

# DRAFT

## MINUTES – 11 APRIL 2017



# PORT STEPHENS

## C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 11 April 2017, commencing at 6.22 pm.

**PRESENT:**

Deputy Mayor C. Doohan (Chair), Councillors G. Dingle, K. Jordan, P. Kafer, P. Le Mottee, J Nell, S. Tucker, General Manager, Corporate Services Group Manager, Facilities and Services Group Manager, Development Services Group Manager and Governance Manager.

<b>080</b>	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>  It was resolved that the apologies from Mayor Bruce MacKenzie, Cr Sally Dover and Cr John Morello be received and noted.
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<b>MINUTES ORDINARY COUNCIL - 11 APRIL 2017</b>
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**081**

**Councillor Ken Jordan**  
**Councillor John Nell**

It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 28 March 2017 be confirmed.

Cr Ken Jordan declared a significant non-pecuniary interest in Notice of Motion item 1 and Rescission Motion item 1. The nature of the interest is a friend of the neighbours.

Cr Paul Le Mottee declared a pecuniary interest in Notice of Motion item 1 and Rescission Motion item 1. The nature of the interest is the Le Mottee Group prepared a plan for the applicant.

# INDEX

**SUBJECT****PAGE NO****MOTIONS TO CLOSE ..... 4**

1. MOTION TO CLOSE.....5

**COUNCIL REPORTS..... 6**

1. DEVELOPMENT APPLICATION NO. 16-2016-631-1 FOR A  
RESIDENTIAL FLAT BUILDING (INCORPORATING 8 STOREY  
APARTMENT COMPLEX WITH UNDERGROUND CAR PARKING)  
AT 11-13 CHURCH STREET, NELSON BAY (LOTS 17 & 18  
SECTION 7 DP8611) .....7
2. DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020 .....71
3. POLICY REVIEW: HERITAGE POLICY (ADMINISTRATIVE  
AMENDMENT).....105
4. REQUEST FOR FINANCIAL ASSISTANCE .....122
5. 2017 NATIONAL CONGRESS & BUSINESS EXPO - TASMANIA 22-  
24 MAY 2017 .....126
6. 2017 NATIONAL GENERAL ASSEMBLY - CANBERRA 18-21 JUNE  
2017 .....133
7. INFORMATION PAPERS .....140

**INFORMATION PAPERS ..... 142**

1. 2017 LOCAL GOVERNMENT NSW TOURISM CONFERENCE .....143

**NOTICES OF MOTION ..... 145**

1. REZONING - 111 SOUTH STREET AND 1C SYLVAN AVENUE,  
MEDOWIE.....146

**RESCISSION MOTIONS ..... 151**

1. DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS  
TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED  
AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392) .....152

**CONFIDENTIAL ..... 180**

1. CODE OF CONDUCT .....180

# MOTIONS TO CLOSE



**ITEM NO. 1**

**FILE NO: 17/73693  
RM8 REF NO: PSC2016-01890**

**MOTION TO CLOSE**

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

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2) (i) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **CODE OF CONDUCT**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
  - alleged contraventions of any code of conduct requirements applicable under section 440.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

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**ORDINARY COUNCIL MEETING - 11 APRIL 2017  
MOTION**

<b>082</b>	<p><b>Councillor Steve Tucker</b> <b>Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) That pursuant to section 10A(2) (i) of the <i>Local Government Act 1993</i>, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item on the Ordinary agenda namely <b>CODE OF CONDUCT</b>.</li><li>2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none"><li>• alleged contraventions of any code of conduct requirements applicable under section 440.</li></ul></li><li>3) That the report remain confidential and the minute be released in accordance with Council's resolution.</li></ol>
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# COUNCIL REPORTS

**ITEM NO. 1**

**FILE NO: 17/60837  
RM8 REF NO: 15-2016-631-1**

**DEVELOPMENT APPLICATION NO. 16-2016-631-1 FOR A RESIDENTIAL FLAT BUILDING (INCORPORATING 8 STOREY APARTMENT COMPLEX WITH UNDERGROUND CAR PARKING) AT 11-13 CHURCH STREET, NELSON BAY (LOTS 17 & 18 SECTION 7 DP8611)**

REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER  
GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

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

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**ORDINARY COUNCIL MEETING - 11 APRIL 2017  
MOTION**

<b>083</b>	<b>Councillor Geoff Dingle Councillor Ken Jordan</b>  It was resolved that Council move into Committee of the Whole.
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**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell Councillor Geoff Dingle</b>  That item 1, development application no. 16-2016-631-1 for a residential flat building (incorporating 8 storey apartment complex with underground car parking) at 11-13 Church street, Nelson Bay, be deferred until the next presentation to Council of the Nelson Bay Strategy.
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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 Geoff Dingle, Peter Kafer and John Nell.

## MINUTES ORDINARY COUNCIL - 11 APRIL 2017

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

The motion was lost.

### ORDINARY COUNCIL MEETING - 11 APRIL 2017 MOTION

	<p><b>Councillor Ken Jordan</b> <b>Councillor Steve Tucker</b></p> <p>That Council:</p> <ol style="list-style-type: none"><li>1) Acknowledge the proposed amendments to the Notice of Determination.</li><li>2) Replace the Notice of Determination attached to the Council Report as <b>(ATTACHMENT 3)</b>, with the amended Notice of Determination attached to this Supplementary Report as <b>(ATTACHMENT 1)</b>.</li><li>3) Approve development application No. 16-2016-631-1 for a Residential Flat Building (incorporating 8 storey apartment complex with underground car parking) at 11-13 Church Street, Nelson Bay (Lot 17 &amp; 18 Section 7 DP8611).</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 Chris Doohan, Ken Jordan, Paul Le Mottee and Steve Tucker.

Those against the Motion: Crs Geoff Dingle, Peter Kafer and John Nell.

### ORDINARY COUNCIL MEETING - 11 APRIL 2017 MOTION

<b>084</b>	<p><b>Councillor Ken Jordan</b> <b>Councillor Steve Tucker</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Acknowledge the proposed amendments to the Notice of Determination.</li><li>2) Replace the Notice of Determination attached to the Council Report as <b>(ATTACHMENT 3)</b>, with the amended Notice of Determination attached to this Supplementary Report as <b>(ATTACHMENT 1)</b>.</li><li>3) Approve development application No. 16-2016-631-1 for a</li></ol>
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## MINUTES ORDINARY COUNCIL - 11 APRIL 2017

	Residential Flat Building (incorporating 8 storey apartment complex with underground car parking) at 11-13 Church Street, Nelson Bay (Lot 17 & 18 Section 7 DP8611).
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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, Ken Jordan, Paul Le Mottee and Steve Tucker.

Those against the Motion: Crs Geoff Dingle, Peter Kafer and John Nell.

### BACKGROUND

The purpose of this report is to present to Council for determination development application (DA) 16-2016-631-1 for the construction of an eight (8) storey Residential Flat Building and associated basement car parking.

The DA is being reported to Council given the large variation proposed to the building height requirement. Under the DAs Reported to Council Policy, Manager of Development Assessment and Compliance can elect to report DAs to Council.

Whilst the proposal seeks to legitimately vary a development standard relating to height controls, Council staff are confident the flexibility in height has provided an opportunity for a better planning outcome due to the increased setbacks, amenity and overall urban design. It is argued that a strictly compliant design cannot achieve the same design excellence.

### Proposal

The application proposes an eight (8) storey Residential Flat Building at 11-13 Church Street, Nelson Bay (**ATTACHMENT 1**). The building comprises 56 apartments including:

- 8 x one-bedroom apartments;
- 34 x two-bedroom apartments; and
- 14 x three-bedroom apartments.

An outdoor pool and landscaped recreational area have been provided in the eastern section of the site. The lower ground level includes a gymnasium and men's shed. Landscaping has been provided along all of the boundaries to screen the lower levels from adjacent sites. A rooftop terrace is proposed, to provide additional recreational space. Vehicular and pedestrian access is provided from the north-western corner of the site via a vehicle crossing from Church Street. Car parking is provided below ground within three (3) basement levels. The basement contains 100 car parking spaces, 18 motorbike spaces and nine bicycle racks.

The slope of the site dictates the building form and results in building heights that vary between 29m (west) and 32m (east). The overall development footprint comprises 6,238m<sup>2</sup>, which translates into a floor space ratio of 2.47:1.

### **Assessment Outcomes**

The subject land is zoned R3 Medium Density Residential under the *Port Stephens Local Environmental Plan 2013* (LEP2013). The proposal is permissible with consent in the R3 zone.

The proposed amendments were assessed against relevant controls and objectives as specified under, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*, *State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, LEP2013 and Port Stephens Development Control Plan 2014 (DCP2014).

### **Key Issues**

The application has been considered against the requirements of the *Port Stephens Local Environmental Plan 2013*, Port Stephens Development Control Plan 2014 (The DCP), and other relevant legislation. The key matters considered in the development have been summarised below:

#### **1) Building Height**

The building height requirement for the site is 15m and any variation above this level will require a variation to the development standard under Clause 4.6 of the LEP. A discussion relating to compliance with clause 4.6 is provided below.

It is noted that Council adopted the Nelson Bay Strategy in 2012 that included a building height 'bonus' of 2 storeys. However, the Strategy does not hold any statutory weight under Section 79C of the *Environmental Planning & Assessment (EP&A) Act 1979*.

A discussion paper was recently released to start a conversation in the community on how to guide future development in the area. The paper recommends a building height limit of 24.5m for the proposed development, which correlates with the existing Nelson Bay Strategy.

It is however noted that the feasibility study used in the recommendation stated that development on the site would only be feasible at 28m in height (excluding car parking levels).

In summary, although the Nelson Bay Strategy and a recent discussion paper recommended building heights well in excess of the exiting LEP provisions, the building height requirement for the site is currently set at 15m currently.

To justify the proposed variation in height from the LEP provision, a Clause 4.6 variation report was lodged as part of the application. The variation is discussed below.

In summary, an assessment of Clause 4.6 by Council staff found that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances, as required under the Five Part Test (*Webb v Pittwater Council*);
- There are sufficient environmental planning grounds to justify the contravention;
- The proposed development represents an increase in the residential housing in Nelson Bay;
- The development achieves and is consistent with the objectives of the development standard and the objectives of the R3 zone, notwithstanding the variation;
- The proposed development is an appropriate response to the context of the site, and the variation to the standard is compatible with the existing and future character of the area;
- The proposed development will not have significant environmental impact and is in the public interest and better achieves the development standard's objectives;
- The proposed variation will not hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979*; and
- The contravention does not raise any matter of State or Regional Significance.

In accordance with Clause 4.6 (a)(i) the applicant has adequately addressed the matters required to be demonstrated, as discussed above. Further, the application is deemed to be in the public interest by providing a range of housing within close proximity to the Nelson Bay Town Centre and Marina precinct on a site, which is currently vacant.

The proposed variation to Clause 4.3 is considered acceptable in this instance. Accordingly, the application is exempted from the requirement to comply with the nominated height limit derived under Clause 4.3. The proposal is considered to be appropriate in the context of the site.

## 2) Setbacks

The application was referred to the Newcastle City Council's Urban Design Consultative Group (UDCG). The UDCG initially raised concerns regarding the limited setback provided to the adjoining sites in the north and south during the initial meeting.

The applicant provided clarification on the layout of the adjoining development to the north, concluding that the living areas associated on the adjacent development facing north and presented mainly non-habitable areas and well screened habitable rooms to the south. It was further noted that the development only contained five storeys

and that all development above this level would not be impacted. The UDCG accepted these arguments, however stated that future development on the adjoining site may be impacted by the limited setbacks.

The setbacks along the southern boundary were increased to 4.5m to the nearest balcony, 6.5m from the closest habitable room and 9.03m from the main building wall. The UDCG stated that this is not acceptable, raising concern relating to both privacy and the visual bulk of the buildings without an adequate break between. The applicant subsequently included louvered screens on the affected balconies to limit privacy impacts.

It is noted that the areas setback less than 9m from the southern boundary only measures 9.7m in width along the 57m long boundary (17%). It is considered that, although privacy impacts my result, the additional articulation provided by these features limits the bulk of the development, when viewed from the south. The future development on the site to the south would therefore only be partially impacted by the limited setback.

The main purpose of locating the development at the frontage of the site is to limit the impact on the important view corridors from the south. Increases in the side setbacks could result in a larger building footprint, thereby compromising the main objective of the current design.

It is considered that the articulation provided by the use of materials and finishes will significantly improve the appearance of the streetscape. The design of the development promotes the activation of Church Street, which currently lacks any type of activation along the eastern frontage. It is anticipated that the design of the development will provide a benchmark in regards to design for future development along Church Street.

Although the UDCG concerns are noted, it is considered that the variation to the setback requirement of the Apartment Design guidelines (ADG) is offset by the limited impact on important view corridors, increased visual interest and the activation of the Church Street frontage.

At the meeting the UDCG spoke generally favourable of the design itself, however stated that it's not their role to support variations to development standards.

#### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.



## **FINANCIAL/RESOURCE IMPLICATIONS**

There are no anticipated financial or resource implications as a result of the proposed development.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No		
Reserve Funds	No		
Section 94	Yes		Section 94 applies to the development.
External Grants	No		
Other	No		

## **LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is consistent with Section 79C of the *Environmental Planning and Assessment Act 1979*.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that a third party or the applicant may appeal the determination.	Low	Approve the application as recommended. The assessment carried out details the merits of the proposed development.	Yes
There is a risk that if the application is refused the ability to provide new residential accommodation will not be realised.	Low	Approve the application as recommended.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposed development is anticipated to generate viable employment and economic activity through both the construction of the development and occupation by additional residents. The development is generally consistent with surrounding developments and is in keeping with the residential context of the locality, with the increase in height being reasonably justified. The development also includes appropriate stormwater management systems and acceptable access arrangements

to Church Street. The development is not anticipated to have significant adverse impacts on the locality, surrounding properties or public places.

A detailed assessment of the proposed development has been carried out against the requirements of the *EP&A Act 1979* and has been included as **(ATTACHMENT 2)** to this report.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken, including through the public notification and advertising process.

### Internal

The application was referred to the following Council sections:

- Strategic Planning,
- Development Engineering,
- Building Surveying,
- Developer Contributions,
- Vegetation Management,
- Business Development,
- Accessibility, and
- Waste Management.

Each internal staff member assessed the relevant portion of the original application and where necessary requested additional information.

Following receipt of amended plans and additional information, the application was referred back to the internal staff members for review. No objections were raised by any internal staff to the amended design and relevant conditions have been incorporated into the Schedule of Conditions provided at **(ATTACHMENT 3)**.

### External

Department of Planning and Environment - As the proposal includes a variation to the LEP building height provisions, the proposed development was referred to the Department of Planning and Environment for comment. The Department did not have any specific comments on the proposed variation.

It was requested that Council considers the Department's Guidelines when varying development standards, including consideration of the cumulative effect of similar approvals on the objectives of the development standard/ zone and ensuring that the appropriate reporting is completed. The guidelines have been considered in the assessment of the application.

Urban Design Consultative Group - As stated previously, the application was referred to the UDCG for comment. It is noted that the comments are non-statutory and therefore hold no weight under the Act. However, the comments were used to ensure the architectural merit and potential design issues were adequately assessed.

The proposal was initially presented to the UDCG in mid-November 2016 and several issues were identified and suggestions made, which included:

- Removal of the four (4) townhouses at the rear of the site;
- Increase in the side setbacks to conform more closely to the ADG requirements;
- The proposed balustrades are mostly glazed, which is contrary to the recommendations of the ADG. It was considered that the use of glazing would provide poor levels of amenity and would also contribute to heat gain for west facing apartments;
- The applicant must investigate the use of alternative materials and incorporate these into the design;
- The dark colour of the window and door mullions would increase the thermal absorbency of the building;
- The lack of solar access to the lift lobby was identified as an issue; and
- Enclosure of an area on the rooftop terrace to enable use of the area during inclement and winter periods. It was also requested that basic amenities be provided within this area.

The UDCG stated that the intent of the site planning strategy (a slender tower) was supported, but it was noted that this had not been successfully carried through in the site planning proposed. Support for any development exceeding the maximum 24.5m height achievable under the Nelson Bay Town Centre and Foreshore Strategy is difficult because demonstrable public benefit and design excellence is very hard to justify.

The original proposal was not supported due to the number of significant departures from the ADG separation standards and the perceived amenity and equity issues.

The applicant amended the design to take into consideration the majority of the issues raised by the UDCG, as follows:

- Deletion of the four (4) townhouses at the rear of the site;
- Inclusion of four (4) units into the main building (one (1) additional unit on the lower levels);
- Increase in setbacks along the southern boundary; and
- Clarification of the adjoining development to the north.

The amended design was presented to the UDCG in mid-February. The main outstanding issues identified in the second meeting included the northern and southern setbacks, and bulk and height of the development. These specific

comments provided by the UDCG were discussed in the SEPP65 assessment in the Assessment Report provided at **(ATTACHMENT 2)**.

Public Consultation - The application was notified / advertised for 14 days, ending on 12 October 2016. During this period the following public submissions were received:

- a total of approximately 75 submissions of support;
- a petition of support containing 145 signatures;
- two (2) submissions requesting further information on the potential construction impacts and use of the communal facilities; and
- two (2) submissions objecting to the proposal.

One submission requested Council defer or refuse the application until such time as the Nelson Bay Strategy has been updated. The submission did state that the writer *'welcomes the positive approach the applicant has taken to bring forward a proposal designed to attract permanent residents, with a focus on good design, and the applicant's proactive engagement with interested parties'*.

It is considered that, as the applicant provided sufficient grounds to grant a variation under Clause 4.6 of the LEP to vary the height limit, the application can be determined prior to the adoption of any new strategies for Nelson Bay.

It is considered that future applications in the area will need to comply with the new provisions and the current application will therefore not set a specific precedent. Each application is assessed on its individual merits.

The other issues identified in the submissions are addressed below:

Non-compliance with Nelson Bay Strategy - As stated in the assessment and the submission, the Strategy is not a statutory document and was only utilised in the assessment to provide context on the existing development and future intent for the area. The issues surrounding 'design excellence' and 'public benefit' was not taken into consideration, as the stated 7 storey height limit in the Strategy was not used as a means to provide permissibility for the height limit. Notwithstanding, the Discussion Paper utilised Clause 4.6 to vary the height limit in order to achieve better design outcomes for individual developments.

SEPP 71 - The submission identified issues with the applicant's discussion of subclause (d), (e) and (f) of Clause 8. These subclauses were addressed in the assessment and the development is considered in keeping with the objectives and provisions of the Policy.

Density - The submission states a number of Council areas that have adopted the FSR requirement that limits development to below the proposed 2.47:1 ratio. Although this is considered high when taking into account the measures stated above, the floor space ratio only addresses part of density considerations. A development that is compliant with the height control can still provide a similar floor

space ratio as the proposed development, but cover the majority of the site. This type of development would impact significantly on views from the adjacent site and potentially impact on the view corridors identified in the NB Strategy.

The proposed development is contained within a smaller footprint that ensures views are largely maintained and limits excessive overshadowing of adjoining sites. It is therefore considered that the proposed floor space ratio is acceptable in this instance.

Clause 5.5 – Coastal Zone - One submission maker provided comment subsequent to the initial submission that identified the fact that the applicant did not address Clause 5.5 of the LEP. The applicant provided an addendum to the report that addressed these provisions. These comments were utilised in the assessment of the potential coastal impacts.

Property Values - The submissions stated that property values in the surrounding area would be negatively affected by the proposal. No evidence of the assumption was provided in the submission. The feasibility study undertaken as part of the NB Strategy Discussion Paper stated that *'unit prices in the residential unit market in Nelson Bay has been static and has actually declined over the past ten years'*. The Discussion Paper went on to state that quality housing stock is required in the area to ensure investor confidence returns. It is therefore considered that the proposed development could potentially stimulate investment and result in increased unit prices in the area.

Construction Impacts - The submissions identified the following construction issues:

- Construction hours – 8am start;
- Noise and vibration issues associated with pile pile-driving of foundations; and
- Truck parking during construction.

The general construction hours are limited to:

- Monday to Friday 7am to 6pm
- Saturdays 7am to 1pm
- Sunday and Public Holidays No work

Whilst it is acknowledged that impacts to local amenity will arise during the construction phase, these impacts will be managed as per regulatory standards. Further, any pile driving will be limited to 8am to 5pm on weekdays only.

A Construction Traffic Management Plan will be required to control all construction traffic and ensure a safe environment for road users and pedestrians.

Operational Impacts - The submissions identified the following construction issues:

- Maintenance should be undertaken throughout the life of the development to ensure the standard of the external appearance not be compromised

## MINUTES ORDINARY COUNCIL - 11 APRIL 2017

- Pool usage be limited to 9.00 pm in the evenings
- Garbage bins are not allowed on the street

The ongoing maintenance and pool hours are not issues usually dealt with by the development assessment and would be a consideration for the future owners of the units. All garbage will be compacted and stored in the basement and will be removed by private contractor.

Overshadowing - The applicant provided shadow diagrams that indicated limited impacts from the proposal on the adjoining sites. It was also shown that a compliant development footprint could potentially result in greater impacts on the adjoining land.

The shadow diagram below indicates that the vacant site in the south will be impacted by the proposal during the majority of the day during winter months. This can be expected from all types of high rise development. It is however noted that the existing development in the area will only be impacted during short periods of time in the either the morning (west) or the evening (east). The impacts associated with overshadowing are considered acceptable in this instance.

Proposed building height - As stated above, it is considered that the assessment took into consideration the concerns raised above, in regards to the variation proposed to the LEP height limit, as part of the application.

Out of character with future intent for the area - As stated earlier in the assessment, the proposal is consistent with the objectives of the R3 zoning of the area and the existing development on the adjacent sites.

### OPTIONS

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

### ATTACHMENTS

- 1) Locality Plan.
- 2) Development Assessment Report (including Urban Design Consultative Group Meeting minutes).
- 3) Notice of Determination.

### COUNCILLORS ROOM

- 1) Development Plans.

### TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.





<b>Application Number</b>	16-2016-631-1
<b>Development Description</b>	Residential Flat Building (Incorporating 8 Storey Apartment Complex with Underground Car Parking)
<b>Applicant</b>	MR R J SALMON
<b>Date of Lodgement</b>	20/09/2016
<b>Value of Works</b>	\$19,358,331.00

- 8 x one-bedroom apartments;
- 34 x two-bedroom apartments; and
- 14 x three-bedroom apartments.

[illegible]

Figure 1: Western building elevation (Church Street frontage)



**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

An outdoor pool and landscaped recreational area have been provided in the eastern section of the site. The lower ground level includes a gymnasium and men's shed. Landscaping has been provided along all of the boundaries to screen the lower levels from adjacent sites. A rooftop terrace is proposed, to provide additional recreational space.

Vehicular access is provided from the north-western corner of the site via a vehicle crossing from Church Street. Vehicle access is incorporated at a right angle to the Church Street frontage and controlled by a security roller door located approximately 10m inside the lot boundary. Pedestrian access will be made available from Church Street to the entry lobby. Both vehicular and pedestrian access will be controlled by a card security system to ensure safe and secure vehicle and pedestrian access.

Car parking is to be located below ground within three (3) basement levels. The basement contains:

- 81 resident car parking spaces;
- 19 visitors' spaces (including 2 accessible space);
- 18 motorbike spaces;
- 9 bicycle racks (18 bicycles);
- pool filtration system; and
- 56 storage cages.

The basement levels also contain various fire stairways, waste compaction and storage area, and stormwater infiltration pits.

All waste will be removed by a private contractor.

**PROPERTY DETAILS**

<b>Property Address</b>	11 and 13 Church Street NELSON BAY
<b>Lot and DP</b>	LOTS: 17 AND 18 SEC: 7 DP: 8611
<b>Current Use</b>	Vacant. Footings were constructed as part of work under separate development consent.
<b>Zoning</b>	R3 MEDIUM DENSITY RESIDENTIAL
<b>Site Constraints</b>	Acid Sulfate Soils – Class 5 SEPP71 – Coastal Protection

**Site Description**

The subject site is located on the western fringe of the Nelson Bay CBD at 11 – 13 Church Street and is legally identified as Lots 17 & 18 Section 7 DP8611. The site is shown in Figure 4. The site slopes from the Church Street frontage in the west towards the eastern boundary and measures 2,523m<sup>2</sup> in size.

Significant earthworks and the construction of building foundations have previously been undertaken on the site, resulting in a pit several meters deep (See Figures 5 and 8). A disused construction office is located on the Church Street frontage. Figures 2, 3, 6, 7, 9 and 10 show existing surrounding development within the immediate proximity of the site.

Page 2 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1



**Figure 2:** Existing Residential Flat building at 9 Church Street



**Figure 3:** Existing Oaks Lure development located on the corner of Church and Tomaree Streets



**Figure 4:** Aerial photo of locality

Woolworths  
Shopping  
Centre

Subject Site

Oaks Lure  
Apartments

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**Surrounding Development**

The surrounding developments to the west of the site consist of detached dwellings and multiple dwelling developments up to two (2) storeys in height. Development to the north and east contains higher density residential and holiday accommodation, between three (3) and five (5) storeys in height. The site directly to the south currently contains an abandoned construction site, with high pierced walls. It is noted that the owner of the subject land recently purchased this allotment.

The development along the eastern alignment of Church Street is oriented towards the north east to capture water views (Refer Figures 2 & 3). When taking in consideration the two vacant sites in between the developments above, no developments along this frontage interact with Church Street. A development application for a five (5) storey residential building was recently lodged over the vacant site on the corner of Donald Street and Church Street. It is considered that the proposal will create a design precedent which will ensure future development is designed to continue the activation of Church Street.

**Site History**

The site has been vacant for an extended period of time. Consent (DA 16-2008-236-1) was granted in June 2008 for a five storey residential apartment complex comprising 33 units within two buildings. A modification to the consent was approved to increase the number of units to 36 and the building height to 16.8 metres. This consent was physically commenced with partial completion of the building foundations.

**Site Inspection**

An initial site inspection was carried out on 12/10/2016, following which a number of subsequent site visits were undertaken during the assessment.

The subject site can be seen in the figures below:



Figure 5: View of site from Church Street in a north easterly direction



Figure 6: View along Church Street in a northerly direction



ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1



Figure 7: View along Church Street in a southerly direction



Figure 8: View of abandoned construction site to the south of the subject land



Figure 9: View of development along the western side of Church Street



Figure 10: Development along Donald Street to the north of the subject site

### ASSESSMENT SUMMARY

<b>Designated Development</b>	The application is <u>not</u> designated development
<b>Integrated Development</b>	The application does <u>not</u> require additional approvals listed under s.91 of the EP&A Act
<b>Concurrence</b>	The application does <u>not</u> require the concurrence of another body

### Internal Referrals

The proposed development was referred to the following internal specialist staff. The comments of the listed staff have been considered as part of the assessment against the S79C Matters for Consideration below.

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

Development Engineer

The originally submitted application was referred to Council's Development Engineering section for comment. A number of issues were identified and additional information was requested, which included:

- the provision of updated infiltration rates;
- provision of geotechnical information;
- clarification of impacts of piling on infiltration;
- size of infiltration pits; and
- maintenance details for infiltration pits.

Amended information was submitted to address these matters. This information was assessed and the development was supported, subject to the inclusion of conditions of consent.

Building Surveyor

Council's Building section did not identify any significant issues and supported the proposal with conditions. The conditions have been incorporated into the conditions of consent.

Section 94 Officer

No objections were made to the proposal. A monetary contribution is required for the provision of 54 additional lots and will total \$802,278. S94 contributions are conditioned to be paid prior to the issue of a Construction Certificate.

Spatial Services

Council's Spatial Services unit provided a numbering convention for the development. The amalgamated site will in future be known as 11 Church Street (with each individual unit receiving a unit number).

Strategic Planning

Due to the proposed variation to the LEP building height requirement, the application was referred to the Strategic Planning section for review. The referral stated that any variations to the LEP provisions should be dealt with under Clause 4.6 of the LEP and that the design be referred to an independent panel for review.

Vegetation Management

The landscape design was initially assessed by Council's Vegetation Management section. A number of issues were raised and an information request was sent to the applicant for review.

The applicant provided an amended landscape plan and the only outstanding issue relates to the provision of uniform street planting. A condition of consent has been provided to require the removal of the three (3) existing trees and the planting of seven (7) new trees along the road frontage.

Social Planning

The application was assessed from a disability access perspective by Council's Social Planning section. The applicant provided an Access Review that assessed the proposal against applicable legislation. It is noted that at least 20% of the units will comply with the Liveable Housing Australia 'Silver' requirements. No significant issues were identified and the application was supported unconditionally.

Business Development & Investment

The proposal was reviewed by Council's Business Development and Investment section. It was concluded that the proposal would provide significant investment during the construction phase,

Page 6 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

while overall economic development in Nelson Bay would increase in the longer term. The following economic attributes of the development were noted:

- Total economic output of the development is estimated to be \$38.334 Million;
- The development is projected to provide 92 jobs; and
- Residents of the development and their families will contribute with flow-on effects for shopping, working, living and recreational pursuits in the area.

Waste Management

The proposed waste management strategy was reviewed by Council staff. The removal of waste by a private contractor is supported unconditionally. It is noted that all tenants will be charged a standard waste collection rate by Council, even though Council will not provide this service to the development.

External ReferralsDepartment of Planning and Environment

As the proposal includes a variation to the LEP building height provisions, the proposed development was referred to the Department of Planning and Environment for comment. The Department did not have any specific comments on the proposed variation.

It was requested that Council considers the Department's Guidelines when varying development standards, including consideration of the cumulative effect of similar approvals on the objectives of the development standard/ zone and ensuring that the appropriate reporting is completed. These matters have been addressed throughout this report.

Urban Design Consultative Group

The application was referred to the Newcastle City Council's Urban Design Consultative Group (UDCG) for comment. It is noted that the comments are non-statutory and therefore hold no weight under the Act. However, the comments were used to assist Council officers to ensure the architectural merit and potential design issues were adequately assessed.

The proposal was initially presented to the UDCG in mid-November 2016 and a number of issues were identified and suggestions made, which included:

- Removal of the four (4) townhouses at the rear of the site;
- Increase in the side setbacks to conform more closely to the ADG requirements;
- The proposed balustrades are mostly glazed, which is contrary to the recommendations of the ADG. It was considered that the use of glazing would provide poor levels of amenity and would also contribute to heat gain for west facing apartments;
- The applicant must investigate the use of alternative materials and incorporate these into the design;
- The dark colour of the window and door mullions would increase the thermally absorbency of the building;
- The lack of solar access to the lift lobby was identified as an issue; and
- Enclosure of an area on the rooftop terrace to enable use of the area during inclement and winter periods. It was also requested that basic amenities be provided within this area.

The UDCG stated that the *'intent of the site planning strategy (a slender tower) was supported, but it was noted that this had not been successfully carried through in the site planning proposed. Support for any development exceeding the maximum 24.5m height achievable under the Nelson Bay Town Centre and Foreshore Strategy (NB Strategy) because demonstrable public benefit and design excellence is very difficult to justify'*.

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

The original proposal was not supported due to the number of significant departures from the ADG separation standards and the perceived amenity and equity issues.

The applicant amended the design to take into consideration the majority of the issues raised by the UDCG, as follows:

- Deletion of the four (4) townhouses at the rear of the site;
- Inclusion of four (4) units into the main building (one (1) additional unit on the lower levels);
- Increase in setbacks along the southern boundary; and
- Clarification of the adjoining development to the north.

The amended design was presented to the UDCG in mid-February. The main outstanding issues identified in the second meeting included the northern and southern setbacks, and bulk and height of the development (a copy of the last UDCG minutes is included as **Attachment A**. These specific comments provided by the UDCG were included in the SEPP 65 assessment below.

**MATTERS FOR CONSIDERATION – SECTION 79C****s79C(1)(a)(i) – The provisions of any EPI****State Environmental Planning Policy 65 – Design Quality for Residential Apartment Development**

State Environmental Planning Policy (SEPP) No.65 applies to the development. As a result, the nine design quality principles set out in the Apartment Design Guide (2015) produced under SEPP 65 are required to be addressed.

Clause 6A states that any of the following ADG provision supersedes the DCP controls in respect of the following issues:

- a) visual privacy;
- b) solar and daylight access;
- c) common circulation and spaces;
- d) apartment size and layout;
- e) ceiling heights;
- f) private open space and balconies;
- g) natural ventilation; and
- h) storage.

The proposal complies with the majority of the ADG controls. However, a number of issues were identified by the UDCG and these are included in the discussion below. The application has been accompanied by a Design Verification Statement from the architect. Each design principle outline under SEPP 65 is discussed below.

**1. Context and Neighbourhood Character**

The applicant stated that the proposed development was designed with reduced side setbacks. The reduced scale limited the setback from the adjoining sites on Church Street, thereby allowing increased setbacks to the east. This allowed for the view corridors from the south to be largely maintained. The UDCG raised concerns regarding the limited setback provided to the adjoining sites in the north and south during the initial meeting.

The applicant provided clarification on the layout of the adjoining development to the north, concluding that the living areas associated on the adjacent development facing north and presented mainly non-habitable areas and well screened habitable rooms to the south. It was further noted that the development only contained five storeys and that all development above this level would not be impacted. The UDCG accepted these arguments, however

Page 8 of 39

ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

stated that future development on this site may be significantly impacted by the limited setbacks. It is acknowledged that the adjoining site is currently under the same ownership as the subject site.

The setbacks along the southern boundary were increased to 4.5m to the nearest balcony, 6.5m from the closest habitable room and 9.03m from the main building wall. The UDCG stated that this is not acceptable, raising concern relating to both privacy and the visual bulk of the buildings without an adequate break between. The applicant subsequently included louvered screens on the affected balconies to limit privacy impacts.

It is noted that the areas setback less than 9m from the southern boundary only measure 9.7m in width along the 57m long boundary (17%). It is considered that, although privacy impacts may result, the additional articulation provided by these features limits the bulk of the development, when viewed from the south. The future development on the site to the south would therefore only be partially impacted by the limited setback.

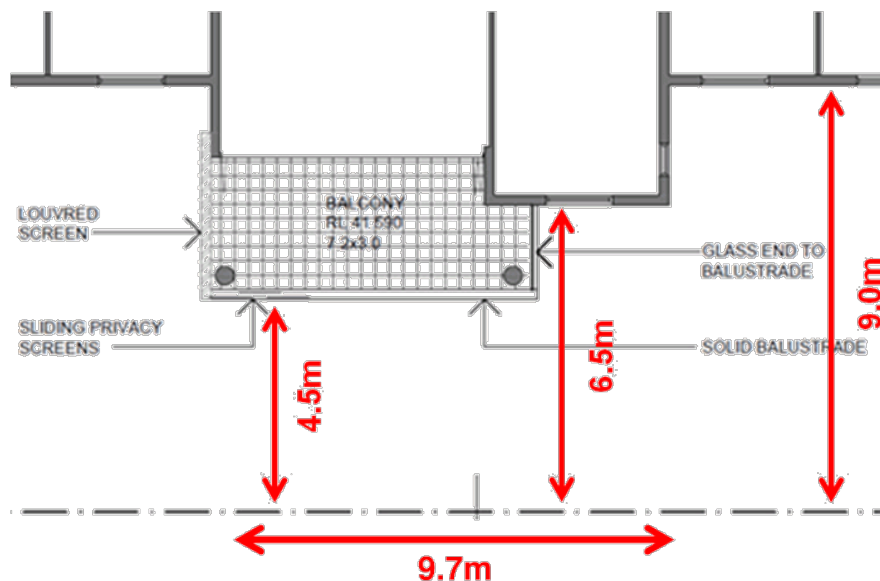


Figure 11: Proposed building setbacks from the southern boundary

The main purpose of locating the development at the frontage of the site is to limit the impact on the important view corridors from the south. Increases in the side setbacks could result in a larger building footprint, thereby compromising the main objective of the current design.

It is considered that the articulation provided by the use of materials and finishes will significantly improve the appearance of the streetscape.

The design of the development promotes the activation of Church Street, which currently lacks any type of activation along the eastern frontage. It is anticipated that the design of the development will provide a benchmark in regards to design for future development along Church Street.

Although the UDCG concerns are noted, it is considered that the variation to the setback requirement of the ADG is offset by the limited impact on important view corridors, increased visual interest and the activation of the Church Street frontage.



**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**2. Built Form and Scale**

The applicant stated that the proposed height, bulk and scale of the building are considered appropriate within the area. It was also noted that the proposed density is similar to that of the existing residential flat buildings along Church Street and Tomaree Street; however the building footprint has been limited by incorporating additional building height. It was further stated that *'the building articulation and smaller footprint achieved an appropriate response to the building height.'*

The UDCG disagreed with the comments above and stated that *'while pushing the majority of the development west towards the street was a positive initiative in respect to partially preserving views from the "Oaks Lure" development, and was supported in principle, impacts on future development on the adjacent site to the south (15 Church Street) need to be better considered'*. The UDCG did not support the proposal as the building bulk would result in privacy impacts (due to the inadequate separation distance from the southern boundary) and overshadowing impacts due to the building height.

As stated above, the applicant addressed some of the privacy concerns raised by the UDCG, by adding screens along the southern balconies. It is also noted that the overshadowing impacts would be limited by the proposed bulk and height of the building. A complying development (15m in height) could potentially cover the majority of the site, thereby impacting significantly on the property to the south from an overshadowing perspective.

Council officers agree that redesign of the building, to provide compliant setbacks from the side boundaries, will increase amenity to the adjacent development and limit impacts on the future development of these sites. However, this could result in an increase in the building footprint to the east, which would result in the loss of view corridors and increased overshadowing. In that regard considering the implications of a further design change (which would be likely to create more notable impacts), the design in its current form is supported.

**3. Density**

The applicant amended the original design by removing the four townhouses at the rear of the site. This resulted in a reduction of the floor space ratio from 2.8:1 to 2.47:1. The UDCG stated that, in *'order to achieve an acceptable outcome in relation to the building form, some further reduction in density will be necessary.'* This view is based on the fact that the development does not comply with the ADG building setbacks.

As stated in the discussion above, the massing of the development in the western section of the site will maintain views in the locality, create visual interest and activate the Church Street frontage.

**4. Sustainability**

The Design Verification Report stated that the building would provide an environmentally friendly development by incorporating a highly efficient solar boosted hot water heating, water harvesting, low water reliant planting and building material selections. The design was designed to provide thermal comfort through unit orientation. Units will receive sufficient solar access during the required winter months and a large overhanging building elements reducing unwanted heat gain during the summer months.

The application provided BASIX certificates and a NatHERS thermal assessment that shows the development meeting the required sustainability measures.

The UDCG identified the following issues with the proposal:

- The use of east and west facing glazed balustrades was of concern in respect to solar gain. It was recommended that no more than one third of any apartment's balcony

Page 10 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

balustrades should be glazed, and this proportion should lessen in favour of solid balustrades on floors towards ground level.

- The window and door mullions were proposed to be finished in black or a very dark grey tone that would result in heat gain into the interior of the apartment.

In response to the UDCG comments, the applicant included window systems that are designed to incorporate thermal breaks and glass that comply with the BASIX certification.

It is noted that the majority of the western facing units and balconies are not protected. In this regard, it is proposed that a condition of consent be included to require movable screens along this façade to limit impacts from the westerly sun.

As stated above, the proposed development has demonstrated compliance with BASIX requirements. The introduction of solid balustrading would impact on future residents' amenity by limiting views.

5. Landscape

The applicant provided landscaped areas at street level, within the side/rear setbacks and in the communal open space. The building roof area has been landscaped to provide further communal open space. Deep soil has been provided in the front, side and rear setback areas.

The UDCG noted that virtually all deep soil is confined to a very narrow strip along some of the site boundaries. This area as proposed cannot be utilised for appropriately scaled trees, as their canopies would overhang neighbouring properties.

It is considered that the removal of the townhouses in the rear of the site provides additional open space and opportunities for additional landscaping. Council staff assessed the landscaped design and recommended alternative species and the provision of uniform street trees along Church Street. The amended design was supported conditionally. Overall, the landscaping incorporated into the development is considered to be acceptable.

6. Amenity

The design of the residential flat building incorporates quality spatial amenity. The majority of the apartments will receive ample solar access with good cross ventilation, internal and external spaces of a size and level of amenity well above standard. Solid balustrades and screening louvres to balconies is provided to avoid impeding privacy and avoids overlooking on all neighbours surrounding the development. The proposed units provide a large number of balconies with dual aspects, which provide sufficient access to solar access, natural light and cross-ventilation.

The UDCG again stated that the limited setbacks to the adjacent sites will result in amenity impacts. It was also stated that the projecting corner balconies would be exposed to wind, and should be fitted with adjustable screens. It was further noted that the lift lobbies did not have access to daylight and natural ventilation.

The setback issues raised by the UDCG are addressed earlier in this report. The amenity concerns relating to the glazed balustrade balconies are noted and it is proposed that a condition of consent be included to require movable screens to increase the useability of these balconies.

7. Safety

The applicant stated that the proposal incorporates suitable definition of the public, communal and private domains. The entry to the main communal space is controlled by secure access controlled gates and doors at the building entry and ancillary service gates. The communal spaces are well lit and benefit from abundant passive surveillance. Residential basement car parking levels are also secured separated by electronically

Page 11 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

controlled garage door from marked visitor and accessible parking spaces. The UDCG did not specifically comment on the safety of the design.

Council staff identified safety issues with the limited casual surveillance of the storage lockers located in the basement. In response, the applicant amended the design to include safety measures, which included:

- limiting access to the storage areas with card readers; and
- installation of CCTV along all corridors within the storage areas.

A condition of consent has been provided to ensure these measures are installed.

8. Housing Diversity and Social Interaction

The proposed development provides a mix of unit sizes that includes 8 x one-bedroom apartments (14%), 34 x two-bedroom apartments (61%) and 14 x three-bedroom apartments (25%). The UDCG stated that provision of a pool, gymnasium, rooftop deck and mens' shed is supported and would result in a vibrant community within the development. It also was suggested that a section of the rooftop communal area should be enclosed to increase usability. It is considered that the development will provide housing diversity contributing in providing a range of housing options within the locality, consistent with the objectives of R3 zoned land.

9. Aesthetics

The applicant stated that the proposed built form, materials, finishes and various architectural features respect and refine the entire appeal by attempting to provide a contemporary design that fits with the coastal urban environment. The articulation of the proposal provides a variety of horizontal and vertical elements throughout the building.

The UDCG states that the development '*offered potential for a good outcome, once basic planning and bulk and scale issues were addressed.*' However, a reduction in height and compliance with the southern boundary setbacks would assist towards gaining support for the proposal. It was further stated that the 'black and white' finishes (particularly the top roof canopy and the vertical 'blade' element) should be toned down.

The overall aesthetics of the development are supported; however, the issues identified by the UDCG have been noted and addressed in the above sections of this report.

Summary

It is acknowledged that issues were raised by the UDCG regarding the side setbacks, building height and the bulk of the design. It is considered that the majority of the UDCG concerns have been addressed and the development can be supported, as the design will:

- limit impacts on the view corridors from the south;
- provide significant articulation at the site frontage; and
- activate the Church Street frontage.

Given the design merit of the existing proposal as outlined above, it was not considered warranted to request the applicant to comprehensively re-design the development to address all aspects raised by the UDCG. The proposal in its current design results in an appropriate development of the site.

State Environmental Planning Policy 71 – Coastal Protection

This application has been assessed having regard to the aims of the SEPP. It is not expected that the proposed development will have an adverse impact on achieving the aims of the SEPP.

In addition, the application has had regard to the matters for consideration in Clause 8 of the SEPP, as follows:

Page 12 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

<b>Matters for Consideration</b>	<b>Comment</b>
(a) the aims of the policy	Consistent with the relevant aims of the Policy.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	The site is not located in close proximity of the foreshore and it is considered that access will be maintained.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	N/A
(d) the suitability of development given its type, location and design and its relationship with the surrounding area	The nature of the proposed development, which provides residential accommodation and facilities, is permissible on the site and considered suitable for the location on the edge of the Nelson Bay CBD.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant loss of views from a public place to the coastal foreshore	The development is not likely to overshadow the foreshore, or significantly impact views from any public place to the foreshore.
(f) the scenic qualities of the NSW coast, and means to protect and improve these qualities	The proposal will enhance the scenic qualities of the NSW coast through the addition of a contemporary structure to the Nelson Bay built scenic landscape. The proposal has been designed with regard to the quality of the coast.
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that part) and their habitats	Land is located in a developed urban area. No impact is likely on animals, plants or their respective habitats.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part) and their habitats	No impact.
(i) existing wildlife corridors and the impact of development on these corridors	The site does not form part of an existing wildlife corridor.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	No impact.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities	No impact.

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

(l) measures to protect the cultural place, values, customs, beliefs and traditional knowledge of Aboriginals	No impact.
(m) likely impacts of development on the water quality of coastal water bodies	Run off to be managed through stormwater quality measures.
(n) the conservation and preservation of items of heritage, archaeological or historic significance	No impact as the site is already highly disturbed by development.
(o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable, but consistent with this aim.
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	(i) Impact is minimal. Cumulative impact is considered to be positive on a socio-economic basis and no impact to environmental matters. (ii) Water reuse and energy usage is reduced by design measures for water and energy efficiency.

The application has been assessed against these matters for consideration. The application will generally comply with the aims of the SEPP and the other matters for consideration under Clause 8 of the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Under Clause 104 of this SEPP, the proposed development is not classified as traffic generating development as the proposed residential flat building does not exceed 200 units. Consequently, the application was not referred to RMS for comment.

State Environmental Planning Policy (BASIX) 2004

A BASIX Certificate has been submitted for the proposed development which demonstrates that the proposal can achieve required water and energy saving targets compared to the standard model house. A condition of consent has been included in the notice of determination requiring the development to be carried out in accordance with the BASIX Certificate.

Port Stephens Local Environmental Plan 2013 (LEP)

**Clause 2.3 – Zone Objectives and Land Use Table**

The site is zoned R3 Medium Density Residential and the objectives of the zone are:

- To provide for the housing needs of the community within a medium density residential environment;
- To provide a variety of housing types within a medium density residential environment; and
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

It is considered that the proposed development will provide additional housing in an area identified for this type of development. The proponent has provided a wide range of dwelling types including one, two and three bedroom units.

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

Further, the proposal will contribute towards creating critical mass in the local economy. This stimulus will assist in supporting facilities and services required by permanent residents. The surrounding area includes commercial and retail spaces, medical and government facilities, and recreational land uses that will be complemented by the proposal and the permanent residents.

Residential Flat Buildings (RFB) are permissible with consent in the R3 zone. RFB's can be defined as a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing. It is considered that the proposal conforms to this land use definition and the proposed development is therefore permissible with consent.

**Clause 2.7 – Demolition requires development consent**

The proposal involves the demolition of the existing basement works constructed as part of the previous development. Conditions of consent have been included to ensure the demolition works do not impact on the adjoining development.

**Clause 4.1B – Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings**

The provisions of Clause 4.1B provides minimum lot sizes for RFB's in the R3 zone of 450m<sup>2</sup>. The site has an overall size of 2,523m<sup>2</sup> and therefore complies with the LEP provisions.

**Clause 4.3 – Height of building**

The building height requirement for the site is 15m and any variation above this level will require a variation to the development standard under Clause 4.6 of the LEP. A discussion relating to compliance with clause 4.6 is provided below.

Council adopted the NB Strategy in 2012. It is noted that the Strategy does not hold any statutory weight under Section 79C of the EP&A Act 1979. The Strategy provides the future intent for development in the Nelson Bay area and provides recommendations on the density of development anticipated in the area.

The main recommendations that were included in the Strategy include new development controls that will be implemented through amendments to the LEP and DCP. The changes included a building height bonus of 2 storeys and 0.5:1 increase in the floor space ratio for development that demonstrates design excellence and strategic public benefit.

It is noted that these recommendations were not translated into amendments to the LEP or DCP that were in force at the time.

Four years since adoption, it was noted that the town centre attracted limited investment. In response, Council has undertaken a review of the existing Strategy in order to understand why limited development has occurred.

A Discussion Paper was released to start a conversation in the community on how to guide future development in the area. The Discussion Paper states that, *'within the town centre, this would mean a building height limit of 7 storeys (24.5m) and through the use of Port Stephens Local Environmental Plan 2013 (LEP) (c4.6 - Exceptions to Development Standards), this height limit could be varied in order to encourage feasible development to occur.'* This is linked to the feasibility of development in Nelson Bay. The Paper recommends a building height limit of 24.5m for the proposed development, which correlates with the existing NB Strategy.

It is however noted that the feasibility study used in the recommendation stated that development on the site would only be feasible at 28m in height. This only includes saleable area and heights may need to increase further to include car parking.

The Discussion Paper stated that the best strategic approach is through variations to the height limit under Clause 4.6, rather than a blanket increase in building height where quality design is not necessarily be achieved.

Page 15 of 39

ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

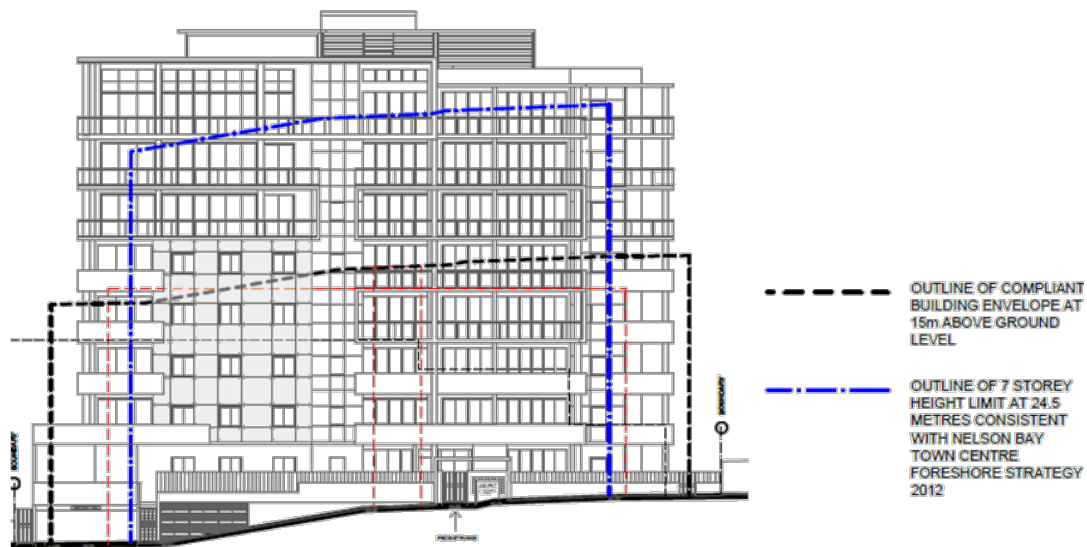


Figure 12: Diagram showing development footprints for various building height provisions

In summary, although the NB Strategy and a recent Discussion Paper recommended building heights well in excess of the exiting LEP provisions, the building height requirement for the site is set at 15m.

A Clause 4.6 Variation Report was lodged as part of the application. The variation is discussed below.

**Clause 4.6 – Exceptions to development standards**

An exception is requested to Clause 4.3 Height of buildings which nominates a maximum height limit of 15m for the subject site. The application seeks to exceed this development standard by 17m. The assessment against Clause 4.6 has been carried out below.

The applicant has prepared a submission on in accordance with the requirements outlined in Clause 4.6.

Clause 4.6(3):

Clause 4.6(3) states that any variation to a development standard must demonstrate the following:

Objective (a)

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

In the Wehbe decision, Preston CJ set out five (5) ways in which an objection to a development standard can be supported:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

The objectives of Clause 4.3 are as follows:

- (a) to ensure the height of buildings is appropriate for the context and character of the area,
- (b) to ensure building heights reflect the hierarchy of centres and land use structure.

A detailed summary of the context and character of the area was included in the NB Strategy, which located the site within Nelson Bay. The applicant stated that the NB Strategy

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

identifies the location of the site *'on the western edge of the Nelson Bay Town Centre. The NB Strategy identifies the unique natural context of Nelson Bay as sitting within a basin, or amphitheatre, where residential and tourist apartment developments are located on the upper levels of the basin'*.

The NB Strategy characterises the urban framework in the elevated areas around the town centre as being developed *'by multistorey buildings set back from the street frontage, and often features landscaping in the front setback.'*

The applicant undertook an investigation of the existing development in the area and included the findings in the Urban Design Analysis that was submitted as part of the application. The *'exercise found that taller developments from 4 to 7 storeys were generally located around the perimeter of the basin, consistent with the Strategy. It was also noted that developments of an increased height were generally built within the last 10 years reflecting a changing context and character of Nelson Bay.'* Subsequent to lodgement, Council staff undertook various visits to the area and found similar results.

It is considered that the design will complement the streetscape as it will provide significant articulation at the site frontage and activate the Church Street frontage. The design will also limit impacts on the view corridors from the south and provide sufficient measures to ensure the privacy of future residents, while not significantly limiting the development on the adjacent site.

Although the development proposes a building height exceeding the LEP height requirement, it is consistent with the intended future land use of Nelson Bay. It is considered that the proposal will provide development that is consistent with objectives of the standard.

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The application does not rely on this consideration to justify the proposed variation.

3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The underlying objective of Clause 4.3 is to ensure that impacts on the existing amenity and character impacts are taken into consideration to ensure the orderly economic and urban growth of the Nelson Bay area.

The NB Strategy states that the *'urban design analysis undertaken during the development of the Nelson Bay Town Centre and Foreshore Strategy confirmed the appropriateness of a five storey (17.5m) maximum building height seven storey (24.5m).'* The 17.5m height limit was identified for development within the lower CBD, with the higher level (24.5m) on the slopes to the south, east and west.' These findings are reflected in the more recent discussion paper that goes one step further, by suggesting that all height variations be dealt with under Clause 4.6 of the LEP. The feasibility study undertaken as part of the Paper found that building heights of 9 storeys (including a car parking level) would be required to ensure developments are economically feasible.

Enforcing the existing 15m height limit will not facilitate development in the area. This view is reinforced by the Discussion Paper that states the *'residential unit market in Nelson Bay has been static and has actually declined over the past ten years.'* This can partly be attributed to the limited development potential provided under the restrictive building height provisions in force during this period.

The applicant argued that, in this instance, *'strict compliance with the development standard is considered unreasonable as:*

- *It would not reflect the desired future character of Nelson Bay town centre;*

Page 17 of 39



ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

- It would not allow for the economies of scale - i.e. the high-quality finishes and inclusions that are currently available with the proposed development;
- It would not provide a greater diversity of housing choice;
- It would not promote contemporary and unique development that is commercially viable; and
- As demonstrated by the current failed development on the site – encourage the promotion and co-ordination of the orderly and economic use and development of land.'

It can therefore be argued that the 15m height requirement has limited development 'that is appropriate for the context and land use' of Nelson Bay and is therefore contrary to the underlying objective of the Clause.



Figure 13: Building Heights in Nelson Bay

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

The applicant noted that Council has approved numerous development applications in the area above the 15m height limit. This is accurate for the subject land, where a height limit variation was previously granted under the former development application.

Figure 13 below was included in the Urban Design Assessment undertaken by the applicant. It shows the building heights currently developed in the Nelson Bay area. The land marked pink or purple are currently developed with building significantly higher than the 15m height limit. As stated earlier, other approvals above the 15m height limit also exist in the area.

The following table provides details of other variation previously approved in the Nelson:

Application No	Site Address	Building Height Limit	Building height	Percentage Variation
16-2002-696-1	55 Magnus Street, Nelson Bay	15m	17m	13%
16-2001-1755-1	21 Tomaree Street, Nelson Bay	15m	20.0m	33%
16-2015-769-1	60 Diemars Road, Salamander Bay	9m	14.4m	60%
16-2014-782-1	29-45 Magnus Street, Nelson Bay	15m	25m	67%

Of these examples, the application at 29-45 Magnus Street is a good example of previous variations to the LEP building height requirement. The proposal included an eight (8) storey building on a sloping site. The assessment report found that the variation could be supported under the Clause 4.6 of the LEP, as the development was considered appropriate.

The applicant's argument, that Council has abandoned the height limit requirement, can also be seen in the NB Strategy and Discussion Paper that supported and encourages building heights above the LEP requirement.

It can therefore be argued that Council has abandoned the height requirement applicable to the subject site.

5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The application does not rely on this consideration to justify the proposed variation.

Objective (b):

- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The application does not rely on this consideration to justify the proposed variation. The following points however are identified as important grounds for justification:

- **Additional Residential Development in Nelson Bay**  
The development provides 54 new housing units in Nelson Bay and will cater wide range of the community by providing one, two and three bedroom units to cater for a large portion of the local population.
- **Amenity / Streetscape**  
The development will address Church Street and provide visual interest in an area dominated by development that is oriented away from the road frontage. The

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

articulation provided as part of the application will also assist in creating an appealing streetscape.

Where the development encroaches on setback requirements, privacy measures have been incorporated to ensure impacts are limited.

- Public interest

The proposal will stimulate local investment and improve use of existing facilities and services in the Nelson Bay area. It is considered that the development will not have significant cumulative impacts on the community or the surrounding locality.

- Economic growth

The proposal will provide short term construction and long term service employment opportunities. The new quality development would provide confidence in the local real estate market, which would stimulate further development in Nelson Bay.

Clause 4.6(4):

Clause 4.6(4) requires Council to address the following requirements prior to granting development consent:

- The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- The concurrence of the Secretary has been obtained.

In response, it is noted that the applicant provided written request of the variation that addressed the issues identified in subclause (3).

Further, it is considered that the proposed development meets the objectives of the R3 Medium Residential zone (see applicable zone objectives above) as the development:

- Will provide additional housing in an area identified for this type of development;
- Provides a wide range of dwelling types including one, two and three bedroom units; and
- Contributes towards creating critical mass in the local economy. This stimulus will assist in supporting facilities and services required by permanent residents. The surrounding area includes commercial and retail spaces, medical and government facilities, and recreational land uses that will be complemented by the proposal and the permanent residents.

It is considered that the proposal is consistent with the objectives.

Clause 4.6(5):

Subclause (5) states that, in deciding whether to grant concurrence, the Secretary must consider the following:

- Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- The public benefit of maintaining the development standard, and
- Any other matters required to be taken into consideration by the Secretary before granting concurrence.

There are no identified State or Regional matters of significance that would result as a consequence of varying the building height provisions.

There is no public benefit in maintaining strict compliance with the development standard given that there are no significant impacts that will result from the variation to the standard. However, the proposal will provide additional residential accommodation for the community in a building with

Page 20 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

excellent internal and external amenity. Further, expanding the population base in close proximity to the Nelson Bay CBD is more desirable and beneficial in planning terms as it will contribute towards critical mass of the local population thereby supporting the local economy. It is therefore considered that the advantages of the proposal outweigh the disadvantages.

DoPE did not identify any specific matters to take into consideration.

Conclusion:

This Clause 4.6 variation request is well founded as it demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances;
- There are sufficient environmental planning grounds to justify the contravention;
- The proposed development represents an increase in the residential housing in Nelson Bay;
- The development achieves and is consistent with the objectives of the development standard and the objectives of the R3 zone, notwithstanding the variation;
- The proposed development is an appropriate response to the context of the site, and the variation to the standard is compatible with the existing and future character of the area;
- The proposed development will not have significant environmental impact and is in the public interest and better achieves the development standard's objectives;
- The proposed variation will not hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979; and
- The contravention does not raise any matter of State or Regional Significance.

In accordance with Clause 4.6 (a)(i) the applicant has adequately addressed the matters required to be demonstrated, as discussed above. Further, the application is deemed to be in the public interest by providing a range of housing within close proximity to the Nelson Bay Town Centre and marina precinct on a site which is currently vacant.

The proposed variation to Clause 4.3 is considered acceptable in this instance. Accordingly, the application is exempted from the requirement to comply with the nominated height limit derived under Clause 4.3. The proposal is considered to be appropriate in the context of the site.

**Clause 5.5 – Development within the Coastal Zone**

The proposed development is located within the coastal zone and is considered to meet the principles of the NSW Coastal Policy. There are no anticipated adverse impacts on the local ecology or water quality as the proposal incorporates a stormwater quality control system and erosion and sediment control devices. The proposal is sufficiently separated from the waterway that there are no anticipated impacts on the access to the foreshore. The proposed development is in keeping with the character of the locality and is not anticipated to have any significant negative impacts on views to or from the waterway.

**Clause 5.6 – Architectural roof feature**

It is considered that the rooftop recreational area conforms to the architectural roof feature definition. The roof feature will therefore not be included in the overall height measurement.

**Clause 7.1 – Acid Sulfate Soils**

The subject land is mapped as containing potential Class 5 acid sulfate soils. As the proposed development is anticipated to entail excavations below 5m, conditions of consent will be included to ensure an Acid Sulfate Soils Management Plan is implemented where acid sulfate soils are encountered.

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**Clause 7.2 – Earthworks**

It is noted that major earthworks have previously been undertaken on the site. It is understood that all existing structures will be removed from site prior to the stabilisation of the site and excavation of the basement levels.

The proposed earthworks have been assessed by the Council staff and no major issues were identified. Conditions of consent have been provided to ensure detrimental impacts on drainage patterns or soil stability will be managed.

As the site has been disturbed through extensive excavation, it is highly unlikely that the development will encounter Aboriginal relics. The proposal is therefore consistent with requirements outlined in Council's LEP relating to earthworks.

**Clause 7.6 – Essential Services**

The subject site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Council's requirements. The subject land also maintains direct access to Church Street, meeting the requirements of this clause. A condition is proposed that requires the provision of evidence that all essential services are available, prior to the issue of an occupation certificate.

**s79C(1)(a)(ii) – Any draft EPI****Draft State Environmental Planning Policy (Coastal Management) 2016**

The draft State Environmental Planning Policy (Coastal Management) 2016 (Coastal SEPP) was on public exhibition until 23 December 2016.

The draft policy aims to balance social, economic and environmental interest by promoting a coordinated approach to coastal management, consistent with the objectives of Part 2 of the Coastal Management Act 2016.

The Act divides the coastal zone into four (4) management areas:

- Coastal Wetland and Littoral Forest areas;
- Coastal Vulnerable areas;
- Coastal Environment areas; and
- Coastal Use areas.

The subject land is located with the Coastal Use area and the objectives for this area are:

- (a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:
  - (i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and
  - (ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
  - (iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
  - (iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
  - (v) the use of the surf zone is considered,
- (b) to accommodate both urbanised and natural stretches of coastline

The proposed development is consistent with the objectives of the Coastal Use areas, as identified in the draft policy, and can therefore be supported.

Page 22 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**s79C(1)(a)(iii) – Any DCP****Port Stephens Development Control Plan 2014**

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

**Section A – Introduction****Chapter A.12 – Notification and Advertising**

In accordance with the requirements of chapter A.12, the development application was notified between 26 September 2016 and 12 October 2016.

**Section B – General Controls****Chapter B2 – Natural Resources**

The subject site is not located on land or is within 500m of land that contains items of environmental significance.

**Chapter B3 – Environmental Management**

**Acid Sulfate Soils** – The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils and cause environmental damage. An Acid Sulfate Management Plan is to be prepared prior to the issue of the Construction Certificate and carried out during the construction phase of the development. In this regard the development is consistent with the objective and requirements of the DCP.

**Noise** – The separation distances incorporated into the development will limit any significant impacts on the adjoining development from a noise perspective. The addition of screens along the southern balconies will assist with this concern.

Conditions of consent have been imposed to limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. The application is satisfactory in regards to noise management.

**Earthworks** – It is noted that major earthworks have previously been undertaken on the site. The proposed earthworks have been assessed by the Council staff and no major issues were identified. Conditions of consent have been provided to ensure detrimental impacts on drainage patterns or soil stability will be managed. As the site has been disturbed previously, it is highly unlikely that the development will disturb Aboriginal relics. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

**Waste** – Conditions of consent have been proposed that require waste from demolition and building works to be separated into recyclable and non-recyclable materials, the reuse of materials on-site where possible, and the disposed of all other materials at an approved facility.

To ensure ongoing waste is managed responsibly, the development includes a waste storage area and compactor in the upper basement level. A dedicated pickup area has been provided to enable safe removal by private contractor. The waste area contains sufficient space for 20 x 660lt bins, which is considered sufficient to deal with the general waste and recycling generated by the development.

**Chapter B4 – Drainage and Water Quality**

Council staff assessed the stormwater management plan and supported the proposed measures with conditions of consent.

**Chapter B6 – Essential Services**

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

Page 23 of 39



**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**Chapter B9 – Road Network and Parking**

Council's Engineering section assessed the potential impacts on the local road network and access to the site. No specific concerns were raised.

The DCP outlines the following on-site car parking provisions for residential flat buildings:

- 1 car space for one or two bedroom dwellings
- 2 car spaces for three or more bedrooms dwellings
- 1 visitor space per three dwellings

The proposed development includes:

- 8 x one-bedroom apartments;
- 34 x two-bedroom apartments; and
- 14 x three-bedroom apartments.

The parking calculation is shown in the table below:

Units	DCP Requirement	Parking Provision
8 x one bedroom dwelling	1 car space for one or two bedroom dwellings	8 spaces
34 x two bedroom dwelling	1 car space for one or two bedroom dwellings	34 spaces
14 x three bedroom dwelling	2 car spaces for three bedrooms dwellings	28 spaces
Visitors' spaces	1 visitor space per three dwellings	19 Spaces
Total		89 spaces

The proposal includes 100 parking spaces (81 x resident parking and 19 x visitors' parking) within the basements car park and therefore complies with the car parking requirements of the DCP.

**Section C – Development Types**

As stated previously, the DCP controls are superseded by the AGD controls, where conflicts exist. The following DCP controls are however applicable to the proposal.

**Chapter C5 – Multi Dwelling Housing**

C5.6 Building Height – Refer to discussion of the LEP height requirements above.

C5.8 Site Coverage – The proposal exceeds the site coverage requirement of 75% with the inclusion of the basement car parking areas. A detailed stormwater management plan was provided to Council and the Engineering section supported the proposed water quantity and quality measures.

C5.13 Access – The development provided both pedestrian and vehicular access from the Church Street frontage. It is considered that the pedestrian access is legible and will be clearly defined by the proposed retaining and landscaping along the frontage.

C5.18 On-Site Parking Provisions – Please refer to the discussion relating to Section B of the DCP for a detailed assessment of the parking requirements for the development.

C5.19 Driveway Width – The proposal complies with the access width requirements with the provision of a 6.8m wide access driveway from Church Street.

C5.23 Equipment – The pool, air conditioning and lift plant will not be located in close proximity to any boundaries and it is not anticipated that the equipment will have a significant impact on the adjoining sites.

Page 24 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**Section D – Specific Areas – Nelson Bay Centre****D5.A General Precinct Provisions**

D5.1 Significant Vistas – The significant vistas are shown in Figure DJ of the DCP. The main vista located in close proximity to the development is from the corner of Tomaree Street and Church Street. It is considered that this vista will not be impacted on as the proposal only covers the western half of the site and will therefore not block or significantly impede water views from the south.

D5.2 Street Layout – The proposal will not alter the existing road layout.

D5.3 Roof Design – The roof design is considered to have architectural merit and will not have significant impact on the public domain.

D5.4 NSW Coastal Planning Guidelines – The proposal incorporates non-reflective materials.

**D5.C Desired Character – Town Living and Commercial**

The proposal complies with the desired character of the area by providing a wide range of housing options, creating critical mass in the Nelson Bay CBD and incorporating landscaping to limit impacts on the adjoining development.

**s79C(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F**

There are no planning agreements that have been entered into under section 93F relevant to the proposed development.

**s79C(1)(a)(iv) – The regulations**

There are no regulations applicable to the proposed development.

**s79C(1)(a)(v) – Any coastal management plan**

There are no coastal management plans applicable to the proposed development.

**s79C(1)(b) – The likely impacts of the development****Social and Economic Impacts**

The proposal will result in additional residential development in the LGA through the provision of a wide range of accommodation units. It will result in a large capital investment in the local economy and will create a number of short and indirect long term employment opportunities. The development is expected to have a total economic output of \$38.3 million. Additionally, 92 jobs are anticipated to be created and positive economic outcomes will continue post construction via the flow on effects of future residents by way of shopping, working, living and recreational pursuits.

Furthermore, the construction of 54 units will attract \$94 contributions totalling \$802,278. These contributions will be used to create and improve community facilities, public open space, sport facilities, and infrastructure and the like, further adding to the positive economic impact of this development.

The additional development within the abandoned sites will also increase confidence in the local residential market and provide the impetus for more development in the area.

The proposal will not result in any significant social impacts.



**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

Impacts on the Built Environment

The applicant provided a detailed Urban Design Analysis that included a number of perspectives showing the proposed development in the existing urban context. It is considered that, although the proposal exceeds the building height provisions, it will fit well within the existing built environment. It is noted that, when viewed from the Nelson Bay waterfront, the proposal does not extend above the ridgeline (refer Figure 14).

The development will not result in unacceptable privacy impacts and addition of privacy screens along balconies will further limit potential impacts on adjoining land owners as well as future occupants of the development.

The overall aesthetics of the development are of good quality with the inclusion of range of materials, textures and colours. The range of materials and colours in conjunction with the articulation and modulation of building facades visually reduce the perception of the bulk and scale of the development to ensure consistency with surrounding development. The development will also result in the activation of Church Street.



Figure 14: Photomontage showing view from Nelson Bay Marina

Impacts on the Natural Environment

The development includes water quantity and quality control devices to reduce the impact of the development on the natural environment. Having regard for Section 5A of the Environmental Planning and Assessment Act, the proposed development is considered to not have a detrimental impact on any critical habitat, threatened species or ecological community. The existing site is devoid of any natural habitat or native vegetation and there are no anticipated negative impacts on the natural environment.

**s79C(1)(c) – The suitability of the site**

The subject site is located in close proximity to the Nelson Bay CBD and will result in the redevelopment of an abandoned building site. The proposal will assist in revitalising the city centre through increased population and increase use of facilities and services in the area.

The development site will have limited impacts on the amenity of the surrounding development.

It is therefore considered that the site is suitable for the proposed development.

Page 26 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**s79C(1)(d) – Any submissions**

The application was notified / advertised for 14 days, ending on 12 October 2016.

During this period the following public submissions were received:

- a total of approximately 75 submissions of support;
- a petition of support containing 145 signatures;
- two (2) submissions requesting further information on the potential construction impacts and use of the communal facilities; and
- two (2) submissions objecting to the proposal.

One submission requested Council defer or refuse the application until such time as the NB Strategy has been updated. The submission did state that the writer *'welcomes the positive approach the applicant has taken to bring forward a proposal designed to attract permanent residents, with a focus on good design, and the applicant's proactive engagement with interested parties'*.

It is considered that, as the applicant provided sufficient grounds to grant a variation under Clause 4.6 of the LEP to vary the height limit, the application can be determined prior to the adoption of any new strategies for Nelson Bay. It is considered that future applications in the area will need to comply with the new provisions and the current application will therefore not set a specific precedent.

The specific application related issues identified in the submissions are addressed below:

- Non-compliance with NB Strategy

As stated in the assessment and the submission, the NB Strategy is not a statutory document and was only utilised in the assessment to provide context on the existing development and future intent for the area. The issues surrounding 'design excellence' and 'public benefit' was not taken into consideration, as the stated 7 storey height limit in the NB Strategy was not used as a means to provide permissibility for the height limit. Notwithstanding, the Discussion Paper utilised Clause 4.6 to vary the height limit in order to achieve better design outcomes for individual developments.

- SEPP 71

The submission identified issues with the applicant's discussion of subclause (d), (e) and (f) of Clause 8.

These subclauses were addressed in the assessment and the development is considered in keeping with the objectives and provisions of the Policy.

- Density

It is noted that the LEP does not contain any FSR requirements. However, the argument around density will be addressed.

The submission states a number of Council areas that have adopted the FSR requirement that shows a large variation of between 0.7:1 and 3:1.

It should be noted that the deletion of the townhouses at the rear of the site reduced the floor space ratio from 2.8:1 to 2.47:1. Although this is considered high when taking into account the measures stated above, it is considered that the amended floor space measure is more acceptable.

Further, floor space ratio only addresses part of density considerations. A development that is compliant with the height control can still provide a similar floor space ratio as the proposed development, but cover the majority of the site. This type of development

Page 27 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

would impact significantly on views from the adjacent site and potentially impact on the view corridors identified in the NB Strategy.

The proposed development is contained within a smaller footprint that ensures views are largely maintained and limits excessive overshadowing of adjoining sites.

It is therefore considered that the proposed floor space ratio is acceptable in this instance.

- Clause 5.5 – Coastal Zone

One submission maker provided comment subsequent to the initial submission that identified the fact that the applicant did not address Clause 5.5 of the LEP. The applicant provided an addendum to the report that addressed these provisions. These comments were utilised in the assessment of the potential coastal impacts.

Other issues raised related to the following aspects of the development:

- Property Values

The submissions stated that property values in the surrounding area would be negatively affected by the proposal. No evidence of the assumption was provided in the submission. The feasibility study undertaken as part of the NB Strategy Discussion Paper stated that *'unit prices in the residential unit market in Nelson Bay has been static and has actually declined over the past ten years.'* The Discussion Paper went on to state that quality housing stock is required in the area to ensure investor confidence returns. It is therefore considered that the proposed development could potentially stimulate investment and result in increased unit prices in the area.

- Construction Impacts

The submissions identified the following construction issues:

- Construction hours – 8am start
- Noise and vibration issues associated with pile pile-driving of foundations
- Truck parking during construction

The general construction hours are limited to:

Monday to Friday	7am to 6pm
Saturdays	7am to 1pm
Sunday and Public Holidays	No work

Whilst it is acknowledged that impacts to local amenity will arise during the construction phase, these impacts will be managed as per regulatory standards. Further, any pile driving will be limited to 8am to 5pm on weekdays only.

A Construction Traffic Management Plan will be required to control all construction traffic and ensure a safe environment for road users and pedestrians.

- Operational Impacts

The submissions identified the following construction issues:

- Maintenance should be undertaken throughout the life of the development to ensure the standard of the external appearance not be compromised;
- Pool usage be limited to 9.00 pm in the evenings; and
- Garbage bins are not allowed on the street.

The ongoing maintenance and pool hours are not issues usually dealt with by the development assessment and would be a consideration for the future owners of the units.

Page 28 of 39

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

All garbage will be compacted and stored in the basement and will be removed by private contractor.

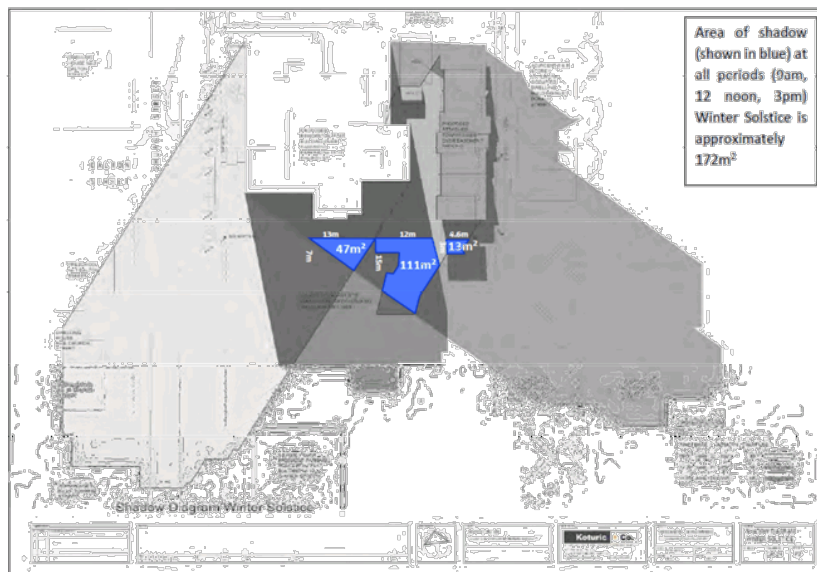


Figure 15: Shadow diagrams

- Overshadowing

The applicant provided shadow diagrams that indicated limited impacts from the proposal on the adjoining sites. It was also shown that a compliant development footprint could potentially result in greater impacts on the adjoining land.

The shadow diagram (Figure 13) indicates that the vacant site in the south will be impacted by the proposal during the majority of the day during winter months. This can be expected from all types of high rise development. It is however noted that the existing development in the area will only be impacted during short periods of time in the either the morning (west) or the evening (east).

The impacts associated with overshadowing are considered acceptable in this instance.

- Proposed building height

As stated above, it is considered that the assessment took into consideration the concerns raised above, in regards to the variation proposed to the LEP height limit, as part of the application.

- Out of character with future intent for the area

As stated earlier in the assessment, the proposal is consistent with the objectives of the R3 zoning of the area and the existing development on the adjacent sites.

**s79C(1)(e) – The public interest**

The assessment found that the development is considered suitable in the locality. The proposal will stimulate local investment and improve use of existing facilities and services in the Nelson Bay area. It is considered that the development will not have significant cumulative impacts on the community or the surrounding locality. The proposed development is considered to be in the public interest.

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

**DETERMINATION**

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

REAN LOURENS

ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

ATTACHMENT A – UDCG Comments

1



URBAN DESIGN CONSULTATIVE GROUP MEETING

**ITEM No. 8**

Date of Panel Assessment: 15<sup>th</sup> February 2017  
Address of Project: 11-13 Church Street Nelson Bay  
Name of Project (if applicable): N/A  
DA Number: 16-2016-631-1  
No. of Buildings: One  
No. of Units: 56  
Declaration of Conflict of Interest: Nil.  
Attendees: Applicant  
Rod Salmon – Applicant  
Steve McCall – Planner  
Stephen Koturic – Architect  
Tony Whaling – Project Manager  
  
Council  
Rean Lourens – Planner PSSC

*This report addresses the nine Design Quality Principles set out in the Apartment Design Guide (2015) under State Environmental Planning Policy No.65. It is also an appropriate format for applications which do not include residential flats.*

**Background Summary**

The Panel reviewed this proposal previously in November 2016, when it was concerned about a number of issues, in particular the proposed height, boundary setbacks, inadequate setbacks between the tower and town-house buildings, and overall building bulk. The revised design before the Panel has deleted the four townhouses and increased the number of apartments in the tower building from 52 to 56, as well as making various other changes. The November report is included below in *italics*, with comments on the amended scheme following.

of 9 1



ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

2

*The proposal has been put before the Group in part because of the special circumstances pertaining to the PSSC Nelson Bay Strategy 2012 (NB Strategy), which provides for a possible increase in permitted building heights of an additional 7m in addition to the 17.5m maximum standard specified in the height controls for the Nelson Bay area. For this concession to occur, the Nelson Bay Strategy requires a strategic public benefit of appropriate magnitude be demonstrated, as well as outstanding design excellence.*

The permissible height taking advantage of the above bonus provision would be 24.5 metres. The amended application proposes a height well in excess of that permissible even with the concession, exceeding the control by 3.3 metres or over one floor on the western (Church Street) frontage, and because of the sloping site by 7 metres or over two floors to the west.

As to whether the development would result in 'strategic public benefit' or be of 'design excellence':-

- (a) It is understood that the Council is generally supportive of the height concession in view of the development potentially making a positive contribution to the objective of the Nelson Bay Town Centre and Foreshore Strategy by making the area "...more attractive to tourists, the business community and residents." Certainly the proposal would provide attractive accommodation with good views and luxury amenities, as well as creating employment, so that it potentially would achieve this outcome.
- (b) The architectural design *character* is generally of good quality, although it cannot be agreed that the overall design achieves 'design excellence' - even with the recommended changes. Certainly as proposed the height and bulk are both excessive and as discussed below amendments will be necessary for the development to be supported. The lack of daylight and ventilation to the internal corridors at each level is a further fundamental shortcoming, which cannot be overcome without major re-planning.

#### 1.Context and Neighbourhood Character

*The site is located at the western edge of the R3 zone, and on the opposite side of Church Street the zoning falls to R2, which has a maximum building height of 9m. The subject site and the site to the immediate south (No.15) have both had construction of 5 storey residential unit developments commenced under earlier approvals some time ago, but in both instances work stalled for financial reasons when the footings were partially complete. Both sites are now in a poor state of upkeep and present very poorly to the street and to surrounding residential development.*

*Several residential apartment developments have been completed in the immediate vicinity of the site, each appears to be generally compliant with the 5 storey height limit. These include a small block immediately to the north of the site, a larger, linear block fronting Donald Street "Cote d'Azur", that runs the full*

of 9 2

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).**

16-2016-631-1

3

*length of the shared eastern boundary, and further south at the corner of Church Street and Tomaree St, is a substantial 5 storey block "Oaks Lure", which shares its northern boundary with the abandoned site at 15 Church Street. The eastern half of this block currently enjoys attractive views north to Port Stephens waterway, over its landscaped gardens surrounding a swimming pool.*

*Development on the western side of Church Street is primarily original mid-century single dwellings and small blocks of flats. There is also a row of two storey townhouses accessed from Tomaree St, which is diagonally adjacent to the south-eastern corner of the subject site. To the north of the site, towards the eastern side of the common boundary, is a low-scale building housing a dentist's surgery that is accessed from Donald Street.*

*The applicant indicated that their architect had adopted a strategy for the internal planning of the site that sought to utilize the provision for an extra two floors as outlined in the Nelson Bay Strategy. A key part of this approach involved an intent for a more slender, taller structure that would assist with view sharing and maintaining solar access to properties nearby. The Group supported this as an appropriate approach, but raised serious concerns in respect to the very substantial shortfall of the proposal in respect to setbacks as nominated in the Apartment Design Guide. This is inconsistent with the stated intent. These setbacks are identified as being required within each adjacent property. The lower floors are required to have a minimum separation distance of 6m from the boundary (measured from the balustrade of any deck or balcony) for lower floors up to four storeys in height, while 5 storeys and above require a setback of 9 metres to the balustrade or wall to the boundary. These setbacks assume an equivalent boundary setback in adjacent properties where residential apartments are constructed, however in this instance existing apartment buildings on the east and north have substantially lesser setbacks, thus exacerbating the impacts any shortfall that might occur on the subject site.*

The revised design has resolved some issues by deletion of the town-house block, but boundary setbacks to the north and south remain well below the ADG recommendations, and both remain of concern:-

.To the *north* there is an existing 5 storey apartment block. Diagrams were submitted and explained that although the separation distances were non-compliant, the privacy impacts were within acceptable limits because the small balconies served only bedrooms, and the bedroom windows were of glass blocks and thus privacy of residents would not be compromised. It is considered that the separation distances could be accepted provided that screening were to be provided on the west ends of balconies so that outlook would be focused to the views to the north-east, not towards the neighbours' balconies. Concern remains in relation to compromising the development potential of this neighbouring site if redevelopment were to be sought to the greater height permissible under the bonus provisions of the Nelson Bay Strategy. In that scenario the separation between the two future building should be 18 metres at the upper levels, and the presently proposed setbacks would not be equitable.

---

of 9 3



ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

4

.To the *south* it was advised that the adjoining site was now in the same ownership as the subject site, and that it was likely that approval would also be sought for a development taking advantage of the additional height available under the Nelson Bay Strategy, potentially a building 24.5 m. high. The ADG separation distance required between the two buildings then would be 18 metres, with 9 metres needed from the common boundary for each building. This is as shown indicatively for the southern site on drawing DA-21. The present application proposes that most of the southern wall of the building would have this setback, but the central units at each level have considerably less, with only 4.5m. setback to the balcony edge. This is not acceptable, having in mind not only privacy separation - but similarly important - the visual bulk of the buildings without an adequate break between. The floor plans should be revised to achieve the necessary separation distance.

## 2 .Built Form and Scale

*The proposal as submitted is substantially bulkier than would be appropriate for a development seeking to benefit from the bonus provisions of the NB Strategy. It was suggested that, as a minimum, one apartment needed to be deleted from the plan at each floor level. This would potentially facilitate meeting the ADG required setbacks, while at the same time preserving reasonable view sharing opportunities and solar access for neighbours.*

*While pushing the majority of the development west towards the street was a positive initiative in respect to partially preserving views from the "Oaks Lure" development, and was supported in principle, impacts on future development on the adjacent site to the south (15 Church Street) need to be better considered. This should take the form of considering both the approved development, as well as a possible future development that also might seek to take advantage of the additional height possible under the NB Strategy.*

*The Group expressed concerns with respect to the inadequate separation distances between the townhouses and the proposed tower, and the rear of the townhouses and the adjacent Cote d'Azur development to the east. This group of four residences also suffers from a lack of street address, as well as having privacy and amenity conflicts with the common open space and pool which immediately abuts the residences. The townhouses are also at a lower level than the tower, and will potentially be visually dominated by the much larger scaled residential tower. The Group recommends that these residences be deleted from the proposal.*

*Balustrades are proposed to be in most instances glazed, which is contrary to the recommendations of the ADG, and which provides poor levels of amenity to the balconies. On western and eastern facing facades, glazed balustrades also contribute to heat gain for the apartments with this orientation.*

As discussed above the building bulk cannot be supported in relation to:-

- (a) Privacy impacts due to the inadequate separation distance from the southern boundary

of 4

ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

5

- (b) Overshadowing impacts due to the excessive height beyond that permissible even given the 7m. bonus 'concession'. It is noted that winter overshadowing would impact in the morning on low dwellings on the opposite side of Church Street, and town-houses etc to the south and west. Certainly any adverse impacts beyond those caused by a potential development complying with planning controls is not acceptable.

### 3.Density

*It was noted that there is no FSR specified in the controls, which places additional emphasis on the need to provide appropriate setbacks from all boundaries.*

In order to achieve an acceptable outcome in relation to the building form some reduction in density will be necessary.

### 4.Sustainability

*As the broad site planning and setback / bulk and scale issues were considered fundamental to achieving an appropriate development, most of the discussion with the applicant and his consultants, centered upon these primary concerns. However, the Group briefly noted that the very extensive use of west-facing and east facing glazed balustrades was of concern in respect to solar gain. Apartments should be provided with adjustable screens that allow for changing seasons and for control of unwanted summer sun. This also makes the balconies more useable for residents. As a guide, it was recommended that not more than one third of any apartment's balcony balustrades should be glazed, and this proportion should lessen in favour of solid balustrades on floors towards ground level. Similarly, western and eastern facing balustrades in particular should be primarily solid.*

*The panel noted that window and door mullions were proposed to be finished in black or a very dark grey tone. Standard aluminium mullions do not provide a thermal block between exterior and interior, and thus any black-toned mullion will immediately re-radiate absorbed heat into the interior of the apartment. Unless more sophisticated glazing incorporating a thermal block is provided, window and door frames should be of a light, less thermally absorbent tone.*

It appears from the submitted elevations and three-dimensional images that the amended design has not responded to the above recommendations in relation to screening of balconies and tone of glass framing elements. These concerns are reiterated.

### 5. Landscape

*The recommended reduction in units in the tower footprint, coupled with the deletion of the townhouses and the corresponding reduction in the required parking, can assist the proposal in providing some more useful deep soil*

of 5

Page 35 of 39

ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

6

*planting. At present, virtually all deep soil is confined to a very narrow strip along some of the site boundaries. This area as proposed cannot be utilized for appropriately scaled trees, as their canopies would overhang neighbouring properties extensively, and will potentially interfere with their footings.*

*It was noted that locations should be identified as part of the further site analysis and consideration of sight lines from adjoining properties, for the planting of some trees of a large scale that is in keeping with the scale of the development. The western, street side of the tower is one possible location for tall trees that will provide some summer shade to the western apartments and that is unlikely to interfere with views or adversely impact winter sun. This landscaping can potentially also assist in softening the significant contrast in scale from the proposal to the much lower current and likely future scale of the R2 zoned land on the western side of the street. Street trees can also assist with this visual softening. Appropriate deep soil locations can also be provided on the internal parts of the site for mid-scaled trees and large shrubs.*

A landscape plan has not been seen and the above recommendations have not been discussed, other than for the roof-top terrace and communal ground level spaces. Substantial planting along perimeters and street front as recommended would have major benefits in relation to the character and amenity for future residents.

#### 6. Amenity

*As noted under other headings, the amenity of both the proposed dwellings on the subject site, and existing and future dwellings on adjacent sites, is significantly compromised by the lack of adequate setbacks as proposed. This needs to be revisited from a site analysis perspective, as outlined.*

*The need for appropriate screening of summer sun to balconies and apartment doors and windows, that fully considers orientation, should be addressed. This will also potentially assist with providing some visual depth, texture and differentiation to the facades.*

*The amenity of the proposed townhouses was considered to be poor for the reasons outlined elsewhere above.*

The above issues need to be addressed, but these aside, with the deletion of the townhouses the amenity of the residential apartment would be good quality, with outlook from the large majority of apartments towards attractive views, good solar access and ventilation, and with excellent on-site amenities. Three additional points:-

.The amenity of the pool could be enhanced if it were to be relocated further to the north to take better advantage of afternoon sunlight.

.The projecting corner balconies will be extremely exposed to winds, and should be fitted with adjustable screens to ensure that they will be habitable in such weather conditions.

of 9 6



ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

7

.The lift lobbies/corridors on each level do not have access to daylight and natural ventilation as clearly recommended by the ADG, and as provided or required in the many applications reviewed by the UDCG. This might be accepted given that it was not an issue previously raised, but is nevertheless of concern.

**7. Safety**

*No specific issues identified.*

No further comment

**8. Housing Diversity and Social Interaction**

*The proposal for a number of communal areas, including a pool, gymnasium, rooftop deck and mens' shed were all considered to be very positive inclusions that would contribute to the building of a vibrant community within the development. It was suggested that the rooftop communal area might also include a small area of enclosed common space, that might incorporate basic tea making facilities.*

*If site planning is reassessed as recommended, further opportunities are likely to emerge through good landscaping, for even more attractive communal spaces.*

A small enclosed area as part of the rooftop communal area would further enhance its amenity, although in view of the high quality of amenities at ground level, this is not a necessary provision.

**9. Aesthetics**

*The Group noted that the development's aesthetics had been given consideration, and in many respects offered potential for a good outcome, once basic planning and bulk and scale issues were addressed. The aesthetics of the facades should be informed substantially by the orientation of each, with consideration of privacy, solar gain and protection from wind on balconies. Access to views will also be an important part of these considerations. Similarly aesthetics should not override practical sustainability considerations, and large expanses of black or very dark cladding and aluminium window and door framing should be avoided.*

The architectural character as now better demonstrated in the montage views would be of good standard. As the design is further refined it should be borne in mind that a development of this scale will be extremely prominent, and the basic objective should be for the building not to be over-dominant, but as far as possible to fit well into its evolving urban context. To this end the reduction in height and increased southern boundary setbacks required to comply with the controls will assist: the somewhat stark 'black and white' finishes as indicated should also be toned down, particularly the top roof canopy and the vertical 'blade' element. Provision of adjustable screens to balconies, as well as

of 9 7

ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

8  
responding to sustainability and amenity concerns, would also assist in  
'humanizing' the character of the building.

**.Amendments Required to Achieve Design Quality**

*As outlined under the headings above, there needs to be a return to the site analysis process to better inform site planning. More thorough and in-depth consideration needs to be demonstrated in respect to impacts on surrounding sites and development. Boundary setbacks reflecting the ADG minimum distances and the interface between the proposal and existing and likely-future surrounding development, needs to be more extensively considered and demonstrated on plans and sections.*

*The stated intent of the site planning strategy (a slender tower) was supported, but it was noted that this had not been successfully carried through in the site planning proposed. Support for any development exceeding the maximum 24.5m height achievable under the NB Strategy because of demonstrable public benefit and design excellence is very difficult to justify.*

*It was noted that the 3D montage renderings should provide a more accurate representation of existing and likely future development in the context. Similarly cross-block sections and other diagrams that fully outline the preservation of views and interfaces between adjacent properties should also be provided as part of a more extensive site analysis.*

The following matters as discussed above under various headings must be addressed and resolved:-

.The height must be reduced at least to comply with the height control of 24.5 metres which would take advantage of the 'concession' provisions of the Nelson Bay Strategy plan. Due to the slope of the site the top of the building would need to step down on the eastern side by approximately one level. It should be noted that although one of the conditions required to qualify for this bonus ('strategic public benefit') is possibly satisfied, the application falls well short of achieving the other ('outstanding design excellence'), and thus this height cannot be supported by the Panel, let alone a height *additional* to this of approximately 7 metres.

.The setback from the southern boundary must be increased to at least 9 metres.

.Detailed design issues particularly those discussed under Amenity and Aesthetics

**.Summary Recommendation**

*The Group could not support the proposal, even if it complied with the 17.5m height limit, because of a number of significant departures from the ADG*

of 8 8

ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT  
(INCLUDING URBAN DESIGN CONSULTATIVE GROUP MEETING MINUTES).

16-2016-631-1

9

*separation standards and the amenity and equity issues arising. The additional height sought further exacerbates this situation.*

*However, the stated site development strategy, which recognised the need for a slender tower and appropriate view sharing and sensitive consideration of solar access, was considered to be appropriate. Providing all of the issues raised under the above headings were adequately addressed, and providing also that the proposal convincingly demonstrates through its architecture a design excellence, there is an opportunity for an attractive, viable and amenable development on the subject site.*

Although the amended submission has resolved some concerns, and aspects of the design are of good quality, the application cannot be supported for the reasons documented above.

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of 9 9

Page 39 of 39

**ITEM 1 - ATTACHMENT 3****NOTICE OF DETERMINATION.****PORT STEPHENS  
COUNCIL**

## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

Development consent is granted to development application 16-2016-631-1 subject to the conditions in Schedule 1.

Notice is hereby made under Section 81 of the Environmental Planning and Assessment Act 1979 (the Act) of a Development Consent issued under Section 80 of the Act, for the development described below. The consent should be read in conjunction with the conditions contained in Schedule 1 and the notes contained in Schedule 2.

**Determination Outcome:** Approval, subject to conditions

**APPLICATION DETAILS**

**Application No:** 16-2016-631-1

**Property Address:** LOT: 18 SEC: 7 DP: 8611,  
LOT: 17 SEC: 7 DP: 8611  
**11 Church Street NELSON BAY,  
13 Church Street NELSON BAY**

**Description of Development:** **Residential Flat Building (Incorporating 8  
Storey Apartment Complex with  
Underground Car Parking)**

**Date of determination:** [Click here to enter a date.](#)

**Date from which the consent operates:** [Click here to enter an operational date.](#)

**Date on which the consent shall lapse:** [Enter date of approval plus 5 yrs and 1 day.](#)  
(unless physical commencement has occurred)

MR R J LOURENS  
Senior Development Planner

Adelaide Street (PO Box 42), Raymond Terrace NSW 2324  
DX 21406 Raymond Terrace • Phone 4980 0255  
Email [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

16-2016-631-1

Page 1 of 12



**PORT STEPHENS**  
COUNCIL

# Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

## SCHEDULE 1

### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

### CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT

1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:

Plan/Doc.Title	Sheet	Rev	Date	Drawn By
Residential Development, 11-13 Church Street, Nelson Bay (16 Sheets)	DA00, DA01, DA05 - DA17, DA19	C	February 2017	Koturic & Co
Residential Development, 11-13 Church Street, Nelson Bay (4 Sheets)	DA02 - DA04, DA 18	B	January 2017	Koturic & Co
Residential Development, 11-13 Church Street, Nelson Bay (2 Sheets)	474-L1, 474-L2	E	29/01/2017	Impact Planners Pty Ltd
Residential Development, 11-13 Church Street, Nelson Bay (1 Sheet)	474-L3	D	29/01/2017	Impact Planners Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.



ITEM 1 - ATTACHMENT 3

NOTICE OF DETERMINATION.



PORT STEPHENS  
COUNCIL

# Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

2. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.

## CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION

3. **Prior to the commencement of works**, erosion and sediment control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with *Managing Urban Stormwater – Soils and Construction, Volume 1* (Landcom, 2004).
4. **Prior to the commencement of works**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. A monetary contribution is to be paid to Council for the provision of 54 additional dwellings and units, pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979*, Section 94 of the *Environmental Planning and Assessment Act 1979*, and Councils Section 94 Contribution Plan towards the provision of the following public facilities:

Facility	Per lot/dwelling	Total
Civic Administration	\$1,160.00	\$62,640.00
Public Open Space, Parks and Reserves	\$2,543.00	\$137,322.00
Sports and Leisure Facilities	\$6,865.00	\$370,710.00
Cultural and Community Facilities	\$2,448.00	\$132,192.00
Road Works	\$1,616.00	\$87,264.00
Fire & Emergency Services	\$225.00	\$12,150.00
Total		\$802,278.00

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

- a) Building work - prior to the issue of the Construction Certificate

Note: The amount of contribution payable under this condition has been calculated at the time of determination and in accordance with the Port Stephens Section 94 contributions plan. The contribution amount is valid for twelve months from the



PORT STEPHENS  
COUNCIL

## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

consent date. Should payment take place after twelve months the contribution shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics.

6. The shared vehicle driveway, internal traffic aisles shall have a width to cater for design vehicle paths determined by Australian Standard AS2890 into and out of assigned parking spaces for a minimum of seventy (70) vehicle parking spaces for residents and the provision of a minimum nineteen (19) visitor parking spaces onsite. This requirement will be met by providing vehicle swept paths utilising the 85th percentile turning circle as outlined in AS 2890.1: Off-street Car Parking.

**A Construction Certificate cannot be issued until** full details of the driveway and internal traffic aisles have been supplied to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

7. The design of the vehicular access for the service bay facilities must comply with AS 2890. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a Construction Certificate application.

A design certificate satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the Certifying Authority **prior to the issue of a Construction Certificate.**

8. The driveway and other ground level hardstand areas shall be graded to the street drainage network where practical or so that water runoff is shed to the approved stormwater drainage system. All ground surface collected stormwater overflows shall be dispersed as sheet flow at ground level in a manner that does not create concentrated or nuisance flows for nearby buildings or neighbouring properties.

**The Construction Certificate cannot be issued until** full details of driveway/hardstand area grading are provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

9. The following details of the stormwater drainage system are required **prior to the issue of any Construction Certificate:**

- A detailed on site infiltration plan shall be prepared by a suitably qualified and experienced engineer to adequately attenuate ground surface collected stormwater for all storm events up to and including the 1% Annual Exceedance Probability (AEP) event. The approved design infiltration rate (180mm/hr) shall be the minimum specified for the design of the infiltration system.
- Interallotment drainage, covered by a suitable easement, and an emergency overland flow path for major storm events, that is directed to the public drainage system in accordance with Council requirements.
- The design shall include details of the location (including levels), type and size of infiltration systems, orifice, roof guttering (with gutter guards to prevent



PORT STEPHENS  
COUNCIL

## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

blockage), downpipes, pipes, pits and the boundary pit discharge point to the public drainage system.

- Complete design calculations are to be provided demonstrating the system's capacity to contain/infiltrate and convey concentrated roof stormwater run-off, via guttering and downpipes suitably sized, into a legal point of discharge.
- Any charged system proposed must provide suitable head from roof gutters / tank overflow to the highest point (typically the property boundary) in the charged line to Council's satisfaction.
- The stormwater quality treatment train shall treat storm water, prior to discharge, to PSC DCP 2014 targets. Small Scale Site Quality Model or DCP deem to comply methodology may be used to demonstrate how the following targets are met:
  - a) Total nitrogen retention post-development load: 45%
  - b) Total phosphorus retention post-development load: 60%
  - c) Total suspended solids post-development load: 90%
  - d) Gross pollutants post-development load: 90%

10. Detailed engineering plans shall be submitted to Council or an accredited Private Certifier (with the appropriate category of accreditation) for approval prior to issue of the Construction Certificate.

The details shall be in accordance with this consent, the BCA, Council's Design and Construction Specifications, policies and standards, as a minimum and include but are not limited to:

- Structural and geotechnical details for footings taking into consideration the effects of the proposed stormwater infiltration discharge method;
- Structural details for concrete or masonry drainage structures;
- Structural details for boundary retaining walls; and
- Construction erosion and sediment control.

11. Movable privacy screens shall be installed on the balconies on the eastern and western elevations of the building. The screens must cover at least 50% of the balcony area.

Amended development plans illustrating the additional privacy screens are to be submitted and be deemed to be satisfactory by the Certifying Authority **prior to the issue of the Construction Certificate.**

12. **Prior to the issue of the Construction Certificate**, an amended landscape plan must be provided showing seven (7) *Tristanopsis laurina* trees within the Church Street road reserve.
13. **Prior to the issue of a Construction Certificate**, a geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works an ASS



## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

Management Plan is to be prepared by a suitably qualified engineer and submitted to the Certifying Authority for approval.

The recommendations and/or mitigation measures contained within the Acid Sulfate Soils (ASS) Management Plan shall be complied with during works.

14. Prior to the issue of a Construction Certificate, evidence that Lots 17 & 18 Sec 7 DP8611 have been consolidated must be provided to the Certifying Authority.

### CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES

15. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of the Certifying Authority.
16. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
17. Civil Works within the development site are subject to:
  - inspection by Council, or the Certifying Authority;
  - testing by a registered NATA Laboratory; and
  - Approval by Council or the Certifying Authority at each construction stage as determined by Council's Design and Construction Specification, policies and standards.
18. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
19. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:
  - Monday to Friday, 7am to 6pm;
  - Saturday, 8am to 1pm; and
  - No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L<sub>10</sub> level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

20. Construction work associated with piling of the building foundations is to be restricted to the following times:

Adelaide Street (PO Box 42), Raymond Terrace NSW 2324  
DX 21406 Raymond Terrace • Phone 4980 0255  
Email [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

16-2016-631-1

Page 6 of 12



**PORT STEPHENS  
COUNCIL**

## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

- Monday to Friday, 8am to 5pm; and
  - No construction work to take place on Saturday, Sunday or Public Holidays.
21. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
22. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
23. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
24. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment, the person undertaking the excavation must preserve and protect the building from damage, which may involve underpinning and supporting the building in an approved manner.
- The adjoining property owner shall be given 7 days' notice before excavating below the level of the base of the footings of a building on an adjoining allotment of land. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- In this condition, allotment of land includes a public road and any other public place.
25. Building demolition shall be carried out in accordance with Australian Standard AS2601-2001 - The Demolition of Structures.
26. The demolition and disposal of materials containing asbestos should be carried out in accordance with Workcover Authority Guidelines. The material may be disposed of at the Newline Road Waste Facility in Raymond Terrace, please phone the facility on (02) 4983 4100 to arrange disposal.
27. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of the Certifying Authority.



PORT STEPHENS  
COUNCIL

## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

28. The only fill material that may be received at the development site is:

- Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997 (POEO)*; or
- Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

29. Civil Works within the development site are subject to:

- inspection by Council, or the Certifying Authority;
- testing by a registered NATA Laboratory; and
- Approval by Council or the Certifying Authority at each construction stage as determined by Council's Design and Construction Specification, policies and standards.

### CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

20. Collected roof runoff stormwater shall be piped from the approved drainage system and connected to **a legal point of discharge**.
21. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of Council or the Certifying Authority **prior to issue of the Occupation Certificate**.
22. Submission of Works-As-Executed plans and accompanying report prepared and certified by a suitably qualified hydraulic engineer confirming all stormwater drainage systems are constructed in accordance with the approved plan.

Minor variations can be accepted providing they are clearly identified in the report and the hydraulic engineer certifies that site flow up to the 1% annual exceedance probability (AEP) rainfall event are conveyed from all roof areas on site to **a legal point of discharge**.

**An Occupation Certificate cannot be issued** until the Works-As-Executed plans and accompanying reports have been provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.



## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

23. The provision of a reinforced concrete vehicle footpath crossings with a minimum width of 6.235m **prior to the issue of the any Occupation Certificate**. A Driveway Construction Application must be made with Council, as the Roads Authority, prior to the commencement of vehicle footpath crossing works.
24. **Prior to the issue of a Final Occupation**, an Operation and Maintenance Plan for the stormwater system shall be prepared by a suitably qualified engineer, detailing a regular maintenance programme for infiltration and pollution control devices, covering inspection, cleaning and waste disposal, a copy of which shall be supplied to the owner/operator.
25. All disturbed public footpath areas shall be reinstated with graded compacted topsoil and turfed to the satisfaction of Council. Smooth transitions shall be made with adjoining property frontages and the top-soiling and grassing extended to suit.
26. The applicant shall restore, replace or reconstruct any damaged sections of kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve which results from construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.

**An Occupancy Certificate shall not be issued until all necessary remediation and repair works have been completed to the satisfaction of Council.**

27. **Prior to the issue of the Occupation Certificate**, the Principal Certifying Authority is to be satisfied that all landscape works have been undertaken in accordance with the approved plans.
28. The required street trees shall be replanted to the satisfaction of Council **prior to the release of the Occupation Certificate**.
29. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. **745467M**, or an amended version of this certificate, have been complied with.
30. **Prior to the issue of the Occupation Certificate**, the Principal Certifying Authority is to be satisfied that the following swimming pool requirements have been addressed:
  - The swimming pool is to be fully enclosed with fencing and gates to comply with the Swimming Pool Act 1992 and Regulations;
  - All backwash/pool waste water is to be piped/drained to the sewer of the Hunter Water Corporation in accordance with the requirements of the Hunter Water Corporation; and
  - The swimming pool/spa water recirculation and filtration system installation shall comply with AS 1926.3 – 2010 and/or AS 2610.2 – 2007.



## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

31. **Prior to the issue of the Occupation Certificate**, the Principal Certifying Authority is to be satisfied that the following safety measures have been installed in the storage areas located on the Lower Basement Carpark Level (Sheet DA-02):
- CCTV surveillance cameras and recording devices must be installed to monitor this area; and
  - Access gates must be installed at the entrance to storage area.
32. The title of the respective lots shall be endorsed with the following encumbrances under Section 88B of the Conveyancing Act:
- Easements for stormwater drainage
- Port Stephens Council shall be nominated as the Authority to release, vary or modify the above restrictions. Details that effect the encumbrances must be submitted to Council **prior to the release of the Occupation Certificate**.

### CONDITIONS TO BE SATISFIED AT ALL TIMES

33. The replacement street trees are to be maintained to maturity through use of mulch and watering to achieve natural height.
34. All ground surface collected stormwater overflows shall be dispersed as sheet flow at ground level in a manner that does not create concentrated or nuisance flows for nearby buildings or neighbouring properties.
35. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
36. Filling shall not obstruct any natural drainage path or water drainage system. Neither shall the fill encroach onto any adjoining property.
37. In areas that are disturbed for site filling, all available topsoil shall be stockpiled and re-used at the completion of the earthworks. The topsoil shall be spread evenly and lightly rolled. All disturbed areas shall be stabilised within 14 days of completion of filling operations with grass cover by either turfing or seeding.
38. Motor vehicles are only permitted to enter and leave the site in a forward direction. On site manoeuvring areas are to be kept clear for this purpose.
39. The storage of materials, placement of toilets and rubbish skips etc. within the road reserve is not permitted by this consent. Separate approval under the Roads Act is required to occupy, close or partially close the road reserve adjacent to the property.
40. Deck areas must not be used for laundry purposes, including clothes drying.





PORT STEPHENS  
COUNCIL

## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

41. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
42. The storage of materials, placement of toilets and rubbish skips etc. within the road reserve is not permitted by this consent. Separate approval under the Roads Act is required to occupy, close or partially close the road reserve adjacent to the property.
43. Vents, antennae, air conditioning units and any plant equipment, are to be located within the basement, chased into the building, or screened so as not to be visible from the street or any public place.
44. Air-conditioning and ventilation systems installed at the premises must be installed and maintained to ensure that no offensive or intrusive noise is created, as defined by the Protection of the Environment Operations Act 1997.
45. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
  - The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
  - That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

### ADVICES

- a. Consideration to the guidance provided by the Australian Institute of Refrigeration, Air Conditioning and Heating (AIRAH) document Air Conditioning Residential Best Practice Guideline (NSW), which provides general information and appropriate locations for air conditioners to be installed to avoid creating noise nuisance is recommended. This is available at [www.airah.org.au/Content/NavigationMenu/Resources/BestPracticeGuide](http://www.airah.org.au/Content/NavigationMenu/Resources/BestPracticeGuide).
- b. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- c. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment and Heritage must be informed accordance with Section 89A of the *National Parks and Wildlife Act, 1974* (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the *National Parks and Wildlife Act, 1974*.
- d. Telecommunications infrastructure to services the premises should be installed which complies with the following:

Adelaide Street (PO Box 42), Raymond Terrace NSW 2324  
DX 21406 Raymond Terrace • Phone 4980 0255  
Email [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

16-2016-631-1

Page 11 of 12

**PORT STEPHENS  
COUNCIL**

## Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

- The requirements of the Telecommunications Act 1997 (Cth)
  - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation.
  - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
- e. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
- f. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/the person having the benefit of the development consent to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.

### SCHEDULE 2

#### RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Section 82A of the Act, or
- a right of appeal under Section 97 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

#### NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to section 83 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to section 95 of the Environmental Planning and Assessment Act 1979.
- It is important to note that complying with the Premises Standards does not mean those responsible for buildings are fulfilling all their responsibilities in relation to possible discrimination under the DDA. The Premises Standards state that a building certifier, building developer or building manager of a relevant building must ensure that the building complies with the Access Code.

**ITEM NO. 2**

**FILE NO: 17/13779  
RM8 REF NO: PSC2016-03325**

**DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT SECTION  
MANAGER  
GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Place the draft Port Stephens Crime Prevention Plan 2017-2020 **(ATTACHMENT 1)** on public exhibition for 28 days in accordance with the Children (*Protection and Parental Responsibility*) Act 1997.
- 2) If there are no submissions, adopt without further submission to Council.
- 3) Submit the final adopted plan to the NSW Attorney General for endorsement as a safety community compact.

---

**ORDINARY COUNCIL MEETING - 11 APRIL 2017  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Ken Jordan Councillor John Nell</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 11 APRIL 2017  
MOTION**

<b>085</b>	<b>Councillor Ken Jordan Councillor Steve Tucker</b>  It was resolved that Council: <ol style="list-style-type: none"><li>1) Place the draft Port Stephens Crime Prevention Plan 2017-2020 <b>(ATTACHMENT 1)</b> on public exhibition for 28 days in accordance with the Children (<i>Protection and Parental Responsibility</i>) Act 1997.</li><li>2) If there are no submissions, adopt without further submission to Council.</li><li>3) Submit the final adopted plan to the NSW Attorney General for endorsement as a safety community compact.</li></ol>
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## **BACKGROUND**

The purpose of this report is to seek Council's endorsement to place the draft Port Stephens Crime Prevention Plan 2017–2020 (**ATTACHMENT 1**) (the Plan) on public exhibition for 28 days.

The Plan has been prepared in accordance with the NSW Justice Guidelines for developing a crime prevention strategy and with NSW Police - Port Stephens Local Area Command (PSLAC) who have given in-principle support to the draft Plan.

This is the fourth Crime Prevention Plan produced by Council. The first Port Stephens Crime Prevention Plan was endorsed in 2002 by Council and the NSW Attorney General. The current plan has resulted in the completion of a number of actions which are outlined in (**ATTACHMENT 2**).

Local Government is recognised by the State Government as one of the key agencies involved in community safety initiatives. As such, councils are encouraged by NSW Justice and the NSW Attorney General to develop and implement local community safety strategies (generally referred to as Crime Prevention Plans). The primary purpose of these plans is to facilitate a cooperative approach to crime prevention at a strategic level.

Implementation of the plan is part of a collaborative partnership between NSW Government Justice and the NSW Attorney General, Council and members of the Port Stephens Community Safety Precinct Committee (which is convened by the Port Stephens Local Area Command). Besides Council representation, members of the Community Safety Precinct Committee include:

- Port Stephens Local Area Command;
- Volunteers in Policing;
- Local business;
- Port Stephens Liquor Accord;
- Housing NSW;
- Port Stephens Family Support;
- Hunter Water;
- Local and Federal members; and
- Community service representatives.

Council's role in the implementation of the plan will predominantly be one of facilitation and advocacy. In accordance with the guidelines and template prescribed by NSW Justice (**ATTACHMENT 3**).

The Plan is required to include at least two top crimes pertaining to the respective local government area. Based on reported crime data collected by the Bureau of Crime Statistics and Research and advice from the Port Stephens Police Local Area Command the two top crimes identified and proposed to be the focus of the Plan are 'Steal from Motor Vehicle', and 'Malicious Damage Graffiti'. The Port Stephens Local

## MINUTES ORDINARY COUNCIL - 11 APRIL 2017

Area Command have also requested the Plan also focus on issues of 'Fraud' in the local community.

The Plan contains actions that are recommended by NSW Justice to assist in reducing these three specific crimes. It will guide the actions of Council and its partners over the next three years and complement the ongoing efforts of the Police in seeking to reduce the incidence of these crimes in Port Stephens.

Crime Prevention Plans must be approved by Council prior to formal lodgement with the NSW Justice and the NSW Attorney General for his endorsement. Once endorsed, Council can then lodge a submission seeking funds towards the Plan's implementation.

Council has in coordination with other stakeholders established many crime prevention initiatives over recent years including:

- Alcohol-Free Zones and Alcohol Prohibited Areas;
- Liquor Licensing;
- Conditioning of Development Applications with respect to Crime Prevention through Environmental Design principles and guidelines;
- Large Community events and alcohol restrictions; and
- Crime Prevention & Community Safety Community education and awareness.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Community Safety.	Use Council's regulatory powers and Government legislation to enhance public safety.

### FINANCIAL/RESOURCE IMPLICATIONS

Subject to Council adoption of the Plan and its endorsement by NSW Attorney General funding submissions will be forwarded to NSW justice seeking funding to help fund the implementation of the plan. There are no direct financial or resource implications as a result of the recommendation of this report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Community Safety education.
Reserve Funds	No		
Section 94	No		

**MINUTES ORDINARY COUNCIL - 11 APRIL 2017**

Source of Funds	Yes/No	Funding (\$)	Comment
External Grants	Yes		Subject to external grants funding applications to NSW Attorney General and Justice Department.
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no significant legal, policy or risk implications. However the current incidence of 'Steal from Motor Vehicle', 'Malicious Damage Graffiti' and 'Fraud' do pose risks within the local community which require attention.

Council's role is to advocate and facilitate crime prevention strategies as identified. In Council's Operational Plan 2017-2018, Council will:

- Manage Alcohol Free Zones and Alcohol Prohibited Areas;
- Manage Liquor License Applications;
- Condition Development Applications in regard to Crime Prevention through Environmental Design (CPTED) principles and guidelines;
- Attend Community Safety meetings; and
- Partner with Police regarding crime prevention education & initiatives (eg Graffiti and personal valuables programs).

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be ineligible for available funding should it not adopt and implement a current Crime Prevention Plan	Medium	Adopt the proposed recommendations of this report	

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Plan promotes crime prevention as being a whole of community responsibility. People who feel safe are more likely to take part in their community and become an active member of society. Implementation of crime prevention strategies by the appropriate agencies can lead to net gains in social and community well-being.

The cost of crime in New South Wales has been estimated by the Commonwealth Attorney - General's Department and reported by the New South Wales Crime Commission to be in the vicinity of around \$19 million per year. This is based on

applying a per-capita cost of \$300 per year to our current population. Reductions in criminal behaviour can lead to financial savings in areas such as criminal justice, insurance premiums, repairs to damaged property, replacement of stolen property, lost employee productivity, and health care services for victims of crime. A reduction in malicious damage – graffiti, steal from motor vehicle and fraud crimes will be positive for tourism and economic activity.

The Plan includes Crime Prevention through Environmental Design (CPTED) principles. CPTED prevention strategies have significance in that they can assist in the creation of built environments that reduce opportunities for criminal acts, and improve perceptions of safety in public spaces. Improved amenity of public and private space will result from a reduction in malicious damage. This, in turn, discourages further damage and encourages increased social activity.

## **CONSULTATION**

Strategic Planning has developed the draft Plan in consultation with the Port Stephens Police Local Area Command, State and Federal agencies and local businesses. Feedback gained from residents in recent community surveys has also been used to inform the draft Plan. The surveys have provided information on local community safety issues and provided information on the community's perceptions and feelings on crime.

These surveys have included Council's annual Customer Satisfaction Survey and the Community Planning Survey conducted from 2013-2017 where respondents were asked how safe they felt at home and when they are out and about. The results from 2010 to 2017 indicate an improvement in how safe people felt, with the lowest percentage of people feeling safe in their local area at night.

The community safety related survey results and the data on local crime rates have been used to guide the development of the draft Plan.

The draft Port Stephens Crime Prevention Plan 2017-2020 has also been developed in line with the NSW Justice guidelines. Port Stephens Local Area Command has provided Council with in-principle support of the Draft Plan.

### Internal

Internal stakeholders will be sent the draft plan for comment or changes while in the public exhibition period.

### External

External stakeholders also included Port Stephens Local Area Command, local business, local members, local schools, Aboriginal Land Councils, Justice support services, youth workers and Graffiti Action Team who have all had input into the Draft Plan.

External stakeholders will be provided with the draft plan for any further feedback within the exhibition period.

In accordance with the *Children (Protection and Parental Responsibility) Act 1997 No. 78, part 4. – Local Crime Prevention*, the draft Port Stephens Crime Prevention Plan 2017-2020 will be placed on public exhibition via public notice.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Draft Port Stephens Crime Prevention plan 2017-2020.
- 2) 2013-2016 Crime Prevention Plan Action Summary Table.
- 3) Crime Prevention Plan Guidelines and plan template example.

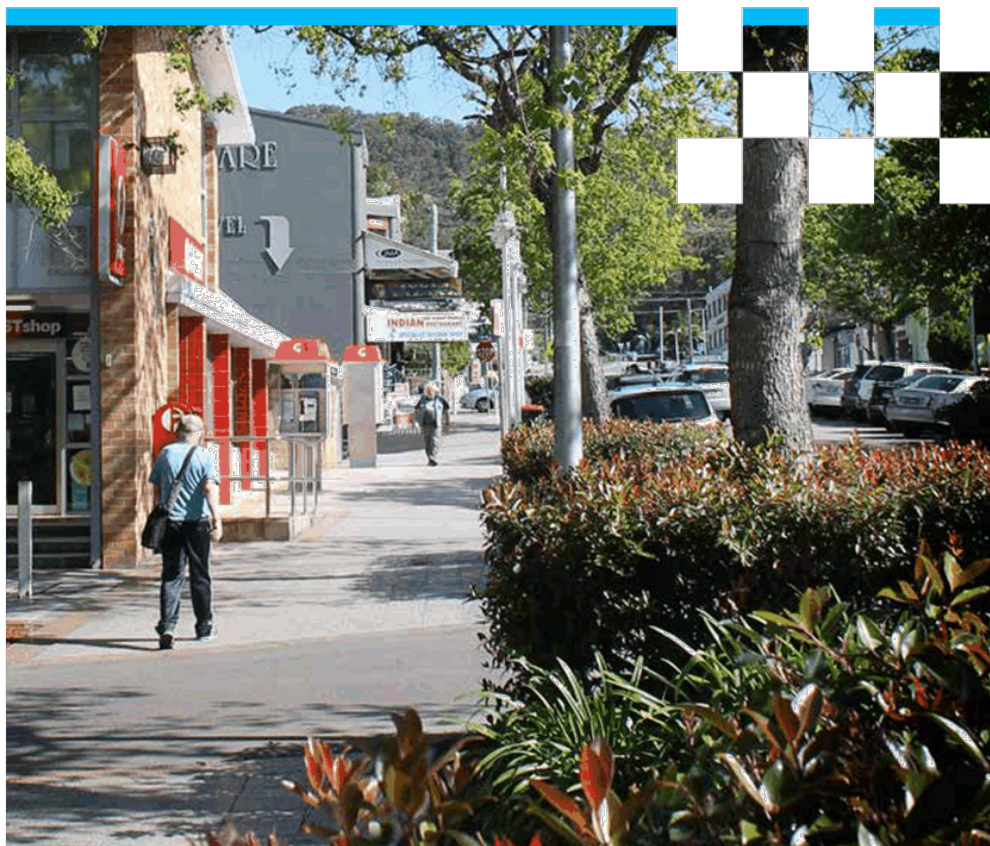
### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.





**Port Stephens**  
**Crime Prevention Plan**  
2017 - 2020

**ITEM 2 - ATTACHMENT 1      DRAFT PORT STEPHENS CRIME PREVENTION  
PLAN 2017-2020.****TABLE OF CONTENTS**

	ABBREVIATIONS	3
	List of Figures	3
1.0	Introduction	4
1.1	Overview	4
1.2	The Aim	7
2.0	Crime Profile	7
2.1	Local Crime Profile	7
2.2	Crime Priorities	8
2.2.1	Fraud	8
2.2.2	Steal from Motor Vehicle	11
2.2.3	Malicious Damage – Graffiti	12
3.0	Review Of Port Stephens Graffiti Management Plan (2009)	13
4.0	Actions and Implementation	14
5.0	Monitoring and Evaluating	16
	References	16

## ABBREVIATIONS

AFZ	Alcohol Free Zone
AG	Attorney General (NSW)
AGD	Attorney General Department
APA	Alcohol Prohibited Area
BOCSAR	NSW Bureau of Crime Statistics and Research
CPO	Crime Prevention Officer
CPP	Crime Prevention Plan
CPTED	Crime Principles through Environmental Design
CSPC	Community Safety Precinct Committee
LAC	Local Area Command
LGA	Local Government Area
PSC	Port Stephens Council
PSLAC	Port Stephens Local Area Command
PSGAT	Port Stephens Graffiti Action Team Inc.
SFMV	Steal from Motor Vehicle

## LIST OF FIGURES

- Figure 1 Plan linkage diagram
- Figure 2 Crime Prevention Plan development
- Figure 3 Crime Prevention Plan responsibilities
- Figure 4 Crime offences and trends reported from July 2011 – June 2016
- Figure 5 Fraud Offences reported July 2011 to June 2016 Port Stephens LGA
- Figure 6 Convictions of fraud - Local Port Stephens area
- Figure 7 Port Stephens Local Area Command map
- Figure 8 Steal from motor vehicle - Port Stephens LGA - April 2011 – April 2016
- Figure 9 Reported incidents of graffiti - Port Stephens LGA – 2011-2016
- Figure 10 Port Stephens Suburbs with highest number of reported incidents of graffiti

Prepared by  
**Port Stephens Council**  
in partnership with  
**NSW Police Force - Port Stephens**  
**Local Area Command**

ITEM 2 - ATTACHMENT 1  
PLAN 2017-2020.

DRAFT PORT STEPHENS CRIME PREVENTION

1.0 INTRODUCTION | 1.1 OVERVIEW

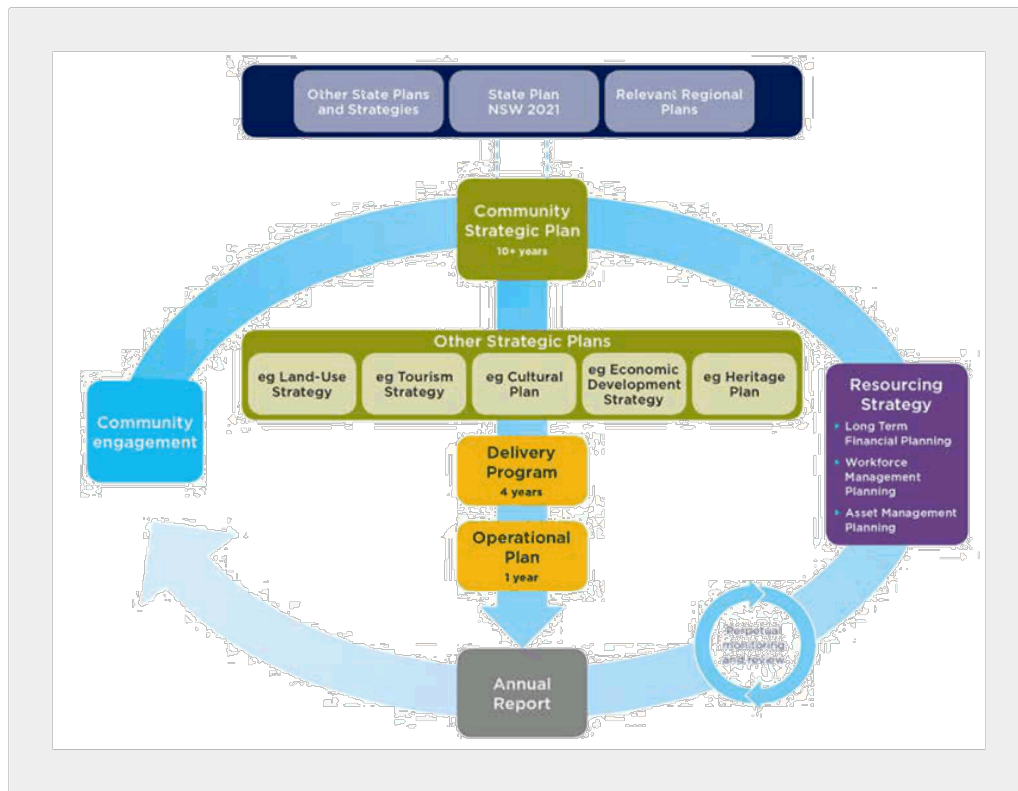
Port Stephens Council is committed to achieving goals to reduce rates of crime, reoffending and anti-social behaviour. It is recognised that Local Government is in the best position to collaboratively implement crime reduction strategies due to the localised nature of many of the crimes and antisocial behaviour. State and Federal government provides Council with guidance and funding to assist with Council's goals.

This Crime Prevention Plan (CPP) has been developed in accordance with the NSW Department of Police and Justice's 'Guidelines for developing a Crime Prevention Strategy'(Figure 2). These guidelines provide a template and information on developing a plan that focuses on the area's priority crimes. The CPP identifies the roles and responsibilities of Council and other key stakeholders and outlines an Action Plan to reduce these priority crimes.

Once the CPP is adopted by Port Stephens Council and endorsed by the Attorney Generals Department (AGD), Council will be eligible to apply for state government funding to implement strategies contained in this Action Plan. Council will also seek to develop formal support for the CPP from the various key stakeholders who will then implement the Plan.

The Port Stephens CPP focuses on actions that may reduce the incidents of malicious damage - graffiti, Steal from Motor Vehicle and Fraud occurring in the Port Stephens Local Government Area (LGA). The CPP is referred to within the Operational Plan as part of the strategic hierarchy of documents used by local governments across NSW. (Figure 1).

Figure 1  
Plan linkage diagram



Source: Office of Local Government



ITEM 2 - ATTACHMENT 1  
PLAN 2017-2020.

DRAFT PORT STEPHENS CRIME PREVENTION



**COMMUNITY SAFETY AND CRIME PREVENTION ACTIONS AND INITIATIVES UNDERTAKEN BY PORT STEPHENS COUNCIL**

In addition to addressing identified crimes within the Port Stephens LGA, other ongoing actions and initiatives being undertaken by Council are:

**Statutory enforcement:**

**Council Rangers serve residents through two main functions:**

- Enforcement of legislation (Acts, regulations, codes and policies); and
- Responsibility for effective animal control to ensure compliance with statutory and safety requirements.

**Other Ranger responsibilities include:**

- Investigations into the illegal dumping of rubbish;
- Footpath obstruction investigations;
- Illegal parking;
- Local area patrolling;
- Abandoned vehicle investigations;
- Straying stock;
- Animal (domestic) control; and
- Restrictions on public reserves and roads.

**Strategic Planning:**

- Participation in regional safety meetings;
- Incorporating safer by design – Crime Prevention Through Environmental Design (CPTED) strategies into planning processes;

- Supporting and promoting community safety initiatives;
- Maintaining and strengthening partnerships;
- Responding to community concerns regarding anti-social behaviour and malicious damage;
- Providing information and education about crime prevention;
- Implementing Alcohol Free Zones - AFZ (roads, footpaths and carparks) and Alcohol prohibited areas - APA (Parks, reserves and beaches);
- Police liaison; and
- Support to Port Stephens Liquor Accord as required.

**Council initiatives:**

- Council leads the Local Emergency Management Team to ensure a coordinated response in the unlikely event of an emergency;
- Graffiti - rapid removal;
- Local Consent Authority – Liquor License applications;
- Road closures; and
- CCTV within private buildings and developing a policy framework around the operations of CCTV in the public domain in locations such as Nelson Bay and Raymond Terrace town centres.

**ITEM 2 - ATTACHMENT 1 DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020.**

**Figure 2**  
Crime Prevention Plan development

Description of process	Stakeholders
Draft plan developed with assistance of key stakeholders	<ul style="list-style-type: none"> <li>• NSW Police Force</li> <li>• Port Stephens Community Safety Precinct Committee</li> <li>• Police Aboriginal Consultative Committee</li> <li>• Relevant Council staff</li> </ul>
Internal review of plan	<ul style="list-style-type: none"> <li>• Relevant Council Staff</li> </ul>
External review of plan	<ul style="list-style-type: none"> <li>• Port Stephens LAC</li> <li>• Graffiti Action Team</li> <li>• Port Stephens Community Safety Precinct Committee</li> <li>• Relevant Council staff</li> </ul>
Report to Council for approval to place on public exhibition	<ul style="list-style-type: none"> <li>• Relevant Council staff</li> <li>• Councillors</li> </ul>
Public exhibition	<ul style="list-style-type: none"> <li>• Relevant Council staff</li> <li>• Community</li> </ul>
Review of plan	<ul style="list-style-type: none"> <li>• Relevant Council Staff</li> </ul>
Plan sent to NSW Department Police and Justice to review	<ul style="list-style-type: none"> <li>• NSW Department and Justice</li> </ul>
Report to Council to adopt CPP	<ul style="list-style-type: none"> <li>• Relevant Council Staff</li> <li>• Councillors</li> </ul>
Formal agreements from responsible agencies	<ul style="list-style-type: none"> <li>• Relevant Council Staff and key stakeholders</li> </ul>
Plan sent to NSW Department Police and Justice for endorsement	<ul style="list-style-type: none"> <li>• Relevant Council staff</li> </ul>
Apply to NSW Department Police and Justice for grants to implement strategies in CPP Action Plan	<ul style="list-style-type: none"> <li>• Relevant Council Staff</li> </ul>

**Figure 3**  
Crime Prevention Plan responsibilities

NSW Police Force/ Port Stephens Local Area Command	<ul style="list-style-type: none"> <li>• Information and recorded crime statistics</li> <li>• Assistance in the development of the plan</li> <li>• Implementation and assistance with some of the crime reduction strategies in the Action Plan</li> </ul>
Community Safety Precinct Committee/Police Aboriginal Consultative Committee	<ul style="list-style-type: none"> <li>• Assistance in the development of the plan</li> <li>• Support with the implementation of part of the Action Plan</li> </ul>
Council	<ul style="list-style-type: none"> <li>• Development of the plan with the assistance of key stakeholders</li> <li>• Seek Council adoption of the Plan</li> <li>• Seek NSW Department Police and Justice endorsement of Plan</li> <li>• Seek funding for actions within the Plan from NSW Department Police and Justice</li> <li>• Implementation of the Action Plan with assistance from stakeholders</li> <li>• Monitoring and evaluation of the Plan</li> </ul>
Chambers of Commerce – Nelson Bay	<ul style="list-style-type: none"> <li>• Monitoring of CCTV in town centre</li> </ul>



ITEM 2 - ATTACHMENT 1  
PLAN 2017-2020.

DRAFT PORT STEPHENS CRIME PREVENTION

## 1.2 THE AIM

This CPP aims to implement strategies that assist in reducing the incidents of crime within Port Stephens. These strategies were selected through a review of relevant similar practices across Australia, careful consideration of the issues particular to the Port Stephens area and the resources available to implement the plan.

## 2.0 CRIME PROFILE

This section provides a brief analysis of crime in the Port Stephens Local Government Area.

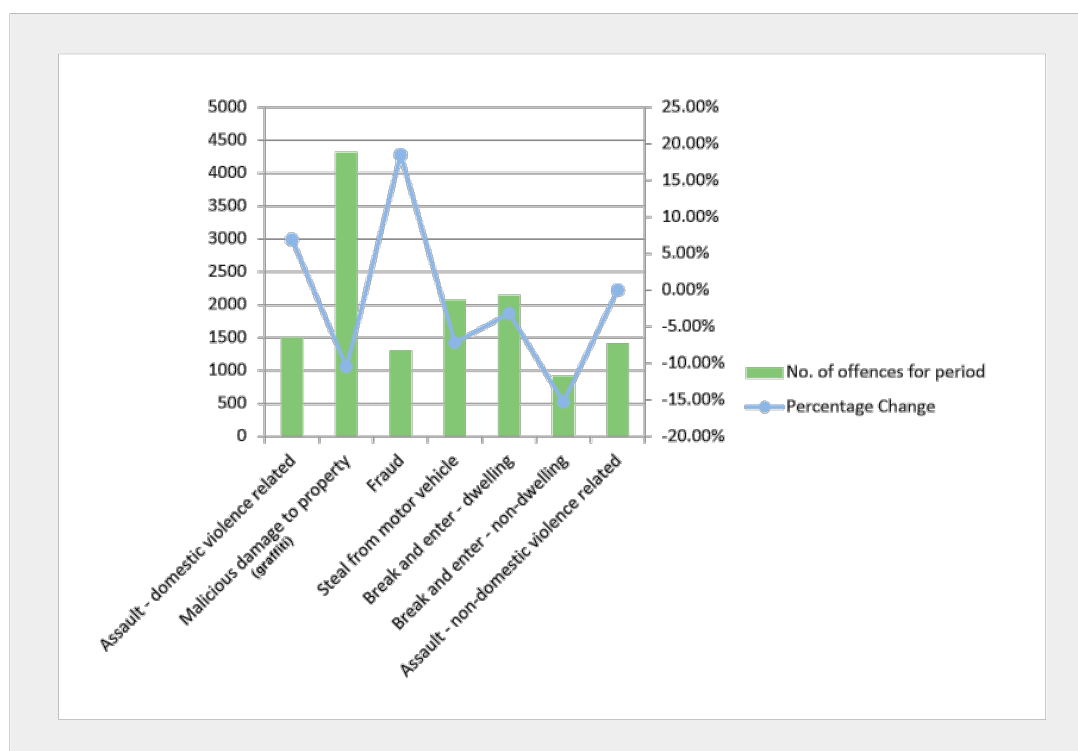
## 2.1 LOCAL CRIME PROFILE

The purpose of developing a crime profile is to determine the priorities for this CPP. In seeking information for this crime profile, Council sought advice from the NSW Police, local Crime Prevention Officer (CPO), Police Aboriginal Consultative Committee, community survey and recorded crime statistics were gathered from the NSW Bureau of Crime Statistics and Research (BOCSAR).

In determining the priorities of the plan an analysis of crime was conducted for the period July 2011 - April 2016, for each offence type.

Information provided below includes only recorded criminal incidents which are defined as by the NSW Bureau of crime statistics and research "any activity detected or reported to police".

**Figure 4**  
Crime Offences and Trends reported from  
July 2011 – June 2016



Source: NSW Bureau of Crime Statistics and Research

ITEM 2 - ATTACHMENT 1

DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020.

Figure 4 information was sourced from NSW Bureau of Crime Statistics and Research (BOCSAR) and indicates that "Assault -Domestic violence related" crime incidents in Port Stephens has had a 6.9% upward trend in the previous five year period.

There is an apparent discrepancy between the focus of Councils' programs and initiatives and identified crime hierarchy. "Assault - domestic violence related" was viewed as Port Stephens highest reported crime. It is also noted that only a handful of councils have programs and initiatives that specifically focused on this individual crime.

However, while this may appear to be a discrepancy, it is more likely a reflection of the limitations in the ability of local councils to lead and be responsible for some specific crime prevention and actions. Crime prevention is primarily the responsibility of other specific agencies, in the offence type 'Assault - domestic violence related'. NSW Police and/or state human services agencies are best placed to address this crime.

An alternative explanation is that local councils view their role in such issues as involving less 'frontline' prevention activity and more of supporting the work of justice and human service agencies while improving the wider set of protective factors within their local community. (Understanding the local government role in crime prevention - Trends & issues in crime and criminal justice, Peter Homel & Georgina Fuller - Australian Institute of Criminology, Canberra July 2015)

As a result of the limited ability of councils to address 'Assault – Domestic Violence related', the CPP seeks to focus Council on the following crime activities:

1. Fraud;
2. Steal from Motor vehicle; and
3. Malicious damage – graffiti

## 2.2 CRIME PRIORITIES

### 2.2.1 FRAUD

The prevention and control of fraud are two of the great challenges for Australia now, and in the years to come. Success in dealing with fraud will enhance Australia's business reputation, save resources in the public sector, and reduce the personal hardship that fraud causes to countless victims each year.

Fraud involves the use of dishonest or deceitful conduct in order to obtain some unjust advantage over someone else.

The circumstances in which fraud can exist are enormously diverse. Some of the types of fraud include: commercial fraud, fraud against governments, consumer fraud, migration fraud, securities fraud, superannuation fraud, intellectual property fraud, computer and telecommunications fraud, insurance fraud, plastic card fraud, charitable contribution fraud, identity-related fraud, advance fee fraud, art fraud, health care fraud and the list goes on where new opportunities for deceptive conduct arises all the time.

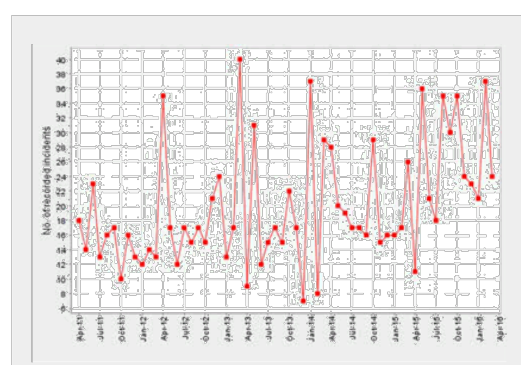
page. 8

While crimes of deception are well-established in history, recent technological, social, demographic and economic developments have brought about changes in the form fraud takes and how it is perpetrated.

Scams and cons have been around as long as commerce itself, but now, many are facilitated by digital technology. Both individuals and organisations may be the victims of fraud. (Fraud Prevention and Control in Australia, Dr. Adam Graycar, Director, Australian Institute of Criminology 2000).

Figure 5

Fraud Offences reported April 2011 to June 2016  
Port Stephens Local Government Area



**ITEM 2 - ATTACHMENT 1**

**DRAFT PORT STEPHENS CRIME PREVENTION**

**PLAN 2017-2020.**

**Fraud Types as reported in figure 6**

**Deception – 192B Crimes Act 1900**

- (1) In this Part, "deception" means any deception, by words or other conduct, as to fact or as to law, including:
  - (a) a deception as to the intentions of the person using the deception or any other person, or
  - (b) conduct by a person that causes a computer, a machine or any electronic device to make a response that the person is not authorised to cause it to make.
- (2) A person does not commit an offence under this Part by a deception unless the deception was intentional or reckless.

**Counterfeit currency – Crimes (Currency) Act 1981**

Making counterfeit money or counterfeit securities

A person shall not make, or begin to make, counterfeit money or a counterfeit prescribed security.

Penalty:

- (a) in the case of a person, not being a body corporate-imprisonment for 14 years; or
- (b) in the case of a person, being a body corporate-750 penalty units.

**Larceny by Clerks or servants – 156 Crimes Act 1900**

Whosoever, being a clerk, or servant, steals any property belonging to, or in the possession, or power of, his or her master, or employer, or any property into or for which it has been converted, or exchanged, shall be liable to imprisonment for ten years.

**Larceny – Fail to pay – 117 Crimes Act 1900**

Larceny, also known as 'stealing' includes the offence Fail to pay. The offence occurs when a person dishonestly takes property belonging to someone else without their permission, and without any intention of returning it. A stealing offence such as shop lifting and "drive offs" which are an ongoing concern of the Service Station Industry and the wider community. This offence can incur a maximum penalty of five years imprisonment.

**Make/Use false statement – 307A False or misleading applications - Crimes Act 1900**

- (1) A person is guilty of an offence if:
  - (a) the person makes a statement (whether orally, in a document or in any other way), and
  - (b) the person does so knowing that, or reckless as to whether, the statement:
    - (i) is false or misleading, or
    - (ii) omits any matter or thing without which the statement is misleading, and
  - (c) the statement is made in connection with an application for an authority or benefit, and
  - (d) any of the following subparagraphs apply:
    - (i) the statement is made to a public authority,
    - (ii) the statement is made to a person who is exercising or performing any power, authority, duty or function under, or in connection with, a law of the State,
    - (iii) the statement is made in compliance or purported compliance with a law of the State.

Maximum penalty: Imprisonment for 2 years, or a fine of 200 penalty units, or both.

**Fraudulent misappropriation**

These category have been repealed (but still applicable for pre February 2010 offences)

Make or use false instrument — s 300 Crimes Act 1900 (repealed)

Fraudulently misappropriate money collected/received — s 178A Crimes Act 1900 (repealed)

Obtain money etc. by false or misleading statements — s 178BB Crimes Act 1900 (repealed)

**Other frauds:**

Other frauds could include, identity theft, scams, credit card and banking fraud, taxation, insurance and online monies or securities fraud are examples.

Sources: Crime Act 1900 & Port Stephens Local Area Command – NSW Police Force

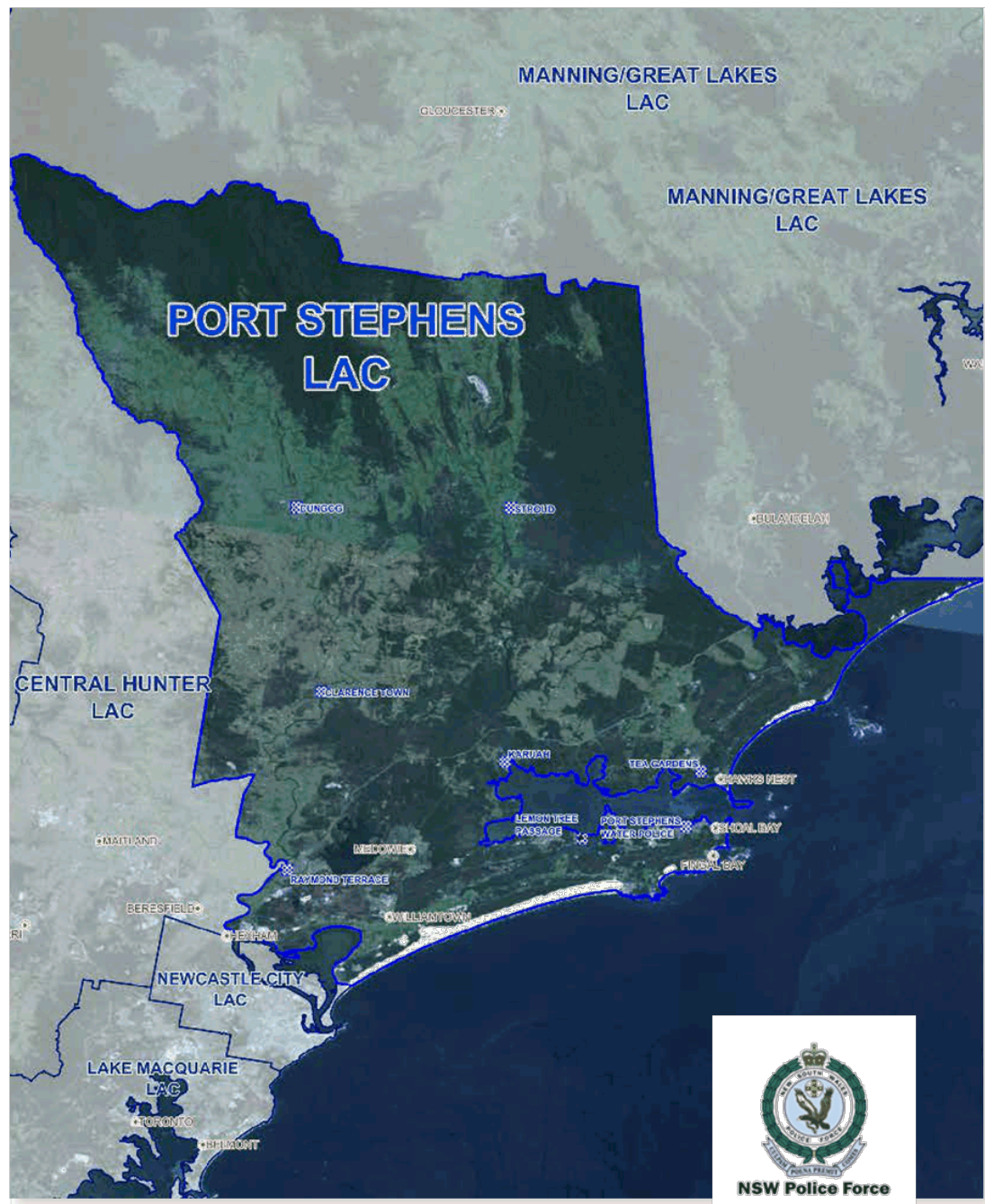




ITEM 2 - ATTACHMENT 1 DRAFT PORT STEPHENS CRIME PREVENTION  
PLAN 2017-2020.

Figure 7

Port Stephens Local Area Command map



PORT STEPHENS  
LOCAL AREA COMMAND

page. 10

ITEM 2 - ATTACHMENT 1

DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020.

## 2.2.2 STEAL FROM MOTOR VEHICLE

Steal from motor vehicles is a category offence encompassing:

- Theft of items left in cars, for example GPS, iPods, laptops, money and sunglasses;
- Theft of interior car parts such as radios or batteries; and
- Theft of external car parts such as wheels, registration plates and hubcaps

The most common location for stealing from motor vehicle offences is residential locations, followed by public places.

### Effective crime prevention interventions for implementation by local Government

Research has demonstrated the importance of considering parking provisions in housing developments, recommending that vehicles should be parked in garages or within the immediate vicinity of the property, that consideration should be given to ensuring adequate natural surveillance of parked vehicles and that there is a need to consider both vehicle safety and the convenience of residents.

Identifying risk factors for theft from car offences can inform the design and implementation of an appropriate and effective prevention. Insight into the steal from motor vehicle offences depends on the favoured methods of gaining entry into cars. This could be an unlocked vehicle, smashed window entry or using stolen keys. (Armitage 2011b)

Other contributing factors for opportunistic entry into vehicles are:

- The lack of natural surveillance;
- Victim carelessness; and
- Local places that are considered a greater risk (hotspots).

The majority of theft from car offences can be prevented by car owners adopting common sense precautions, such as:

- Making sure that the car is locked;
- Parking the car where they (or others) can see it;
- Not leaving valuables in the car; and
- Where possessions are left in the car, hiding them from sight

This crime is one of the least reported as most victims' motor vehicle insurance does not cover their personal belongings. The most commonly stolen items in rank order:

- Registration plates - removal with a screwdriver;
- GPS devices - smashed window;
- Cash, wallets and other valuables - smashed window or forced lock; and
- Laptop computer, mobile phone, tablets and other small items - smashed window or used Bluetooth to detect presence. (BOCSAR 2012)



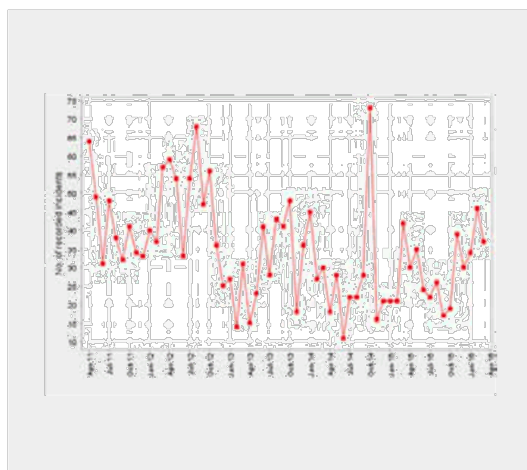
ITEM 2 - ATTACHMENT 1

DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020.

Figure 8

Steal from motor vehicle

Port Stephens LGA April 2011 – April 2016



Bureau of Crime Statistics and Research graph as outlined above in figure 8, indicates the downward decrease in reported steal from motor vehicle incidents from 2011 to 2016. It is noted that since 2015 to 2016 reported incidents have increased and decreased sporadically, this could be due to Port Stephens being a high tourist holiday destinations and school holiday periods.

NSW Police-PSLAC statistics indicate that Steal from Motor Vehicle reported incidents between 2011 and 2016 were reported as occurring mostly in public places (1185), residential (562) and carparks (402).

Most reported stolen items were cash (610), communications equipment (236) and credit cards (245).

The five top suburbs reporting theft of items were Raymond Terrace (674), Nelson Bay (212), Medowie (188), Williamtown (139) and Anna Bay (121).

### 2.2.3 Malicious Damage – Graffiti

Definition: (BOCSAR) - Malicious damage is defined as the wilful and unlawful destruction, damage or defacement of public or private property or the pollution of property or a definable entity held in common by the community. Malicious damage includes the police incident categories of graffiti.

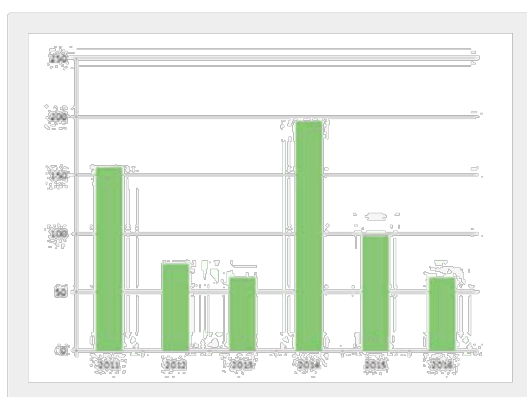
Graffiti is a community wide issue and can cause people to feel unsafe and creates a perception that nobody cares about the area, if left unattended it may attract more vandalism, and even promote other more serious crime.

Graffiti is the act of marking property with writing, symbols or graphics and is illegal when committed without the property owners consent.

Figure 9

Reported incidents of graffiti

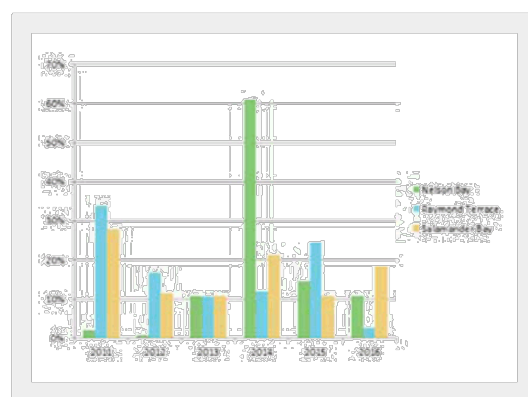
Port Stephens LGA – 2011-2016



Source: Port Stephens Local Area Command – NSW Police force  
page. 12

Figure 10

Port Stephens Suburbs with highest number of reported incidents of graffiti



Source: Port Stephens Local Area Command – NSW Police force



**ITEM 2 - ATTACHMENT 1**

**DRAFT PORT STEPHENS CRIME PREVENTION**

**PLAN 2017-2020.**

Graffiti in Port Stephens consisted of 653 reported incidents from June 2011 – April 2016. Locally reported graffiti statistics show that Raymond Terrace (192), Nelson Bay (149) and Salamander Bay (104) have the highest recorded incidents of graffiti within the Port Stephens LGA. It is also noted that the incidents should be treated very cautiously as Port Stephens has a high number of visitors relative to the residential population. This is because the calculations are based on estimated residential population and no adjustment has been made for the number of people visiting each LGA per year.

It was noted that 66 convictions for graffiti were of adult age and 13 were juvenile offenders. There are no current gender statistics available. As noted the offences were primarily committed by adults and the perception that

graffiti is a youth related crime is not apparent in most of the graffiti convictions within Port Stephens.

The analysis of the data indicates that there are inconsistencies in the reporting of graffiti incidents between government and other private agencies. It is considered likely that some incidents are reported twice (e.g. graffiti on Council assets reported to Crime Stoppers are reported to Council and included in Council's database counting the incident twice). It is also likely, that due to public uncertainty of ownership of assets, there is confusion about where or how to report the crime and some people may be reluctant to report the crime at all.



**3.0 REVIEW OF PORT STEPHENS GRAFFITI MANAGEMENT PLAN (2009)**

Council has recently reviewed the Port Stephens Council Graffiti Management Plan (2009) in conjunction with the new cpp.

The objective of that plan was to provide a clear and consistent framework for the management of graffiti in the Port Stephens LGA. The objectives of the plan:

- Reduce the social, environmental and economic impact of graffiti throughout Port Stephens;
- Provide information and support to other groups and individuals who are reporting and removing graffiti;
- Seek commitment from owners of private property to rapidly remove graffiti vandalism and implement preventative measures where possible;
- Introduce and promote a centralised system to coordinate the removal of graffiti within Council;
- Provide lawful creative outlets for potential graffiti vandals; and
- Identify locations and processes for the placement of legal graffiti in public places

The plan presents an integrated approach to graffiti management applying nine principles which are intended to work together as an integrated response. No one principle can be successful without other principles occurring.

Council identifies that graffiti is not only a Council responsibility but a whole of community issue including state agencies and community.

Port Stephens Council has effective graffiti initiatives including:

- Prompt removal of graffiti on Council owned assets;
- Support to a local volunteer graffiti removal team – Port Stephens Graffiti Action Team Inc. (PSGAT);
- Graffiti Wipe kits available for purchase for removal of graffiti on private land for residents; and
- Support and promotion of National Graffiti Day annually

It is envisaged that Council will draft a Graffiti Management Policy once the CPP has been adopted by Council and endorsed by the Attorney General as a Safer Community Compact.

**ITEM 2 - ATTACHMENT 1 DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020.**
**4.0 ACTION AND IMPLEMENTATION**

This section outlines how the Port Stephens Council and community propose to achieve the plans objectives. These actions arise from community and NSW Police discussions and are viewed as the best way forward in combating the crimes, steal from motor vehicle, graffiti damage and fraud incidents in our community.

Key owner			
SP	Social Planning	PS LGA Schools	Port Stephens Local Government Area Schools
PSLAC	Port Stephens Local Area Command	FS	Facilities & Services
COM	Council communications	PS	Property Services
CD&E	Community Development & Engagement	VIP	Volunteers in Policing
CS	Council Customer Service	RS	Rates Section
PSGAT	PS Graffiti Action Team Inc	RES	Residents
VIC	Volunteers in Policing	HW	Hunter Water
TARGET 1: GRAFFITI			
No.	Action	Timing	Owner
1.	Develop a graffiti media campaign	June 17	SP, PSLAC
2.	Youth/school education program (new program rollout)	June 17	PSLAC, PSLGA, Schools
3.	Supply Graffiti Wipe kits for purchase to residence	Ongoing	CS, FS
4.	Continue the successful rapid graffiti removal program	Ongoing	FS, PSGAT
5.	Promotion of annual "Graffiti Removal Day" activity	Oct 17	RES, SP, NSW Govt. PSLAC
6.	Monitor and respond to graffiti complaints received by Council	Ongoing	CS, FS, PSLAC
7.	Investigate funding streams for a mobile CCTV camera for use in identification of graffiti vandals	Ongoing	SP, PSLAC
8.	Graffiti facts flyer or media	June 17	SP, PSLAC ,FS
9.	Actively pursue CPTED initiatives through the DA planning process	Ongoing	SP, PSLAC
10.	Draft an updated Graffiti Management Policy for Council	May 17	SP, PSLAC, FS
11.	Support the use of community murals/street art in highly targeted Council and non-Council assets and utilities (as per Councils Public Art Policy)	Ongoing	CD&E, PS, HW
12.	Investigate possible use of juvenile offenders in the removal of graffiti through liaison with young offenders program	April 17	PSLAC, PSC

**ITEM 2 - ATTACHMENT 1**
**DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020.**

<b>TARGET 2: STEAL FROM MOTOR VEHICLE (SFMV)</b>			
No.	Action	Timing	Owner
1.	Develop a promotional campaign to encourage crime prevention activities, including highlighting the dangers of leaving valuables in cars	Annually	SP, PSLAC
2.	Commence Steal from Motor Vehicle campaign	Annually	SP, PSLAC
3.	Distribution of educational material to raise community awareness in relation to steal from motor vehicle, including Rego Plate Lock events	Jan 18	PSLAC, VIP
4.	Source funding for the purchase of surf lock type devices for residents and for tourist purchase	Ongoing	SP, CS
5.	Develop a promotional campaign to encourage reporting of Steal from Motor Vehicle crime and to provide instruction on how all community members can prevent Steal from Motor Vehicle crime	June 18	PSLAC, SP
<b>TARGET 3: FRAUD</b>			
No.	Action	Timing	Owner
1.	Port Stephens Examiner editorial outlining fraud activity in Port Stephens	June 17	SP, PSLAC
2.	Provide Little Black book outlining fraud activities Seniors week	March 18	SP, CS, PSLAC
3.	Education opportunities to reduce incidence of identity fraud	Annually	PSLAC, SP, COM
4.	Prepare a mail theft factsheet to be distributed to community	Annually	SP, RS, PSLAC, VIP

ITEM 2 - ATTACHMENT 1 DRAFT PORT STEPHENS CRIME PREVENTION PLAN 2017-2020.

## 5.0 MONITORING AND EVALUATION

Two types of evaluation are common in crime prevention—process and outcome evaluation. The actions in the plan will be evaluated annually and as required by NSW Justice. The progress report will monitor and evaluate each action outcome. The report will evaluate and monitor whether the goals and objectives have been achieved and assessing program effectiveness in terms of end results. The CPP actions will be monitored and evaluated utilising the following:

- an understanding of program features that did/did not work;
- measurement of program success in meeting stated goals and objectives;
- evidence base to justify program continuation and/or expansion;
- accountability;
- how is the project progressing;
- is the project making a difference;
- are there any unintended project effects;
- should this program be re-funded;
- what were the main benefits of the program;
- what were the main drawbacks of the program;
- were the goals realistic and achievable;
- was the crime prevention strategy successful in reducing the incidence of the targeted crime? If yes, by how much and over what period;
- how long did it take for the strategy to start having an effect and has the effect been continuing;
- has there been an increase in the reporting of these crime incidents;
- has the intervention impacted on the level of the target crime in surrounding areas; and
- how do the program outcomes measure up against the program performance indicators.

## REFERENCE LIST

New South Wales Bureau of Crime Statistics and Research (BOCSAR)

Fraud Prevention and Control in Australia, Dr. Adam Graycar, Director, Australian Institute of Criminology 2000

Evaluation good practice - Two types of evaluation are common in crime prevention—process and outcome evaluation (Idriss et al. 2010)  
<http://www.aic.gov.au/publications>

Effective crime prevention interventions for Implementation by local government. (Armitage.2011b)

Port Stephens Graffiti Management Plan 2009

Fraud Prevention and Control in Australia, Dr. Adam Graycar, Director, Australian Institute of Criminology 2000

Crimes Act 1900 - Understanding the local government role in crime prevention - Trends & issues in crime and criminal justice, Peter Homel & Georgina Fuller - Australian Institute of Criminology, Canberra July 2015

# MINUTES ORDINARY COUNCIL - 11 APRIL 2017

## ITEM 2 - ATTACHMENT 2 2013-2016 CRIME PREVENTION PLAN ACTION SUMMARY TABLE.

PORT STEPHENS CURRENT CRIME PREVENTION PLAN ACTIONS AND OUTCOMES 2013-2016		
Actions	Deliverables	Measures
<p>Education and awareness community &amp; tourists</p> <p>*School Holidays</p> <p>*Police volunteers utilised</p> <p>Successful Funding \$10,000 funding received (steal from Motor Vehicles)</p> <p>Successful Safer streets and suburbs funding received \$120,000 – The hub – Raymond Terrace</p>	<ul style="list-style-type: none"> <li>Council website</li> <li>Development of education program</li> <li>Facebook</li> <li>Police/Community Day</li> <li>Operation Tabella- Police</li> <li>Examiner editorials</li> <li>Successful funding</li> <li>Funding application submitted</li> </ul>	<p><b>Actions ongoing</b></p> <ul style="list-style-type: none"> <li>Redundant PSC website contained Community Safety &amp; Crime Prevention webpages - new website includes Crime Prevention Plan and Alcohol Free Zone information with maps.</li> <li>Posters and brochures – "lock or lose your valuables"</li> <li>Delivered and disseminated to Holiday Parks, campers, beach carparks, shopping centres</li> <li>Facebook was the main FREE online safety and crime education tool for community – now not utilised.</li> <li>Held annually- Promotional Council/Police products disseminated- Raymond Terrace &amp; Nelson Bay</li> <li>FREE Number plate security anti-theft screws fitting</li> <li>Alcohol Free Zone &amp; Alcohol Prohibited Areas information communicated to the community and visitors</li> <li>New year's eve and Australia day alcohol information</li> <li>Police/Council Community Day editorial containing steal from vehicle education information</li> <li>Successful Funding \$10,000 funding received (steal from Motor Vehicles)</li> <li>Successful Safer streets and suburbs funding \$120,000 – The hub –Raymond Terrace</li> <li>Partnered with F&amp;S – Funding for lighting in for Ross Wallbridge Park Raymond Terrace- awaiting outcome</li> </ul>
Safety Crime Wise Expo	Local expo -All things security, Police information Devices, security screens, security, lighting and personal safety	<b>Action not completed – No funding available</b>
CPTED - Crime Prevention through Environmental Design	<ul style="list-style-type: none"> <li>Development Applications (DA) assessed</li> <li>Police/Council assessed Development Applications (DA)</li> <li>Safety Audits completed - NOM</li> </ul>	<p><b>Action ongoing</b></p> <ul style="list-style-type: none"> <li>CPTED assessment of DAs assessed by Council staff</li> <li>DAs assessed in partnership by Police and Council staff</li> <li>Safety audits completed by Council staff/Police and Councillors as required</li> </ul>
Attend local Community Safety Precinct meetings in partnership with Police, community and other stakeholders	<ul style="list-style-type: none"> <li>Attend 4 meetings per year</li> <li>Informal Police meetings as required</li> </ul>	<p><b>Action ongoing</b></p> <ul style="list-style-type: none"> <li>Minutes trimmed</li> <li>Assist Police /Council as matters arise</li> </ul>
Develop Council Alcohol Management Framework	Governance framework or Strategy to coordinate the management of alcohol matters, legislation and compliance across Council property and Port Stephens LGA to mitigate risk and enable enforcement and compliance by Police	<p><b>Action has commenced</b></p> <ul style="list-style-type: none"> <li>Alcohol on Councils property Policy drafted</li> <li>Coordinate alcohol matters across council &amp; community property to ensure compliance and risk mitigation</li> <li>Manage Liquor licensing applications and licenses for events and functions</li> <li>Manage AFZs and APAs</li> <li>Audit and manage signage in Parks and Reserves to manage risk and compliance</li> <li>Review outdated PSC Parks and Reserves Policy</li> <li>Assessment of Licensed Premises Development applications</li> <li>Review Community Impact Statements and provide objections where required via Social Impact assessment</li> <li>Manage saturation of Licensed Premises</li> </ul>
Your Place (space improvement Project) Youth project	Improvement and maintenance of identified public space utilised by youth -Project driven by young people	<p><b>Action not completed – No funding available</b></p> <p>Action to be added in PSC Youth Strategy when reviewed</p>



ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.



## 1. Introduction

The Crime Prevention and Community Programs Division of the NSW Department of Police and Justice leads the development of evidence-based policies and programs to prevent crime and reduce reoffending in NSW. In achieving its objectives, the Division works in partnership with communities, government agencies, businesses and other service providers. The Division is committed to achieving goals identified in the NSW State Plan ([www.nsw.gov.au/stateplan](http://www.nsw.gov.au/stateplan)), specifically:

- reduced rate of crime, particularly violent crime
- reduced re-offending, and
- reduced levels of anti-social behaviour.

The *Children (Protection and Parental Responsibility) Act 1997* ("the Act") provides for the Attorney General to support Councils leading crime prevention activity in NSW. Under Part 4 of the Act, Local Government is identified as the lead agency for identifying and implementing local crime prevention strategies in NSW. These guidelines support the development of an evidence-based strategy designed to reduce crime, as per the provisions of section 32 of the Act.

Pursuant to Part 4, Division 3 of the Act, the Division has processes to support the endorsement of a crime prevention strategy by the NSW Attorney General as a safer community compact. Councils whose endorsed safer community compact targets a priority crime are eligible to apply for a grant to implement the crime prevention strategy's action plan.

## 2. Crime prevention strategies

Effective strategies that prevent crime involve firstly the acknowledgement of a crime risk and secondly the development of actions designed to reduce that risk. To be effective, it requires a thorough understanding of a local crime problem, where and when it occurs, who is committing it and who is affected by it.

Most crime that occurs is opportunistic, it's not planned or very well thought through, and can be reduced by removing the opportunity to commit it and increasing the likelihood of an offender being caught. Crime occurs where the opportunity to commit it is high and the risk of being caught is low. Research into patterns of crime has shown that crime is not simply a function of where people live but reflects the opportunities for crimes to occur.

Crime is more likely to occur in some places rather than others (hotspots) and at some times more than others (e.g. alcohol related assault is more likely on Friday and Saturday nights and break and enters are more likely during weekdays). Crime is also more likely to be committed against some people more than others (e.g. repeat victims), and against some things more than others (such as stealing items that are easy to sell).

Our research and experience shows us that effective crime prevention and reduction measures target these factors specifically. Strategies that aim to reduce criminal opportunity and increase risk are known as situation prevention measures (refer to the Situational crime prevention



**ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.**

factsheet on the Preventing Crime website: [www.crimeprevention.nsw.gov.au/Lawlink/cpd/ll\\_cpdiv.nsf/vwFiles/SituationalCrimePreventionFactsheet\\_March2008.pdf](http://www.crimeprevention.nsw.gov.au/Lawlink/cpd/ll_cpdiv.nsf/vwFiles/SituationalCrimePreventionFactsheet_March2008.pdf). It is these situational crime prevention techniques that are most effective in local crime prevention activities and should be the focus of a local crime prevention strategy. The "Twenty-five techniques of situational crime prevention" (page 2 of the factsheet) is useful for identifying local factors that may encourage or control crime.

### **3.1 Developing a crime prevention strategy**

There are five key stages in the development of a crime prevention strategy

1. Develop a crime profile
2. Research crime prevention approaches
3. Negotiate support
4. Develop an action plan
5. Implement and monitor your crime prevention strategy.

#### **3.1 Develop a crime profile**

A crime profile will allow you to get a clear idea of the types of crime affecting your area and help you to determine what type of crime will be the focus of your strategy. The crime profile should identify the level and types of the crime; where the crime occurs; and the factors that influence the incidence of that crime in a local setting. Acknowledgement of where and why a crime is occurring, who is committing it, and who are the victims of it will enable you to develop strategies that can specifically reduce that crime. A crime profile should be developed in partnership with your Police Local Area Command.

#### **Data analysis**

Analysis of crime trends in your local government area will help identify the most prevalent crime(s). The "LGA Ranking" and "Crime Trends" tools on the Bureau of Crime Statistics and Research (BOCSAR) website can be used to identify where your LGA is ranked in NSW for key crimes, as well as long term trends for these crimes. When considering the key crime(s) to be targeted in your LGA, consider those crimes that have the greatest number of reported incidents; are consistently ranked significantly higher than NSW averages for that crime; and/or those that continually increase at a higher rate than they increase elsewhere in NSW.

The BOCSAR website ([www.lawlink.nsw.gov.au/bocsar](http://www.lawlink.nsw.gov.au/bocsar)) provides data for your whole LGA. Your Police Local Area Command can complement this data with details of key locations for crimes within the LGA; the factors that contribute to the occurrence of the crime; and a profile of who is involved in this crime, considering both offenders and potential victims.

Police will also be able to advise if there are any factors that may have caused a sudden increase in a crime, or whether the crime is likely to be impacted by other factors such as targeted Police operations. This information is essential to ensuring that your crime prevention strategy is relevant and targeted to local circumstances.

When considering crime data, it is important to note that certain crimes, such as assault and malicious damage, are often not reported. To gain evidence into the levels of under-reported crime, consult Police and consider data such as input from hospital admissions, reports to hotlines and Council registers (e.g. complaints, maintenance or graffiti). The data that informs your crime prevention strategy should be used as the baseline data for your evaluation.

**ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.**

**Situational analysis**

Once you have identified the crime you wish to target, use the 25 techniques of situational crime prevention tool to analyse the environment where crimes are most prevalent and explore why crimes occur there. Consider whether environmental design, maintenance or surveillance factors make it easier for crime to occur. If so, seek support from Police to conduct a Crime Prevention Through Environment Design (CPTED) audit. Factors such as poor lighting, overgrown foliage and placement of barriers or signage may be reducing the opportunity for natural surveillance.

Try to gain an understanding of why victims and offenders are in the area, and consider whether there is a chance to reduce the opportunity for offending, or reduce the vulnerability of potential victims. Give thought as to whether levels of offending are influenced by factors such as transport to or from the space; the service of alcohol in or near the space; or whether there are other attractions or services that could exacerbate crime, or that could potentially discourage crime.

Consult with Police and service providers to gain insight into other factors that contribute to the incidence of the crime in the area. Consider community input provided through community consultations for social and other planning purposes recently undertaken. Where further input is required, utilise existing community and service provider networks and interagencies to gain a broad perspective on the factors contributing to crime in the area.

Ensure that you actively engage agencies, businesses or community representatives who have information or expertise regarding the crime, victims and offenders, and potential victims and offenders. You should also consult with your Police

Local Area Command regarding their priorities and confirm that Police are in agreement with your proposed target crime.

Once you have considered all input, you need to consider whether you have access to the expertise, ability, resources and commitment needed to implement the Action Plan that will reduce the identified target crime. Consider what agencies and resources you can access, and ascertain their willingness to commit to a project.

**3.2 Research crime prevention approaches**

Once you have decided on the crime to be targeted, you should research actions or activities that have been proven to positively impact on the crime you are targeting. When considering suitable actions, ensure that they have been designed to reduce the risk factors and increase the protective factors relating to crime in your community.

For example, if you are researching actions or activities to reduce break and enter crimes, you would initially focus on target hardening, making it harder for the crime to be committed. If you also wanted to reduce the motivation for offenders, you would need to understand why they committed the crime and consider which agency is best placed to implement actions specifically designed to address those risk factors. Ensure that any actions or activities you consider have evidence in support of any outcomes claimed.

A review of crime prevention projects implemented by NSW councils came to a number of conclusions regarding the crime prevention approaches that councils were most effective at implementing. The report found that:

**ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.**

- Efficiently and effectively designed, managed and implemented programs are more likely to be successful than those that are not.
- Programs that have an employed program officer to oversee the program are more likely to be successful than those that do not.
- Programs that aimed to reduce theft crimes such as break enter and steal, steal from dwelling and steal from a retail store were most consistently successful.
- There was no evidence of community arts programs having successfully achieved a reduction in crime.
- Programs targeted at families and parents have generally been unsuccessful.
- No significant relationships were found between awareness raising strategies and changes in levels of crime reporting.

Generally, this review suggests that councils are most effective at implementing situational crime prevention activities. Crime prevention strategies should be developed in close consultation with Police to ensure that your action plan complements local police activity.

The following are useful resources for identifying evidence based crime prevention strategies:

- [www.crimeprevention.nsw.gov.au](http://www.crimeprevention.nsw.gov.au)
- [www.crimereduction.homeoffice.gov.uk](http://www.crimereduction.homeoffice.gov.uk)
- [www.popcenter.org](http://www.popcenter.org)

### 3.3 Negotiate support

Once you have decided what strategies you are going to implement, you need to engage the support of any agencies that have an influence over the factors causing the crime or that may limit it (refer to Stakeholder

engagement factsheet, which is available at [www.crimeprevention.nsw.gov.au/Lawlink/cpd/ll\\_cpdiv.nsf/vwFiles/StakeholderEngagementFactsheet\\_March2008.pdf](http://www.crimeprevention.nsw.gov.au/Lawlink/cpd/ll_cpdiv.nsf/vwFiles/StakeholderEngagementFactsheet_March2008.pdf).

For example if your analysis showed a problem with alcohol related crime in a particular area you would need to negotiate support with local licensees and transport providers as a start. You should also negotiate access to any data that you require to enable you to measure the impact of your action plan. Police should always be actively involved in the design and implementation of a crime prevention strategy. Your Police Local Area Command may have established a Community Safety Precinct Committee (CSPC). The CSPC may be able to provide assistance with the implementation and monitoring of your crime prevention strategy. Other participating agencies will vary depending on what crime you are targeting.

For example, if an action plan targets alcohol related assault, you should consider engaging representation from a local Liquor Accord; the Office of Liquor, Gaming and Racing; licensees; transport providers; Chamber of Commerce and health workers. If you are aiming to reduce retail theft, you should consider engaging the Chamber of Commerce; individual business owners, managers and security staff; shopping centre management; and the local Council.

If you have evidence that a particular group within your community is affected by the target crime, either as victim or offender, you should consult with a relevant network or inter-agency that represents or advocates for that group. For example, if a crime prevention strategy targets a crime that disproportionately impacts on young people, then youth representatives and youth service providers should be involved.



**ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.**

If your crime prevention strategy targets a crime that impacts on the local Aboriginal community, representation should be sought from Council's Aboriginal Consultative Committee, your local Aboriginal Community Justice Group, Aboriginal Community Working Party or Aboriginal service inter-agency.

It is also important that you involve all relevant council staff, such as planning and maintenance staff and rangers. Often, councils can address local crime problems by training and utilising existing staff and services.

### **3.4 Develop your crime prevention strategy**

A crime prevention strategy comprises a crime profile and an action plan summarising strategies designed to reduce the targeted crime(s).

#### **Crime profile**

A crime profile should clearly and concisely summarise your data analysis and situational analysis, providing a clear rationale for the selection of the target crime, and the selection of any target locations or groups within the community. It should also include details of the factors that were identified as contributing to the incidence of that crime in your community. It is important that your profile provides a rationale for the focus of the crime prevention strategy without stigmatising people or places within the community.

#### **Action plan**

The action plan should concisely summarise the actions and activities you have selected to reduce the specific target crime. Should you wish to highlight existing services or programs that can impact on the crime, these should be briefly referenced in an introduction. You should also provide details of any agencies or businesses that have committed to support

you to implement the action plan and give a brief explanation of why they were selected. Your strategy should focus on a small number of actions that can be implemented, as Councils with endorsed safer community compacts will be required to report every six months to the Attorney General on the status of each action in your crime prevention strategy.

For each strategy, you will need to detail:

- the target crime
- what the project will actually do
- a clear and measurable objective linked to a reduction in crime
- the rationale for the selected actions
- the role of lead agency and project partners
- clear performance measures and timeframes.

Your crime prevention strategy and action plan should be developed using the crime prevention strategy template (downloadable in Microsoft Word format from [www.crimeprevention.nsw.gov.au/Lawlink/cpd/ll\\_cpdiv.nsf/vwFiles/CrimePreventionStrategyTemplate.doc](http://www.crimeprevention.nsw.gov.au/Lawlink/cpd/ll_cpdiv.nsf/vwFiles/CrimePreventionStrategyTemplate.doc)). Electronic advice from key partners detailing their commitment and agreement must be submitted along with your plan.

### **3.5 Implement and monitor your crime prevention strategy**

Prior to implementation of your action plan, agreement should be sought from relevant agencies regarding access to data that will:

- enable the actions and projects to be appropriately targeted
- enable selection of appropriate participants or locations for your project, and
- assist with measurement of project outcomes.

**ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.**

Evaluation of your crime prevention strategy should primarily focus on outcomes, giving consideration to the crime prevention strategy's overall impact on the target crime. Evaluation of actions and activities within the crime prevention strategy should consider both process and outcomes. The purpose of a process evaluation should be to identify how the process influenced the crime prevention strategy's outcomes; what factors contributed to the action plan's success or failure; and how easily each action or project could be replicated.

While evaluation should consider the strategy's overall impact on the target crime, a crime prevention strategy targeting a specific location or a small number of people is not likely to impact on an overall Local Government Area's crime statistics. In these circumstances, it is suggested that you negotiate with Police to provide data on crime levels within a specific geographic area. Consider any impact on reported crime statistics in the targeted location against state-wide trends and trends in neighbouring areas.

If your target crime was prevalent at particular times, on particular days, or at particular times of the year, ensure you use appropriate comparative data. If your strategy involves programs for offenders or people at high risk of offending, you may consider obtaining consent from program participants

to report on their offending behaviours and other risk factors prior to, during and after program participation. Use of this data should not enable the identification of individuals, but should be used to measure general project or crime prevention strategy outcomes.

When measuring the impact of a situational crime prevention approach, it is recommended that you contrast levels of the crime in the target site with levels in a control site. A control is a site that is similar in nature to your target site, but that is not subject to the intervention. You should also work closely with Police to monitor whether or not your crime prevention strategy could be displacing crime to another location, or if your actions or activities have influenced an increase or decrease in other crimes.

#### **4. Endorsement of your crime prevention strategy as a safer community compact**

Councils can seek the Attorney General's endorsement of their crime prevention strategy as a safer community compact. Some Councils with an endorsed safer community compact are eligible to apply for a grant to implement their action plan.

ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.

## Crime prevention strategy template

### 1. Crime profile

*(see Section 3.1 in the Crime Prevention Planning Guidelines)*

#### 1.1 Local crime priorities

Identify your local priority offences. Your crime prevention strategy should only focus on one or two priority crimes.

The following criteria should be used to identify your priority offences:

- **Total number of offences** – Are there enough offences to warrant the selection of the offence as a priority?
- **Trend** – Has the offence increased over the past 36-month period?
- **State ranking** – Where does your LGA rank in NSW for the offence?
- **Comparison analysis** – How does your trend compare to broader NSW or other areas with similar demographics?
- **Capacity** – does your Council and community have the necessary services, infrastructure, expertise and commitment necessary to impact on the offence? Is there a realistic chance that a strategy led by Council can reduce this offence?

To assist with your crime data analysis, the Bureau of Crime Statistics and Research website has a number of online tools that can help you to identify your priority offences. These tools include:

- **Crime trends tool** – This tool allows you to identify the crime trend for various offences within your LGA, over any period from two to 10 years.
- **LGA ranking tool** – This tool allows you to see where your LGA ranks (in NSW) for various offences.
- **Offences by premise type** – This tool allows you to identify where major crime occur, by premise types (e.g. licensed premises, residential address, outdoor public space etc).

#### 1.2 How the priority crimes were selected

Input received from police intelligence and any other relevant sources should be included here.

Summarise relevant advice from your Police Local Area Command for your priority offences:

**ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.**

- Hot spots (where the majority of the offences geographically occur).
- Priority times and days (when the majority of offences committed).
- Victim and offender profiles (demographics for victims and offenders).
- Any Police operations or strategies designed to reduce your target crime (subject to your Police Local Area Commander's consent).
- Identification of unique factors that are contributing to the high offending rate.

**You may wish to present this data in the following format:**

Offence	Hot spots	Priority times	Victims and offenders

### 1.3 Situational analysis

Identify the key points from your situational analysis here.

Document any environmental factors that contribute to levels of offending in the area. Consider:

- Whether the design and maintenance of the environment makes it easier for crime to occur.
- Whether the presence of transport or lack of transport contributes to the incidence of offending.
- If the number of people using the environment make it easier for the offence to be committed.
- If the proximity of licensed premises or other businesses or attractions influences the levels of crime in the environment.

### 1.4 Stakeholders

Summarise any information provided from stakeholders and set out any commitments from them in this section.

Include any relevant information from stakeholders that provides further insight into factors that influence the incidence of crime in the environment you are targeting. This would include input from service providers or businesses in the area you are targeting and/or those that interact with people who are at risk of experiencing crime in the environment.



## ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.

### 2. Actions and implementation

In this section include a brief overview of any activities, projects and actions that you will be implementing with partners or with your own funding in addition to the Action Plan in section 4.

(See Section 4 in the Crime Prevention Planning Guidelines.)

These definitions will assist you to develop your action plan.

Type	Definition
<b>Target offence</b>	The target offence is the crime that you are focusing on.
<b>Project</b>	Describe how you intend to impact on the target offence. For example, if you are targeting assault, you might develop a project that aids in dispersing patrons leaving licensed premises after 10.00 pm on Friday and Saturday nights.
<b>Rationale</b>	The rationale should detail the reasons why the strategy is appropriate and why it is believed it will impact on the target offence. In the case of assault it might be "75 per cent of assaults are alcohol related and occur outside licensed premises. Research suggests that the provision of improved transport options along with the enforcement of responsible service of alcohol can reduce the incidence of these types of offences."
<b>Lead agency and partners</b>	If you nominate project partners, ensure that you consult and negotiate with them to seek their support and to secure their commitment.
<b>Objective</b>	The pre-specified intended outcomes of a program, process, or policy. Objectives tend to be more specific than goals. For example, "To achieve a 10 per cent reduction in the incidence of alcohol related assaults in hot spots identified by police between the hours of 10 pm and 3 am on Friday and Saturday nights".
<b>Expected outcome</b>	The desired longer-term impact, usually expressed in terms of broad socio-economic consequences, which can be attributed to the project.

ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.

Type	Definition
Performance measures	Involves ongoing data collection to determine if a program is implementing activities and achieving objectives. It measures inputs, outputs, and outcomes over time to objectively measure the degree of success a program has had. In general, pre and post comparisons are used to assess change.

**Refer to 4: Crime Prevention Action Plan template**

### 3. Monitoring and evaluating

Describe how your strategy will be monitored, who will be responsible for the monitoring, what information will be collected and how it will be used to evaluate the success of the Crime Prevention Strategy. (See Section 5 of the *Crime Prevention Planning Guidelines* and the Monitoring and Evaluation tool.)

#### Monitoring

- Identify the performance indicators you will use to monitor progress.
- Identify timeframes to assist you in monitoring if your project is on track.
- Identify the role of project partners that will assist with this process.

#### Evaluation and data collection

- State what data will be collected and analysed – ensure you monitor any changes in baseline data.
- Identify how you will consider impact on risk factors as well as actual incidence of crime
- Explain how you have isolated the perceived impact of your strategy from other activity in the area.

ITEM 2 - ATTACHMENT 3 CRIME PREVENTION PLAN GUIDELINES AND PLAN TEMPLATE EXAMPLE.

4. Crime prevention action plan

Target offence	
Project	
Rationale	
Objective	
Lead agency and partners	
Expected outcome	

Action	Performance measures	Time frames	Funding required	Milestones