder permit.</p> <p>(5) <b>Home Building Act – Insurance</b> – Building work that involves residential building work within the meaning of the Home Building Act 1989, must not commence until such time as a contract of insurance is in force in accordance with Part 6 of that Act.</p> <p>This clause does not apply:</p> <p>a) to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning &amp; Assessment Regulation 2000 (EP&amp;A Regulation 2000), subject to the terms of any condition or requirement referred to in Clause 198(6) or 188(4) of the EP&amp;A Regulation 2000; or</p> <p>b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) of Clause 98 of the EP&amp;A Regulation 2000 applies.</p> <p>(6) <b>Approval of OSMS under LG Act</b> - An approval under Section 68 of the Local Government Act 1993 is to be obtained from Council for the installation of an on-site sewage management system (OSMS) prior to the issue of a Construction Certificate.</p> <p><b>NOTE:</b> This consent has not addressed any additional fill for the purpose of providing adequate disposal field or infrastructure location for any wastewater treatment system. Any additional fill required for the provision of any wastewater treatment system is subject to separate approval.</p> <p><b>2.0 – Prior to Issue of a Construction Certificate</b></p> <p>The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.</p> <p>(1) <b>Construction Certificate</b> - The following information must be provided to the Certifying Authority with the Construction Certificate application prepared and certified by a Chartered Professional Structural Engineer:</p> <p>a) Amended plans demonstrating flood free access by upgrading the existing driveway access to an elevation at, or above, the</p>
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	<p>1% AEP event (5.5m AHD). Plans and design certification are to be prepared to demonstrate the upgrade works of the driveway leading from the dwelling to Hinton Road.</p> <p>(2) <b>Structural engineer's certificate</b> – A certificate must be prepared by a qualified Structural Engineer certifying that the building design is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy, impact and loading from debris up to and including the future 1% Annual Exceedance Probability (AEP) event.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>(3) <b>Soil, erosion, sediment and water management</b> – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>(4) <b>Long service levy</b> – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.</p> <p>(5) <b>Free flow of water</b> - The location and design of the proposed doors must allow free access and escape of floodwaters without causing damage to the building. Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>(6) <b>Flood Risk Management Plan</b> – A Flood Risk Management Plan prepared by a suitably qualified Engineer must be provided to the Certifying Authority demonstrating compliance with the following:</p> <ul style="list-style-type: none"><li>a) The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact and loading from debris up to and including the 1% Annual Exceedance Probability (AEP) event.</li><li>b) Certification that the proposed development/ building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF).</li></ul>
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- c) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property
- d) Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.

### **3.0 - Prior to Commencement of Works**

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

- (1) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the Environmental Planning & Assessment Regulation 2000. The notice must include:
  - a) a description of the work to be carried out;
  - b) the address of the land on which the work is to be carried out;
  - c) the Registered number and date of issue of the relevant development consent;
  - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes.
- (2) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the Environmental Planning & Assessment Regulation 2000. The notice must include:



	<ul style="list-style-type: none"><li>a) the name and address of the person by whom the notice is being given;</li><li>b) a description of the work to be carried out;</li><li>c) the address of the land on which the work is to be carried out;</li><li>d) the Registered number and date of issue of the relevant development consent and construction certificate;</li><li>e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and</li><li>f) the date on which the work is intended to commence.</li></ul> <p>(3) <b>Sign of PCA and contact details</b> – A sign must be erected in a prominent position on the site stating the following:</p> <ul style="list-style-type: none"><li>a) that unauthorised entry to the work site is prohibited;</li><li>b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;</li><li>c) the name, address and telephone number of the Principal Certifying Authority.</li></ul> <p>The sign must be maintained while the work is being carried out and must be removed upon the completion of works.</p> <p>(4) <b>Construction Certificate Required</b> – In accordance with the provisions of Section 6.7 of the Environmental Planning &amp; Assessment Act 1979 (EP&amp;A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:</p> <ul style="list-style-type: none"><li>a) a Construction Certificate has been issued by a Consent Authority;</li><li>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&amp;A Act 1979; and</li><li>c) the PCA is notified in writing of the name and contractor licence</li></ul>
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	<p>number of the owner/builder intending to carry out the approved works.</p> <p>(5) <b>Soil erosion and sediment control</b> – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.</p> <p>Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).</p> <p>(6) <b>Rubbish generated from the development</b> – 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.</p> <p>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.</p> <p>(7) <b>Flood design measures</b> – Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal Certifying Authority:</p> <ul style="list-style-type: none"><li>a) In sewerred areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge;</li><li>b) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL;</li><li>c) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning;</li><li>d) All main power supply, heating and air conditioning service</li></ul>
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	<p>installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply;</p> <ul style="list-style-type: none"><li>e) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed;</li><li>f) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.</li></ul> <p><b>4.0 - During Works</b></p> <p>The following conditions of consent shall be complied with during the construction phase of the development.</p> <ul style="list-style-type: none"><li>(1) <b>Construction hours</b> – All work (including delivery of materials) must be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.</li><li>(2) <b>Toilet facilities</b> – 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.</li><li>(3) <b>Compliance with BCA</b> – All building work must be carried out in accordance with the requirements of the Building Code of Australia.</li><li>(4) <b>Finished floor level</b> - The finished floor level of the dwelling must be a minimum level of Reduced Level 7.4metres Australian Height Datum in accordance with the approved plans.</li></ul>
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	<p>A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to Principal Certifying Authority prior to the development proceeding beyond floor level stage.</p> <p>(5) <b>Stormwater disposal</b> – Following the installation of any roof, collected stormwater runoff from the structure must be:</p> <p>a) Dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location must be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p> <p>(6) <b>Placement of fill</b> - 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.</p> <p>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.</p> <p>(7) <b>Offensive noise, dust, odour and vibration</b> – 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.</p> <p>(8) <b>Completion of flood mound</b> – Following completion of the earthwork:</p> <p>a) The final pad shape, levels and location will be confirmed by the submission of a detailed survey plan prepared by a Registered Surveyor. The detailed works as executed survey plan must be provided in accordance with Council's Infrastructure Specification to Council within 14 days of completion.</p> <p>b) The mound is to be top dressed and seeded with fast growing grasses.</p> <p>(9) <b>Bush Fire Safety - Dwellings</b> - The site is located within a bushfire prone area and must comply with NSW Rural Fire Service</p>
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	<p>document "Planning for Bushfire Protection 2019 and AS 3959 2018.'Construction of Buildings in Bushfire Prone Areas' construction and the entire property must be managed as an 'Inner Protection Area' as outlined within Appendix 4 of Planning for Bushfire Protection 2019.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p><b>5.0 - Prior to Issue of an Occupation Certificate</b></p> <p>The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.</p> <p>(1) <b>Occupation Certificate required</b> - An Occupation Certificate must be obtained prior to any use or occupation of the development.</p> <p>The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.</p> <p>(2) <b>Survey Certificate</b> – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>(3) <b>Services</b> – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:</p> <ul style="list-style-type: none"><li>a) Electricity;</li><li>b) Water;</li><li>c) Sewer; and</li><li>d) Gas (where available).</li></ul> <p>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.</p> <p>(4) <b>Flood Risk Management Plan</b> – A Certificate of Compliance prepared by a suitably qualified Flood engineer must be provided to the Principal Certifying Authority stating that all aspects of the Flood Risk Management Plan have been completed and/or implemented in</p>
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	<p>accordance with the approved Plan.</p> <p>(5) <b>On-Site sewerage management inspection</b> – An onsite sewerage management system/waste treatment device is to be installed and obtain approval to operate from Council in accordance with Local Government Act 1993 (Section 68A) prior to the issue of any Occupation Certificate.</p> <p>(6) <b>Protection and certification of electrical services</b> – All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL) which is RL 5.9m.</p> <p>Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.</p> <p>(7) <b>Flood Emergency Response Plan</b> - A Flood Emergency Response Plan (FERP) for the proposed development must be provided to the Principal Certifying Authority. The FERP must include the following as a minimum:</p> <ul style="list-style-type: none"><li>a) A map of the proposed evacuation route to a suitable location above the Probable Maximum Flood (PMF) that provides adequate shelter from the storm, including the route direction and description and identification of the depth of floodwater along the evacuation route in the 1% Annual Exceedance Probability flood and PMF events.</li><li>b) Specific trigger heights linked to the nearest river and tidal gauges used for flood warnings and the specific evacuation route cut-off times linked to the gauge height.</li><li>c) Description of the specific flood inundation at the site and the relevant surrounding area, including flood depths, direction of flow, velocities, hazard and specific relevant vulnerabilities.</li><li>d) Consideration of and strategies for, the needs of the elderly, disabled and vulnerable who may be on site.</li><li>e) A realistic time period for evacuation preparations linked to the trigger heights and evacuation route cut-off times, which includes:</li></ul>
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	<ul style="list-style-type: none"><li>• Locating important papers, valuables etc. that will be evacuated.</li><li>• Locating and stacking possessions that are to be left behind, well above the predicted flood level.</li><li>• Dealing with all utilities such as electricity, gas, water, fuel, toilets, showers, wastewater system (including removal fuses) and moving pumps and machinery above the predicted flood level.</li><li>• Time to gather, identify and load animals (pets, livestock and other animals), including the possible need for additional assistance in handling your animals in an emergency.</li></ul> <p>f) Determining the vehicular needs of the site to appropriately respond to the flood risk;</p> <p>g) A strategy for a night time flood emergency; and</p> <p>h) A strategy for effective flood risk management when the electricity, internet, telecommunications etc., are unavailable.</p> <p><b>Note:</b> Digital elevation data is available from Geosciences Australia, current flood studies are available on Council's website and river gauge/ tidal gauge data is available from the Bureau of Meteorology website.</p> <p><b>6.0 – Ongoing Use</b></p> <p>The following conditions of consent are operational conditions applying to the development.</p> <p>(1) <b>Residential air conditioning units</b> – The operation of air conditioning units must operate as follows:</p> <ul style="list-style-type: none"><li>a) be inaudible in a habitable room during the hours of 10pm – 7am on weekdays and 10pm to 8am on weekends and public holidays;</li><li>b) emit a sound pressure level when measured at the boundary of any neighbouring residential property, at a time other than those specified in (a) above, which exceeds the background (LA90, 15 minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute; and</li><li>c) not discharge any condensate or moisture onto the ground surface of the premises or into stormwater drainage system in contravention of the requirements of the Protection of the Environment Operations Act 1997.</li></ul>
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**Advice Note(s):**

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.
- (2) **Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.  
  
Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
- (3) **Aboriginal archaeological deposit** – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- (4) **Flood information is subject to change** – You are advised that flood information is subject to change if more accurate data becomes available to Council. It is the responsibility of the applicant to use the most up-to-date flood information. Prior to applying for a construction certificate, Council should be contacted to verify the currency of the flood information.
- (5) **Flood Evacuation Plan** – A flood evacuation plan indicating 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. Details demonstrating compliance must be provided to the Certifying Authority with the Construction Certificate application.



	<p>(6) <b>Responsibility for damage for tree removal/pruning</b> – 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.</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 Chris Doohan, Glen Dunkley, Paul Le Mottee, Sarah Smith and Steve Tucker.

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

The motion was carried.

**ORDINARY COUNCIL MEETING – 8 JUNE 2021**

**NOTICE OF RESCISSION**

**ITEM NO. 1**

**FILE NO: 21/141660**

**EDRMS NO: PSC2021-01913**

**DEVELOPMENT APPLICATION 16-2020-445-1 FOR A SINGLE STOREY DWELLING, SHED AND EARTHWORKS ON AN APPROVED FLOOD MOUND AT 232 SEAHAM ROAD, NELSONS PLAINS**

**COUNCILLOR:** GIACOMO ARNOTT  
KEN JORDAN  
JOHN NELL

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**THAT COUNCIL:**

- 1) Rescind its decision of 25 May 2021 (Minute No. 121) on Item No. 1 Development Application 16-2020-445-1 for a Single Storey Dwelling, Shed and Earthworks on an Approved Flood Mound at 232 Seaham Road, Nelsons Plains.

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**ORDINARY COUNCIL MEETING - 8 JUNE 2021  
MOTION**

<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>	That Council rescind its decision of 25 May 2021 (Minute No. 121) on Item No. 1 Development Application 16-2020-445-1 for a Single Storey Dwelling, Shed and Earthworks on an Approved Flood Mound at 232 Seaham Road, Nelsons Plains.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan and John Nell.



**PORT STEPHENS COUNCIL  
PLANNING DECISION REGISTER  
2021**

**Section 375A, Local Government Act 1993  
(DLG Circular 08-45)**

Those against the Motion: Crs Chris Doohan, Glen Dunkley, Paul Le Mottee, Sarah Smith and Steve Tucker.

The motion was lost.

**ITEM NO. 1**

**FILE NO: 21/75848  
EDRMS NO: 16-2021-69-1**

**DEVELOPMENT APPLICATION 16-2021-69-1 FOR A 2 STOREY DWELLING AND SWIMMING POOL) AT 14 ALBERT STREET, TAYLORS BEACH**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2021-69-1 for a 2 storey dwelling and swimming pool at 14 Albert Street, Taylors Beach (Lot 2 DP 1256094) subject to the conditions contained in **(ATTACHMENT 3)**.

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**ORDINARY COUNCIL MEETING - 8 JUNE 2021  
MOTION**

<p><b>Councillor John Nell Councillor Giacomo Arnott</b></p> <p>That Council refuse Development Application 16-2021-69-1 for a 2 storey dwelling and swimming pool at 14 Albert Street, Taylors Beach (Lot 2 DP 1256094) for the following reasons:</p> <ol style="list-style-type: none"><li>1) The proposed development fails to satisfy Clause 14(1)(a)(iii) of the State Environmental Planning Policy (Coastal Management) 2018 as the development will have impacts on the visual amenity and scenic quality of the coast, including coastal headland (s4.15(1)(a)(i) EP&amp;A Act;</li><li>2) The proposed development is not suitable for the site given the visual impacts as viewed from the coast and adjoining properties (s4.15(1)(c) of the EP&amp;A Act); and</li><li>3) The proposed development is not considered to be in the public interest as the development does not meet the restriction placed on the subject land that limits development to single storey only (s4.15(1)(e) EP&amp;A Act).</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Cr John Nell.

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

The motion was lost.

**ORDINARY COUNCIL MEETING - 8 JUNE 2021  
MOTION**

<b>017</b>	<b>Councillor Chris Doohan Councillor Sarah Smith</b>  It was resolved that Council approve Development Application 16-2021-69-1 for a 2 storey dwelling and swimming pool at 14 Albert Street, Taylors Beach (Lot 2 DP 1256094) subject to the conditions contained in <b>(ATTACHMENT 3)</b> .
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Paul Le Mottee, Sarah Smith and Steve Tucker.

Those against the Motion: Cr John Nell.

The motion was carried.



**ITEM NO. 2**

**FILE NO: 21/111952  
EDRMS NO: 16-2021-220-1**

**DEVELOPMENT APPLICATION 16-2021-220-1 - 4 AND 4A VARDON ROAD,  
FERN BAY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Support the Clause 4.6 Variation request to the minimum lot size for the reasons set out within this report.
  - 2) Approve Development Application DA No. 16-2021-220-1 for a 2 into 2 lot Torrens title subdivision at 4 and 4A Vardon Road, Fern Bay (Lot 105 DP 614883 and Lot 4 DP 823114) subject to the conditions contained in **(ATTACHMENT 3)**.
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Councillor Glen Dunkley returned to the meeting at 6:52pm.

**ORDINARY COUNCIL MEETING - 8 JUNE 2021  
MOTION**

<b>018</b>	<p><b>Councillor Sarah Smith Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Support the Clause 4.6 Variation request to the minimum lot size for the reasons set out within this report.</li> <li>2) Approve Development Application DA No. 16-2021-220-1 for a 2 into 2 lot Torrens title subdivision at 4 and 4A Vardon Road, Fern Bay (Lot 105 DP 614883 and Lot 4 DP 823114) subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING – 22 JUNE 2021**

**ITEM NO. 1**

**FILE NO: 21/133400  
EDRMS NO: 16-2020-811-1**

**DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS), DEMOLITION OF EXISTING SINGLE STOREY DWELING, ASSOCIATED LANDSCAPING, CIVIL WORKS AND CAR PARKING AT 10 TOMAREE ROAD, SHOAL BAY (LOT: 31 DP: 17513)**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.
- 2) Approve Development Application DA No. 16-2020-811-1 for the construction of a 4 storey residential flat building (3 apartments), demolition of existing single storey dwelling, associated landscaping, civil works and car parking at 10 Tomaree Road Shoal Bay (Lot: 31 DP: 17513) subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 22 JUNE 2021  
MOTION**

<b>019</b>	<p><b>Councillor Ken Jordan Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Support the Clause 4.6 variation request to the building height for the reasons outlined within this report.</li> <li>2) Approve Development Application DA No. 16-2020-811-1 for the construction of a 4 storey residential flat building (3 apartments), demolition of existing single storey dwelling, associated landscaping, civil works and car parking at 10 Tomaree Road Shoal Bay (Lot: 31</li> </ol>
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	DP: 17513) subject to the conditions contained in <b>(ATTACHMENT 3)</b> .
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Councillor John Nell left the meeting at 6:59pm.  
Councillor John Nell returned to the meeting at 7:01pm.

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

Those for the Motion: Crs Chris Doohan, Ken Jordan, Paul Le Mottee, Sarah Smith and Steve Tucker.

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

The motion was carried.

**ITEM NO. 2**

**FILE NO: 20/269389  
EDRMS NO: 16-2019-679-1**

**DEVELOPMENT APPLICATION 16-2019-679-1 FOR DEMOLITION OF EXISTING  
STRUCTURE AND CONSTRUCTION OF COMMERCIAL DEVELOPMENT AND  
MULTI-DWELLING HOUSING AT 26 KING STREET, RAYMOND TERRACE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2019-679-1 for the demolition of the existing single storey commercial structure and the construction of multi-dwelling housing (4 residential units) and 2 commercial units at 26 King Street, Raymond Terrace (Lot: 1 DP:862816) subject to the Reasons for Refusal contained in **(ATTACHMENT 3)**.

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**ORDINARY COUNCIL MEETING - 22 JUNE 2021  
MOTION**

**020 Councillor Giacomo Arnott  
Councillor John Nell**

It was resolved that Council approve Development Application 16-2019-679-1 for the demolition of the existing single storey commercial structure and the construction of shop top housing (2 residential units) and 2 commercial units at 26 King Street, Raymond Terrace (Lot: 1 DP:862816) subject to the following conditions of consent:

**CONDITIONS WITHOUT PREJUDICE**

**1.0 - General Conditions of Consent**

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

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

Plan reference/ drawing no.	Name of plan	Prepared by	Date
21686-4 Page 2 of 12	Site Plan	Portside Building Design	23/05/2021
21686-4 Page 3 of 12	Ground Floor Plan	Portside Building Design	23/05/2021
21686-4 Page 4 of 12	First Floor Plan	Portside Building Design	23/05/2021
21686-4 Page 5 and 6 of 12	Elevations	Portside Building Design	23/05/2021
21686-4 Page 7 of 12	Ground Floor Plan - Detached Dwellings	Portside Building Design	23/05/2021
21686-4 Page 8 of 12	First Floor Plan - Detached Dwellings	Portside Building Design	23/05/2021
21686-4 Page 9 of 12	Second Floor Plan - Detached Dwellings	Portside Building Design	23/05/2021
21686-4 Page 10 & 11 of 12	Elevations - Detached Dwellings	Portside Building Design	23/05/2021

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

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

- a) Remove any reference to fencing along the side and rear boundaries of the site.
- b) Remove the 2 detached dwellings located at the rear of the property
- c) Provides a Probable Maximum Flood (PMF) refuge at a height of 8.7m AHD and which is structural certified to withstand a PMF flood event

	<p>Amended plans or documentation demonstrating compliance must be provided to the Certifying Authority and Council prior to the issue of a Construction Certificate.</p> <p>(3) <b>BASIX Certificate</b> – The applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) for the development to which this consent applies.</p> <p>(4) <b>Building Code of Australia</b> – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>(5) <b>Home Building Act</b> – Pursuant to Section 4.17(11) of the Environmental Planning &amp; Assessment Act 1979, residential building work within the meaning of the Home Building Act 1989 shall not be carried out unless the PCA for the development to which the work relates:</p> <p style="padding-left: 20px;">c) In the case of work for which a principal contractor has been appointed:</p> <p style="padding-left: 40px;">i. Has been informed in writing of the name and licence number of the principal contractor; and</p> <p style="padding-left: 40px;">ii. Where required has provided an insurance certificate with the name of the insurer by which work is insured under Part 6 of that Act.</p> <p style="padding-left: 20px;">d) In the case of work to be carried out by an owner-builder;</p> <p style="padding-left: 40px;">i. Has been informed in writing of the name of the owner-builder; and</p> <p style="padding-left: 40px;">ii. If the owner-builder is required to hold an owner-builder permit under that Act; has provided a copy of the owner-builder permit.</p> <p>(6) <b>Home Building Act – Insurance</b> – Building work that involves residential building work within the meaning of the Home Building Act 1989, must not commence until such time as a contract of insurance is in force in accordance with Part 6 of that Act.</p> <p>This clause does not apply:</p> <p style="padding-left: 20px;">c) to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning &amp; Assessment Regulation 2000</p>
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	<p>(EP&amp;A Regulation 2000), subject to the terms of any condition or requirement referred to in Clause 198(6) or 188(4) of the EP&amp;A Regulation 2000; or</p> <p>d) to the erection of a temporary building, other than a temporary structure to which subclause (1A) of Clause 98 of the EP&amp;A Regulation 2000 applies.</p> <p>(7) <b>Excavation for residential building works</b> – 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:</p> <p>a) protect and support the adjoining premises from possible damage from the excavation; and</p> <p>b) where necessary, underpin the adjoining premises to prevent any such damage.</p> <p>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.</p> <p>(8) <b>Sign on building</b> – 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.</p> <p>The sign must be maintained while the work is being carried out and is to be removed when the work is completed.</p> <p>(9) <b>Shoring of adjoining buildings</b> - Where any excavation required for the development extends below the level of the base of a footing of a building, structure or work on adjoining land (including within a road or rail corridor), the person having the benefit of the consent must protect and support that building, structure or work from possible damage from the excavation, and where necessary underpin the building, structure or work to prevent any such damage.</p>
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- (10) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.
- (11) **Roof mounted equipment** – All roof mounted equipment such as air conditioning units, service pipes and vents etc., required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public place.
- (12) **Design quality of development** - The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.

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

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

- (1) **Dilapidation report – Adjoining property** - A dilapidation report including a photographic survey of the following adjoining properties must be provided to the Certifying Authority. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.  
  
The dilapidation report is to be prepared by a qualified Structural Engineer and the owner of the adjoining property. All costs incurred in achieving compliance with this condition must be borne by the applicant.
- (2) **Structural Engineers Certificate** - A certificate must be prepared by a qualified Structural Engineer certifying that the building design is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy, impact and loading from debris up to and including the future 1% Annual Exceedance Probability (AEP) event.  
  
Details demonstrating compliance must be provided to the Certifying Authority.
- (3) **Potential acid sulfate soils** - A geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Potential Acid Sulfate Soils (ASS). Should ASS be encountered within the

	<p>zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.</p> <p>The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.</p> <p>(4) <b>Stormwater/drainage plans</b> – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council’s Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p><b>Note.</b> Under the <i>Roads Act 1993</i>, only the Roads Authority can approve commencement of works within an existing road reserve.</p> <p>(5) <b>Flood Risk Management Plan</b> - A Flood Risk Management Plan prepared by a qualified Flood Engineer must be provided to the Certifying Authority demonstrating compliance with the following:</p> <ol style="list-style-type: none"> <li>a) The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact and loading from debris up to and including the 1% Annual Exceedance Probability (AEP) event.</li> <li>b) Certification that the proposed development/ building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF).</li> <li>c) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property</li> <li>d) Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.</li> </ol> <p>(6) <b>Soil, erosion, sediment and water management</b> – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council’s Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.</p>
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- (7) **Roads Act Approval** – For construction/reconstruction of Council infrastructure, including vehicular crossings. Footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138B of the Roads Act 1993.
- (8) **Construction Environment Management Plan** - A Construction Environment Management Plan (CEMP) must be submitted to and approved by to the Certifying Authority and Council. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management.
- (9) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of two additional dwellings pursuant to Section 7.11 of the Environmental Planning & Assessment Act 1979 and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$452	\$1,356
Civic Administration – Works Depot	\$1,178	\$3,534
Town Centre Upgrades	\$3,174	\$9,522
Public Open Space, Parks & Reserves	\$782	\$2,346
Sports & Leisure Facilities	\$1,724	\$5,172
Cultural & Community Facilities	\$411	\$1,233
Road Works	\$5,031	\$15,093
Shared Paths	\$3,628	\$10,884
Bus Facilities	\$17	\$51
Fire & Emergency Services	\$34	\$102
Flood & Drainage	\$676	\$2,028
Kings Hill Urban Release Area	\$735	\$2,205
<b>Total</b>		<b>\$53,526</b>

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

a) **Prior to issue of the Construction Certificate.**

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

- (10) **Long service levy** – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.
- (11) **Hunter Water Corporation approval** - A Section 49 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.
- (12) **Agency Approval** – Prior to the issue of any Construction Certificate, approval under Section 256 of the Water Management Act 2000 for works to be undertaken within the vicinity of the levee bank is to be obtained and provided to Council and the Certifying Authority.

**3.0 - Prior to Commencement of Works**

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

- (1) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.
- Evidence of this Policy must be provided to Council and the Certifying Authority.
- (2) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the Environmental

	<p>Planning &amp; Assessment Regulation 2000. The notice must include:</p> <ul style="list-style-type: none"> <li>g) a description of the work to be carried out;</li> <li>h) the address of the land on which the work is to be carried out;</li> <li>i) the Registered number and date of issue of the relevant development consent;</li> <li>j) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;</li> <li>k) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and</li> <li>l) a telephone number on which the PCA may be contacted for business purposes.</li> </ul> <p>(3) <b>Notice commencement of work</b> – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the Environmental Planning &amp; Assessment Regulation 2000. The notice must include:</p> <ul style="list-style-type: none"> <li>g) the name and address of the person by whom the notice is being given;</li> <li>h) a description of the work to be carried out;</li> <li>i) the address of the land on which the work is to be carried out;</li> <li>j) the Registered number and date of issue of the relevant development consent and construction certificate;</li> <li>k) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and</li> <li>l) the date on which the work is intended to commence.</li> </ul> <p>(4) <b>Sign of PCA and contact details</b> – A sign must be erected in a prominent position on the site stating the following:</p> <ul style="list-style-type: none"> <li>d) that unauthorised entry to the work site is prohibited;</li> <li>e) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;</li> </ul>
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	<p>f) the name, address and telephone number of the Principal Certifying Authority.</p> <p>The sign must be maintained while the work is being carried out and must be removed upon the completion of works.</p> <p>(5) <b>Construction Certificate Required</b> – In accordance with the provisions of Section 6.7 of the Environmental Planning &amp; Assessment Act 1979 (EP&amp;A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:</p> <p>d) a Construction Certificate has been issued by a Consent Authority;</p> <p>e) 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&amp;A Act 1979; and</p> <p>f) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.</p> <p>(6) <b>Site is to be secured</b> – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.</p> <p>An awning is to be erected that would sufficiently prevent any substance from the construction work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.</p> <p>(7) <b>Demolition work</b> – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.</p> <p>Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.</p> <p>Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.</p>
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	<p>(8) <b>Soil erosion and sediment control</b> – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction (the blue book)' and any Sediment and Erosion plans approved with this Development Consent.</p> <p>Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).</p> <p>(9) <b>All weather access</b> – 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.</p> <p>No materials, waste or the like are to be stored on the all-weather access at any time.</p> <p>(10) <b>Rubbish generated from the development</b> – 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.</p> <p>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.</p> <p>(11) <b>Flood Design Measures</b> - Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal Certifying Authority:</p> <ul style="list-style-type: none"> <li>a) In sewered areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge;</li> <li>b) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL;</li> <li>c) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning;</li> <li>d) All main power supply, heating and air conditioning service</li> </ul>
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	<p>installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply;</p> <p>e) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed;</p> <p>f) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.</p> <p>(12) <b>Protection of trees /existing street trees</b> – Protection of trees to be retained must be in accordance with AS490 ‘Protection of Trees on Development Sites’ and the following:</p> <p>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.</p> <p>(13) <b>Hazardous Building Materials Assessment</b> – A Hazardous Building Material Assessment (HBMA) must be undertaken on all buildings and structures to be demolished that identifies all hazardous components on site. A HBMA report must be provided to the PCA and Council.</p> <p>Once hazardous components are identified, all demolition works that involve the demolition and removal of the hazardous materials must ensure that all site personnel are protected from risk of exposure in accordance with relevant SafeWork NSW and NSW Demolition Guidelines. Premises and occupants on adjoining land must also be protected from exposure to any hazardous materials.</p> <p><b>4.0 - During Works</b></p> <p>The following conditions of consent shall be complied with during the construction phase of the development.</p>
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(1) **Construction hours** – All work (including delivery of materials) must be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.

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

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

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

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

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

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

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

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

- (5) **Building height** – A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.
- (6) **Survey report** – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.
- (7) **Construction Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Environmental Management Plan (CEMP) must be introduced and maintained during construction to ensure works are undertaken safely and with minimal environmental impact.
- (8) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
- b) Connected an existing stormwater drainage easement/system/street.
- (9) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.
- Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.
- (10) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.
- In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.
- Where remediation work is required, the applicant will be required to obtain

consent for the remediation works.

(11) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.

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

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

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

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

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

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

(3) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.

**Note:** A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.

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

	<p>e) Electricity;</p> <p>f) Water;</p> <p>g) Sewer; and</p> <p>h) Gas (where available).</p> <p>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.</p> <p>(5) <b>Stormwater/drainage works</b> – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.</p> <p>The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>(6) <b>Rectification damage to public infrastructure</b> – The applicant must rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.</p> <p>(7) <b>Completion of Roads Act Approval works</b> - 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.</p> <p>(8) <b>Protection and Certification of Electrical Services</b> - All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL).</p> <p>Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.</p> <p>(9) <b>Works as Executed Plans and Report</b> - Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications confirming all stormwater drainage systems are constructed in accordance with the approved plans/documentation.</p>
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- (10) **Flood Risk Management Plan** - A Certificate of Compliance prepared by a suitably qualified Flood engineer must be provided to the Principal Certifying Authority stating that all aspects of the Flood Risk Management Plan have been completed and/or implemented in accordance with the approved Plan.
- (11) **Flood Emergency Response Plan** - A Flood Emergency Response Plan (FERP) for the proposed development must be provided to the Principal Certifying Authority. The FERP must include the following as a minimum:
- a) A map of the proposed evacuation route to a suitable location above the Probable Maximum Flood (PMF) that provides adequate shelter from the storm, including the route direction and description and identification of the depth of floodwater along the evacuation route in the 1% Annual Exceedance Probability flood and PMF events;
  - b) Specific trigger heights linked to the nearest river and tidal gauges used for flood warnings and the specific evacuation route cut-off times linked to the gauge height;
  - c) Description of the specific flood inundation at the site and the relevant surrounding area, including flood depths, direction of flow, velocities, hazard and specific relevant vulnerabilities;
  - d) Consideration of and strategies for, the needs of the elderly, disabled and vulnerable who may be on site;
  - e) A realistic time period for evacuation preparations linked to the trigger heights and evacuation route cut-off times, which includes:
    - Locating important papers, valuables etc., that will be evacuated
    - Locating and stacking possessions that are to be left behind, well above the predicted flood level
    - Dealing with all utilities such as electricity, gas, water, fuel, toilets, showers, wastewater system (including removal fuses) and moving pumps and machinery above the predicted flood level
    - Time to gather, identify and load animals (pets, livestock and other animals), including the possible need for additional assistance in handling your animals in an emergency.
  - f) Determining the vehicular needs of the site to appropriately respond to the flood risk;
  - g) A strategy for a night time flood emergency; and

	<p>h) A strategy for effective flood risk management when the electricity, internet, telecommunications etc., are unavailable</p> <p><b>Note:</b> Digital elevation data is available from Geosciences Australia, current flood studies are available on Council's website and river gauge/ tidal gauge data is available from the Bureau of Meteorology website.</p> <p>(12) <b>Car parking requirements</b> – A minimum of 4 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.</p> <p>(13) <b>Bicycle requirements</b> – Bicycle parking racks to accommodate 3 bicycles must be installed in accordance with the approved plans.</p> <p>(14) <b>Section 88B Instrument</b> - The applicant must prepare a Section 88B Instrument which incorporates the following easements, positive covenants and restrictions to user where necessary:</p> <p>a) Right of carriageway for footpath access (the owners of the subject properties burdened by the right of carriageway must be responsible for ongoing maintenance and the Public Liability of the right of carriageway).</p> <p>The drainage easement/s must be in accordance with Council's Infrastructure Specifications. This documentary evidence must include confirmation that the easement has been registered on the title of the relevant lot(s).</p> <p><b>6.0 – Ongoing Use</b></p> <p>The following conditions of consent are operational conditions applying to the development.</p> <p>(1) <b>Maneuvering of vehicles</b> – All vehicles must enter and exit the site in a forward direction.</p> <p>(2) <b>Removal of graffiti</b> – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.</p> <p>(3) <b>Parking areas to be kept clear</b> – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not</p>
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	<p>be used for storage purposes.</p> <p>(4) <b>Privacy screen</b> – Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.</p> <p>(5) <b>Residential air conditioning units</b> – The operation of air conditioning units must operate as follows:</p> <p>d) be inaudible in a habitable room during the hours of 10pm – 7am on weekdays and 10pm to 8am on weekends and public holidays;</p> <p>e) emit a sound pressure level when measured at the boundary of any neighbouring residential property, at a time other than those specified in (a) above, which exceeds the background (LA90, 15 minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute; and</p> <p>f) not discharge any condensate or moisture onto the ground surface of the premises or into stormwater drainage system in contravention of the requirements of the Protection of the Environment Operations Act 1997.</p> <p>(6) <b>Fire Safety Schedule</b> – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of New South Wales Fire Brigades in accordance with the Environmental Planning &amp; Assessment Regulations 2000.</p> <p>(7) <b>Waste management and collection</b> – At all times, the strata management body must make arrangements for the placement of the garbage bins at the kerbside for weekly collection and must ensure the return of the bins to the garbage room as soon as practicable after collection.</p> <p><b>Advice Note(s):</b></p> <p>(1) <b>'Dial Before you Dig'</b> – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.</p> <p>(2) <b>Dividing fences</b> – The erection of dividing fences under this consent does not affect the provisions of the <i>Dividing Fences Act 1991</i>. Under this Act,</p>
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	<p>all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.</p> <p>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.</p> <p>(3) <b>Disability Discrimination Act</b> – 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.</p> <p>(4) <b>Aboriginal archaeological deposit</b> – In the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.</p> <p>(5) <b>Flood information is subject to change</b> – 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.</p> <p>(6) <b>Flood Emergency Response Plan</b> – It is the Applicants responsibility to ensure the Flood Emergency Response Plan notes that the mezzanine floor does not provide safe flood refuge during a Probable Maximum Flood event.</p> <p>(7) <b>Flood Evacuation Plan</b> – A flood evacuation plan indicating 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. Details demonstrating compliance must be provided to the Certifying Authority with the Construction Certificate application.</p>
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(8) **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.

(9) **Bird strike advice** – As the subject site is located in an area mapped by the Department of Defence as "Birdstrike Group B", organic waste and/or the storage of bins associated with any future development must be covered and/or enclosed and limited on-site.

(10) **Addressing** – Prior to occupying the development the approved units are to be identified as follows:

- a) Commercial Space (Eastern Side) – Shop 1, 26 King Street, RAYMOND TERRACE
- b) Commercial Space (Western Side) – Shop 2, 26 King Street, RAYMOND TERRACE
- c) Dwelling (Eastern Side) – Unit 3, 26 King Street, RAYMOND TERRACE
- d) Dwelling (Western Side) – Unit 4, 26 King Street, RAYMOND TERRACE
- e) Detached dwelling 1 – 26 A King Street, RAYMOND TERRACE and
- f) Detached dwelling 2 – 26 B King Street, RAYMOND TERRACE.

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

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

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

Those for the Motion: Crs Giacomo Arnott, Chris Doohan, Ken Jordan, John Nell and Steve Tucker.

Those against the Motion: Crs Paul Le Mottee and Sarah Smith.

The motion was carried.

**ITEM NO. 3**

**FILE NO: 21/135699  
EDRMS NO: 16-2021-92-1**

**DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND  
ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE**

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

GROUP: DEVELOPMENT SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile (Lot 2 DP 810866) subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 22 JUNE 2021  
MOTION**

<b>021</b>	<p><b>Councillor Chris Doohan Councillor Sarah Smith</b></p> <p>It was resolved that Council refuse Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile (Lot 2 DP 810866) for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The proposed development fails to satisfy the objectives of Chapter B8.B and Chapter B8.C of the Port Stephens Development Control Plan as the development does not achieve safe site distances (as provided in Figure BX) (s4.15(1)(a)(iii) EP&amp;A Act);</li> <li>2. The proposed development fails to satisfy Clause 7.9 – Wetlands of the Port Stephens Local Environmental Plan 2013 (LEP 2013) as the development may have an adverse impact on the condition and significance of the existing ecological values of the land (s4.15(1)(a)(i) EP&amp;A Act);</li> <li>3. The proposed development does not demonstrate site suitability for the proposed development given potential amenity impacts on adjoining land owners as well as impacts to the environmental</li> </ol>
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	<p>value of the land (s4.15(1)(c) of the EP&amp;A Act);</p> <ol style="list-style-type: none"><li>4. The proposed development is not considered to be in the public interest as the development will not promote the orderly development of land (s4.15(1)(e) EP&amp;A Act);</li><li>5. The proposed development does not comply with the objectives of the E4 Environmental Living zone as outlined in the LEP 2013 as the development does not propose low impact residential development in an ecologically sensitive manner (s4.15(1)(a)(i) EP&amp;A Act);</li><li>6. The proposed development fails to satisfy the objectives of Clause 4.3 – Height of Buildings of the Port Stephens Local Environmental Plan 2013 as the proposed building height is not considered appropriate for the context or character of the area given it is surrounded by low density residential development (s4.15(1)(a)(i) EP&amp;A Act).</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Giacomo Arnott, Chris Doohan, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Cr Paul Le Mottee.

The motion was carried.

**NOTICE OF MOTION**

**ITEM NO. 1**

**FILE NO: 21/148591**

**EDRMS NO: PSC2017-00019**

**RECLASSIFICATION OF 109 FORESHORE DRIVE, SALAMANDER BAY**

**COUNCILLOR: JOHN NELL**

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**THAT COUNCIL:**

- 1) Requests the General Manager to reclassify Lot 95 in Deposited Plan 26610 at 109 Foreshore Drive, Salamander Bay, directly opposite the Mambo Wetland, from Operational to Community land.

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**ORDINARY COUNCIL MEETING - 22 JUNE 2021  
MOTION**

	<p><b>Councillor John Nell</b> <b>Councillor Giacomo Arnott</b></p> <p>That Council requests the General Manager to reclassify Lot 95 in Deposited Plan 26610 at 109 Foreshore Drive, Salamander Bay, directly opposite the Mambo Wetland, from Operational to Community land.</p>
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Cr Arnott and Cr Le Mottee called for a division.

Those for the Motion: Crs Giacomo Arnott and John Nell.

Those against the Motion: Crs Ken Jordan, Chris Doohan, Paul Le Mottee, Sarah Smith and Steve Tucker.

The motion was lost.

**ORDINARY COUNCIL MEETING – 13 JULY 2021**

**ITEM NO. 1**

**FILE NO: 21/139572  
EDRMS NO: 16-2020-349-1**

**DEVELOPMENT APPLICATION 16-2020-349-1 FOR A PRIMITIVE CAMPING  
GROUND AT 465 ITALIA ROAD, EAST SEAHAM**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve DA 16-2020-349-1 for a Primitive Camping Ground comprising 7 sites and use of existing amenities building at 465 Italia Road, East Seaham (Lot 194 DP 261146) subject to the conditions contained in **(ATTACHMENT 3)**.

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

	<p><b>Councillor Giacomo Arnott</b></p> <p>That Council refuse Development Application 16-2020-349-1 for a primitive camping ground at 465 Italia Road, East Seaham, for the following reasons:</p> <ol style="list-style-type: none"> <li>1) The proposed development will not maintain the rural landscape character of the land as required under the Port Stephens Local Environmental Plan. (4.15(1)(a)(i) EP&amp;A Act)</li> <li>2) The impact that the proposal will have on social outcomes for surrounding neighbours. Submissions have presented evidence that there is already anxiety and stress coming from the proposal. (4.15(1)(b) EP&amp;A Act)</li> <li>3) The site is unsuitable for the proposed use due to environmental and amenity constraints. Evidence has been submitted of koalas on site, which has not been addressed by the proponent of Council assessment report. (4.15(1)(c) EP&amp;A Act)</li> <li>4) Submissions made by the public are unanimously opposed,</li> </ol>
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	<p>indicating public opposition to the proposal. (4.15(1)(d) EP&amp;A Act)</p> <p>5) It is in the public interest to reduce risk of car crashes on Italia Road, reduce the risk of drinking water catchment contamination, reduce the risk of neighbourhood dispute, reduce the risk of staff hours spent on compliance monitoring, by refusing the application. (4.15(1)(e) EP&amp;A Act).</p>
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The motion lapsed without a seconder.

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

	<p><b>Councillor Giacomo Arnott</b></p> <p>That Council defer Development Application 16-2020-349-1 for a primitive camping ground at 465 Italia Road, East Seaham until after 28 July 2021, to allow Councillors a site inspection and consideration of additional conditions of consent.</p>
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The motion lapsed without a seconder.

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

<p><b>022</b></p>	<p><b>Mayor Ryan Palmer Councillor Chris Doohan</b></p> <p>It was resolved that Council approve DA 16-2020-349-1 for a Primitive Camping Ground comprising campsite and use of existing amenities building at 465 Italia Road, East Seaham (Lot 194 DP 261146) subject to the conditions contained in <b>(ATTACHMENT 3)</b> with the following amendments:</p> <p>Amend Condition 2.0(1) to require 24 hour onsite management, the restraining of guest animals at all times and a restriction on individual campsite fires. Condition to read:</p>
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<p>(1) Operational Plan of Management – An Operational Plan of Management for the site is required and must be provided to the Council for approval prior to the Approval to Operate (Camping Ground). The Operational Plan of Management must provide management strategies for the following areas:</p> <ol style="list-style-type: none"><li>i. Provision of 24 hour on-site management</li><li>ii. Restraining animals brought on to the site by campers at all times to avoid impacts on separate neighbours.</li><li>iii. Restriction on individual campsite fires</li><li>iv. Management of litter and rubbish generated by campers.</li><li>v. Location of firefighting equipment.</li><li>vi. Nominate that two tent campsites are permitted access to the existing amenities and the remaining 5 are not.</li><li>vii. That campers on the 5 non-tent sites are required to provide their own on-board toilet and amenities.</li><li>viii. How noise and anti-social behaviour will be managed on site.</li><li>ix. Nominate the required setback between campsites to be in compliance with the Section 132 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.</li><li>x. Emergency procedures.</li><li>xi. Emergency and after hours contact numbers for visitors and nearby residents.</li></ol> <p>Deletion Condition 3.0(5) to allow caravans onsite.</p> <p>Additional conditions</p> <ul style="list-style-type: none"><li>• that the eastern boundary fence be upgraded by the applicant to restrict animals &amp; people moving across the boundary.</li><li>• that those camping &amp; their animals not be allowed within 10m of the eastern boundary.</li><li>• Visitors will not be allowed to use any two-wheeled motorised vehicles on site for recreational use.</li><li>• Proponent must ensure all neighbours to be provided with a phone number to contact the site manager at any time.</li><li>• Proponent must have a list of all visitors to the site to demonstrate upon request that no more than the allowed visitors have been on site at any time.</li><li>• Proponent to pay for installation of 'concealed driveway' signs on approach to the site driveway from each direction, to be installed by Council and refer to the Traffic Committee.</li></ul>
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	<p>Addition of Condition 1.0(9) to require planting along the boundary shared with the eastern neighbour. Condition to read as followed:</p> <p><b>1.0(9) Screen planting</b> – The applicant must plant a 5 metre width landscape strip along the eastern boundary starting 40m from the front boundary to the rear building line of the eastern neighbouring property. The species and pot size of the planting is to be approved by Council. Landscape screening to be planted prior to the commencement of use.</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, John Nell and Steve Tucker.

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

**NOTICE OF RESCISSION**

**ITEM NO. 1**

**FILE NO: 21/172376**

**EDRMS NO: 16-2021-92-1**

**DEVELOPMENT APPLICATION 16-2021-92-1 FOR HORTICULTURE AND  
ANCILLARY SHED AT 509 GAN GAN ROAD, ONE MILE**

**COUNCILLOR:** RYAN PALMER  
GLEN DUNKLEY  
PAUL LE MOTTEE

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**THAT COUNCIL:**

- 1) That Council rescind its decision of 22 June 2021 (Minute No. 150) on Item No. 3 Development Application 16-2021-92-1 for Horticulture and Ancillary Shed at 509 Gan Gan Road, One Mile.

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

<b>023</b>	<b>Mayor Ryan Palmer Councillor Paul Le Mottee</b>  It was resolved that Council rescind its decision of 22 June 2021 (Minute No. 150) on Item No. 3 Development Application 16-2021-92-1 for Horticulture and Ancillary Shed at 509 Gan Gan Road, One Mile.
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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: Cr Giacomo Arnott.

The motion was carried.

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

<b>024</b>	<p><b>Mayor Ryan Palmer Councillor Chris Doohan</b></p> <p>It was resolved that Council approve Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile (Lot 2 DP 810866) subject to the amended plans (2410-A02, Revision I and 2410-A03, Revision G) submitted to Council dated 28/06/2021 subject to the conditions below:</p> <p style="text-align: center;"><b>CONDITIONS WITHOUT PREJUDICE – DA 16-2021-92-1</b></p> <p><b>1.0 - General Conditions of Consent</b></p> <p>The following conditions of consent are general conditions applying to the development.</p> <p>(1) <b>Approved plans and documentation</b> – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Plan reference/ drawing No.</th> <th style="text-align: left;">Name of plan</th> <th style="text-align: left;">Prepared by</th> <th style="text-align: left;">Date</th> </tr> </thead> <tbody> <tr> <td>2410-A02, Revision I</td> <td>Proposed Site and Flood Layouts</td> <td>Draw Design Group</td> <td>28/06/2021</td> </tr> <tr> <td>2410-A03, Revision G</td> <td>Elevations &amp; Section A-A</td> <td>Draw Design Group</td> <td>28/06/2021</td> </tr> <tr> <td>L02, Issue B</td> <td>Landscape Masterplan</td> <td>Green Space Planning Co.</td> <td>19/04/2021</td> </tr> </tbody> </table> <p style="text-align: center;">In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.</p> <p>(2) <b>Separate approval for signs</b> – A separate development application for proposed signage, must be provide to, and approved by, the</p>	Plan reference/ drawing No.	Name of plan	Prepared by	Date	2410-A02, Revision I	Proposed Site and Flood Layouts	Draw Design Group	28/06/2021	2410-A03, Revision G	Elevations & Section A-A	Draw Design Group	28/06/2021	L02, Issue B	Landscape Masterplan	Green Space Planning Co.	19/04/2021
Plan reference/ drawing No.	Name of plan	Prepared by	Date														
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2410-A03, Revision G	Elevations & Section A-A	Draw Design Group	28/06/2021														
L02, Issue B	Landscape Masterplan	Green Space Planning Co.	19/04/2021														



	<p>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.</p> <p>(3) <b>Building Code of Australia</b> – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>(4) <b>Sign on building</b> – 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.</p> <p>The sign must be maintained while the work is being carried out and is to be removed when the work is completed.</p> <p>(5) <b>Outdoor lighting</b> - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.</p> <p>(6) <b>Protect existing vegetation and natural landscape features</b> - Approval to remove existing vegetation for removal is not to occur until the issue of the Construction Certificate.</p> <p>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.</p> <p>(7) <b>Approved report recommendations</b> – Construction of the development must comply with the recommendations of the 'Flora and Fauna Assessment for No 509 Gan Gan Road, One Mile' (Reference Number: 16042021; Revision A), prepared by Enviro Ecology ', dated 16 April 2021, detailed as follows:</p> <ul style="list-style-type: none"><li>• A suitably qualified ecologist or wildlife handler should be on site during clearing of vegetation. The qualified Ecologist is to hold a scientific licence issued by the NSW Office of Environment &amp; Heritage and a current Animal Ethics licence issued by the</li></ul>
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	<p>Department of Industries and Investment.</p> <ul style="list-style-type: none"><li>• Where possible, dead wood should be salvaged from felled trees and placed into retained vegetation within the study area.</li><li>• During construction, vehicles and general construction equipment (such as excavators etc.) are to be received completely free of soil, seeds and plant material before entering the site to prevent the introduction of exotic plant species and pathogens, equipment failing inspection should be sent away for cleaning. Appropriate records of inspections shall be maintained.</li></ul> <p>Built up of mud, soil and organic matter present on vehicles shall be manually removed prior to vehicles entering/leaving the construction site.</p> <p>Works and vehicular movements shall cease if wet and muddy conditions develop/persist during construction to limit the movement of soil and organic matter onto, through and from the site, minimising the potential for the spread of weeds.</p> <p>(8) <b>Driveway Maintenance</b> – The Shared Driveway on 517 Gan Gan Road, One Mile from the junction with Gan Gan Road through to the western end of the shared right of carriageway must be maintained until all construction, landscaping and associated works are completed at which point the entire driveway must be restored to the current condition in accordance with the requirements of the dilapidation report as per Condition 2.1.</p> <p>(9) <b>Amendments to plans</b> – The development must be amended as follows:</p> <ul style="list-style-type: none"><li>a) The landscape plan must be updated to be consistent with the approved plans and to incorporate additional landscaping along the shared driveway.</li></ul> <p>Amended plans demonstrating compliance must be agreed upon with those impacted by existing right of carriageway and provided to the Certifying Authority and Council prior to the issue of a Construction Certificate.</p> <p><b>2.0 - Prior to Issue of a Construction Certificate</b></p> <p>The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.</p>
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	<p>(1) <b>Dilapidation report – Adjoining property</b> - A dilapidation report including a photographic survey of the following adjoining properties must be provided to the Certifying Authority. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.</p> <ul style="list-style-type: none"><li>a) Shared Driveway on 517 Gan Gan Road, One Mile from the crossover with Gan Gan Road to the subject site entrance.</li><li>b) 515 Gan Gan Road, One Mile.</li><li>c) 513 Gan Gan Road, One Mile.</li><li>d) 521 Gan Gan Road, One Mile.</li></ul> <p>The dilapidation report is to be prepared by a qualified Structural Engineer and the owner of the adjoining property. All costs incurred in achieving compliance with this condition must be borne by the applicant.</p> <p>(2) <b>Civil engineering plans</b> – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council’s Infrastructure Specifications.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p><b>Note.</b> Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.</p> <p>(3) <b>Stormwater/drainage plans</b> – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council’s Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p><b>Note.</b> Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.</p>
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	<p>(4) <b>Soil, erosion, sediment and water management</b> – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council’s Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>(5) <b>Parking areas and loading bays</b> – Parking areas and Loading bays are to be provided in accordance with AS2890 Part 2 ‘Parking Facilities’.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>(6) <b>Construction Environmental Management Plan</b> - A Construction Environmental Management Plan must be submitted to and approved by to the Certifying Authority and Council. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management. The traffic management component must be prepared to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.</p> <p>(7) <b>Hunter Water Corporation approval</b> - A Section 50 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.</p> <p>(8) <b>Long service levy</b> – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.</p> <p>(9) <b>Roads Act Application</b> – The development must be amended as follows:</p> <p>a) The existing access off Gan Gan Road is to be widened to 6.5 metres for first 6 metres as per Council’s Development Control Plan.</p> <p>Amended plans or documentation demonstrating compliance must be provided to the Certifying Authority and Council prior to the issue of a Construction Certificate.</p>
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**3.0 - Prior to Commencement of Works**

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

- (1) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the Environmental Planning & Assessment Regulation 2000. The notice must include:
- a) a description of the work to be carried out;
  - b) the address of the land on which the work is to be carried out;
  - c) the Registered number and date of issue of the relevant development consent;
  - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes.
- (2) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the Environmental Planning & Assessment Regulation 2000. The notice must include:
- a) the name and address of the person by whom the notice is being given;
  - b) a description of the work to be carried out;
  - c) the address of the land on which the work is to be carried out;
  - d) the Registered number and date of issue of the relevant development consent and construction certificate;
  - e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
  - f) the date on which the work is intended to commence.





	<p>(3) <b>Sign of PCA and contact details</b> – A sign must be erected in a prominent position on the site stating the following:</p> <ul style="list-style-type: none"><li>a) that unauthorised entry to the work site is prohibited;</li><li>b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;</li><li>c) the name, address and telephone number of the Principal Certifying Authority.</li></ul> <p>The sign must be maintained while the work is being carried out and must be removed upon the completion of works.</p> <p>(4) <b>Construction Certificate Required</b> – In accordance with the provisions of Section 6.7 of the Environmental Planning &amp; Assessment Act 1979 (EP&amp;A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:</p> <ul style="list-style-type: none"><li>a) a Construction Certificate has been issued by a Consent Authority;</li><li>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&amp;A Act 1979; and</li><li>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.</li></ul> <p>(5) <b>Site is to be secured</b> – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.</p> <p>(6) <b>Soil erosion and sediment control</b> – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.</p> <p>Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon</p>
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	<p>completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).</p> <p>(7) <b>All weather access</b> – A 3m wide all-weather vehicle access is to be provided from the kerb cross over on Gan Gan Road to the building under construction for the delivery of materials and use by trades people.</p> <p>No materials, waste or the like are to be stored on the all-weather access at any time.</p> <p>(8) <b>Rubbish generated from the development</b> – 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.</p> <p>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.</p> <p>(9) <b>Protection of trees /existing street trees</b> – Protection of trees to be retained must be in accordance with AS490 ‘Protection of Trees on Development Sites’ and the following:</p> <p>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.</p> <p><b>4.0 - During Works</b></p> <p>The following conditions of consent shall be complied with during the construction phase of the development.</p> <p>(1) <b>Construction hours</b> – All work (including delivery of materials) must be restricted to the hours of 7am to 5pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.</p>
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	<p>(2) <b>Toilet facilities</b> – 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.</p> <p>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.</p> <p>(3) <b>Compliance with BCA</b> – All building work must be carried out in accordance with the requirements of the Building Code of Australia.</p> <p>(4) <b>Excavations and backfilling</b> – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.</p> <p>If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:</p> <p>preserve and protect the building from damage; and</p> <p>a) if necessary, underpin and support the building in an approved manner; and</p> <p>b) give at least seven days’ notice to the adjoining owner before excavating, of the intention to excavate.</p> <p>The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact “Dial Before You Dig” prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.</p> <p>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.</p> <p>(5) <b>Building height</b> – 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.</p>
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|  | <p>(6) <b>Survey report</b> – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.</p> <p>(7) <b>Stormwater disposal</b> – Following the installation of any roof, collected stormwater runoff from the structure must be:</p> <ul style="list-style-type: none"><li>a) Connected to an approved stormwater quality improvement device such as an infiltrating raingarden in accordance with Council’s Standard Drawing S161 (or latest revision of this drawing). Where an infiltration garden is installed, it is to be located in the landscaped area(s) with an overflow pipe connected to the existing drainage easement/system.</li></ul> <p>(8) <b>Placement of fill</b> - 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.</p> <p>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.</p> <p>(9) <b>Tree protection measures</b> – All trees to be retained must be protected in accordance with AS4970 ‘Protection of Trees on Development Sites’ for the duration of construction.</p> <p>(10) <b>Unexpected finds contingency (general)</b> – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.</p> <p>In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.</p> <p>Where remediation work is required, the applicant will be required to obtain consent for the remediation works.</p> |
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	<p>(11) <b>Soil, erosion, sediment and water management</b> – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.</p> <p>(12) <b>Offensive noise, dust, odour and vibration</b> – 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.</p> <p>(13) <b>Delivery register</b> - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.</p> <p>This register must be made available to Council officers on request and be provided to the Council at the completion of the development.</p> <p>(14) <b>Fill material</b> – The only fill material that may be received at the development site is:</p> <ul style="list-style-type: none"><li>a) Virgin excavated natural material (VENM) within the meaning of the Protection of the Environment Operations Act (POEO Act 1997);</li><li>or</li><li>b) Excavated natural material (ENM) within the meaning of the POEO Act 1997;</li><li>or</li><li>c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.</li></ul> <p>Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.</p> <p>Any fill, soil, mulch and plant brought onto the site must be certified as free of weeds and weed seeds.</p>
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(15) **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'.

(16) **Traffic Management Plan Implementation** – All construction traffic management procedures and systems identified in the approved Construction Environmental Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.

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

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

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

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

(2) **Fire Safety Certificates** - A Fire Safety Certificate must be provided to the PCA in accordance with the requirements of the Environmental Planning & Assessment Regulation 2000.

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

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

- a) Electricity;
- b) Water;
- c) Sewer; and
- d) Gas (where available).



	<p>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.</p> <p>(5) <b>Stormwater/drainage works</b> – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.</p> <p>The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>(6) <b>Completion of landscape works</b> – All landscape works are to be undertaken in accordance with the approved landscape plan and conditions of this Development Consent.</p> <p>(7) <b>Car parking requirements</b> – A minimum of 6 car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.</p> <p>(8) <b>Loading/unloading facilities</b> – Loading /unloading facilities must be constructed in accordance with the approved plans. The extent of the loading bay must be permanently marked on the pavement surface.</p> <p>(9) <b>Waste disposal</b> – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (eg footpaths, roadways, plazas, reserves) at any time.</p> <p>(10) <b>All weather access</b> – A 3m wide all-weather vehicle access is to be provided from the kerb cross over on Gan Gan Road to the access to the development. The all-weather access is to be maintained for the life of the development.</p> <p><b>6.0 - Ongoing Use</b></p> <p>The following conditions of consent are operational conditions applying to the development.</p>
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	<p>(1) <b>Manoeuvring of vehicles</b> – All vehicles must enter and exit the site in a forward direction.</p> <p>(2) <b>Removal of graffiti</b> – The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.</p> <p>(3) <b>Loading to occur on site</b> – All loading and unloading operations are to be carried out wholly within the building/site and in accordance with the approved plans.  The loading dock (if provided) must be used for loading and unloading operations in connection with the approved use.</p> <p>(4) <b>Parking – Signage (loading docks)</b> – Proposed parking areas, service bays, truck docks, driveways and turning areas must be maintained clear of obstructions and be used exclusively for purposes of car parking, loading/ unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.</p> <p>(5) <b>Parking areas to be kept clear</b> – At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.</p> <p>(6) <b>No retailing</b> – The premises must be used strictly for the cultivation of vegetables (horticulture) pending distribution to persons engaged in the retail trade and under no circumstances must be used as a shop for the display or sale of goods on a retail basis.</p> <p>(7) <b>Fire Safety Schedule</b> – At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building and a copy forwarded to the Commissioner of Fire and Rescue NSW in accordance with the Environmental Planning &amp; Assessment Regulations 2000.</p> <p>(8) <b>Maintenance of landscaping</b> – Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.</p>
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	<p>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.</p> <p>(9) <b>Amenity</b> – The business must be conducted so that no interference occurs to the amenity of the area, adjoining occupations and residential or business premises.</p> <p>(10) <b>Use limitations</b> – The site must be used for horticulture and associated purposes only. Approved structures must not be adapted, converted or used for commercial, industrial or residential purposes without the prior approval of Council.</p> <p>(11) <b>Offensive noise</b> – 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).</p> <p>(12) <b>Delivery and Employee Number Restrictions</b> – The following restrictions apply to deliveries and employee numbers: a) No more than one (1) delivery per week is to be received; and b) No more than two (2) people are to be employed on site.</p> <p>All deliveries are restricted to the hours of 9am – 5pm, Monday to Friday and 9am to 12pm on Saturdays. Deliveries are not to be carried out on Sundays or Public Holidays.</p> <p>(13) <b>Vehicle Exit</b> – When exiting the site all vehicles associated with the horticulture use must exist via a left hand turn only.</p> <p><b>Advice Note(s):</b></p> <p>(1) <b>'Dial Before you Dig'</b> – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.</p> <p>(2) <b>Dividing fences</b> – 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</p>
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	<p>erection of any approved dividing fence/s under this consent.</p> <p>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.</p> <p>(3) <b>Premise standard</b> – It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act 1992 (DDA).</p> <p><b>Note:</b> Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.</p> <p>(4) <b>Disability Discrimination Act</b> – 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.</p> <p>(5) <b>Aboriginal archaeological deposit</b> – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.</p> <p>(6) <b>Signage</b> – You are advised that any proposed advertising signs that are not shown on the approved plans, or classified as exempt development, are subject to a separate Development Application to Council.</p> <p>(7) <b>Council as PCA, PCA sign</b> – 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.</p>
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**SCHEDULE 2 - REASONS FOR DETERMINATION AND REASONS FOR CONDITIONS**

**REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS**

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Port Stephens Local Environmental Plan 2013 (PSLEP), State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Koala Habitat Protection) 2020, State Environmental Planning Policy (Coastal Management) 2018.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Port Stephens Council Development Control Plan 2014 (PSDCP).
- The proposed setback variation to the PSDCP is considered to be acceptable in the particular circumstances of this case as the variation will not result in adverse amenity impacts to adjoining properties.
- 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 6 months after:

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

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

#### **RIGHT OF REVIEW**

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within 6 months after the date as specified in this notice of determination, together with payment of the appropriate fee. **(See exclusions note below).**



	<p><b>Exclusions:</b> 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:</p> <ul style="list-style-type: none"><li>a) A determination to issue or refuse to issue a complying development certificate, or</li><li>b) A determination in respect of designated development, or</li><li>c) A determination made by the Council under Division 4 in respect of an application by the Crown.</li></ul> <p>The following modifications to the conditions have been made:</p> <ul style="list-style-type: none"><li>• Condition 1.1 updated to reflect new plans provided (landscape plans to be amended see conditions 1.9 below).</li><li>• Condition 1.8 has been added for driveway maintenance.</li><li>• Condition 1.9 has been added requiring updated landscape plans so they are consistent with the approved plans and also showing additional landscaping along the shared driveway. It also notes that the landscape plans must be agreed upon by those impacted by the ROW.</li><li>• Condition 2.1 has been updated to add 513 and 521 Gan Gan Road.</li><li>• Condition 2.6 has been updated to include a comment regarding traffic management and pedestrian safety.</li><li>• Condition 4.16 has been added for pedestrian safety during construction.</li><li>• Condition 6.12 has been updated restricting deliveries to 1 per week and also restricting the hours.</li><li>• Condition 6.13 has been added to restrict vehicles exiting the site to be via a left hand turn only.</li><li>• Given the amenities have been removed, all proposed conditions relating to onsite sewer management have been removed.</li></ul>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

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

	<p><b>Councillor John Nell</b> <b>Councillor Giacomo Arnott</b></p> <p>That the Development Application 16-2021-92-1 for horticulture and ancillary shed at 509 Gan Gan Road, One Mile be deferred to allow consideration of the 'entry and exit' onto Reflections Drive, and referral to the Traffic Committee.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Giacomo Arnott and John Nell.

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

The motion was lost.

**NOTICE OF RESCISSION**

**ITEM NO. 2**

**FILE NO: 21/172790**

**EDRMS NO: 16-2020-811-1**

**DEVELOPMENT APPLICATION 16-2020-811-1 FOR CONSTRUCTION AND USE OF 4 STOREY RESIDENTIAL FLAT BUILDING (3 APARTMENTS), DEMOLITION OF EXISTING SINGLE STOREY DWELLING, ASSOCIATED LANDSCAPING, CIVIL WORKS AND CAR PARKING AT 10 TOMAREE ROAD, SHOAL BAY (LOT: 31 DP: 17513)**

**COUNCILLORS:** JAIMIE ABBOTT  
GIACOMO ARNOTT  
JOHN NELL

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**THAT COUNCIL:**

- 1) Rescind its decision of 22 June 2021 (Minute No. 148) on Item No. 1 Development Application 16-2020-811-1 for Construction and use of 4 Storey Residential Flat Building (3 Apartments), Demolition of Existing Single Storey Dwelling, Associated Landscaping, Civil Works and Car Parking at 10 Tomaree Road, Shoal Bay (LOT: 31 DP: 17513).

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

	<p><b>Councillor Jaimie Abbott</b> <b>Councillor Giacomo Arnott</b></p> <p>That Council rescind its decision of 22 June 2021 (Minute No. 148) on Item No. 1 Development Application 16-2020-811-1 for Construction and use of 4 Storey Residential Flat Building (3 Apartments), Demolition of Existing Single Storey Dwelling, Associated Landscaping, Civil Works and Car Parking at 10 Tomaree Road, Shoal Bay (LOT: 31 DP: 17513).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, John Nell and Steve Tucker.

Those against the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Glen Dunkley and Paul Le Mottee.

The motion was lost on the casting vote of the Mayor.



**ORDINARY COUNCIL MEETING – 27 JULY 2021**

**ITEM NO. 1**

**FILE NO: 21/170975  
EDRMS NO: 16-2021-82-1**

**DEVELOPMENT APPLICATION 16-2021-82-1 FOR A DWELLING AT 7 HIGH STREET, HINTON**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse development application 16-2021-82-1 for a dwelling at 7 High Street, Hinton (Lot 1A DP 9901) for the reasons contained in **(ATTACHMENT 3)**.

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

	<p><b>Councillor Jaimie Abbott Councillor John Nell</b></p> <p>1) That Council refuse development application 16-2021-82-1 for a dwelling at 7 High Street, Hinton (Lot 1A DP 9901) for the reasons contained in <b>(ATTACHMENT 3)</b>.</p>
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Councillor Sarah Smith left the meeting at 8:02pm prior to voting.  
Councillor Sarah Smith returned to the meeting at 8:03pm prior to voting.

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

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Glen Dunkley, Sarah Smith and Steve Tucker.

The motion was lost.

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

	<p><b>Councillor Steve Tucker</b> <b>Councillor Chris Doohan</b></p> <p>That Council:</p> <p>1) Defer development application 16-2021-82-1 for a dwelling at 7 High Street, Hinton (Lot 1A DP 9901) for further consideration.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Chris Doohan, Glen Dunkley, Sarah Smith and Steve Tucker.

Those against the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Ken Jordan and John Nell.

The amendment was lost.

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

<b>025</b>	<p><b>Councillor Steve Tucker</b> <b>Councillor Chris Doohan</b></p> <p>That Council approve development application 16-2021-82-1 for a dwelling at 7 High Street, Hinton (Lot 1A DP 9901) in accordance with the following Conditions of Consent.</p> <p><b><u>Conditions of Consent</u></b></p> <p><b>1.0 - General Conditions of Consent</b></p> <p>The following conditions of consent are general conditions applying to the development.</p>
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(1) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing No.	Name of plan	Prepared by	Date
2003020A 1 of 10	Location Plan	Sorensen Design & Planning	17.06.2021
2003020A 2 of 10	Site Plan	Sorensen Design & Planning	17.06.2021
2003020A 3 of 10	Ground Floor Plan	Sorensen Design & Planning	17.06.2021
2003020A 4 of 10	First Floor Plan	Sorensen Design & Planning	17.06.2021
2003020A 5 of 10	Attic Plan	Sorensen Design & Planning	17.06.2021
2003020A 6 of 10	North Elevations	Sorensen Design & Planning	17.06.2021
2003020A 7 of 10	East Elevation	Sorensen Design & Planning	17.06.2021
2003020A 8 of 10	South Elevation	Sorensen Design & Planning	17.06.2021
2003020A 9 of 10	West Elevation	Sorensen Design & Planning	17.06.2021

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

(2) **BASIX Certificate** – The applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) for the development to which this consent applies.



	<p>(3) <b>Building Code of Australia</b> – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>(4) <b>Home Building Act</b> – Pursuant to Section 4.17(11) of the Environmental Planning &amp; Assessment Act 1979, residential building work within the meaning of the Home Building Act 1989 shall not be carried out unless the PCA for the development to which the work relates:</p> <p>a) In the case of work for which a principal contractor has been appointed:</p> <ul style="list-style-type: none"><li>• Has been informed in writing of the name and licence number of the principal contractor; and</li><li>• Where required has provided an insurance certificate with the name of the insurer by which work is insured under Part 6 of that Act.</li></ul> <p>b) In the case of work to be carried out by an owner-builder:</p> <ul style="list-style-type: none"><li>• Has been informed in writing of the name of the owner-builder; and</li><li>• If the owner-builder is required to hold an owner-builder permit under that Act; has provided a copy of the owner-builder permit.</li></ul> <p>(5) <b>Home Building Act – Insurance</b> – Building work that involves residential building work within the meaning of the Home Building Act 1989, must not commence until such time as a contract of insurance is in force in accordance with Part 6 of that Act.</p> <p>This clause does not apply:</p> <p>a) to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning &amp; Assessment Regulation 2000 (EP&amp;A Regulation 2000), subject to the terms of any condition or requirement referred to in Clause 198(6) or 188(4) of the EP&amp;A Regulation 2000; or</p> <p>b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) of Clause 98 of the EP&amp;A Regulation 2000 applies.</p>
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- (6) **Approval of OSMS under LG Act** - An approval under Section 68 of the Local Government Act 1993 is to be obtained from Council for the installation of an on-site sewage management system (OSMS) prior to the issue of a Construction Certificate.

**NOTE:** This consent has not addressed any additional fill for the purpose of providing adequate disposal field or infrastructure location for any wastewater treatment system. Any additional fill required for the provision of any wastewater treatment system is subject to separate approval.

#### **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) **Structural engineer’s certificate** – A certificate must be prepared by a qualified Structural Engineer certifying that the building design is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy, impact and loading from debris up to and including the future 1% Annual Exceedance Probability (AEP) event.  
Details demonstrating compliance must be provided to the Certifying Authority.
- (2) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council’s Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.
- (3) **Long service levy** – In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.



	<p>(4) <b>Free flow of water</b> - The location and design of the proposed doors must allow free access and escape of floodwaters without causing damage to the building. Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>(5) <b>Flood Risk Management Plan</b> – A Flood Risk Management Plan prepared by a suitably qualified Engineer must be provided to the Certifying Authority demonstrating compliance with the following:</p> <ul style="list-style-type: none"><li>a) The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact and loading from debris up to and including the 1% Annual Exceedance Probability (AEP) event.</li><li>b) Certification that the proposed development/ building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF).</li><li>c) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property</li><li>d) Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.</li></ul> <p><b>3.0 - Prior to Commencement of Works</b> The following conditions of consent shall be complied with prior to any works commencing on the development site.</p> <p>(1) <b>Notice of Principal Certifying Authority appointment</b> – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the Environmental Planning &amp; Assessment Regulation 2000. The notice must include:</p> <ul style="list-style-type: none"><li>a) a description of the work to be carried out;</li><li>b) the address of the land on which the work is to be carried out;</li><li>c) the Registered number and date of issue of the relevant development consent;</li></ul>
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	<p>d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;</p> <p>e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and</p> <p>f) a telephone number on which the PCA may be contacted for business purposes.</p> <p>(2) <b>Notice commencement of work</b> – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the Environmental Planning &amp; Assessment Regulation 2000. The notice must include:</p> <p>a) the name and address of the person by whom the notice is being given;</p> <p>b) a description of the work to be carried out;</p> <p>c) the address of the land on which the work is to be carried out;</p> <p>d) the Registered number and date of issue of the relevant development consent and construction certificate;</p> <p>e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and</p> <p>f) the date on which the work is intended to commence.</p> <p>(3) <b>Sign of PCA and contact details</b> – A sign must be erected in a prominent position on the site stating the following:</p> <p>a) that unauthorised entry to the work site is prohibited;</p> <p>b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;</p> <p>c) the name, address and telephone number of the Principal Certifying Authority.</p> <p>The sign must be maintained while the work is being carried out</p>
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	<p>and must be removed upon the completion of works.</p> <p>(4) <b>Construction Certificate Required</b> – In accordance with the provisions of Section 6.7 of the Environmental Planning &amp; Assessment Act 1979 (EP&amp;A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:</p> <ul style="list-style-type: none"><li>a) a Construction Certificate has been issued by a Consent Authority;</li><li>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&amp;A Act 1979; and</li><li>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.</li></ul> <p>(5) <b>Soil erosion and sediment control</b> – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.</p> <p>Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).</p> <p>(6) <b>Rubbish generated from the development</b> – 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.</p> <p>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.</p> <p>(7) <b>Flood design measures</b> – Evidence of certification demonstrating that the following flood related design precautions have been adhered to in the design must be submitted to the Principal</p>
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	<p>Certifying Authority:</p> <ul style="list-style-type: none"><li>a) In sewerred areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge;</li><li>b) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL;</li><li>c) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning;</li><li>d) All main power supply, heating and air conditioning service installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply;</li><li>e) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed;</li><li>f) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL.</li></ul> <p><b>4.0 - During Works</b></p> <p>The following conditions of consent shall be complied with during the construction phase of the development.</p> <ul style="list-style-type: none"><li>(1) <b>Construction hours</b> – All work (including delivery of materials) must be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.</li><li>(2) <b>Toilet facilities</b> – 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</li></ul>
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	<p>20 persons or part thereof employed on the site at any one time.</p> <p>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.</p> <p>(3) <b>Compliance with BCA</b> – All building work must be carried out in accordance with the requirements of the Building Code of Australia.</p> <p>(4) <b>Finished floor level</b> - The finished floor level of the dwelling must be a minimum level of RL 7.2m Australian Height Datum in accordance with the approved plans.</p> <p>A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to Principal Certifying Authority prior to the development proceeding beyond floor level stage.</p> <p>(5) <b>Stormwater disposal</b> – Following the installation of any roof, collected stormwater runoff from the structure must be:</p> <p>c) Dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location must be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p> <p>(6) <b>Placement of fill</b> - 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.</p> <p>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.</p> <p>(7) <b>Offensive noise, dust, odour and vibration</b> – 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.</p> <p>(8) <b>Bush Fire Safety - Dwellings</b> - The site is located within a bushfire prone area and must comply with NSW Rural Fire Service document</p>
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	<p>"Planning for Bushfire Protection 2019 and AS 3959 2018.'Construction of Buildings in Bushfire Prone Areas' construction and the entire property must be managed as an 'Inner Protection Area' as outlined within Appendix 4 of Planning for Bushfire Protection 2019. Details demonstrating compliance must be provided to the Certifying Authority.</p> <p><b>5.0 - Prior to Issue of an Occupation Certificate</b></p> <p>The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.</p> <p>(1) <b>Occupation Certificate required</b> - 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.</p> <p>(2) <b>Survey Certificate</b> – A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority.</p> <p>(3) <b>Services</b> – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:</p> <ul style="list-style-type: none"><li>a) Electricity;</li><li>b) Water;</li><li>c) Sewer; and</li><li>d) Gas (where available).</li></ul> <p>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.</p> <p>(4) <b>Flood Risk Management Plan</b> – A Certificate of Compliance prepared by a suitably qualified Flood engineer must be provided to the Principal Certifying Authority stating that all aspects of the Flood Risk Management Plan have been completed and/or implemented in</p>
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	<p>accordance with the approved Plan.</p> <p>(5) <b>On-Site sewerage management inspection</b> – An onsite sewage management system/waste treatment device is to be installed and obtain approval to operate from Council in accordance with Local Government Act 1993 (Section 68A) prior to the issue of any Occupation Certificate</p> <p>(6) <b>Protection and certification of electrical services</b> – All power points, fittings, electrical connections within the ground floor level are to be located above the Current 1% Annual Exceedance Probability event which is RL 6.5m AHD.</p> <p>Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.</p> <p>(7) <b>Flood Emergency Response Plan</b> - A Flood Emergency Response Plan (FERP) for the proposed development must be provided to the Principal Certifying Authority. The FERP must include the following as a minimum:</p> <ul style="list-style-type: none"><li>a) A map of the proposed evacuation route to a suitable location above the Probable Maximum Flood (PMF) that provides adequate shelter from the storm, including the route direction and description and identification of the depth of floodwater along the evacuation route in the 1% Annual Exceedance Probability (AEP) flood and PMF events;</li><li>b) Specific trigger heights linked to the nearest river and tidal gauges used for flood warnings and the specific evacuation route cut-off times linked to the gauge height;</li><li>c) Description of the specific flood inundation at the site and the relevant surrounding area, including flood depths, direction of flow, velocities, hazard and specific relevant vulnerabilities;</li><li>d) Consideration of and strategies for, the needs of the elderly, disabled and vulnerable who may be on site;</li><li>e) A realistic time period for evacuation preparations linked to the trigger heights and evacuation route cut-off times, which includes:</li></ul>
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- Locating important papers, valuables etc., that will be evacuated
- Locating and stacking possessions that are to be left behind, well above the predicted flood level
- Dealing with all utilities such as electricity, gas, water, fuel, toilets, showers, wastewater system (including removal fuses) and moving pumps and machinery above the predicted flood level
- Time to gather, identify and load animals (pets, livestock and other animals), including the possible need for additional assistance in handling your animals in an emergency.

- f) Determining the vehicular needs of the site to appropriately respond to the flood risk;
- g) A strategy for a night time flood emergency; and
- h) A strategy for effective flood risk management when the electricity, internet, telecommunications etc., are unavailable.

**Note:** Digital elevation data is available from Geosciences Australia, current flood studies are available on Council's website and river gauge/ tidal gauge data is available from the Bureau of Meteorology website.

### **6.0 – Ongoing Use**

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

- (1) **Residential air conditioning units** – The operation of air conditioning units must operate as follows:
  - a) be inaudible in a habitable room during the hours of 10pm – 7am on weekdays and 10pm to 8am on weekends and public holidays;
  - b) emit a sound pressure level when measured at the boundary of any neighbouring residential property, at a time other than those specified in (a) above, which exceeds the background (LA90, 15 minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute; and
  - c) not discharge any condensate or moisture onto the ground surface of the premises or into stormwater drainage system in contravention of the requirements of the Protection of the



	<p>Environment Operations Act 1997.</p> <p><b>Advice Note(s):</b></p> <p>(1) <b>'Dial Before you Dig'</b> – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.</p> <p>(2) <b>Dividing fences</b> – 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.</p> <p>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.</p> <p>(3) <b>Aboriginal archaeological deposit</b> – In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.</p> <p>(4) <b>Flood information is subject to change</b> – 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.</p> <p>(5) <b>Flood Evacuation Plan</b> – A flood evacuation plan indicating 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. Details demonstrating compliance must be</p>
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	<p>provided to the Certifying Authority with the Construction Certificate application.</p> <p>(6) <b>Responsibility for damage for tree removal/pruning</b> – 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.</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, Sarah Smith and Steve Tucker.

Those against the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Ken Jordan and John Nell.

The motion was lost.

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

<p><b>026</b></p>	<p><b>Councillor Giacomo Arnott Councillor Ken Jordan</b></p> <p>It was resolved that Council refuse development application 16-2021-82-1 for a dwelling at 7 High Street, Hinton (Lot 1A DP 9901) for the reasons contained in <b>(ATTACHMENT 3)</b>, with the following additional reason to be added:</p> <p>“That it is in the public interest to protect residents, the environment and the community through its adherence to Council’s planning controls.”</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Ken Jordan and John Nell.

Those against the Motion: Mayor Ryan Palmer, Crs Glen Dunkley, Sarah Smith and Steve Tucker.

The motion was carried.



**ITEM NO. 2**

**FILE NO: 21/173438  
EDRMS NO: 16-2007-15-5**

**DEVELOPMENT APPLICATION DA NO. 16-2007-15-5 FOR A S4.55(2)  
MODIFICATION TO AN APPROVED CARAVAN PARK AT 16 TROTTER ROAD,  
BOBS FARM**

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

GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application DA No. 16-2007-15-5 for a S4.55(2) modification to an approved caravan park at 16 Trotter Road, Bobs Farm (LOT 2 DP 954600) subject to the conditions contained in **(ATTACHMENT 3)**.

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

<b>027</b>	<p><b>Councillor John Nell Councillor Glen Dunkley</b></p> <p>It was resolved that Council defer Development Application DA No. 16-2007-15-5 for a S4.55(2) modification to an approved caravan park at 16 Trotter Road, Bobs Farm (LOT 2 DP 954600) to request the applicant modify the proposal to contain it within the existing approved development footprint, and that Council seek independent legal advice.</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.

The motion was carried.

**ITEM NO. 3**

**FILE NO: 21/167364  
EDRMS NO: PSC2019-00822**

**DRAFT VOLUNTARY PLANNING AGREEMENT - KINGS HILL DEVELOPMENT**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft voluntary planning agreement to secure conservation land and works related to Development Application 16-2018-722-1 for land at Kings Hill **(ATTACHMENT 1)**.
- 2) Exhibit the draft agreement and explanatory note for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000.

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

<b>028</b>	<p><b>Councillor Sarah Smith Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Endorse the draft voluntary planning agreement to secure conservation land and works related to Development Application 16-2018-722-1 for land at Kings Hill <b>(ATTACHMENT 1)</b>.</li> <li>2) Exhibit the draft agreement and explanatory note for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000.</li> <li>3) If no submissions are received, approve the voluntary planning agreement as exhibited for execution.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.



**PORT STEPHENS COUNCIL  
PLANNING DECISION REGISTER  
2021**

**Section 375A, Local Government Act 1993  
(DLG Circular 08-45)**

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.

The motion was carried.

**ITEM NO. 4**

**FILE NO: 21/162643  
EDRMS NO: 58-2017-10-1**

**RIFLE RANGE PLANNING PROPOSAL, DEVELOPMENT CONTROL PLAN AND  
VOLUNTARY PLANNING AGREEMENT**

REPORT OF: JANELLE GARDNER - STRATEGY & ENVIRONMENT SECTION  
MANAGER

GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the amendments to the planning proposal (**ATTACHMENT 2**) and related amendment to the Port Stephens Development Control Plan 2014 (**ATTACHMENT 3**) for 14 Popplewell Road, Fern Bay (Lot 5, DP233358), to rezone part of the subject land from E2 Environmental Conservation to R3 Medium Density Residential, to apply a mixed minimum lot size of 200m<sup>2</sup> and 500m<sup>2</sup>, and to apply maximum building heights of 9 and 15 metres.
  - 2) Receive and note the submissions received during public exhibition of the planning proposal and related amendment to the Port Stephens Development Control Plan 2014 (**ATTACHMENT 4**).
  - 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).
  - 4) Approve the related amendment to the Port Stephens Development Control Plan 2014 in accordance with clause 21 of the Environmental Planning and Assessment Regulation 2000 (NSW) and provide public notice in accordance with those Regulations.
  - 5) Agree to the preparation and exhibition of a draft Voluntary Planning Agreement to manage sand dune transgression in accordance with the letter of offer dated 23 April 2021 (**ATTACHMENT 5**).
  - 6) If no submissions are received, approve the Voluntary Planning Agreement as exhibited for execution.
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**ORDINARY COUNCIL MEETING - 27 JULY 2021  
MOTION**

<b>029</b>	<p><b>Councillor Ken Jordan</b> <b>Councillor Glen Dunkley</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Note the amendments to the planning proposal (<b>ATTACHMENT 2</b>) and related amendment to the Port Stephens Development Control Plan 2014 (<b>ATTACHMENT 3</b>) for 14 Popplewell Road, Fern Bay (Lot 5, DP233358), to rezone part of the subject land from E2 Environmental Conservation to R3 Medium Density Residential, to apply a mixed minimum lot size of 200m<sup>2</sup> and 500m<sup>2</sup>, and to apply maximum building heights of 9 and 15 metres.</li> <li>2) Receive and note the submissions received during public exhibition of the planning proposal and related amendment to the Port Stephens Development Control Plan 2014 (<b>ATTACHMENT 4</b>).</li> <li>3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).</li> <li>4) Approve the related amendment to the Port Stephens Development Control Plan 2014 in accordance with clause 21 of the Environmental Planning and Assessment Regulation 2000 (NSW) and provide public notice in accordance with those Regulations.</li> <li>5) Agree to the preparation and exhibition of a draft Voluntary Planning Agreement to manage sand dune transgression in accordance with the letter of offer dated 23 April 2021 (<b>ATTACHMENT 5</b>).</li> <li>6) If no submissions are received, approve the Voluntary Planning Agreement as exhibited for execution.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.  
The motion was carried.

**ORDINARY COUNCIL MEETING – 10 AUGUST 2021**

**NOTICE OF MOTION**

**ITEM NO. 10**

**FILE NO: 21/206372**

**EDRMS NO: PSC2017-00019**

**DWELLINGS IN HIGH HAZARD FLOODWAYS**

**COUNCILLOR: GIACOMO ARNOTT**

**THAT COUNCIL:**

- 1) Notes the recent increase in requests to construct homes in high hazard floodways.
- 2) Notes the danger associated with these Development Applications for the proponents, emergency services, Councillors and staff.
- 3) Requests a report be prepared by Council staff for DCP or LEP changes that would make residential developments in high hazard floodways not permissible.

**ORDINARY COUNCIL MEETING - 10 AUGUST 2021  
MOTION**

<b>030</b>	<p><b>Councillor Giacomo Arnott Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Notes the recent increase in requests to construct homes in high hazard floodways.</li> <li>2) Notes the danger associated with these Development Applications for the proponents, emergency services, Councillors and staff.</li> <li>3) Requests the General Manager prepare a report for DCP or LEP changes that would make residential developments in high hazard floodways not permissible.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Mayor Ryan Palmer, Crs Paul Le Mottee and Sarah Smith.

The motion was carried.

**ORDINARY COUNCIL MEETING – 12 OCTOBER 2021**

**ITEM NO. 1**

**FILE NO: 21/232186  
EDRMS NO: 16-2021-509-1**

**DEVELOPMENT APPLICATION 16-2021-509-1 FOR MULTI DWELLING HOUSING  
AT 245 SOLDIERS POINT ROAD, SALAMANDER BAY**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2021-509-1 for the construction of a 2 storey multi dwelling housing development (6 dwellings), demolition of an existing 2 storey dwelling, associated landscaping, civil works, car parking and strata subdivision at 245 Soldiers Point Road, Salamander Bay (Lot 406 DP 28192) subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021  
MOTION**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That DA 16-2021-509-1 be deferred to enable a secondary round of public consultation to occur, with notification being sent to all adjoining neighbours, those adjoining the access road, and those within two homes of these identified lots.</p>
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The motion lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021  
MOTION**

031	<p><b>Councillor Chris Doohan Councillor Paul Le Mottee</b></p>
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	<p>It was resolved that Council approve Development Application 16-2021-509-1 for the construction of a 2 storey multi dwelling housing development (6 dwellings), demolition of an existing 2 storey dwelling, associated landscaping, civil works, car parking and strata subdivision at 245 Soldiers Point Road, Salamander Bay (Lot 406 DP 28192) subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</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, John Nell and Steve Tucker.

Those against the Motion: Crs Giacomo Arnott and Sarah Smith.

The motion was carried.

**ITEM NO. 2**

**FILE NO: 21/225839  
EDRMS NO: 58-2021-2-1**

**PLANNING PROPOSAL FOR 4 SEASIDE BOULEVARD, FERN BAY**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the amendments to the planning proposal (**ATTACHMENT 2**) for 2, 4, 4A, 4B, and 6 Seaside Boulevard, Fern Bay (Part of Lot 27, DP 270466, Lots 2, 3, 4, 20, 21, 22, DP 280072), and 20, 22, 23, 24, 25 and 26 Sovereign Street, Fern Bay (Part of Lots 5, 19, 23 & 24, DP 280072) to rezone the subject land from B1 Neighbourhood Centre to R2 Low Density Residential, apply a minimum lot size of 500 square metres, and amend the maximum building height limit from 8 metres to 9 metres.
- 2) Receive and note the submissions received during agency consultation and public exhibition of the planning proposal.
- 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).

**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021  
MOTION**

<b>032</b>	<p><b>Councillor Giacomo Arnott Councillor Glen Dunkley</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Note the amendments to the planning proposal (<b>ATTACHMENT 2</b>) for 2, 4, 4A, 4B, and 6 Seaside Boulevard, Fern Bay (Part of Lot 27, DP 270466, Lots 2, 3, 4, 20, 21, 22, DP 280072), and 20, 22, 23, 24, 25 and 26 Sovereign Street, Fern Bay (Part of Lots 5, 19, 23 &amp; 24, DP 280072) to rezone the subject land from B1 Neighbourhood Centre to R2 Low Density Residential, apply a minimum lot size of 500 square metres, and amend the maximum building height limit from 8 metres to 9 metres.</li> </ol>
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	<p>9 metres.</p> <ol style="list-style-type: none"><li>2) Receive and note the submissions received during agency consultation and public exhibition of the planning proposal.</li><li>3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).</li></ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

The motion was carried.



**ITEM NO. 3**

**FILE NO: 21/236153  
EDRMS NO: PSC2020-00819-002**

**VOLUNTARY PLANNING AGREEMENT - KINGS HILL DEVELOPMENT  
APPLICATION 16-2018-722-1**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and note the submissions (**ATTACHMENT 1**) received during the public exhibition of the draft Voluntary Planning Agreement related to Development Application 16-2018-722-1 for land at Kings Hill.
- 2) Authorise the execution of the Voluntary Planning Agreement (as exhibited) (**ATTACHMENT 2**).

**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021  
MOTION**

<b>033</b>	<p><b>Councillor Ken Jordan Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Receive and note the submissions (<b>ATTACHMENT 1</b>) received during the public exhibition of the draft Voluntary Planning Agreement related to Development Application 16-2018-722-1 for land at Kings Hill.</li> <li>2) Authorise the execution of the Voluntary Planning Agreement (as exhibited) (<b>ATTACHMENT 2</b>).</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Giacomo Arnott.

The motion was carried.

Councillor Glen Dunkley left the meeting at 6:56pm.

**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021  
AMENDMENT**

	<p><b>Councillor Giacomo Arnott Councillor John Nell</b></p> <p>That Council:</p> <ol style="list-style-type: none"> <li>1) Receive and note the submissions (<b>ATTACHMENT 1</b>) received during the public exhibition of the draft Voluntary Planning Agreement related to Development Application 16-2018-722-1 for land at Kings Hill.</li> <li>2) Authorise the execution of the Voluntary Planning Agreement (as exhibited) (<b>ATTACHMENT 2</b>) subject to amending the monetary value of the monetary contribution to the management fund to read "\$4,000,000" instead of "\$3,000,000".</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Cr Giacomo Arnott.

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

The amendment was lost.

**ITEM NO. 4**

**FILE NO: 21/236147  
EDRMS NO: PSC2018-01095**

**DWELLINGS IN A HIGH HAZARD FLOODWAY**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the attached report on dwellings in a high hazard floodway (**ATTACHMENT 1**).
- 2) Adopt the recommendations of the attached report to:
  - a. Note the number of lots and landowners likely to be impacted by a change to prohibit dwellings in a high hazard floodway.
  - b. Note the Standard Instrument local environmental plan limits the amendments that can be made to the Port Stephens Local Environmental Plan 2014, including amendments to prohibit dwellings proposed in a high hazard floodway.
  - c. Note that the current Port Stephens Development Control Plan 2014 has been prepared in accordance with the NSW Floodplain Development Manual 2005 and the recommendations of Council's Floodplain Risk Management Policy Committee.
  - d. Retain the existing local framework that applies a merit assessment for dwellings proposed in a high hazard floodway.

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**ORDINARY COUNCIL MEETING - 12 OCTOBER 2021  
MOTION**

<b>034</b>	<p><b>Councillor Giacomo Arnott Councillor John Nell</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Note the attached report on dwellings in a high hazard floodway (<b>ATTACHMENT 1</b>).</li> <li>2) Adopt the recommendations of the attached report to:</li> </ol>
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	<ul style="list-style-type: none"><li>a. Note the number of lots and landowners likely to be impacted by a change to prohibit dwellings in a high hazard floodway.</li><li>b. Note the Standard Instrument local environmental plan limits the amendments that can be made to the Port Stephens Local Environmental Plan 2014, including amendments to prohibit dwellings proposed in a high hazard floodway.</li><li>c. Note that the current Port Stephens Development Control Plan 2014 has been prepared in accordance with the NSW Floodplain Development Manual 2005 and the recommendations of Council's Floodplain Risk Management Policy Committee.</li><li>d. Retain the existing local framework that applies a merit assessment for dwellings proposed in a high hazard floodway.</li></ul>
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Councillor Glen Dunkley returned to the meeting at 7:00pm.

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.

The motion was carried.

**ORDINARY COUNCIL MEETING – 26 OCTOBER 2021**

**ITEM NO. 1**

**FILE NO: 21/243180  
EDRMS NO:**

**DEVELOPMENT APPLICATION DA NO. 16-2007-15-5 FOR A S4.55(2)  
MODIFICATION TO AN APPROVED CARAVAN PARK AT 16 TROTTER ROAD,  
BOBS FARM**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2007-15-5 subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 26 OCTOBER 2021  
MOTION**

<b>035</b>	<p><b>Councillor John Nell Councillor Chris Doohan</b></p> <p>It was resolved that Council approve Development Application DA No. 16-2007-15-5 for a S4.55(2) modification to an approved caravan park at 16 Trotter Road, Bobs Farm (LOT 2 DP 954600) subject to the conditions contained in <b>(ATTACHMENT 3)</b> with the following additional condition:</p> <ul style="list-style-type: none"> <li>• Prior to the issue of any Construction Certificate, the Concept masterplan, dwg. 240060-DA-001-E, Version Q, prepared by ADW Johnson and dated 2/09/2021 is to be amended to remove sites 104, 112, 113 and 114 from the area outside the development footprint approved under DA 16-2007-15-3.</li> </ul> <p>There are only 4 long term sites outside of the footprint, the other 2 sites are the short term sites which would need to remain.</p>
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Councillor Jaimie Abbott left the meeting at 8:01pm.

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

Those for the Motion: Crs Chris Doohan, Glen Dunkley, Ken Jordan, John Nell and Sarah Smith.

Those against the Motion: Crs Giacomo Arnott, Paul Le Mottee and Ryan Palmer.

The motion was carried.

Cr Paul Le Mottee gave notice of a foreshadowed motion.

**ORDINARY COUNCIL MEETING - 26 OCTOBER 2021  
FORESHADOWED MOTION**

	<p><b>Councillor Paul Le Mottee</b></p> <p>That Council approve Development Application 16-2007-15-5 subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</p>
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**ORDINARY COUNCIL MEETING - 26 OCTOBER 2021  
AMENDMENT**

	<p><b>Councillor Giacomo Arnott</b></p> <p>That Council approve Development Application DA No. 16-2007-15-5 for a S4.55(2) modification to an approved caravan park at 16 Trotter Road, Bobs Farm (LOT 2 DP 954600) subject to the conditions contained in <b>(ATTACHMENT 3)</b> with the following additional conditions:</p> <ul style="list-style-type: none"> <li>• Prior to the issue of any Construction Certificate, the Concept masterplan, dwg. 240060-DA-001-E, Version Q, prepared by ADW Johnson and dated 2/09/2021 is to be amended to remove sites 104, 112, 113 and 114 from the area outside the development footprint approved under DA 16-2007-15-3.</li> <li>• The proposal must contain 5 homes (5% of the permanent housing) that are either:             <ul style="list-style-type: none"> <li>○ sold at cost to the NSW Department of Housing or its contractors, or</li> <li>○ sold at cost to persons referred by charities as being in need of affordable housing.</li> </ul> </li> </ul>
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	<p>There are only 4 long term sites outside of the footprint, the other 2 sites are the short term sites which would need to remain.</p>
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The amendment lapsed without a seconder.

**ORDINARY COUNCIL MEETING - 26 OCTOBER 2021  
MOTION**

<p><b>036</b></p>	<p><b>Councillor John Nell Councillor Paul Le Mottee</b></p> <p>It was resolved that Council approach the neighbours to the north of the subject site to allow Council to plant koala food trees to improve the corridor.</p>
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The motion was carried.

**ITEM NO. 2**

**FILE NO: 21/255592  
EDRMS NO: 58-2020-1-1**

**HOUSEKEEPING AMENDMENT TO THE PORT STEPHENS LOCAL ENVIRONMENTAL PLAN**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the amendments to the planning proposal (**ATTACHMENT 1**) for a housekeeping amendment to the Port Stephens Local Environmental Plan 2013.
  - 2) Receive and note the submissions received during the public exhibition of the planning proposal (**ATTACHMENT 2**).
  - 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).
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**ORDINARY COUNCIL MEETING - 26 OCTOBER 2021  
MOTION**

<b>037</b>	<p><b>Councillor Sarah Smith Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Note the amendments to the planning proposal (<b>ATTACHMENT 1</b>) for a housekeeping amendment to the Port Stephens Local Environmental Plan 2013.</li> <li>2) Receive and note the submissions received during the public exhibition of the planning proposal (<b>ATTACHMENT 2</b>).</li> <li>3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).</li> </ol>
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Councillor Ken Jordan left the meeting at 08:07pm.

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

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

Those against the Motion: Nil.

The motion was carried.

Councillor Ken Jordan returned to the meeting at 8:09pm.

**ITEM NO. 3**

**FILE NO: 21/248118  
EDRMS NO: PSC2021-00560**

**KARUAH PLACE PLAN**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft Karuah Place Plan (**ATTACHMENT 1**) for exhibition for a period of 28 days.

**ORDINARY COUNCIL MEETING - 26 OCTOBER 2021  
MOTION**

<b>038</b>	<p><b>Councillor Chris Doohan Councillor Glen Dunkley</b></p> <p>It was resolved that Council endorse the draft Karuah Place Plan (<b>ATTACHMENT 1</b>) for exhibition for a period of 28 days.</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 Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell and Sarah Smith.

Those against the Motion: Nil.

The motion was carried.